

COMMITTEE REPORT  
SENATE

FURTHER:

4/20/83

Date: 4-20-83

Mr. President:

The Committee on FINANCE has had 100

Report on the Alaska Tax - Authority of the State.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

CHAIRMAN

SB 168

PERSONS TO TESTIFY

ERVIE HAUGEN

THOMAS BAY POWER COMMISSION

DON KOENIGS

MAYOR OF PITTSBURGH

JACK SHAY

MAYOR OF KETCHIKAN

LIN WILSON

ENGINEER

ROBERT CAMPBELL

ATTORNEY

RICH VANDERKOFFER

PITTSBURGH CITY MANAGER

30 MINUTES

---



*City of Petersburg  
P. O. Box 929  
Petersburg, Alaska 99833*

MAY 17 1983

May 11, 1983

Senators Don Bennett and John Sackett  
Co-Chairman - Senate Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

SUBJECT: Senate Bill No. 168: "An Act relating to the Alaska Power Authority; and providing for an effective date."

Gentlemen:

The City of Petersburg wishes to offer comments on Senate Bill No. 168 and the underlying enabling act of the Alaska Power Authority (Chapter 44.83 of the Alaska Statutes).

Petersburg is an intended purchaser of wholesale power from the Tyee Lake Hydroelectric Project, scheduled for completion in early 1984. However, we cannot enter into a power purchase agreement under terms and conditions currently mandated by laws governing the Alaska Power Authority. The problem the City is facing is due in part to the expense of the project and in part to our inability to establish reasonable and predictable rates for future project electricity.

When the Tyee project was initially proposed, we expected that its power cost would be substantially lower than diesel power. The low cost hydro power was expected to effect an immediate reduction in the City's power cost and to control subsequent affects of inflation on retail electric rates.

But present estimates of the wholesale rate for Tyee power indicate that retail rates will increase considerably as a result of connection to the Tyee supply. In fact, Tyee power will be the most expensive of any project currently in the system established by the energy program for Alaska as a result of state legislation adopted last year (House Bill 9). In real numbers, it is proposed that Petersburg and Wrangell would have to pay wholesale rates of 15.64c/kWh in 1986 escalating to 19.37c/kWh in 2001.

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Two

For purposes of comparison to current rates, in FY 82 the average retail cost of energy for Petersburg consumers was 13.1¢/kWh. Of this amount, 6.0¢ was attributable to direct costs of generation; 3.4¢ to direct distribution costs; 1.5¢ to debt service costs; and 2.2¢ to administrative and general overhead expenditures. Our cost records also show that direct generation costs from our hydro plant amounted to 0.8¢/kWh, and that from diesel generation averaged 10.9¢/kWh.

The economics of the Tyee Project are favorable over the long term when Petersburg will have to augment its existing generating resources to meet increased demand for electric power. Over the early years, however, the Tyee power is much more expensive than alternative energy sources available to the City's customers.

The other major part of the problem with existing law governing the energy program for Alaska is our inability to identify and control future costs of operation, maintenance and debt service.

- 1) APA's initial estimate for operation, maintenance and inspection on the Tyee Project is \$1,412,000. We think the local utilities should have some control over and accountability for these on going expenditures. We also think that we could locally operate and maintain the project in compliance with industry standards, but in a less expensive manner. (Petersburg has owned and operated a hydroelectric project since 1926.)

The Thomas Bay Power Commission is a joint operating agency that was established in 1976 by Wrangell and Petersburg to manage and control hydroelectric projects in our area. But it appears the commission would not qualify to operate and maintain the project pursuant to a strict interpretation of language in 44.83.425(5).

- 2) Implementation of the "Susitna Black Mail Clause" AS 44.83.398(b)(2) would increase Tyee's wholesale power rate to annually generate ten percent of the amount the State has invested in the project. The State has an investment of \$79,480,000 in Tyee -- wholesale rates would increase by an additional 18.4¢/kWh to generate this sort of a return for the State.

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Three

- 3) A third area of uncertainty has been termed the "system increment problem". All wholesale power rates of projects on the system would be unilaterally increased whenever the legislature decides to add a new project to the system which has more debt financing than the average for other projects in the system.

This feature of the law represents a potentially unlimited "deep pocket" (our consumers) to pay debt service on yet to be identified projects developed by the authority under its system approach.

The staff of the Alaska Power Authority is fully aware of these problems. APA staff has suggested that we should initiate new legislation if we have alternative ideas to the approaches available under the existing statutory framework.

We do have recommendations for amending Chapter 44.83 of the Alaska Statutes beyond and to a certain extent, in a different fashion than that proposed by SB 168. We trust the manner of correcting these problems with the Board of the Alaska Power Authority, Governor Sheffield and our legislators.

We recommend that the system approach be abandoned in favor of a project-by-project approach for financing the power projects developed under the energy program for Alaska. If SB 168 is passed and approved during the current session of the legislature without some other changes to AS 44.83 we may be permanently "locked in" to a system approach due to long term commitments made in the bond sale.

Please consider the following statutory amendments during the current session of the legislature.

- 1) Sale of Lake Tree Project. The simplest way to control operating and maintenance expenditures and limit liability for debt service is to allow local utilities to purchase the projects developed under the energy program for Alaska. Since purchase of the project would be quite expensive, we must look to the State for an equity contribution and protection against high installment purchase payments in the early years. We propose the addition of a new section to AS 44.83 to read:

Sec. 44.83.399 Sale of a Power Project. (a) The authority may sell a power project that is acquired or constructed as a part of the energy program for Alaska to a qualified utility.

(b) When the authority sells a power project, it shall establish a schedule of equal annual payments that, unless the purchasing utility agrees to a different schedule, establishes as the purchase price for the power project an amount not to exceed the principal amount of bonds issued and loans made for the power project, requires payment of the purchase price over a term of not less than thirty (30) years and imposes interest on the unpaid balance of the purchase price at an annual rate not to exceed the average net effective interest rates on the bonds issued for the power project.

(c) Notwithstanding (b) of this section, a purchasing utility shall be protected against high installment payments in the first twenty (20) years of a purchase agreement. Annual payments of both principal and interest the utility must pay toward the purchase price of the power project shall be limited to an amount that does not exceed the product of multiplying 8¢/kWh, increased on each anniversary date of the purchase contract by 2.68%, times the output of the power project during the year for which the calculation is being made and subtracting from that product the costs of operating and maintaining the power project during the same year.

(A question may arise relating to why we are recommending a limitation of 8¢/kWh, escalated by 2.68% per year. A principal cause of the high Tyee power rates, as initially estimated by the APA staff, is attributable to the low utilization, or plant factor, of the Tyee project. Petersburg and Wrangell have been encouraged to develop a market for the uncommitted surplus potential of Tyee, as a means of reducing the unit cost of power. Our analysis of this marketing endeavor has concluded that 8¢/kWh is the limitation necessary to compete with alternative energy sources.)

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Five

2) Complementary Amendments. The following amendments should be made to resolve ambiguities and make the foregoing section compatible with the remainder of AS 44.83:

a) AS 44.83.396(a) should be amended to read:

(a) A power project that is acquired or constructed as part of the energy program for Alaska is owned (BY THE STATE) and shall be administered by the authority, unless the power project is sold to a qualified utility, in which case the power project shall be owned and administered by the purchasing utility.

b) AS 44.83.425(5) should be amended to read:

(5) "qualified utility" means an electric utility owned by a public agency or any combination joint operating agency established as an instrumentality of public agencies to manage and control electric generation, transmission or distribution systems that is certified by the Alaska Public Utilities Commission to serve all or part of a market area that is served or will be served by the power project, and that the authority determines is capable of operating and maintaining the power project.

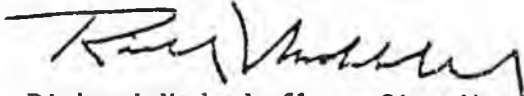
(The definition of a "qualified utility" is recommended for revision to enable the Thomas Bay Power Commission to own, manage, operate and maintain the project.)

In summary, the City of Petersburg wishes to go on record in support of Senate Bill No. 168. We likewise hope that you will favorably consider suggested amendments to the Alaska Power Authority Act as described in this letter.

Thanks for your consideration. Should you require additional information or personal testimony on these subjects, please don't hesitate to call me at (907) 772-4511. Best wishes for a successful legislative session.

