

124 FERC ¶ 61,117  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Stingray Pipeline Company, L.L.C.

Docket No. RP08-436-000

ORDER ACCEPTING AND SUSPENDING  
TARIFF SHEETS SUBJECT TO REFUND AND FURTHER  
REVIEW AND ESTABLISHING HEARING PROCEDURES

(Issued July 30, 2008)

1. On June 30, 2008, Stingray Pipeline Company, L.L.C. (Stingray) filed original and revised tariff sheets<sup>1</sup> pursuant to section 4 of the Natural Gas Act (NGA) proposing a general increase in its transportation rates. In addition to the rate increase, Stingray proposes to include a commodity surcharge mechanism that Stingray states will enable it to better manage the cost impacts and volatility associated with natural disasters affecting its system. Furthermore, Stingray includes in the instant filing numerous other tariff revisions, including revisions to its General Terms and Conditions (GT&C) and to the provisions of various rate schedules.

2. As discussed below, the Commission will accept and suspend the tariff sheets setting forth its revised rates and commodity surcharge mechanism<sup>2</sup> to be effective January 1, 2009, subject to refund and the outcome of the hearing established below. The Commission will also accept and suspend the tariff sheets setting forth the other tariff changes,<sup>3</sup> subject to further Commission review, to be effective January 1, 2009, or on an earlier date specified by subsequent Commission order. Finally, the Commission will allow time for additional comments on Stingray's proposed tariff changes. Initial comments will be due 20 days after the date this order issues, with reply comments due 30 days after the date this order issues.

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<sup>1</sup> See Appendices A and B.

<sup>2</sup> These sheets are listed in Appendix A.

<sup>3</sup> These sheets are listed in Appendix B.

### **Background**

3. Stingray is a jurisdictional Outer Continental Shelf natural gas pipeline company engaged in the business of transporting natural gas. Stingray's transmission system operates in the shallow waters of the central Gulf of Mexico as a dual-phase aggregation system that collects a blended stream of undehydrated natural gas and injected condensate offshore, and delivers that production to onshore gas treatment and gas processing plants owned by third parties. Stingray's current rates were made effective on January 1, 2003, following a settlement of Stingray's last rate case filed in Docket No. RP99-166-000.<sup>4</sup> Since that time, Stingray states, it has experienced several significant developments that have prompted the instant filing.

### **Details of Filing**

4. Stingray proposes to increase its reservation rate for firm transportation service from \$2.99 to \$7.76 per dekatherm (Dth), an increase of about 260 percent. Stingray recognizes that the rate increase it proposes is extraordinary, but asserts that this increase is necessary because of the dramatic throughput decreases Stingray has experienced on its system since its last rate increase in 2003. Stingray states that its throughput is entirely dependent upon continuing exploration and development of new production supplies in geographic proximity to its pipeline facilities to offset the continuing and rapid natural production decline rates of connected sources of supply. Because additions have not kept pace with declines, Stingray states that it has significantly more available capacity than demand.

5. Furthermore, Stingray states that it has filed the proposed rate increase to recover through its transportation rates the increases in operating costs experienced by Stingray since 2003 and an increase in its return on equity that appropriately reflects the significant risks associated with Stingray's offshore operations. Stingray contends these cost increases are attributable to many factors, including general inflation, a highly competitive labor market with limited availability of the specialized resources required to operate in the offshore environment and cost escalations that occurred in the wake of Hurricanes Rita and Katrina.

6. Stingray calculates the cost of service for its proposed rate increase using the twelve-month base period ending February 29, 2008, incorporating adjustments made during a test period ending November 30, 2008. Stingray states that the adjustments in rates have been occasioned by increases in costs that are known and measurable and

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<sup>4</sup> *Stingray Pipeline Company, L.L.C.*, 101 FERC ¶ 61,365 (2002).

which are now effective or will become effective within the nine-month test period ending November 30, 2008.

7. Stingray bases its rates on a proposed \$19,924,183 annual cost of service. The proposed rates would produce an increase in annual revenue of about \$8.3 million above the revenue collected during the base period. Stingray's cost of service includes \$12,775,457 in operation and maintenance expenses, \$3,269,864 in depreciation and amortization expenses, \$1,249,222 in taxes and a \$3,528,120 return. Stingray's cost of service also includes \$2,408,762 in revenue credits.

