

BEFORE THE REGULATORY COMMISSION OF ALASKA**RE: TA422-121 and TA544-8****August 4, 2023****Summary**

Renewable Energy Alaska Project (REAP) respectfully submits these comments regarding tariff advice filings TA422-121 and TA544-8. REAP protests the rates produced by both the proposed cost of service study and rate design, as well as the so-called rate mitigation plan, as being unjust and unreasonable. REAP requests that the Commission suspend the rates into a docket of investigation. Finally, if the RCA does suspend these TA filings into a docket, REAP requests that the Commission designate it as a party to the proceedings.

Background

On July 7, 2023 Chugach Electric filed its first general rate case in ten years. In compliance with Commission directive, Chugach filed a cost of service study that unifies rates for North and South district rate payers. However, noting that its cost of service study results in rate shock for some commercial customers, Chugach then requests that the Commission approve a modification to its cost of service study that fails to unify rates. Chugach's proposal would make up the reduced rate increase on commercial customers primarily by increasing residential rates.

Complaint**1) Revenue Collected between North and South Districts Not Shown to be Proportional to Electricity Consumption**

This rate case filing is being made consistent with one of the requirements outlined in U-18-102(44)/U-19-020(39)/U-19-021(39). However, the filing ignores and is inconsistent with other requirements of that Order. Chugach apparently relies on the Commission being struck with collective amnesia as to the contents of its own orders. Specifically, the Commission held that:

[O]ur approval of this transaction [is] subject to ...

Unified base rates to be filed in Chugach’s first rate case. The PILT Agreement’s proposed recovery of payments only from ML&P ratepayers through 2033 must be rejected. Chugach’s rate design should achieve the following objectives:

- a. *base rates should reasonably approximate load-ratio share between the Chugach and ML&P portions of the new Chugach service territory, and*
- b. rate shock for any ratepayer class should be minimized to the maximum extent practicable.¹

Chugach does not even acknowledge the Commission’s requirement that revenue collected from base rates of ratepayers in the North and South districts should reasonably approximate the consumption of electricity, on a kWh basis, of the two districts. It is perhaps unsurprising then that the cost of service study does not provide *any* support or evidence that Chugach has met this requirement. Instead, Chugach suggests that the concern about minimizing rate shock – which the Commission made clear should be done subject to the dual constraints of unifying base rates within customer classes, and ensuring that revenue collected from the two districts be proportional to energy use – should trump other concerns.

The Commission did not impose the twin conditions of unified base rates and revenue recovery being proportional to electricity use from a casual attraction to policy. Instead, those conditions were imposed as essential. They were what enabled the Commission to find the acquisition, suitably modified, as being non-discriminatory and consistent with the requirements of Commission precedent regarding acquisition adjustments and AS 42.05.441(b). They are conditions that were foundational to the finding that the acquisition could be legally approved. They cannot now be adjusted simply because Chugach wishes the Commission to bend.

In U-18-102(44)/U-19-020(39)/U-19-021(39), after extensive analysis, the Commission ruled that the PILT Agreement represented a non-cost increase to the compensation that Chugach was paying the Municipality of Anchorage. The PILT Agreement provides a schedule of payments above net book value that are, in regulatory parlance, an “acquisition adjustment”. The Commission also ruled that discriminatory rate treatment would result if it permitted the acquisition adjustment to be recovered only from North District customers.²

For the Commission to approve the acquisition adjustment represented by PILT payments the Commission needed to find that ratepayers from each district would enjoy proportional savings that more than offset the additional transaction costs that they were

¹ U-18-102(44)/U-19-020(39)/U-19-021(39) at 11. Emphasis added.

