

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

September 12, 2001
1:00 p.m.

COMMITTEE CALENDAR

UPDATE: FOUR DAM POOL DIVESTITURE

TAPES

01-73, SIDES A & B

CALL TO ORDER

REPRESENTATIVE LISA MURKOWSKI, Chair, convened the House Labor and Commerce Committee meeting at 1:00 p.m.

PRESENT

Committee members present were Representatives Murkowski, Meyer, Rokeberg, and Hayes (via teleconference). Also in attendance were Representatives Lancaster (via teleconference) and Harris and Senator Austerman (via teleconference).

SUMMARY OF INFORMATION

CHAIR MURKOWSKI stated that the purpose of the day's meeting was to evaluate the status of the Four Dam Pool divestiture set to be complete December 31, 2001. She noted that certain consequences will occur if things do not close as stakeholders intend. Therefore, this is a good point to review whether the divestiture is on track and how things can be kept moving.

DAVE CARLSON, Divestiture Project Coordinator for Four Dam Pool, provided a brief history of the Four Dam Pool project which was originally started in the late '70s and early '80s and consists of four different energy facilities: Kodiak, Valdez, Wrangell-Petersburg, and Ketchikan, collectively known as the Four Dam Pool.

MR. CARLSON reminded the committee that in April 2000, a memorandum of understanding was signed between the State of Alaska and the purchasing utilities, which outlined the terms and conditions of the sale of the Four Dam Pool Power Project. In May 2000, the legislature passed House Bills 446 and 447 authorizing the sale of

the projects to the local utilities and established the power cost equalization endowment, which included a \$100 million contribution from the Constitutional Budget Reserve (CBR). This, he noted, was landmark legislation that benefited 130,000 Alaskans. One condition of the memorandum of understanding was for the closing of the sale to occur on or before December 31, 2001.

MR. CARLSON touched on several accomplishments of the Four Dam Pool Power Agency thus far, including the formation of a joint action agency, several technical amendments passed by the legislature, engineering due diligence, and land property transfer issues, which are currently out for public comment. He noted that land transfer issues may arise in the future that could delay a timely closing. The project purchase agreement, which lays out the terms and conditions of the sale as well as the fine print to the joint action agency, is in its final stages of completion. This document will be presented to the governing bodies for ultimate approval. The financing agreement, which details the terms of financing to support the Alaska Industrial Development and Export Authority's (AIDEA) loan to the joint action agency to finance the acquisition of the project, is in the initial phase of development. The document, however, will take considerably more work and negotiation before it is approved by all parties and sent to the governing bodies for approval.

RON SAXTON, attorney, Four Dam Pool Power Agency, outlined two lingering concerns that may hold up the pending sale by year's end. First concerns the Internal Revenue Service (IRS) private letter ruling request. The agency has applied for a private letter ruling that it will be treated as a governmental entity for tax purposes, and thus will not be required to pay federal income tax on its reserve funding earnings. The IRS has not yet decided how it will rule on the request. Second, and the most significant issue threatening timely divestiture of the Four Dam Pool, are the actions of Ketchikan Electric Company (KEC), a joint venture with Cape Fox Native Corporation, and Alaska Power and Telephone who are involved in cases in both the state and federal appeals courts. Ketchikan Public Utilities (KPU) and the other Four Dam Pool power purchasers obtained an order from the Federal Energy Regulatory Agency (FERC) that proscribed any right of KEC to displace KPU's obligation to purchase Four Dam Pool capacity pursuant to the Public Utility Regulatory Policy Act (PURPA). In a separate action, KEC filed a complaint in state superior court demanding that the court rule that KPU was obligated under PURPA to displace Four Dam Pool power with power generated by its proposed Mahoney Lake project. The superior court has granted a summary judgment in favor of KPU dismissing KEC's complaint. However, KEC has appealed

the FERC order and has asked for reconsideration of the summary judgment. The continuation of these legal actions continues to be a major hurdle in meeting the December 31, 2001 target.

ROBERT WILKINSON, Four Dam Pool, registered his enthusiastic support for the divestiture transaction and assured the committee that they are committed to closing this deal and providing the lowest wholesale power cost available from of the Four Dam Pool consistent with reliable and prudent business practices.

ERIC YOULD, Executive Director, Alaska Rural Electric Cooperative Association (ARECA), voiced his strong support for the divestiture.

BOB POE, Executive Director, Alaska Industrial Development and Export Authority (AIDEA), said the transfers of state land went out to public notice and that comment period ends September 17, 2001. All is well thus far. The financing conversations are going well too. The structure has been laid out and things are going fine. The parties have been wrangling out the purchase and sale agreement and most issues are getting resolved. If the deal does not go through by the December 31 deadline, it can still be done, he reported, but on January 1 utilities will again begin to pay for power and the money will begin to flow into the power cost endowment fund. The problem with that is that only 7 percent of the money that actually goes into the endowment in that single year will be available under current law to pay for Power Cost Equalization (PCE). So, in effect, it would leave PCE short.

CHAIR MURKOWSKI thanked the presenters and asked that the they keep the committee abreast of any new developments and perhaps update them in another six weeks.

ANNOUNCEMENTS

There were no committee announcements.

COMMITTEE ACTION

The committee took no action.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee was adjourned at 2:30 p.m.

NOTE: The meeting was recorded and handwritten log notes were taken. A copy of the tape(s) and log notes may be obtained by

contacting the House Records Office at State Capitol, Room 3, Juneau, Alaska 99801 (mailing address), (907) 465-2214, and after adjournment of the second session of the Twenty-Second Alaska State Legislature this information may be obtained by contacting the Legislative Reference Library at (907) 465-3808.