

Regulatory Commission of Alaska  
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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman  
Kate Giard  
Paul F. Lisankie  
Anthony A. Price  
Janis W. Wilson

In the Matter of the Revenue Requirement )  
Designated as TA159-240 Filed by INSIDE ) U-10-10  
PASSAGE ELECTRIC COOPERATIVE, INC )  
ORDER NO. 1

**ORDER OPENING DOCKET OF INVESTIGATION, SUSPENDING  
TA159-240; GRANTING INTERIM AND REFUNDABLE RATES;  
APPROVING TARIFF SHEETS; ESTABLISHING INTEREST RATE  
FOR REFUNDS; INVITING INTERVENTION; INVITING PARTICIPATION  
BY THE ATTORNEY GENERAL; ADDRESSING TIMELINE FOR  
DECISION; AND APPOINTING ADMINISTRATIVE LAW JUDGE**

BY THE COMMISSION:

Summary

We suspend TA159-240 filed by Inside Passage Electric Cooperative, Inc. (IPEC) into this docket for further investigation. We grant interim and refundable rate increases, approve tariff sheets, and establish an interest rate for refunds. We invite any persons or entities interested in participating in this proceeding to file petitions to intervene. We address a timeline for a final decision in this proceeding. The chairman invites participation by the Attorney General (AG) and appoints an administrative law judge.

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Background

In accordance with Order U-05-12(14),<sup>1</sup> IPEC filed TA159-240, a revenue requirement study based on a test year ending December 31, 2008.<sup>2</sup> We issued public notice of the filing with comments due by February 4, 2010.<sup>3</sup> We received comments from Ron Weishahn, Floyd Kookesh on behalf of CARE C&T,<sup>4</sup> Duff W. Mitchell on behalf of Cascade Creek, LLC, Matthew Bell, and Shayne Thompson. On January 6, 2010, IPEC made a supplemental filing.<sup>5</sup>

Discussion

IPEC filed TA159-240, requesting a 7.96 percent interim and refundable rate increase and a 10.62 percent permanent across-the-board permanent rate increase to energy and demand charges.<sup>6</sup> IPEC states that the interim and refundable rate increase during the anticipated suspension period would ease the impact of the full rate increase to IPEC's customers.<sup>7</sup> IPEC requests that its proposed interim and refundable

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<sup>1</sup>Order U-05-12(14), *Order Accepting Stipulation, Subject to Conditions; Approving Permanent Rates; Approving Tariff Sheets; Affirming Electronic Ruling; and Closing Docket*, dated March 1, 2006 (Order U-05-12(14)). The deadline for filing the revenue requirement study was extended by Order U-05-12(17), dated June 30, 2009, and Order U-05-12(18), dated November 6, 2009.

Docket U-05-12 is titled *In the Matter of the Revenue Requirement Filed in TA122-240 and the Tariff Revisions, Designated as TA124-240, TA125-240, TA127-240, TA128-240, TA129-240, TA130-240, and TA131-240, Filed by INSIDE PASSAGE ELECTRIC COOPERATIVE, INC.*

<sup>2</sup>Tariff Advice Letter No. 159-240, filed December 31, 2009 (TA159-240).

<sup>3</sup>*Notice of Utility Tariff Filing*, dated January 5, 2010.

<sup>4</sup>Concerned Angoon Ratepayer for Economic Change and Transparency.

<sup>5</sup>TA159-240 Supplemental Filing, filed January 6, 2010. The supplemental filing contains a revised Tariff Sheet No. 69.

<sup>6</sup>TA159-240 at 2.

<sup>7</sup>*Id.*

1 rate increase become effective for bills rendered on or after the expiration of the  
2 statutory notice period<sup>8</sup> and the permanent rate increase become effective for bills  
3 rendered on or after the final adjudication of IPEC's revenue requirement.<sup>9</sup>

