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THE REGULATIONS HAVE AN EFFECTIVE DATE OF 06/29/2014, ARE IN REGISTER 210, AND WILL APPEAR IN OFFICIAL PUBLISHED FORM IN THE JULY, 2014 SUPPLEMENT TO THE ALASKA ADMINISTRATIVE CODE.

3 AAC 52 is amended by adding new sections to read:

Article 9. Plant Replacement and Improvement Surcharge Mechanism.

3 AAC 52.800. Application and waiver. (a) An eligible water or wastewater utility may establish a surcharge to recover capital costs associated with plant placed in service between general rates cases, if the surcharge complies with the provisions of 3 AAC 52.800 – 3 AAC 52.890.

(b) A requirement of 3 AAC 52.800 – 3 AAC 52.890 may be modified or waived, in whole or in part. A utility shall file and the commission will consider an application for waiver using the procedures and standards set out in 3 AAC 48.805. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.805. Criteria for plant improvement surcharges. (a) An eligible water or wastewater utility that proposes to include a surcharge authorized under 3 AAC 52.800 - 3 AAC 52.890 in its tariff shall, by tariff advice letter in compliance with 3 AAC 48.200 – 3 AAC 48.380, file one or more tariff sheets that

(1) identify the classes of property eligible for capital cost recovery through the surcharge;

(2) establish the initial effective date of the surcharge;

(3) describe the method for computing the surcharge;

(4) describe the method for updating the surcharge rate on a regular basis, not more often than quarterly, and not less often than annually; and

(5) describe consumer protections applicable to the surcharge.

(b) An eligible water or wastewater utility that proposes to revise any aspect of its surcharge shall file the revision by tariff advice letter in compliance with 3 AAC 48.200 – 3 AAC 48.380.

(c) Unless the initial surcharge tariff filing or revision is part of a general rate case, 3 AAC 48.275(a) does not apply to filings under (a) or (b) of this section, if the filings comply with 3 AAC 52.800 – 3 AAC 52.890.

(d) The filing of an initial or revised surcharge tariff must be accompanied by

- (1) a copy of the utility’s most recent long-term infrastructure improvement plan;
- (2) a copy of the utility’s most recent annual asset optimization plan;
- (3) certification that a general rate case has been filed within the five years immediately preceding the establishment or revision of the surcharge tariff, or, if no general rate case has been filed within the five years before the establishment or revision of the surcharge, a general rate case containing at least the supporting information required by 3 AAC 48.275(a); and

(4) supporting information in the form of prefiled direct testimony, together with a list of witnesses filing testimony sufficient to demonstrate that the surcharge is in the public interest, and will facilitate utility compliance with

(A) the requirement in AS 42.05.291(a) to provide adequate, efficient, and safe services and facilities;

(B) the requirement in AS 42.05.291(a) that service be reasonably continuous and provided without unreasonable interruption or delay;

(C) any order of the commission or other state or federal agency related to safety or public health; and

(D) any other provision of state or federal law requiring provision and maintenance of adequate, efficient, safe, reliable, and reasonable service, including laws related to public health and environmental quality. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.810. Notice. (a) Initial and revised surcharge tariff filings are subject to 3 AAC 48.240 and 3 AAC 48.280.

(b) The utility shall notify customers by bill insert, or other method specified in the approved surcharge tariff, before filing periodic updates of a surcharge rate. An additional notice of a surcharge rate update will not be required unless ordered by the commission. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.815. Long-term infrastructure improvement plan and asset optimization plan. (a) Before filing an initial surcharge tariff, and at no less often than five-year intervals thereafter, an eligible water or wastewater utility shall file a long-term infrastructure improvement plan. The utility’s plant improvement surcharge tariff must specify the minimum frequency and due date for filing long-term infrastructure improvement plans.

(b) Within one year after filing an initial long-term infrastructure improvement plan, and annually thereafter, an eligible water or wastewater utility shall file an asset optimization plan.

