

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

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Acquisition specified pursuant to said clause (a) which remains to be paid, including all amounts which are not the subject of a dispute or controversy but are dependent upon the satisfaction of any agreements or conditions precedent to such payment; (d) the aggregated amount of the claims of contractors and others which are the subject of a dispute or controversy; (e) the cost (including contingencies), as estimated by the Construction Engineer and as approved by the Authority of the remaining work; and (f) such amount, if any, as the Construction Engineer shall determine is necessary or desirable to be set aside in the Construction Fund for contingencies.

8. The Trustee shall at any time or from time to time after the filing with the Trustee of the report of the Construction Engineer as provided in paragraph 7 of this Section 503, withdraw from the Construction Fund the balance in the Construction Fund, or any part thereof, in the amounts, at the times, in the manner, and on the other terms and conditions set forth in this paragraph. Before any such withdrawal shall be made, the Authority shall file with the Trustee:

(a) its requisition therefor, stating the amount of such withdrawal;

(b) a certificate of the chief financial officer of the Authority attached to the requisition certifying (1) that the Project or Capital Improvements has been completed, and (2) that a sum (which shall not be less than the amount stated in the report of the Construction Engineer filed with the Trustee pursuant to paragraph 7 of this Section 503) stated in the certificate is sufficient to pay, and is required to be reserved in the Construction Fund to pay, all items of Cost of Acquisition and Construction of the Project or Capital Improvements then remaining unpaid, including the estimated amount of any such items the amount of which is not finally determined and all claims against the Authority arising out of the Project or Capital Improvements; and

(c) A Counsel's Opinion stating, in the opinion of the signer, that the Authority has acquired title to all property constituting a part of the Project or Capital Improvements and all property incidental thereto sufficient for the purposes of the Authority, free from all liens, charges, conditions or encumbrances except such as will not under any circumstances cause the possession and use of the property by the Authority for its purposes to be disturbed, and that, as to such parts of the Project or Capital Improvements as constitute real property acquired, constructed or installed under a right or interest less than a fee simple or perpetual easement, the right or

interest is sufficient for the purposes of the Authority, and that there are no uncanceled mechanics', laborers', contractors', or materialmen's liens on any such property or any funds of the Authority or on file in any public office where the same should be filed in order to be valid liens against any fund of the Authority or any part of such property or of the Project or Capital Improvements, and that, in the opinion of the signer of such Counsel's Opinion, the time within which such liens can be filed has expired.

Upon filing of such certificates and Counsel's Opinion, the balance in the separate account in the Construction Fund established therefor in excess of the amount, if any, stated in such certificate shall be transferred to the Capital Reserve Fund, if and to the extent necessary to make the amount of such Fund equal to the Capital Reserve Requirement, and any balance shall be paid over or transferred to the Revenue Fund and applied, if and to the extent a Counsel's Opinion states that such application is necessary to preserve the tax-exempt status of interest on the Bonds, to the retirement of Bonds by purchase or redemption. If the Cost of Acquisition and Construction of the Project exceeds \$350,000,000, the balance in the Construction Fund for the Project instead of being paid over to the Revenue Fund shall be paid to the State of Alaska. If subsequent to the filing of such certificate it shall be determined that any amounts specified in such certificate as being required for the payment of any remaining part of the Cost of Acquisition and Construction are no longer so required, such fact shall be evidenced by a certificate or certificates of an Authorized Officer of the Authority which shall be filed with the Trustee stating such fact and any amount shown therein as no longer being required shall be transferred to the Capital Reserve Fund, if and to the extent necessary to make the amount of such Fund equal to the Capital Reserve Requirement, and any balance shall be applied to the extent stated in such Counsel's Opinion. If the Cost of Acquisition and Construction of the Project exceeds \$350,000,000, the balance shall be paid over to the State of Alaska. If the Cost of Acquisition and Construction of the Project is less than \$350,000,000, Bonds of the initial Series in the amount equal to one half of the difference between \$350,000,000 and the Cost of Acquisition and Construction of the Project shall be retired by purchase or redemption from money in the Construction Fund or from other available sources, including funds made available by the State of Alaska. Any balance remaining in the Construction Fund after such retirement shall then be paid to the State of Alaska.

9. The Trustee shall during the construction of the Project or Capital Improvements, pay from the appropriate separate account in the Construction Fund to the Authority, upon

its requisitions therefor signed by an Authorized Officer of the Authority, at one time or from time to time, a sum or sums not more than \$250,000, such sums to be used by the Authority as a revolving fund for the purpose of paying such items of the Cost of Acquisition and Construction thereof as cannot conveniently be paid as in this Section otherwise provided. So long as the amount in such revolving fund shall at any time be less than \$250,000, such revolving fund shall be reimbursed by the Trustee from time to time for such expenses so paid, by payments from the Construction Fund upon requisitions and certificates signed by an Authorized Officer and filed with the Trustee specifying the payee and the amount and particular purpose of such payment from such revolving fund for which such reimbursement is required and certifying that each such amount so paid was necessary for the payment of an item of the Cost of Acquisition and Construction of the Project or Capital Improvements and that such expense could not conveniently be paid except from such revolving fund. In making such reimbursement the Trustee may rely upon such requisitions, and accompanying certificates.

10. Notwithstanding any of the other provisions of this Section, to the extent that other moneys are not available therefor, amounts in the Construction Fund shall be applied to the payment of principal of and interest on Bonds when due.

504. Revenues and Revenue Fund. All Revenues shall be promptly deposited by the Authority and the Trustee, as the case may be, upon receipt thereof to the credit of the Revenue Fund.

505. Operating Fund. 1. As soon as practicable after deposit of Revenues in the Revenue Fund and in any case no later than the last business day of each month after the deposit, the Authority shall withdraw from the Revenue Fund and pay to the Operating Fund a sum which, together with any amount therein not set aside in the Operating Reserve Account or as a reserve for working capital, is equal to one-twelfth (or such other fraction as may be appropriate if the period with respect to which such amount is withdrawn is other than monthly) of the total moneys appropriated for Operating Expenses in the Annual Budget for the then current Fiscal Year. If and to the extent provided in a Supplemental Resolution authorizing Bonds of a Series, amounts from the proceeds of such Bonds may be deposited in the Operating Fund and set aside therein as a reserve for working capital. The Authority shall establish an Operating Reserve Account within the Operating Fund. The Operating Reserve Account shall be established and maintained at all times in an amount not less than the Operating Reserve Account Requirement. Amounts in the Operating Reserve Account may be expended for Operating Expenses to the extent other amounts in the Operating Fund are not available.

2. Amounts in the Operating Fund shall be paid out from time to time by the Authority for reasonable and necessary Operating Expenses. Any amounts budgeted by the Committee in the Annual Budget for Annual Project Costs constituting costs of the Committee shall be paid out from time to time to the Committee by the Authority.

506. Payments Into Certain Funds. As soon as practicable after the deposit of Revenues into the Revenue Fund and after the payment has been made to the Operating Fund pursuant to Section 505, and with at least the frequency stated below, the Authority shall apply moneys from the Revenue Fund and deposit said amounts with the Trustee on the dates set forth below and the Trustee shall deposit said amounts in the following order in the amounts and in the Funds set forth below.

1. Annually on a date or dates to be determined by Supplemental Resolution to the credit of the Excess Investment Earnings Fund in such amount as is necessary to cause the amount on deposit in the Excess Investment Earnings Fund (after a deposit therein, if any, from the Construction Fund) to be equal to the Trustee's estimate of Excess Investment Earnings for the Bond Year.

2. Semi-annually on June 1 and December 1, in the Debt Service Fund (i) for credit to the Interest Account, unless the sum on deposit therein equal or exceeds the interest due on all Bonds on the next succeeding interest payment date, an amount equal to the interest due on such interest payment date less the interest to be paid on such interest payment date from Bond proceeds held in said Account for such purpose; provided, however, that for the purposes of computing the amount on deposit in said Account, there shall be excluded the amount, if any, set aside in said Account for the payment of interest due after the next succeeding interest payment date; and (ii) for credit to the Principal Account, unless the sum on deposit therein equals or exceeds all Principal Installments due on the next succeeding July 1, an amount equal to such Principal Installments; provided that the Authority may establish by Supplemental Resolution payments into the Debt Service Fund at different times and in different amounts as necessary for interest paid other than semi-annually and in fixed amounts.