4 IPEC asserts that its revenue requirement study, TA159-240,  
5 demonstrates that it is experiencing a revenue deficiency of \$398,238 and that an  
6 increase to total operating revenues of 7.27 percent is required, which can be achieved  
7 through the requested permanent 10.62 percent increase to demand and energy  
8 charges.<sup>10</sup> In support of its request for rate relief, IPEC provided a revenue requirement  
9 study,<sup>11</sup> 2008 audited financial statement,<sup>12</sup> 2008 RUS<sup>13</sup> Form 7,<sup>14</sup> prefiled testimony of  
10 IPEC's General Manager, Johanna (Jodi) Mitchell, and two sets of Tariff Sheet Nos. 48,  
11 51, 53, 56.<sup>15</sup> IPEC also submitted revised Tariff Sheet No. 69 (37<sup>th</sup> revision canceling  
12 36<sup>th</sup>), together with the supporting calculations<sup>16</sup> showing Power Cost Equalization  
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15 <sup>8</sup>TA159-240 at 2.

16 <sup>9</sup>*Id.* at 3.

17 <sup>10</sup>*Id.*

18 <sup>11</sup>Schedules JMM-1 through JMM-13.

19 <sup>12</sup>Schedule JMM-14.

20 <sup>13</sup>Rural Utilities Service.

21 <sup>14</sup>Schedule JMM-15

22 <sup>15</sup>IPEC submitted two sets of tariff sheets, one for interim and refundable  
23 increases and one for permanent increases. The tariff sheets showing the proposed  
24 interim rate increases are designated "3<sup>rd</sup> revision canceling 2<sup>nd</sup>" and the tariff sheets  
25 showing the requested permanent rate increases are designated "4<sup>th</sup> revision canceling  
26 3<sup>rd</sup>".

<sup>16</sup>Schedules PCE-1 through PCE-6. IPEC noted that the level of PCE support  
does not change, but submitted calculations for PCE based on both the requested  
interim and permanent rates (Schedules PCE-1 through PCE-3, for interim rates and  
PCE-4 through PCE-6 for permanent rates). TA159-240 at 3.

1 (PCE) funding levels based on the increase in non-fuel costs demonstrated in the  
2 revenue requirement study and the proposed interim and permanent rate increases.<sup>17</sup>

3 Under AS 42.05.421(a), when a utility's tariff filing contains a revised rate,  
4 we may, upon written complaint or on our own motion and after reasonable notice,  
5 suspend the operation of the tariff and conduct hearings to determine the  
6 reasonableness of the filing. Based on our initial review, we find that IPEC's filing  
7 presents material issues of fact and questions of ratemaking policy that may require a  
8 public hearing.

9 Our review of TA159-240 confirmed that it included the schedules required  
10 by 3 AAC 48.275(a) to support IPEC's proposed rate increase. Among other things, we  
11 reviewed the test year balances reported in IPEC's revenue requirement at Schedule  
12 JMM-1 by total and subtotal to its 2008 audited financial statement and found them to  
13 match. Although the audited financial statement submitted by IPEC provides a  
14 reasonable level of assurance that reported costs are materially accurate and properly  
15 categorized, they do not provide assurance that costs are necessarily reasonable and  
16 eligible for recovery through rates. Additionally, our review of IPEC's detailed general  
17 ledger indicates that further investigation of certain expenses should be undertaken.

18 We also note that IPEC is requesting a margin based on a Times Interest  
19 Earned Ratio (TIER) of 2.0.<sup>18</sup> IPEC has not provided sufficient justification as to why a  
20 TIER of 2.0 is necessary, other than stating that a TIER of 2.0 is currently in effect.  
21 Furthermore, the margin calculation proposed by IPEC in TA159-240 differs from that  
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24 <sup>17</sup>As previously noted, IPEC filed a revised Tariff Sheet No. 69 on January 6,  
2010.

25 <sup>18</sup>A TIER of 2.0 was established in Order U-05-12(14) by our acceptance of a  
26 settlement agreement between IPEC and the AG.

1 allowed by us in Docket U-05-12. Accordingly, we find that further investigation is  
2 necessary to determine the appropriateness of IPEC's 2.0 TIER request.

3 Finally, in response to public notice of IPEC's filing we received comments  
4 in opposition to, and expressing concerns as to, IPEC's requested rate increase. We  
5 will allow interested persons the opportunity to formally intervene in this proceeding to  
6 challenge the justness and reasonableness of the proposed rates.