8. Stingray derived its \$3,528,120 overall return based on a total rate base of \$35,760,356 and an overall rate of return of 9.87 percent. Stingray states that, in addition to production, commercial and general operational risks faced by all natural gas pipelines, its dual-phase pipeline system, which is located primarily offshore in the Gulf of Mexico, faces even greater risks than the average onshore natural gas pipeline. Stingray states that the increased operational risk exposes Stingray to higher operating costs, as well as more volatility associated with those costs, than the average onshore interstate natural gas pipeline. Stingray asserts these include risks associated with: (1) logistical complexity; (2) operating a subsea pipeline with portions that are unburied; (3) having a limited pool of contractors to perform maintenance and repairs; (4) being dependent upon single production sources to maintain operating flows in sections of the system; and (5) outages due to system damage caused by hurricanes and other severe storms in the Gulf of Mexico. The capital structure underlying the 9.87 percent rate of return is comprised of 52.82 percent debt and 47.18 percent equity with a debt cost of 6.93 percent and a return on equity of 13.23 percent, respectively.

9. In addition to the rate increase, Stingray is proposing a commodity surcharge mechanism (Event Surcharge) that Stingray states will enable it to better manage the cost impacts and volatility associated with natural disasters affecting its system. Stingray asserts that it has no way to predict when major natural disasters, such as Hurricane Rita, will occur, but when they do, the impact on its operations can be significant. Stingray states that, while repair costs associated with such events are not necessarily regularly recurring, Stingray's then-existing shippers receive the immediate benefit of any such repairs. Therefore, Stingray states that it is proposing to add an Event Surcharge to its tariff to recover actual costs incurred in connection with preventing, preparing for, and repairing damages caused by major storms and other significant natural disasters that affect its system. Stingray also contends that the Event Surcharge is intended to recover only actual costs incurred and to provide Stingray with the revenue certainty it needs to justify rebuilding its system in the event of damage caused by such an event.

10. Furthermore, Stingray includes in the instant filing numerous tariff revisions. The majority of the proposed changes to Stingray's tariff are general clean-up changes, such

as standardizing the use of defined terms and updating contact information, etc. However, Stingray states that it has also proposed to make a number of other changes to its tariff to provide it and its shippers with greater flexibility to facilitate administrative consistency in implementing its service agreements and to address issues that have arisen since Enbridge Inc. acquired an interest in Stingray on December 31, 2004. These changes include, but are not limited to: (1) adding a form of Reserve Dedication Agreement to Rate Schedule FTS-2; (2) adding forms of agreements for a Confirmation of Agreement on trade Imbalances and a Released Capacity Transportation Service Contract; (3) adding a Service Request form, (4) adding provisions to allow shippers under Rate Schedule ITS the option to increase their MDQ without executing a new service agreement; (5) adding a provision to allow for different term options in the service agreements; (6) adding a provision to allow for extension of service agreements; (7) adding provisions to permit the assignment and succession of FTS-2 and ITS Service Agreements when dedicated reserves are assigned, without the need to follow the capacity release provision of the tariff; and (8) further clarify Stingray's Agency Agreement to ensure that Stingray can rely on the acts and instructions of the shipper's agent. In addition, Stingray proposes to revise its interruptible transportation curtailment policies and its monthly imbalance cash-out process and to permit Stingray to obtain capacity on other interstate pipelines.

### **Notice of Filing, Intervention and Protest**

11. Notice of Stingray's filing was issued on July 7, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>5</sup> Pursuant to Rule 214,<sup>6</sup> all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. On July 14, 2008, the Indicated Shippers<sup>7</sup> filed a protest. The Indicated Shippers request the Commission to suspend the filing for the maximum allowable period and establish an evidentiary hearing to fully explore all issues raised in the instant filing. On July 18, 2008, Stingray filed an answer to the protest. Under Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,<sup>8</sup> answers to protests are not accepted

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<sup>5</sup> 18 C.F.R. § 154.210 (2008).

<sup>6</sup> 18 C.F.R. § 385.214 (2008).

<sup>7</sup> In this proceeding, the Indicated Shippers are Anadarko Energy Services Company, Chevron U.S.A. Inc., and Shell Energy North America (US), L.P.

<sup>8</sup> 18 C.F.R. § 385.213(a)(2) (2008).

unless otherwise ordered by the decisional authority. The Commission will accept Stingray's answer because it further clarifies the issues.