Senators Don Bennett and John Sackett  
Ma, 11, 1983  
Page Six

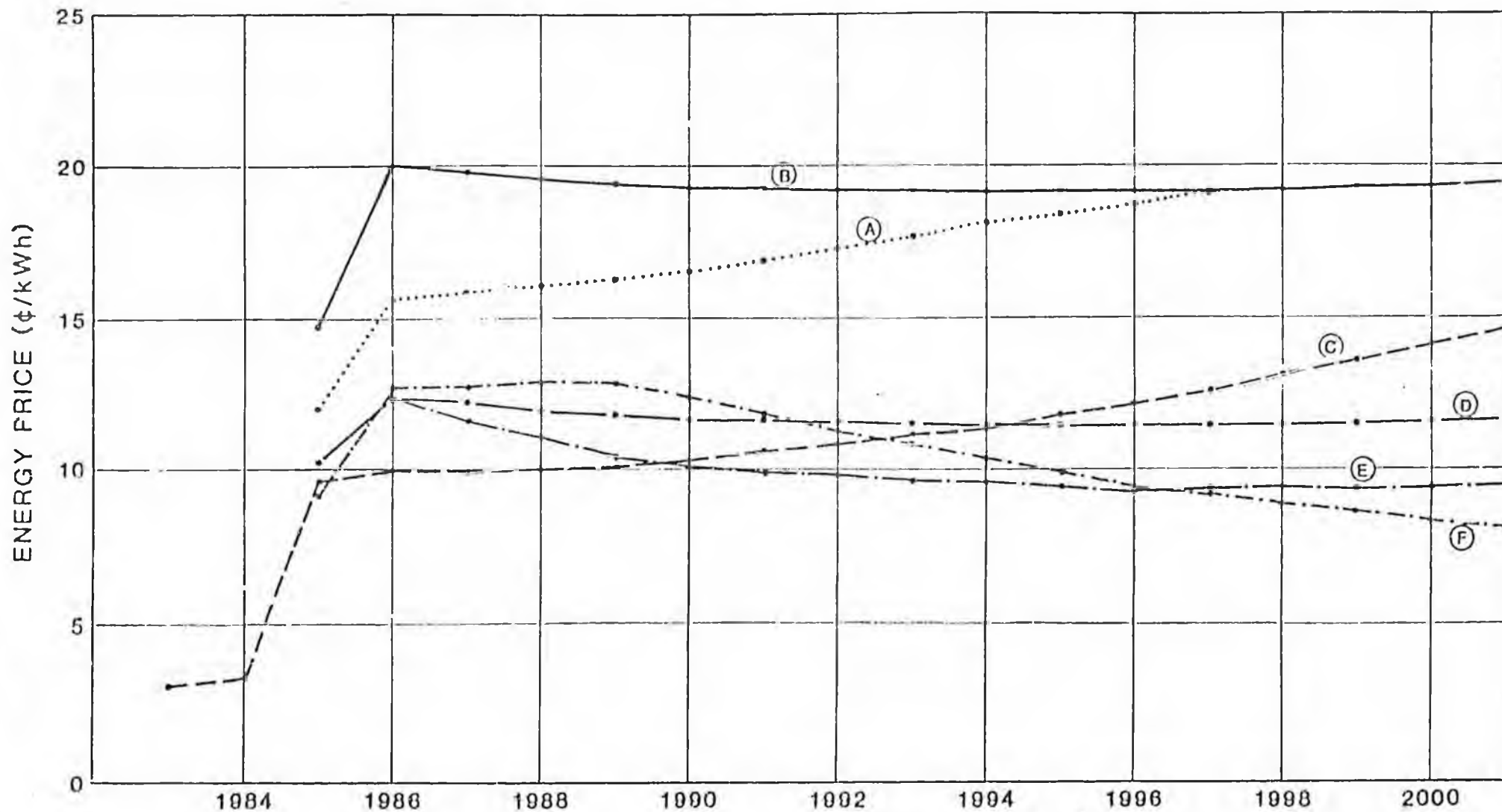
Respectfully submitted,



Richard Underkofler, City Manager  
City of Petersburg

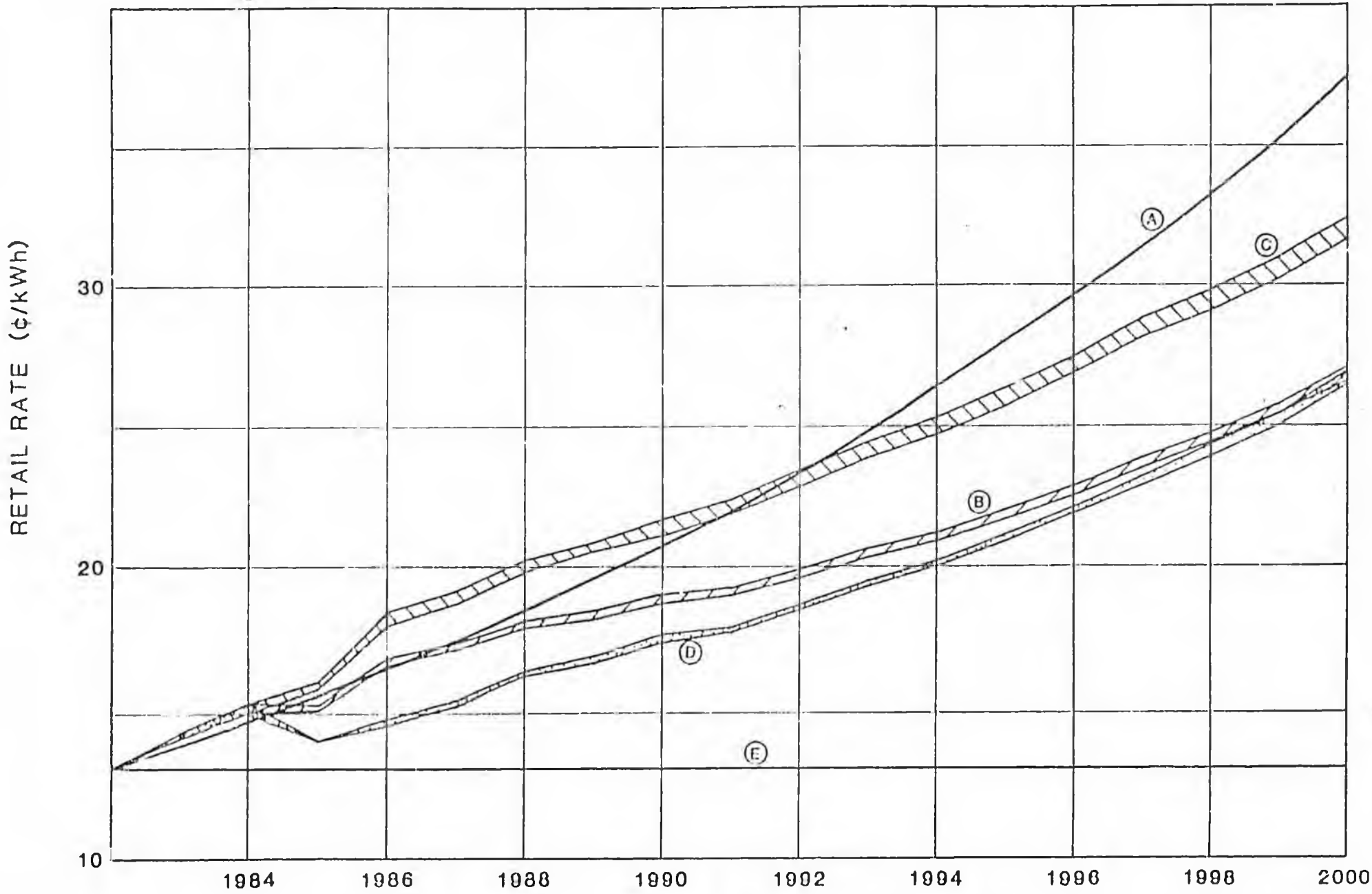
cc: Petersburg City Council  
Governor Bill Sheffield  
Senator Robert H. Ziegler  
Representative Ron Wendt  
Representative Jack McBride  
Board of Directors, Alaska Power Authority  
Eric Yould, Alaska Power Authority  
Manager, City of Wrangell  
Manager, City of Ketchikan  
Manager, City of Kodiak  
Manager, City of Valdez  
Thomas Bay Power Commission

- LEGEND
- |     |                       |     |                                     |
|-----|-----------------------|-----|-------------------------------------|
| (A) | TYEE LAKE             | (D) | 'POSTAGE STAMP' RATE (WITHOUT HB 9) |
| (B) | TYEE LAKE W/O D/S CAP | (E) | TERROR LAKE                         |
| (C) | SOLOMON GULCH         | (F) | SWAN LAKE                           |



APA WHOLESAL E ENERGY PRICES  
WITH AND WITHOUT HB 9 PROVISIONS

- LEGEND
- (A) 13.1 ¢ (FY 82) ESCALATED AT 8% P.A.
  - (D) TYEE POWER AT 8¢/kWh ESCALATED AT 2.00%/YEAR
  - (B) TYEE POWER AT 'POSTAGE STAMP' RATE (PRE 110 0)
  - (E) 13.1 ¢/kWh (NO ESCALATION)
  - (C) TYEE POWER AT RATE ESTIMATED BY APA (MARCH 1983)



EFFECT OF TYEE POWER PRICES ON PETERSBURG RETAIL RATES



*City of Petersburg  
P. O. Box 529  
Petersburg, Alaska 99833*

MAY 17 1983

May 11, 1983

Senators Don Bennett and John Sackett  
Co-Chairman - Senate Finance Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

SUBJECT: Senate Bill No. 168: "An Act relating to the Alaska Power Authority; and providing for an effective date."

Gentlemen:

The City of Petersburg wishes to offer comments on Senate Bill No. 168 and the underlying enabling act of the Alaska Power Authority (Chapter 44.83 of the Alaska Statutes).