7 For these reasons, we suspend the permanent operation of TA159-240.

8 Power Cost Equalization

9 IPEC filed recalculated PCE levels reflecting amounts from its proposed  
10 revenue requirement. During our initial review, we noted that no adjustments had been  
11 made to certain of IPEC's non-fuel costs, which costs we previously determined did not  
12 qualify for PCE subsidy. In response to Staff's request, IPEC removed those costs and  
13 submitted revised PCE calculations, together with a revised Tariff Sheet No. 69 on  
14 January 6, 2010. We approve revised Tariff Sheet No. 69.

15 Interim Rate Relief

16 IPEC requested it be permitted to receive interim rate relief, effective at  
17 the expiration of the statutory notice period, if TA159-240 is suspended for investigation.  
18 If we suspend TA159-240 but do not institute interim and refundable rates, the rates  
19 currently in effect will remain in effect until after the conclusion of this proceeding, which  
20 likely will be more than one year from now. If we later approve some or all of IPEC's  
21 proposed rate increase, without interim rates, IPEC would not be able to collect  
22 retroactively any increased rates and may suffer irreparable harm. Conversely, if we  
23 approve interim rates on a refundable basis, IPEC's customers will be protected  
24 because IPEC will refund any excess amounts to its customers. Therefore, we grant  
25 the 7.96 percent interim and refundable rate relief requested by IPEC.

1 We approve Tariff Sheet Nos. 48, 51, 53, 56 (designated as “3<sup>rd</sup> revision  
2 canceling 2<sup>nd</sup>”), filed in TA159-240. IPEC shall keep an accurate accounting of the  
3 interim and refundable rates it collects pursuant to this order.

4 Interest on Refunds

5 Allowing interim and refundable rates mitigates any risk of lost revenues  
6 for IPEC during this proceeding. If we ultimately order final rates lower than interim  
7 rates, the utility will have had use of more customer money than is required until refunds  
8 are made. We believe it is an appropriate balance between the utility and its customers  
9 to require the payment of interest on any amounts which are ultimately refunded. The  
10 interest begins when customers pay bills based on the interim and refundable rates and  
11 continues until refunds, if any, are made to customers at the conclusion of this  
12 proceeding.

13 Our statute, AS 42.05.365, applies the statutory rate of interest set out in  
14 AS 45.45.010(a) to customer deposits, a situation similar to interim and refundable  
15 rates. For this reason, we find that the statutory rate of interest specified by  
16 AS 45.45.010(a) is the most appropriate rate to be applied to any future refunds made  
17 in this docket. We require IPEC to keep an accurate accounting of the interest that  
18 accrues on the interim and refundable rates it collects under this order.

19 As an alternative, IPEC may place the additional revenue received as a  
20 result of the interim rates into an interest bearing escrow account and credit the interest  
21 on the account to its customers if refunds are required.

22 If IPEC can demonstrate that an escrow account is prohibitively expensive  
23 in light of the total amount of funds to be escrowed, it may petition us for approval to use  
24 an interest bearing “in trust for” account as an alternative. If IPEC requests the “in trust  
25 for” option, we will determine whether to grant the request based on evidence as  
26 submitted by the utility.

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IPEC must notify us in writing which option it chooses.

Intervention

We invite intervention by interested persons. Those with an interest in this matter may petition for intervention after examining 3 AAC 48.110, the regulation that explains standards and procedures for filing and evaluating petitions to intervene as a party in a proceeding.

Participation by the AG

The chairman believes that participation by the AG in this proceeding will be in the public interest.<sup>19</sup> The AG's participation will enhance the development of the record and ensure that the interests of the public are properly represented. The chairman therefore invites the AG to participate as a party in this docket.

Decision Timeline and Suspension Period for TA159-240

We are required by AS 42.05.175(c) to issue a final decision regarding a tariff filing that changes a utility's revenue requirement or rate design not later than 450 days after a complete tariff filing is made. TA159-240 was complete on December 31, 2009. Therefore, the commission will issue a final order in this proceeding by March 25, 2011.<sup>20</sup>

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<sup>19</sup>AS 42.04.070(c).

<sup>20</sup>The 450th day after filing of the petition falls on Saturday, March 26, 2011. Therefore, the commission will issue a final order in this proceeding by Friday, March 25, 2011.