² Similarly, the Commission found that the BRU Agreement needed to be modified, so that the benefits of lower-cost BRU gas would be enjoyed by all Chugach ratepayers, and not just by North District customers.

expected to pay for. Despite the Commission’s repeated requests, Chugach did not volunteer a rate design in its acquisition filing that would enable the Commission to determine the distribution of savings. Instead, the Commission engaged in its own extensive analysis. It found that *if* revenue was recovered from North and South districts proportional to electricity consumption, *then* the acquisition adjustment could be justified by savings that customers in each district would enjoy.³ It therefore imposed the requirement of proportionality of revenue to electricity use, by district, in its Order:

Our finding is premised on Chugach developing a unified rate design that produces an allocation of costs across both the North District and the South District that reasonably approximates the relative share of each District’s consumption of electric energy. Assuming that the transaction is consummated, we require Chugach in its next filed rate case to propose a rate design that achieves this goal.⁴

This condition was not optional. It was an essential part of the Commission’s effort “to find a way to approve this transaction while leaving as much of the parties’ bargain intact as possible”.⁵

2) Chugach Argues for Not Unifying Rates Between North and South Customers

Chugach proposes a “rate mitigation plan” that would leave rates unequal, within a given customer class, across North and South districts. The rates produced by this plan are defective in several respects:

- The rates do not conform to the Commission’s requirements in U-18-102(44)/U-19-020(39)/U-19-021(39). As noted previously, those requirements were imposed as essential elements to the Commission being able to find that the transaction passed legal muster.
- The rates do not transparently allocate costs. Traditional cost functionalization/allocation exercises notionally (though at best approximately) hew to “cost-causer, cost payer” precepts. Chugach’s expert, Dr. Peterson, laboriously goes through an extensive cost of service exercise, using various cost allocation factors. However, when it comes to the rate mitigation plan, he tosses the results as not to Chugach’s liking. Chugach provides no assessment of the effective allocation of costs under its proposal. Rate designs must not necessarily obey the results of a formulaic, bottom-up functionalization-allocation exercise. If supported by load research, a rate design might well be justified by the end-result of policies it is intended to promote. But the Commission should not be misled

³ See U-18-102(44)/U-19-020(39)/U-19-021(39), pp. 109-126.

⁴ U-18-102(44)/U-19-020(39)/U-19-021(39), p. 126.

⁵ U-18-102(44)/U-19-020(39)/U-19-021(39), p. 11.

into thinking that Chugach’s rate design is actually based on “cost-causer, cost payer” allocations and designs.

- Chugach fails to propose, much less commit, to any plan by which it would file a new cost of service study that would subsequently unify rates. Given the operation of Standardized Rate Filing regulations, Chugach could go a decade, and perhaps considerably longer, without needing to make another general rate case filing.

Rates proposed in Chugach’s “rate mitigation plan” are not just and reasonable, because they involve discrimination in rates that are unsupported by differences in costs. The Commission must not allow Chugach’s rate mitigation plan, because doing so would involve a discrimination in rates based only on location – something Chugach is trying to do despite the Commission ruling that it legally could not.⁶

3) Chugach’s Rate Design Fails to Conform to the Statutory Requirements of AS 42.05

REAP is aware of only one provision in statute that addresses rate design. AS 42.05.141(c) reads, in full:

In the establishment of electric service rates under this chapter the Commission shall promote the conservation of resources used in the generation of electric energy.

To promote the conservation of resources through rates, the price elements proposed in a rate design must provide incentives for customers to reduce their energy use, or to otherwise change their behavior in a way that conserves resources used in the generation of electric energy.

The resource used in the generation of electric energy that cries out for being conserved today is natural gas. Chugach depends on natural gas from Cook Inlet to generate more than 80% of the electricity that its members consume. However, the Alaska Department of Natural Resources expects Cook Inlet natural gas annual production to fall short of demand as soon as 2027.

Chugach plans to make up their expected shortfall through LNG imports. But, according to a recent study by conducted by BRG on behalf of ENSTAR, imports will cost at least \$5/Mcf more than gas from Cook Inlet production.⁷ Accordingly, consumers that use large amounts of electricity draw down the stock of comparatively cheap gas supply sooner, and impose the

⁶ See, for example, U-18-102(44)/U-19-020(39)/U-19-021(39) at p. 87.