3. In the Capital Reserve Fund, the amount, if any, required so that the balance in the Fund equals the Capital Reserve Requirement.

4. Semi-annually on June 1 and December 1, in the Operating Reserve Account, the amount, if any, required so that the balance in the Account equals the Operating Reserve Account Requirement.

5. In the Renewal and Contingency Reserve Fund, the amount, if any, required so that the balance in the Fund, within a period no greater than four (4) years from the initial deposit and thereafter from the most recent withdrawal therefrom, shall equal the Renewal and Contingency Reserve Requirement or such larger amount as may be determined from time to time by the Committee to be included in the calculation of Annual Project Costs pursuant to Section 8(a)(v) of the Power Sales Agreement.

507. Debt Service Fund. 1. The Trustee shall pay out of the Debt Service Fund to the respective Paying Agents (i) out of the Interest Account, on or before each interest payment date for any of the Bonds the amount required for the interest payable on such date; (ii) out of the Principal Account, on or before each Principal Installment due date, the amount required for the Principal Installment payable on such due date; and (iii) out of the Interest Account, on or before any redemption date for the Bonds, the amount required for the payment of interest on the Bonds then to be redeemed. Such amounts shall be applied by the Paying Agents on and after the due dates thereof. The Trustee shall also pay out of the Interest Account the accrued interest included in the purchase price of Bonds purchased for retirement.

2. Amounts accumulated in the Principal Account with respect to any Sinking Fund Installment (together with amounts accumulated in the Interest Account with respect to interest on the Bonds for which such Sinking Fund Installment was established) may, and if so directed by the Authority, shall, be applied by the Trustee, on or prior to the 60th day preceding the due date of such Sinking Fund Installment, to (i) the purchase of the Bonds of the Series and maturity for which such Sinking Fund Installment was established, or (ii) the redemption at the applicable sinking fund Redemption Price of such Bonds. After the 60th day but on or prior to the 40th day preceding the due date of such Sinking Fund Installment, any amounts then on deposit in the Principal Account may, and if so directed by the Authority, shall, be applied by the Trustee to the purchase of Bonds of the Series and maturity for which such Sinking Fund Installment was established in an amount not exceeding that necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. All purchases of any Bonds pursuant to this subsection 2 shall be made at prices not exceeding the applicable sinking fund Redemption Price of such Bonds plus accrued interest, and such purchases shall be made by the Trustee as directed by the Authority. The applicable sinking fund Redemption Price of any Bonds so purchased or redeemed shall be deemed to constitute part of the Principal Account until such Sinking Fund Installment date, for the purpose of calculating the amount of such Account. As soon as practicable after the 40th day preceding

the due date of any such Sinking Fund Installment, the Trustee shall proceed to call for redemption, by giving notice as provided in Section 405, on such due date Bonds of the Series and maturity for which such Sinking Fund Installment was established in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Sinking Fund Installment. The Trustee shall pay out of the Principal Account to the appropriate Paying Agents, on or before such redemption date, the amount required for the redemption of the Bonds so called for redemption, and such amount shall be applied by such Paying Agents to such redemption. All expenses in connection with the purchase or redemption of Bonds shall be paid from the Operating Fund.

3. The amount, if any, deposited in the Interest Account from the proceeds of each Series of Bonds shall be set aside in such Account and applied to the payment of interest on Bonds as provided in the Supplemental Resolution relating to the issuance of such Series of Bonds.

4. In the event of the refunding of one or more Series of Bonds, the Trustee shall, upon the direction of the Authority, withdraw from the Debt Service Fund amounts accumulated therein with respect to Debt Service on the Bonds being refunded and deposit such amounts with itself as Trustee to be held for payment of the principal or Redemption Price, if applicable, and interest on the Series of Bonds being refunded; provided that such withdrawal shall not be made unless (a) immediately thereafter the Series of Bonds being refunded shall be deemed to have been paid pursuant to subsection 2 of Section 1201, and (b) the amount remaining in the Debt Service Fund after such withdrawal shall not be less than the requirement of such Fund pursuant to paragraph (2) of Section 506.

508. Capital Reserve Fund. 1. If five business days prior to any date on which a Principal Installment or interest is due the amount in the Debt Service Fund shall be less than the amount required to be in such Fund to pay said Principal Installment or interest, the Trustee shall apply amounts from the Capital Reserve Fund to the extent necessary to make good the deficiency.

2. Whenever the moneys on deposit in the Capital Reserve Fund shall exceed the Capital Reserve Fund Requirement, such excess shall, on the request of the Authority, be transferred to the Authority for deposit in the Revenue Fund at least annually and shall be deemed "other available funds" within the meaning of Section 712 to be used for the payment of amounts required to be paid therein or for the purpose of refunds to the Purchasers pursuant to Section 13 of the Power Sales Agreement.

3. Whenever the amount in the Capital Reserve Fund, together with the amount in the Debt Service Fund is sufficient to pay in full all Outstanding Bonds in accordance with their terms (including principal or applicable sinking fund Redemption Price and interest thereon), the funds on deposit in the Capital Reserve Fund shall be transferred to the Debt Service Fund. Prior to said transfer, all investments held in the Debt Service Fund shall be liquidated to the extent necessary in order to provide for the timely payment of principal and interest (or Redemption Price) on Bonds.

4. In the event of the refunding of one or more Series of Bonds or one or more maturities within a Series of Bonds, the Trustee shall, upon the direction of the Authority, withdraw from the Capital Reserve Fund amounts accumulated therein with respect to the Bonds being refunded and deposit such amounts with itself as Trustee to be held for the payment of the principal or Redemption Price, if applicable, and interest on the Series or maturities within a Series of Bonds being refunded; provided that such withdrawal shall not be made unless (a) immediately thereafter the Series or maturities within a Series of Bonds being refunded shall be deemed to have been paid pursuant to subsection 2 of Section 1201 and (b) the amount remaining in the Capital Reserve Fund after such withdrawal shall not be less than the Capital Reserve Fund Requirement.

#### 509. Renewal and Contingency Reserve Fund.

1. Amounts in the Renewal and Contingency Reserve Fund shall be applied to the costs of Capital Improvements, the payment of extraordinary operation and maintenance costs, and contingencies, including payments with respect to the prevention or correction of any unusual loss or damage in connection with the Project or to prevent a loss of Revenues therefrom, all to the extent not provided for in the then current Annual Budget or by reserves in the Operating Fund or from the proceeds of Bonds.

2. No payments shall be made from the Renewal and Contingency Reserve Fund if and to the extent that the proceeds of insurance, including the proceeds of any self-insurance fund, or other moneys recoverable as the result of damage, if any, are available to pay the costs otherwise payable from such Fund.

3. Any balance of moneys and securities in the Renewal and Contingency Reserve Fund in excess of an amount which, within a period no greater than four (4) years from the initial deposit and thereafter no greater than four (4) years from the most recent withdrawal therefrom, shall equal the Renewal and Contingency Reserve Requirement or such larger amount as may be determined from time to time by the Committee to be included in the calculation of Annual Project Costs

pursuant to Section 8(a)(v) of the Power Sales Agreement, shall be transferred to the Revenue Fund at least annually.

510. Excess Investment Earnings Fund. Promptly after each Bond Year (but not later than 30 days after the redemption of the last Bond of a particular Series), the Trustee shall transfer from or to the Construction Fund or the Revenue Fund as provided in Sections 503 and 506 hereof, respectively, to or from the appropriate Account in the Excess Investment Earnings Fund, such amount as shall be necessary to cause the aggregate amount transferred to such Account to equal the Excess Investment Earnings for a particular Series of Bonds as of the end of such Bond Year as determined by or on behalf of the Authority; provided that no such transfers shall be necessary in respect of a particular Series of Bonds if the proceeds of such Series of Bonds are fully expended within six months of the date of issue of such Series of Bonds.

