

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ENSTAR NATURAL GAS )  
COMPANY, LLC and ALASKA )  
PIPELINE COMPANY, LLC, )  
 )  
Plaintiffs. )  
 )  
vs. )  
 )  
HILCORP ALASKA, LLC, )  
 )  
Defendant. )

FILED in the TRIAL COURTS  
State of Alaska Third District

JAN 22 2025

Clerk of the Trial Courts  
By \_\_\_\_\_ Deputy

Case No. 3AN-25-04285 CI

**COMPLAINT FOR MANDATORY PRELIMINARY INJUNCTION  
AND BREACH OF CONTRACT**

COME plaintiffs, ENSTAR Natural Gas Company, LLC and Alaska Pipeline Company, LLC (collectively referred to as "ENSTAR"), through counsel, the law firm of Dillon Findley & Simonian, P.C., and for their respective causes of action, allege as follows:

**PARTIES AND JURISDICTION**

1. ENSTAR Natural Gas Company, LLC ("ENSTAR") is a Delaware limited liability company doing business in the State of Alaska. ENSTAR is in all respects qualified to bring this action.
2. Alaska Pipeline Company, LLC ("APC") is a Delaware limited liability company doing business in State of Alaska.

3. Defendant Hilcorp Alaska, LLC (“Hilcorp”) is a Delaware limited liability company doing business in Alaska. Hilcorp has offices located at 3800 Centerpoint Drive, Suite 1400, Anchorage, Alaska 99503.

4. Jurisdiction in this Court is proper under AS 22.10.020 and AS 42.20.035.

5. Venue is proper under Alaska Civil Rule 3.

### FACTUAL BACKGROUND

#### Facts Related to the Parties

6. ENSTAR is a natural gas public utility that holds Certificate of Public Convenience and Necessity (“Certificate”) No. 4 from the Regulatory Commission of Alaska (“Commission”). APC holds Certificate No. 141 from the Commission. APC and ENSTAR are affiliates and are regulated by the Commission as a single entity. True and correct copies of the Certificates are attached as Exhibit A.

7. ENSTAR serves the natural gas needs of the greater Anchorage, Kenai Peninsula, and Matanuska-Susitna Valley areas.

8. As a public utility, ENSTAR is required by AS 42.05.291(a) to provide service that is “reasonably continuous and without unreasonable interruption or delay.”

9. ENSTAR meets its responsibilities to the public by purchasing gas from natural gas production companies, who are not regulated by the Commission, and delivering the gas to its customers as needed based on their demand.

10. The Cook Inlet region, where ENSTAR and its customers are located, is supplied from a single natural gas basin. Unlike the Lower 48, where there is an

interconnected system of pipelines that can move gas from multiple points in multiple supply basins. ENSTAR's gas system is unconnected to other basins or gas sources.

11. Hilcorp is currently the predominant producer in the Cook Inlet, supplying roughly 90% of production in the Cook Inlet, and is the only producer with multiple gas producing fields and private storage capabilities.

12. The only entity that provides third-party storage service in Cook Inlet is Cook Inlet Natural Gas Storage Alaska, LLC ("CINGSA"), which is fully subscribed by local utilities, the largest customer being ENSTAR. ENSTAR stores natural gas in CINGSA for withdrawal when its customers' deliverability needs are greater than available deliverability from gas producers.

#### **Facts Related to the Parties' Agreements**

13. ENSTAR currently purchases natural gas from Hilcorp under the Amended and Restated Gas Sale and Purchase Agreement between Hilcorp Alaska, LLC and Alaska Pipeline Company ("Amended APL-14"). A true and correct copy of the Amended APL-14, including Commission Letter Order LO#: L2000231, dated June 10, 2020 approving Amended APL-14, is attached as Exhibit B.

14. The term of Amended APL-14 extends through March 31, 2033. ENSTAR entered Amended APL-14 for "long-term gas supply certainty in order to meet its responsibility to the public in a timely manner and without undue risk to the public." Exhibit B. Amended APL-14 at 9.

15. ENSTAR relies on Hilcorp and Amended APL-14 to meet the needs of its 155,000 Southcentral Alaskan customers.

16. Under Amended APL-14, Hilcorp is obligated to sell ENSTAR 25,000 MMcf (million cubic feet) of natural gas for each contract year. 25,120 MMcf in leap years. This amount is defined as the Firm Annual Contract Quantity. Hilcorp is also obligated to sell to ENSTAR up to an additional 4,000 MMcf of natural gas each contract year at ENSTAR's option, defined as Daily Call Option Gas.

