

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Keith Kurber II, Chairman
Robert A. Doyle
John Espindola
Robert M. Pickett
Janis W. Wilson

In the Matter of the Tariff Revisions Designated as)
TA544-8 Filed by CHUGACH ELECTRIC) U-23-047
ASSOCIATION, INC.)

In the Matter of the Tariff Revisions Designated as)
TA422-121 Filed by CHUGACH ELECTRIC) U-23-048
ASSOCIATION, INC.)

**CHUGACH ELECTRIC ASSOCIATION, INC.’S OPPOSITION
TO REAP’S MOTION TO COMPEL DISCOVERY**

Chugach Electric Association, Inc. (“Chugach”) hereby opposes the Motion to Compel (“Motion”) filed by Renewable Energy Alaska Project (“REAP”). REAP seeks to compel Chugach to respond to discovery requests REAP-CEA-2-1(a), (b), (d), (f), (h), (l), and (m) (collectively “REAP Requests”). Chugach also opposes REAP’s request to extend the timeline for prefiled responsive testimony.

I. Summary

REAP’s Motion should be denied. Chugach has already produced extensive hourly load data by district and rate class. The REAP Requests seek to require Chugach to perform extensive new analyses to create documents and provide data in a form that does not exist. Worse, the REAP request seeks customer location specific physical address, consumption, and other data, without the consent of Chugach’s customers.

Chugach is in favor of developing new rate offerings over time to encourage reasonable energy efficiency and conservation. Chugach’s opposition is not based on an attempt

1 to charge higher rates, or increase its income, as rate design is a revenue-neutral exercise.
2 However, the desire for innovative rate design does not justify disclosing private information
3 about Chugach’s individual customer locations, without customer consent. The REAP Requests
4 are unduly burdensome and will require extensive time by Chugach employees to develop these
5 new datasets.

6 Granting REAP’s motion would create precedent requiring the same level of data
7 production by every regulated electric and natural gas utility in the state in future rate cases. Given
8 the generally applicable nature of such precedent, the Commission should not grant REAP’s
9 Motion without full input from other Alaska utilities or, preferably, without a rulemaking docket
10 to allow full notice and opportunity to be heard by the public.

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12 **II. The Commission should disregard the substantive arguments that REAP**
13 **attempts to introduce through its Motion to Compel.**

14 As a preliminary matter, a large portion of REAP’s Motion, including Section B
15 generally and the Declaration of Dr. Antony Scott as Exhibit 3, is testimonial opinion and analysis
16 and not legal argument in furtherance of the Motion to compel discovery. For example, REAP’s
17 arguments, in its Motion and Dr. Scott’s “declaration,” that Chugach’s proposed rates do not
18 comply with Order No. U-18-102(44)/U-19-020(39)/U-19-021(39) (“Acquisition Order”)
19 regarding “load-ratio share” between the North and South Districts (which Chugach contests) is a
20 substantive issue that REAP can raise in its prefiled responsive testimony. Those arguments will
21 then be subject to discovery, reply testimony, cross examination, and adjudication.

22 REAP’s inclusion of unauthorized substantive “testimony” through a motion to
23 compel creates unnecessary confusion in the record, ignores the procedural schedule established
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1 in Order No. U-23-047(5)/048(5), and threatens to cause unnecessary delays by raising questions
2 on when and how parties might conduct discovery on or respond to Dr. Scott’s Declaration. In
3 particular, RAPA and the other intervening parties will not have any opportunity to propound
4 discovery on Dr. Scott’s “Declaration” prior to the deadline to submit their own prefiled
5 responsive testimonies, unless the Commission alters the existing procedural schedule, likely
6 causing delays to the proceeding. Accordingly, the Commission should ignore the *substantive*
7 *claims and arguments* that REAP attempted to include as *factual* support for its Motions.
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9 **III. Chugach has already produced significant, detailed “load data.”**