Petersburg is an intended purchaser of wholesale power from the Tyee Lake Hydroelectric Project, scheduled for completion in early 1984. However, we cannot enter into a power purchase agreement under terms and conditions currently mandated by laws governing the Alaska Power Authority. The problem the City is facing is due in part to the expense of the project and in part to our inability to establish reasonable and predictable rates for future project electricity.

When the Tyee project was initially proposed, we expected that its power cost would be substantially lower than diesel power. The low cost hydro power was expected to effect an immediate reduction in the City's power cost and to control subsequent effects of inflation on retail electric rates.

But present estimates of the wholesale rate for Tyee power indicate that retail rates will increase considerably as a result of connection to the Tyee supply. In fact, Tyee power will be the most expensive of any project currently in the system established by the energy program for Alaska as a result of state legislation adopted last year (House Bill 9). In real numbers, it is proposed that Petersburg and Wrangell would have to pay wholesale rates of 15.64c/kWh in 1986 escalating to 19.37c/kWh in 2001.

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Two

For purposes of comparison to current rates, in FY 82 the average retail cost of energy for Petersburg consumers was 13.1¢/kWh. Of this amount, 6.0¢ was attributable to direct costs of generation; 3.4¢ to direct distribution costs; 1.5¢ to debt service costs; and 2.2¢ to administrative and general overhead expenditures. Our cost records also show that direct generation costs from our hydro plant amounted to 0.8¢/kWh, and that from diesel generation averaged 10.9¢/kWh.

The economics of the Tyee Project are favorable over the long term when Petersburg will have to augment its existing generating resources to meet increased demand for electric power. Over the early years, however, the Tyee power is much more expensive than alternative energy sources available to the City's customers.

The other major part of the problem with existing law governing the energy program for Alaska is our inability to identify and control future costs of operation, maintenance and debt service.

- 1) APA's initial estimate for operation, maintenance and inspection on the Tyee Project is \$1,412,000. We think the local utilities should have some control over and accountability for these on going expenditures. We also think that we could locally operate and maintain the project in compliance with industry standards, but in a less expensive manner. (Petersburg has owned and operated a hydroelectric project since 1926.)

The Thomas Bay Power Commission is a joint operating agency that was established in 1976 by Wrangell and Petersburg to manage and control hydroelectric projects in our area. But it appears the commission would not qualify to operate and maintain the project pursuant to a strict interpretation of language in 44.83.425(5).

- 2) Implementation of the "Susitna Black Mail Clause" AS 44.83.398(b)(2) would increase Tyee's wholesale power rate to annually generate ten percent of the amount the State has invested in the project. The State has an investment of \$79,480,000 in Tyee -- wholesale rates would increase by an additional 18.4¢/kWh to generate this sort of a return for the State.

Senators Don Bennett and John Sackett

May 11, 1983

Page Three

- 3) A third area of uncertainty has been termed the "system increment problem". All wholesale power rates of projects on the system would be unilaterally increased whenever the legislature decides to add a new project to the system which has more debt financing than the average for other projects in the system.

This feature of the law represents a potentially unlimited "deep pocket" (our consumers) to pay debt service on yet to be identified projects developed by the authority under its system approach.

The staff of the Alaska Power Authority is fully aware of these problems. APA staff has suggested that we should initiate new legislation if we have alternative ideas to the approaches available under the existing statutory framework.

We do have recommendations for amending Chapter 44.83 of the Alaska Statutes beyond and to a certain extent, in a different fashion than that proposed by SB 168. We trust the manner of correcting these problems with the Board of the Alaska Power Authority, Governor Sheffield and our legislators.

We recommend that the system approach be abandoned in favor of a project-by-project approach for financing the power projects developed under the energy program for Alaska. If SB 168 is passed and approved during the current session of the legislature without some other changes to AS 44.83 we may be permanently "locked in" to a system approach due to long term commitments made in the bond sale.

Please consider the following statutory amendments during the current session of the legislature.

- 1) Sale of Lake Tvee Project. The simplest way to control operating and maintenance expenditures and limit liability for debt service is to allow local utilities to purchase the projects developed under the energy program for Alaska. Since purchase of the project would be quite expensive, we must look to the State for an equity contribution and protection against high installment purchase payments in the early years. We propose the addition of a new section to AS 44.83 to read:

Sec. 44.83.399 Sale of a Power Project. (a) The authority may sell a power project that is acquired or constructed as a part of the energy program for Alaska to a qualified utility.

(b) When the authority sells a power project, it shall establish a schedule of equal annual payments that, unless the purchasing utility agrees to a different schedule, establishes as the purchase price for the power project an amount not to exceed the principal amount of bonds issued and loans made for the power project, requires payment of the purchase price over a term of not less than thirty (30) years and imposes interest on the unpaid balance of the purchase price at an annual rate not to exceed the average net effective interest rates on the bonds issued for the power project.

(c) Notwithstanding (b) of this section, a purchasing utility shall be protected against high installment payments in the first twenty (20) years of a purchase agreement. Annual payments of both principal and interest the utility must pay toward the purchase price of the power project shall be limited to an amount that does not exceed the product of multiplying 8¢/kWh, increased on each anniversary date of the purchase contract by 2.68%, times the output of the power project during the year for which the calculation is being made and subtracting from that product the costs of operating and maintaining the power project during the same year.

(A question may arise relating to why we are recommending a limitation of 8¢/kWh, escalated by 2.68% per year. A principal cause of the high Tyee power rates, as initially estimated by the APA staff, is attributable to the low utilization, or plant factor, of the Tyee project. Petersburg and Wrangell have been encouraged to develop a market for the uncommitted surplus potential of Tyee, as a means of reducing the unit cost of power. Our analysis of this marketing endeavor has concluded that 8¢/kWh is the limitation necessary to compete with alternative energy sources.)

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Five

2) Complementary Amendments. The following amendments should be made to resolve ambiguities and make the foregoing section compatible with the remainder of AS 44.83:

a) AS 44.83.396(a) should be amended to read:

(a) A power project that is acquired or constructed as part of the energy program for Alaska is owned (BY THE STATE) and shall be administered by the authority, unless the power project is sold to a qualified utility, in which case the power project shall be owned and administered by the purchasing utility.

b) AS 44.83.425(5) should be amended to read:

(f "qualified utility" means an electric utility owned by a public agency or any combination joint operating agency established as an instrumentality of public agencies to manage and control electric generation, transmission or distribution systems that is certified by the Alaska Public Utilities Commission to serve all or part of a market area that is served or will be served by the power project, and that the authority determines is capable of operating and maintaining the power project.

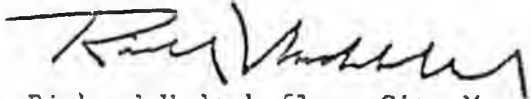
(The definition of a "qualified utility" is recommended for revision to enable the Thomas Bay Power Commission to own, manage, operate and maintain the project.)

In summary, the City of Petersburg wishes to go on record in support of Senate Bill No. 168. We likewise hope that you will favorably consider suggested amendments to the Alaska Power Authority Act as described in this letter.

Thanks for your consideration. Should you require additional information or personal testimony on these subjects, please don't hesitate to call me at (907) 772-4511. Best wishes for a successful legislative session.