17. ENSTAR uses Daily Call Option Gas to meet its customers' demand in colder weather (weather management) and to replenish its inventory in CINGSA.

18. The Commission explained the intent of the Daily Call Option Gas in its Letter Order approving Amended APL-14: "To allow ENSTAR to manage winter demand and storage inventory, the Amended APL-14 provides Daily Call Option gas volumes of 4 Bcf in each Contract Year. Daily Call Option Gas is available for purchase at ENSTAR's sole option." Exhibit B, Letter Order LO#: L2000231 at 3.

19. On January 10, 2024, ENSTAR and Hilcorp executed Amendment 1 to Amended APL-14 ("Amendment 1") (Amendment 1 and Amended APL-14 are referred to jointly as "APL-14 Amendments"). The term of Amendment 1 became effective after approval by the Commission, is in effect currently, and extends through March 31, 2025. This agreement modifies certain terms and conditions in Amended APL-14 during Amendment 1's term. A true and correct copy of Amendment 1 is attached as Exhibit C.

20. ENSTAR entered into Amendment 1 to allow it to provide gas sales service to Alaska Electric and Energy Cooperative, LLC (“AEEC”). AEEC generates power that is used by Homer Electric Association, Inc. (“HEA”) to provide electrical service to its customers on the Kenai Peninsula. AEEC and HEA are affiliates and are referred to jointly as “HEA.” HEA’s gas supply agreement with Hilcorp expired on March 31, 2024 and it was not able to extend its contract with Hilcorp or pivot to backfill needed gas volumes. ENSTAR stepped up to the plate as a fellow utility to assist in these circumstances. A true and correct copy of ENSTAR’s Tariff Advice Letter 343-4 to the Commission requesting approval for Amendment 1, dated February 7, 2024, is attached as Exhibit D.

21. Amendment 1 did not change ENSTAR’s volume entitlements for Daily Call Option Gas, stating in Section 3.a. that “[e]xcept as otherwise set forth herein, Buyer’s volume entitlements, including ... Daily Call Option Gas, and Needle Peak Call Option Gas, are not modified during this Amendment Term.” Exhibit C at ¶ 3.a.

22. Applicable to the present dispute, the parties agreed under Section 6 to a Supply Protocol for purchases of Daily Call Option Gas. The Supply Protocol provides that “[t]he Parties will coordinate Call Gas and Buyer’s CINGSA storage withdrawals” as set forth in this Section. Exhibit C at ¶ 6.

23. The Supply Protocol states in full:

**6. Supply Protocol**

The Parties agree to add new Section 2.5(D) as set forth below:

a. The Parties will coordinate Call Gas and Buyer's CINGSA storage withdrawals pursuant to the gas supply management protocol ("Supply Protocol") set forth in this section.

b. The tranches set forth below do not modify Buyer's existing Daily Contract Quantity, with the exception of the months of May through August, wherein the maximum Daily Call available to Buyer shall be 5,000 MMcfpd.

c. Tranche 1 and Tranche 2 are set forth below and will be incorporated in the Supply Protocol during the Amendment Term only for the months listed below. Tranche 1 must be fully completed before Buyer can exercise Tranches 2 or 3, respectively.

<b>Tranches 1 and 3: CINGSA Mandatory Withdrawals, Mmcfpd ("million cubic feet per day")</b>	
January	20
February	20
November	12
December	15
<b>Tranche 2: Operational Call Gas, Mmcfpd</b>	
January-April	10
May-August	5
September	6
October-December	15

d. Rollover Volumes

i. If Buyer does not take, on any day or in any month, the Operational Call Gas volumes, the parties will work together in good faith to mutually agree on a time for redelivery of said volumes, but redelivery of said volumes remains subject to Seller's consent.

e. Supply Protocol

- i. The "High Demand Season" is defined as the months of November, December, January, and February.
- ii. During the High Demand Season, Buyer's ability to purchase Call Gas Option Gas will be subject to the following Supply Protocol:
  - 1. CINGSA Mandatory Withdrawals as set forth in Tranche 1 above:

2. Operational Call Gas as set forth in Tranche 2 above;
3. CINGSA Mandatory Withdrawals as set forth in Tranche 3 above;
4. Remaining Call Gas available under the Agreement, which is the difference between the Daily Call Option Gas and the Operational Call Gas taken in Tranche 2;
5. Remaining available CINGSA withdrawal capacity, which is calculated as the difference between Buyer's available Maximum Daily Withdrawal Quantity under that Firm Storage Service Agreement with CINGSA dated February 15, 2022 and the total volume withdrawn in Steps 1 and 3; and
6. Needle Peak Call Gas.