10 REAP claims that Chugach refused to provide any “load data that partially
11 responds to the REAP Requests.”¹ That is incorrect. Chugach has already provided an Excel file
12 containing Chugach load data *by district and rate class for every hour* of every day between April
13 1, 2022 through March 31, 2023, as production document CEA05726. This is the format in which
14 the information actually exists and was reviewed by Chugach in developing the proposed rates.
15 That Excel file contains 8,760 rows and 18 columns of load data that the intervenors and RAPA
16 can use in developing their respective testimonies, *but also does not disclose the personally*
17 *identifiable information (“PII”) of Chugach’s members.* The differences between the data
18 produced in CEA05726 and what REAP is seeking to compel, essentially reflect REAP’s
19 unreasonable and unprecedented insistence that Chugach *conduct extensive new analyses to*
20 *further disaggregate rate class data down to the level of every service address* for every one of
21 Chugach’s 113,000 meters. That unprecedented level of disaggregation would allow REAP (and
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25 ¹ Motion at 7-8.

1 anyone else who gains access to the document, lawfully or not) to identify the specific
2 consumption for each account and know exactly where that member lives or that business
3 operates. Further, by comparing service location data with public property tax records, the
4 requested data would allow recipients to determine the name of the customer at the location.

5 REAP portrays the REAP Requests as seeking “various pieces of load research
6 data, such as monthly kWh consumption and monthly peak demand, by meter for the test year.”²
7 Even assuming that REAP’s characterization is accurate (which it is not), “load research data” is
8 different from unlimited access to individual customer meter and location data. Load research is
9 a term of art used to describe, at least in part, the statistical process of obtaining customer class
10 data, namely coincident and non-coincident peak demand (kilowatts), for customers that do not
11 have meters capable of measuring demand and time of use, although the term could also include
12 customer surveys of usage and other information. Without a specific definition, Chugach
13 responded with the data that it used for developing rates and the data that have historically been
14 provided

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16 REAP points to 3 AAC 48.550(b) which requires “load research data” for a utility
17 to justify a proposal for non-flat rates. First, REAP is not a utility. Second, Chugach has not
18 proposed non-flat rates. As such, 3 AAC 48.550(b) cannot be used as the basis for a motion to
19 compel discovery of data that does not exist in the form requested.
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25 ² Motion at 6.

1 **IV. Unduly Burdensome**

2 Compelling Chugach to perform the new analyses REAP seeks would impose
3 undue burdens on Chugach and would compromise the privacy interest of Chugach’s customers.
4 Those burdens would outweigh any speculative, marginal benefit of compelling Chugach to
5 comply with the REAP Requests. The new analyses and data REAP seeks do not exist in the
6 format requested. In order to create the datasets responsive to the REAP Requests, Chugach would
7 have to first develop queries for two different systems, then compile and organize the information.
8 This would require more than 140 hours of labor. REAP understates the magnitude of this burden
9 as merely “some programming work.”³

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11 Chugach is not obligated to create datasets in response to a discovery request.⁴

12 REAP has cited no authority requiring Chugach to create, organize, and produce data in a manner
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14 ³ Motion at 12.

15 ⁴ Order No. U-06-134(9) at 7-9 (finding that Chugach was not obligated to develop the information
16 requested or perform the necessary research to provide the requested information in response to
17 interrogatories); *see also* Order No. U-00-026(A-8) at 4-5 (denying motion to compel finding the
18 request to be unduly burdensome that would have required ACS to create information in a different
19 format than which ACS maintains); *see also* Order No. U-16-066(16) (denying motion to compel
20 discovery request seeking information on gross and net plant for specific geographic portions of
21 ENSTAR’s system because such information does not exist as ENSTAR does not maintain records
22 or accounts delineated by the requested geographic boundaries); *see also In re Guzman*, 19 S.W.3d
23 522, 525 (Tex. App. 2000) (holding that the rules of discovery do not permit a trial court to force
24 a party to create documents which do not exist, solely to comply with a request for production);
25 *Liberty Utilities (Energynorth Nat. Gas) Corp. d/b/a Liberty Utilities*, No. 26,307, 2019 WL
26 5870174, at *4 (Nov. 6, 2019) (“While the information requested in Clark 5-26 appears relevant
to the proceeding and could lead to the discovery of admissible evidence, we decline to require
Liberty to create information that is responsive to the discovery request at this point in the
proceeding if such information was never assessed and, in fact, does not exist, as Liberty has
argued”); *Carolina Power & Light Co. N. Carolina Elec. Membership Corp.*, 53 FERC ¶ 63,005,
65,049 (1990) (finding that a party does not have to generate material which does not currently
exist to satisfy a discovery request, nor does a party have to excerpt from documents nor create
studies to satisfy a discovery request).