All amounts in the Excess Investment Earnings Fund, including income earned from investments of the Fund, shall be held by the Trustee free and clear of the lien of this Resolution, and the Trustee shall pay said amounts over to the United States from time to time as the Trustee shall determine; provided that the Trustee shall so pay over to the United States in respect of each Series of Bonds, except as otherwise provided above: (1) not less frequently than once each five years after the date of issuance of such Series of Bonds, an amount equal to 90 percent of the net aggregate amount transferred to or earned in the appropriate Account in the Excess Investment Earnings Fund relating to such Series during such period (and not theretofore paid to the United States) and (2) not later than 30 days after the redemption of the last Bond of such Series, 100 percent of the aggregate amount in such Account in the Excess Investment Earnings Fund.

511. Cancellation and Destruction of Bonds. All Bonds paid or redeemed, either at or before maturity, shall be delivered to the Trustee when such payment or redemption is made, and such Bonds together with all Bonds purchased by the Trustee, shall thereupon be promptly cancelled.

## ARTICLE VI

### Depositories of Moneys, Security for Deposits and Investment of Funds

601. Depositories. 1. All moneys held by the Trustee under the provisions of this Resolution shall be deposited with the Trustee and the Trustee shall, if directed by the

Authority, deposit such moneys with one or more Depositaries in trust for the Trustee. All moneys held by the Authority under this Resolution shall be deposited in one or more Depositaries in trust for the Authority. All moneys deposited under the provisions of this Resolution with the Trustee or any Depositary shall be held in trust and applied only in accordance with the provisions of this Resolution, and each of the Funds established by this Resolution shall be a trust fund for the purposes thereof.

2. Each Depositary shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and willing and able to accept the office on reasonable and customary terms and authorized by law to act in accordance with the provisions of this Resolution.

602. Deposits. 1. All Revenues and other moneys held by any Depositary under this Resolution may be placed on demand or time deposit, if and as directed by the Authority, provided that such deposits shall permit the moneys held to be available for use at the time when needed. The Authority shall not be liable for any loss or depreciation in value resulting from any investment made pursuant to this Resolution. Any such deposit may be made in the commercial banking department of any Fiduciary which may honor checks and drafts on such deposit with the same force and effect as if it were not such Fiduciary. All moneys held by any Fiduciary, as such, may be deposited by such Fiduciary in its banking department on demand or, if and to the extent directed by the Authority and acceptable to such Fiduciary, on time deposit, provided that such moneys on deposit be available for use at the time when needed. Such Fiduciary shall allow and credit on such moneys such interest, if any, as it customarily allows upon similar funds of similar size and under similar conditions or as required by law.

2. All moneys held under this Resolution by the Trustee or any Depositary shall be (a) either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by lodging with the Trustee, any Federal Reserve Bank or branch, or another third party custodian approved by the Trustee and the Authority, Qualified Collateral having a market value (exclusive of accrued interest) not less than 100% of the amount of such moneys, and (b) held in such other manner as may then be required by applicable Federal or State of Alaska laws and regulations and applicable state laws and regulations of the state in which the Trustee or such Depositary (as the case may be) is located, regarding security for, or granting a preference in the case of, the deposit of trust funds; provided, however, that it shall not be necessary for the Fiduciaries to give security under this subsection 2 for the deposit of any moneys with them held in trust and set aside

by them for the payment of the principal or Redemption Price of or interest on any Bonds, or for the Trustee or any Depository to give security for any moneys which shall be represented by obligations or certificates of deposit purchased as an investment of such moneys.

3. All moneys deposited with the Trustee and each Depository shall be credited to the particular Fund or Account to which such moneys belong.

4. The Trustee may, and upon the written request of the Authority shall, commingle any of the funds or accounts established pursuant to this Resolution into a separate fund or funds, provided, however, that all Funds or Accounts held by the Trustee hereunder shall be accounted for and credited to the correct Fund or Account notwithstanding such commingling.

603. Investment of Certain Funds. Moneys held in any Fund or Account shall be invested and reinvested by the Trustee to the fullest extent practicable in Investment Securities which mature not later than such times as shall be necessary to provide moneys when needed for payments to be made from such Funds and Accounts. The Trustee shall make all such investments of moneys held by it in accordance with instructions received from any Authorized Officer of the Authority.

Interest (net of that which represents a return of accrued interest paid in connection with the purchase of any investment) earned on any moneys or investments in such Funds and Accounts, other than the Construction Fund, shall be paid into the Revenue Fund, provided, however, that interest shall be paid into the Construction Fund to the extent such interest is earned to the earlier of (i) the date to which all interest is capitalized with respect to all Bonds, (ii) the date which is one year prior to the first Principal Installment date for any Bonds or (iii) the Date of Commercial Operation of the Project. Interest earned on any moneys or investments in a separate account in the Construction Fund shall be held in such account for the purposes thereof.

Nothing in this Resolution shall prevent any Investment Securities acquired as investments of funds held under this Resolution from being issued or held in book-entry form on the books of the Department of Treasury of the United States of America.

604. Valuation and Sale of Investments. Obligations purchased as an investment of moneys in any Fund created under the provisions of this Resolution shall be deemed at all times to be part of such Fund and any profit realized from the liquidation of such investment shall be credited to such Fund and any

loss resulting from the liquidation of such investment shall be charged to the respective Fund.

In computing the amount in any Fund created under the provisions of this Resolution for any purpose provided in this Resolution or Sec. 44.83.110(e) of the Act, obligations purchased as an investment of moneys therein shall be valued at the market value thereof exclusive of accrued interest, or otherwise as may then be required by the Code. Such computations shall be determined not less frequently than quarterly in each year.

Except as otherwise provided in this Resolution, the Trustee shall sell at the best price obtainable, or present for redemption, any obligation so purchased as an investment whenever it shall be requested in writing by an Authorized Officer of the Authority so to do or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund held by it. The Trustee shall not be liable or responsible for making any such investment in the manner provided above or for any loss resulting from any such investment.

## ARTICLE VII

### Particular Covenants of the Authority

701. Payment of Bonds. The Authority shall duly and punctually pay or cause to be paid, the principal or Redemption Price, if any, of every Bond and the interest thereon, at the dates and places and in the manner mentioned in the Bonds according to the true intent and meaning thereof.

702. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of claims for interest, by the purchase or funding of such Bonds or claims for interest or by any other arrangement, and in case the maturity of any of the Bonds or the time for payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default under this Resolution, to the benefit of this Resolution or to any payment out of Revenues or Funds established by this Resolution, including the investments, if any, thereof, pledged under this Resolution or the moneys (except moneys held in trust for the payment of particular Bonds or claims for interest pursuant to this Resolution) held by the Fiduciaries, except subject to the prior payment of the principal of all Bonds Outstanding the maturity of which has not been extended and of such portion of the accrued interest on the Bonds as shall not be represented by such extended claims for interest. Nothing herein shall be deemed to limit the right of the Authority to issue Refunding

Bonds and such issuance shall not be deemed to constitute an extension of maturity of Bonds.

703. Offices for Servicing Bonds. The Authority shall at all times maintain one or more agencies in the City of New York, New York, where Bonds may be presented for payment and shall at all times maintain one or more agencies where Bonds may be presented for registration, transfer for registration, transfer or exchange, and where notices, demands and other documents may be served upon the Authority in respect of the Bonds or of this Resolution. The Authority hereby appoints the Trustee as Bond Registrar to maintain an agency for the registration, transfer or exchange of Bonds, and for the service upon the Authority of such notices, demands and other documents and the Trustee shall continuously maintain or make arrangements to provide such services. The Authority hereby appoints the Paying Agent or Agents in such city as its respective agents to maintain such agencies for the payment or redemption of Bonds.

704. Further Assurance. At any and all times the Authority shall, as far as it may be authorized by law, comply with any reasonable request of the Trustee to pass, make, do, execute, acknowledge and deliver, all and every such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, pleading, assigning and confirming all and singular the rights, Revenues and other moneys, securities and funds hereby pledged or assigned, or intended so to be, or which the Authority may become bound to pledge or assign.