24. ENSTAR expressed its intent regarding the Supply Protocol during Amendment I negotiations: in order to meet customer needs, under the Supply Protocol ENSTAR would have to withdraw and then reinject gas into CINGSA to access Call Gas. Hilcorp was aware of ENSTAR's intent and did not change the language of the Supply Protocol to prohibit contemporaneous gas reinjections. A true and correct copy of the email string between Inna Johansen and Kurt Gibson, dated September 21, 2023 to October 10, 2023, is attached as Exhibit E.

25. Amendment I was heavily negotiated between the parties and modifications to the draft were represented by Hilcorp as "a reasonable accommodation that is equally and appropriately unsatisfactory to all parties." A true and correct copy of email communication between Kurt Gibson and Inna Johansen, dated December 28, 2023, is attached as Exhibit F.

**Facts Related to Hilcorp's Failure to Perform under  
the Parties' Agreements**

26. On January 20, 2024, ENSTAR advised Hilcorp that it would start operating under the Supply Protocol in Amendment 1 effective January 22, 2024. ENSTAR stated that it would be purchasing all Call Gas available under the contract (a total of 22 MMcfd) and would be implementing Mandatory Withdrawals from CINGSA in the amount of 40 MMcfd. ENSTAR also provided notice to Hilcorp that it would issue a CINGSA Withdrawal Report that contained only withdrawal volumes nominated by ENSTAR during the prior day, not injections. A true and correct copy of the email between Inna Johansen and Kurt Gibson and Susan Ellenbecker, dated January 20, 2024, is attached as Exhibit G.

27. ENSTAR followed the Supply Protocol to request and receive Daily Call Option Gas each day in November 2024.

28. On or about December 3, 2024, Hilcorp communicated to ENSTAR a request for ENSTAR to suspend purchasing Daily Call Option Gas during that month with a promise that the parties would work together in January to develop a mutually acceptable delivery schedule. Affidavit of Inna B. Johansen, January 2025, at ¶ 14.

29. Acting in good faith and relying on prior established informal practices that parties utilized multiple times in the past, ENSTAR suspended, but did not waive Daily Call Option Gas purchases on December 3, 2024. Johansen Aff. at ¶ 14.

30. On December 30, 2024, ENSTAR advised Hilcorp that it would resume purchasing Call Gas volumes effective January 1, 2025 at the full contract rate of 22,000



Mcf/d (thousand cubic feet per day). ENSTAR stated the gas would be used to replenish its inventory in CINGSA, which is consistent with the APL-14 Amendments and prior usage. ENSTAR reminded Hilcorp about the colder than normal weather throughout the majority of 2024 and advised Hilcorp that ENSTAR's inventory in CINGSA was below target levels in order for ENSTAR to continue to provide reliable service to its customers. ENSTAR indicated its willingness to work with Hilcorp to develop a plan that provided ENSTAR the opportunity to purchase the entire 4,000 MMcf of Call Gas by March 31, 2025.

31. On December 31, 2024, Hilcorp claimed, without any reference to specific language in the APL-14 Amendments, that under the Supply Protocol ENSTAR is required to withdraw and not reinject volumes from CINGSA before nominating Daily Call Option Gas. Hilcorp similarly claimed, without support in the explicit language in the APL-14 Amendments, that the right of redelivery applies only to Daily Call Option Gas requested in compliance with its asserted terms. A true and correct copy of the emails between Inna Johansen and Kurt Gibson, dated December 30, 2024 and December 31, 2024, is attached as Exhibit H.