Senators Don Bennett and John Sackett  
May 11, 1983  
Page Six

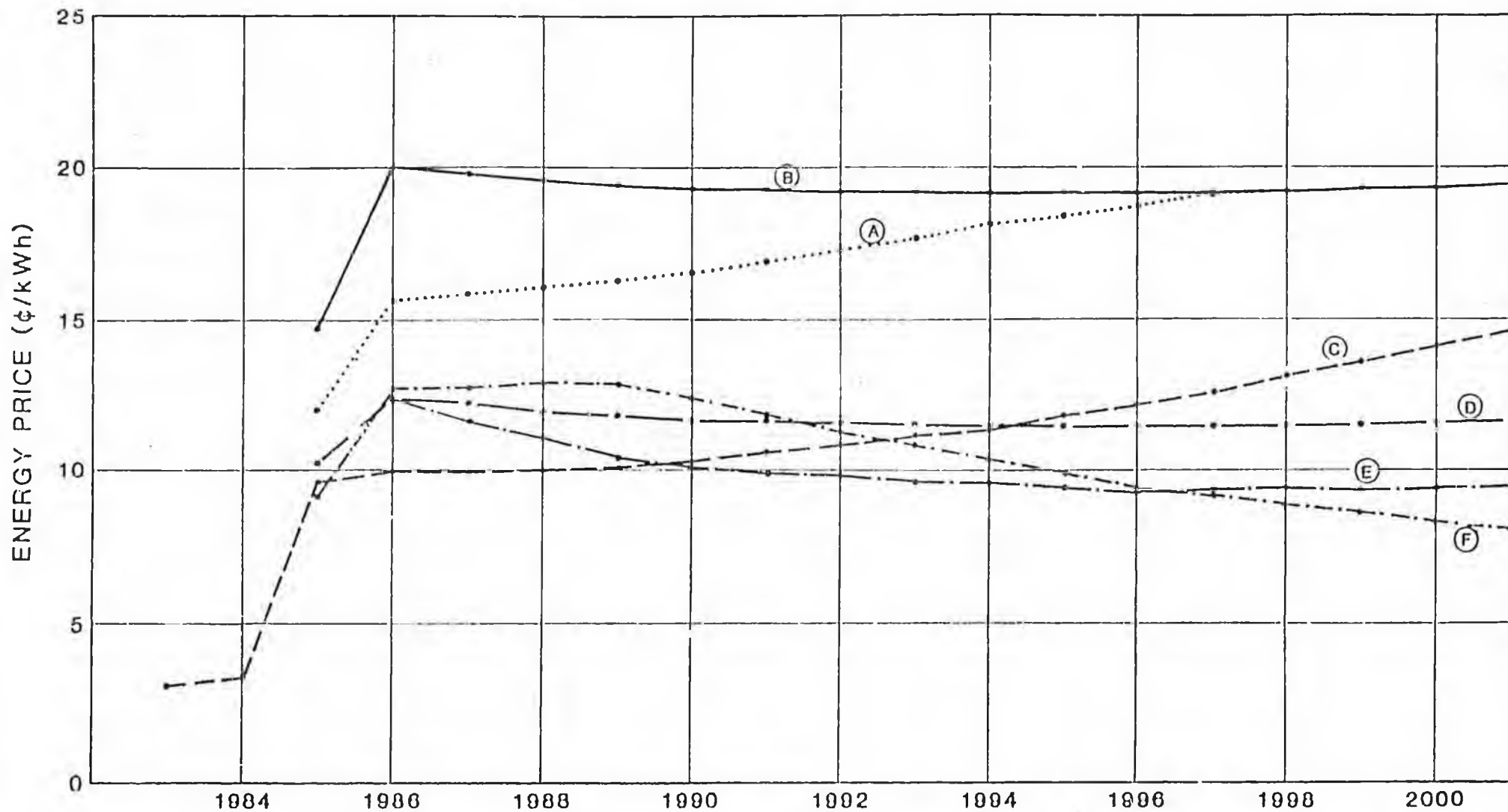
Respectfully submitted,



Richard Underkofler, City Manager  
City of Petersburg

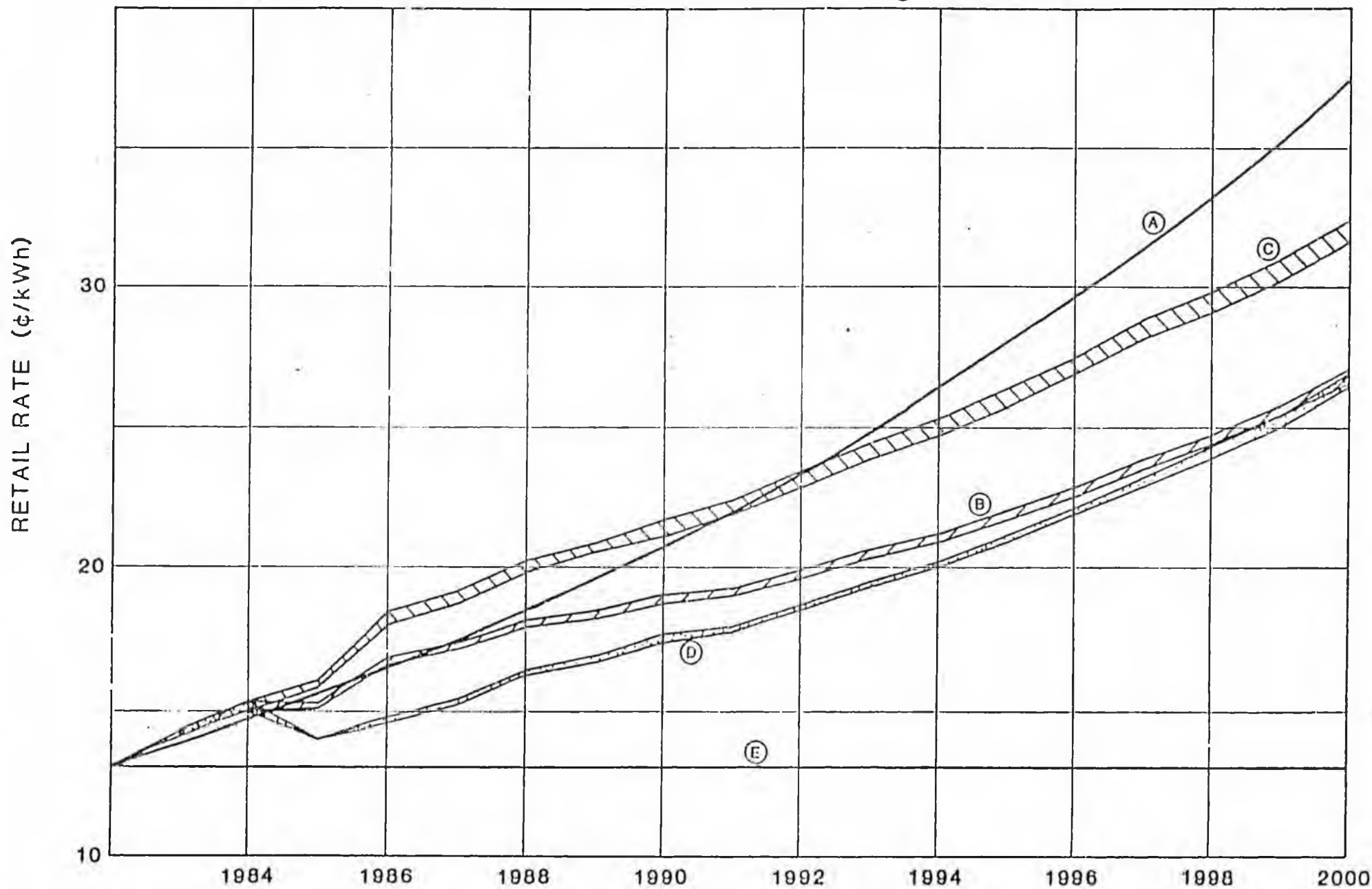
cc: Petersburg City Council  
Governor Bill Sheffield  
Senator Robert H. Ziegler  
Representative Ron Wendt  
Representative Jack McBride  
Board of Directors, Alaska Power Authority  
Eric Yould, Alaska Power Authority  
Manager, City of Wrangell  
Manager, City of Ketchikan  
Manager, City of Kodiak  
Manager, City of Valdez  
Thomas Bay Power Commission

- LEGEND
- |     |                       |     |                                     |
|-----|-----------------------|-----|-------------------------------------|
| (A) | TYEE LAKE             | (D) | 'POSTAGE STAMP' RATE (WITHOUT HB 9) |
| (B) | TYEE LAKE W/O D/S CAP | (E) | TERROR LAKE                         |
| (C) | SOLOMON GULCH         | (F) | SWAN LAKE                           |



APA WHOLESAL ENERGY PRICES  
WITH AND WITHOUT HB 9 PROVISIONS

- LEGEND
- (A) 13.1 ¢ (FY 82) ESCALATED AT 0% P.A.
  - (B) TYEE POWER AT 'POSTAGE STAMP' RATE (PRE HD 0)
  - (C) TYEE POWER AT RATE ESTIMATED BY APA (MARCH 1983)
  - (D) TYEE POWER AT 6¢/kWh ESCALATED AT 2.60%/YEAR
  - (E) 13.1 ¢/kWh (NO ESCALATION)



EFFECT OF TYEE POWER PRICES ON PETERSBURG RETAIL RATES

Offered: 4/27/83  
Referred: State Affairs

Original sponsor: Rules/Governor

1 IN THE SENATE  
2 CS FOR SENATE BILL NO. 168 <sup>Finance</sup> ~~(Resources)~~ BY THE RESOURCES COMMITTEE  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - FIRST SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
9 \* Section 1. AS 44.83.040 is amended to read:  
10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors  
11 shall elect one of their number as chairman and may elect other offi-  
12 cers they determine desirable. The powers of the authority are vested  
13 in the directors, and four directors of the authority constitute a  
14 quorum. Action may be taken and motions and resolutions adopted by  
15 the authority at a meeting by the affirmative vote of a majority of  
16 the [AT LEAST THREE] directors present. The directors of the authori-  
17 ty serve without compensation, but they shall receive the same travel  
18 pay and per diem as provided by law for board members.  
19 \* Sec. 2. AS 44.83.040 is amended by adding new subsections to read:  
20 (b) The board may meet and transact business by an electronic  
21 medium if  
22 (1) public notice of the time and locations where the meet-  
23 ing will be held by an electronic medium has been given in the same  
24 manner as if the meeting were held in a single location;  
25 (2) participants and members of the public in attendance  
26 can hear and have the same right to participate in the meeting as if  
27 the meeting were conducted in person; and  
28 (3) copies of pertinent reference materials, statutes, reg-  
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-  
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of  
5 the authority relating to a lease or contract to be entered into by  
6 the authority under this chapter if the director is a party to the  
7 lease or contract or has a direct ownership or equity interest in a  
8 firm, partnership, corporation, or association that is a party to the  
9 contract or lease. When abstaining from voting, the director must  
10 disclose the reason for the abstention. A director who is a member of  
11 an electric cooperative that is organized under or subject to the  
12 Electric and Telephone Cooperative Act (AS 10.25) may vote on a reso-  
13 lution relating to a contract or lease to which that cooperative is a  
14 party. The director shall disclose the cooperative membership at the  
15 time of voting. A resolution of the authority that is approved by a  
16 majority of the directors present who are not barred from voting under  
17 this subsection is a valid action of the authority for all purposes.

