

REGULATORY COMMISSION OF ALASKA - Notice of Utility Tariff Filing

Notice of Utility Tariff Filing

The REGULATORY COMMISSION OF ALASKA (Commission) gives notice that Cook Inlet Natural Gas Storage Alaska, LLC (CINGSA) filed TA58-733, requesting approval of 2023 Expansion Inception Rates for service provided under its 2023 Expansion Firm Storage Service (FSS) Agreement and seeking to revise its rules to differentiate between Initial Capacity customers and the Expansion Customer.

In TA55-733, the Commission approved a form 2023 Expansion FSS Agreement between CINGSA and ENSTAR Natural Gas Company, LLC and required CINGSA to file proposed inception rates based on actual capital expenditures at least 45 days before providing expansion service under the agreement. With TA58-733, CINGSA proposes inception rates. In addition, CINGSA requests the rates be made effective immediately, on an interim and refundable basis, and proposes to update the inception rates following its first full calendar year of operations of the 2023 Expansion Project. A comparison of the Initial Capacity and 2023 Expansion rates is shown in the table below.

	Initial Capacity Tariff Rate	2023 Expansion Tariff Rate
FSS Reservation Rate	\$5.0288/Mcf	\$6.2699/Mcf
FSS Capacity Rate	\$0.0686/Mcf	\$0.2038/Mcf
FSS Injection/Withdrawal Rate	\$0.0498/Mcf	\$0.0981/Mcf
Overrun Storage Service Rate	\$0.2152/Mcf	\$0.3043/Mcf
Excess Storage Service Charge	\$0.0686/Mcf	\$0.2038/Mcf
Interruptible Storage Service (ISS) Rate	\$0.2340/Mcf	\$0.4100/Mcf
ISS Injection/Withdrawal Rate	\$0.0498/Mcf	\$0.0981/Mcf

This notice does not contain all requested revisions, and the Commission may approve a rate or classification that varies from those proposed. You may obtain information about this filing by contacting Chelsea N. Guintu, Manager of Regulatory and Planning at CINGSA, P. O. Box 190989, Anchorage, AK 99519-0989; phone: (907) 334-7620. The complete filing is also available for inspection at the Commission's office at 701 West Eighth Avenue, Suite 300, Anchorage, AK 99501; phone: (907) 276-6222, or may be viewed on the Commission's website at <http://rca.alaska.gov> by typing "TA58-733" in the *Find a Matter* search box.

To comment on this filing, please file your comments by 5:00 p.m., December 10, 2024, at the Commission address given above or at its website:

<https://rca.alaska.gov/RCAWeb/WhatsNew/PublicNoticesComments.aspx>

Please reference TA58-733 and include a statement that you have filed a copy of the comments with CINGSA at its address given above. Individuals or groups of people with disabilities, who require special accommodations, auxiliary aids or service, or alternative communication formats, please contact Sam Vukasin at (907) 276-6222, toll-free at 1-800-390-2782, or TTY/Alaska Relay at 7-1-1 or 1-800-770-8973, or send a request via electronic mail to rca.mail@alaska.gov by December 3, 2024.

DATED at Anchorage, Alaska, this 26th day of November, 2024.

REGULATORY COMMISSION OF ALASKA

John M. Espindola
Chair

Attachments, History, Details

Attachments
None

Revision History
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Details	
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THE REGULATORY COMMISSION OF ALASKA

John M. Espindola, Chair
Steve DeVries
Mark Johnston
Robert M. Pickett
John C. Springsteen

U-25-004
ORDER NO. 5

**ORDER CLOSING REGULATORY ASSET AUTHORIZED BY ORDER
U-22-090(2), APPROVING NEW REGULATORY ASSET, DENYING TA350-4,
FINDING MOTIONS FOR CONFIDENTIAL DISCOVERY ORDERS AND
MOTION FOR EXPEDITED CONSIDERATION MOOT, REQUIRING FILINGS,
VACATING REMAINING PROCEDURAL SCHEDULE AND HEARING,
AND APPOINTING ADMINISTRATIVE LAW JUDGE**

Summary

We close the regulatory asset authorized by Order U-22-090(2). We approve the creation of a new regulatory asset for certain future development costs incurred by ENSTAR Natural Gas Company, LLC (ENSTAR). We deny the tariff revision designated as TA350-4 filed by ENSTAR. We find the motions for confidential discovery orders filed by ENSTAR and the Office of the Attorney General, Regulatory Affairs and Public Advocacy Section (RAPA) and the motion for expedited consideration filed by RAPA moot. We require filings. We vacate the remaining procedural schedule and hearing for this proceeding. The chair appoints an administrative law judge.