⁷ The BRG study was presented to the Commission at its public meeting on 6/29/2023. It is currently available at <https://www.enstarnaturalgas.com/wp-content/uploads/2023/06/CIGSP-Phase-I-Report-BRG-28June2023.pdf>

costs of more expensive LNG gas on consumers that consume less electricity. Natural gas resource conservation is therefore a matter of fairness.

Natural gas conservation is also a matter of economic and physical security. As BRG reported, and as some Commissioners opined from the dais at the RCA public meeting held on 6/29/2023, there is uncertainty as to whether the utilities – as a commercial matter, and also due to coordination difficulties – will even be able to secure LNG imports before local production becomes insufficient to meet demand. The supply chain associated with importing LNG is necessarily longer than local production. The less that imports must be relied upon the more energy and economic security the Railbelt will enjoy.

A rate design that promotes the conservation of natural gas is also a matter of economic development. The less liquified natural gas that Chugach consumers cause to be imported the more energy dollars will stay in Alaska’s economy to be circulated. Such circulation creates jobs. A rate design that enhanced incentives for customers to install rooftop solar and invest in energy efficiency would also create local jobs and enhance economic activity.

To conserve natural gas, Chugach’s rate design should provide enhanced incentives for consumers to reduce natural gas consumption through energy efficiency and rooftop solar. Were it to do so Chugach’s rate design would complement the wide array of Federal incentives that were created in the Inflation Reduction Act for energy efficiency and rooftop solar. Indeed, REAP’s analysis demonstrates that the rooftop solar resource in the Anchorage bowl is material; its technical and economic potential exceeds eight percent of Chugach’s current power requirement.

The Commission should investigate whether Chugach should adopt measures that increase the costs of consumption as individual residential or commercial consumption rises. Doing so would provide incentives for consumers to reduce their consumption of local natural gas used in the generation of electricity. For example, Chugach could have, but refused to, propose an inclining block rate structure in which the energy charge increases at higher rates of consumption. Indeed, Chugach’s proposed rate design not only fails to promote conservation of resources, it does the opposite. For example:

- A very substantial portion of the revenue deficiency that is to be recovered from residential customers is being effectuated through a 71% increase in the South District residential customer charge. Large customer charges reduce a user’s incentive to use less electricity, because they dampen the financial benefit of doing so;
- Chugach’s proposed Time of Use pilot project unduly discriminates against owners of rooftop solar by precluding them from participation. The net effect of the pilot will likely be to *increase* natural gas consumption at the very time when such consumption should be minimized. It favors consumers that own electric vehicles – a major potential contribution to load – but prevents those same consumers from off-setting their gas consumption through self-generation.

4) Chugach's cost of service study produces very large rate increases for transmission services

As the Commission recalls from the proceedings in I-15-001, increased transmission costs raise barriers to what would otherwise be mutually beneficial economic energy transactions between service territories. Such barriers ensure that the Railbelt system as a whole remains further from the Commission's goal of merit order dispatch. And they increase, rather than conserve, the resources used in the generation of electricity. The result is that consumers in the Railbelt as a whole are made worse off.

Chugach's cost of service study results in a substantial transmission tariff increase for third party users of Chugach's transmission resources. Dr. Peterson, who sponsors Chugach's cost of service study, does not explain what appears to be a very significant shift in the allocation of Chugach's fixed transmission costs to third party users. At a high level the allocation shift appears to be discretionary, an attempt by Chugach to impose costs on those outside its service area to benefit its native load customers. Indeed, the transmission rate increase is many multiples of the overall revenue requirement increase. After the acquisition Chugach has many more native load customers, and yet REAP is unaware of large transmission additions in its own service area that might otherwise explain the increase.

As a consumer REAP is keenly concerned with the immediate effect of Chugach's rate filing on the residents of its service territory. REAP also shares the Commission's own policy concerns, stated in its letters to the Legislatures in I-15-001, that the Railbelt transmission tariff system needs to be rationalized to move towards wider unified merit order dispatch, which in the longer term will save Chugach customers money. The Commission should carefully investigate whether, in light of the requirements of AS 42.05.141(c), Chugach's proposed transmission services tariff are just and reasonable.

