


# MEMORANDUM


## Regulatory Commission of Alaska

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**TO:** Senator Gene Therriault  
Chair  
Legislative Budget and Audit Committee

**DATE:** January 23, 2006

**FROM:**  Rosalie Nizich  
Commission Section Manager

**THROUGH:** Kate Giard   
Chairman

**SUBJECT:** Quarterly Report for  
Oct. 1 - Dec. 31, 2005

Under AS 42.05.175(g), the Commission is required to file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under AS 42.05.175(f).

The Commission extended the statutory timeline in the following dockets, after consent from all parties, as follows:

Order U-05-35(1), dated November 1, 2005, *Order Approving Transfer, Requiring Filing, Granting Extension of Statutory Timeline, and Closing Docket; S & R Letter Requesting Extension*, filed October 12, 2005.

Order U-05-7(1), dated November 25, 2005, *Order Finding Good Cause to Investigate Complaint, Appointing Hearing Examiner, Addressing Statutory Timeline, Requiring Filing, and Scheduling Prehearing Conference; CUC's Notice of Consent to Extend Statutory Timeline*, filed December 2, 2005.

Order U-05-22(3), dated December 8, 2005, *Order Extending Statutory Timeline; Joliffe Notice of Consent to Extend Statutory Timeline*, dated December 7, 2005 and filed December 9, 2005.

The Commission reports the following orders were issued extending the statutory timeline for good cause under AS 42.05.175(f):

Order U-04-89(5), dated December 1, 2005, *Order Extending Statutory Timeline, Extending Suspension Period, and Affirming Electronic Ruling*.

Order U-05-54(6), dated December 1, 2005, *Order Granting in Part, Motion for Issuance of Subpoena Duces Tecum and Affirming Electronic Rulings Requiring Expedited Filings and Granting Petition for Reconsideration*.

Order R-03-5(4), dated December 16, 2005, *Order Extending Statutory Timeline*.

I would also like to follow-up on the dockets that had extensions reported under AS 42.05.175(f) for the period January 1 - September 30, 2005.

For the 1st quarter:

Docket U-04-22/U-04-23: final order was issued on September 2, 2005.

Docket U-04-7: as stipulated by the parties, remains open for further resolution of issues.

For the 2nd quarter:

Docket U-05-12: the parties stipulated to a hearing for January 17, 2006, with a final order to be issued by April 30, 2006; however, on January 17, 2006, the parties filed a stipulation resolving all disputed issues.

Docket U-04-104: final order was issued November 25, 2005.

For the 3rd quarter:

Docket U-03-85(9): final order was issued December 13, 2005.

Dockets U-03-93/U-05-22: a final order is to be issued by June 30, 2006.

Docket U-05-4: a final order is to be issued by March 24, 2006. In this docket, the statutory timeline extended by Order U-05-4(1), was vacated. In Order U-05-4(4), the statutory timeline was recalculated based on application completeness. See attached Order U-05-4(4), dated December 9, 2005, *Order Vacating Portions of Orders U-05-4(1) and U-05-4(3) Regarding Statutory Timeline, Establishing Applicable Statutory Timeline, and Addressing Motion for Expedited Consideration and Petition for Reconsideration*.

Attachments

1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

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4 Before Commissioners:

Kate Giard, Chairman  
Dave Harbour  
Mark K. Johnson  
Anthony A. Price  
James S. Strandberg

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7 In the Matter of the Investigation into the )  
Revenue Requirement and Proposed Rate )  
8 Increase, Designated as TA2-642, Filed by )  
MIDTOWN ESTATES WATER UTILITY, INC., )  
9 a Wholly-owned Subsidiary of the Aleut )  
Corporation, Inc. )  
10

U-04-89

ORDER NO. 5

11 ORDER EXTENDING STATUTORY TIMELINE, EXTENDING  
12 SUSPENSION PERIOD, AND AFFIRMING ELECTRONIC RULING

13 BY THE COMMISSION:

14 Summary

15 We extend, for good cause, the statutory timeline for issuing a final order  
16 in this docket for an additional sixty days until January 30, 2006. We extend the  
17 suspension of TA2-642. We also affirm our electronic ruling granting the motion to  
18 accept late filing filed by Midtown Estates Water Utility, Inc. (MEWU).

