

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

HB 356 cont. 343

*343*

**ATTACHMENT E**  
**Alternative Language 3**

BILL ROOT: HB0356  
BILL NUMBER: HB 356 INTRODUCED: 1/13/88 REFERRED:  
Judiciary and Finance

SPONSOR:

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

HOUSE BILL NO. 356  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
FIFTEENTH LEGISLATURE - SECOND SESSION  
A BILL

"An Act relating to the authority of the Alaska Public Utilities Commission in connection with certain activities of the Alaska Power Authority and in connection with calculating power cost equalization; and providing for an effective date."

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

\* Section 1. AS 42.05.431 is amended by adding a new subsection to read:

(c) Notwithstanding (b) of this section,

(1) a wholesale agreement for the sale of power from a project licensed by the Federal Energy Regulatory Commission on or before January 1, 1987, entered into between the Alaska Power Authority and one or more other public utilities after October 31, 1987 and before January 1, 1988, [AND RELATED CONTRACTS FOR THE WHEELING, STORAGE, REGENERATION, OR WHOLESALE REPURCHASE OF POWER PURCHASED UNDER SUCH AN AGREEMENT, AND ANY SUBSEQUENT AMENDMENTS TO THE WHOLESALE AGREEMENT OR RELATED CONTRACT, ARE NOT SUBJECT TO REVIEW OR APPROVAL BY THE COMMISSION] AND is not subject to review or approval by the commission.

(2) a wholesale agreement [OR RELATED CONTRACT] described in (1) of this subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; such a covenant is valid and enforceable.

\* Sec. 2. AS 42.05.511 is amended by adding a new subsection to read:

(d) [ALL COSTS INCURRED BY A UTILITY IN CONNECTION WITH A WHOLESALE AGREEMENT OR CONTRACT DESCRIBED IN AS 42.05.431(c)(1), INCLUDING, WITHOUT LIMITATION, POWER AND OTHER COSTS INCURRED UNDER SUCH AN AGREEMENT OR CONTRACT, MUST BE ALLOWED IN THE RATES CHARGED BY THE UTILITY.]

(d) A contract for wheeling, storage, regeneration, or wholesale repurchase of power purchased under a wholesale agreement in (c)(1), is not subject to commission review except as to the costs and their allocation through rates.

- \* Sec. 3. AS 44.83.090(b) is amended to read:
  - (b) The authority is not subject to the jurisdiction of the Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-83.010 - 44.83.425] grants the authority any jurisdiction over the services or rates of any public utility or diminishes or otherwise alters the jurisdiction of the Alaska Public Utilities Commission with respect to any public utility, including any right the commission may have to review and approve or disapprove contracts for the purchase of electricity by a public utility other than wholesale agreements and contracts described in AS 42.05.431(c)(1) and AS 42.05.511(d).
- \* Sec. 4. AS 44.83.162 is amended by adding a new subsection to read:
  - (p) In calculating power cost equalization, the commission may not consider validated costs or kilowatt-hour sales associated with a United States Department of Defense facility.
- \* Sec. 5. This Act is retroactive to November 1, 1987.
- \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

APPENDIX AComputation Of Wheeling Rates

Rates for wheeling services provided under Section 4 of this Agreement are intended to be computed on a fully allocated cost basis and to apply to all Wheeling Utilities in a "postage stamp" manner, in accordance with the following principles:

1. Basic Wheeling Rate.

(a) Formula. The basic wheeling rate shall be computed in each Chugach rate adjustment proceeding in accordance with the following formula, using actual values for each variable as determined for the ratemaking test year applicable to that rate adjustment proceeding:

$$R = \frac{A + B + C + D + E}{F} \times K$$

Where:

- R = The basic wheeling rate to be charged during the rate period;
- A = Chugach O & M expense allocated to transmission (currently REA Accounts 556 through 573), less such O & M expense properly allocated to Chugach's Beluga to Point MacKenzie transmission segment;
- B = Chugach A & G expense allocated to transmission (currently REA Accounts 920 through 932), less such A & G expense properly allocated to Chugach's Beluga to Point MacKenzie transmission segment;
- C = Chugach taxes allocated to transmission (currently REA Account 408), less such taxes properly allocated to Chugach's Beluga to Point MacKenzie transmission segment;
- D = Chugach depreciation allocated to transmission (currently REA Account 403), less such depreciation properly allocated to Chugach's Beluga to Point MacKenzie transmission segment;

- E = Chugach interest expense and generation-and-transmission TIER (or other applicable generation and transmission margin requirement) allocated to transmission, less interest expense and generation and transmission TIER properly allocated to Chugach's Beluga to Point MacKenzie transmission segment;
- F = The sum in kilowatthours of (i) Chugach's total generation (exclusive of generation for economy sales) plus purchases, and (ii) the Bradley Lake Energy of the Wheeling Utilities;

and

- K = The applicable phase-in factor or constant as set forth below in Provision 2 of this Appendix A.

(b) Notes on specific variables.

(i) The Point MacKenzie Substation is not part of Chugach's Beluga to Point MacKenzie transmission segment, and the costs of that Substation shall not be excluded in determining the values for those variables from which the costs of that segment are excluded.

(ii) Chugach's transmission O & M expense and A & G expense associated with Chugach's Beluga to Point MacKenzie transmission segment are not (and at this time cannot be) specifically identified and isolated from Chugach's total transmission O & M expense and A & G expense. Therefore, in computing "A" and "B" in the foregoing formula, reasonable estimates of Chugach's transmission O & M expense and A & G expense associated with Chugach's Beluga to Point MacKenzie transmission segment shall be used. Such estimates may be based on reasonable proxy variables, such as the percentage of total recorded annual hours of transmission O & M labor represented by recorded annual hours of transmission O & M labor on Chugach's Beluga to Point MacKenzie transmission segment.

(iii) As provided in Section 13(cc) of this Agreement, neither HEA nor AEG&T on behalf of HEA is a Wheeling Utility for purposes of this Agreement (except, potentially, as a successor or assignee of another Wheeling Utility's Bradley Lake Energy). Thus, "F" in the formula set forth above shall not include or be increased by any Bradley Lake Energy of HEA or AEG&T on behalf of HEA, even if such Energy is wheeled by Chugach pursuant to Section 8(f) of this Agreement at wheeling rates established under this Exhibit A.

2. Phase-In Factor (Years 1-15) And Constant (Later Years).

Beginning with the calendar year in which the Project achieves Commercial Operation, and in each of the next fourteen calendar years (Calendar Years 1 through 15 in the table below), the applicable wheeling rate shall be determined by multiplying the then-applicable base wheeling rate (as computed above) times a phase-in factor in accordance with the following table:

<u>Calendar Year</u>	<u>Phase-In Factor</u>
1 . . . . .	.3333
2 . . . . .	.3333
3 . . . . .	.3333
4 . . . . .	.3805
5 . . . . .	.4278
6 . . . . .	.4750
7 . . . . .	.5222
8 . . . . .	.5694
9 . . . . .	.6167
10 . . . . .	.6639
11 . . . . .	.7111
12 . . . . .	.7583
13 . . . . .	.8056
14 . . . . .	.8528
15 . . . . .	.9000

Beginning on the first day of the next calendar year after Calendar Year 15, and in all succeeding calendar years, the base wheeling rate (as computed under heading 1 above) shall be multiplied by 0.9000 as a constant. Any increase in the applicable wheeling rate resulting from an increase in the phase-in factor in accordance with the table above shall become effective without the need for any regulatory approval other than approval of this Agreement.

H3356

HELLER, EHRMAN, WHITE & MCAULIFFE

ATTORNEYS

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MEMORANDUM

TO: Rep. John Sund  
FROM: Eric Redman, of lawyers for Chugach Electric Association, Inc.  
DATE: January 27, 1988  
SUBJECT: Services Agreement For Bradley Lake Energy

This memorandum is to confirm formally a point made by Commissioner Susan Knowles of the Alaska Public Utilities Commission ("APUC") and by me in our respective oral testimony before your Committee during hearings today on HB 356.

