

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 COURT
State of Alaska Third District

JAN 22 2025

Clerk of the Trial Courts
By _____ Deputy

Case No. 3AN-25- 04285 CI

PLAINTIFFS' MOTION FOR MANDATORY PRELIMINARY INJUNCTION

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ENSTAR Natural Gas Company, LLC and Alaska Pipeline Company, LLC ("APC") (collectively referred to as "ENSTAR") request the Court to immediately grant a mandatory preliminary injunction pursuant to Alaska Civil Rule 65(b) and require Hilcorp Alaska, LLC ("Hilcorp") to sell and deliver Daily Call Option Gas and Needle Peak Gas to ENSTAR for injection into storage as mandated by the explicit terms of the parties' gas sales agreements. Absent such an order, ENSTAR will be left without sufficient gas available for delivery to its customers in the likely event of a cold weather incident. ENSTAR relies on the contracted natural gas volumes that it purchases from Hilcorp to meet its obligations as a public utility. If ENSTAR is unable to meet its customers' demand for gas because of Hilcorp's failure to supply the gas volumes that it is contractually required to supply, the results will be catastrophic for Southcentral Alaska.

A mandatory preliminary injunction is required because ENSTAR satisfies the legal criteria. First, denying the injunction will cause irreparable harm by leaving ENSTAR without sufficient gas available in storage for the remainder of the current

heating season. Second, the interests of Hilcorp are entirely protected because it has contracted to supply these volumes of natural gas and ENSTAR will compensate Hilcorp under the terms of the parties' agreements. Third, ENSTAR has raised serious and substantial questions going to the merits of the case because the explicit language of the parties' gas sales agreement requires Hilcorp to sell and deliver the Daily Call Option Gas and Needle Peak Gas to ENSTAR.

ENSTAR requests that this Court grant the requested injunctive relief no later than Tuesday, January 28, 2025.

BACKGROUND FACTS¹

ENSTAR is a natural gas public utility that holds Certificate of Public Convenience and Necessity No. 4 from the Regulatory Commission of Alaska ("Commission").² ENSTAR serves the natural gas needs of the greater Anchorage, Kenai Peninsula, and Matanuska-Susitna Valley areas. By statute, ENSTAR is required to provide service for its customers that is "reasonably continuous and without unreasonable interruption or delay."³

ENSTAR meets its responsibilities to the public by purchasing gas from natural gas production companies and delivering that gas to its customers as needed based on their demand. Although ENSTAR is regulated by the Commission, the gas producers that it purchases natural gas from are not similarly regulated.⁴

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

¹ The background facts are supported by ENSTAR's Complaint and the Affidavit of Inna B. Johansen.

² Alaska Pipeline Company, LLC holds Certificate of Public Convenience and Necessity No. 141. *See* ENSTAR's Compl. for Mandatory Preliminary Injunction and Breach of Contract ("ENSTAR's Compl."), Jan. 22, 2025, at ¶ 6.

³ AS 42.05.291(a).

⁴ ENSTAR's Compl. at ¶ 9.

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. Hilcorp is the dominant producer in the Cook Inlet and supplies roughly 90% of production in the Cook Inlet. Hilcorp is the only producer in the region that has multiple gas producing fields and private storage capabilities.⁵

The only entity that currently provides third-party storage service in Cook Inlet is Cook Inlet Natural Gas Storage Alaska, LLC ("CINGSA"). CINGSA is fully subscribed by local utilities with ENSTAR as the largest customer. ENSTAR stores natural gas in CINGSA for withdrawal when its customers' deliverability needs are greater than available deliverability from gas producers.⁶

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, LLC ("Amended APL-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." ENSTAR relies on Hilcorp and Amended APL-14 to meet the needs of its 155,000 Southcentral Alaskan customers.⁷

Under the terms of Amended APL-14 depending on various options available to ENSTAR, Hilcorp is obligated to sell ENSTAR between 29,000 MMcf and 32,295 MMcf (million cubic feet) of natural gas for each contract year. During the current contract year that covers a period of April 1, 2024 through March 31, 2025, Hilcorp is obligated to deliver up to 32,295 MMcf of Firm Gas. This amount includes 28,000 MMcf of Firm Annual Contract Quantity, 4,000 MMcf of the Daily Call Option Gas and 295 MMcf of the Needle Peak Call Option gas. The gas volumes provided under the Daily Call Option

⁵ *Id.* at ¶¶ 10-11.

⁶ *Id.* at ¶ 12.

⁷ *Id.* at ¶¶ 13-15.

and Needle Peak Call Option are available for purchase at ENSTAR's sole option and Hilcorp is also obligated to sell these volumes if ENSTAR call on it.⁸ Hilcorp's refusal to follow its agreement terms to provide Daily Call Option Gas requires ENSTAR to file the Complaint in this matter.

ENSTAR uses the Daily Option Call Gas purchased under the APL-14 Amendments to meet its customers' demand in colder weather (weather management) and to replenish its inventory in CINGSA.⁹ 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.¹⁰

Daily Call Option Gas is optional for ENSTAR, but a firm obligation for Hilcorp.

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.¹¹ Terms in Amended APL-14 that are not expressly modified in Amendment 1 "survive and continue in full force and effect."¹²

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

⁸ Johansen Aff., January 2025, at ¶¶ 5-6.

⁹ *Id.* at ¶ 9.

¹⁰ ENSTAR's Compl. at Exhibit B at 3.

¹¹ ENSTAR's Compl. at ¶ 19, Exhibit C.

¹² ENSTAR's Compl. at Exhibit C at 6 ¶ 7.

customers on the Kenai Peninsula. HHA'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.¹³

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."¹⁴ ENSTAR and Hilcorp agreed to a Supply Protocol in Amendment 1 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.¹⁵ 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.