32. On January 7, 2025, at 10:22 a.m., Hilcorp emailed ENSTAR that it would cease delivery of Daily Call Option Gas that same day at noon claiming "the request does not align with the Daily Call protocols." Hilcorp sent ENSTAR a modified version of ENSTAR's daily nomination ticket that removed ENSTAR's nominated Daily Call Option Gas. A true and correct copy of the email from Susan Ellenbecker to ENSTAR

Gas Control, dated January 7, 2025 and attached modified Nomination ticket is attached as Exhibit I.

33. On January 7, 2025, at 4:54 p.m., ENSTAR sent Hilcorp a Storage Nomination ticket for that day demonstrating ENSTAR's compliance with the Supply Protocol in Amendment 1. The ticket demonstrates that ENSTAR requested CINGSA to withdraw 40,000 Mcfd from its FSS Storage Inventory (Steps 1 and 3 of the Supply Protocol) before requesting the full amount of Daily Call Option Gas. ENSTAR stated that Hilcorp's refusal to deliver the nomination for Daily Call Option Gas was creating a large imbalance in pipeline and storage operations and inconsistent with Hilcorp's obligations under the APL-14 Amendments. A true and correct copy of the email from Inna Johansen to Susan Ellenbecker and Kurt Gibson attaching nomination ticket, dated January 7, 2025, is included in attached Exhibit J.

34. ENSTAR agreed to reduce its volumes under protest and advised Hilcorp that it did not waive any rights to nominated but undelivered gas from Hilcorp. ENSTAR requested a redelivery schedule for all Daily Call Option Gas volumes that Hilcorp had not delivered, which is the process the parties agreed to in Amendment 1. ENSTAR repeated its intention to purchase the entire 4,000 MMcf of its contractually available Daily Call Option Gas during the current contract year. *See* Exhibit J.

35. Under Amendment 1, Hilcorp, acting in good faith, has discretion on when to redeliver undelivered volumes but has no ability to refuse to redeliver them. ENSTAR

expressly did not waive any rights, including its right to nominated but undelivered gas from Hilcorp.

36. On January 7, 2025, Hilcorp sent a letter to ENSTAR claiming that ENSTAR was “circumventing” provisions of Amendment 1 and claimed that ENSTAR was in breach of Amendment 1, without providing any detail of what provision ENSTAR is alleged to have violated. Rather, Hilcorp references a prohibition on reinjections of Call Gas, which is not supported by the plain language of Amended APL-14 or Amendment 1. Hilcorp also claims without support that ENSTAR is responsible for 118.5 MMcf of Call Gas that was injected in “violation” of the Supply Protocol. The letter further provides that Hilcorp will not deliver nominated Call Gas if ENSTAR also nominates to reinject gas. A true and correct copy of Hilcorp’s letter to ENSTAR, dated January 7, 2025, is attached as Exhibit K.

37. On January 7, 2025, at 5:13 p.m., Hilcorp emailed ENSTAR requesting that the parties discuss this further in the morning. Hilcorp refused to schedule Daily Call Option Gas when ENSTAR was also reinjecting gas to CINGSA. A true and correct copy of the email from Susan Ellenbecker to Inna Johansen, dated January 7, 2025, is attached as Exhibit L.

38. On January 8, 2025, Hilcorp emailed ENSTAR noting ENSTAR was calling for Daily Call Option Gas and asked for assurance that there was no active injection occurring. It asked ENSTAR to share its next day confirmation for CINGSA injections before moving forward and asked for past CINGSA confirmations as well.

39. On January 8, 2025, ENSTAR had a Teams meeting with Hilcorp gas supply team to discuss Supply Protocol nominations and undelivered volumes. During that call, and contrary to the communication on December 3, 2024 acknowledging redelivery of Call Gas, Hilcorp expressed its new position that Call Gas would not be delivered or rescheduled in the event of simultaneous injections into CINGSA. Johansen Aff. at ¶ 16.

40. ENSTAR replied the same day that Hilcorp's request for CINGSA confirmations was outside the terms of the parties' contract (Amended APL-14 and Amendment 1). A true and correct copy of the email communications between Susan Ellenbecker and Inna Johansen, dated January 8, 2025, is attached as Exhibit M.