On January 28, 2025, ENSTAR filed a tariff revision designated as TA350-4. The filing proposes to revise ENSTAR's gas cost adjustment (GCA) surcharge to allow

1 ENSTAR is largely seeking to recover costs directly related to a FERC-regulated facility
2 that is outside of this Commission's jurisdiction.⁷⁷

3 JLP/RSD argue that the Legislature's intent to restrict Commission
4 jurisdiction by adopting AS 42.05.711(v) was shown when it expressly decided to remove
5 language stating "[f]or rate-making purposes, the commission shall consider the
6 investment of a public utility in a liquified natural gas import or export facility" from HB 50.
7 JLP/RSD assert this language appeared in the Senate Finance Committee draft of HB 50
8 but was subsequently amended to state, "For rate-making purposes, the commission
9 shall not consider the investment of a public utility in a liquified natural gas import or export
10 facility."⁷⁸

11 As to Joint Development Agreement costs, JLP/RSD state that ENSTAR
12 has failed to provide any detail regarding what its obligations may be under such an
13 agreement and the agreement is clearly related to the development of the LNG import
14 facility, which is a non-jurisdictional project.⁷⁹

15 As to the Terminal Use Agreement and LNG Sales and Purchase
16 Agreement, JLP/RSD state that "ENSTAR apparently plans to purchase gas outside of
17 Alaska for import to the facility and to utilize the facility to regasify the LNG for use in
18 Alaska." JLP/RSD state that this "activity constitutes interstate transportation of gas and
19 is squarely within FERC's jurisdiction."⁸⁰

20 As to any gas sales agreement, JLP/RSD state that "costs associated
21 exclusively with negotiating a gas sales agreement for the purchase of and use of gas
22 within Alaska may be properly recoverable to the extent they are prudently incurred."
23 However, JLP/RSD state such costs are only recoverable after they have been incurred

24 ⁷⁷JLP/RSD Reply at 5–7.

25 ⁷⁸JLP/RSD Opening Brief at 5–6.

26 ⁷⁹JLP/RSD Reply at 7.

⁸⁰JLP/RSD Reply at 7.

1 as RAPA claims, we do not see a viable path to acquiring jurisdiction. Were we to do so,
2 we would violate AS 42.05.711(v). This subsection provides that “A liquified natural gas
3 import facility under the jurisdiction of the Federal Energy Regulatory Commission is
4 exempt from this chapter.”

5 This subsection was adopted via HB 50 in 2024. Not only does this
6 subsection's express language appear to clearly bar our assumption of jurisdiction, but
7 the legislative history underlying its enactment reinforces this conclusion.¹²⁷ Therefore,
8 if we were to assert LNG facility oversight under the Hinshaw Amendment which RAPA
9 suggests is possible, we would be disregarding the jurisdictional side boards imposed on
10 us by the legislature. We decline to do so.¹²⁸

11 The second jurisdictional issue presented by the parties addresses whether
12 FERC or this Commission's jurisdiction would attach to development costs identified in
13 TA350-4. RAPA claims these costs “are inextricably linked to their subject matter, an
14 LNG terminal.”¹²⁹ JLP/RSD make similar arguments.¹³⁰

15 We note initially that a different analysis applies when looking at
16 development costs under ENSTAR's Scenario 1 compared to Scenario 2. Under
17 Scenario 1, if the LNG Project advances to construction, the only development costs

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20 ¹²⁷JLP/RSD Opening Brief at 5 & n.19 points to minutes and amendments
21 preceding the adoption of AS 42.05.711(v). Section 40 of Version T, SCS CSHB50, dated
22 May 10, 2024, had included a proposed amendment to AS 42.05.381 which would have
23 granted the Commission jurisdiction to “consider the investment of a public utility in a
24 liquified natural gas import facility as utility property, even if the liquified natural gas import
or export facility is exempt from regulation by the commission.” This subsection was
eliminated by Amendment 4, dated May 11, 2024. See JLP/RSD Opening Brief at
Exhibit 2.

25 ¹²⁸Because we do not have jurisdiction over an LNG import facility, we also lack
authority to assess whether a duplication of facilities, such as that announced by Harvest
Midstream, would be contrary to the public interest under AS 42.05.221(d).

26 ¹²⁹RAPA Opening Brief at 7.

¹³⁰JLP/RSD Reply at 5–11.