The wheeling rate for Bradley Lake Energy under the above-captioned Agreement is required, by the Agreement, to be determined in accordance with Appendix A of the Agreement in the context of Chugach "rate adjustment proceedings." Appendix A contains a formula for computing the wheeling rate, using specified Chugach costs, specified quantities of energy, and a constant. By design, the specified costs are those which the APUC must review and approve (or disapprove) in any event in the course of Chugach's periodic rate adjustment proceedings. Similarly, the quantities of energy used in the formula can or must be determined in such proceedings in order to review and approve (or disapprove) Chugach's rates generally, not just Chugach's wheeling rate for Bradley Lake Energy.

Thus, as Appendix A should have made clear, the parties recognize and intend that that the costs and the quantities of energy used to establish the wheeling rate under Appendix A--as distinct from the formula itself and the constant used in that formula--would continue to be subject to APUC review in Chugach's rate proceedings, as they are today, regardless of HB 356's enactment.

The reason Appendix A does not specifically mention the APUC is simply that the parties wished to avoid a potential future dispute about whether Appendix A would continue to bind the parties in the (possible but unforeseen) event that APUC ceases to review and approve (or disapprove) Chugach's rates at some point during the 50 year life of the Agreement. The intent of the parties was that Appendix A should remain binding even in that event.

I hope this formal clarification will be of assistance to you.

DW.1/198801



Official Business

# Alaska State Legislature

## House

P.O. BOX V  
State Capitol  
Juneau, Alaska 99811

TO: Representative John Sund

FROM: Representative Kay Brown *Kay*

DATE: January 26, 1988

SUBJ: HB 356 - Bradley Lake Exemption from the APUC

As you review House Bill 356, which would exempt the Bradley Lake power sales contracts and related "services" and wheeling contracts from the review or approval of the Alaska Public Utilities Commission, I wish to draw your attention to several specific concerns I have with the bill.

I would like to preface my specific comments with a general statement of support for the administration's essential objective of trying to ensure that the Bradley Lake project is able to proceed with resumption of construction this summer. Although I still have reservations about the fundamental wisdom of the project, at this point, given the extent of the state's commitment (ie, "sunk" costs), I feel that additional delays would be counterproductive.

At the same time, however, I am concerned about the potential long-term adverse impacts that some of the language proposed in HB 356 would have on the ability of the APUC to protect consumer interests. I find it troublesome that the bill would provide not only that the Bradley Lake wholesale power contracts would be exempted, but also, "without limitation," all unspecified "other costs" as well. Additionally, there is language in the bill stating that "any subsequent amendments" are beyond APUC jurisdiction.

I also have concerns about Section 29 of the power sales contracts, which require that Railbelt consumers make "excess" payments beyond those required to pay off the debt for the project. Please find attached some draft language that would provide for the elimination of this provision.

Exempting the transmission agreements, together with the open-ended language contained in HB 356 providing an exemption for all "other costs" and "any amendments" would result, to a significant degree, in de facto deregulation of the Railbelt utilities.

I urge the Judiciary Committee to carefully explore language modifications to the bill which would meet two fundamental objectives:

- 1) ensure that the Bradley project construction can move forward this summer in order to complete the project in time to sell long-term tax exempt bonds prior to 1991; and
- 2) also ensure, to the greatest degree possible, that the APUC will be able to perform its regulatory functions and safeguard consumer interests.

The following specific comments are offered in the interest of working out such language modifications as quickly as possible to provide timely passage of a responsible HB 356.

#### SPECIFIC COMMENTS

##### All Unspecified "Other Costs" Exempted

In contrast to last years HCS CSSSSSB 22 (Fin), that provided only for the exemption of power costs, HB 356 calls for the exemption of "all costs... including, without limitation, power and other costs...." (see page 1, line 29 through page 2, line 4).

