STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:	Robert M. Pickett, Chairman Keith Kurber II Antony G. Scott Daniel A. Sullivan Janis W. Wilson
In the Matter of the Projected 2021 Margin Shortfall of CHUGACH ELECTRIC ASSOCIATION, INC.	U-21-059
	ORDER NO. 8

ORDER GRANTING MOTION TO WITHDRAW TA514-8 AND TA392-121, AND REQUIRING FILING

BY THE COMMISSION:

Background

We granted in part the petition filed by Chugach Electric Association, Inc. (Chugach) to defer recognition of certain expenses as necessary to correct potential margin shortfalls for calendar years 2021, 2022, and 2023.[1] In doing so, we stated:

> We have previously informed Chugach that the creation of regulatory assets to avoid negative margin impacts may be "appropriate in cases of large unexpected expenses representing a sizeable deviation from the normal variability in total operation and maintenance expenses." Although not specifically stated in Order U-18-036(3), the basis for this position is that the costs and intergenerational inequity of deferring current costs to be paid by future ratepayers is generally not just or reasonable. We acknowledge that under some circumstances, the same might be true in cases of large, unexpected decreases in revenue that did not result in offsetting reductions in costs.[2]

[1]Order U-21-059(7), *Order Granting Petition in Part, Denying Petition in Part, and Requiring Filings*, dated November 9, 2021 (Order U-21-059(7)).

[2]Order U-21-059(7) at 9 (internal citation to Order U-18-036(3)/U-18-051(3), *Order Granting Petitions in Part and Closing Dockets*, dated August 27, 2018 (Order U-18-036(3)), at 13, citation omitted).

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We noted that Chugach's proposal to defer these expenses was based upon load decline that was known since 2019, even though the magnitude of that decline in 2021 might have been unexpected. We stated that: "Had we been merely operating under the just and reasonable standard of AS 42.05.381(a), we might have considered denying Chugach's request to defer expense recognition in its entirety based upon our reasoning in Order U-18-036(3)."[3] However, because of the mandate in AS 42.05.431(a), we granted Chugach limited authority to defer recognition of certain 2021 expenses.[4]

Regarding Chugach's potential margin shortfalls for calendar years 2022 and 2023, we stated:

> Chugach has stated that it has time to implement measures that do not include deferred recognition of expenses to avoid potential margin shortfalls in calendar years 2022 and 2023. We therefore find that there is no reason to authorize deferred recognition of expenses incurred in those years, including expenses incurred due to the terms of the Stipulation. We deny the remaining requests in the Petition, including Chugach's request to modify the Stipulation.
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> We have had to authorize Chugach to defer recognition of expenses incurred in 2021 to make up for a projected 2021 margin shortfall due to the timing of Chugach's Petition. To make it unlikely that we will be put in that same position for 2022 and 2023 we require Chugach to file proposed measures to address any potential margin shortfall for calendar years 2022 and 2023. If these proposed measures would require modification of Chugach's currently effective tariff, they should be filed as a tariff advice letter. These proposed measures must be filed by December 9, 2021.[5]

Our decision to deny deferred recognition of expenses for calendar years 2022 and 2023 was premised in part on the assumption that amortization of such regulatory assets would occur over many years – consistent with the amortization

[3]Order U-21-059(7) at 9-10.

[4]Order U-21-059(7) at 10-11.

[5]Order U-21-059(7) at 12-13 (citation omitted).

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schedule contained in the Stipulation.[6] As we have noted elsewhere, capitalizing and recovering operating expenses over many years ultimately raises rates for Chugach ratepayers.[7] It also burdens future ratepayers with operating expenses costs that were incurred many years before.[8]

Chugach filed tariff revisions designated as TA514-8 and TA392-121 proposing a limited rate decoupling process in compliance with the requirement to file proposed measures for 2022 and 2023.[9] Chugach specifically requested authority "to adjust demand and energy rates based on changes in sales at the customer, energy and demand levels, with the demand and energy rate changes based on the collective proforma changes in revenue for all retail customer classes."[10] Chugach calculated that implementation of its proposed rate decoupling process would result in an initial 4.1% rate increase. Chugach requested waivers of the requirements in 3 AAC 48.275(a) and 3 AAC 48.504 that it file financial information and a cost-of-service study in support of this rate increase. Chugach requested that TA514-8 and TA392-121 be approved with an initial effective date of February 1, 2022, with revisions thereafter on October 1 and April 1 until Chugach files its next general rate case.[11]

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[6]Order U-18-102(44) *Order Accepting Stipulation in Part, Subject to Conditions; Transferring and Issuing Certificates of Public Convenience and Necessity, Subject to Conditions; Addressing Beluga River Unit Management, Gas Transfer Prices, and Third Party Sales Gas Pricing; and Requiring Filings*, dated May 28, 2020.