¹³ ENSTAR's Compl. at ¶ 20, Exhibit D.

¹⁴ ENSTAR's Compl. at ¶ 21, Exhibit C at ¶ 3.a.

¹⁵ ENSTAR's Compl. at ¶ 22, Exhibit C at 4-5 ¶ 6

Tranches 1 and 3: CINGSA Mandatory Withdrawals, Mmcfdpd ("Million cubic feet per day")	
January	20
February	20
November	12
December	15
Tranche 2: Operational Call Gas, Mmcfdpd	
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.

During the negotiation of Amendment 1, ENSTAR explained to Hilcorp that it would withdraw and then reinject gas into CINGSA to meet the Supply Protocol. ENSTAR was “very clear that we use call gas for two reasons: weather management and replenishment of inventory in CINGSA.”¹⁶ Hilcorp was aware of ENSTAR’s intent and did not change the language of the Supply Protocol to prohibit contemporaneous reinjections of gas into CINGSA.

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.¹⁷

ENSTAR followed the Supply Protocol to request and receive Daily Call Option Gas each day in November 2024. 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. 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, 2024.¹⁸

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 Mcfd (million 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.

¹⁶ ENSTAR’s Compl. at ¶ 24, Exhibit E: Johansen Aff. at ¶ 13.

¹⁷ ENSTAR’s Compl. at ¶ 26, Exhibit G.

¹⁸ Johansen Aff. at ¶ 14.

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, 2025.¹⁹

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.²⁰

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.²¹

On January 7, 2025, at 4:54 p.m., ENSTAR sent Hilcorp a Storage Nominations 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 is creating a large imbalance

¹⁹ ENSTAR's Compl. at ¶ 30, Exhibit H.

²⁰ ENSTAR's Compl. at ¶ 31, Exhibit H.

²¹ ENSTAR's Compl. at ¶ 32, Exhibit I.

in pipeline and storage operations and is inconsistent with Hilcorp's obligations under the APL-14 Amendments.²²

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. Under Amendment 1, acting in good faith Hilcorp 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.²³

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.²⁴

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.²⁵

²² ENSTAR's Compl. at ¶ 33, Exhibit J.

²³ ENSTAR's Compl. at ¶¶ 34-35, Exhibit J.

²⁴ ENSTAR's Compl. at ¶ 36, Exhibit K.

²⁵ ENSTAR's Compl. at ¶ 37, Exhibit L.

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. Hilcorp asked ENSTAR to share its next day confirmation for CINGSA injections before moving forward and asked for past CINGSA confirmations as well.²⁶ 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).²⁷

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.²⁸

On January 9, 2025, ENSTAR responded to Hilcorp's January 7, 2025 letter, providing that there is no basis for Hilcorp's position that ENSTAR cannot reinject Call Gas. ENSTAR further indicates that Hilcorp is in violation of Section 2.5 of the Amended APL-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 1.²⁹ Hilcorp did not provide any additional detail or substantive response to the January 9, 2025 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(H) of Amended APL-14. ENSTAR also requested that Hilcorp provide a

²⁶ ENSTAR's Compl. at ¶ 38.

²⁷ ENSTAR's Compl. at ¶ 40, Exhibit M.

²⁸ ENSTAR's Compl. at ¶ 39; Johansen Aff. at ¶ 16.

²⁹ ENSTAR's Compl. at ¶ 41, Exhibit N.

detailed explanation if it disagreed with this interpretation.³⁰ Hilcorp has not responded to date.

ARGUMENT

A “mandatory injunction” orders an affirmative act or mandates a specified course of conduct.”³¹ Under Alaska law, a “[p]laintiff” may obtain a preliminary injunction by meeting either the balance of hardships or the probable success on the merits standard.”³² The showing required to obtain a preliminary injunction depends on the nature of the threatened injury.³³ The balance of hardship standard applies when the plaintiff establishes three factors (1) the plaintiff is faced with irreparable harm, (2) the opposing party is adequately protected, and (3) the plaintiff raises “serious and substantial questions going to the merits of the case” establishing that the issues raised are not “frivolous or obviously without merit.”³⁴ In weighing the potential hardships to each party, this Court is required to “[a]ssume the plaintiff will ultimately prevail when assessing the irreparable harm to the plaintiff absent the injunction,” and also conversely “[a]ssume the defendant ultimately will prevail when assessing the harm to the defendant from the injunction.”³⁵ When irreparable harm is not found, interim injunctive relief will be granted when the moving party “make[s] a clear showing of probable success on the merits,” even “when they do not stand to suffer irreparable harm, or where the party against whom the

³⁰ ENSTAR’s Compl. at ¶ 42, Exhibit O.

³¹ *Cook Inlet Fisherman’s Fund v. State, Dep’t of Fish & Game*, 357 P.3d 789, 794 n.11 (Alaska 2015).

³² *Alsworth v. Seybert*, 323 P.3d 47, 54 (Alaska 2014).

³³ *State, Div. of Elections v. Metcalfe*, 110 P.3d 976, 978 (Alaska 2005).

³⁴ *Alsworth*, 323 P.3d at 54.

³⁵ *Id.*

injunction is sought will suffer injury if the injunction is issued.”³⁶ ENSTAR meets these standards.

A. ENSTAR Will Suffer Irreparable Harm Without Preliminary Relief.

If ENSTAR is unable to meet its customers’ demand for gas because of Hilcorp’s failure to supply the gas volumes that it is contractually required to supply, the results will be catastrophic for Southcentral Alaska.