19 Background

20 We required MEWU to file additional information regarding affiliate  
21 relations and maintenance and operations.<sup>1</sup> We also extended the suspension of  
22 TA2-642 until December 1, 2005. We granted MEWU's request for an additional sixty  
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26 <sup>1</sup>Order U-04-89(2), *Order Requiring Filings, Extending Suspension Period and Transferring Record of Docket U-02-92 Into Docket U-04-89*, dated March 30, 2005.

1 days to file the information we required.<sup>2</sup> We concluded that MEWU demonstrated that  
2 it had insufficient personnel to accumulate the data and complete other fiscal projects,  
3 and that accumulation of the data would require a substantial amount of personnel time.  
4 MEWU filed the additional information one day late along with a motion to accept the  
5 late filing.<sup>3</sup> The additional information consisted of 1,798 pages of documents. We  
6 issued an electronic ruling<sup>4</sup> granting the motion to accept MEWU's late-filed data.  
7 MEWU filed an additional seven pages of documents.<sup>5</sup>

#### 8 Discussion

9 AS 42.05.175(c) requires that we issue a final order not later than fifteen  
10 months after a complete tariff filing is made for a tariff filing that changes the utility's  
11 revenue requirement or rate design. We would therefore be required to issue a final  
12 order in this docket by December 1, 2005. AS 42.05.175(f) provides that we may  
13 extend the timeline, for 90 days or less, if good cause exists. We conclude that good  
14 exists to extend the statutory timeline.

15 While we were optimistic that we would be able to complete our review  
16 and analysis of the voluminous data submitted by MEWU within the confines of the  
17 original statutory timeline, we find that we are unable to do so. MEWU submitted 1,805  
18 pages of data in response to our request for information. Although we need additional  
19 time to complete our review, we do not want to unduly delay this matter. We conclude  
20 that it would be reasonable to extend the statutory timeline for a commensurate period  
21 of time granted to MEWU to submit the filing. Accordingly, we extend the statutory  
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23 <sup>2</sup>Order U-04-89(3), *Order Granting Motions for Expedited Consideration and*  
*Extension of Time*, dated April 20, 2005.

24 <sup>3</sup>*Motion to Accept Late Filing; Notice of Filing Additional Information*, filed July 1,  
25 2005.

26 <sup>4</sup>On July 7, 2005, MEWU was electronically notified of this decision.

<sup>5</sup>*Supplement to Notice of Filing Additional Information*, filed July 7, 2005.

1 timeline for an additional sixty days. TA2-624 remains suspended until  
2 January 30, 2006.

3 We affirm our electronic ruling granting MEWU's motion to accept late  
4 filing. We conclude that MEWU presented good cause for the late filing: photocopying  
5 problems with voluminous data and counsel's office closed for funeral services.

6 **ORDER**

7 THE COMMISSION FURTHER ORDERS:

8 1. The statutory timeline for issuing a final order in this docket is extended  
9 until January 30, 2006.

10 2. TA2-642 remains suspended until January 30, 2006.

11 3. The electronic ruling granting the motion to accept late filing filed by  
12 Midtown Estates Water Utility, Inc., is affirmed.

13 DATED AND EFFECTIVE at Anchorage, Alaska, this 1st day of December, 2005.

14 BY DIRECTION OF THE COMMISSION  
15 (Commissioners Dave Harbour and  
16 Anthony A. Price, not participating.)  
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19 ( S E A L )  
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On September 21, 2005, the AG notified us of his intention to participate in this proceeding and requested a prehearing conference for the parties to establish a procedural schedule.<sup>3</sup> In Order U-05-54(5), we established a prehearing conference to convene on November 3, 2005 and required the parties to submit a proposed procedural schedule that would allow for a two-day hearing to conclude no later than January 13, 2006.<sup>4</sup>

#### Petition for Reconsideration

The AG petitioned for reconsideration of our requirement that the hearing be completed by January 13, 2006 and asked us to extend the statutory deadline in this docket by 90 days to accommodate the requested change in hearing schedule.<sup>5</sup> The AG also moved for expedited consideration of the petition for reconsideration. We required the parties to file expedited responses and reply to the motion for expedited consideration.<sup>6</sup> ENSTAR opposed expedited consideration.<sup>7</sup> The AG replied.

