

STATE OF ALASKA
BEFORE THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Robert M. Pickett, Chairman
Kate Giard
Paul F. Lisankie
T. W. Patch
Janis W. Wilson

In the Matter of the Tariff Revision Designated as)
TA172-4, Regarding a Proposed Gas Cost Adjustment)
for 2009 Filed by ENSTAR NATURAL GAS)
COMPANY, A DIVISION OF SEMCO ENERGY,) Docket No. U-08-142
INC.)
_____)

ENSTAR'S FORT RICHARDSON BILLING ERROR REFUND PLAN

In Order No. U-08-142(14), the Commission required ENSTAR Natural Gas Company to “refund the amount overpaid by gas sales customers” and to “file a plan for the disbursement of refunds”¹ which returns the \$5,710,270 included in the 2009 gas cost adjustment (GCA)² related to the Fort Richardson billing error that occurred between July 2002 and October 2007, plus accrued interest. The average refund for current residential customers will be approximately \$35, including interest at 10.5 percent per annum. The average refund per residential customer who has left the system will be less than \$20, including interest at 10.5 percent per annum.

This filing describes three alternative refund methods. Placing the refund in the Gas Cost Balance Account and refunding it as a credit on customers’ bills for the rest of 2010 is the

¹ U-08-142(14), issued March 1, 2010, page 23.

² U-08-142(3), issued December 22, 2008.

preferred method because it can be quickly accomplished, is consistent with Commission and Alaska Supreme Court precedents on refunds, and avoids the significant administrative burdens of the alternatives.

The second option would be to issue individual refunds to each customer from whom amounts were collected in 2009 in the precise amount collected, plus interest. This is administratively burdensome for the reasons detailed below.

The third option would be to issue direct refunds to current customers only. The refunds owing to customers who have left the system would be deposited with the State of Alaska as unclaimed property under AS 34.45.150.

GAS COST BALANCE ACCOUNT OPTION

ENSTAR proposes to reduce the cost of gas for its gas sales customers for the remainder of 2010 by removing the disallowed refund payments (totaling \$5,710,270 to Aurora Power and Marathon Oil Company) and accrued interest from the GCA in a revised GCA filing. Interest would be calculated from January 1, 2009, the date ENSTAR's customers began paying the 2009 GCA rate. Interest would continue to accrue until the Commission approves this refund method. As of April 1, 2010, ENSTAR calculates the total refund to be \$6,067,948.³

Under this plan, ENSTAR estimates that the total refund would reduce the 2010 GCA by \$0.40 per Mcf. An average residential customer will receive a refund totaling \$35 over the

³ Reduction in 2009 GCA amount of \$0.1872 per Mcf (as shown on the Appendix to U-08-142(14)) multiplied by the gas sales volumes billed in 2009 of 31,128,917 Mcf equals \$5,827,333 + \$240.615 (Simple interest at .875% per month from January 1, 2009 through April 1, 2010). Using simple interest, any additional month prior to completion of the refund will increase the total refund by \$25,495. Attachment A shows these calculations.

last six months of 2010. All of the large volume commercial customers in 2009 are still customers on the system; therefore, those gas sales customers who paid the highest percentage of the amounts collected in 2009 would all benefit if the refunds were processed through the GCA. ENSTAR is prepared to file a revised GCA within five days after the RCA approves this refund method.

The Commission has a long and consistent history of passing customer refunds through the Gas Cost Balance Account. The Moquawkie settlement of \$10.1 million, for example, was passed through to customers in 2009 in this manner. U-08-078 Other examples include the Marathon severance tax payment, \$9.7 million, in 1998 (TA107-4); the BRU balancing dispute, \$2.0 million, in 2007 (TA147-4); the Union severance tax reimbursement, \$1.15 million, in 2007 (TA160-4); and the Marathon severance tax reimbursement, \$1.3 million, in 2007 (also TA160-4).

This refund method meets the test described by the Alaska Supreme Court in *United States v. RCA Alaska Communications, Inc.*, 597 P.2d 489 (Alaska 1978); overruled on other grounds in *Owischek v. Guide Licensing & Control Bd.*, 627 P.2d 616 (Alaska 1981). In that case, the court noted that the relevant precedents “ . . . do not require a perfect correlation between interim ratepayers and potential refund recipients as long as the consumers who are not adequately protected by the refund procedure constitute a relatively small group which neither bears a discriminatory burden nor suffers a substantial harm.” *Id.* at 511. The only customers who would not benefit from this refund plan are those who are no longer ENSTAR’s customers. No large volume customers are affected and the average refund for the customers who have left the system is less than \$20.