While an argument can be made that bond holders require the security of knowledge that the project debt will be repaid through power sales, the exemption of all other costs (ie, management salaries, consulting contracts, administrative costs, legal costs, and any other costs including those established by amendments to the contracts) cannot be justified. This would have the effect of allowing utilities to pass through without review any costs whether reasonable or not.

This open-ended language should be modified to provide only that power costs are to be guaranteed a flow through to the rates. All "other costs" should be reviewed and approved.

### All Unspecified Amendments Exempted

HB 356 proposes not only to exempt the wholesale power contracts and the related services/wheeling contracts which have been entered into but also "any subsequent amendments" (see page 1, line 21).

It has been stated that there are other parties (secondary lenders including the Rural Electrification Administration) reviewing the contracts and who may require some amendments. There is also an expressed desire on the part of the utilities for "flexibility" to make changes in the contracts as the need arises.

Neither of these arguments is compelling. If the fundamental need is to respond to the possible demands of secondary lenders, then the bill should include a specific exemption for that purpose.

### Assignability of Contracts

Another question regarding the exemption provisions concerns the potential assignability of the contracts. In the recent past there have been indications from Railbelt utilities that certain Outside, private investor-owned utilities are interested in purchasing Alaska co-ops.

Could these contracts be assigned to an investor-owned utility? If so, I would argue that potentially providing a categorical exemption from APUC review to a profit-making utility and allowing that utility to pass through "without limitation ... all costs" is inappropriate state policy adverse to consumer interests.

### "Excess" Payments Requirement

Section 29 of the Power Sales Agreement (pages 28 -29) requires payments from Railbelt consumers "in excess of actual debt service required for retirement of Bonds issued to pay Recoverable Construction Costs." These payments are "in recognition of efforts" to obtain an intertie project between Fairbanks and the Kenai Peninsula, but are not contingent upon the success of such efforts. These "excess" payments, which are to commence upon the retirement of all bonds, are to be made to the APA for deposit into the Railbelt Energy Fund.

According to APA Executive Director Robert LeResche, the payments, which are to be based on the average annual debt service for the project, will be

approximately \$18 million per year over the period between year 30 and year 50 of the contracts for a cumulative total "excess" payment of approximately \$360 million in nominal dollars. This simplified scenario assumes no amendments to the contracts that could either extend the life of the contracts or increase the amount of the "excess" payments above that amount currently described in Section 29. Any such amendments, irrespective of reasonableness, would be categorically exempted from APUC review or approval under the terms of HB 356 as introduced.

From a Railbelt consumer perspective, even though these "excess" payments are not very sizable in discounted present value terms, the payments are difficult to justify. Notwithstanding the phrase "in recognition of efforts to obtain" the intertie, the payments would be for an essentially unspecified purpose -- or at least for a project which has not been demonstrated as economically feasible nor, I suggest, even likely to be relevant 30 years from now.

Moreover, when one considers the precedent established by the Four Dam Pool "project" financing arrangements (which provided that essentially half of the Four Dam Pool was debt financed and the remainder funded with cash grants) it appears that Railbelt consumers are being assessed an extraordinary charge for essentially unknown future purposes.

It is my feeling that the "excess" payment provision should be eliminated from the wholesale contracts. Fortunately, it appears that Section 29, which establishes the excess payment provision, could be eliminated without affecting other elements of the wholesale power contracts or the services/wheeling contracts.

I have attached language which would make the effective date of HB 356 contingent upon the elimination of this section.

#### Preservation of APUC Review and Cost Allocation Jurisdiction

My fundamental concerns with HB 356 as introduced center on the ability of the APUC to perform its basic regulatory functions and safeguard consumer interests. It is important to clarify the objective of the bill. The fundamental objective, as I understand it, is to ensure that Bradley Lake can proceed in a timely manner. It is not, as I understand it, the objective of this bill to legislatively deregulate the Railbelt utilities.\*

However, HB 356 goes far beyond the scope of these basic objectives by eliminating even the review of any and all costs, without limitation,

associated with any undertakings "in connection with" the management, operation or administration of the Bradley Lake project and the related services and wheeling agreements. As a practical matter, the effect of HB 356 would be to put the direct project wholesale power costs, the associated transmission agreements, and indirect administrative and management costs, into a "black box". This would severely constrain and undermine the ability of the APUC to meaningfully regulate the Railbelt utilities.

