UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell and Joseph T. Kelliher.

Equitrans, L.P. Docket No. RP04-97-000

Carnegie Interstate Pipeline Company Docket No. CP02-233-000
(not consolidated)

ORDER REJECTING IN PART, ACCEPTING IN PART AND SUSPENDING TARIFF SHEETS SUBJECT TO REFUND AND CONDITIONS, AND ESTABLISHING PROCEDURES

(Issued December 31, 2003)

1. On December 1, 2003, Equitrans, L.P. (Equitrans) filed, under Section 4 of the Natural Gas Act, a general rate case to comply with Article IX of its January 22, 1999, Stipulation and Agreement (Settlement) in Docket No. RP97-346, et al.[1] Equitrans filed tariff sheets to reflect a rate increase for most services and rates, additional services to reflect the acquisition of an affiliated pipeline and segmentation, and other changes to services and the general terms and conditions.[2] Equitrans proposes an approximately

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[1] Equitrans' settlement was approved at Equitrans, L.P., 87 FERC ¶ 61,116 (1999), in Docket No. RP97-346, et al. The Settlement actually provided for Equitrans to file the proposed general rate case to be effective August 1, 2003. However, on July 11, 2003, Equitrans filed with the Commission an unopposed motion to extend the filing date by four months. On July 29, 2003, the Office of the Secretary granted the extension of time.

[2] Equitrans' proposed tariff sheets and the Commission's disposition of those sheets are shown in the Appendix. Equitrans' filing included several tariff sheets submitted in hard copy, but not in electronic format as required by § 154.4(a) of the Commission's regulations. These tariff sheets are also identified on the Appendix. These sheets are not properly before the Commission for Commission action, and are in the nature of pro forma tariff sheets. The pagination for the sheets identified in the Appendix as not properly before the Commission were originally proposed by Equitrans in Docket No. RP03-487-000. Equitrans withdrew this filing on June 5, 2003. The Commission's pagination guidelines require unique pagination for all tariff sheets filed with the Commission.

$27.6 million increase in its jurisdictional cost of service, to a total of approximately $73.6 million. Equitrans requests a January 1, 2004 effective date.

2. The Commission rejects Equitrans' proposed rate increase and the associated tariff sheets, as its filing fails to include the minimum cost of service and revenue data required by § 154.312 of the Commission's regulations.[3] The Commission accepts and suspends the proposed changes to the general terms and conditions of its tariff (GT&C) and related tariff sheets for five months, to be effective June 1, 2004, or earlier date set by subsequent Commission order, subject to refund and conditions and to the outcome of the technical conference established herein. Finally, the Commission accepts the tariff sheets implementing the initial rates and rate schedules for service rendered over the facilities Equitrans acquired from Carnegie Interstate Pipeline Company (Carnegie), effective January 1, 2004.[4]

Proposal

Cost of Service and Rates

3. Equitrans proposes an approximately $27.6 million increase in its jurisdictional cost of service, to approximately $73.6 million. The cost of service is based on a base period ending July 31, 2003, as adjusted for the adjustment period ending April 30, 2004. This cost of service does not include the costs associated with its recently acquired affiliate, Carnegie. Equitrans states that there are several test period adjustments. Among the adjustments are regulatory assets for pension and regulatory expenses, refunctionalization of transmission and storage assets to gathering, extraordinary gas losses of 9,600,000 Dth and their replacement, new plant, and an increase in the return on equity to 14.25 percent. Equitrans does not propose a change to its depreciation rates.

4. Equitrans states that it has modified the manner by which it derives its billing determinants for both transportation and storage services. In addition, Equitrans' billing determinants reflect discount and test period adjustments.

5. Equitrans states that it has designed its transportation rates on the Straight Fixed-Variable methodology, and its storage rates on the Equitable methodology. Equitrans' rates are seasonally differentiated. Equitrans states that, as it has no firm gathering services, it offers only interruptible gathering services, with usage-based rates.

6. Equitrans also proposes a Security Cost Tracker mechanism. This mechanism would recover costs incurred to enhance the security of the system and reduce vulnerability to malicious damage. Costs will be tracked for all capital expenditures

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[3] 18 C.F.R. § 154.312 (2003).