We granted the petition for reconsideration and extended the statutory timeline by 90 days.<sup>8</sup>

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<sup>3</sup>*Notice of Election to Participate*, filed September 21, 2005; *Request for Prehearing Conference to Set Schedule*, filed September 21, 2005.

<sup>4</sup>Order U-05-54(5), *Order Inviting Intervenors; Scheduling Prehearing Conference And Appointing Hearing Examiner*, dated October 26, 2005.

<sup>5</sup>*Petition for Reconsideration from Order 5 and Motion to Find Good Cause to Extend the Statutory Deadline by 90 Days*, filed October 27, 2005.

<sup>6</sup>The parties were electronically notified on October 28, 2005.

<sup>7</sup>*ENSTAR's Opposition to the Attorney General's Motions for Immediate Decision and Expedited Consideration*, filed October 31, 2005.

<sup>8</sup>The parties were electronically notified on November 3, 2005.

1 Subpoena Duces Tecum

2 The AG also moved for issuance of an administrative subpoena requiring  
3 the Official Payments Corporation and EPOS Corporation (collectively, OPC) to produce  
4 records and other information.<sup>9</sup> ENSTAR opposed the motion<sup>10</sup> and the AG replied.<sup>11</sup>

5 Discussion

6 Subpoena Duces Tecum

7 The AG stated that the issue in this proceeding is whether TA135-4 should  
8 be granted permanent status.<sup>12</sup> TA135-4 is a request by ENSTAR to revise its credit  
9 card and electronic check billing services by outsourcing the processing of such  
10 methods of payment to OPC.<sup>13</sup> OPC assesses a fee for processing ENSTAR customer  
11 payments. As OPC is not a party to this proceeding, the AG stated that the subpoena  
12 duces tecum is necessary to require document production from OPC.<sup>14</sup>

13 The AG's proposed subpoena duces tecum sets forth eight specific  
14 requests for production of information from OPC. Three requests seek documents  
15 regarding ENSTAR customers;<sup>15</sup> four requests seek information regarding OPC's costs  
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18 <sup>9</sup>*Motion for Issuance of Administrative Subpoena Duces Tecum*, filed October 6,  
19 2005 (Motion).

20 <sup>10</sup>*ENSTAR's Opposition to the Attorney General's Motion for Subpoena*, filed  
21 October 17, 2005.

22 <sup>11</sup>*Reply to ENSTAR's Opposition to Motion for Issuance of Administrative*  
23 *Subpoena Duces Tecum*, filed October 21, 2005.

24 <sup>12</sup>*Memorandum in Support of Motion for Issuance of Administrative Subpoena*  
25 *Duces Tecum*, filed October 6, 2005 at 1 (Memorandum)

26 <sup>13</sup>*Id. at 1*

<sup>14</sup>*Id. at 2.*

<sup>15</sup>AG-EP1-1, AG-EP1-2, and AG-EP1-3.



1 and profits,<sup>16</sup> and the last seeks information regarding payments between OPC and  
2 ENSTAR.<sup>17</sup>

3 ENSTAR opposed the motion for subpoena on the grounds that it seeks  
4 irrelevant information on a non-issue from an unregulated third-party. ENSTAR stated  
5 that after the Commission denied ENSTAR the right to recover the full costs of the credit  
6 card fees in its rates, ENSTAR was no longer willing to absorb those costs; ENSTAR's  
7 request to discontinue its pilot credit card program was granted; and ENSTAR is not  
8 willing to participate in an evaluation of the defunct pilot program.<sup>18</sup>

9 The AG replied that ENSTAR's claimed need to outsource this part of its  
10 billing and collection activity due to its cost requires evaluation in tandem with the  
11 resulting impact from such outsourcing. The AG stated that the resulting impact from  
12 such outsourcing necessarily requires an evaluation of whether the fees assessed for  
13 this service are excessive to consumers.<sup>19</sup>

14 We address discovery requests AG-EP1-1 to AG-EP1-3 and  
15 AG-EP1-8 as these relate to documents regarding ENSTAR customers and information  
16 ENSTAR states it can make available to the AG.