In order for Bradley Lake to proceed this summer, it is apparent that the APUC must be removed from the initial approval of the power sales contracts. (Elimination of initial approval will obviate the concern that project opponents would use a Commission proceeding to delay the project.) In order to provide assurances to potential bond holders that the debt for the project will be recoverable, it also appears that some sort of provision providing a pass through of power costs to the rates may be appropriate.

At this point, I feel it is most important to focus on how it would be possible to preserve the ability of the APUC to:

- 1) review and approve non-power costs (ie, other than the wholesale power costs which would directly flow through to rate payers); and
- 2) also be able to review and approve as just and reasonable cost allocations associated with implementation of the related "services" and wheeling contracts.

Language which accomplished these objectives would satisfy the basic purpose of the bill -- to get the project restarted this summer and completed in time to issue tax exempt bonds by 1991.

Because the review and approval of the implementation of the related "services" and wheeling contracts could only come after the project was completed, maintaining this APUC authority would not conflict with the objective of getting the project restarted this summer.

It has been suggested that maintaining the jurisdiction of the APUC would, to some degree, carry a "cost premium" in the form of an incremental interest charge somewhere on the order of 3/8 to 1/2 of a percentage point. In terms of incremental costs, the APA has suggested that this would increase debt service costs on the bonds by several million dollars. This issue needs to be explored closely during the committee hearings to determine, as precisely as possible, what the cost premium would be for maintenance of the APUC's

regulatory authority, limited to non-power costs and only after the project was completed and operational.

Of course, any incremental "cost" resulting from higher interest charges must be weighed against the potential savings to consumers that would result from APUC review and approval over potentially excessive non-power costs such as administration salaries, consulting contracts, legal fees, lobbying contracts, etc.

From a consumer point of view, it would seem that the present value of these incremental costs -- to the extent that they can actually be determined to exist -- would be offset in part by regulatory cost controls in the future. Taken together with the proposal to save Railbelt consumers the cost of the "excess" charges as suggested above, a modified HB 356 as I have outlined should come at no extra cost to the consumer than what has been proposed. It would, however, still preserve the ability of the APUC to perform its essential regulatory functions and protect consumer interests.

(\* It should be noted that all of the utilities participating in the project already have the means to deregulate themselves. Co-op's can deregulate, with the consent of the membership. It is noteworthy that, in the case of the co-ops at least, consumers have not allowed their utility management to opt out. The Legislature should not enact a measure that essentially pre-empts this consumer prerogative.)

cc: House Judiciary Committee members  
Representative Swackhammer

**Attachment 1**

Draft Language to Eliminate Excess Payment Requirement

(conditional effective date)

Section \_\_\_\_ . This Act takes effect on the date that the Alaska Power Authority, as seller, and the Chugach Electric Association; Golden Valley Electric Association; Anchorage Municipal Light and Power; Seward Electric System; Alaska Electric Generation and Transmission Cooperative; Homer Electric Association; and Matanuska Electric Association, as purchasers, enter into an agreement to eliminate the requirement for payments in excess of actual debt service required for retirement of bonds for the Bradley Lake hydroelectric project as provided for in the "Agreement for the Sale and Purchase of Electric Power" dated \_\_\_\_\_ .

# Chugach

ELECTRIC ASSOCIATION, INC.