1 that Chugach does not already maintain it. REAP postulates that “Producing the data will not
2 cause Chugach a greater burden than it should have undertaken of its own volition in preparing its
3 rate proposal.”⁵ REAP has no evidence or authority to support this assertion, which presupposes
4 that reviewing each customer’s consumption organized by address, ZIP code, census tract, etc.
5 was required by statute, regulation, Commission order, or other precedent. Chugach’s proposal is
6 consistent with Alaska statutes and regulations, and complies with the Acquisition Order, as is
7 properly addressed in Chugach’s tariff advice letters and supporting testimony.⁶
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9 Contrary to REAP’s testimonial claims in the Motion and in Dr. Scott’s
10 Declaration, compliance with the Acquisition Order does not require, nor is it “highly likely,” that
11 it “will be necessary to create a new customer class and/or establish non-flat rates in one or more
12 customer classes.”⁷ REAP’s claim is predicated on the correctness of its narrow interpretation of
13 the Acquisition Order to the exclusion of any other interpretation and incorrectly implies that to
14 comply with the Acquisition Order, Chugach was required to perform account by account analysis
15 taking into consideration street addresses, ZIP codes, census tracts, etc.

16 Even if a study such as is contemplated by REAP *could* produce a compliant rate
17 structure different from what Chugach proposed, that does not mean that Chugach’s proposed rate
18 structure *must* therefore be noncompliant for not having done so. Chugach has not evaluated
19 whether such information *could* be used to develop a rate structure that complies with the
20 Acquisition Order, because Chugach believes it was able to comply with that order without the
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23 ⁵ Motion at 9.

24 ⁶ See generally TA422-1 and TA544-8; see also Pre-Filed Direct Testimony of Carl R. Peterson
at 5-7.

25 ⁷ Motion at 11-12.

1 specific type of granular analysis that REAP would prefer. If REAP disagrees, then it may explain
2 its position in its testimony, and the Commission will ultimately make its determination.

3 The existence of other possible rate structures that are compliant with Alaska law
4 and the Commission’s orders is irrelevant to the question before the Commission in this
5 proceeding: Do Chugach’s proposed rate structure and revenue requirement result in just and
6 reasonable rates that are consistent with the relevant requirements in statute, regulation, and prior
7 Commission orders? “It is not theory, but the impact of the rate order, which counts. If the total
8 effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act
9 is at an end. The fact that the method employed to reach that result may contain infirmities is not
10 then important.”⁸ Conceivably, there are countless rate structures that could satisfy this
11 requirement, but Chugach is not required to investigate every permutation.
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13 Chugach’s obligations are to propose a cost-based rate structure based on a cost of
14 service study,⁹ with unified base rates that “reasonably approximate load-ratio share” for the North
15 and South districts, and minimize rate shock for any ratepayer class to the maximum extent
16 practicable.¹⁰ Chugach believes it has done so, but the time is not yet ripe for the Commission to
17 make that determination. REAP has been adamant that it needs individual usage data that must
18 include street addresses and ZIP codes for each account for REAP to be able to propose its
19 “innovative rate structure.” REAP argues against Chugach’s undue burden objections claiming
20 that Chugach was already required to study the individual usage for customers taking into
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23 ⁸ *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944) (internal
24 citations omitted).

25 ⁹ 3 AAC 48.275(h).

26 ¹⁰ Acquisition Order at 11.