18 \* Sec. 3. AS 44.83.105 is amended to read:

19 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-  
20 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]  
21 issue its bonds for the acquisition or construction of power projects  
22 to be acquired or constructed under the energy program for Alaska.  
23 The [ON WHICH THE] principal of and interest on the bonds are payable  
24 from money derived from the sale of wholesale power from power proj-  
25 ects financed under AS 44.83.380 - 44.83.425 from the power develop-  
26 ment fund or from a source referred to in AS 44.83.100 as the author-  
27 ity determines. The bonds may be issued if

28 (1) appropriations to the power development fund for the  
29 power project are insufficient to cover the cost of acquiring or

1 constructing the power project; and

2 (2) the authority determines that the amount of interest  
3 the authority will pay on its bonds is not more than alternative costs  
4 of securing money from other sources, except for the general fund, to  
5 pay for the acquisition or construction of the power project.

6 \* Sec. 4. AS 44.83.110(b) is amended to read:

7 (b) Notwithstanding any other provisions of this chapter, the  
8 trust indenture, trust agreement, secured loan agreement, or other  
9 instrument or the resolution constituting a contract with bondholders  
10 shall contain a covenant by the authority that it will at all times  
11 maintain rates, fees or charges sufficient to pay, and that a contract  
12 entered into by the authority for the sale, transmission or distribu-  
13 tion of power shall contain rates, fees or charges sufficient to pay  
14 the costs of operation and maintenance of the project, the principal  
15 of and interest on bonds issued under the trust agreement as the same  
16 severally become due and payable, to provide for debt service coverage  
17 as considered necessary by the authority for the marketing of its  
18 bonds and to provide for renewals, replacements and improvements of  
19 the project, and to maintain reserves required by the terms of the  
20 trust agreement. This subsection does not require a covenant that  
21 varies from a covenant entered into in accordance with the provisions  
22 of AS 44.83.380 - 44.83.425.

23 \* Sec. 5. AS 44.83.120 is amended to read:

24 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the  
25 legislature that a pledge made in respect of bonds is considered  
26 perfected and is [SHALL BE] valid and binding from the time the pledge  
27 is made; that the money or property so pledged and thereafter received  
28 by the authority shall immediately be subject to the lien of the  
29 pledge without physical delivery or further act; and that the lien of

1 the pledge shall be valid and binding as against all parties having  
2 claims of any kind in tort, contract or otherwise against the authori-  
3 ty irrespective of whether the parties have notice. Neither the  
4 resolution, trust agreement nor any other instrument by which a pledge  
5 is created need be recorded or filed under the provisions of the  
6 Uniform Commercial Code to be perfected or to be valid, binding or  
7 effective against the parties.

8 \* Sec. 6. AS 44.83.185(a) is amended to read:

9 (a) The authority shall submit a feasibility study and plan of  
10 finance, including a cost estimate from an independent source, for a  
11 proposed new project to the legislature. When the report of the divi-  
12 sion of budget and management examining the feasibility study and plan  
13 of finance is completed as required by AS 44.83.183, it shall be sub-  
14 mitted to the legislature.

15 \* Sec. 7. AS 44.83.195(a) is amended to read:

16 (a) When a project is operated by the authority, the authority  
17 shall enter into one or more contracts for the sale of electrical  
18 power, energy, transmission capacity, or service from the project.  
19 Unless the contract is entered into under AS 44.83.380 - 44.83.425, a  
20 [A] contract entered into under this section shall meet all require-  
21 ments of AS 44.83.090.

22 \* Sec. 8. AS 44.83.361(a)(2) is amended to read:

23 (2) principal [AND INTEREST] payments on loans made under  
24 this section.

25 \* Sec. 9. AS 44.83.361(c) is amended to read:

26 (c) A loan from the rural electrification revolving loan fund  
27 shall bear an annual rate of interest of two percent of the unpaid  
28 balance of the loan. Interest received on a loan made under this sec-  
29 tion must be transferred monthly to the commissioner of revenue for

1       deposit in the general fund.

2       \* Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

3                   (B) payments on the unpaid balance of the principal of  
4       the loan for each consumer served by the electric service  
5       extended with the loan proceeds [DURING THE PRECEDING YEAR FOR  
6       WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the  
7       principal of the loan shall be made at a rate equal to the dif-  
8       ference between the actual cost of making the service connection  
9       to the consumers and the minimum investment per consumer required  
10      of the utility before a loan is made under (b) of this section.

11      \* Sec. 11. AS 44.83.361 is amended by adding new subsections to read:

12                   (f) In this section,

13                   (1) "consumer" means a person, as defined in AS 01.10.-  
14      060(7), or a governmental agency, if the person or governmental agency  
15      requests and offers to pay for electrical service to a facility or  
16      part of a facility; the authority shall consider a person who, or a  
17      governmental agency that, offers to pay for electrical service to  
18      several facilities to be a separate consumer for each facility, if  
19      each facility is physically separate from another facility, other than  
20      through electric service lines, and if the person or governmental  
21      agency requests and offers to pay for electrical service to each  
22      facility;

23                   (2) "facility" means a structure capable of receiving and  
24      using electrical energy; and

25                   (3) "governmental agency" includes, with respect to the  
26      state or federal government or a municipal government, a legislative  
27      body, board of regents, administrative body, board, commission, com-  
28      mittee, subcommittee, authority, council, agency, public corporation,  
29      school board, department, division, bureau, or other subordinate unit,

1 whether advisory or otherwise, of the state, federal, or municipal  
2 government.

3 \* Sec. 12. AS 44.83.384(b)(1) is amended to read:

4 (1) is economically feasible [MEETS THE REVENUE REQUIRE-  
5 MENTS OF AS 44.83.394]; and

6 \* Sec. 13. AS 44.83.384(c) is amended to read:

7 (c) Notwithstanding (b)(1) of this section and AS 44.83.396 -  
8 44.83.398 [AS 44.83.394 - 44.83.398], the fund may be used by the  
9 authority to provide money for the cost of a power project that is or  
10 was either constructed or [AND] owned by the United States government  
11 if the requirements of this subsection are met. The provisions of  
12 AS 44.83.177 - 44.83.187 do not apply to a power project financed  
13 under this subsection. The authority may use money in the fund for  
14 the cost of a power project under this subsection if

15 (1) the legislature enacts a law approving the project;

16 (2) the division of budget and management in the Office of  
17 the Governor reviews a feasibility study and a plan of finance for the  
18 project and determines that the feasibility study complies with the  
19 requirements for a feasibility study submitted under AS 44.83.181(b)  
20 and that the plan of finance complies with the requirements for a plan  
21 of finance submitted under AS 44.83.181(c); and

22 (3) the project meets the other requirements of this chap-  
23 ter.

24 \* Sec. 14. AS 44.83.386 is amended to read:

25 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue  
26 shall invest the money in the fund in accordance with AS 37.10.070 and  
27 37.10.075. The Department of Revenue shall provide money in the fund  
28 to the authority only after costs have been [A COST FOR A PROJECT IS]  
29 incurred or amounts in the fund have been otherwise obligated under

1 contracts for the acquisition and construction of a project. Amounts  
2 that have been obligated, but for which costs have not yet been incur-  
3 red, may be segregated by the Department of Revenue or transferred to  
4 the authority only with the prior approval or agreement of the commis-  
5 sioner of revenue. Interest received on money that is segregated or  
6 transferred under this section must be deposited in the general fund.

7 \* Sec. 15. AS 44.83.396(a) is amended to read:

8 (a) A power project that is acquired or constructed as part of  
9 the energy program for Alaska is owned, [BY THE STATE] and shall be  
10 administered, by the authority.

11 \* Sec. 16. AS 44.83.396(c) is amended to read:

12 (c) The authority shall enter into a contract or lease under  
13 reasonable terms and conditions to permit the applicant utility to  
14 operate the power project when the applicant utility is the only  
15 wholesale power customer to be served directly by the power project  
16 unless the authority determines a utility making application for a  
17 contract or lease to operate a power project is not a qualified util-  
18 ity or is not capable of operating that power project efficiently and  
19 in a manner that is consistent with national standards for the indus-  
20 try and with agreements with bondholders.

21 \* Sec. 17. AS 44.83.396(e) is amended to read:

22 (e) When the authority permits a power project to be operated by  
23 a qualified utility under a contract or lease, the authority shall

24 (1) review and approve the annual budget for the operation  
25 and maintenance of the power project; and

26 (2) assure that the project is being operated efficiently  
27 and in a manner that is consistent with national standards for the  
28 industry and agreements with bondholders.