1 costs for prudence and reasonableness when they are presented in a rate case for our
2 review.¹³⁵

3 A third jurisdictional question arose in conjunction with ENSTAR's
4 description of gas supply and terminal use agreements that will be presented to us after
5 the LNG Project is viable. As ENSTAR argues:

6 FERC jurisdiction ends where the LNG Terminal connects to a state-regulated
7 pipeline. . . . [and it] does not extend to the purchase of LNG supply or the
8 purchase of the service from LNG importation and regasification facilities.
9 Instead, intrastate activities in Alaska by a[n] [LDC] local natural gas
10 transportation and distribution company are regulated by this Commission –
11 including interactions with an LNG Terminal regulated by FERC.¹³⁶

12 To illustrate this point, ENSTAR provides a useful analogy:

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15 ¹³⁵We were concerned at the prehearing conference held in this docket on
16 February 13, 2025, when ENSTAR's president emphatically stated ENSTAR would not
17 consider participating in or using an alternative LNG import facility project recently
18 announced. See Tr. 12-13:

19 [I]n 2024, I made the very, very clear statement to the group that there is no
20 world in which ENSTAR will participate in a project that has a Hilcorp-owned
21 entity as the importer of natural gas. . . . ENSTAR, as a natural gas utility, will
22 not be reliant upon an entity that provides Cook Inlet gas, Cook Inlet storage
23 and the importation of LNG, full stop. We cannot do that from a long-term
24 strategic perspective, from a planning perspective. That is way too much risk
25 for our customers I also believe that there's a massive benefit to the
26 ratepayer for participating in the same projects. Chugach has said that that is
not a competing project, they are 100 percent correct. It does not compete with
what we are looking to do in any way, shape or form because ENSTAR will
not participate in that project because of the reasons I've stated.

27 We emphasize that ENSTAR's decision to enter into an exclusivity agreement with
28 Glenfarne does not usurp or limit the scope of our prudence review authority. Thus, our
29 prudence review of development costs under either Scenario 1 or 2, as well as our review
30 of any gas supply or terminal use agreements, will likely include an assessment of
whether a prudent utility manager should have considered or selected a competing LNG
import facility option to meet ENSTAR's gas supply needs.

¹³⁶ENSTAR Opening Brief at 10–11.

1 Ultimately, these costs are no different from a Commission jurisdiction
2 standpoint than ENSTAR's costs to negotiate and enter into a gas sales
3 agreement with an unregulated (by the Commission) Cook Inlet gas producer.
4 Like an LNG import terminal, the Commission does not have jurisdiction over
5 the siting or construction of Cook Inlet producers' platforms and pipelines, but
6 it does have jurisdiction to regulate ENSTAR as a utility-offtaker of those
7 facilities. The import facility itself may not be regulated by this Commission,
8 but ENSTAR's interconnection with an LNG Terminal, and any necessary gas
9 purchase agreements or terminal use agreements, are all firmly within this
10 Commission's jurisdiction.¹³⁷

11 JLP/RSD dispute this. JLP/RSD claim because gas sales and terminal use
12 agreements stem from ENSTAR's plans to "purchase gas outside of Alaska for import to
13 the facility and to utilize the facility to regasify the LNG for use in Alaska," that "[t]his
14 activity constitutes interstate transportation of gas and is squarely within FERC's
15 jurisdiction."¹³⁸

16 We disagree.¹³⁹ We find ENSTAR's analogy to our current jurisdictional
17 boundaries for our review of Cook Inlet gas supply contracts useful. We also find case
18 law presented by Chugach persuasive on this issue. Both *Transcontinental Gas*¹⁴⁰ and
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20 ¹³⁷ENSTAR Opening Brief at 12.

21 ¹³⁸JLP/RSD Reply at 7.

22 ¹³⁹We note that we do not have any gas supply or terminal use agreements before
23 us. Nor do we have specific facts to assess the contours of any such agreements.
24 Therefore, our opinion on this issue is generic and based only on the generalities
25 presented and is subject to modification to the extent any agreements brought before us
26 later warrant our doing so.

¹⁴⁰190 FERC ¶ 61,048 at P. 36 (2025) ("[W]e reaffirm that oversight of LDC
procurement decisions is outside the Commission's jurisdiction and best left to state
regulators. Absent credible evidence of self-dealing, an attempt by the Commission to
look behind precedent agreements to independently review the decision-making of an
LDC might infringe upon the role of state regulators in determining the prudence of
expenditures by the utilities they regulate. Therefore, 'issues related to the utility's ability
to recover costs associated with its decision to subscribe for service on the [project]
involve matters to be determined by the [state regulator]; those concerns are beyond the
scope of the Commission's jurisdiction. Here, New Jersey has the authority to conduct a
prudence review to ascertain whether an LDC's capacity purchases and attendant costs
are just and reasonable and whether it is appropriate to pass those costs onto
customers.'").