12. The Indicated Shippers argue that Stingray has failed to justify its proposed rate increases in accordance with section 4 of the NGA. The Indicated Shippers state that, not only did Stingray fail to establish sufficient justification for why it must be placed above the median of any proxy group chosen for establishing its return on equity, but Stingray did not establish that the cost increases it alleges have occurred since Hurricanes Rita and Katrina would continue or that its proposed throughput levels would be sustained.

13. The Indicated Shippers further argue that the Commission should deny Stingray's proposed Event Surcharge because it would allow Stingray to collect costs on an annual basis, which are more properly included in general section 4 rate case filings where the costs and revenues can be more thoroughly examined. In addition, the Indicated Shippers aver that the proposed surcharge is too broad. The Indicated Shippers state that the proposed surcharge would allow Stingray to include preventative costs, even though an event may not occur and includes items that are not limited to special "Events," such as smart pigging, installation of fencing, construction of new pipeline interconnections, and removal of pipelines or other equipment.

14. Furthermore, given the vast amount of proposed tariff changes, the Indicated Shippers request the Commission to allow additional investigation into the proposed changes to ensure they comply with Commission precedent and protect shippers' rights. The Indicated Shippers state that this includes, but is not limited to, the proposed Reserve Dedication Agreement to Rate Schedule FT-2, the proposed charge of \$10.00 per barrel to a shipper or the onshore separation plant for injection of free water, and the provision that allows Stingray to subscribe for capacity on other pipelines for operational purposes.

15. For the foregoing reasons, the Indicated Shippers argue that longstanding Commission policy requires the Commission to suspend both the proposed rate increases and tariff provisions for the full five-month statutory period under section 4 of the NGA. The Indicated Shippers thus request a five-month suspension of the proposed rate increases and ask that the Commission set all issues raised by Stingray's filing for a full evidentiary hearing.

### **Discussion**

16. The Commission finds that Stingray's proposed rate increases raise issues that are best addressed in a hearing, including but not limited to those rate issues raised in the protest to the filing. Accordingly, we accept Stingray's proposed tariff sheets setting forth its revised rates and the Events Surcharge, listed in Appendix A, for filing and suspend their effectiveness for the period set forth below, to become effective January 1, 2009, subject to refund and the outcome of the hearing established herein.

17. Additionally, due to the voluminous nature of this Stingray filing, the Commission has not been able to complete its review of Stingray's proposed tariff changes. Therefore, the Commission accepts and suspends the other tariff sheets, listed in Appendix B, subject to further Commission review, to be effective January 1, 2009, or on an earlier date specified by subsequent Commission order. In order to ensure that Stingray's proposed tariff changes comply with Commission precedent and do not violate shippers' rights, the Commission will allow the parties to file additional comments relating to Stingray's tariff changes within 20 days of the date this order issues. Stingray will be permitted to file reply comments within 30 days of the date this order issues.

### **Suspension**

18. Based upon a review of the filing, we find that Stingray has not shown the proposed tariff sheets listed in the Appendices to this order to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we accept Stingray's proposed tariff sheets for filing and suspend their effectiveness for the period set forth below, to become effective January 1, 2009, subject to the conditions set forth in this order.

19. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.<sup>9</sup> It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results.<sup>10</sup> Such circumstances do not exist here. Therefore, the Commission will exercise its discretion to suspend the revised

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<sup>9</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>10</sup> See *Valley Gas Transmission, Inc.*, 11 FERC ¶ 61,236 (1980), *order on reh'g*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

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tariff sheets listed in Appendix A to this order for five-months and will permit them to take effect January 1, 2009, subject to refund and the outcome of the hearing established herein. Additionally, the Commission will accept and suspend the tariff sheets listed in Appendix B, subject to further Commission review, to be effective January 1, 2009, or on an earlier date specified by subsequent Commission order.

The Commission orders:

(A) The tariff sheets listed in Appendix A to this order are accepted and suspended, to be effective January 1, 2009, subject to refund and conditions and subject to the outcome of the hearing established in this proceeding.

(B) The tariff sheets listed in Appendix B to this order are accepted and suspended, subject to further Commission review, to be effective January 1, 2009, or on an earlier date specified by subsequent Commission order.

(C) Intervenors may file additional comments relating to Stingray's proposed tariff changes within 20 days of the date this order issues with reply comments due within 30 days of the date this order issues.