29 \* Sec. 18. AS 44.83.398(c) is amended to read:

1 (c) The authority shall transmit all the money that it receives  
2 under (a) of this section to the commissioner of revenue for deposit  
3 in the state general fund except for money it has pledged or otherwise  
4 covenanted to secure bonds [IN ACCORDANCE WITH CONTRACTS WITH BOND-  
5 HOLDERS].

6 \* Sec. 19. AS 44.83.398(e) is repealed and reenacted to read:

7 (e) After determining the wholesale power rate for a power proj-  
8 ect under the provisions of this section, the authority may adjust the  
9 rate or change the rate provisions to insure that the revenue derived  
10 from that power project and the aggregate revenues of the authority  
11 will be adequate to comply with rate covenants and other agreements  
12 contained in any trust indenture or trust agreement entered into by  
13 the authority for the security of the holders of bonds issued to  
14 finance the power project.

15 \* Sec. 20. AS 44.83.398(g) is amended to read: *delete & add Amend #1*  
*that is attached*

16 (g) For the purposes of (b)(1)(B) [AND (b)(2)(B)(ii)] of this  
17 section, a power project's proportionate share of debt service on  
18 state loans and bonds for all power projects in the energy program for  
19 Alaska is equal to the state's investment in the power project divided  
20 by the state's investment in all power projects in the energy program  
21 for Alaska and multiplied by the debt service on state loans and bonds  
22 for all power projects in the energy program for Alaska. In this  
23 subsection

24 (1) "state's investment in the power project" includes all  
25 state money invested in a power project, including loans, grants, and  
26 proceeds from bonds, less the principal repayments on the project's  
27 proportionate share of debt service on state loans and bonds;

28 (2) "state's investment in all power projects in the energy  
29 program for Alaska" includes all state money invested in the power

1 projects, other than interties, in the energy program for Alaska,  
2 including loans, grants, and proceeds from bonds, less the principal  
3 repayments on bonds and state loans issued for the power projects.

4 \* Sec. 21. AS 44.83.398(h) is amended to read:

5 (h) Notwithstanding (g) of this section, in the 1983 state fis-  
6 cal year the proportionate share of debt service under (b) of this  
7 section, expressed as a rate, for a power project for which a con-  
8 struction contract has been awarded before the effective date of this  
9 Act may not exceed the average debt service component of the wholesale  
10 power rate for all power projects in the energy program for Alaska.  
11 The limit imposed by this subsection shall be increased in the 1984  
12 state fiscal year to four percent above the average debt service com-  
13 ponent of the wholesale power rate for all power projects in the  
14 energy program for Alaska and by an additional four percent above that  
15 average in each succeeding state fiscal year. If application of this  
16 subsection results in the production of insufficient revenue to pay  
17 the total debt service for all projects in the energy program for  
18 Alaska, a project that does not have its share of debt service limited  
19 under this subsection shall be subject to a rate in addition to the  
20 rate established under (b) of this section. The additional rate is  
21 the rate that the authority estimates is necessary to produce revenue  
22 that is sufficient to pay the difference between the total debt ser-  
23 vice for all projects in the energy program for Alaska and the revenue  
24 actually produced to pay that debt service, multiplied by a fraction  
25 whose numerator is the total cost of the project and whose denominator  
26 is the total cost of all of the projects that are subject to the  
27 additional rate. In this subsection, "projects in the energy program  
28 for Alaska" does not include an intertie that is authorized as a  
29 separate project as described in (f) of this section.

1 \* Sec. 22. AS 44.83.425(2) is amended to read:  
2 (2) "debt service" means the amounts covenanted with re-  
3 spec to, or pledged to pay, bonds under a trust agreement securing  
4 [CASH FLOW NECESSARY TO SECURE] bonds;  
5 \* Sec. 23. AS 44.83.186, 44.83.195(b), 44.83.382(b)(2), <sup>44.83.394</sup> 44.83.394 and  
6 ~~44.83.398(b)(2)~~ are repealed.  
7 \* Sec. 24. This Act takes effect immediately in accordance with AS 01.-  
8 10.070(c).

Proposed Amendments to CSSB168 (Resources)

Amendment No. 1

Sec. 20 is repealed and reenacted to read:

*New Sec. 20 —*

AS44.83.398(b)(2) is amended to read:

(2) If, by July, (1986), <sup>1990</sup>~~1993~~, the legislature has not appropriated at least (\$5,000,000,000) \$3,500,000,000 to the fund, in addition to appropriations to the fund of interest earned on money in the fund, the authority shall, beginning on that date, establish and maintain a separate wholesale power rate applicable to each power project that is acquired or constructed under the energy program for Alaska. The wholesale power rate shall be computed by the authority annually, or more frequently as may be necessary, and shall be the greater of

(A) 10 percent of the amount the authority has invested in the power project, including loans and grants made by the state; or

(B) the rate that the authority estimates is necessary to produce revenue sufficient to pay

(i) operation, maintenance, and equipment replacement costs of the power project;

(ii) the power project's proportionate share of debt service on state loans and bonds for all power projects in the energy program for Alaska, determined in accordance with (g) of this section; and

(iii) safety inspections and investigations of the power project by the authority.

CS SB 168 (Finance)  
Letter of Intent

The Legislature, in enacting legislation establishing the Energy Program for Alaska, expressed its desire to provide the lowest reasonable power costs to consumers. To further achieve that end, it is the intent of the Legislature to take appropriate action to enhance the Alaska Power Authority's ability to obtain long-term bond financing at the lowest possible cost.

The Legislature requests the Power Authority to fully explore and study the desirability and implications of allowing the Alaska Power Authority to sell a power project to a qualified utility and report its findings and recommendations to the Second Session of the Thirteenth Legislature. The study should address both short-term and long-term impacts of the proposal on the individual projects, as well as on the overall Energy Program for Alaska.

To facilitate consummation of the power sale agreements and to preclude new project service area energy rates from exceeding the existing energy rates in the early years of the new project(s), the Legislature requests the Power Authority to study the problem expeditiously and recommend solutions to the Second Session of the Thirteenth Legislature. The solutions proposed should consider the use of state equalization grants or loans.

The Legislature also requests the Power Authority to examine the impact of the current restriction which prohibits utilities that purchase power from a Power Authority project to set lower rates for industrial consumers than the rates charged residential consumers.

It is the further intent of the Legislature that the Power Authority consider extending its short term debt which is currently outstanding until the Legislature has had an opportunity to address all of these issues next year.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.



Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section ~~23~~<sup>24</sup> -- This section provides for an immediate effective date.

Sincerely,



Bill Sheffield  
Governor

STATE OF ALASKA  
FINAL STATEMENT OF FISCAL IMPACT

Bill No: \_\_\_\_\_ Date on Bill: \_\_\_\_\_  
 Title: "An Act relating to the Alaska Power Authority; and providing for .....  
 Sponsor: Rules Committee by request of the Governor  
 Requestor: \_\_\_\_\_

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital								
Operating								
Total			0	0	0			

b. Revenues:

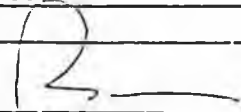
Revenue								
---------	--	--	--	--	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. This statement has been reviewed by the OMB in the Office of the Governor. It may be considered to represent the policy of the Sheffield Administration and the final estimate of fiscal impact.

Prepared By: Eric Yo'ld, Executive Director Phone: 277-7641  
 Division: Alaska Power Authority Date: \_\_\_\_\_

Approved by Commissioner: Richard A. Lyon  Date: \_\_\_\_\_  
 Department: Commerce and Economic Development

Reviewed by OMB:  Date: 3/3/82  
 Phone: 465-3568

5. Distribution:
- Original to Legislative Finance
  - Copy to Department
  - Copy to Sponsor
  - Copy to Requestor

COMMITTEE REPORT  
SENATE

*File  
SB 168*

FURTHER:

4/27/83

Date: \_\_\_\_\_

Mr. President:

The Committee on STATE AFFAIRS has had SB 168

Relating to the Alaska Power Authority; eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CHAIRMAN

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 9, 1983

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Power Authority. This bill contains several amendments to AS 44.83 which would facilitate the issuance of long term revenue bonds by the authority. It also includes several amendments intended to resolve existing ambiguities in the law. It does not alter the role of the Alaska Power Authority in state government. The effect of each section of the bill is as follows:

Section 1 -- Amends AS 44.83.040(a) to require an affirmative vote of a majority of the members present to approve board action.

Section 2 -- This section permits meetings by electronic media under carefully prescribed conditions. This permission has been given to the Alaska Industrial Development Authority and the Alaska Housing Finance Corporation and has been found to be very valuable given the distance and weather problems for meetings in Alaska. Subsection (d) requires that a director must abstain from voting and disclose the reason for abstention if a conflict of interests exists.

Section 3 -- This section makes it permissive rather than mandatory that the authority issue bonds for the energy program and provides that those bonds may be paid off from the general sources specified. Paragraph (2) already requires that the authority determine as a precondition to issuing bonds that alternative sources of money would be more expensive. Clarifying amendments are also included in this section.