ENSTAR relies on Daily Call Option Gas to replenish its natural gas volumes stored in CINGSA. 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. ENSTAR uses Daily Option Call Gas purchased under the APL-14 Amendments to meet its customers’ demand in colder weather (weather management) and to replenish its inventory in CINGSA so it can continue to serve its customers with stored gas when the amount of daily purchased gas is not sufficient to meet its customer requirements. This critical right that ENSTAR secured under APL-14 was also carried forward to Amended APL-14 and maintained with Amendment 1.³⁷

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 winter 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 a high demand month and ensured

³⁶ *State v. Kluti Kaah Native Vill. of Copper Cr.*, 831 P.2d 1270, 1274 (Alaska 1992) (quotation marks omitted).

³⁷ Johansen Aff. at ¶¶ 8-9.

ENSTAR was still able to replenish its gas storage inventory in CINGSA during the spring.³⁸

Without sufficient inventory in CINGSA, ENSTAR will not be 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.³⁹

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.⁴⁰ In order to provide reliable gas service to its customers throughout winter months, ENSTAR's storage plan needs to have at least 6,800 MMcf of gas inventory in the beginning of January. ENSTAR 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.⁴¹

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. 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 2025.⁴²

The cold weather events in 2021 are prime examples of the critical importance for ENSTAR to have sufficient gas storage in CINGSA. The observed temperatures in 2021

³⁸ *Id.* at ¶ 10.

³⁹ *Id.* at ¶ 17.

⁴⁰ *Id.* at ¶ 20.

⁴¹ *Id.* at ¶ 22.

⁴² *Id.* at ¶ 23.

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.⁴³

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.⁴⁴

If ENSTAR experiences a similar weather event this year and Hilcorp does not redeliver all unpurchased volumes by April 1, it 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 maximum 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 volume that will

⁴³ *Id.* at ¶ 24.

⁴⁴ *Id.* at ¶ 25.

most likely result in curtailments of the service to ENSTAR sales and transportation customers.⁴⁵

The second event occurred in November and the first half of December 2021, when ENSTAR 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, average customer 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.⁴⁶

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 deliver 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.⁴⁷

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 and ENSTAR implements its Curtailment Plan, dated July 16, 2024. 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,

⁴⁵ *Id.* at ¶ 27.

⁴⁶ *Id.* at ¶ 26.

⁴⁷ *Id.* at ¶ 28.

ENSTAR will initiate its Interruption Plan, set out in Section 1200 of ENSTAR's tariff filed with the RCA. 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.⁴⁸

In addition to the direct impacts of any interruption, there would also be impacts to all electric generation in Southcentral Alaska. ENSTAR will request the electric power providers to maximize alternative sources of generation in the event of a gas supply, 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."⁴⁹

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.⁵⁰

⁴⁸ *Id.* at ¶ 29.

⁴⁹ *Id.* at ¶ 30.

⁵⁰ *Id.* at ¶ 32.

These examples demonstrate ENSTAR's significant reliance on stored gas and the importance of having sufficient inventory in CINGSA, as well as on the contractually required deliveries from Hilcorp. 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. 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 to meet the needs of ENSTAR's Southcentral Alaska customers.**⁵¹ If this Court does not order the requested injunctive relief, ENSTAR will imminently not be able to meet its customers' demand for gas.

B. Hilcorp Will Not Be Harmed By Preliminary Injunctive Relief.

In contrast to the irreparable harm facing ENSTAR, Hilcorp will not be injured by an injunction requiring that it abide by its agreements and provide the contracted natural gas volumes. In fact, Hilcorp will benefit economically from the sale of gas to ENSTAR.

C. ENSTAR Has Raised Serious And Substantial Questions About The Merits.

When a party seeking injunctive relief "[s]tands to suffer irreparable harm and the opposing party can be protected from injury . . . it is not necessary to show probable success on the merits but only that a serious question exists."⁵² The court has further explained that an injunction is appropriate when the issues are "serious and substantial" and not "frivolous or obviously without merit."⁵³ The court has also described the "serious and substantial question" as a "[r]ather minimal burden of proof."⁵⁴

⁵¹ *Id.* at ¶¶ 34-35.

⁵² *Keystone Services, Inc. v. Alaska Transp. Commission*, 568 P.2d 952, 954 (Alaska 1977).

⁵³ *Keystone Services, Inc.*, 568 P.2d at 954; *Alsworth*, 323 P.3d at 54.

⁵⁴ *United States v. RCA Alaska Comm'ns, Inc.*, 597 P.2d 489, 513 (Alaska 1978) (overruled on other grounds *Owsichuk v. State, Guide Licensing & Control Bd.*, 627 P.2d 616, 620 (Alaska 1981)).

There can be no dispute that ENSTAR has raised serious and substantial issues that are with merit. Under Alaska law, a claim for breach of contract requires proof that a party had a duty to perform and that the party failed to perform as agreed in the contract.⁵⁵ Based on the information outlined above and in the attached affidavit from Inna Johansen, there is a serious and substantial question that Hilcorp breached its gas sales agreements with ENSTAR. The undisputed facts establish that Hilcorp has failed to sell and deliver Daily Call Option Gas to ENSTAR and has failed to work with ENSTAR in good faith to redeliver undelivered volumes of the gas. Hilcorp has a duty to perform through the sale and delivery of Daily Call Option Gas and failed to do so in breach of the provisions of the APL-14 Amendments.

First, it is undisputed that the APL-14 Amendments require Hilcorp to deliver and sell Daily Call Option Gas to ENSTAR when ENSTAR requests the gas. Such a request is optional to ENSTAR, but firm for Hilcorp. Second, it is undisputed that ENSTAR advised Hilcorp of its intent to purchase the full amount of Daily Call Option Gas. Third, during the current term of Amendment 1, if Hilcorp does not deliver volumes of Daily Call Option Gas nominated by ENSTAR, the parties are required to "work together in good faith to mutually agree on a time for redelivery of said volumes, but redelivery of said volumes remains subject to [Hilcorp's] consent." Hilcorp has failed to engage with ENSTAR in good faith to agree on a time for redelivery. Rather, Hilcorp disavows any obligation to deliver these contracted for volumes.

