



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Regulatory Commission of Alaska

701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501-3469
Main: 907.276.6222
Toll Free Fax: 1.800.390.2782
Fax: 907.276.0160

October 6, 2025

In reply refer to: Tariff Section
File: TA579-8
LO #: L2500270

Arthur Miller
Chief Executive Officer
Chugach Electric Association, Inc.
P.O. Box 196300
Anchorage, AK 99519-6300

Dear Mr. Miller:

On August 26, 2025, Chugach Electric Association, Inc. (Chugach) filed TA579-8 with the Regulatory Commission of Alaska (Commission), proposing to include in its tariff the newly created Cents of Community charitable program approved by its membership in May 2023. Under the Cents of Community program, member bills are rounded up to the nearest dollar, and the proceeds are donated to eligible 501(c)(3) charities serving the Chugach service area.

The Commission has previously reviewed two virtually identical charitable giving programs, and in each instance took no action to bar their implementation. For GVEA, its charitable giving program was implemented in 2010 via TA209-13. In the letter order addressing the filing, the Commission relied on GVEA's representations that the program was beyond the Commission's jurisdiction.¹ For MEA, its "Operation Roundup" program was noticed in TA402-18. Like GVEA, MEA also noted the Commission's lack of jurisdiction to regulate the program.

While the Commission did not expressly address its jurisdiction to regulate charitable giving programs structured like Chugach's "Cents of the Community" before, it does so here and finds none.

Administrative agencies rest their power on affirmative legislative acts and must find a statutory basis to exercise regulatory authority.² AS 42.05.141 establishes the Commission's general powers and duties. "The Regulatory Commission of Alaska may do all things necessary or proper to carry out the purposes and exercise the powers

¹ L1000542, dated October 26, 2010.

² *City of Valdez v. State*, 372 P.3d 240, 256 n.125 (Alaska 2016) (citing *McDaniel v. Cory*, 631 P.2d 82, 88 (Alaska 1981)).

expressly granted or reasonably implied in this chapter, including..." regulating utilities; investigating rates, classifications, rules, regulations, practices, services, and facilities of public utilities; setting rates; managing power cost equalization; and other various powers and duties in furtherance of these items.³ While the Commission's powers to perform these functions are liberally construed, "[the Commission's] jurisdiction does not extend beyond regulation of required services or facilities."⁴

The program proposed in TA579-8 does not involve utility-related service. Nor does it alter or increase the compensation Chugach collects for providing a utility-related service. The charitable program is instead structured on the relationship between the cooperative and its members, independent of the electric utility service Chugach provides to its ratepayers.⁵ Therefore, the program proposed in TA579-8 does not fit the statutory definition of a "rate" or "service" and it does not fall within the Commission's jurisdictional authority under AS 42.05.⁶

In reaching these conclusions the Commission notes that Chugach's ratepayers are not "captive" in the program. There is an off-ramp provided in the form of an "opt-out" provision. While the Commission was disturbed by Chugach's justification for its use,⁷ it is beyond the Commission's jurisdiction to make policy calls concerning it, or the opt-out's compliance with AS 45.45.930 under the circumstances presented.⁸

Because the Commission lacks jurisdictional authority to investigate or regulate a charitable program like that described in TA579-8, the Attorney General may have authority to do so under the Unfair Trade Practices Act.⁹ Since the Commission lacks jurisdiction to perform this function, the Unfair Trade Practices Act exemptions listed in AS 45.50.481(1) do not limit the Attorney General's ability to protect the public.

As the Commission does not have jurisdiction over Chugach's Cents of Community program, the Commission acknowledges Chugach's request but does not approve the tariff sheets filed with TA579-8.

³ AS 42.05.141(a).

⁴ *Municipality of Anchorage v. Locker*, 723 P.2d 1261, 1264 (Alaska 1986).

⁵ AS 42.05.361(a) does not alter this determination. This statute generally requires utility tariffs to address "charges collected." But for the tariff requirement to apply, the charges collected must also pertain to a utility-related service. See 3 AAC 48.320(a). See also *Municipality of Anchorage v. Locker*, 723 P.2d at 1263.

⁶ AS 42.05.990. See also *Homer Elec. Ass'n, Inc. v. City of Kenai*, 816 P.2d 182, 186-87 (Alaska 1991); *Jeffries v. Glacier State*, 604 P.2d 4, 10 (Alaska 1979); *Greater Anchorage Area Borough v. City of Anchorage*, 504 P.2d 1027, 1033 (Alaska 1972).

⁷ See Supplemental TA Filing dated September 8, 2025.

⁸ The Commission also notes that constitutional concerns, such as those raised by the Office of the Attorney General, Regulatory Affairs & Public Advocacy Section, are beyond the scope of authority that administrative agencies, like the Commission, are empowered to adjudicate. See *Alaska Pub. Int. Research Group v. State*, 167 P.3d 27, 35-36 (Alaska 2007).

⁹ AS 45.50.495.

BY DIRECTION OF THE COMMISSION (Commissioners John M. Espindola and John C. Springsteen, dissenting)

Sincerely,

REGULATORY COMMISSION OF ALASKA



John M. Espindola
Chair



October 6, 2025

Dissenting Statement of Commissioners John M. Espindola and John C. Springsteen

Re: TA579-8 Cents of Community Program

The argument presented by our colleagues based on their interpretation of Alaska Statute 42.05.141 asserts that the Regulatory Commission of Alaska (Commission) lacks jurisdiction over the proposed billing practice and future charges imposed on Chugach Electric Association, Inc.'s (Chugach) members for their participation in the Cents of Community program. However, this conclusion is materially flawed and overlooks crucial aspects that warrant further consideration.