705. Power to Issue Bonds and Pledge Revenues and Other Funds. The Authority is duly authorized under the Act and all other applicable laws to create and issue the Bonds and to adopt this Resolution and to pledge and assign the Revenues and other moneys, securities and funds purported to be subject to the lien of this Resolution in the manner and to the extent provided in this Resolution. Except to the extent otherwise provided in this Resolution, the Revenues, and other moneys, securities and funds so pledged are and will be free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and assignment created by this Resolution, and all corporate or other action on the part of the Authority to that end has been and will be duly and validly taken. The Bonds and the provisions of this Resolution are and will be valid and legally enforceable obligations of the Authority in accordance with their terms and the terms of the Act and this Resolution. The Authority shall at all times, to the extent permitted by law, defend, preserve and protect the pledge and assignment of the Revenues and other moneys, securities and funds pledged under this

Resolution and all the rights of the Bondholders under this Resolution against all claims and demands of all persons whom-ever.

706. Power to Fix and Collect Rates, Fees and Charges. The Authority has, and will have as long as any Bonds are Outstanding, good right and lawful power to establish and collect rates and charges with respect to the use of the capability of the Project and the sale of the capacity, output or service thereof subject to the terms of the Power Sales Agreement and other contracts relating thereto.

707. Creation of Liens; Sale and Lease of Property.  
1. The Authority shall not issue any bonds, notes, or other evidences of indebtedness, other than the Bonds, secured by a pledge of or other lien or charge on the Revenues (including amounts which the Authority may thereafter be entitled to expend for Operating Expenses) and shall not create or cause to be created any lien or charge on such Revenues or on any amounts held by any Fiduciary under this Resolution; provided, however, that neither this Section nor any other provision of this Resolution shall prevent the Authority from issuing bonds or notes or other obligations for the purposes of the Authority payable out of, or secured by a pledge of, Revenues to be derived on and after such date as the pledge of the Revenues provided in this Resolution shall be discharged and satisfied as provided in Section 1201, or from issuing bonds or notes or other obligations for the purposes of the Authority which are secured by a pledge of amounts which is and shall be in all respects subordinate to the provisions of this Resolution and the lien and pledge created by this Resolution.

2. No part of the Project shall be sold, leased, mortgaged or otherwise disposed of, except as follows:

(a) The Authority may sell or exchange at any time and from time to time any property or facilities constituting part of the Project only in accordance with, and in a manner that will not impair the Authority's obligations under, the provisions of the Power Sales Agreement and if (i) it shall determine that such property or facilities are not useful in the operation of the Project, or (ii) the proceeds of such sale are less than 2% of the prior Bond Year's Debt Service, or it shall file with the Trustee an opinion of the Consulting Engineer stating that the fair market value of the property or facilities exchanged are less than 2% of the prior Bond Year's Debt Service or (iii) if such proceeds or fair market value exceeds 2% of the prior Bond Year's Debt Service it shall file with the Trustee an opinion of the Consulting Engineer stating that the sale or exchange of

such property or facilities will not impair the ability of the Authority to comply during the current or any future Fiscal Year with the provisions of Section 712. The proceeds of any such sale or exchange not used to acquire other property necessary or desirable for the safe or efficient operation of the Project shall forthwith be deposited in the Renewal and Contingency Fund; and

(b) In addition to the Power Sales Agreement, the Authority may lease or make contracts or grant licenses for the operation of, or make arrangements for the use of, or grant easements or other rights with respect to, any part of the Project, provided that any such lease, contract, license, arrangement, easement or right (i) does not impede the operation by the Authority or its agent of the Project and (ii) does not in any manner impair or adversely affect the rights or security of the Bondholders under this Resolution, and (iii) does not adversely affect the exemption from federal income taxation of the interest on the Bonds; and provided, further, that if the depreciated cost of the property to be covered by any such lease, contract, license, arrangement, easement or other right is in excess of 2% of the prior Bond Year's Debt Service the Authority shall first file with the Trustee an opinion of the Consulting Engineer that the action of the Authority with respect thereto does not impair the ability of the Authority to comply during the current or any further Fiscal Year with the provisions of Section 712. Any payments received by the Authority under or in connection with any such lease, contract, license, arrangement, easement or right in respect of the Project or any part thereof shall constitute Revenues and shall be deposited in the Revenue Fund.

708. Consulting Engineer. The Authority shall, for the purpose of performing and carrying out the duties imposed on the Consulting Engineer by this Resolution, employ an independent engineer or engineering firm or corporation having a nationwide and favorable reputation and demonstrated experience in the field of consulting engineering for power systems.

709. Annual Budget. The Authority, acting in conjunction with the Committee or separately in accordance with Section 13(e) of the Power Sales Agreement, shall adopt an Annual Budget each Fiscal Year pursuant to Section 13 of the Power Sales Agreement and shall adopt and have in effect said Annual Budget at least 90 days prior to such Fiscal Year. Each Annual Budget shall set forth in reasonable detail the estimated Revenues and Operating Expenses including Annual Project Costs for the Fiscal Year, and including provision for the estimated amount to be deposited during such Fiscal Year in each Fund and

Account established under this Resolution and the requirements, if any, for the amounts estimated to be expended from each Fund and Account established under this Resolution. Such Annual Budget shall also set forth such detail with respect to such Revenues, Operating Expenses and other expenditures and such deposits, as shall be necessary or appropriate so as to comply with the Power Sales Agreement and the Authority may set forth such additional material as the Authority may determine. Such Annual Budget shall be revised as necessary or prudent during each Fiscal Year to reflect unanticipated changes in actual Revenues, Operating Expenses or other requirements, or if there are at any time during any such Fiscal Year extraordinary receipts or payments of unusual costs, and, if appropriate, there shall be filed with the Trustee an amended Annual Budget for the remainder of the then current Fiscal Year.

710. Limitations on Operating Expenses and Other Costs. The Authority shall not incur Operating Expenses or other costs payable from the Renewal and Contingency Reserve Fund in any Fiscal Year in excess of the reasonable and necessary amount of such expenses or costs, respectively, and shall not expend any amount from the Operating Fund for Operating Expenses or from the Renewal and Contingency Reserve Fund for costs payable therefrom for such Fiscal Year in excess of the respective amounts provided therefor in the Annual Budget as then in effect. Nothing in this Section contained shall limit the amount which the Authority or the Committee may expend for Operating Expenses or other costs payable from the Renewal and Contingency Reserve Fund in any Fiscal Year provided any amounts expended therefor in excess of such Annual Budget shall be received by the Authority or the Committee from some source other than the Revenues, which source shall not be reimbursable out of Revenues.

711. Acquisition and Construction of Project and Its Operation and Maintenance. 1. The Authority shall use its best efforts to acquire and construct the Project, or cause the same to be acquired and constructed with due diligence and in a sound and economical manner.

2. The Authority shall at all times use its best efforts to operate or cause the Project to be operated properly and in an efficient and economical manner, consistent with the Power Sales Agreement and Prudent Utility Practice, and shall use its best efforts to maintain, preserve, reconstruct and keep the same or cause the same to be so maintained, preserved, reconstructed and kept, with the appurtenances and every part and parcel thereof, in good repair, working order and good condition, and shall from time to time make, or use its best efforts to cause to be made, all necessary and proper repairs,

replacements and renewals so that at all times the operation of the Project may be properly and advantageously conducted.

3. The Authority shall take all necessary steps to comply with applicable federal and state laws and regulations relating to the use and operation of the Project, including the terms of the Federal Energy Regulatory Commission license applicable to the Project.