[4] Carnegie Interstate Pipeline Co., 104 FERC ¶ 61,008 (2003).

made on or after April 30, 2004, and the costs will include depreciation, pretax return, and related taxes. Equitrans proposes to file annually, to be effective April 1, for a security cost surcharge to recover security costs as of December 31 of the preceding year. Equitrans proposes to use as billing determinants the transportation throughput from the same year. For discounting purposes, Equitrans proposes to attribute discounts to the Security Cost Tracker surcharge second, after the GRI surcharge.

Tariff and Service Changes

7. Equitrans proposes numerous other substantive and non-substantive tariff changes. Equitrans proposes numerous changes to its gas quality standards, including reducing contaminants, imposing a new bacteria content standard, and reducing the minimum permissible gas heat value from 1000 Btu per cubic foot to 970 Btu per cubic foot.

8. Equitrans proposes to change its storage ratchet requirements.[5] Currently, ratchet requirements are a function of the total storage inventory in Equitrans' fields. Equitrans states that its fields are base load fields. As such, Equitrans desires to encourage late season deliverability. To achieve this result, Equitrans proposes to institute contract specific ratchets and monthly minimum inventory balances. In addition, Equitrans proposes to ratchet down available deliverability for short-term storage services as the withdrawal season progresses.

9. In its order on Equitrans' Order No. 637 compliance filing, the Commission required Equitrans to file a segmentation plan subsequent to Equitrans' acquisition of Carnegie in Equitrans' Order No. 637 proceeding.[6] Equitrans proposes to permit firm transportation shippers to segment their capacity at a virtual Market Aggregation Point. Further, segmentation is limited to contiguous sections of Equitrans' system. Equitrans proposes a new Rate Schedule TPS (Transmission Pooling Service). Transmission pool operators will be responsible for managing receipts to and deliveries from the virtual Market Aggregation Point. TPS service is defined as an accounting service for gas supplies for the purpose of transporting gas on Equitrans' system. Equitrans proposes that the pool operator will be responsible for daily imbalances, and subject to a daily imbalance fee of the maximum rate and all applicable surcharges and shrinkage. In addition, under Rate Schedule TPS, Equitrans will provide title transfer tracking service for TPS shippers.

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[5] A storage ratchet defines storage deliverability and capacity service obligations usually as a function of contract or storage inventory levels.

[6] Equitrans, L.P., 99 FERC ¶ 61,210 at P 30 (2002).

Carnegie Acquisition

10. In an order issued July 1, 2003,[7] Equitrans was authorized to acquire the facilities and assume the jurisdictional services of Carnegie. In that order, the Commission approved Equitrans' proposal for initial Part 284 rates for service over Carnegie's facilities and directed Equitrans to make a filing to place such rates and provisions in effect upon Equitrans' operation of Carnegie's facilities.[8] Equitrans, in compliance with the July 1, 2003 certificate order, included in the instant proceeding tariff sheets to place into effect the initial rates for services performed on Carnegie's former facilities.[9] These sheets consist of rate sheets that provide for firm and interruptible transportation service in the "CIPCO District," a transfer of the gathering Rate Schedule IGS (Interruptible Gathering Service) from the Carnegie tariff to the Equitans tariff, and miscellaneous tariff changes to reflect the acquisition and services. Rate Schedule IGS is only applicable for gathering service to the CIPCO District.

Notice, Interventions, and Protests

11. Notice of Equitrans' filing was issued on December 4, 2003, 66 Fed. Reg. 69,077 (2003). Interventions and protests were due as provided in § 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Protests were filed by the Pennsylvania Office of Consumer Advocate, Columbia Gas of Pennsylvania, Inc., Excelon Corporation, PSEG Services, Corp. (PSEG), Equitable Gas Company (Equitable), KeySpan Delivery Companies (KeySpan), IOGA of West Virginia, the Peoples Natural Gas Company, and Philadelphia Gas Works (collectively Protesters).