41. On January 9, 2025, ENSTAR responded to Hilcorp's January 7, 2025 letter, providing that there was no basis for Hilcorp's position that ENSTAR cannot reinject Call Gas. ENSTAR further indicated that Hilcorp was in violation of Section 2.5 of the Amended API.-14 and demanded performance of the Call Option Gas obligations, as well as its obligation to reschedule undelivered gas under Subsection 2.5(D)(d) as amended in Amendment 1. A true and correct copy of ENSTAR's letter to Hilcorp, dated January 9, 2025, is attached as Exhibit N.

42. When Hilcorp did not respond to ENSTAR's January 9 letter, on January 16, 2024, ENSTAR provided Hilcorp with Formal Notice under Amended APL-14 that ENSTAR intended to seek injunctive relief as permitted under Section 2.4(II) of Amended APL-14. ENSTAR also requested that Hilcorp provide a detailed explanation

if it disagreed with this interpretation by 5:00 p.m., on January 17. A true and correct copy of ENSTAR's letter to Hilcorp. dated January 16, 2025. is attached as Exhibit O.

**Facts Related to Irreparable Harm to ENSTAR Caused By  
Hilcorp's Breach of the Parties' Agreements**

43. ENSTAR's contracted maximum storage quantity available in CINGSA is 8,775 MMcf. Johansen Aff. at ¶ 19.

44. ENSTAR currently has 5,600 MMcf in storage. Johansen Aff. at ¶ 20.

45. The rate ENSTAR is able to withdraw gas from storage is governed by its Firm Storage Service Agreement with CINGSA. That rate of withdrawal is reduced when ENSTAR's volume of gas in storage, as a percentage of its maximum storage quantity, decreases. Johansen Aff. at ¶ 21.

46. In January during the winter heating season, ENSTAR targets a storage volume of 6,800 MMcf. Johansen Aff. at ¶ 22.

47. ENSTAR relies on Daily Call Option Gas to replenish its natural gas volumes stored in CINGSA. Johansen Aff. at ¶¶ 9, 13.

48. ENSTAR's reliance on stored gas from CINGSA, including the Daily Call Option Gas volumes that are injected into storage, is amplified during early spring and fall when deliveries under the API.-14 Amendments step down significantly. Johansen Aff. at ¶ 17.

49. ENSTAR uses Daily Call Option Gas purchased under the API.-14 Amendments to meet its customers' demand in colder weather (weather management)

and to replenish its inventory in CINGSA. This critical right that ENSTAR secured under APL-14 was also carried forward to Amended APL-14. Johansen Aff. at ¶ 9.

50. Hilcorp also keeps an inventory of gas in its storage fields in order to provide an increased level of gas deliveries to its customers during winter months. Over the last four years Hilcorp requested ENSTAR reschedule Daily Call Option Gas purchases to a later part of the year to ensure it had sufficient inventory of stored gas in its storage fields to meet its contractual obligations to all customers. ENSTAR worked collaboratively with Hilcorp to reschedule the deliveries of unpurchased Daily Call Option Gas and Needle Peak Option gas from winter months to spring months of 2024. This practice allowed relief to Hilcorp from delivery obligations during high demand months and ensured ENSTAR was still able to replenish its gas storage inventory in CINGSA during the spring. Johansen Aff. at ¶ 10.

51. Without sufficient inventory in CINGSA, ENSTAR risks not being able to meet its responsibility to provide gas to its customers. ENSTAR's reliance on stored gas from CINGSA, including the Daily Call Option Gas volumes that are injected into storage, is amplified during early spring and fall when deliveries under the APL-14 Amendments step down significantly. Johansen Aff. at ¶ 17.

52. The table below shows ENSTAR's withdrawals and injections from CINGSA during March and April from 2020 through 2024. The last column in the table shows the volumes that Hilcorp asked ENSTAR to reschedule for delivery in March and

April, rather than during winter months. “Hilcorp Redelivery Volumes.” Johansen Aff. at ¶ 18.

March-April, MMcf			
	CINGSA Withdrawal	CINGSA Injection	Hilcorp Redelivery Volumes
2020	984	(159)	-
2021	1,613	(207)	708
2022	318	(643)	846
2023	1,724	(95)	295
2024	782	(338)	237

53. In addition to ENSTAR’s maximum storage quantity available in CINGSA, ENSTAR also contracted for an additional 2,000 MMcf of storage capacity under CINGSA’s new Expansion service, bringing ENSTAR’s maximum storage capacity to 10,875 MMcf. In order for ENSTAR to utilize the newly contracted Expansion service, ENSTAR has to inject an additional 2,000 MMcf of gas in CINGSA. Johansen Aff. at ¶ 19.