712. Rates, Fees and Charges. 1. The Authority, acting in conjunction with the Committee or separately under Section 13(e) of the Power Sales Agreement, shall at all times after the date of Commercial Operation charge and collect, as a wholesale power rate, from each Purchaser pursuant to the Power Sales Agreement that Purchaser's Percentage Share (as defined in the Power Sales Agreement) of Annual Project Costs. The Authority, acting in conjunction with the Committee or separately under Section 13(e) of the Power Sales Agreement, shall determine Annual Project Costs in such amounts as shall be required to provide Revenues at least sufficient in each Fiscal Year, together with other available funds, for the payment of the sum of:

(a) Operating Expenses during such Fiscal Year;

(b) The amount, if any, to be paid during such Fiscal Year into the Operating Reserve Account which shall be the amount, if any, necessary to restore the Operating Reserve Account to the Operating Reserve Account Requirement;

(c) An amount equal to the Aggregate Debt Service during such Fiscal Year;

(d) The amount, if any, to be paid during such Fiscal Year into the Capital Reserve Fund, which shall be the amount, if any, necessary to restore the Capital Reserve Fund to the Capital Reserve Requirement subject to Section 716;

(e) The amount to be paid during such Fiscal Year into the Renewal and Contingency Reserve Fund which shall be the amount, if any, necessary to restore the Renewal and Contingency Reserve Fund over a period no greater than four years to the Renewal and Contingency Reserve Fund Requirement or such larger amount as may be determined from time to time by the Committee to be included in the calculation of Annual Project Costs pursuant to Section 8(a)(v) of the Power Sales Agreement; and

(f) All other charges or liens whatsoever required to be paid out of Revenues during such Fiscal Year.

2. The Authority will not furnish or supply or cause to be furnished or supplied any use, output, capacity or service, of the Project, free of charge to any person, firm or corporation, public or private, and the Authority will enforce the payment of any and all amounts owing to the Authority pursuant to the Power Sales Agreement in accordance with its terms.

3. As required by AS 44.83.110, the Authority further will at all times maintain rates, fees or charges, and a contract entered into by it for the sale, transmission or distribution of power shall contain rates, fees or charges, sufficient (i) to pay the costs of operation and maintenance of the Project, the principal of and interest on the Bonds as the same severally become due and payable, (ii) to provide for debt service coverage as considered necessary by the Authority for the marketing of the Bonds and to provide for renewals, replacements and improvements of the Project, and (iii) to maintain reserves required by the terms of this Resolution.

713. Power Sales Agreement. 1. The Authority shall collect and forthwith deposit in the Revenue Fund all amounts payable to it pursuant to the Power Sales Agreement or payable to it pursuant to any other contracts for the use of the capability of the Project or the sale of the output, capacity or service of the Project or any part thereof. The Authority hereby pledges, assigns and transfers to the Trustee acting on behalf of the Bondholders all of its rights under the Power Sales Agreement or any other contracts for the use of the capability of the Project or the sale of the output, capacity or service of the Project or any part thereof and the Trustee shall enjoy and hold for the benefit of the Bondholders the rights and privileges so assigned, including, without limiting the foregoing, the rights of the Authority to receive payments thereunder. The Authority shall enforce the provisions of the Power Sales Agreement and duly perform its covenants and agreements thereunder. The Authority will not consent or agree to or permit any termination, rescission of or amendment to or otherwise take any action under or in connection with the Power Sales Agreement which will in any manner materially impair or materially adversely affect the rights or security of the Bondholders under this Resolution. A copy of the Power Sales Agreement certified by an Authorized Officer of the Authority shall be filed with the Trustee, and a copy of any such amendment certified by an Authorized Officer of the Authority shall be filed with the Trustee.

2. The Authority shall perform its obligations under the Power Sales Agreement to delegate to the Committee, consult with the Committee, and act through the Committee, with respect to the management, operation, maintenance, and improvement of the Project, including its obligation to follow procedures adopted by the Committee with respect to certain actions to be taken by the Authority under this Resolution. The Authority represents that it has the power under Section 13(e) of the Power Sales Agreement, notwithstanding any action or inaction by the Committee, to take such measures as it deems necessary to meet its obligations under this Resolution. The Authority hereby covenants that it will exercise the powers granted pursuant to Section 13(e) of the Power Sales Agreement, if necessary, to carry out actions required to be taken under this Resolution.

714. Insurance. 1. The Authority shall keep and maintain the Project at all times insured against such risks and in such amounts, with such deductible provisions, as are customary in connection with the operation of facilities of a type and size comparable to the Project. The determination of what is customary within the meaning of the prior sentence shall be made by an independent insurance consultant employed by the Authority. Without limiting the foregoing, the Authority shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for, the following insurance with respect to the Project and the Authority:

(a) insurance coverage for buildings, works, plants and facilities comprising the Project for all risks of direct physical loss, at all times in an amount not less than an amount necessary giving regard to co-insurance provisions to pay and retire and redeem all the Outstanding Bonds;

(b) general public liability insurance (other than as set forth in subsection (c) of this Section) in minimum amounts per occurrence, for annual aggregate claims, and with a deductible amount, to the same extent that other entities comparable to the Authority and owning or operating facilities of the size and type comparable to the Project carry such insurance;

(c) comprehensive automobile liability insurance;

(d) workers' compensation insurance or self-insurance as required by the laws of the State of Alaska;

2. Each insurance policy required by this Section (i) shall be issued or written by a financially responsible

insurer (or insurers), or by an insurance fund established by the United States or State of Alaska or an agency or instrumentality thereof, (ii) shall be in such form and with such provisions (including, without limitation and where applicable, loss payable clauses payable to the Trustee, waiver of subrogation clauses, provisions relieving the insurer of liability to the extent of minor claims and the designation of the named assureds) as are generally considered standard provisions for the type of insurance involved, and (iii) shall prohibit cancellation or substantial modification by the insurer without at least thirty days' prior written notice to the Trustee and the Authority. Without limiting the generality of the foregoing, all insurance policies carried pursuant to this Section 714 shall name the Trustee, the Authority and the Purchasers as parties insured thereunder as the respective interest of each of such parties may appear, and loss thereunder shall be made payable and shall be applied as provided in this Resolution.

3. The Authority covenants to review each year the insurance carried by the Authority with respect to the Authority and the Project and, to the extent feasible and economically prudent, will carry insurance insuring against the risks and hazards specified in this Section to the same extent that other entities comparable to the Authority and owning or operating facilities of the size and type comparable to the Project, and taking into account any special circumstances of the Project, carry such insurance. In the event that the Authority determines that the insurance required by this Section is not available to the Authority at reasonable cost, and, in any case, every two (2) years, from and after July 1, 1990, the Authority shall employ an independent insurance consultant for the purpose of reviewing the insurance coverage of, and the insurance required for, the Authority and the Project and making recommendations respecting the types, amounts and provisions of insurance that should be carried with respect to the Authority and the Project and their operation, maintenance and administration. A signed copy of the report of the independent insurance consultant shall be filed with the Trustee and copies thereof shall be sent to the Authority, and the insurance requirements specified hereunder, including any and all of the dollar amounts set forth in this Section, shall be deemed modified or superseded as necessary to conform with the recommendations contained in said report.

4. The Authority may establish a fund to provide self-insurance against the risks and hazards relating to the properties of the Project and the interests of the Authority and the Bondholders as described in this Section, and, in connection therewith, may specify and determine the matters and things set forth in paragraph 3 of this Section.

5. Insurance maintained pursuant to this Section may be part of one or more master policies maintained by the State of Alaska so long as the form of such policy and the coverage is the same as if a separate policy was in effect.

6. The Authority shall on or before January 1 of each year, commencing January 1, 1990, submit to the Trustee a certificate verifying that all minimum insurance coverages required by this Resolution are in full force and effect as of the date of such Authority Certificate.

715. Reconstruction; Application of Insurance Proceeds. 1. If any useful portion of the Project shall be damaged or destroyed, the Authority shall, as expeditiously as possible, continuously and diligently prosecute or cause to be prosecuted the reconstruction or replacement thereof, unless the Authority declares the Project ended pursuant to Section 14 of the Power Sales Agreement, or unless the Consulting Engineer in an opinion or report filed with the Trustee shall state that such reconstruction and replacement is not consistent with Prudent Utility Practice or is not in the interest of the Purchasers and the Bondholders. The proceeds of any insurance, including the proceeds of any self-insurance fund, paid on account of such damage or destruction shall be held by the Authority in a special account in the Construction Fund and made available for, and to the extent necessary be applied to, the cost of such reconstruction or replacement. Pending such application, such proceeds may be invested by the Authority in Investment Securities which mature not later than such time as shall be necessary to provide moneys when needed to pay such costs of reconstruction or replacement. The proceeds of any insurance, including the proceeds of any self-insurance fund, not applied within 36 months after receipt thereof by the Authority to repairing or replacing damaged or destroyed property, or in respect to which notice in writing of intention to apply the same to the work of repairing or replacing the property damaged or destroyed shall not have been given to the Trustee by the Authority within such 36 months, or which the Authority shall at any time notify the Trustee are not to be so applied, in excess of \$5,000,000 shall be used to retire Bonds by purchase or redemption. Notwithstanding the foregoing, in the event that payments are made from the Renewal and Contingency Reserve Fund for any such repairing of property damaged or destroyed prior to the availability of insurance proceeds, including the proceeds of any self-insurance fund therefor, such proceeds when received shall be deposited in the Renewal and Contingency Reserve Fund to the extent of such payments therefrom.