Section 4 -- This amendment would ensure that the rate covenant required for bonding is not inconsistent with the rate required under the energy program for Alaska. AS 44.83.380 -- 44.83.425.

Section 5 -- This is a technical amendment to conform to Uniform Commercial Code language. (AS 45.09)

Section 6 -- This amendment ensures that a feasibility study of a proposed project will include an independent cost estimate.

Section 7 -- This amendment makes clear which sections of the statutes govern power sales agreements, and requires the power authority to enter into power sales contracts for energy transmission as well as (under existing law) production.

Sections 8 and 9 -- These amendments provide that interest received by the APA on loans for rural electrification will be deposited in the general fund. This will settle the claim in a pending lawsuit (Trustees for Alaska v. State, 3AN-82-492 CIV) that the present statute authorizing deposit of that interest in the rural electrification fund violates the constitutional prohibition of dedicated funds. Alaska Const. art. IX, sec. 7.

Sections 10 and 11 -- These sections clarify unclear or ambiguous provisions of the rural electrification revolving loan fund program.

Section 12 -- This amendment will ensure that a power project owned by the United States on which the corporation spends money need not continue to be owned by the United States in order for the expenditures to be valid.

Section 13 -- This amendment will enable the authority to ensure bondholders that money which has been appropriated to supplement bond proceeds financing a project may be segregated by the commissioner of revenue or transferred to the authority before costs are incurred. Interest earned on this money would accrue to the general fund. This provision is critical to the marketability of APA revenue bonds.

Section 14 -- This amendment deletes an ambiguous rate-of-return analysis for project feasibility, and retains "economic feasibility" as the test.

Section 15 -- This amendment makes clear that the authority, which is an entity of the state, owns projects which it acquires or constructs. This is necessary to assure the authority's ability to pledge its receipts from projects to secure bonds.

Section 16 -- This amendment gives standards for the authority's determination of whether a utility is qualified to operate a power project of the authority.

Sections 17 and 18 -- These amendments would ensure that the operation of projects and the handling of project revenues are consistent with agreements with bondholders.

Section 19 -- This amendment does not alter the wholesale power rate prescribed by law but permits the APA to make adjustments only as necessary in order to comply with bonding agreements.

Section 20 -- This is a technical clarification.

Section 21 -- This section amends the definition of "debt service" to include amounts covenanted or pledged to pay bonds. The present language, "the cash flow necessary to secure bonds," could be narrowly construed to prevent the retention of sufficient money to adequately secure bond obligations.

Section 22 -- This section repeals the following sections:

(1) AS 44.83.195(b), requiring rate reduction at the expiration of contracts, is repealed because such a reduction would conflict with the pooling-of-costs concept embodied in the energy program for Alaska.

(2) AS 44.83.382(b)(2), stating what the power development fund includes, is repealed because power sales receipts must initially go into the general fund (and only then be appropriated) unless those receipts are pledged to a particular debt service fund.

(3) AS 44.83.398(b)(2), the portion of the wholesale power rate provision which makes future rates contingent on the appropriation of \$5,000,000,000 to the power development fund before July 1, 1986, is repealed because it injects into rate making an uncertainty which impedes both the APA and local utilities in planning for the cost of power to be generated by APA projects. Repeal of this

section will moot the claim in a pending lawsuit that AS 44.83.398(b)(2) is unconstitutional. Trustees of Alaska v. State, No. 3AN-82-492 CIV.

Section 23 -- This section provides for an immediate effective date.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

Introduced: 3/9/83  
Referred: Resources, State Affairs  
and Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 168

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Power Authority; and  
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 44.83.040 is amended to read:

10 Sec. 44.83.040. OFFICERS; MEETINGS; [AND] QUORUM. The directors  
11 shall elect one of their number as chairman and may elect other offi-  
12 cers they determine desirable. The powers of the authority are vested  
13 in the directors, and four directors of the authority constitute a  
14 quorum. Action may be taken and motions and resolutions adopted by  
15 the authority at a meeting by the affirmative vote of a majority of  
16 the [AT LEAST THREE] directors present. The directors of the authori-  
17 ty serve without compensation, but they shall receive the same travel  
18 pay and per diem as provided by law for board members.

19 \* Sec. 2. AS 44.83.040 is amended by adding new subsections to read:

20 (b) The board may meet and transact business by an electronic  
21 medium if

22 (1) public notice of the time and locations where the meet-  
23 ing will be held by an electronic medium has been given in the same  
24 manner as if the meeting were held in a single location;

25 (2) participants and members of the public in attendance  
26 can hear and have the same right to participate in the meeting as if  
27 the meeting were conducted in person; and

28 (3) copies of pertinent reference materials, statutes, reg-  
29 ulations, and audio-visual materials are reasonably available to

1 participants and to the public.

2 (c) A meeting by an electronic medium as provided in this sec-  
3 tion has the same legal effect as a meeting in person.

4 (d) A director of the authority may not vote on a resolution of  
5 the authority relating to a lease or contract to be entered into by  
6 the authority under this chapter if the director is a party to the  
7 lease or contract or has a direct ownership or equity interest in a  
8 firm, partnership, corporation, or association that is a party to the  
9 contract or lease. When abstaining from voting, the director must  
10 disclose the reason for the abstention. A resolution of the authority  
11 that is approved by a majority of the directors present who are not  
12 barred from voting under this subsection is a valid action of the  
13 authority for all purposes.

14 \* Sec. 3. AS 44.83.105 is amended to read:

15 Sec. 44.83.105. BONDS FOR POWER PROJECTS UNDER THE ENERGY PRO-  
16 GRAM FOR ALASKA. The authority may [SHALL] borrow money and [SHALL]  
17 issue its bonds for the acquisition or construction of power projects  
18 to be acquired or constructed under the energy program for Alaska.  
19 The [ON WHICH THE] principal of and interest on the bonds are payable  
20 from money derived from the sale of wholesale power from power proj-  
21 ects financed under AS 44.83.380 -- 44.83.425 from the power develop-  
22 ment fund or from a source referred to in AS 44.83.100 as the author-  
23 ity determines. The bonds may be issued if

24 (1) appropriations to the power development fund for the  
25 power project are insufficient to cover the cost of acquiring or con-  
26 structing the power project; and

27 (2) the authority determines that the amount of interest  
28 the authority will pay on its bonds is not more than alternative costs  
29 of securing money from other sources, except for the general fund, to

1 pay for the acquisition or construction of the power project.

2 \* Sec. 4. AS 44.83.110(b) is amended to read:

3 (b) Notwithstanding any other provisions of this chapter, the  
4 trust indenture, trust agreement, secured loan agreement, or other  
5 instrument or the resolution constituting a contract with bondholders  
6 shall contain a covenant by the authority that it will at all times  
7 maintain rates, fees or charges sufficient to pay, and that a contract  
8 entered into by the authority for the sale, transmission or distribu-  
9 tion of power shall contain rates, fees or charges sufficient to pay  
10 the costs of operation and maintenance of the project, the principal  
11 of and interest on bonds issued under the trust agreement as the same  
12 severally become due and payable, to provide for debt service coverage  
13 as considered necessary by the authority for the marketing of its  
14 bonds and to provide for renewals, replacements and improvements of  
15 the project, and to maintain reserves required by the terms of the  
16 trust agreement. This subsection does not require a covenant which  
17 varies from a covenant entered into in accordance with the provisions  
18 of AS 44.83.380 -- 44.83.425.

19 \* Sec. 5. AS 44.83.120 is amended to read:

20 Sec. 44.83.120. VALIDITY OF PLEDGE. It is the intention of the  
21 legislature that a pledge made in respect of bonds is considered  
22 perfected and is [SHALL BE] valid and binding from the time the pledge  
23 is made; that the money or property so pledged and thereafter received  
24 by the authority shall immediately be subject to the lien of the  
25 pledge without physical delivery or further act; and that the lien of  
26 the pledge shall be valid and binding as against all parties having  
27 claims of any kind in tort, contract or otherwise against the authori-  
28 ty irrespective of whether the parties have notice. Neither the  
29 resolution, trust agreement nor any other instrument by which a pledge

1 is created need be recorded or filed under the provisions of the  
2 Uniform Commercial Code to be perfected or to be valid, binding or  
3 effective against the parties.

4 \* Sec. 6. AS 44.83.185(a) is amended to read:

5 (a) The authority shall submit a feasibility study and plan of  
6 finance, including a cost estimate from an independent source, for a  
7 proposed new project to the legislature. When the report of the divi-  
8 sion of budget and management examining the feasibility study and plan  
9 of finance is completed as required by AS 44.83.183, it shall be sub-  
10 mitted to the legislature.

11 \* Sec. 7. AS 44.83.195(a) is amended to read:

12 (a) When a project is operated by the authority, the authority  
13 shall enter into one or more contracts for the sale of electrical  
14 power or energy or transmission capacity or service from the project.  
15 Unless the contract is entered into under AS 44.83.380 -- 44.83.425, a  
16 [A] contract entered into under this section shall meet all require-  
17 ments of AS 44.83.090.

18 \* Sec. 8. AS 44.83.361(a)(2) is amended to read:

19 (2) principal [AND INTEREST] payments on loans made under  
20 this section.