(C) Pursuant to the authority of the NGA, particularly sections 4, 5, 8 and 15 thereof, a public hearing will be held in Docket No. RP08-436-000 concerning the lawfulness of Stingray's proposed rates.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2008), must convene a prehearing conference in this proceeding to be held within twenty (20) days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. The prehearing conference shall be held for the purpose of establishing a procedural schedule. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Rules of Practice and Procedure.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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**Appendix A**

**Stingray Pipeline Company, L.L.C.  
FERC Gas Tariff, Third Revised Volume No. 1**

***Tariff Sheets Accepted and Suspended Effective January 1, 2009***

Eighteenth Revised Sheet No. 5

First Revised Sheet No. 209

Original Sheet No. 210

Original Sheet No. 211

Original Sheet No. 212

Original Sheet No. 213

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**Appendix B**

**Stingray Pipeline Company, L.L.C.  
FERC Gas Tariff, Third Revised Volume No. 1**

*Tariff Sheets Accepted and Suspended Effective January 1, 2009,  
Or on an Earlier Date Specified by Subsequent Commission Order*

Seventh Revised Sheet No. 0	First Revised Sheet No. 71
Twelfth Revised Sheet No. 2	First Revised Sheet No. 72
Second Revised Sheet No. 3	First Revised Sheet No. 73
Third Revised Sheet No. 4	First Revised Sheet No. 74
Sheets 11 - 39	First Revised Sheet No. 75
First Revised Sheet No. 42	Original Sheet No. 75A
Eighth Revised Sheet No. 43	First Revised Sheet No. 76
Third Revised Sheet No. 44	First Revised Sheet No. 77
Sixth Revised Sheet No. 45	First Revised Sheet No. 78
Third Revised Sheet No. 46	First Revised Sheet No. 79
First Revised Sheet No. 47	First Revised Sheet No. 80
Third Revised Sheet No. 48	First Revised Sheet No. 81
Fourth Revised Sheet No. 49	First Revised Sheet No. 82
Second Revised Sheet No. 50	Third Revised Sheet No. 84
First Revised Sheet No. 51	Second Revised Sheet No. 86
Eighth Revised Sheet No. 52	Second Revised Sheet No. 87
Third Revised Sheet No. 53	Second Revised Sheet No. 88
Sixth Revised Sheet No. 54	Fifth Revised Sheet No. 100
Third Revised Sheet No. 55	Fifth Revised Sheet No. 101
Sixth Revised Sheet No. 56	Fifth Revised Sheet No. 102
Sixth Revised Sheet No. 57	Fifth Revised Sheet No. 103
Sixth Revised Sheet No. 58	First Revised Sheet No. 103A
Third Revised Sheet No. 59	Eighth Revised Sheet No. 104
First Revised Sheet No. 60	First Revised Sheet No. 104A
First Revised Sheet No. 61	Second Revised Sheet No. 106
Fifth Revised Sheet No. 62	Second Revised Sheet No. 107
First Revised Sheet No. 63	Second Revised Sheet No. 108
Second Revised Sheet No. 64	Original Sheet No. 108A
First Revised Sheet No. 66	First Revised Sheet No. 111
First Revised Sheet No. 67	First Revised Sheet No. 112
First Revised Sheet No. 68	Second Revised Sheet No. 113
Third Revised Sheet No. 69	First Revised Sheet No. 113A
First Revised Sheet No. 70	First Revised Sheet No. 114

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Second Revised Sheet No. 115  
First Revised Sheet No. 116  
Second Revised Sheet No. 117  
First Revised Sheet No. 117A  
Third Revised Sheet No. 118  
First Revised Sheet No. 118A  
Eighth Revised Sheet No. 119  
Fourth Revised Sheet No. 119A  
Second Revised Sheet No. 119B  
Original Sheet No. 119C  
Seventh Revised Sheet No. 120  
Fourth Revised Sheet No. 121  
Second Revised Sheet No. 121A  
Fourth Revised Sheet No. 121B  
First Revised Sheet No. 121C  
Third Revised Sheet No. 124  
Fourth Revised Sheet No. 126  
Second Revised Sheet No. 127  
Fourth Revised Sheet No. 128  
First Revised Sheet No. 128A  
Seventh Revised Sheet No. 129  
Fifth Revised Sheet No. 130  
First Revised Sheet No. 131A  
Fifth Revised Sheet No. 132  
Fifth Revised Sheet No. 133  
Second Revised Sheet No. 134  
Second Revised Sheet No. 134A  
First Revised Sheet No. 134B  
Fourth Revised Sheet No. 135  
Second Revised Sheet No. 136  
Third Revised Sheet No. 137  
Fourth Revised Sheet No. 138  
Sixth Revised Sheet No. 139  
Fourth Revised Sheet No. 140  
Fourth Revised Sheet No. 140A  
First Revised Sheet No. 140B  
Original Sheet No. 140C  
Second Revised Sheet No. 142  
Fifth Revised Sheet No. 148  
Fifth Revised Sheet No. 148A  
Fifth Revised Sheet No. 148B