Hilcorp has also breached the covenant of good faith and fair dealing. Under Alaska law, the covenant of good faith and fair dealing is implied in every contract in order to "effectuate the reasonable expectations of the parties to the agreement."⁵⁶ The

⁵⁵ See Alaska CPJI 24.03, "Breach of Contract," and 5A A. Corbin, Corbin on Contracts § 1228 (1963).

⁵⁶ *Anchorage Chrysler Ctr., Inc. v. DaimlerChrysler Motors Corp.*, 221 P.3d 977, 992 (Alaska 2009).

covenant includes subjective and objective elements.⁵⁷ In order to satisfy the subjective element, a party must establish that another party deprived it of the benefit of the contract.⁵⁸ The objective element requires a showing that the other party did not act in a fair manner.⁵⁹ A party breaches the covenant of good faith and fair dealing when it deprives "the other party of the explicit benefits of the contract." and acts "in a manner that a reasonable person would regard as unfair."⁶⁰

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. In addition, Hilcorp violated its duty by refusing to engage in good faith with ENSTAR to determine an alternative manner to meet its obligations.

CONCLUSION

If this Court does not order the requested injunctive relief, ENSTAR will imminently not be able to meet its customers' demand for gas. This will be catastrophic for Southcentral Alaska.

This motion requests straightforward relief that requires Hilcorp to sell and deliver Daily Call Option Gas and Needle Peak Gas to ENSTAR for injection into storage as mandated by the explicit terms of the parties' gas sales agreements. Absent such an order, ENSTAR will be left without sufficient gas available for delivery to its customers in the likely event of a cold weather incident. ENSTAR will ably demonstrate that Hilcorp's actions breached the parties' gas sales agreements and the duty of good faith and fair dealing. ENSTAR requests that this Court grant the requested injunctive relief no later than Tuesday, January 28, 2025.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Casey v. Semco Energy, Inc.*, 92 P.3d 379, 383 (Alaska 2004).

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Tel: (907) 277-5400 • Fax: (907) 277-9806

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

By: /s/ John P. Wood
John P. Wood, ABA No. 00211056

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

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

PLAINTIFFS' NOTICE OF FILING UNSIGNED AFFIDAVIT

Plaintiffs, ENSTAR Natural Gas Company, LLC and Alaska Pipeline Company, LLC (collectively referred to as "ENSTAR"), hereby give notice of filing the unsigned Affidavit of Inna B. Johansen, Vice President of Regulatory and Gas Supply for ENSTAR. Ms. Johansen is currently traveling and is not able to file a signed, notarized affidavit concurrent with the filing. Plaintiffs will file the signed, notarized affidavit as soon as it is reasonably able.

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

By: /s/ John P. Wood
John P. Wood, ABA No. 00211056

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

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

FILED in U.S. District Court
Southern District of Alaska

JAN 22 2025

Clerk of the Trial Courts
By _____ Deputy

ENSTAR NATURAL GAS)
COMPANY, LLC and ALASKA)
PIPELINE COMPANY, LLC.)

Plaintiffs.)

vs.)

HILCORP ALASKA, LLC.)

Defendant.)

Case No. 3AN-25 04285 CI

AFFIDAVIT OF INNA B. JOHANSEN

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Inna B. Johansen, being first duly sworn, state as follows:

1. I am the Vice President of Regulatory and Gas Supply for ENSTAR Natural Gas Company, LLC ("ENSTAR") and Alaska Pipeline Company, LLC ("APC").

2. In my role, I am responsible for ensuring that ENSTAR has an adequate supply of natural gas available for delivery to meet its customers' needs and to satisfy the company's statutory responsibility to provide service that is reasonably continuous and without unreasonable interruption or delay.

3. I was personally involved in negotiating APL-14, the original gas sales agreement by and between APC and Hilcorp Alaska, LLC ("Hilcorp") dated December

23. 2015 ("APL-14"), as well as the Amended and Restated Gas Sale and Purchase Agreement ("Amended APL-14") and Amendment 1 to Amended APL-14 ("Amendment 1"). I will collectively refer to Amendment 1 and Amended APL-14 as "APL-14 Amendments." Amended APL-14 and Amendment 1 are attached to ENSTAR's Complaint as Exhibits B and C.

4. ENSTAR relies on Hilcorp and the gas supplied under the APL-14 Amendments to meet the needs of its 155,000 Southcentral Alaskan customers.

5. Under Amended APL-14, Hilcorp is obligated to sell and deliver to ENSTAR 25,000 MMcf (million cubic feet) of natural gas for each contract year, 25,120 MMcf in leap years on a firm basis. This amount, along with optional volumes described below, comprise the Firm Annual Contract Quantity ("Firm Gas") as defined in Section 1.1 of Amended APL-14.

a. **Turn-up and Turn-Down Options.** Section 2.8 of Amended APL-14 provides a mechanism for ENSTAR to either decrease Firm Gas purchases by up to 2,190 MMcf ("Turn-Down Option") or increase its Firm Gas purchases by up to 3,000 MMcf ("Turn-Up Option") on an annual basis provided notice is given 24 months prior to the start of the Contract Year when such volume adjustments will be in effect. ENSTAR has been exercising this option since 2020 increasing its annual Firm Gas purchases to 28,000 MMcf for contract years 2022 through 2027.