54. ENSTAR currently has approximately 5,600 MMcf of gas in storage as of January 1, 2025. This is compared to 6,300 MMcf as of the same time last year. Johansen Aff. at ¶ 20.

55. In order to provide reliable gas service to its customers throughout winter months, ENSTAR’s storage plan aims to have 6,800 MMcf of gas inventory in the beginning of January. It then draws down on this inventory for the remaining winter months and into spring until mid-May when it starts injecting gas for the upcoming winter season. Johansen Aff. at ¶ 22.

56. Depending on the weather and available gas purchases, ENSTAR's monthly storage withdrawals can fluctuate between 200 MMcf to 1,200 MMcf during October through April. ENSTAR's reliance on stored gas from CINGSA, including the Daily Call Option Gas volumes that are injected into storage, is amplified during early spring and fall when deliveries under the APL-14 Amendments step down significantly. Johansen Aff. at ¶ 22.

57. ENSTAR included the entire balance of the 4,000 MMcf of the Daily Call Option Gas volumes and 295 MMcf Needle Peak in its Purchase Plan that covers April 1, 2024 through March 31, 2025. As of January 1, Hilcorp delivered 2,195 MMcf of the Daily Call Option Gas. Johansen Aff. at ¶ 23.

58. If the remaining 2.101 MMcf/day of gas is not delivered it will severely impact ENSTAR's ability to provide uninterrupted service to its customers as early as March of 2025. It also may impact ENSTAR's ability to provide reliable gas service next winter. Johansen Aff. at ¶ 23.

59. Without these volumes, assuming normal weather conditions and with ENSTAR maximizing all available gas purchases under its contracts, ENSTAR projects to see its gas inventory drop to 3,400 MMcf by December of this year. Johansen Aff. at ¶ 23.

60. The cold weather events in 2021 were prime examples of the critical importance for ENSTAR to have sufficient stores of gas available in CINGSA. The observed temperatures in 2021 were colder than normal during several months. A



“normal weather year” is a year that exhibits an average of the actual observed annual temperatures over the last ten years. In 2021, however, the number of heating degree days were 11% above average, and ENSTAR’s service territory saw significantly colder than normal temperatures in March, April, November, and December. Johansen Aff. at ¶ 24.

61. ENSTAR delivered a record 35,400 MMcf of natural gas to its customers in 2021. In March and April 2021, temperatures were notably below normal, especially during the first part of April, when ENSTAR’s service territory experienced record cold temperatures. On April 8, 2021, Anchorage set a record daily low of 9 degrees, breaking the previous record set in 1986. On April 9, 2021, ENSTAR customer demand increased to 163 MMcf per day, nearly doubling April’s average demand of 87 MMcf per day. This weather event coincided with ENSTAR’s seasonal change in gas supply purchases from Hilcorp when gas purchases step down from large volumes delivered during winter months to summer purchase levels. In response, ENSTAR withdrew a significant amount of gas from CINGSA over this period, reaching a daily withdrawal rate of 108 MMcf per day on April 9. Over the course of that month, ENSTAR withdrew almost 1,000 MMcf of gas from CINGSA’s storage facility, or one-third of ENSTAR’s typical annual withdrawals. Johansen Aff. at ¶ 25.

62. The second event occurred in November and the first half of December 2021, when its customers experienced persistent and intense cold temperatures triggering gas demand to peak at abnormally high levels. By comparison, the average observed

demand for November is about 100 MMcf per day. During November 2021, customer average demand for the month increased to 160 MMcf per day. By the second week of November, that demand increased to over 200 MMcf per day. Johansen Aff. at ¶ 26.

63. If ENSTAR experiences a weather event this year similar to 2021 and Hilcorp does not redeliver all unpurchased volumes by April 1, ENSTAR will not have sufficient firm withdrawal capacity in CINGSA to meet its customer demand. Assuming normal winter weather conditions, ENSTAR projects its inventory in CINGSA to drop 47% of its maximum allowed in March and 37% in April. Under these conditions, the contracted maximum daily withdrawal capacity will be 75.117 MMcf per day compared to 108 MMcf per day that ENSTAR used on April 9, 2021. That is a significant reduction in available daily gas volume that will most likely result in curtailments of the service to ENSTAR sales and transportation customers. Johansen Aff. at ¶ 27.