5) Chugach has still not fulfilled the Commission's requirement regarding power pooling

REAP's focus regarding TA422-121 and TA544-8 rests with Chugach's rate design, and the lack of conformity of that rate design to the requirements of U-18-102(44)/U-19-020(39)/U-19-021(39) and AS 42.05.141(c). However, in reviewing the requirements of U-18-102(44)/U-19-020(39)/U-19-021(39) REAP was reminded of the Commission's third requirement for approval of the acquisition of ML&P. Specifically, the Commission conditioned its approval of the acquisition on the requirement that:

Chugach and MEA forming a tight pool to ensure that broader application of security-constrained merit order dispatch occurs.⁸

The body of the Order goes to considerable length to explain how and why the benefits associated with power pooling were a key underpinning of the Commission's ability to find that the acquisition was in the public interest.

However, to date Chugach and Matanuska Electric Association (MEA) have *still* not formed a single load balancing area. They still are not trading regulation and spin. This failure results in economically inefficient dispatch, raises rates, and wastes resources used in the generation of electricity. It unnecessarily retards progress towards moving the Railbelt towards a more efficient system, one that can more readily integrate intermittent sources of generation. Chugach's failure to complete the requirements that the Commission established, and that Chugach's own witness in the acquisition proceeding acknowledged was readily achievable, fails to protect the public interest.

Chugach has faced no sanction for this failure. The Commission did find in U-22-10(12) that Chugach had engaged in unreasonable management practice by not conforming to their power pool agreement with MEA. And, in that same March 3, 2023 Order, the Commission did warn Chugach and MEA of "future potential proceedings". However, five months have since passed with no apparent resolution.

Formation of a single load balancing area was a priority for the Commission. The Commission's requirement for the trading of energy to be settled with under a transparent and mechanistic pricing methodology was also an articulated requirement. However, there still is no evident progress towards this goal. More than a year has passed since the last deadline for complete pool formation. Chugach's repeated failure to implement a fully-fledged tight pool can only be read by the general public as unjustified recalcitrance to follow the Commission's orders. Chugach rates, both current and proposed, cannot be just and reasonable given the Commission's own past findings. The Commission must uphold its authority and require corrective action.

Intervention

REAP's mission is to promote energy efficiency and renewable energy that benefits consumers. If the Commission suspends TA422-121 and TA544-8 into a docket of investigation, REAP respectfully requests that it be designated a party. REAP is a consumer, and will be negatively affected by the future costs of imported LNG. REAP seeks to protect the interests of all consumers by advocating for rate design measures that conserve relatively inexpensive Cook Inlet natural gas recourses by bolstering consumer incentives to pursue investments in energy

⁸ U-18-102(44)/U-19-020(39)/U-19-021(39) at 11.

efficiency rooftop solar. REAP's participation will not unduly prolong the proceedings, and will contribute to a complete record. No other party is likely to raise the issues that REAP will in this proceeding. To REAP's knowledge, no person has ever sought intervention for the rate design portion of a rate case with the purpose of promoting rate design that promotes the conservation of natural gas resources used in the generation of electric energy. REAP is aware of no other member of the public that has the capacity to participate in this litigated proceeding to promote the conservation of natural gas resources through beneficial rate design.

REAP recognizes that filing a protest of a tariff advice filing is unusual. Protests are generally reserved for pipeline matters. However, REAP attaches particular importance to this proceeding and wishes to ensure that the Commission holds a hearing. If REAP is designated a party to a docket that investigates the justness and reasonableness of TA422-121 and TA544-8, it is comfortable that it will have the opportunity to make its concern more fully heard through the normal processes and will, as a procedural matter, withdraw its protest.

Thank you very much for your consideration.

Sincerely,



Chris Rose
Executive Director