21 \* Sec. 9. AS 44.83.361(c) is amended to read:

22 (c) A loan from the rural electrification revolving loan fund  
23 shall bear an annual rate of interest of two percent of the unpaid  
24 balance of the loan. Interest received on a loan made under this sec-  
25 tion must be transferred monthly to the commissioner of revenue for  
26 deposit in the general fund.

27 \* Sec. 10. AS 44.83.361(d)(2)(B) is amended to read:

28 (B) payments on the unpaid balance of the principal of  
29 the loan for each new consumer served by the electric service

1           extended with the loan proceeds [DURING THE PRECEDING YEAR FOR  
2           WHICH THE LOAN WAS MADE]; payments on the unpaid balance of the  
3           principal of the loan shall be made at a rate equal to the dif-  
4           ference between the actual cost of making the service connection  
5           to the consumers and the minimum investment per consumer required  
6           of the utility before a loan is made under (b) of this section.

7       \* Sec. 11. AS 44.83.361 is amended by adding new subsections to read:

8           (f) In this section, "consumer" means a person, as defined in  
9           AS 01.10.060(7), or a governmental agency if the person or government-  
10          al agency requests and offers to pay for electrical service to a fa-  
11          cility or part of a facility. The authority shall consider a person  
12          or governmental agency which offers to pay for electrical service to  
13          several facilities to be a separate consumer, as defined in this sec-  
14          tion, for each facility if each facility is physically separate from  
15          another facility, other than through electric service lines, and if  
16          the person or governmental agency requests and offers to pay for elec-  
17          trical service to each facility.

18          (g) In (f) of this section,

19               (1) "facility" means a structure capable of receiving and  
20               using electrical energy;

21               (2) "governmental agency" includes, with respect to the  
22               state or federal government or a municipal government, a legislative  
23               body, board of regents, administrative body, board, commission, com-  
24               mittee, subcommittee, authority, council, agency, public corporation,  
25               school board, department, division, bureau, or other subordinate unit,  
26               whether advisory or otherwise, of the state, federal, or municipal  
27               government.

28       \* Sec. 12. AS 44.83.384(c) is amended to read:

29               (c) Notwithstanding (b)(1) of this section and AS 44.83.394 --

1 44.83.398, the fund may be used by the authority to provide money for  
2 the cost of a power project that is or was either constructed or [AND]  
3 owned by the United States government if the requirements of this sub-  
4 section are met. The provisions of AS 44.83.177 -- 44.83.187 do not  
5 apply to a power project financed under this subsection. The author-  
6 ity may use money in the fund for the cost of a power project under  
7 this subsection if

8 (1) the legislature enacts a law approving the project;

9 (2) the division of budget and management in the Office of  
10 the Governor reviews a feasibility study and a plan of finance for the  
11 project and determines that the feasibility study complies with the  
12 requirements for a feasibility study submitted under AS 44.83.181(b)  
13 and that the plan of finance complies with the requirements for a plan  
14 of finance submitted under AS 44.83.181(c); and

15 (3) the project meets the other requirements of this chap-  
16 ter.

17 \* Sec. 13. AS 44.83.386 is amended to read:

18 Sec. 44.83.386. INVESTMENT OF FUND. The Department of Revenue  
19 shall invest the money in the fund in accordance with AS 37.10.070 and  
20 37.10.075. The Department of Revenue shall provide money in the fund  
21 to the authority only after costs have been [A COST FOR A PROJECT IS]  
22 incurred or amounts in the fund have been otherwise obligated under  
23 contracts for the acquisition and construction of a project. Amounts  
24 which have been obligated, but for which costs have not yet been  
25 incurred, may be segregated by the Department of Revenue or trans-  
26 ferred to the authority only with prior approval or agreement of the  
27 commissioner of revenue. Interest received on money which is segre-  
28 gated or transferred under this section must be deposited in the  
29 general fund.

1 \* Sec. 14. AS 44.83.394 is amended to read:

2           Sec. 44.83.394. REVENUE REQUIREMENTS. The authority may not use  
3 money in the fund for a power project except in compliance with  
4 AS 44.83.177 -- 44.83.187, and unless the authority determines that  
5 the power project is economically feasible [AND THAT, AFTER CONSTRUC-  
6 TION, OPERATION OF THE POWER PROJECT WILL BE ABLE TO PROVIDE REVENUE  
7 SUFFICIENT TO RETURN ANNUALLY TO THE STATE FIVE PERCENT OF THE AMOUNT  
8 THAT THE AUTHORITY HAS SPENT FROM THE FUND FOR THE POWER PROJECT].

9 \* Sec. 15. AS 44.83.396(a) is amended to read:

10           (a) A power project that is acquired or constructed as part of  
11 the energy program for Alaska is owned, [BY THE STATE] and shall be  
12 administered, by the authority.

13 \* Sec. 16. AS 44.83.396(c) is amended to read:

14           (c) The authority shall enter into a contract or lease under  
15 reasonable terms and conditions to permit the applicant utility to  
16 operate the power project when the applicant utility is the only  
17 wholesale power customer to be served directly by the power project  
18 unless the authority determines a utility making application for a  
19 contract or lease to operate a power project is not a qualified util-  
20 ity or is not capable of operating that power project efficiently and  
21 in a manner that is consistent with national standards for the indus-  
22 try and agreements with bondholders.

23 \* Sec. 17. AS 44.83.396(e) is amended to read:

24           (e) When the authority permits a power project to be operated by  
25 a qualified utility under a contract or lease, the authority shall

26                   (1) review and approve the annual budget for the operation  
27 and maintenance of the power project; and

28                   (2) assure that the project is being operated efficiently  
29 an' in a manner that is consistent with national standards for the

1 industry and agreements with bondholders.

2 \* Sec. 18. AS 44.83.398(c) is amended to read:

3 (c) The authority shall transmit all the money that it receives  
4 under (a) of this section to the commissioner of revenue for deposit  
5 in the state general fund except for money it has pledged to secure  
6 bonds or covenanted otherwise in order to secure bonds [IN ACCORDANCE  
7 WITH CONTRACTS WITH BONDHOLDERS].

8 \* Sec. 19. AS 44.83.398(e) is repealed and reenacted to read:

9 (e) After determining the wholesale power rate for a power proj-  
10 ect in the manner otherwise provided by this section, the authority  
11 may adjust the rate or change the rate provisions if necessary so that  
12 the revenue derived from that power project and the aggregate revenues  
13 of the authority will at all times be adequate to comply with the rate  
14 covenants and other agreements contained in any trust indenture or  
15 trust agreement entered into by the authority for the security of the  
16 holders of bonds issued to finance power projects under the energy  
17 program for Alaska.

18 \* Sec. 20. AS 44.83.398(h) is amended to read:

19 (h) Notwithstanding (g) of this section, in the 1983 state fis-  
20 cal year the proportionate share of debt service under (b) of this  
21 section, expressed as a rate, for a power project for which a con-  
22 struction contract has been awarded before the effective date of this  
23 Act may not exceed the average debt service component of the wholesale  
24 power rate for all power projects in the energy program for Alaska.  
25 The limit imposed by this subsection shall be increased in the 1984  
26 state fiscal year to four percent above the average debt service com-  
27 ponent of the wholesale power rate for all power projects in the  
28 energy program for Alaska and by an additional four percent above that  
29 average in each succeeding state fiscal year. If application of this

1 subsection results in the production of insufficient revenue to pay  
2 the total debt service for all projects in the energy program for  
3 Alaska, a project that does not have its share of debt service limited  
4 under this subsection shall be subject to a rate in addition to the  
5 rate established under (b) of this section. The additional rate is  
6 the rate that the authority estimates is necessary to produce revenue  
7 that is sufficient to pay the difference between the total debt ser-  
8 vice for all projects in the energy program for Alaska and the revenue  
9 actually produced to pay that debt service, multiplied by a fraction  
10 whose numerator is the total cost of the project and whose denominator  
11 is the total cost of all of the projects that are subject to the  
12 additional rate. In this subsection, "projects in the energy program  
13 for Alaska" does not include an intertie that is authorized as a  
14 separate project as described in (f) of this section.

15 \* Sec. 21. AS 44.83.425(2) is amended to read:

16 (2) "debt service" means the amounts covenanted with re-  
17 spect to, or pledged to pay, bonds under a trust agreement securing  
18 [CASH FLOW NECESSARY TO SECURE] bonds;

19 \* Sec. 22. AS 44.83.195(b), 44.83.382(b)(2), and 44.83.398(b)(2) are  
20 repealed.

21 \* Sec. 23. This Act takes effect immediately in accordance with AS 01.-  
22 10.070(c).

COMMITTEE REPORT

SENATE

3/9/83

FURTHER: State Affairs  
Finance

Date: 4-23-83

Mr. President:

The Committee on Resources has had SB 168

Relating to the Alaska Power Authority; and eff. date.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for SB 168 (Res)  same title  
 new title
- and recommends my do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

V. Fischer  
Z. Fisher  
Bob M. ...  
Ch. ...  
Carlin ...

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

D. ... Do Pass  
 CHAIRMAN