1 consideration street addresses, ZIP codes, census tract, etc.¹¹ This is contradictory to the
2 Acquisition Order which requires Chugach to propose “uniform rates for ratepayer classes as
3 determined by a rate design study that does not distinguish between ratepayers based on
4 geographic location in the Chugach service territory.”¹² If the street address and ZIP codes are
5 “necessary to REAP’s participation,” the rate structure REAP seeks to develop and propose must
6 then violate the non-geographically based rate design requirements in the Acquisition Order.¹³
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8 This violation erodes any likely benefit from obtaining that information through discovery and
9 casts serious doubt on the relevance to this proceeding of the requested geographically organized
10 data.

11 The requested datasets are not necessary, or even relevant, for the Commission to
12 determine whether REAP’s narrow interpretation of the Acquisition Order is correct. In fact, the
13 geographic location based datasets responsive to the REAP Requests are not relevant to
14 determining whether Chugach’s proposed rate structure and revenue requirement result in just and
15 reasonable rates that are consistent with the relevant requirements in statute, regulation, and prior
16 Commission orders. For these reasons, the likely benefit from requiring the production does not
17 outweigh the burden on Chugach and Chugach’s members necessary to create and produce it.

18 **V. REAP seeks disclosure of Chugach customers’ PII.**

19 REAP is asking the Commission to compel Chugach to produce to the parties in
20 this rate case, the PII of all Chugach members, including street addresses. REAP informed
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¹¹ Motion at 12-13.

24 ¹² Acquisition Order at 47.

25 ¹³ Compare Motion at 9-10, with Acquisition Order at 47.

1 Chugach’s counsel during discussions to resolve this dispute, that it would not accept any type of
2 aggregated data that protected the geographical location of the account. If produced, all 13
3 intervenors (organizations and an individual customer) would be privy to the street addresses of
4 every Chugach account along with the account’s energy consumption data. This combined with
5 publicly available property records would allow an individual to reverse engineer the names
6 associated with many of the accounts, despite any measures that REAP indicated it would accept
7 to anonymize the data.

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9 Chugach’s members entrust Chugach with their PII, including street addresses, and
10 Chugach will zealously protect the privacy of its members to the fullest extent possible. The
11 Alaska Supreme Court has long recognized that while the right to privacy is not absolute, “it is
12 part of the judicial function to ensure that governmental infringements of this right are supported
13 by sufficient justification.”¹⁴ As explained throughout this Opposition, REAP’s interests in
14 disclosure are insufficient to justify breaching the privacy of hundreds of thousands of people by
15 disclosing their addresses and electricity consumption data on an individualized basis without the
16 customers’ consent. Under the Alaska Public Records Act, residential addresses that are not used
17 as a business address are not available for public examination. AS 45.56.620(b)(5). Individual’s
18 addresses are routinely protected from disclosure under Exemption 6 of the Freedom of
19 Information Act (“FOIA”), even if the information appears to be innocuous.¹⁵ REAP is asking
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22 ¹⁴ *Falcon v. Alaska Pub. Offs. Comm’n*, 570 P.2d 469, 476 (Alaska 1977).

23 ¹⁵ 5 U.S.C. § 552(b)(6) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175,
24 121 Stat. 2524; *U.S. Dep’t of Def. v. Fed. Lab. Rels. Auth.*, 510 U.S. 487, 500, 114 S. Ct. 1006,
25 1015, 127 L. Ed. 2d 325 (1994) (holding that even a very slight privacy interest would outweigh
26 the virtually non-existent FOIA-related public interest in disclosure of bargaining unit employees’

1 the Commission to force Chugach to divulge its members’ PII, despite the fact that REAP could
2 not compel disclosure of that information if it sought it directly from the Commission or another
3 agency under the Alaska Public Records Act or FOIA.