b. **Daily Call Option.** Section 2.3 of Amended APL-14 also provides Daily Call Option Gas volumes up to 4,000 MMcf in each Contract Year. Daily Call Option Gas is available for purchase at ENSTAR's sole option; if ENSTAR exercises the option, Hilcorp has a firm obligation to deliver this gas.

c. **Needle Peak Call Option.** Section 2.3 of Amended APL-14 also provides ENSTAR an option to purchase Needle Peak Call Option gas volumes. Pursuant to this option, ENSTAR may call on up to 20 MMcf/day up to 25 days from November to February of each Contract Year. This equates to 500 MMcf of Firm Gas per year that ENSTAR does not exercise the Turn-Up Option. In the years when ENSTAR exercises the Turn-Up Option the total Needle Peak Call Option gas is equal to 295 MMcf. Since 2020, ENSTAR exercised the Needle Peak Call Option each year and provided Regular Notice to Hilcorp no later than December 15 the year prior to the Contract Year in which the Needle Peak Call Option would be available. ENSTAR additionally pays the Needle Peak Reservation Fee of \$200 per 20 MMcf/day. The total annual Needle Peak Reservation Fee is \$4,000,000. During years when ENSTAR exercises the Turn-Up Option, the annual Needle Peak Reservation Fee reduced to \$2,356,200. Once the Needle Peak Call Option is exercised, ENSTAR pays toward this Fee monthly over the course of the Contract Year where Needle Peak gas will be available. As of January 2025, ENSTAR has paid \$1,437,282.00 towards the Reservation Fee

and the right to receive these volumes during the months of November, December, January and February of the 2024-2025 Contract Year.

6. Adding all gas that Hilcorp is obligated to deliver to ENSTAR on a firm basis. ENSTAR has the right to purchase up to 32.295 MMcf each year that it timely exercises the options under Amended APL-14.

7. In addition to volumes listed above, under the terms of Amendment 1, Hilcorp is obligated to deliver 3,515 MMcf of New Demand Gas that ENSTAR secured on behalf of Homer Electric Association, Inc.

8. During cold weather conditions, when customer demand for gas exceeds all available gas purchases secured and supplied under gas supply agreements, ENSTAR relies on gas storage services from Cook Inlet Natural Gas Storage Alaska, LLC ("CINGSA") to meet its customers' daily demand. In addition, this storage deliverability is utilized to replace the gas deliverability secured under gas supply agreements if there are any upsets or maintenance activities in the Cook Inlet production and pipeline system. ENSTAR's utilization of CINGSA is an integral part of how ENSTAR meets its gas supply customers' needs, often making up between 45% to over 65% of the gas delivered to those customers during colder than normal weather conditions. The reliance on gas stored in CINGSA increases significantly during March and April when the firm deliveries under Amended APL-14 step down by 40% for March and 65% for April compared to winter months.

9. ENSTAR uses Daily Call Option Gas purchased under the APL-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.

10. 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 winter 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.

11. The last instance of Hilcorp redelivering the Daily Call Option Gas and Needle Peak Call Option gas was performed in March of 2024. These redeliveries were recorded in the letter agreement outlining the redelivery terms for the Daily Call Option Gas volumes and Description Gas Sale form for the delivery of unpurchased Needle Peak Gas Volumes.¹

¹ See Exhibit 1. Letter to Inna Johansen, ENSTAR from Kurt Gibson, Hilcorp, Feb. 22, 2024; Exhibit 2. APL-14 DGS#12. Gas Sale and Purchase Agreement, Confirmation of Discretionary Gas Sale, Feb 22, 2024.

12. In Amendment 1, which is in effect currently and through March 31, 2025, ENSTAR and Hilcorp agreed to a "Supply Protocol" for purchases of Daily Call Option Gas. The Supply Protocol calls for ENSTAR to make withdrawals from CINGSA before it can purchase Daily Call Option Gas volumes. ENSTAR must withdraw the full amount of gas from CINGSA specified in Tranche 1 in the table below before it can purchase Daily Call Option Gas under Tranche 2. To purchase the remaining Daily Call Option Gas volumes available under the APL-14 Amendments, ENSTAR must withdraw the additional amount of gas from CINGSA specified in Tranche 3.

Tranches 1 and 3: CINGSA Mandatory Withdrawals, MMcf/day	
January	20
February	20
November	12
December	15
Tranche 2: Operational Call Gas, MMcf/day	
January-April	10
May-August	5
September	6
October-December	15

13. I communicated during negotiations with Hilcorp that ENSTAR uses Daily Call Option Gas for weather management and replenishment of inventory in CINGSA. I raised my concerns that during normal and warmer than normal winter temperatures, Hilcorp's concept for the proposed Supply Protocol will limit ENSTAR's ability to purchase the Daily Call Option Gas volume to replenish its inventory in CINGSA. I pointed out that in order to ensure appropriate levels of gas inventory in CINGSA for winter operations, ENSTAR would be withdrawing and reinjecting gas on a daily basis

in order to get the Daily Call Option Gas. To partially mitigate this issue, Hilcorp added an additional 10 MMcf/day of the Daily Call Option Gas volumes during March. Further, ENSTAR and Hilcorp agreed to continue the established practice of rescheduling undelivered volumes to be delivered at a later date. Amendment 1 memorializes this understanding by stating the parties will work together to determine the redelivery schedule.

14. On or about December 3, 2024, Hilcorp communicated to me 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. 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.

15. On December 31, 2024, Hilcorp claimed in a communication to me, 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.

16. On January 8, 2025, I 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 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.

17. 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.

18. 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."

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

19. ENSTAR's available maximum storage quantity available in CINGSA is 8.775 MMcf.² ENSTAR also contracted for an additional 2.000 MMcf of storage capacity under CINGSA's new Expansion service, bringing ENSTAR's maximum

² Exhibit 3, Amendment No. 4 to FSS Agreement Between CINGSA and ENSTAR, Feb. 15, 2022.