17 The AG states that the information sought in these requests is needed to  
18 evaluate the cost to ratepayers for different types of billing processing.<sup>20</sup> ENSTAR  
19 noted that the first three discovery requests, AG-EP1-1 to AG-EP1-3, seek information  
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21 <sup>16</sup>AG-EP1-4, AG-EP1-5, AG-EP1-6 and AG-EP1-7.

22 <sup>17</sup>AG-EP1-8.

23 <sup>18</sup>ENSTAR's *Opposition to the Attorney General's Motion for Subpoena*, filed  
October 17, 2005 at 4-5 (Opposition).

24 <sup>19</sup>*Reply to ENSTAR's Opposition to Motion for Issuance of Administrative*  
*Subpoena Duces Tecum*, filed October 21, 2005 at 2 (Reply).

25 <sup>20</sup>Memorandum at 5.

1 about ENSTAR customers and the credit card fees they have paid to date. ENSTAR  
2 stated that information is in ENSTAR's possession and can be provided by ENSTAR,  
3 eliminating the need for a third-party subpoena.<sup>21</sup> ENSTAR also asserted that  
4 AG-EP1-8 asks for records of payments between ENSTAR and OPC. ENSTAR  
5 asserted there have been no such payments, in either direction, which is information  
6 available through ENSTAR. Again, ENSTAR asserted that a third-party subpoena is not  
7 needed for AG-EP1-8.<sup>22</sup>

8 The AG replied that while it may be possible that ENSTAR has the  
9 information contained in AG-EP1-1 to AG-EP1-3, the AG should be entitled to  
10 corroborate data produced by ENSTAR with that subpoenaed from OPC and that  
11 ENSTAR has no right to dictate discovery sources.<sup>23</sup>

12 We agree with the AG and grant the AG's request for information requests  
13 AG-EP1-1 through AG-EP1-3 and AG-EP1-8. Further, we find the information about the  
14 costs ENSTAR's customers have incurred from ENSTAR's outsourcing of this  
15 previously internal function is within the scope of this investigatory docket and that such  
16 information will aid us in determining whether to allow TA135-4 to go into effect on a  
17 permanent basis.

18 We evaluate the AG's request and ENSTAR's opposition to information  
19 requests AG-EP1-4 through AG-EP1-7. These requests relate specifically to internal  
20 costs and profit margins of OPC; the service contracts OPC has with credit card  
21 companies VISA, AMEX, Mastercard and Discover; the fees OPC pays for processing  
22 ENSTAR customers' credit cards, the personnel and overhead costs incurred by OPC

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23 <sup>21</sup>Opposition at 2.

24 <sup>22</sup>Opposition at 2.

25 <sup>23</sup>Reply at 4-5.

1 for processing ENSTAR's customer payments, and OPC's rate of profit earned on  
2 ENSTAR's customers' bill processing.

3 In its Memorandum, the AG stated its evaluation will need to include a  
4 comparison of ENSTAR's internal processing and fee costs for processing customers'  
5 credit card and electronic payments with that of OPC's charges and costs for  
6 processing ENSTAR customer credit card and electronic check payments.<sup>24</sup>

7 ENSTAR opposed, stating that third-party supplier's internal costs are  
8 beyond our jurisdiction and are part of this analysis only if there is an affiliate  
9 relationship. ENSTAR stated that OPC is not an affiliate of ENSTAR and that the  
10 affiliate statute (AS 42.05.511(c)) does not apply.<sup>25</sup> ENSTAR also stated that  
11 ENSTAR's management made diligent efforts to find the most reputable and reliable  
12 third-party provider at the lowest price and listed the reasons that it chose OPC's  
13 services. ENSTAR stated it rejected the other candidates because they were either  
14 more expensive or did not have the experience. ENSTAR concluded by stating it would  
15 be appropriate for the AG to ask ENSTAR about the procedure it followed to select OPC  
16 from among the available competitive choices, but not appropriate to inquire into the  
17 internal cost structure of an unaffiliated third party providing a voluntary service to the  
18 customers of a public utility.<sup>26</sup>

24Memorandum at 5.