The utility's plant improvement surcharge tariff must specify the annual date on which the asset optimization plan will be filed.

(c) A long-term infrastructure improvement plan must include

(1) a listing of the types and age of plant that the utility owns or operates, that the utility intends to improve, and for which the utility may propose to collect a surcharge;

(2) a prioritized schedule for the planned improvement of listed plant;

(3) a description of the location of the plant;

(4) an estimate of the quantity, unit cost, and total value of the plant to be improved;

(5) a projection of the annual expenditures necessary to implement the plan, including a description of the methods adopted to ensure that the plan is cost-effective; and

(6) a description of how the plan will be implemented, with emphasis on the benefits of planned improvements, the extent to which the surcharge will allow improvements to be accelerated, and the expected impact the improvements will have on quality of service.

(d) An asset optimization plan must include

(1) a detailed description of the eligible plant improved in the preceding 12-month period under the utility's long-term infrastructure improvement plan and the prior year's asset optimization plan, if any;

(2) a detailed description of all plant expected to be improved in the upcoming 12-month period; and

(3) an explanation for any plant that was, or is expected to be, improved in a sequence or manner that is not consistent with either the most recent long-term infrastructure improvement plan or the prior year's asset optimization plan.

(e) The commission staff shall review, and the commission may investigate, the long-term infrastructure improvement plan or the asset optimization plan for compliance with

(1) the provisions of 3 AAC 52.800 – 3 AAC 52.890;

(2) the uniform system of accounts established for water utilities under 3 AAC 48.277(a)(14) - (17) and for wastewater utilities under 3 AAC 48.277(a)(24) - (27), as applicable;

(3) generally accepted accounting principals; and

(4) reasonable management practices.

(f) The commission may, after notice and an opportunity to be heard, terminate the collection of a surcharge and order the removal of the utility's plant improvement surcharge tariff provision if the commission finds that the utility is not in material compliance with the regulatory and accounting standards set out in (e) of this section. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.820. Calculation and collection of surcharge rate. (a) Subject to the limitations in 3 AAC 52.840, eligible utilities may implement and update a plant improvement surcharge as described in the utility's approved plant improvement surcharge tariff to recover eligible capital costs.

(b) The plant improvement surcharge must be a percentage, expressed to two decimal places, that is applied to all classes of service as a percentage of each customer's billed revenue. The percentage is calculated by dividing total annual eligible capital costs by projected annual revenue. For utilities with periodic updates more frequent than annual, the surcharge rate must be calculated as follows:

(1) a utility updating its surcharge rate on a quarterly basis shall divide depreciation rates, approved return, and percentage allowance for taxes by four, and then apply the adjusted rates to eligible plants; the total eligible capital costs resulting from that calculation shall be divided by the projected quarterly revenue;

(2) a utility updating its surcharge rate on a semi-annual basis shall divide depreciation rates, approved return, and percentage allowance for taxes by two, and then apply the adjusted rates to eligible plants; the total eligible capital costs resulting from that calculation shall be divided by the projected semi-annual revenue;

(3) a utility updating its surcharge rate on a frequency other than quarterly or semi-annually shall divide depreciation rates, approved return, and percentage allowance for taxes by the length of the period between updates, expressed in days, divided by 365, and then apply the adjusted rates to eligible plant; the total eligible capital costs resulting from that calculation shall be divided by the projected revenue for the period the rates will be in effect.