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.

20. 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.

21. 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 as represented in the table below. ENSTAR's ability to inject gas is also impacted by the amount in storage.

Maximum Daily Withdrawal Quantity	
Maximum Storage Quantity	Maximum Daily Withdrawal Quantity (thousand cubic feet/day)
100% - 45%	102,900
45% - 20%	75,117
<20%	57,624

22. 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. 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.

23. 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. 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 2025. It also may impact ENSTAR's ability to provide reliable gas service next winter. 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.

24. The cold weather events in 2021 are a prime example 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 days³ were 11% above average, and ENSTAR's service territory saw significantly colder than normal temperatures in March, April, November, and December.

³ Heating degree days ("HDD") are a measure of how cold the temperature was on a given day or during a period of days and is a standard unit of measure in the energy utility industry. A degree day compares the mean (the average of the high and low) outdoor temperatures for a day recorded for a location to 65° Fahrenheit (F) (although some entities may use a different base such as 55°F). For example, on a day where the average of the high and low temperature is 35°F, there would be 30 HDD. The more extreme the outside temperature, the higher the number of HDD. The U.S. Energy Information Administration notes that a high number of HDD generally results in higher levels of energy use for space heating, which has been ENSTAR's experience. ENSTAR tracks the HDD reported by the National Weather Service for the "official" Anchorage recording station (Anchorage International Airport), which uses the 65°F base measurement.

25. ENSTAR delivered a record 35,400 MMcf of natural gas to our 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.

26. The second event occurred in November and the first half of December 2021, when our 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.

27. 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.

28. 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.

29. 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. In this event ENSTAR will follow a

curtailment plan. If there is a drop in pipeline pressures, ENSTAR will need to mitigate quickly by either adding additional supply or curtailing customer load. ENSTAR will initiate its Interruption Plan, set out in Section 1200 of its tariff filed with the Regulatory Commission of Alaska. 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.

30. In addition to the direct impacts of any interruption, there would also be impacts to all electric generation in Southcentral 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."⁴

31. As an additional example, the gas provided to the Marathon refinery in Kenai, Alaska will need to be diverted in the event of an interruption. This would require

⁴ Exhibit 4, Gas Emergency Agreement Letter, Aug. 25, 2009, at 1.

the refinery to transition to propane or reduce its operations altogether which would create additional significant impacts.

32. Hilcorp's failure to deliver contractual volumes immediately impacts operational planning for ENSTAR. The gas supply shortage will increase every day and will be exacerbated 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.

33. 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.

34. 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.

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35. 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.

FURTHER THIS AFFIANT SAYETH NAUGHT.

Inna B. Johansen

SUBSCRIBED AND SWORN to before me this _____ day of January 2025. at Anchorage, Alaska.

Notary Public for the State of Alaska
My Commission Expires: _____

EXHIBIT 1



Hilcorp Alaska, LLC

Kurt Gibson
Vice President
Marketing & Business
Development

Post Office Box 244027
Anchorage, AK 99524

3800 Centerpoint Dr.
Anchorage, AK 99503

Phone: 907/777-8407
Email: kgibson@hilcorp.com

February 22, 2024

Inna Johansen
Director, Gas Supply Operations
ENSTAR Natural Gas Company
3000 Spenard Road
PO Box 190288
Anchorage, AK 99519-0288

Re: Adjustments to February and March 2024 Daily Call Option Delivery Profile under APL-14

Dear Inna:

This letter agreement ("Letter Agreement") memorializes the understanding between Alaska Pipeline Company ("APC"), ENSTAR Natural Gas Company ("ENSTAR") and Hilcorp Alaska, LLC ("Hilcorp Alaska") regarding supply adjustments made by Hilcorp Alaska for delivery of natural gas sold to APC/ENSTAR pursuant to contract between both parties dated December 23, 2015 ("Amended and Restated APL-14"), pursuant to Sections 2.3(B) and 2.3(C).

In an effort to accommodate joint needs of the parties during the remainder of the 2023-2024 winter season Hilcorp and ENSTAR have agreed to adjust the Daily Call Option Contract deliveries for the months of February and March as follows:

Feb:

- Daily Call Option gas @ 22,000/d for 2/1 – 2/9
- Daily Call Option gas @ 0 /d for 2/10 – 2/29
- Total Daily Call Option gas delivered: 198,000 Mcf

Mar:

- Daily Call Option @ 12,900/d for 3/1 – 3/31
- Total Daily Call Option gas delivered: 399,900 Mcf

The delivery profile detailed above represents the intent of the parties and does not alter or amend the rights or obligations of either party during any of the months of February or March 2023.

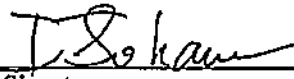
If you are in agreement with the terms set forth this Letter Agreement, please provide the appropriate signature in the space below and return a fully executed version to my attention.

Sincerely,

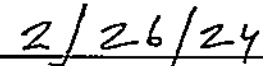


Kurt Gibson
VP, Marketing & Business Development

I have read this Letter Agreement and concur with the terms described herein.



Signature



Date

EXHIBIT 2

(APL-14 DGS #12)

GAS SALE AND PURCHASE AGREEMENT
Exhibit B

Discretionary Gas Sale

Confirmation of Discretionary Gas Sale
(To Be Communicated through Regular Notice)

This Confirmation is made pursuant to Section 2.3(D) of the Amended and Restated Gas Sale and Purchase Agreement (APL-14) effective July 20, 2020.