64. In order for Hilcorp to redeliver 1.805 MMcf of the Daily Call Option gas and 295 MMcf of the Needle Peak Call Option gas, Hilcorp will need to start delivering this gas as soon as possible. If Hilcorp starts delivering this gas on January 27 at 22 MMcf per day, it will be able to deliver 110,000 Mcf of Call Gas in January 2025 and 616,000 Mcf of Call Gas in February 2025. In March, the delivery schedule will have to be increased to 44 MMcf per day in order to deliver the remaining 1,300 MMcf of gas prior to the end of this current contract year on March 31. If these deliveries are not made by April 2025, ENSTAR's ability to provide continued service will be negatively impacted. Johansen Aff. at ¶ 28.

65. In the event that ENSTAR's service is disrupted due to lack of deliveries from Hilcorp, it would impact all 155,000 customers as well as its seven transport customers. As a regulated utility, ENSTAR cannot simply shut down operation. When ENSTAR does not have enough gas to meet its daily gas requirements from customers, the amount of gas that is moved through its pipelines is not sufficient to keep adequate pressures to deliver gas to customers' meters. If there is a drop in pipeline pressures, ENSTAR will need to mitigate quickly by either adding additional supply or curtailing customer load. In this event, ENSTAR will initiate its Interruption Plan, set out in Section 1200 of ENSTAR's tariff filed with the Commission. The Interruption Plan calls for ENSTAR to curtail gas in the following order: a) first, all interruptible load, b) second, any transport load which includes gas consumption by all electric utilities, and c) third, the gas sales customer load. The three levels of interruption can be triggered in quick succession, depending on the amount of supply shortage. Johansen Aff. at ¶ 29.

66. In addition to the direct impacts of any interruption, there would also be impacts to all electric generation in Southeast Alaska. ENSTAR will request the electric power providers to maximize alternative sources of generation in the event of a gas supply shortfall, which in turn will have significantly higher cost than gas generation. To the extent an electric power provider does not have alternative generation, it will need to initiate blackouts. ENSTAR has executed a Gas Emergency Agreement Letter with Chugach Electric Association, Municipal Light & Power, and Golden Valley Electric

Association with the purpose to “work cooperatively together to minimize the effect on the public of a shortage of natural gas.” Johansen Aff. at ¶ 30.

67. Hilcorp’s failure to deliver contractual volumes immediately impacts operational planning for ENSTAR. The gas supply shortage will increase every day, and the impacts are further expedited if colder than normal weather occurs. To address the shortage, ENSTAR will have to withdraw more gas from its storage in CINGSA, which will in turn expedite the time when the daily deliveries from CINGSA will not be sufficient to meet daily customer demand. Once this occurs, there will be an impact on pipeline pressures. Hilcorp must start redelivering gas as soon as possible to address the existing shortfalls as well as to ensure that deliveries occur within Hilcorp’s operational constraints. Johansen Aff. at ¶ 32.

68. As a further example, ENSTAR does not withdraw large amounts of gas from its storage inventory during the earlier part of the heating season. However, in November 2024, ENSTAR withdrew 1,300 MMcf of gas from storage. These examples demonstrate ENSTAR’s significant reliance on stored gas and the importance of having sufficient inventory in CINGSA. Johansen Aff. at ¶ 33.

69. The injection of storage gas into CINGSA is not an instantaneous process. It is not like turning on a light switch. It takes time to inject gas and rebuild the inventory levels to required levels. Each day Hilcorp delays deliveries of the Daily Call Gas is negatively impacting ENSTAR’s ability to provide gas service to its customers. Johansen Aff. at ¶ 34.

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70. ENSTAR cannot delay the delivery of gas necessary to replenish its storage in CINGSA. Deliveries are required on a daily basis now to meet the required volume. Johansen Aff. at ¶ 35.

**COUNT I – BREACH OF CONTRACT AND  
ANTICIPATORY BREACH OF CONTRACT**

ENSTAR re-alleges paragraphs 1-70 as if fully set forth herein and further alleges as follows:

71. Hilcorp entered into the APL-14 Amendments with ENSTAR to provide contractually agreed upon volumes of gas to ENSTAR based on the terms of the APL-14 Amendments.

