

STATE OF ALASKA
EXECUTIVE ORDER NO. 75

1989



Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance with AS 24.08.210, I order the following:

* Section 1. FINDINGS. (a) As governor, I find that it would be in the best interests of the state's efficient administration to transfer responsibility for management of two of the state's energy loan programs, the bulk fuel loan program and the power development loan program, from the Department of Commerce and Economic Development to the Alaska Power Authority, to promote a coordinated and consistent energy policy for the state.

(b) As governor, I also find that it would be in the best interests of the state to change the Alaska Power Authority's name to the Alaska Energy Authority, to more accurately reflect the agency's increased and diversified responsibility for energy matters resulting from this Order.

* Sec. 2. AS 44.83.020 is amended to read:

CHAPTER 83. ALASKA ENERGY [POWER] AUTHORITY.

Sec. 44.83.020. CREATION OF AUTHORITY. There is created the Alaska Energy [POWER] Authority. The authority is a public corporation of the state in the Department of Commerce and Economic Development but with separate and independent legal existence.

* Sec. 3. AS 44.83.230(1) is amended to read:

(1) "authority" means the Alaska Energy [POWER] Authority established by this chapter;

* Sec. 4. AS 44.83 is amended by adding new sections to read:

ARTICLE 10. POWER DEVELOPMENT REVOLVING LOAN FUND.

Sec. 44.83.500. CREATION OF FUND. (a) There is established in the Alaska Energy Authority the power development revolving loan fund to carry out the purpose of AS 44.83.500 - 44.83.530. The fund may be used for no other purpose.

(b) The fund consists of

(1) appropriations to the fund by the legislature;

(2) repayments of principal to the fund; and

(3) income from investment of money in the fund and from loans made from the fund.

Sec. 44.83.510. POWERS AND DUTIES OF AUTHORITY IN ADMINISTERING THE FUND. (a) The authority may borrow from the fund for the purpose of financing a power project acquired or constructed by the authority under the energy program for Alaska (AS 44.83.380 - 44.83.425). Repayment of a loan from the fund must be made with the proceeds from the sale of power from projects in the energy program for Alaska. Except as provided in AS 44.83.398(i), the payments required to be made by the authority on a loan from the fund constitute debt service for the purpose of calculating the

wholesale power rate in AS 44.83.398(b)(1).

(b) After completion of a final plan of finance and approval of a project under AS 44.83.185(c), a loan may be made from the fund for

(1) the cost of a portion of the cost of final design, acquisition, and construction of a power project;

(2) defeasance or payment of bonds or notes of the authority issued for a power project;

(3) the establishment of a reserve fund for renewals and replacements for the operation of a completed power project; and

(4) any other project-related expenses, including those described in AS 44.83.398(i).

Sec. 44.83.520. LOAN TERMS. (a) A loan from the fund shall be repaid in accordance with the terms that the authority's board of directors determines to be appropriate. In establishing the terms, including provision for a return to the state of an amount in excess of the principal amount of the loan, the board of directors shall consider the revenue that the authority could reasonably derive from the sale of power from the projects based upon

(1) the costs, at the time the power sales agreement is initially negotiated or renegotiated, of alternative sources of energy generation for utilities purchasing power from a project financed with a loan from the fund;

(2) the effect of the loan terms on the wholesale power costs to all utilities purchasing power from the initial project;

(3) the long-term benefits to consumers and communities of stable wholesale power costs;

(4) the affordability of initial wholesale power

costs that result from the loan terms with utilities purchasing power from the initial project;

(5) increasing repayment, not to exceed five years, of debt service payment per kilowatt hour gradually over the initial period of a loan repayment schedule to the extent necessary to avoid significant rate increases to the consumer;

(6) the existing excess capacity of power projects; and

(7) the effects of increased capacity utilization, inflation, and alternative energy production costs over the life of the initial project.

(b) The board of directors may defer repayment of a loan. However, the loan must be repaid in full during the period of the loan agreement.

(c) A loan to the authority from the fund may not exceed 50 years.

(d) In (a) of this section "initial project" means the project described in AS 44.83.398(a).

Sec. 44.83.525. RATE REOPENERS. A power sales agreement for the sale of power from the initial project, as described in AS 44.83.398(a), financed with a loan under AS 44.83.510 may include among its provisions an agreed schedule of wholesale power rates notwithstanding the provisions of AS 44.83.398, but must include a provision for a rate reopener at least every 15 years.