4 REAP claims that the data sought by the REAP Requests is “commonly available
5 to intervenors in rate cases in other jurisdictions.”¹⁶ However, the data sought by the REAP
6 Requests is not even available in the cases REAP relies on to support its position. REAP relies
7 on a Minnesota settlement agreement addressing data collection from consenting customers that
8 participate in voluntary programs offered by the utility (as opposed to all of the utility’s customers)
9 and requires any reporting to aggregate the data.¹⁷ REAP also cites witness testimony from two
10 Illinois dockets that both affirm that the data sets “do not contain any customer identifying
11 information. . . . so there is no way to identify the customer’s name, *address*, account number, or
12 other identifying information.”¹⁸ Unlike the Minnesota case, REAP seeks the PII of all of
13 Chugach’s members, none of which have voluntarily agreed to participate in any program that
14 requires them to consent to the disclosure of their addresses and electric usage information. Unlike
15 the Illinois decisions, REAP is seeking individualized consumption data that is identifiable by
16 street address without prior consent by the customer. Based on the evidence relied upon by REAP,
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22 home addresses); *Horowitz v. Peace Corps*, 428 F.3d 271, 279 (D.C. Cir. 2005) (“Even seemingly
23 innocuous information can be enough to trigger the protections of Exemption 6.”).

24 ¹⁶ Motion at 10-11.

25 ¹⁷ Motion at Exhibit 7. Chugach notes that per the stipulation at Paragraph 25, it is not to be used
26 “as a reason, authority, rationale, or example for taking any action or position or making any
subsequent decision in any other case or proceeding.”

¹⁸ Motion at 11, n.47 (citation omitted) (emphasis added).

1 REAP’s claim that the REAP Requests seek information that is “commonly available to
2 intervenors” is unsupported.¹⁹

3 REAP characterizing the REAP Requests as merely seeking “load data” that is
4 “commonly available to intervenors” does not make that claim true. In California, utility customer
5 addresses and individual usage data cannot be shared to any third party without the consent of the
6 customer.²⁰ In 2019, the West Virginia Public Service Commission was confronted with a similar
7 issue to the instant Motion.²¹ A customer intervened in a general rate increase filing for a water
8 utility, the intervening customer sought production of individualized water usage by account and
9 service address for all customers in their rate class, ultimately filing a motion to compel that
10 production after the utility failed to answer.²² Even though the utility failed to object to the
11 discovery requests or even oppose the motion to compel, the West Virginia Public Service
12 Commission ruled that any account identifying information, including service addresses, be
13 redacted prior to production of any records.²³

14 REAP’s offer to sign additional confidentiality agreements, would still require
15 Chugach to create a dataset that does not exist and if created could be abused to the detriment of
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19 ¹⁹ Motion at 10-11. Additionally, the Illinois Commerce Commission later issued Order No. 14-
20 0507 adopting protocols for access by third parties to Advance Metering Infrastructure (“AMI”) data. See <https://www.icc.illinois.gov/docket/P2014-0507/documents/255196/files/450960.pdf>.
21 Further, under Section 16-108.6 of the Public Utilities Act, 220 ILCS 5, consumers in Illinois must
22 consent prior to the disclosure of their personal energy information to third-parties.

23 ²⁰ Cal. Pub. Util. Code § 8380 (b)(1).

24 ²¹ Order, *Coon’s Run Public Service District* Docket 18-0314-PWD-30B, W. Va. P.S.C. (July 23,
25 2019).

26 ²² Motion to Compel, *Coon’s Run Public Service District* Docket 18-0314-PWD-30B, W. Va. P.S.C. (July 18, 2019).

²³ Order, *Coon’s Run Public Service District* Docket 18-0314-PWD-30B, W. Va. P.S.C. (July 23,
2019).

1 Chugach’s members’ privacy. Why should REAP be able to require Chugach to spend thousands
2 of dollars and more than 140 hours of employee and consultant time and resources, so that REAP
3 (and the rest of the intervening parties) can inspect the actual electricity consumption habits of
4 virtually every resident and business in Anchorage and know where they are located? Is the value
5 of REAP unduly broadening the scope of this proceeding to propose untested “innovative rate
6 structures” really worth requiring this financial and labor burden on Chugach and the disclosure
7 of hundreds of thousands of people’s heretofore private PII without their consent? Aggregation
8 of customer usage data, like Chugach has already provided to the parties, strikes a reasonable
9 balance of providing useful information to intervenors to develop the record and prepare their
10 testimony, while also protecting customer PII in proceedings before public utility regulators. The
11 likely benefit to this proceeding from the information sought by the REAP Requests does not
12 outweigh the burden to Chugach to create it nor does it justify the resulting infringement on the
13 privacy of hundreds of thousands of people. Accordingly, the Commission should deny REAP’s
14 Motion.