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[7] Carnegie Interstate Pipeline Co., 104 FERC ¶ 61,008 (2003). This order also rejected a settlement filed in the certificate proceeding that would have provided for Equitrans' and Carnegie's rates to remain in effect until at least March 31, 2005, and thus eliminated the requirement in the Docket No. RP97-346 settlement to file this rate case. Requests for rehearing of this order are pending before the Commission.

[8] 104 FERC ¶ 61,008 at Ordering Paragraph F.

[9] The Commission grants waiver of § 154.203(b) of the Commission's regulations to permit the combined filing of a compliance filing with a Section 4 filing. As the effective date of the acquisition is proposed to be January 1, 2004, rejection of the filing would create a hardship

12. Protesters raised many issues regarding Equitrans' rate filing.[10] They claim that the rate increase is unsupported and based on unsubstantiated assertions. Specifically, they maintain that several rate base, refunctionalization, pension, return on equity, cost of capital, rate design, and throughput adjustments may be inappropriate. Many Protesters argue that cost allocation, especially with respect to the Carnegie acquisition, needs to be examined to determine justness and reasonableness. In addition, some Protesters assert that Equitrans' calculations were based on an inappropriate test period. Protesters also claim that the Equitrans should not include the replacement costs associated with the loss of 9.6 Bcf of base gas in its rate base.

13. Several specific tariff and services changes are also contested. These include the proposed security tracker, storage ratchet requirements, and gas quality standards.

14. The Protestors either request that the Commission reject Equitrans' filing or, in the alternative, accept and suspend the effectiveness for the full five months, subject to refund and hearing.

15. Equitrans filed a limited answer in opposition to motions requesting summary rejection of their rate increase on December 23, 2003. In this answer, Equitrans claims that it has met its initial burden of coming forward with sufficient evidence to support the underlying changes to its proposed rates, therefore its filing should not be rejected.

Discussion

Filing Deficiencies

16. Protestors to this proceeding have raised numerous concerns with the rate part of Equitrans' filing. They include, but are not limited to: return on equity, rate-base data, operation and maintenance expenses, allocation of common costs, storage reservation fees, cost allocation, and rate determinants. For these issues to be properly evaluated, complete data concerning Equitrans' cost of service and revenues must be available. We do not agree with Equitrans that it has met its burden of providing sufficient evidence to support the proposed rate changes. Section 154.301(c) of our regulations requires that companies "must be prepared to go forward at a hearing and sustain, solely on the material submitted with its filing, the burden of proving that the proposed changes are just and reasonable. The filing and supporting workpapers must be of such composition,

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[10] PSEG, Equitable, and KeySpan argue that the Commission should approve the Settlement pending before the Commission on rehearing of the July 1, 2003 Order in Docket No. CP02-233 (104 FERC ¶ 61,008). If rehearing were to be granted, these parties believe, the instant Equitrans' rate filing would become either moot or limited to non-Settlement parties, and would provide rate stability for consenting parties. The Commission will address the requests for rehearing of the July 1, 2003 Order in that proceeding.

scope, and format as to comprise the company's complete case-in-chief in the event that the change is suspended and the matter is set for hearing."[11]

17. The Commission finds that Equitrans' cost of service data in Statements and Schedules A through H and revenue data in Statement G are not sufficient to satisfy its burden of proof. Equitrans omitted the cost and revenue data for its recent acquisition, Carnegie. General rate case filings, such as this one, are made pursuant to the filing requirements of § 154.312 of the Commission's regulations. These regulations require applicants to provide overall cost of service and revenue data. If these data are not provided through these Statements and Schedules, then applicants are required to provide the data in an alternative format by §§ 154.301(c) (work papers), 304(d) (work papers), or 312(v) (testimony). These data are required because applicants must demonstrate that, even in situations such as here where Equitrans is not requesting to change the rates for the newly acquired CIPCO District services, costs have been properly identified and allocated to those services' rates with respect to which changes are proposed.[12] Examples of such costs include labor and administrative overhead. These costs are often allocated using variables such as gross plant. Neither the parties to the proceeding nor the Commission can determine whether the allocation variables or the allocated costs are just and reasonable without the complete data required by the Commission's regulations. This finding is without prejudice to Equitrans filing, in a new proceeding, a complete case-in-chief that complies with the Commission's filing requirements.