5601 MINNESOTA DRIVE • P.O. BOX 196300 • ANCHORAGE, ALASKA 99519-6300 • PHONE 907-563-7494  
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February 2, 1988

Honorable Albert P. Adams  
Chairman, Finance Committee  
House of Representatives  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau, AK 99811

Dear Mr. Chairman:

Chugach Electric Association supports the House Judiciary Committee substitute for House Bill 356, which will make it possible for work to continue on the Bradley Lake hydroelectric project this year. We understand that the House Finance Committee will take up this bill on Friday, February 5, and we urge your support and that of other Finance Committee members for expeditious approval by your committee.

Chugach, one of the six Railbelt electric utilities that are signatories to the Bradley Lake power sales agreement and to two interrelated transmission agreements, will be the largest purchaser of power from the project. We are committed to the Bradley Lake project because it is in the long term best interest of our 62,000 retail consumers and those served by utilities to whom Chugach is a wholesale power supplier. Overall, our member-owned cooperative provides electricity to nearly half the residents of our state.

Although Chugach supported H.B. 356 as it was introduced by the Governor on January 13, we are agreeable to the changes made by the Judiciary Committee last week. Those amendments are the product of three days of hearings and related meetings participated in by Chugach, other Railbelt utilities, the APUC, the Alaska Power Authority, legislators, their staffs and other parties.

It is important, however, that the Judiciary Committee substitute for H.B. 356 be accompanied by a legislative letter of intent clarifying that the word, "validated," at the beginning of Section 2(d) refers to authority by APUC over cost elements in a transmission wheeling-rate formula, and not the formula itself. This was acknowledged by both utility and APUC witnesses during last week's Judiciary Committee hearings. Chugach has supported, and continues to support, the authority of the APUC to approve or

February 2, 1988

modify the cost variables which comprise the formula used to establish wheeling rates in the Bradley Lake agreement for use of Chugach's Kenai Peninsula transmission line.

Again, the Bradley Lake power sales agreement and the two related transmission agreements are interlocking. The Judiciary Committee substitute for H.B. 356 recognizes this. We hope the House Finance Committee moves the Judiciary Committee substitute and the above referenced letter of intent without delay, so the Bradley Lake project can proceed. The jobs associated with full Bradley Lake construction are needed this year!

Feel free to contact me or Larry Markley, our Government Affairs Manager, if we can provide additional information. This is a very important issue to Chugach.

Sincerely,

CHUGACH ELECTRIC ASSOCIATION, INC.



David L. Highers  
Acting General Manager

LTRS2288



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. Box 1249, Fairbanks, Alaska 99707-1249, Phone 907-452-1151

February 1, 1988

The Honorable Mike Davis  
Alaska State House  
P.O. Box V  
Juneau, Alaska 99801

RE: *Mike* Judiciary Committee Chairman Substitute for HB-356

Dear Representative Davis:

I would appreciate your supporting the Judiciary Committee Chairman Substitute for HB-356 exempting Bradley and related transmission and service agreements from the APUC jurisdiction when the bill comes to House Finance. This bill is in the best interest of the members and customers of all Railbelt electric utilities.

Best regards,

*Mike Kelly*  
Michael P. Kelly  
General Manager

JAN 29 1988

## Alaska Consumer Advocacy Program

513 West Seventh Avenue • P.O. Box 103111 • Anchorage, Alaska 99510 • (907) 272-6355 or 278-3663

JAN 29 1988

FOR IMMEDIATE RELEASE

January 20, 1988

UTILITY CONSUMER GROUP  
OBJECTS TO BILL TAKING APUC  
OFF BRADLEY LAKE PROJECT

The Alaska Consumer Advocacy Program (ACAP) today released a letter of objection sent to Governor Steve Cowper, Neil Davis - Chairman of the APA and the House Judiciary Committee regarding the introduction of House Bill NO. 356. The bill, whose prime sponsor is Governor Cowper, would remove review and approval authority by the Alaska Public Utilities Commission over the wholesale power agreements between the Alaska Power Authority and the Railbelt utilities relating to Bradley Lake and also over any future APA projects.