Sec. 44.83.530. DEFINITIONS. In AS 44.83.500 - 44.-83.530

(1) "fund" means the power development revolving loan fund; and

(2) "power project" means a project acquired or

constructed under the energy program for Alaska, AS 44.83.-
380 - 44.83.425.

ARTICLE 11. BULK FUEL.

Sec. 44.83.600. BULK FUEL REVOLVING LOAN FUND ESTABLISHED. There is established in the Alaska Energy Authority the bulk fuel revolving loan fund to assist communities in purchasing bulk fuel. A community, or a private individual who has written endorsement from the governing body of the community, is eligible for a loan from the bulk fuel revolving loan fund for a bulk fuel purchase.

Sec. 44.83.605. SPECIAL ACCOUNT ESTABLISHED. (a) There is established as a special account within the bulk fuel revolving loan fund the foreclosure expense account. This account is established as a reserve from fund equity.

(b) The authority may spend money credited to the foreclosure expense account when necessary to protect the state's security interest in collateral on loans made under AS 44.83.600 - 44.83.650 or to defray expenses incurred during foreclosure proceedings after a default by an obligor.

Sec. 44.83.610. LOAN TERMS FOR BULK FUEL PURCHASES.

(a) Loans made from the bulk fuel revolving loan fund to one borrower in any fiscal year

- (1) may not exceed \$50,000;
- (2) shall be repaid in one year or less; and
- (3) may not exceed 90 percent of the wholesale price of the fuel purchased.

(b) Interest may be charged on a loan made from the bulk fuel revolving loan fund. Interest shall be charged on a loan at a rate equal to the percentage of the average weekly yield of municipal bonds for the 12 months preceding

the date of the loan, as determined by the authority from municipal bond yield rates reported in the 30-year revenue index of the Weekly Bond Buyer. However, if the authority finds that a community cannot afford to repay a portion of interest on a loan, and makes a determination in writing, the authority may reduce or eliminate the interest rate applicable to the loan.

(c) Repayments of the principal on a loan from the bulk fuel revolving loan fund shall be paid by the authority into the bulk fuel revolving loan fund.

Sec. 44.83.615. CONTRACTING AUTHORITY. The authority may contract for the administration of the bulk fuel loan program established in AS 44.83.600 - 44.83.650.

Sec. 44.83.620. DISPOSAL OF PROPERTY ACQUIRED BY DEFAULT OR FORECLOSURE. The authority shall dispose of property acquired through default or foreclosure of a loan made under AS 44.83.600 - 44.83.650. Disposal shall be made in a manner that serves the best interests of the state, and may include the amortization of payments over a period of years.

Sec. 44.83.625. REGULATIONS. The authority shall adopt regulations to implement AS 44.83.600 - 44.83.650.

Sec. 44.83.650. DEFINITIONS. In AS 44.83.600 - 44.-83.650

(1) "bulk fuel storage facility" means a storage tank capable of holding at least 10,000 gallons of petroleum fuel; and

(2) "community" means an organized municipality or an unincorporated village which is a social unit, with a population under 2,000.

* Sec. 5. AS 44.33.600, 44.33.610, 44.33.620, 44.33.625,

44.33.630; AS 45.87.010, 45.87.015, 45.87.020, 45.87.030, 45.87.-040, 45.87.060, and 45.87.500 are repealed.

* Sec. 6. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Order.

(b) Regulations adopted by the Department of Commerce and Economic Development under authority of AS 45.87.060 before the effective date of this Order, remain in effect until regulations are adopted under AS 44.83.625 by the Alaska Energy Authority, and take effect. The authority may enforce the Department of Commerce and Economic Development regulations until its own take effect.

(c) Contracts, rights, liabilities, and obligations created by or under a law amended or repealed by this Executive Order, and in effect on the effective date of this Order, remain in effect notwithstanding this Order's taking effect. Records, equipment, appropriations, and other property of agencies of the state whose functions are transferred under this Order shall be transferred to implement the provisions of this Order.

* Sec. 7. IMPLEMENTING NAME CHANGE. To be consistent with the name change made by this Order, wherever in the Alaska Statutes, and in regulations adopted under those statutes, "Alaska Power Authority" is used, it shall be read as referring to the "Alaska Energy Authority." Under AS 01.05.031, the revisor of statutes shall implement this section in the statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement this section in the administrative regulations.

* Sec. 8. This Order takes effect July 1, 1989.

DATED: January 9, 1989

/s/ Steve Cowper

Steve Cowper

Governor