25Opposition at 3.

26Opposition at 4.

1 Ratepayers using the voluntary OPC payment method are charged a fixed  
2 ("convenience") fee of \$3.50 for the service.<sup>27</sup> The AG stated, in its Memorandum, that  
3 a comparison of ENSTAR's internal processing and fee costs for processing customers'  
4 credit card and electronic payments with OPC's charges and costs for processing  
5 ENSTAR's customers' credit card and electronic check payments is necessary to  
6 evaluate the cost to ratepayers for different types of billing processing.

7 ENSTAR stated that the AG goes astray with its contention that its  
8 evaluation must compare ENSTAR's costs with those of OPC. ENSTAR asserted that  
9 the way to evaluate the reasonableness of a third-party supplier's fees is to compare  
10 them to the other choices available in the competitive marketplace.

11 We deny the AG's requests designated as AG-EP1-4 through AG-EP1-7.  
12 We agree with ENSTAR that OPC's internal costs and profit do not provide a relevant  
13 basis for comparison to ENSTAR's internal costs and fees. ENSTAR is a public utility  
14 and its internal costs are those of a regulated utility. In this order, we grant the AG the  
15 ability to determine what the transition to a voluntary third-party processing agent has  
16 cost the ratepayers by allowing discovery on items AG-EP1-1 through AG-EP1-3 and  
17 AG-EP1-8.

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20 <sup>27</sup>Letter to RCA from ENSTAR, filed October 28, 2005. The \$3.50 fee was  
21 effective November 1, 2005. Before that date, the fee paid by ENSTAR ratepayers  
varied according to type and amount of payment:

22 Electronic Checks:

23 \$2.50 per transaction up to \$10,000 for all customer types; or  
24 \$15.00 per transaction for all transactions greater than \$10,000.

25 Credit Cards:

26 \$3.50 per transaction up to \$400 for residential payments  
\$6.00 per transaction up to \$700 for commercial users.

1 A subpoena duces tecum is a tool for prehearing discovery. In our  
2 proceedings, each party has the right to request discovery from other parties and the  
3 obligation to respond to other parties' discovery requests.<sup>28</sup> We issued an order  
4 governing discovery and an order governing confidential discovery in this proceeding.  
5 However, neither provides for discovery from a third-party contractor such as OPC. We  
6 are persuaded that some of the information requested by the AG is necessary for the  
7 AG to have an adequate opportunity to investigate issues relevant to this proceeding. It  
8 appears that the only means of eliciting documents from OPC is through the use of our  
9 subpoena power. Therefore, pursuant to AS 42.05.151(c) and 3 AAC 48.055 we grant,  
10 in part, the AG's motion for subpoena duces tecum and require OPC to produce  
11 documents.

12 Initially, the AG stated that EPOS and OPC have not provided Alaska with  
13 the name and address of a registered agent for service of process and asked that,  
14 pursuant to AS 10.06.765, service of process be made on the Commissioner of the  
15 Department of Commerce, Community and Economic Development.<sup>29</sup> In his Reply,<sup>30</sup>  
16 the AG provided additional information. The AG stated that both EPOS and OPC are  
17 wholly owned subsidiaries of Tier Technologies, Inc. and that Corporation Service  
18 Company is the registered agent for Tier Technologies, Inc. Therefore, the AG  
19 requested that we issue a subpoena to both Corporation Service Company and the  
20 Commissioner of the Department of Commerce, Community and Economic  
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24 <sup>28</sup>3 AAC 48.155(a)(8) and 3 AAC 48.155(b)(1).

25 <sup>29</sup>Memorandum at 5.

26 <sup>30</sup>Reply at 5.