ACAP, a statewide consumer advocacy group objects to this bill because it removes a check and balance on the consumer's right to least cost electricity.

cc: Governor Steve Cowper  
Representative John Sund Chairman, House Judiciary Committee  
Dr. Neil Davis Chairman, Alaska Power Authority Board

January 20, 1988

Representative John Sund  
Chairman, House Judiciary Committee

Dear Chairman Sund and House Judiciary Committee:

The Alaska Consumer Advisory Program (ACAP), a utility consumer advocacy group, objects to House Bill No. 356, introduced at the request of Governor Cowper, because it will adversely affect the rights of consumers in the Railbelt to have electricity costs accurately reflected in their electric bills. This bill exempts all costs pertaining to wholesale power contracts between the Bradley Lake Hydroelectric Project and the Alaska Power Authority plus any future APA projects from either review or approval by the Alaska Public Utilities Commission. This bill goes far beyond the original stated intent of the legislation. From the consumers' perspective, exempting all projects in which the APA is involved from APUC review, including those projects which interrelate with public utilities, is setting a reckless precedence.

In the recent State BUDGET ADDRESS, Governor Cowper referred to his administration's and legislators' efforts to exempt Bradley Lake from the APUC's review process as a removal of "unnecessary government review". ACAP argues that this review process is a key ingredient to ensuring that consumers receive the least-cost electricity possible.

ACAP points out that there are three types of studies which are associated with projects such as Bradley Lake. The first type of study determines whether the project is feasible from an engineering perspective. The second type determines the financial/economic viability of the project. The third type of study evaluates the costs of the project and determines the effect on consumers' utility bills - it analyzes whether they are fair and just. Each of these studies employs distinct types of analysis and measures different outcomes.

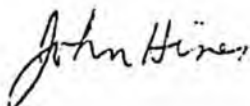
The feasibility and financial/economic analyses have been completed and reviewed by the proper agencies. The analysis of the impact on consumers' utility bills (to be completed by all participating utilities) and the terms of the wholesale power contracts (signed only two months ago) have not had any impartial expert evaluation or review. H.B. No. 356 will deny this review process. This review process is currently mandated by Alaska Statutes and the task is completed by the APUC. The APUC's duties include ensuring that all regulated utilities' rates, either demanded or received shall be fair, just and reasonable and based on actual, reasonable costs.

ACAP believes that this legislation bypasses the consumer's only meaningful check on his/her electric bills. For example, if H.B. No. 356 is passed, the Bradley Lake contracts stipulate that

each participating utility shall be able to charge rates sufficient to meet their debt service and all other costs or expense obligations deemed applicable, including any subsequent amendments over the 50 year life of the contracts, without any review or approval by the APUC. ACAP is concerned that without proper oversight, a tendency to insert excessive or improper costs into this "inviolable" project may develop among utilities.

Current ACAP estimates for Municipal Light and Power's and Chugach Electric Association's levelized Bradley Lake cost obligations is \$5 million and 5.9 million per year, respectively, for a fifty year time period. ACAP believes that it is in both the consumers' and governments' best interest to keep the APUC in the review process, especially when dealing with a \$350 million project. A "No" vote on H.B. 356 does not curtail Bradley Lake. It only allows this project to be impartially reviewed just like any other power source while keeping the APA within the review process.

Sincerely,



John D. Hines  
Staff Economist  
Alaska Consumer Advocacy Program

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 13, 1988

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the authority of the Alaska Public Utilities Commission (APUC) in connection with certain activities of the Alaska Power Authority (APA) and in connection with calculating power cost equalization.

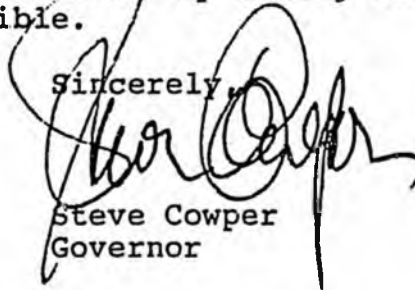
As you know, last session I vetoed HCS CSSSSB 22(Fin) on this subject. However, as stated in my June 15, 1987 veto message (1987 Senate Journal, p. 1731), my reason for vetoing that bill was its inclusion of provisions that would remove APUC regulation over some 67 small public utilities in the state. Existing law adequately provides for them. The attached bill deletes that section. Section 5 of HCS CSSSSB 22(Fin), which would have removed from the APUC's jurisdiction the review of all wholesale power agreements to which APA is a party, by declaring that the APA is not a public utility, has also been deleted. Section 1 of the attached bill provides an exemption from such APUC review and approval for the Bradley Lake project.

