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STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Stephen McAlpine, Chairman  
Paul F. Lisankie  
Robert M. Pickett  
Antony Scott  
Janis W. Wilson

In the Matter of the Investigation into the Impact of )  
the Tax Cuts and Jobs Act of 2017 on the Revenue )  
Requirement and Rates of ALASKA POWER )  
COMPANY )

U-18-040

ORDER NO. 1

**ORDER INITIATING INVESTIGATION, SCHEDULING SHOW CAUSE  
HEARING, ADDRESSING TIMELINE FOR DECISION, INVITING  
PARTICIPATION BY THE ATTORNEY GENERAL, DESIGNATING  
COMMISSION PANEL, AND APPOINTING ADMINISTRATIVE LAW JUDGE**

BY THE COMMISSION:

The Tax Cuts and Jobs Act of 2017 (2017 Tax Act) was signed into law on December 22, 2017.<sup>1</sup> The 2017 Tax Act includes provisions lowering the effective federal corporate income tax rate from a maximum of 35 percent to a flat rate of 21 percent. Investor-owned Alaska public utilities and pipeline carriers have rates established based on revenue requirements that incorporate the higher former federal income tax rates. The Attorney General (AG) petitioned us to open an investigation into the impacts of the 2017 Tax Act on the revenue requirements of investor-owned public utilities and pipeline

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<sup>1</sup>Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, 131 Stat. 2054.

1 carriers, and whether the rates of these public utilities and pipeline carriers should be  
2 adjusted to reflect the 2017 Tax Act impacts.<sup>2</sup> The AG supplemented its Petition.<sup>3</sup>

3 We invited a number of investor-owned Alaska public utilities and pipeline  
4 carriers to describe the impacts of the 2017 Tax Act, including any actions taken by the  
5 public utility or pipeline carrier regarding revenue deferrals and Accumulated Deferred  
6 Income Taxes (ADIT).<sup>4</sup> Many of these public utilities and pipeline carriers responded,  
7 including Alaska Power Company (APC). APC was unable to estimate the 2017 Tax Act  
8 impacts on its annual revenue requirement.<sup>5</sup>

9 We issued letter orders requiring certain investor-owned Alaska public  
10 utilities and pipeline carriers, including APC, to establish deferral accounts that  
11 consistently capture information quantifying the reduction in income tax expense related  
12 to the 2017 Tax Act.<sup>6</sup> APC responded to Letter Order No. L1800196 by asserting that the  
13 letter order was unlawful and that a formal proceeding was required to implement rate  
14 changes related to the 2017 Tax Act.<sup>7</sup>

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18 <sup>2</sup>*Office of the Attorney General's Petition to Open an Investigation into the Impact*  
19 *of the Tax Cuts and Jobs Act on Utility and Pipeline Carrier Revenue Requirements*, filed  
February 12, 2018, in Docket I-18-002 (Petition).

20 <sup>3</sup>*Office of the Attorney General's Notice of Filing Supplement to Petition to Open*  
21 *Investigation into the Impact of the Tax Cuts and Jobs Act on Utility and Pipeline Carrier*  
22 *Revenue Requirements*, filed February 14, 2018, in Docket I-18-002.

23 <sup>4</sup>Correspondence from S. McAlpine, dated March 23, 2018, in Docket I-18-002.

24 <sup>5</sup>Correspondence from S. Kramer, filed April 5, 2018, in Docket I-18-002.

25 <sup>6</sup>See Letter Order No. L1800196, dated May 4, 2018.

26 <sup>7</sup>*Petition for Reconsideration and Request for Stay*, filed May 17, 2018, in Docket  
I-18-002.

1 APC's current rates were established based upon a \$12.5 million annual  
2 revenue requirement that included a \$1.046 million income tax allowance.<sup>8</sup> APC has  
3 failed to provide us with an estimate of the impacts that the 2017 Tax Act might have on  
4 its revenue requirement. Other utilities have indicated that the 2017 Tax Act will result in  
5 significant reductions to their revenue requirements.<sup>9</sup> Based on the information provided  
6 by other investor-owned Alaska public utilities and information that APC has filed with us,  
7 we estimate that the 2017 Tax Act will result in a roughly \$400,000, or 3.2 percent,  
8 reduction in APC's annual revenue requirement. We find an annual revenue requirement  
9 reduction of this magnitude to be a significant change of circumstances that should be  
10 investigated to ensure that APC's rates are just and reasonable.<sup>10</sup>

11 Therefore, under 3 AAC 48.130(g), we open this docket to investigate the  
12 impacts of the 2017 Tax Act on APC's revenue requirement and rates. We schedule a  
13 hearing where APC is invited to show cause why a portion of its revenue in an amount  
14 equal to the impact on APC of the 2017 Tax Act should not be declared interim and  
15 refundable.