Original Sheet No. 148C  
Ninth Revised Sheet No. 150  
First Revised Sheet No. 150A  
Third Revised Sheet No. 151  
Fourth Revised Sheet No. 152  
Second Revised Sheet No. 153  
Third Revised Sheet No. 154  
Second Revised Sheet No. 155  
Fifth Revised Sheet No. 156  
Original Sheet No. 156A  
Fifth Revised Sheet No. 157  
Third Revised Sheet No. 157A  
Third Revised Sheet No. 158  
Fifth Revised Sheet No. 159  
Second Revised Sheet No. 160  
Second Revised Sheet No. 161  
Original Sheet No. 161A  
Third Revised Sheet No. 162  
First Revised Sheet No. 163  
Second Revised Sheet No. 164  
First Revised Sheet No. 165  
First Revised Sheet No. 166  
Second Revised Sheet No. 167  
First Revised Sheet No. 168  
Second Revised Sheet No. 170  
Second Revised Sheet No. 171  
Second Revised Sheet No. 172  
Fifth Revised Sheet No. 173  
Second Revised Sheet No. 173A  
First Revised Sheet No. 173B  
First Revised Sheet No. 173C  
Third Revised Sheet No. 174  
First Revised Sheet No. 174A  
Third Revised Sheet No. 175  
First Revised Sheet No. 175A  
Second Revised Sheet No. 176  
Second Revised Sheet No. 177  
Second Revised Sheet No. 177A  
Fourth Revised Sheet No. 178  
First Revised Sheet No. 178A  
First Revised Sheet No. 180

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Original Sheet No. 180A	Second Revised Sheet No. 308
Second Revised Sheet No. 181	Fifth Revised Sheet No. 309
Second Revised Sheet No. 182	Second Revised Sheet No. 310
Second Revised Sheet No. 183	Third Revised Sheet No. 311
First Revised Sheet No. 183A	Third Revised Sheet No. 312
Third Revised Sheet No. 185	First Revised Sheet No. 312A
Third Revised Sheet No. 186	Original Sheet No. 312B
First Revised Sheet No. 187	Third Revised Sheet No. 316
Second Revised Sheet No. 189	Second Revised Sheet No. 318
Third Revised Sheet No. 190	Second Revised Sheet No. 319
First Revised Sheet No. 193	Second Revised Sheet No. 320
First Revised Sheet No. 195	Third Revised Sheet No. 321
Second Revised Sheet No. 197	Second Revised Sheet No. 322
First Revised Sheet No. 198	First Revised Sheet No. 323
Original Sheet No. 198A	First Revised Sheet No. 325
First Revised Sheet No. 201	Original Sheet No. 329
First Revised Sheet No. 202	Original Sheet No. 330
First Revised Sheet No. 203	Original Sheet No. 331
First Revised Sheet No. 205	Original Sheet No. 332
First Revised Sheet No. 206	Original Sheet No. 333
Second Revised Sheet No. 207	Original Sheet No. 334
Third Revised Sheet No. 208	Original Sheet No. 335
Original Sheet No. 214	Original Sheet No. 336
Sheets 215-299	Original Sheet No. 337
Fifth Revised Sheet No. 300	Original Sheet No. 338
Original Sheet No. 300A	Original Sheet No. 339
Sixth Revised Sheet No. 301	Original Sheet No. 340
First Revised Sheet No. 301A	Original Sheet No. 341
Fourth Revised Sheet No. 302	Original Sheet No. 342
Third Revised Sheet No. 302B	Original Sheet No. 343
Second Revised Sheet No. 303	Original Sheet No. 344
Original Sheet No. 303A	Original Sheet No. 345
Second Revised Sheet No. 304	Original Sheet No. 346
Third Revised Sheet No. 305	Original Sheet No. 347
Second Revised Sheet No. 305A	Original Sheet No. 348
Second Revised Sheet No. 305C	Original Sheet No. 349
Third Revised Sheet No. 306	Original Sheet No. 350
Second Revised Sheet No. 307	

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