1 Development to ensure proper service is provided.<sup>31</sup> A subpoena duces tecum  
2 addressed to each is attached to this order as an appendix.

3 Petition for Reconsideration

4 In Order U-05-54(5), issued October 26, 2005, we granted the AG's  
5 motion for a prehearing conference and set an outside deadline of January 13, 2006 to  
6 complete a hearing in this docket. We established the January 13, 2006 date for  
7 completion of the hearing to allow sufficient time for us to review the record, adjudicate  
8 the merits of this proceeding, and issue a final order before the statutory timeline for a  
9 final order, February 20, 2006.<sup>32</sup>

10 The AG petitioned for reconsideration of the provisions of Order  
11 U-05-54(5) that required the hearing to be completed by January 13, 2006 and  
12 requested that we find good cause under AS 42.05.175(f) to extend the statutory  
13 deadline by 90 days to accommodate the hearing schedule change.<sup>33</sup> In addition, the  
14 AG filed for expedited consideration of the requests.

15 The AG asserted that adhering to the proposed deadline of January 13,  
16 2006 will work an unreasonable hardship and the "[t]he true casualty . . . will be the  
17 public interest . . . ."<sup>34</sup> The AG also asserted that the Commission cannot meet its  
18 statutory mandate to ensure ENSTAR's tariff filing is "fair, just and reasonable to

19 <sup>31</sup> *Id.* at 6.

20 <sup>32</sup> See AS 42.05.175(b) which states "[n]otwithstanding a suspension ordered  
21 under AS 42.05.421, the commission shall issue a final order not later than nine months  
22 after a complete tariff filing is made for a tariff filing that does not change the utility's  
revenue requirement or rate design.

23 <sup>33</sup> *Petition for Reconsideration from Order 5 and Motion to Find Good Cause to  
Extend the Statutory Deadline by 90 Days*, filed October 27, 2005.

24 <sup>34</sup> *Memorandum in Support of Petition for Reconsideration from Order 5 and  
25 Motion to Find Good Cause to Extend the Statutory Deadline by 90 Days*, filed  
26 October 27, 2005 at 5.

1 consumers and the public interest if an abbreviated schedule forces a truncated period  
2 for discovery and analysis" and that the January 13, 2006 deadline fails to take into  
3 account other demands on counsel.<sup>35</sup> For these reasons, the AG petitioned for  
4 reconsideration and also asked us to find good cause to extend the statutory deadline  
5 for issuance of a final order in this proceeding.

6 ENSTAR asserted that the AG apparently misunderstood the scope of the  
7 docket and did not provide good cause for us to extend the statutory timeline.  
8 According to ENSTAR, only two narrow issues remain. In addition, ENSTAR expressed  
9 its willingness to provide complete documentation of its selection criteria and to explain  
10 its reasons for choosing OPC. ENSTAR asserted that "[o]nce that documentation is  
11 reviewed, the docket can be quickly and easily decided, within the statutory timeline."<sup>36</sup>

12 ENSTAR opposed expedited consideration stating that the AG allowed  
13 nearly three months to pass before electing to participate and should not now be  
14 allowed to claim that there is insufficient time to decide this matter before the statutory  
15 timeline expires. ENSTAR disagreed with the AG's assertion that there was an urgent  
16 need to reconsider the hearing date and to extend the statutory timeline.<sup>37</sup>

17 The AG replied that the current schedule substantially prejudices the AG  
18 in investigating issues in this docket, conducting discovery, preparing testimony,  
19 reviewing reply filings and preparing for hearing.

20 We reviewed the record and determined that, with a prehearing  
21 conference scheduled for November 3, 2005, we would make the most efficient use of

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22 <sup>35</sup>*Id.*

23 <sup>36</sup>*ENSTAR's Opposition to the Attorney General's Motions for Immediate*  
24 *Decision and Expedited Consideration*, filed October 31, 2005 at 6.

25 <sup>37</sup>*ENSTAR's Opposition to the Attorney General's Motions for Immediate*  
26 *Decision and Expedited Consideration*, filed October 31, 2005.