DIRECT CUSTOMER REFUND OPTION

Although more time-consuming and cumbersome, an alternative method for ENSTAR to refund the \$6,067,948 to its customers would be to directly refund the exact amount collected from each customer in 2009. Each individual refund would be calculated by multiplying the customer's monthly volumes by the difference (\$.1872 per Mcf) between ENSTAR's proposed 2009 GCA and the GCA ordered by the Commission in Order No. U-08-142(14). Interest would be calculated for each customer at a rate of .875% per month based on actual monthly usage for 2009. The total refund under this methodology at April 1, 2010 is the same as noted above, \$6,067,948.

This refund option would be administratively burdensome to execute because ENSTAR's customer base constantly changes. ENSTAR had 130,757 gas sales customers on April 1, 2010. On the last day of 2009, ENSTAR had a similar number of gas sales customers, 130,491, but 13,303 of them were not the same customers who purchased services in 2009 during the period of time that the 2009 GCA was collected.

Almost ninety percent of ENSTAR's current customers were also customers when the funds were collected in 2009. Those customers' refunds could appear as a credit on the individual customer's bill after the amount of individual customer refunds was calculated and verified, and all variances were researched. ENSTAR estimates that it will take over 400 hours of time for its staff to process these refunds. To issue refunds to current customers, ENSTAR would need thirty days' notice to write and test the programs necessary to issue the refunds as credits on customers' bills.

Refunding the 13,303 customers who were customers in 2009 but who are no longer on the ENSTAR system would be extremely complicated and time-consuming. ENSTAR may not

have current addresses for these customers. They may have moved out of ENSTAR's service area or have had service terminated for another reason, including nonpayment. Since these customers no longer have an ENSTAR account, refunds would need to be issued as individual checks. ENSTAR's personnel would first have to identify the last address ENSTAR has for the former customers, and update its billing system.⁴ The refund amount would need to be entered manually into the check printing system. At ten minutes per customer, this task would take more than 2,000 hours to complete. Verifying and printing the checks is estimated to take two work weeks, or 80 hours. In addition to the cost of staff time to issue refunds, ENSTAR would also incur the costs to print the checks and the postage to mail them. If any checks are returned with forwarding addresses that have expired, ENSTAR will resend the check to that new address, incurring additional handling, printing and mailing costs. Refund checks returned without a valid forwarding address would be delivered to the State of Alaska as unclaimed property under AS 34.45.150.

Of the 13,303 customers no longer on the system, 2,300 customer accounts were sent to Collections. For this customer subset, ENSTAR would apply the refund as a credit on the customers' account. This process would take an estimated 400 hours of labor. These time estimates are based on the time it took to accomplish the B to A settlement (U-08-025); three employees spent three months adjusting customers' accounts.

⁴ This could be a forwarding address, if the customer provided one to ENSTAR, or the last billing address provided.

DIRECT CUSTOMER REFUND OPTION (CURRENT CUSTOMERS ONLY)

A third option for Commission consideration is to require ENSTAR to refund current customers, as described above. Customers who have left ENSTAR's system would not receive a direct refund. The monies representing those refunds would be deposited with the State as unclaimed property. This method would mitigate the substantial investment in time and monies required under the previous option to issue refunds to local customers who have left ENSTAR's system, but would still require considerable effort to calculate and verify additional refunds. ENSTAR estimates that \$265,156 would be delivered to the state as unclaimed property if the Commission ordered this refund option.

CONCLUSION

ENSTAR offers these three alternative refund plans and asks the Commission to designate the one it wants ENSTAR to implement. ENSTAR's preference is to refund through the GCA account, consistent with the Commission's practice and Supreme Court guidance on refunds. Issuing the refunds through an amended GCA filing would allow customers to receive the refund benefit more quickly. The refund would also be complete by the end of the year, and incur significantly less administrative costs than the other two options. If the Commission determines that individual accounts should be credited with refunds, ENSTAR urges the Commission to allow it to issue the refunds owing to customers who are no longer on ENSTAR's system to the State of Alaska as unclaimed property. These refunds average less than \$20 per customer, and the administrative burdens associated with locating the customers and issuing individual checks outweigh that nominal benefit.

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Attachment A - Refund Calculation Schedule
Attachment B - U-08-142(14) Appendix

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served electronically and by U.S. Mail on the 20th day of April 2010, on:

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