18. Further, § 154.312(c)(1) of the Commission's regulations requires the applicant to separately identify those facilities and associated costs projected to be in service by the end of the test period that require certificate authority but for which such authority has not been obtained, and the docket number. Equitrans does not appear to have provided such a statement. Equitrans proposes at least one rate base adjustment that would require prior Commission review and approval pursuant to section 7 of the NGA. Equitrans proposes to inject approximately 9,600,000 Dth of additional cushion gas into its existing storage fields at a projected cost of approximately $49.1 million. The Commission considers changes to storage cushion gas and pipeline line pack as changes in plant that

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[11] 18 C.F.R. § 154. See also ANR Pipeline Company, 105 FERC ¶ 61,236 at P 16 (2003).

[12] Williston Basin Interstate Pipeline Company, 55 FERC ¶ 61,340 at 62,008 (1991); National Fuel Gas Supply Corporation, 69 FERC ¶ 61,253 at 61,653 (1994); CNG Transmission Corporation, 80 FERC ¶ 61,137 at 61,502 (1997), rehearing denied, 81 FERC ¶ 61,031 at 61,165-66 (1997). See also National Fuel Gas Supply Corporation, Docket Nos. RP95-256-000 and RP95-31-004 and -006, wherein, by delegated authority, the Commission rejected a rate filing for lacking the required supporting documentation. Unpublished letter order dated May 8, 1995.

require certificate authorization.[13] Storage fields are certificated to achieve certain operational characteristics with defined plant requirements. If Equitrans believes that additional cushion gas or other plant is necessary to achieve its certificated storage operational levels, it needs to make a filing pursuant to section 7 of the NGA and Part 157 of the Commission's regulations and demonstrate why any such proposal is required by the public convenience and necessity. This filing and Commission finding must precede Equitrans' engaging in these activities or placing such plant additions into service.

Tariff and Service Changes

19. Equitrans proposed several substantive and non-substantive changes to its tariff, including changed gas quality standards, new storage ratchets, a segmentation proposal in compliance with Order No. 637, and a security cost tracker. The Protestors have raised numerous issues with regard to these proposals. The Commission believes that the Commission and the parties would benefit from a technical conference wherein these issues and others that may arise from this set of proposals may be discussed and clarified. The Commission will suspend these proposals, as shown on the Appendix, for five months, to be effective June 1, 2004, subject to the outcome of the technical conference and further Commission order, and subject to refund. The Commission directs staff to convene the technical conference and report back the Commission within 120 days of the date of this order.

Carnegie Acquisition

20. Equitrans filed tariff sheets reflecting its acquisition of Carnegie. The tariff sheets reflect the initial rates and pro forma rate schedules approved by the Commission in the certificate order.[14] The Commission accepts these sheets, effective January 1, 2004.[15]

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[13] See Equitable Gas Company, 51 FPC 2108 (1974) as an example of certificated cushion level for Shirley Field of 3,000,000 Mcf; Equitrans, Inc., 75 FERC ¶ 61,203 (1996) and ANR Pipeline Company, 87 FERC ¶ 61,373 (1999) as examples of Commission certification of replacement cushion; and Columbia Gas Transmission Corporation, 89 FERC ¶ 61,049 (1999) and 96 FERC ¶ 61,082 (2001) as examples of Section 7(b) of the NGA abandonment of cushion gas.

[14] Eighth Revised Sheet Nos. 5 and 6, and Fourth Revised Sheet No. 11 are rejected as they contain rates rejected by the Commission. However, these sheets also contain initial rates for the CIPCO District, which are accepted effective January 1, 2004. Equitrans is required to file revised tariff sheets to reflect the CIPCO District rates.

[15] The Commission notes that First Revised Sheet No. 202 defines the CIPCO District facilities as those facilities owned by Carnegie as of December 1, 2003. CIPCO is to be integrated with Equitrans January 1, 2004; therefore the CIPCO assets should be as of December 31, 2003. Equitrans must file a revised compliance sheet.