16 Show Cause Hearing

17 We schedule the initial show cause hearing in this docket for June 19, 2018,  
18 at 1:30 p.m., in Juneau, Alaska. The City and Borough of Juneau has offered to make its  
19 Assembly Chambers at 155 S. Seward Street available for this hearing. At this hearing,  
20 APC will be provided an opportunity to present evidence and argument on whether some

21  
22 <sup>8</sup>Order U-16-078(10), *Order Accepting Stipulation and Requiring Filings*, dated  
23 October 23, 2017, Appendix at 4, 14.

24 <sup>9</sup>See Correspondence from C. Hulbert, filed May 22, 2018, in Docket I-18-002  
25 (\$1.3 million estimated reduction for Alaska Electric Light & Power Company over the first  
26 four months of 2018); TA303-4, filed April 26, 2018 (\$5.1 million estimated annual  
reduction for ENSTAR Natural Gas Company, a Division of Semco Energy, Inc.).

<sup>10</sup>AS 42.05.381(a).

1 amount of its revenue should be made interim and refundable to reflect the 2017 Tax Act  
2 impacts. Public comment will also be accepted as time allows.

3 Decision Timeline

4 The commission is required by AS 42.05.175(d) to issue a final decision  
5 regarding a formal investigation of a utility not later than 365 days after the date the  
6 initiating order is issued, if the investigation is not based on a formal complaint. Therefore,  
7 the commission will issue the final order in this proceeding no later than Wednesday,  
8 June 5, 2019.

9 Participation by the AG

10 We believe it is in the public interest for the AG to participate in the  
11 proceeding as a party. The chairman therefore invites the AG to do so.<sup>11</sup>

12 Commission Panel

13 The chairman designates Commissioners Paul F. Lisankie and  
14 Janis W. Wilson and himself as the commission panel<sup>12</sup> and further designates  
15 Commissioner Lisankie as the commission docket manager.

16 Administrative Law Judge

17 Under AS 42.04.070(b), the chairman appoints Administrative Law Judge  
18 James L. Walker to facilitate conduct of this docket. The administrative law judge will  
19 issue procedural orders in this docket, unless the commission docket manager  
20 determines that a particular procedural order should be issued by the commission panel.<sup>13</sup>

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23 <sup>11</sup>AS 42.04.070(c).

24 <sup>12</sup>Under AS 42.04.080(a), the chairman designates a commission panel to hear,  
25 or, if a hearing is not required, to otherwise consider and decide docketed matters.

26 <sup>13</sup>The commission docket manager, after consultation with other members of the  
panel, may delegate to the administrative law judge whatever authority to issue  
procedural orders he or she considers necessary or advisable in these dockets. See  
3 AAC 48.165(b).

1 Orders issued by the administrative law judge will be considered orders of the commission  
2 for purposes of petitions for reconsideration under AS 42.05.171.

3 **ORDER**

4 THE COMMISSION FURTHER ORDERS:

5 1. A show cause hearing<sup>14</sup> is scheduled to convene at 1:30 p.m., June 19,  
6 2018, in the Assembly Chambers, City and Borough of Juneau, located at 155 S. Seward  
7 Street, Juneau, Alaska.

8 2. Commissioners Paul F. Lisankie, Stephen McAlpine, and  
9 Janis W. Wilson are designated as the commission panel.

10 3. Commissioner Paul F. Lisankie is designated as the commission docket  
11 manager.

12 4. James L. Walker is appointed as the administrative law judge.

13 DATED AND EFFECTIVE at Anchorage, Alaska, this 5th day of June, 2018.

14 BY DIRECTION OF THE COMMISSION  
15 (Commissioners Robert M. Pickett and  
16 Antony Scott, not participating.)



22 <sup>14</sup>If you are a person with a disability who may need a special accommodation,  
23 auxiliary aid or service, or alternative communication format to participate in the  
24 scheduled event, please contact Valerie Fletcher-Mitchell at 1-907-276-6222, or  
25 TTY/Alaska Relay at 7-1-1 or 1-800-770-8973, or send your request by electronic mail to  
26 [rca.mail@alaska.gov](mailto:rca.mail@alaska.gov) at least three business days before the scheduled event to make  
the necessary arrangements.

Any party wishing to appear telephonically at the scheduled event must advise us  
in advance and provide a telephone number where it may be reached for that appearance.