1 administrative and parties' resources by granting expedited consideration of the AG's  
2 petition for reconsideration and motion to extend the statutory timeline. While a  
3 significant amount of time elapsed between the suspension date and the date the AG  
4 filed an appearance, we find that the AG's meaningful participation in this docket will  
5 provide us with a more complete record upon which to base a reasoned decision.

#### 6 Electronic Rulings

7 When the AG moved for expedited consideration of the petition for  
8 reconsideration and of the motion to find good cause to extend the statutory timeline,  
9 we determined that the parties should make expedited filings.<sup>38</sup> We notified the parties  
10 in an electronic ruling issued October 28, 2005. This order affirms that electronic ruling.

11 After ruling on the petition for reconsideration and the motion to extend the  
12 statutory timeline, we found it reasonable to inform the parties of our rulings and ask  
13 them to come to the prehearing conference with a procedural schedule based on dates  
14 consistent with the extended statutory timeline. We notified the parties in an electronic  
15 ruling dated November 3, 2005. This order affirms that electronic ruling.

#### 16 ORDER

#### 17 THE COMMISSION FURTHER ORDERS:

18 1. The motion for issuance of administrative subpoena duces tecum filed  
19 by the Attorney General on October 6, 2005 is granted, in part. The subpoenas are  
20 attached to this order as appendices.

21 2. The electronic ruling issued October 28, 2005 that required expedited  
22 filings is affirmed.

23 3. The electronic ruling issued November 3, 2005 that granted the motion  
24 for expedited consideration filed by the Attorney General on October 27, 2005; granted

25 <sup>38</sup>The parties were electronically notified on October 28, 2005.  
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1 the petition for reconsideration; extended the statutory timeline 90 days and required the  
2 parties to bring a revised procedural schedule to the November 3, 2005 prehearing  
3 conference is affirmed.

4 4. The extended statutory timeline in this docket is May 22, 2006.

5 DATED AND EFFECTIVE at Anchorage, Alaska, this 1st day of December, 2005.

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7 BY DIRECTION OF THE COMMISSION  
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1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

3 Before Commissioners:

Kate Giard, Chairman  
Dave Harbour  
Mark K. Johnson  
Anthony Price  
James S. Strandberg

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7 In the Matter of the Development of )  
8 Regulations to Establish a Regulatory Program )  
for Water-Power Development Projects )

R-03-5

ORDER NO. 4

9  
10 ORDER EXTENDING STATUTORY TIMELINE

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12 BY THE COMMISSION:

13 We issued proposed regulations for public comment concerning state  
14 licensing of water-power development projects.<sup>1</sup> We then extended the comment  
15 period through May 25, 2005, with written reply comments to be filed by June 8, 2005.<sup>2</sup>

16 As the statutory timeline<sup>3</sup> in this proceeding expires on January 3, 2006,  
17 for good cause and as authorized by AS 42.05.175(f), at our December 14, 2005 Public  
18 Meeting, we extended the statutory timeline for ninety days,<sup>4</sup> or until April 3, 2006. The  
19 additional time permits us to continue working with FERC<sup>5</sup> representatives to resolve

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21 <sup>1</sup>R-03-5(2), *Order Issuing Proposed Regulations for Comment and Setting Public*  
22 *Hearings*, dated March 25, 2005.

23 <sup>2</sup>Order R-03-5(3), *Order Granting Requests to Extend Comment Period*, dated  
24 April 20, 2005.

25 <sup>3</sup>AS 42.05.175(e).

26 <sup>4</sup>AS 42.05.175(f).

<sup>5</sup>Federal Energy Regulatory Commission.

1 several issues. We will then schedule a Public Meeting to discuss the issuance of  
2 revised draft regulations for further public comment.

3 **ORDER**

4 THE COMMISSION FURTHER ORDERS that the statutory timeline in this proceeding  
5 is extended ninety days, until April 3, 2006, as provided for under AS 42.05.175(f).

6 DATED AND EFFECTIVE at Anchorage, Alaska, this 16th day of December, 2005.

7 BY DIRECTION OF THE COMMISSION

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