Nonetheless, these sheets do not complete the tariff sheet filing requirement from the certificate order. With the acquisition of Carnegie, Carnegie ceases to be an NGA jurisdictional pipeline company. Therefore, the certificate order required Carnegie to file a tariff sheet to cancel its tariff.[16] The Commission directs Carnegie, or Equitrans as its successor, to file a tariff sheet canceling Carnegie's tariff, effective January 1, 2004. This tariff sheet should be filed in Docket No. CP02-233 only.

The Commission orders:

(A) The Commission rejects Equitrans' proposed rate change and related tariff sheets for failure to include the documentation and data required by the Commission's regulations. The rejected tariff sheets are shown on the Appendix.

(B) The Commission accepts and suspends the effectiveness of Equitrans' proposed substantive and non-substantive changes to its tariff for five months, to be effective June 1, 2004, or an earlier date set by subsequent Commission order, subject to refund and subject to the outcome of a technical conference. The Commission directs staff to convene a technical conference to discuss and clarify these issues and others that may arise from this set of proposals. Staff is to report back to the Commission within 120 days of the date of this order.

(C) The Commission grants waiver of its regulations and accepts Equitrans' tariff sheets reflecting the acquisition of Carnegie, to be effective January 1, 2004, as shown on the Appendix. Equitrans is required to file revised tariff sheets, as shown on the Appendix, within 15 days of the date of this order to remove tariff changes rejected in Ordering Paragraph (A) and retaining the CIPCO District related changes.

(D) Carnegie or Equitrans is required to file a tariff sheet to cancel the Carnegie tariff, effective January 1, 2004, in Docket No. CP02-233, within 15 days of the date of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

[16] 104 FERC ¶ 61,008 at Ordering Paragraph E.

Appendix
List of Equitrans' Proposed Tariff Sheets
And Their Disposition

Equitrans, L. P.: Original Volume No. 1

Rejected Tariff Sheets:

Eighth Revised Sheet No. 5
Eleventh Revised Sheet No. 6
Second Revised Sheet No. 7
Second Revised Sheet No. 8
Seventh Revised Sheet No. 10
Fourth Revised Sheet No. 11
Third Revised Sheet No. 22
Third Revised Sheet No. 28
Third Revised Sheet No. 31
Second Revised Sheet No. 201

Accepted and Suspended Tariff Sheets, Effective June 1, 2004

First Revised Sheet No. 36
First Revised Sheet No. 42
First Revised Sheet No. 65
Original Sheet No. 86
Sheet Nos. 87 - 199
Third Revised Sheet No. 200
First Revised Sheet No. 205
Second Revised Sheet No. 213
First Revised Sheet No. 235
First Revised Sheet No. 236
First Revised Sheet No. 237
Third Revised Sheet No. 286
Third Revised Sheet No. 303
First Revised Sheet No. 310
Original Sheet No. 311
Original Sheet No. 312
Sheet Nos. 313 – 399
Second Revised Sheet No. 427
First Revised Sheet No. 443
Sheet Nos. 464 – 499

Accepted Tariff Sheets Effective January 1, 2004

Original Sheet No. 71A
Original Sheet No. 71B
Original Sheet No. 71C
First Revised Sheet No. 202
Second Revised Sheet No. 203
First Revised Sheet No. 204
First Revised Sheet No. 247
Second Revised Sheet No. 268
Second Revised Sheet No. 302
Original Sheet No. 421A
Original Sheet No. 421B
Original Sheet No. 421C
Original Sheet No. 421D
Original Sheet No. 421E
Original Sheet No. 421F

Tariff Sheets Not Properly Before the Commission

Second Revised Sheet No. 1
Original Sheet No. 83
Original Sheet No. 84
Original Sheet No. 85
First Revised Sheet No. 234
Second Revised Sheet No. 251
First Revised Sheet No. 274
Original Sheet No. 460
Original Sheet No. 461
Original Sheet No. 462
Original Sheet No. 463