[7]Order U-18-036(3)/U-18-051(3) *Order Granting Petitions in Part and Closing Dockets and Dissenting Statement of Commissioner Janis W. Wilson*, dated August 27, 2018, at 11-12.

[8]Chugach did not propose fully recovering deferred expenses in the year following the year that they were incurred. Doing so would minimize the problem of future rates carrying the burden of necessary borrowing and accompanied TIER expenses, as well as deviations from the cost-causer/cost-payer principle.

[9]TA514-8 filed December 9, 2021; TA392-121 filed December 9, 2021.

[10]TA514-8 at 4; TA392-121 at 4.

[11]TA514-8 at 2-5, 7; TA392-121 at 2-5, 7.

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We issued public notice of TA514-8 and TA392-121 with comments due by January 7, 2022. We received comments from Jack Freeman; Alex Gimarc; Ethan Schutt; Carol Pitts; Raymond Jenkins; Cook Inlet Region, Inc.; Doyon, Limited; Bob Maier; the Federal Executive Agencies; Providence Health & Services; and the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section.[12] Each of these comments opposed Chugach's limited decoupling proposal in whole or in part.

In response to these comments, Chugach filed a motion to withdraw TA514-8 and TA392-121. Chugach asserted that it has discussed potential 2022 and 2023 margin shortfall issues with some of the persons who filed comments in response to the decoupling proposal and is in the process of developing an alternative proposal. Chugach committed to filing its alternative proposal by February 28, 2022.[13] No party to these dockets has opposed Chugach's motion to withdraw and the time for doing so has passed.[14]

Discussion

Generally, at any stage of a proceeding before issuance of a final order any application or petition may be withdrawn by filing a notice of withdrawal.[15] It is our practice to follow this rule with tariff advice letters. However, as Chugach acknowledged in its

[12]Comment from J. Freeman, filed December 19, 2021 [TA514-8 only]; Comment from A. Gimarc, filed December 23, 2021 [TA392-121 only]; Comment from E. Schutt, filed December 29, 2021 [TA392-121 only]; Comment from Carrol Pitts, filed January 1, 2022 [TA392-121 only]; Comment from R. Jenkins, filed January 5, 2022 [TA392-121 only]; Comment from Cook Inlet Region, Inc., filed January 6, 2022 [TA392-121 only]; Comment from Doyon, Limited, filed January 6, 2022 [TA392-121 only]; Comment from B. Maier, filed January 7, 2022; Comment from Major Scott L. Kirk, Department of the Air Force, on behalf of the Federal Executive Agencies, filed January 7, 2022; *Providence's Comments on Chugach's Compliance Filing and Request for Decoupling Rate Increase*, filed January 7, 2022; *Office of the Attorney General Comments Regarding TA514-8 and TA392-8*, filed January 7, 2022.

[13]*Chugach Electric's Motion to Withdraw Compliance Filing (TA514-8 and TA392-121)*, filed January 20, 2022 (Motion).

[14]3 AAC 48.091(c).

[15]3 AAC 48.090(d)(1).

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Motion,[16] utilities are required to comply with our orders and thus cannot withdraw a compliance filing without our prior approval.[17]

Given the complexity of the decoupling proposal by Chugach and the public comments received we could not approve that proposal without suspending it into a docket for further investigation. Chugach asked that we either approve or deny TA514-8 and TA392-121 within the initial 45-day review period and not suspend these tariff revisions into dockets of investigation.[18]

We grant Chugach's motion to withdraw TA514-8 and TA392-121, but caution Chugach that it has little time to address any potential margin shortfall for calendar years 2022 and 2023 consistent with the concerns we expressed in Order U-21-059(7). We require Chugach to file its alternative proposed measures to address any potential margin shortfall for calendar years 2022 and 2023 in this docket by February 28, 2022.

Granting Chugach's motion to withdraw TA514-8 and TA392-121 leaves us exposed to being placed in the exact same position for calendar years 2022 and 2023 that we found ourselves regarding Chugach's potential margin shortfall for calendar year 2021. It is therefore critical that Chugach make good on its pledge to file an alternative proposal by February 28, 2022.

ORDER

THE COMMISSION FURTHER ORDERS:

1. *Chugach Electric's Motion to Withdraw Compliance Filing (TA514-8 and TA392-121)*, filed January 20, 2022, is granted.

[16]Motion at 3 (citing to Order U-07-134(5), *Order Allowing Withdrawal of TA8-231, Requiring Filings, and Closing Docket*, dated November 3, 2008, at 3-4).

[17]3 AAC 48.090(i)(2).

[18]TA514-8 at 7; TA392-121 at 7.

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2. By February 28, 2022, Chugach Electric Association, Inc. shall file in this docket an alternative proposal to address any projected margin shortfall for calendar years 2022 and 2023 in a manner consistent with the terms of Order U-21-059(7).

DATED AND EFFECTIVE at Anchorage, Alaska, this 9th day of February, 2022.

BY DIRECTION OF THE COMMISSION

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