2. If the proceeds of insurance, including the proceeds of any self-insurance fund, authorized by this Section

to be applied to the reconstruction or replacement of any portion of the Project are insufficient for such purpose, the deficiency may be supplied out of moneys in the Renewal and Contingency Reserve Fund.

3. Alternate methods (if any) of carrying out and funding Required Project Work may be determined as provided in Section 4(c) of the Power Sales Agreement.

716. Maintenance of Capital Reserve Fund. 1. The Authority shall at all times maintain the Capital Reserve Fund created and established by Section 502 and do and perform or cause to be done and performed each and every act and thing with respect to the Capital Reserve Fund provided to be done or performed on behalf of the Authority or the Trustee under the terms and provisions of Article V hereof or of the Act.

2. In order better to secure the Bonds and to make them more marketable and to maintain in the Capital Reserve Fund an amount equal to the Capital Reserve Requirement, the Authority shall, in compliance with the provisions of the Act, cause the Chairman annually, on or before the second day of January of each year and whenever the Trustee transfers funds from the Capital Reserve Fund to pay Principal Installments or interest on the Bonds, to make and deliver to the Governor of the State and the Chairmen of the House and Senate Finance Committees of the Alaska State Legislature his certificate stating the amount, if any, required to restore the Capital Reserve Fund to the Capital Reserve Requirement and requesting such amount. A copy of such certificate shall be promptly delivered to the Trustee. Any such moneys received by the Authority from the State in accordance with the provisions of the Act pursuant to any such certification shall be paid to the Trustee for deposit and credit to the Capital Reserve Fund.

717. Accounts and Reports. 1. The Authority shall keep or cause to be kept proper books of records made of its transactions relating to the Project and each Fund and Account established under this Resolution and relating to its costs and charges under the Power Sales Agreement and which, together with the Power Sales Agreement and all other books and papers of the Authority, including insurance policies, relating to the Project, shall at all times be subject to the inspection of the Trustee and the Holders of an aggregate of not less than 5% in principal amount of the Bonds then Outstanding or their representatives duly authorized in writing.

2. The Trustee shall advise the Authority promptly after the end of each month of the respective transactions during such month relating to each Fund and Account held by it under this Resolution. The Authority shall have the right upon

reasonable notice and during reasonable business hours to audit the books and records of the Trustee with respect to the Funds and Accounts held by the Trustee under this Resolution.

3. The Authority shall annually, within 120 days after the close of each Fiscal Year (the first such report to be filed with respect to the Fiscal Year commencing July 1, 1990), file with the Trustee, and otherwise as provided by law, a copy of an annual report for such Fiscal Year, accompanied by an Accountant's Certificate, relating to the Project and including the following statements in reasonable detail: a statement of assets and liabilities as of the end of such Fiscal Year, to the extent relating to the Project; a statement of Revenues and Operating Expenses for such Fiscal Year; and a summary with respect to each Fund and Account established under this Resolution of the receipts therein and disbursements therefrom during such Fiscal Year and the amount held therein at the end of such Fiscal Year. Such Accountant's Certificate shall state whether or not, to the knowledge of the signer, the Authority is in default with respect to any of the covenants, agreements or conditions on its part contained in this Resolution, and if so, the nature of such default.

4. The Authority shall file with the Trustee (a) forthwith upon becoming aware of any Event of Default or default in the performance by the Authority of any covenant, agreement or condition contained in this Resolution, a certificate signed by an Authorized Officer of the Authority and specifying such Event of Default or default and (b) within 120 days after the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 1991, a certificate signed by an appropriate Authorized Officer of the Authority stating that, to the best of his knowledge and belief, the Authority has kept, observed, performed and fulfilled each and every one of its covenants and obligations contained in this Resolution and there does not exist at the date of such certificate any default by the Authority under this Resolution or any Event of Default or other event which, with the lapse of time specified in Section 801 would become an Event of Default, or, if any such default or Event of Default or other event shall so exist, specifying the same and the nature and status thereof.

5. With respect to the Project and each Capital Improvement for which a Construction Engineer is retained pursuant to paragraph 7 of Section 503, the Authority shall cause such Construction Engineer to (A) prepare and submit to the Authority such drawings, designs, plans, specifications, surveys and reports as are necessary for the proper acquisition and construction of the Project or Capital Improvement, and approve and supervise any necessary modifications in the designs, plans and specifications thereof; (B) prepare and submit to the

Authority quarterly reports of progress during the period of construction of the Project or Capital Improvement, including data as to the date of expected completion and the comparison of estimated construction time and the Cost of Acquisition and Construction thereof with the estimates made prior to the issuance and sale of any Bonds, and an estimate of the amounts that will be needed from time to time to pay the Cost of Acquisition and Construction thereof and the estimated dates of such payments; (C) continuously supervise and inspect the acquisition and construction of the Project or Capital Improvement in accordance with the usual accepted practices of such inspection and supervision; and (D) upon completion and testing as required by the specifications of the Project or Capital Improvement, certify to the Authority to that effect and to the further effect that the Project (or, with respect to a Capital Improvement, the Project with such Capital Improvement) is ready for normal continuous operation. The Authority shall cause a copy of every report of the Construction Engineer referred to in this paragraph to be filed with the Trustee.

6. The reports, requested statements and other documents required to be furnished to the Trustee pursuant to any provisions of this Resolution shall be available for the inspection of Bondholders at the office of the Trustee and shall be mailed to each Bondholder who shall file a written request therefor with the Authority. The Authority may charge each Bondholder requesting such reports, statements and other documents a reasonable fee to cover reproduction, handling and postage.

718. Tax Covenants. 1. The Authority shall at all times do and perform all acts and things necessary or desirable including, but not limited to, compliance with provisions of a letter of instructions from Bond Counsel, as the same may be revised from time to time, in order to assure that interest paid on the Bonds shall, for the purposes of federal income taxation, be excludable from the gross income of the recipients thereof and exempt from such taxation, except in the event that such recipient is a "substantial user" or "related person" within the meaning of Section 147(a) of the Code.

2. The Authority shall not permit at any time or times any of the proceeds of the Bonds, Revenues or any other funds of the Authority to be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any Bond to be an "arbitrage bond" as defined in Section 148(a) and (e) of the Code.

3. Notwithstanding any other provision of this Resolution, all money held by the Trustee in any of the funds or accounts established pursuant to this Resolution other than

money on deposit in the Debt Service Fund and the Capital Reserve Fund, shall be invested solely in obligations issued by the Treasury, in obligations guaranteed by The Federal Housing Administration, The Veterans Administration, The Federal National Mortgage Association, The Federal Home Loan Mortgage Corporation, or The Government National Mortgage Association, or in such other investments as may be permitted under the regulations issued pursuant to Section 149(b) of the Code, unless, in the opinion of Counsel, another investment of such funds will not impair the exclusion of interest on the Bonds from gross income for federal income tax purposes.

4. The Authority shall not permit at any time or times any proceeds of any Bonds, Revenues or any other funds of the Authority to be used, directly or indirectly, in a manner which would result in the exclusion of any Bond from the treatment afforded by subsection (a) of Section 103 of the Code, as from time to time amended, except in the case of Bonds held by a person who, within the meaning of Section 147(a) of the said Code, is a "substantial user" or "related person".