Date of Agreement to Discretionary Gas Sale: February 22, 2024

Date of First Delivery of Discretionary Gas: March 1, 2024

Date of Last Delivery of Discretionary Gas: March 31, 2024

Total Volume of Gas to be Sold under Confirmation: up to 237,492 Mcf

Daily Volume of Gas to be Sold under Confirmation: up to 14,000 Mcf per day

Sales Price: \$7.86 per mcf

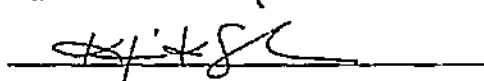
Firm or Interruptible Nature of Discretionary Gas Sale: Firm

Other terms of this sale (if any): The gas volumes will supplement unpurchased Needle Peak Gas Volumes. The Needle Peak Gas Option was exercised by ENSTAR, but its system demand did not necessitate its full use during the months designated (November 2023 – February 2024)

HILCORP ALASKA, LLC

ALASKA PIPELINE COMPANY

Signature:



Name: Kurt Gibson

Title: VP- Marketing & Bus Development

Date: February 22, 2024

Signature:



Name: Inna Johansen

Title: Director Gas Supply Operations

Date: 2/22/24

EXHIBIT 3

AMENDMENT NO. 4 TO
FIRM STORAGE SERVICE AGREEMENT
BETWEEN
COOK INLET NATURAL GAS STORAGE ALASKA, LLC
AND
ENSTAR NATURAL GAS COMPANY
DATED February 15, 2022

This Amendment No. 4 to that Firm Storage Service ("FSS") Agreement ("Agreement") dated July 26, 2011 ("Amendment No. 4" or "Amendment"), made and entered into as of this 15th day of February, 2022 (the Effective Date), is by and between Cook Inlet Natural Gas Storage Alaska, LLC, (hereinafter referred to as "Seller") and ENSTAR Natural Gas Company, a division of SEMCO Energy, Inc. (hereinafter referred to as "Customer"). Seller and Customer are sometimes referred to individually as a "Party" or together as the "Parties."

WHEREAS, Seller constructed the storage facility contemplated in the Agreement with an FSS design capacity of 11 Bcf of Maximum Storage Quantity; 150,000 in Contract Injection Quantity or Maximum Daily Injection Quantity; and 150,000 in Contract Withdrawal Quantity or Maximum Daily Withdrawal Quantity; and

WHEREAS, under the terms of various FSS agreements approved by the Regulatory Commission of Alaska ("RCA") as special contracts, including with Customer, Seller has contracted for 100% of its design storage quantity and 100% of its Maximum Daily Injection Quantity thorough March 31, 2032; and

WHEREAS, in Dockets U-18-004 and U-18-005, the RCA approved Amendment No. 2 to the Customer's FSS Agreement to increase Customer's Contract Withdrawal Quantity by 11,900 Mcf per day through March 31, 2019 and Amendment No. 3 to the Customer's FSS Agreement to increase Customer's Contract Withdrawal Quantity by 11,900 Mcf per day through March 31, 2022.

WHEREAS, under the terms of various FSS agreements approved by the RCA, including with Customer, starting on April 1, 2022 Seller has only contracted for 138,100 of its design Contract Withdrawal Quantity, leaving 11,900 of Contract Withdrawal Quantity available for contracting by a current FSS Customer ("Uncontracted Withdrawal Quantity"); and

WHEREAS, Customer desires to contract with Seller for the Uncontracted Withdrawal Quantity, and Seller desires to contract with Customer for same through the remaining term of Customer's original FSS Agreement, March 31, 2032;

Amendment No. 4 to FSS Agreement with ENSTAR dated February 15, 2022
Page 2 of 4

WHEREAS, RCA regulations at 3 AAC 48.390 state that a special contract cannot take effect without prior Commission approval and is, at all times, subject to revisions by the Commission.

NOW THEREFORE BE IT AGREED:

That the parties agree to amend Appendix A of the Agreement to revise and restate page 6 of 6 of Appendix A as follows:

-

Appendix A

Page 6 of 6 | REVISED AND RESTATED

Contract Quantities

This Appendix A is effective from the first day of the month following Commission approval or April 1, 2022, whichever is later, through March 31, 2032.

Total Contract Quantity: 8.775 Bcf

Maximum Storage Quantity ("MSQ"): 8.775 Bcf

Contract Injection Quantity ("CIQ"): 106,900

Contract Withdrawal Quantity ("CWQ"): 102,900

Maximum Daily Injection Quantity ("MDIQ"):

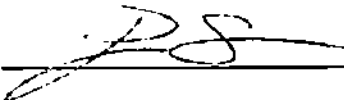
% MSQ	MDIQ (Mcf/day)
0%-55%	106,900
55%-90%	70,550
>90%	53,450

Maximum Daily Withdrawal Quantity ("MDWQ"):

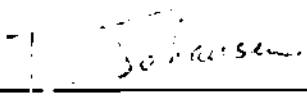
% MSQ	MDWQ (Mcf/day)
100%-45%	102,900
45%-20%	75,117
<20%	57,624

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in several counterparts by the hands of their proper officials duly authorized in that behalf, as of the day and year first above written.