We have concerns that Chugach's members are being presented with a charge on their monthly utility bill that is unrelated to the provision of electric service. We further express our frustration that the automatic enrollment nature of the program has put an unnecessary burden on Chugach members to "opt-out" of a program they have not affirmatively consented to. The billing practice Chugach is proposing to implement intermingles charges for monthly electric service and rounding up a member's bill for the charitable program. As such, this program results in a charge that is presented on a Chugach member's monthly utility bill. This intrinsically links the contributions for the program to payment for regulated electric utility service. We believe it can be construed that the proposed billing practice falls within the Commission's jurisdiction under AS 42.05.141(a)(3) and is subject to scrutiny and approval by the Commission.¹

While we have concerns with the proposed billing practice, we do agree with our colleagues that the round up charges have nothing to do with providing utility service and we also agree that in general the Commission does not have authority over the charitable program. However, the Cents of Community program is intertwined with the monthly billing practice of Chugach, a regulated member-owned cooperative with the sole purpose

¹ See [AS 42.05.141](#), *General Powers and Duties of the Commission*, which states, in pertinent part: "(a) The Regulatory Commission of Alaska may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including... (3) make or require just, fair, and reasonable rates, classifications, regulations, **practices**, services, and facilities for a public utility..." (Emphasis added).

of providing electric service. By rounding up its members' bills for electric service to the nearest dollar, the program directly affects charges imposed on members and we continue to believe this falls within the purview of the Commission's jurisdiction under AS 42.05.141(a)(3).

According to AS 42.05.361(a), the Commission requires every public utility to file its complete tariff showing all rates, tolls, rentals, **charges**, and terms and conditions under which it furnishes its services and facilities to the general public (emphasis added).² This is yet another provision in our statutes codifying Commission jurisdiction over the charges imposed on Chugach's members given that the Cents of Community program modifies the total amount charged to members on their monthly bills for electric service.

This program has nothing to do with providing utility service. Requiring members to take action to not be charged for this program is not a substitute for gaining their explicit, affirmative consent. By its own admission, Chugach states that in essence, the program is structured as automatic enrollment, "opt-out", because it relies on members' limited awareness of the charge being imposed on them. Chugach provided the following explanation:

*"...automatic enrollment is expected to yield higher participation. People are naturally inclined toward status quo. In an opt-out structure, this tendency supports continued participation... By contrast, opt-in programs require affirmative action to join, and even members who support the program may not complete the extra step of affirmatively signing up. Automatic enrollment thus promotes broader and more sustainable participation."*³

This response is not only concerning but is another reason why the Commission should exercise its broad statutory authority to vet the provisions of this billing practice and those resulting charges that will automatically be imposed on its members. Relying on member inaction undermines the spirit of voluntary giving, as true generosity should come from choice, not default settings. By including the round up charge on a customer's bill, we believe this falls within the purview of the Commission's jurisdiction under AS 42.05.361(a).

We have concerns about Chugach's lack of internal controls. In response to Staff's questions about this program, Chugach states it had incurred approximately \$73,000 related solely to standing up this program and the Chugach Charitable Foundation.⁴

² See [AS 42.05.361](#), *Tariffs, Contracts, Filing, and Public Inspection*.

³ See Supplement to TA579-8, filed September 8, 2025 ([TR2503458](#)), response 22.a.

⁴ See Supplement to TA579-8, filed September 3, 2025 ([TR2503389](#)), response 4.a.

Chugach further states that it would not seek to recover the \$73,000 in rates and identified \$9,175.35 of costs that were inadvertently included in the 2025 general rate case⁵ that would be removed.⁶ Chugach filed a supplement to the 2025 general rate case removing the \$9,175.35 of costs related to the Cents of Community program.⁷ Even though Chugach corrected the error, it was only discovered after prompting by Commission Staff. What about the remaining \$63,825? The initial inclusion of these disallowed expenses suggests a lack of internal controls, which raises concerns about potential future misallocations. Further, it is troubling that a utility with a current revenue deficiency that is charged with providing low-cost reliable electric service to its members is focusing on other initiatives outside of its core mission.

In conclusion, the Commission has been granted broad statutory regulatory authority by the Alaska State Legislature to balance the public interest for utilities and their ratepayers. The Commission should reconsider its stance on this filing and other filings it took no action on in the past as noted by our colleagues.⁸ By asserting robust regulatory authority in this filing, the Commission has an opportunity to ensure that this program imposed on ratepayers by Chugach operates with full transparency and in the best interest of our fellow Alaskans the Commission is entrusted to protect.

Sincerely,

REGULATORY COMMISSION OF ALASKA



John M. Espindola
Chair



John C. Springsteen
Commissioner

⁵ See Chugach Electric Association-Revenue Requirement Study, filed as TA577-8, on August 18, 2025 ([TR2503165](#)).

⁶ See Supplement to TA579-8, filed September 8, 2025 ([TR2503458](#)), response 24.a.

⁷ See Supplement to TA577-8, filed September 11, 2025 ([TR2503502](#)).

⁸ See Letter Order [L1000542](#) accepting GVEA's Goodcents program, issued October 26, 2010 (TA209-13), and the attached *Separate Statement of Commissioner T.W. Patch*. See also Letter Order [L1100421](#) approving MEA's Operation Roundup® program, issued August 8, 2011 (TA402-18), and the attached *Separate Statement of Commissioner T.W. Patch*.