5. This Section shall not apply to any Series of Bonds the interest on which is determined by the Authority not to be exempt from taxation under Section 103 of the Code, provided, that no such Series of Bonds shall be issued unless a Counsel's Opinion is filed with the Trustee stating that the issuance of such Series will not cause the interest on a tax-exempt Bond previously issued to be subject to taxation under Sections 103 and 141-150 of the Code.

6. Notwithstanding any other provision of this Resolution to the contrary, upon the Authority's failure to observe, or refusal to comply with, the covenants in this Section 718, no person other than the Trustee or the Holders of the Bond of the specific series affected shall be entitled to exercise any right or remedy provided to the above Holders under this Resolution on the basis of the Authority's failure to observe, or refusal to comply with, the covenant.

719. Payment of Taxes and Charges. The Authority will from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or required payments in lieu thereof, lawfully imposed upon the properties of the Authority or upon the rights, Revenues, income, receipts, and other moneys, securities and funds of the Authority when the same shall become due (including all rights, moneys and other property transferred, assigned or pledged under this Resolution), and all lawful claims for labor and material and supplies, except those taxes, assessments, charges or claims which the Authority shall in good faith contest by proper legal proceedings if the Authority shall in

all such cases have set aside on its books reserves deemed adequate with respect thereto.

720. Pledge of the State. The State of Alaska pledges to and agrees with the Holders of the Bonds that the State will not limit or alter the rights and powers vested in the Authority by the Act to fulfill the terms of the contracts made by the Authority under this Resolution with the Holders of the Bonds, or in any way impair the rights and remedies of the Holders of the Bonds until the Bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the Holders of the Bonds, are fully met and discharged. This pledge is included in this Resolution under the specific authority of 44.83.140 of the Act.

721. Waiver of Laws. The Authority shall not at any time insist upon or plead in any manner whatsoever, or claim or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force which may affect the covenants and agreements contained in this Resolution or in the Bonds, and all benefit or advantage of any such law is hereby expressly waived by the Authority.

722. General. 1. The Authority shall do and perform or cause to be done and performed all acts and things required to be done or performed by or on behalf of the Authority under the provisions of the Act and this Resolution.

2. Upon the date of authentication and delivery of each Series of Bonds, all conditions, acts and things required by law and this Resolution to exist, to have happened and to have been performed precedent to and in the issuance of such Bonds shall exist, have happened and have been performed and the issue of such Bonds, together with all other indebtedness of the Authority, shall comply in all respects with the applicable laws of the State of Alaska including the debt and other limitations prescribed by the Constitution and laws of the State of Alaska.

3. The provisions of this Article are covenants and agreements by the Authority with the Trustee and the Bondholders.

## ARTICLE VIII

### Remedies of Bondholders

Section 801. Events of Default. The following shall constitute Events of Default:

(i) if default shall be made in the due and punctual payment of the principal of or Redemption Price, if any, or any Sinking Fund Payment when and as the same shall become due on or with respect to any Bond, whether at maturity or upon call for redemption or otherwise;

(ii) if default shall be made in the due and punctual payment of any installment of interest on any Bond or the unsatisfied balance of any Sinking Fund Installment therefor, when and as such interest installment or Sinking Fund Installment shall become due and payable;

(iii) if default shall be made by the Authority in the performance or observance of any other of the covenants, agreements or conditions on its part in this Resolution or in the Bonds contained, and such default shall continue for a period of 60 days after written notice thereof to the Authority by the Trustee or to the Authority and to the Trustee by the Holders of not less than 25% in principal amount of Bonds Outstanding;

(iv) if there shall occur the dissolution or liquidation of the Authority or the filing by the Authority of a voluntary petition in bankruptcy, or the commission by the Authority of any act of bankruptcy, or adjudication of the Authority as a bankrupt, or assignment by the Authority for the benefit of its creditors, or the entry by the Authority into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Authority in any proceeding for its reorganization instituted under the provisions of the federal bankruptcy act, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted;

(v) if an order or decree shall be entered, with the consent or acquiescence of the Authority appointing a receiver or receivers of the Project, or any part thereof, or of the rents, fees, charges, or other Revenues therefrom, or if such order or decree, having been entered without the consent or acquiescence of the Authority, shall not be vacated or discharged or stayed within 90 days after the entry thereof; and

(vi) if judgment for the payment of money shall be rendered against the Authority as the result of the construction, improvement, ownership, control or operation of the Project, and any such judgment shall not be discharged within 90 days after the entry thereof, or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such

judgment shall have been granted or entered, in such manner as to set aside or stay the execution of or levy under such judgment, or order, decree or process or the enforcement thereof.

802. Account and Examination of Records After Default. 1. The Authority covenants that if an Event of Default shall have happened and shall not have been remedied, the books of record and account of the Authority and all other records of the Project at all times shall be subject to the inspection and use of the Trustee and of its agents and attorneys.

2. The Authority covenants that if an Event of Default shall have happened and shall not have been remedied, the Authority upon demand of the Trustee, will account, as if it were the trustee of an express trust, for all Revenues and other moneys, securities and funds pledged or held under this Resolution for such period as shall be stated in such demand.

803. Application of Revenues and Other Moneys After Default. 1. The Authority covenants that if an Event of Default shall happen and shall not have been remedied, the Authority upon the demand of the Trustee, shall pay over or cause to be paid over to the Trustee (i) forthwith, all moneys, securities and funds then held by the Authority in any Fund or Account under this Resolution, and (ii) all Revenues as promptly as practicable after receipt thereof.

2. During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, funds and Revenues received by the Trustee pursuant to any right given or action taken under the provisions of this Article as follows and in the following order:

(i) Expenses of Fiduciaries - to the payment of the reasonable and proper charges, expenses and liabilities of the Fiduciaries;

(ii) Operating Expenses - to the payment of the amounts required for reasonable and necessary Operating Expenses. For this purpose the books of record and accounts of the Authority relating to the Project shall at all times be subject to the inspection of the Trustee and its representatives and agents during the continuance of such Event of Default;

(iii) Principal or Redemption Price and Interest - to the payment of the interest and principal or Redemption Price then due on the Bonds, as follows:

First: Interest - To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest on the Bonds theretofore called for redemption, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal or Redemption Price - To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the persons entitled thereto, without any discrimination or preference.

3. If and whenever all overdue installments of interest on all Bonds, together with the reasonable and proper charges, expenses and liabilities of the Trustee, and all other sums payable by the Authority under this Resolution, including the principal and Redemption Price of and accrued unpaid interest on all Bonds which shall then be payable by declaration or otherwise, shall either be paid by or for the account of the Authority or provision satisfactory to the Trustee shall be made for such payment, and all defaults under this Resolution or the Bonds shall be made good or secured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall be made therefor, and the Trustee shall pay over to the Authority all moneys, securities, and funds then remaining unexpended in the hands of the Trustee (except moneys, securities and funds deposited or pledged, or required by the terms of this Resolution to be deposited or pledged, with the Trustee), and thereupon the Authority and the Trustee shall be restored, respectively, to their former positions and rights under this Resolution. No such payment over to the Authority by the Trustee nor such restoration of the Authority and the Trustee to their former positions and rights shall extend to or affect any subsequent default under this Resolution or impair any right consequent thereon.

4. The Trustee shall not take any action which will unreasonably interfere with the performance of the Power Sales Agreement.

804. Appointment of Receiver. The Trustee shall have the right to apply in an appropriate proceeding for the appointment of a receiver of the Project.

805. Proceedings Brought by Trustee. 1. If an Event of Default shall happen and shall not have been remedied, then and in every such case, the Trustee, by its agents and attorneys, may proceed, and upon written request of the Holders of not less than 25% in principal amount of the Bonds Outstanding shall proceed, to protect and enforce its rights and the rights of the Holders of the Bonds under this Resolution forthwith by a suit in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted or any remedy granted under the Act, or for an accounting against the Authority as if the Authority were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the Trustee, being advised by counsel, shall deem most effectual to enforce any of its rights or to perform any of its duties under this Resolution.