(c) The depreciation rates, return, and allowance for taxes used for calculation of the plant improvement surcharge must be, in order of preference,

(1) the depreciation rates, return, and allowance for taxes approved in the utility's most recent fully litigated general rate case, if the general rate case was filed within five years of the initial rate or update, as applicable; depreciation rates from a more recent fully litigated depreciation proceeding under AS 42.05.471(a) may be used, unless otherwise provided by the commission order approving the depreciation rates;

(2) the depreciation rates, return, and allowance for taxes most recently stipulated by all parties and accepted by the commission in a general rate case, if the general rate case was filed within five years of the initial rate or update, as applicable, and the stipulation does not prohibit use of those elements in future plant improvement surcharge calculations; depreciation rates from a more recent stipulated depreciation proceeding under AS 42.05.471(a) may be used, unless otherwise provided by the commission order accepting the stipulated depreciation rates; for stipulations dated before June 29, 2014, the stipulated cost elements may be used only if all parties to the stipulation consent and the public interest does not require use of litigated cost elements;

(3) the depreciation rates, return, and allowance for taxes approved or accepted in the utility's most recent fully litigated or stipulated general rate case that was filed more than five years before the initial rate or update, as applicable, if, after notice and an opportunity to be heard, all parties to the most recent general rate case, and all current interested parties, consent and the commission finds that a general rate case is not in the public interest; the commission will specify the date for filing the utility's next general rate case, and the test year to be used, in

the order approving the use of cost elements from a general rate case filed more than five years before the initial rate or update, as applicable; or

(4) depreciation rates, return, and allowance for taxes proposed by the utility and approved by the commission only for the purpose of calculating a specific periodic plant improvement surcharge rate update; the commission will specify the date for filing the utility's next general rate case and the test year to be used, in the order approving the use of cost elements proposed solely for the purpose of a specific periodic plant improvement surcharge rate update.

(d) The utility shall file revised tariff sheets, supporting data, and a copy of the customer notice required under 3 AAC 52.810(b) for each periodic update with the commission at least 10 days before the effective date of the update. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.825. Accounting for surcharge revenues, reconciliation, and correction. a) The utility shall bill the plant improvement surcharge on a separate line on each customer bill.

(b) The utility shall separately account for all revenue from the plant improvement surcharge.

(c) The utility shall reconcile all plant improvement surcharge revenue to eligible capital costs no less often than annually. If revenue exceeds costs, the excess will be used to reduce the eligible capital costs over the next annual or other period, beginning with the next update following the reconciliation. If costs exceed revenue, notwithstanding the limitations of 3 AAC 52.840(a) or (b), as applicable, the excess will increase the eligible capital costs for purposes of calculating the surcharge rate over the next annual or other period, beginning with the next update following the reconciliation.

(d) The utility may request, or the commission may order, the correction or adjustment of actual entries used in the calculation of the surcharge rate for a period of one year following the effective date of the surcharge rate. The utility shall describe, quantify, and justify each proposed adjustment. Unless the commission orders otherwise, an error must be corrected by an adjustment to the surcharge rate at the next update. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.830. Eligible plant. (a) Eligible plant for water utilities includes

(1) utility service lines, meters, and hydrants installed as in-kind replacements for customers;

(2) mains and valves installed as replacements for existing facilities that remain in service beyond reasonable service life, are in prematurely deteriorated condition, or are required to be upgraded to meet quality-of-service standards or applicable law;

(3) main extensions installed to eliminate dead ends and to implement solutions to water supply problems that present a significant health or safety concern for customers currently receiving service from the utility;

(4) main replacement, cleaning, and relining projects;

- (5) unreimbursed costs related to highway relocation projects where the utility must involuntarily relocate facilities; and
 - (6) other capitalized costs related to plant described in (1) - (5) of this subsection.
- (b) Eligible plant for wastewater utilities includes
- (1) collection sewers, collecting mains, and service laterals, including sewer taps, curbstops, and lateral cleanouts, installed as in-kind replacements for customers;
 - (2) collection mains and valves for gravity and pressure systems and related facilities such as manholes, grinder pumps, air and vacuum release chambers, cleanouts, main line flow meters, valve vaults, and lift stations installed as replacements or upgrades for existing facilities that remain in service beyond reasonable service life, are in prematurely deteriorated condition, or are required to be upgraded to meet quality-of-service standards or applicable law;
 - (3) collection main extensions installed to implement solutions to wastewater problems that present a significant health or safety concern for customers currently receiving service from the utility;
 - (4) collection main rehabilitation including inflow and infiltration projects;
 - (5) unreimbursed costs related to highway relocation projects where a wastewater must relocate its facilities; and
 - (6) other capitalized costs related to plant described in (1) - (5) of this subsection.

(Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.835. Affiliated transactions. (a) If an eligible utility includes costs in its eligible capital costs from transactions with affiliated interests, the utility must file the following information with each periodic update of the surcharge rate:

- (1) the identity of each affiliated interest;
- (2) a description of the relationship between the utility and the affiliated interest;
- (3) a list of the products and services provided to the utility by the affiliated interest;
- (4) the prices and quantity of products or services provided to the utility by the affiliated interest;
- (5) a list of alternative suppliers of the product or services purchased from the affiliated interest; and
- (6) if applicable, a report showing which products or services provided to the utility by the affiliated interest are also supplied to other customers by the affiliated interest, including prices and quantities.

(b) The commission may investigate, in a general rate case or a separate formal proceeding, the reasonableness of costs that are associated with affiliated interest transactions that are recovered through a utility's plant improvement surcharge. In addition to the information required under (a) of this section, upon commencement of a formal investigation, the utility shall file

- (1) a description of costs from affiliated interest transactions that the utility proposes to recover, or has recovered, through the plant improvement surcharge;
- (2) the computational methodology for the price the utility pays to the affiliated interest for the product or service;
- (3) a comparison of the price the utility pays to the affiliated interest with the prevailing market price, if any, and a comparison of other relevant characteristics, including quality and contractual terms and conditions; and
- (4) an estimate of the cost the utility would have incurred to furnish the product or service with its own personnel and capital. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.840. Consumer protections. (a) The plant improvement surcharge rate for wastewater utilities may not exceed five percent of the amount billed to customers under the otherwise applicable tariff rates.

(b) The plant improvement surcharge rate for water utilities may not exceed 7.5 percent of the amount billed to customers under the otherwise applicable tariff rates.

(c) The plant improvement surcharge rate must be reset to zero at the effective date of revised base rates set in a general rate case that incorporates the capital costs previously recovered through the plant improvement surcharge.

(d) The plant improvement surcharge rate may be reset to zero, or another reduced rate that the commission establishes by order, if the commission, based on annual report data or otherwise, and after notice and an opportunity to be heard, finds that the utility's earned rate of return, including surcharge revenues, exceeds the rate of return used to calculate the surcharge rate. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 52.890. Definitions. (a) In 3 AAC 52.800 – 3 AAC 52.890, unless the context requires otherwise,

(1) “affiliated interest” has the meaning given in AS 42.05.990;

(2) “capital costs” means depreciation expense, return, and an allowance for taxes associated with utility plant;

(3) “eligible capital costs” means capital costs associated with eligible plant that has become used and useful in public utility service since the eligible water or wastewater utility's last general rate case, or plant that will become used and useful before the next periodic surcharge update, if, in either case, the plant is listed in the eligible water or wastewater utility's most recent long-term infrastructure improvement and asset optimization plans;

(4) “eligible water or wastewater utility”

(A) means a utility that holds a certificate of public convenience and necessity to provide water or wastewater public utility service and that is not exempt from economic regulation under any provision of AS 42.05.711;

(B) does not include a utility holding a provisional certificate issued under 3 AAC 52.720;

(5) “improve,” “improvement,” or “improved” means to repair or replace plant, or to modify or adapt plant to enhance its function or longevity;

(6) “quality of service” means the overall ability of a utility to provide and maintain adequate, efficient, safe, reliable, and reasonable service, including compliance with public health and environmental quality standards.

(b) Definitions set out in 3 AAC 48.820 also apply to 3 AAC 52.800 – 3 AAC 52.890. (Eff. 06/29/2014, Register 210)

Authority: AS 42.05.141 AS 42.05.151