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We suspend TA159-240 for an initial period of six months.<sup>21</sup> We will evaluate a further suspension under AS 42.05.421(a)(1)<sup>22</sup> and AS 42.05.175(c).<sup>23</sup>

Administrative Law Judge

Under AS 42.04.070(b), the chairman appoints Administrative Law Judge Debra J. Brandwein to facilitate conduct of the docket. The administrative law judge will issue procedural orders in this docket including discovery orders, unless the commission docket manager determines that a particular procedural order should be

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<sup>21</sup>AS 42.05.421(a).

<sup>22</sup>AS 42.05.421(a)(1) in pertinent part provides:

(a) When a tariff filing is made containing a new or revised rate . . . the commission may . . . conduct a hearing to determine the reasonableness and propriety of the filing. Pending the hearing the commission may, by order stating the reasons for its action, suspend the operation of the tariff filing. . . . For a tariff filing that changes the utility's revenue requirement or rate design, the suspension may last, unless the commission extends the period for good cause, for a period not longer than

(1) six months before an interim rate equal to the requested rate goes into effect and not longer than 12 months before a permanent rate goes into effect if the annual gross revenues of the utility making the filing are more than \$3,000,000.

<sup>23</sup>AS 42.05.175(c) provides:

Notwithstanding a suspension ordered under AS 42.05.421, the commission shall issue a final order not later than 450 days after a complete tariff filing is made for a tariff filing that changes the utility's revenue requirement or rate design.

1 issued by the commission panel.<sup>24</sup> Orders issued by the administrative law judge will  
2 be considered orders of the commission for purposes of petitions for reconsideration  
3 under AS 42.05.171.<sup>25</sup>

4 **ORDER**

5 THE COMMISSION FURTHER ORDERS:

6 1. The tariff advice filing designated as TA159-240 filed December 31,  
7 2009, by Inside Passage Electric Cooperative, Inc. is suspended for further investigation  
8 until August 16, 2010.

9 2. The request by Inside Passage Electric Cooperative, Inc. for an interim  
10 and refundable rate increase of 7.96 percent is granted. Tariff Sheet Nos. 48, 51, 53,  
11 and 56 designated as 3<sup>rd</sup> revision canceling 2<sup>nd</sup>, contained in TA159-240 filed December  
12 31, 2009, are approved, on an interim and refundable basis, with an effective date of  
13 February 16, 2010.

14 3. Tariff Sheet No. 69, filed January 6, 2010, is approved with an effective  
15 date of February 16, 2010.

16 4. An interest rate of 10.5 percent per annum will be payable on any  
17 amounts which are ultimately refunded. At its option Inside Passage Electric  
18 Cooperative, Inc. may place the additional revenue received as a result of the interim  
19 rates into an escrow account and credit interest on the account to its customers. If an

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21 <sup>24</sup>The commission docket manager, after consultation with other members of the  
22 panel, may delegate to the administrative law judge whatever authority to issue  
23 procedural orders he or she considers necessary or advisable in this docket.

24 <sup>25</sup>AS 42.05.171 states, in pertinent part:

25 A party may file a petition for reconsideration of, or an administrative appeal  
26 of, a decision by a hearing examiner, an arbitrator, a mediator, or an  
administrative law judge that has been approved by the commission, or a  
decision of a hearing panel.

1 escrow account is prohibitively expensive, Inside Passage Electric Cooperative, Inc.  
2 may petition for approval to use an interest-bearing "in trust for" account.

3 5. By 4 p.m., March 9, 2010, Inside Passage Electric Cooperative, Inc.  
4 shall notify us in writing of which option it elects under Ordering Paragraph No. 4 of this  
5 order.

6 6. By 4 p.m., March 18, 2010, any interested person shall file a petition to  
7 intervene in this proceeding in accordance with 3 AAC 48.110, and, at the same time,  
8 shall file a request for a hearing.

9 7. Debra J. Brandwein is appointed to serve as administrative law judge  
10 in this proceeding.

11 DATED AND EFFECTIVE at Anchorage, Alaska, this 16th day of February, 2010.

12 BY DIRECTION OF THE COMMISSION