72. Consistent with the terms of the APL-14 Amendments, ENSTAR properly nominated volumes of Daily Call Option Gas.

73. Upon nomination, Hilcorp is contractually required to provide the volumes of Daily Call Option Gas and Needle Peak Gas pursuant to the requirements set forth in the APL-14 Amendments.

74. Despite the nomination of Daily Call Option Gas and despite its requirement to comply under the APL-14 Amendments, Hilcorp has to date refused to comply with its obligations to provide Daily Call Option Gas to ENSTAR. Hilcorp has also indicated that it will not comply with its obligations to provide Needle Peak Gas to ENSTAR upon nomination.

75. As a result of this refusal, Hilcorp has breached its obligations under the contract, and is also in anticipatory breach of its obligations.

76. As a result of Hilcorp's breach and anticipatory breach, ENSTAR has sustained, and continues to sustain, damages in excess of \$100,000, the exact amount to be determined at trial.

### COUNT II – BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING

ENSTAR re-alleges paragraphs 1-76 as if fully set forth herein and further alleges as follows:

77. Under Alaska law, there is in every contract an implied covenant of good faith and fair dealing between the parties, and an implied covenant that a party will not deprive the other party of the benefits of its contract.

78. Hilcorp violated its duty of good faith and fair dealing by representing that it was able to provide the contractually agreed upon volumes of gas and refusing to do so.

79. In addition, Hilcorp violated its duty of good faith and fair dealing by refusing to engage in good faith to determine an alternative manner to meet its obligations.

80. As a result of Hilcorp's breach of its duty of good faith and fair dealing, ENSTAR sustained, and continues to sustain, damages in excess of \$100,000, the exact amount to be determined at trial.

### PRAYER FOR RELIEF

Wherefore, ENSTAR prays for the following relief:

1. That this Court enter a mandatory preliminary injunction pursuant to Alaska Civil Rule 65(a) that requires Hilcorp to sell and deliver Daily Operational Call Gas and Needle Peak Gas to ENSTAR as required by the API-14 Amendments:

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2. Money damages in an amount to be proven at trial;
3. For pre- and post-judgment interest, along with reasonable attorney's fees,

costs and expenses incurred in bringing this lawsuit; and

4. For such other relief as the Court deems just and proper.

DATED this 22nd day of January 2025, at Anchorage, Alaska.

DILLON FINDLEY & SIMONIAN, P.C.  
Attorneys for Plaintiffs

By: /s/ Jessica Dillon  
Jessica Dillon, ABA No. 0811066

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John P. Wood, ABA No. 00211056

By: /s/ Nicholas I. Bajwa  
Nicholas I. Bajwa, ABA No. 0705015

## INDEX TO EXHIBITS

- Exhibit A ENSTAR and APC's Certificates of Public Convenience and Necessity & RCA Order U-22-032 (8)
- Exhibit B Amended APL-14
- Exhibit C Amended APL-14. Amendment 1
- Exhibit D ENSTAR's Tariff Advice Letter 343-4, Feb. 7, 2024
- Exhibit E Emails between Inna Johansen and Kurt Gibson. Sept. 21 – Oct. 10, 2023
- Exhibit F Email from Kurt Gibson to Inna Johansen, Dec. 28, 2023
- Exhibit G Email from Inna Johansen to Kurt Gibson and Susan Ellenbecker. Jan. 20, 2024
- Exhibit H Emails between Kurt Gibson and Inna Johansen, Dec. 30 – 31, 2024
- Exhibit I Email and attachment from Susan Ellenbecker to ENSTAR Gas Control. Jan. 7, 2025
- Exhibit J Email and attachment from Inna Johansen to Susan Ellenbecker and Kurt Gibson. Jan. 7, 2025
- Exhibit K Letter from Hilcorp Alaska, LLC to ENSTAR, Jan. 7, 2025
- Exhibit L Email from Susan Ellenbecker to Inna Johansen, Jan. 7, 2025
- Exhibit M Emails between Susan Ellenbecker and Inna Johansen, Jan. 8, 2025
- Exhibit N Letter from ENSTAR to Hilcorp Alaska, LLC, Jan. 9, 2025
- Exhibit O Letter from ENSTAR to Hilcorp Alaska, LLC, Jan. 16, 2025