Two provisions in the attached bill were not contained in the vetoed bill. First, the bill proposes to amend AS 42.05.431 and 42.05.511 to allow the APA to contract with utilities to guarantee that the utilities will charge sufficient rates to cover the APA's bond obligations regarding the Bradley Lake project. Second, these same amendments expand the scope of the Bradley Lake regulatory exemption to include secondary contracts that are associated with the project. These related contracts include an agreement for wheeling and related services between Bradley Lake power purchasers and Chugach Electric Association, Inc., and an agreement for the sharing of transmission facilities between Bradley Lake power purchasers and Homer Electric Association, Inc.

Finally, like HCS CSSSSB 22(Fin), the attached bill includes the provision that prohibits power cost equalization calculations from including rates paid on military bases.

The Bradley Lake project has been the subject of extensive review by the legislative and executive branches of state government. The state has approved the Bradley Lake project and is committed to the financing of the project. This legislation implements that commitment by making long-term financing of the project feasible.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written over the word "Sincerely,".

Steve Cowper  
Governor

1 IN THE HOUSE BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 356

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the authority of the Alaska  
7 Public Utilities Commission in connection with cer-  
8 tain activities of the Alaska Power Authority and in  
9 connection with calculating power cost equalization;  
10 and providing for an effective date."

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

12 \* Section 1. AS 42.05.431 is amended by adding a new subsection to  
13 read:

14 (c) Notwithstanding (b) of this section,

15 (1) a wholesale agreement for the sale of power from a  
16 project licensed by the Federal Energy Regulatory Commission on or  
17 before January 1, 1987, entered into between the Alaska Power Authori-  
18 ty and one or more other public utilities after October 31, 1987 and  
19 before January 1, 1988, and related contracts for the wheeling, stor-  
20 age, regeneration, or wholesale repurchase of power purchased under  
21 such an agreement, and any subsequent amendments to the wholesale  
22 agreement or related contract, are not subject to review or approval  
23 by the commission; and

24 (2) a wholesale agreement or related contract described in  
25 (1) of this subsection may contain a covenant for the public utility  
26 to establish, charge, and collect rates sufficient to meet its obliga-  
27 tions under the contract; such a covenant is valid and enforceable.

28 \* Sec. 2. AS 42.05.511 is amended by adding a new subsection to read:

29 (d) All costs incurred by a utility in connection with a

1 wholesale agreement or contract described in AS 42.05.431(c)(1),  
2 including, without limitation, power and other costs incurred under  
3 such an agreement or contract, must be allowed in the rates charged by  
4 the utility.

5 \* Sec. 3. AS 44.83.090(b) is amended to read:

6 (b) The authority is not subject to the jurisdiction of the  
7 Alaska Public Utilities Commission. Nothing in this chapter [AS 44.-  
8 83.010 - 44.83.425] grants the authority any jurisdiction over the  
9 services or rates of any public utility or diminishes or otherwise  
10 alters the jurisdiction of the Alaska Public Utilities Commission with  
11 respect to any public utility, including any right the commission may  
12 have to review and approve or disapprove contracts for the purchase of  
13 electricity by a public utility other than wholesale agreements and  
14 contracts described in AS 42.05.431(c)(1).

15 \* Sec. 4. AS 44.83.162 is amended by adding a new subsection to read:

16 (p) In calculating power cost equalization, the commission may  
17 not consider validated costs or kilowatt-hour sales associated with a  
18 United States Department of Defense facility.

19 \* Sec. 5. This Act is retroactive to November 1, 1987.

20 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).