16 **VI. REAP’s requests would unduly broaden the scope of the proceeding**

17 As was correctly foreseen by Chairman Doyle in his dissent to Order No. U-23-
18 047(2)/048(2), REAP’s actual participation now directly seeks to unduly broaden the scope of this
19 proceeding. REAP’s stated desire to propose an “innovative”—in other words, untested in
20 Alaska—rate design, does not justify compelling Chugach to perform extensive new analyses and
21 database creation in discovery. REAP has not cited any electric utility order in Alaska that
22 required the disclosure to the intervenors of the type of disaggregated, location specific usage data
23 for every utility account as REAP seeks.

1 REAP states that “Chugach is attempting to freeze out meaningful participation by
2 REAP.”²⁴ This is not true.²⁵ Prior to filing its Motion, REAP already received from Chugach the
3 hourly load data for most of the test year by district and rate class.²⁶ Chugach notes that REAP in
4 its Petition to Intervene stated:

5 REAP’s participation, including any expert testimony, will focus on
6 issues that are typically within the scope of rate design proceedings.
7 REAP pledges that its participation in this proceeding will not
8 unduly broaden the issues beyond those that Chugach has raised in
9 its filing.²⁷

9 REAP’s desire for disclosure of Chugach members’ PII organized by street address is solely for
10 the purpose of developing and proposing an “innovative new rate design.”²⁸ REAP notes
11 Chugach’s non-opposition to REAP’s intervention.²⁹ This ignores Chugach’s express reservation
12 to object to any intervenor’s actual participation expanding the issues beyond the reasonable scope
13 of Chugach’s rate requests.³⁰ In deciding to non-oppose REAP’s intervention, Chugach relied on
14 REAP’s commitments in its Petition to Intervene. REAP’s Petition to Intervene does not indicate
15 that the production of never-before-required, geographic location based, individual account usage
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19 ²⁴ Motion at 10.

20 ²⁵ To date, Chugach has already produced 367 documents in response to REAP’s 42 separate
21 discovery requests (not including subparts) and is currently working on responses to 11 more
22 requests and subparts that are due next week. Including REAP’s discovery requests, Chugach has
23 already produced 5,729 documents in response to hundreds of discovery requests from the
24 intervening parties, all of which REAP has been served with.

25 ²⁶ CEA05726

26 ²⁷ REAP Petition to Intervene at 9.

27 ²⁸ Motion at 6.

28 ²⁹ Motion at 6.

29 ³⁰ Non-Opposition at 1.

1 data “is necessary for REAP to engage in this rate case.”³¹ As explained above, REAP’s desire for
2 individualized usage data organized by street address and ZIP code to create a proposed rate
3 design, would result in a rate design that “distinguish[es] between ratepayers based on geographic
4 location,” ³² and thereby would be inconsistent with the unified rate requirements in the
5 Acquisition Order. If that truly is REAP’s position, and if REAP had disclosed that from the
6 outset, Chugach would have opposed REAP’s intervention as unduly broadening the scope of the
7 proceeding.

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9 REAP may simply be overstating the importance of the REAP Requests in
10 furtherance of its Motion, ³³ in which case it may plan to continue to participate and provide
11 insights on the proposed rate structure consistent with its representations in its Petition to
12 Intervene. There are many other options available for REAP to evaluate and consider how to
13 propose adjustments to Chugach’s rate design with the data that Chugach has already provided,
14 including ways to promote energy efficiency, rooftop solar installations, and resource
15 conservation. Chugach believes that REAP has the ability to provide valuable insights,
16 suggestions, and ideas that will be beneficial in developing this record and assist the Commission
17 in determining just and reasonable rates. However, that does not mean that REAP should be able
18 to impose on Chugach the undue burden of creating extensive, new data sets that disclose Chugach
19 members’ PII.
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³¹ Motion at 9.

