

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**EQUITRANS, L.P.**

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**DOCKET NO. CP04-76-000**

**JOINT STATEMENT OF NATURAL GAS SUPPLY ASSOCIATION AND  
INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA  
IN SUPPORT OF REQUEST FOR REHEARING OF  
INDEPENDENT OIL & GAS ASSOCIATION OF WEST VIRGINIA**

On December 23, 2004, the Independent Oil & Gas Association of West Virginia (“IOGA”) filed a request for rehearing in the captioned proceeding. The Natural Gas Supply Association (“NGSA”) and the Independent Petroleum Association of America (“IPAA”), trade associations representing the interests of natural gas producers operating throughout the United States, support IOGA’s position that permitting an interstate pipeline that has exited the merchant and gathering business and its gathering affiliates to establish two tiers of gathering between a producer’s facilities and the pipeline’s transmission system is inconsistent with the public interest. The Commission should not permit spin-downs without first making a determination that the reclassification of transmission facilities to non-jurisdictional gathering is in the public interest.

IOGA has challenged the Commission’s November 23, 2004 order in *Equitrans, L.P.* (“*Equitrans*”), 109 FERC ¶ 61,209 (2004) (“Order”). In that Order, the Commission granted Equitrans’ request, in a certificate filing under Section 7(c) of the Natural Gas Act (“NGA”), to refunctionalize certain facilities from transmission and storage to gathering. Included among the facilities are pipelines and compressor stations that connect gathering facilities owned by Equitrans’ gathering affiliates to the pipeline’s transmission system (or to other pipelines). Producers and shippers of gas gathered by Equitrans’ affiliates now will pay two gathering charges, one to the pipeline affiliate and a second gathering fee to the pipeline itself, before

Equitrans transports the gas downstream. Moreover, in 2002 the Commission approved Equitrans' abandonment by sale of all of its gathering facilities to an affiliate, Equitable Field Services, LLC ("EFS"), largely on the grounds that Equitrans no longer was a merchant of gas and no longer required gathering facilities. *See Equitrans, LP and Equitable Field Services, LLC*, 98 FERC ¶ 61,160 (2002).

If the Commission applied this rate unbundling approach in other contexts, absent a public interest test, there would be broad, adverse effects on producers at a time when the United States needs to encourage domestic natural gas production. Producer investment will be impacted if transporting pipelines can capture unanticipated economic rents by using affiliates to establish multiple layers of "gathering" facilities prior to interstate transmission of their gas, thereby increasing the cost of moving gas to market.

NGSA and IPAA believe that where a change of jurisdiction under the NGA may otherwise be appropriate, based on physical criteria, the Commission should also employ a "public interest" test, as part of the gathering criteria, in order to assess the impact of the potential change in jurisdictional status, and to ensure that such a change in status does not result in the ability of the pipeline to exercise market power. In this way, the Commission can balance the application of the existing gathering test's physical factors against its fundamental NGA responsibilities. The Commission has clear statutory responsibility under the abandonment provisions of Natural Gas Act (NGA) section 7(b) to evaluate whether a change in jurisdictional status is in the public convenience and necessity before a change in status is made. We continue to believe that this is required of the Commission and that this is by far the best method for protecting those that have historically relied on regulation of those facilities.

NGSA and IPAA urge the Commission to grant IOGA's rehearing request and to reverse its decision on rehearing. If the Commission were to continue the approach taken in the *Equitrans* Order, it stands to affect not only the Appalachian producers represented by IOGA, but also producers in basins throughout the United States. Producers should pay for gathering one time only. If a pipeline sells its gathering facilities because it no longer buys and sells gas, and particularly if that sale is to an affiliate, the Commission cannot permit the pipeline to reclassify transmission facilities as gathering facilities immediately downstream of its former facilities at a later date. The Commission must ensure that interstate pipelines and their mid-stream affiliates will not be able to manipulate the Commission's unbundling policy to evade NGA jurisdiction over transmission facilities and create multiple tiers of non-jurisdictional "gathering" at producer expense.

Respectfully submitted,

**NATURAL GAS SUPPLY ASSOCIATION**

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**INDEPENDENT PETROLEUM  
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January 21, 2005

**CERTIFICATE OF SERVICE**

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served a copy of the foregoing on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 21st day of January 2005.

/s/ Susan W. Ginsberg\_\_\_\_\_