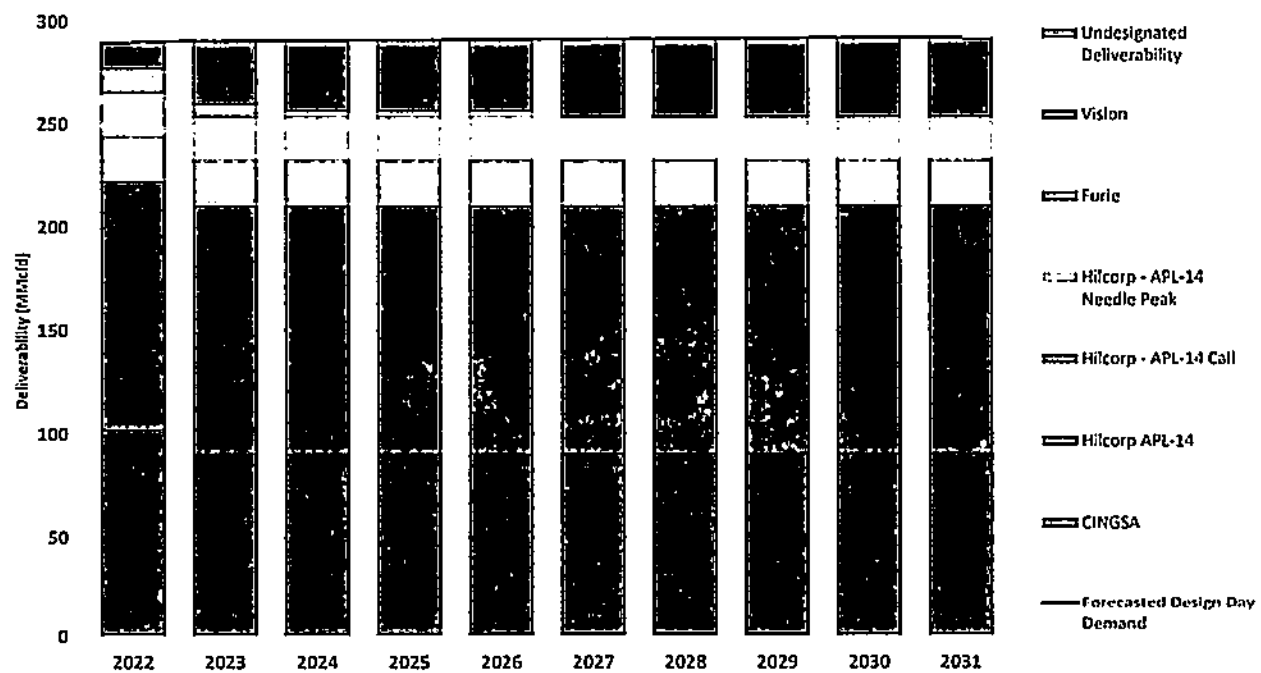
SELLER: Cook Inlet Natural Gas Storage Alaska, LLC

By: 
Name: John Sims
Title: President
Date: 2/15/2022

CUSTOMER: ENSTAR Natural Gas Company

By: 
Name: Inna Johansen
Title: Director of Gas Supply Operations
Date: 2/15/2022

ENSTAR Deliverability 2022-2031



ENSTAR
D.A. Energy

TA47-733: Exhibit IBJ-1 to Affidavit of Inna B. Johansen

EXHIBIT 4

GAS EMERGENCY AGREEMENT LETTER

ENSTAR Natural Gas Company (ENSTAR), Chugach Electric Association (CEA), Municipal Light & Power (ML&P) and Golden Valley Electric Association (GVEA) hereby referred to as the Parties agree to work cooperatively together to minimize the effect on the public of a shortage of natural gas in accordance with the principles in this letter.

The Parties recognize the difficulties caused by the loss of electricity in Southcentral Alaska and will work together in good faith to keep the interconnected generation and transmission system energized and as many customers energized as possible.

The Parties recognize the difficulties caused by the depressurization of the gas transmission and distribution system and will work with ENSTAR to maintain transmission and distribution gas pressures.

At the onset of any emergency restricting the amount of gas available, ENSTAR Operations Center personnel will contact Southcentral Power Control Centers to mutually determine a course of action. ENSTAR will also simultaneously work with the, natural gas producers, 3rd party marketers and industrial users of natural gas. Depending upon the event the following alternatives (priority order determined by the event) will be used to limit the effect of the emergency:

- Curtail ENSTAR deliveries to interruptible customers;
- Curtail non-firm power sales (Economy Energy Sales);
- Maximize hydro generation;
- Shift electric loads between power plants to address gas production and transportation problems (may cause inter-utility sales/purchases);
- All Parties call upon backup supplies of gas if available;
- Shift power plants to alternate fuels in accordance with Section 1200 (Interruption) of the ENSTAR Tariff;
- Import electricity from Fairbanks;
- Appeal to the public to reduce use of gas (ENSTAR);
- Appeal to the public to reduce use of electricity (electric utilities);

- Institute a program of de-energizing electrical feeders on a rotating basis (rolling brownouts);
- ENSTAR will notify all Parties when pipeline pressures have returned to pre-event pressures.
- Parties will coordinate the return to pre-event operations.

The Parties agree to meet at least annually to discuss operational matters and emergency response actions which they would expect to use in the event of a shortage of gas.

The Parties agree that any expenses of any preparatory activities under this agreement are for the benefit of each Party's system and will not be used as a basis for developing any special rates or charges to other Parties.

In the event that GVEA experiences a disruption of its fuel supply the Parties will attempt to support GVEA by exporting electricity north to Fairbanks.

DEFINITIONS

Southcentral Power Control Centers are the operation facilities for the electric utilities. For CEA it is the International Generation Station at 56th & Electron Drive in Anchorage. For ML&P it is the Operations facility at 1201 East 1st Avenue in Anchorage.

ENSTAR's Operations Center is located at 401 E. International Airport Rd in Anchorage.

Agreed to for ENSTAR Natural Gas Company

Date: Aug. 25, 2009.

By M. Colleen Staring

Agreed to for Chugach Electric Association, Inc.

Date: 25 Aug, 2009

By Bradley Wang

Agreed to for Municipal Light & Power

Date: 25 Aug '09

By [Signature]

Agreed to for Golden Valley Electric Association

Date: AUGUST 25, 2009

By [Signature]