24 ³² Acquisition Order at 47.

25 ³³ Petition to Intervene at 3-9.

1 REAP further attempts to portray Chugach’s defense of its members’ PII as
2 somehow cutting against Chugach’s Board directives.³⁴ To the contrary, Chugach’s rate filing
3 complies with the directives in the Board Resolution cited by REAP.³⁵ Chugach’s internal
4 mandate to investigate various energy conservation and renewable energy incentives and report to
5 the Chugach Board by July 1, 2025, is irrelevant to this proceeding and REAP’s Motion. Chugach
6 is proposing a just, reasonable, and adequate rate structure that conforms with Alaska statutes and
7 regulations as well as the directives in the Acquisition Order and historical practices by utilities in
8 Alaska. REAP simply wants more, and it wants it faster than Chugach has already committed to
9 doing, without regard for how that infringes on Chugach customers’ privacy.

11 VII. Precedential Effect

12 Chugach, its counsel, and its consultants have decades of rate case experience
13 before this Commission involving many different utilities. This is the first time that Chugach is
14 aware of that an intervenor has sought in discovery such a broad disclosure of customer specific
15 data. Additionally, Chugach is not aware of any motion to compel the creation and production of
16 this type of new data having been brought before the Commission and adjudicated.

17 Granting REAP’s Motion would have profound and lasting effects. If the
18 Commission grants REAP’s Motion, this overly broad type of discovery request to disclose
19 disaggregated customer information by identifiable location will become routine in electric and
20 natural gas rate proceedings going forward. An order granting REAP’s Motion will be used as
21 precedent to justify requiring regulated utilities to produce in discovery disaggregated, location
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24 ³⁴ Motion at 12.

25 ³⁵ Compare TA422-1 and TA544-8 with Motion at Exhibit 1.

1 specific, individual usage data for every account on the system in every rate proceeding. If this
2 occurs, there will be no customer anonymity or privacy in usage. Granting REAP's Motion will
3 automatically create significant added burden and cost to utilities, intervenors, and the
4 Commission in future proceedings. This would represent an abrupt change in ratemaking
5 practices. By denying the Motion, the Commission will send a clear message that the RCA values
6 the personal information of utility customers. If the Commission believes that the type of
7 individual, granular analysis desired by REAP may be of value, then Chugach urges the
8 Commission to open a rulemaking docket to investigate that issue. A change in ratemaking
9 practices that affects all economically regulated electric and natural gas utilities and that results in
10 the disclosure of those utilities' customer PII, should not occur without the type of notice and
11 opportunity for input that is provided for in a rulemaking docket.
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13 **VIII. REAP's motion for extension of time for responsive testimony should be**
14 **denied.**

15 REAP requests that the due date for responsive testimony be extended by almost a
16 month, from March 14, 2024, to April 9, 2024. If REAP's Motion is denied, there is no
17 conceivable need for this extension. Even if REAP's Motion is granted, the procedural schedule
18 will not accommodate a one month extension, and would delay this proceeding. No extension
19 should be granted. However, any extension is granted, it should be only two weeks after Chugach
20 produces responses to the REAP Request.
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1 **VIII. Conclusion**

2 Based on the foregoing, the Commission should deny REAP’s Motion.

3 RESPECTFULLY SUBMITTED this 5th day of February, 2024, at Anchorage,
4 Alaska.

5 KEMPPPEL, HUFFMAN AND ELLIS, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2024, a copy of the foregoing document was served on the following persons by electronic means authorized by the RCA.

KEMPEL, HUFFMAN AND ELLIS, P.C.
By: /s/ Dean D. Thompson

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CHUGACH ELECTRIC ASSOCIATION, INC.'S OPPOSITION
TO REAP'S MOTION TO COMPEL DISCOVERY
Dockets U-23-047 and U-23-048
February 5, 2024
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