2. All rights of action under this Resolution may be enforced by the Trustee without the possession of any of the Bonds or the production thereof on the trial or other proceedings, and any such suit or proceedings instituted by the Trustee shall be brought in its name.

3. The Holders of not less than a majority in principal amount of the Bonds at the time Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, provided that the Trustee shall have the right to decline to follow any such direction if the Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Trustee in good faith shall determine that the action or proceeding so directed would involve the Trustee in personal liability or be unjustly prejudicial to the Bondholders not parties to such direction.

4. Upon commencing a suit in equity or upon other commencement of judicial proceedings by the Trustee to enforce any right under this Resolution, the Trustee shall be entitled to exercise any and all rights and powers conferred in this Resolution and provided to be exercised by the Trustee upon the occurrence of any Event of Default.

806. Restriction on Bondholder's Action. 1. No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Resolution or the execution of any trust under this Resolution or for any remedy under this Resolution,

unless such Holder shall have previously given to the Trustee written notice of the happening of an Event of Default, as provided in this Article, and the Holders of at least 25% in principal amount of the Bonds then Outstanding shall have filed a written request with the Trustee, and shall have offered it reasonable opportunity either to exercise the powers granted in this Resolution or by the Act or by the laws of the State of Alaska or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused to comply with such request for a period of 60 days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Resolution, or to enforce any right under this Resolution, except in the manner therein provided; and that all proceedings at law or in equity to enforce any provision of this Resolution shall be instituted, had and maintained in the manner provided in this Resolution and for the equal benefit of all Holders of the Outstanding Bonds, subject only to the provisions of Section 702.

2. Nothing contained in this Resolution or in the Bonds shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of his Bond.

807. Remedies Not Exclusive. No remedy by the terms of this Resolution conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Resolution or existing at law, including under the Act, or in equity or by statute on or after the date of adoption of this Resolution.

808. Effect of Waiver and Other Circumstances. No delay or omission of the Trustee or any Bondholder to exercise any right or power arising upon the happening of an Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or be an acquiescence therein; and every power and remedy given by this Article to the Trustee or to the Bondholders may be exercised from time to time and as often as may be deemed expedient by the Trustee or by the Bondholders.

809. Notice of Default. The Trustee shall promptly mail written notice of the occurrence of any Event of Default to each registered owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority, and to each Purchaser.

## ARTICLE IX

### Concerning the Fiduciaries

901. Trustee; Appointment and Acceptance of Duties. The Trustee shall be appointed by a Supplemental Resolution. The Trustee shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the Authority a written acceptance thereof, and by executing such acceptance the Trustee shall be deemed to have accepted such duties and obligations with respect to all the Bonds thereafter to be issued, but only, however, upon the terms and conditions set forth in this Resolution.

902. Paying Agents; Appointment and Acceptance of Duties. 1. The Authority shall appoint one or more Paying Agents for the Bonds of each Series, and may at any time or from time to time appoint one or more other Paying Agents having the qualifications set forth in Section 913 for a successor Paying Agent. The Trustee may be appointed a Paying Agent.

2. Each Paying Agent shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing and delivering to the Authority and to the Trustee a written acceptance thereof.

3. Unless otherwise provided, the principal corporate trust offices of the Paying Agents are designated as the respective offices or agencies of the Authority for the payment of the interest on and principal or Redemption Price of the Bonds.

903. Responsibilities of Fiduciaries. 1. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the Authority and no Fiduciary assumes any responsibility for the correctness of the same. No Fiduciary makes any representations as to the validity or sufficiency of this Resolution or of any Bonds issued thereunder or as to the security afforded by this Resolution, and no Fiduciary shall incur any liability in respect thereof. The Trustee shall, however, be responsible for its representation contained in its certificate of authentication on the Bonds. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid by such Fiduciary in accordance with the provisions of this Resolution to the Authority or to

any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect thereof, or to advance any of its own moneys, unless properly indemnified. Subject to the provisions of subsection 2 of this Section 903, no Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence, misconduct or default.

2. The Trustee, prior to the occurrence of any Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties are specifically set forth in this Resolution. In case an Event of Default has occurred (which has not been cured) the Trustee shall exercise such of the rights and powers vested in it by this Resolution, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs. Any provision of this Resolution relating to action taken or to be taken by the Trustee or to evidence upon which the Trustee may rely shall be subject to the provisions of this Section 903.

904. Evidence on Which Fiduciaries May Act. 1. Each Fiduciary, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Resolution, shall examine such instrument to determine whether it conforms to the requirements of this Resolution and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be of counsel to the Authority, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Resolution in good faith and in accordance therewith.

2. Whenever any Fiduciary shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Resolution, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the Authority and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Resolution upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

3. Except as otherwise expressly provided in this Resolution, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the Authority to any Fiduciary shall be sufficiently executed in the name of the Authority by an Authorized Officer of the Authority.

905. Compensation. The Authority shall pay to each Fiduciary from time to time reasonable compensation for all services rendered under this Resolution, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under this Resolution and each Fiduciary shall have a lien therefor on any and all funds at any time held by it under this Resolution. Subject to the provisions of Section 903, the Authority further agrees to indemnify and save each Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder, and which are not due to its negligence, misconduct or default.

906. Certain Permitted Acts. Any Fiduciary may become the owner of any Bonds with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depository for, and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Bondholders or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Resolution, whether or not any such committee shall represent the Holders of a majority in principal amount of the Bonds then Outstanding.

907. Resignation of Trustee. The Trustee may at any time resign and be discharged of the duties and obligations created by this Resolution by giving not less than 60 days' written notice to the Authority, and mailing notice thereof to each Bondholder, specifying the date when such resignation shall take effect, and such resignation shall take effect upon the day specified in such notice, provided a successor shall have been appointed by the Authority or the Bondholders as provided in Section 909, and has accepted the appointment.

908. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing, filed with the Trustee, and signed by the Holders of a majority in principal amount of the Bonds then Outstanding or their attorneys-in-fact duly authorized, excluding any Bonds held by or for the account of the Authority. The Authority may remove the Trustee at any time except during the existence of an Event of Default, for such cause as shall be determined in the sole discretion of the Authority, by filing with the Trustee an

instrument in writing signed by an Authorized Officer of the Authority.

909. Appointment of Successor Trustee; Financial Qualifications of Trustee and Successor Trustee. 1. In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Holders of a majority in principal amount of the Bonds then Outstanding, excluding any Bonds held by or for the account of the Authority, by an instrument or concurrent instruments in writing signed and acknowledged by such Bondholders or by their attorneys-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the Authority and the predecessor Trustee; provided, nevertheless, that unless a successor Trustee shall have been appointed by the Bondholders as aforesaid, the Authority by a duly executed written instrument signed by an Authorized Officer of the Authority shall forthwith appoint a Trustee to fill such vacancy until a successor Trustee shall be appointed by the Bondholders as authorized in this Section 909. The Authority shall mail notice to each Bondholder of any such appointment made by it within 20 days after such appointment. Any successor Trustee appointed by the Authority shall, immediately and without further act, be superseded by a Trustee appointed by the Bondholders.

2. If in a proper case no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Section within 45 days after the Trustee shall have given to the Authority written notice as provided in Section 907 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, removal, or for any reason whatsoever, the Trustee (in the case of its resignation under Section 907) or the Holder of any Bond (in any case) may apply to any court of competent jurisdiction to appoint a successor Trustee. Said court may thereupon, after such notice, if any, as such may deem proper, appoint a successor Trustee.

3. The Trustee appointed under the provisions of this Article or any successor to the Trustee shall be a bank or trust company or national banking association having capital stock and surplus aggregating at least \$200,000,000, if there be such a bank or trust company or national banking association willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Resolution.

910. Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed under this Resolution shall execute, acknowledge and deliver to its predecessor Trustee, and also to the Authority, an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Trustee, with like effect as if originally named as trustee; but the Trustee ceasing to act shall nevertheless, on the written request of the Authority, or of the successor Trustee, execute, acknowledge and deliver such instrument of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all the right, title and interest of the predecessor Trustee in and to any property held by it under this Resolution, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the Authority be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Authority. Any such successor Trustee shall promptly notify the Paying Agents of its appointment as Trustee.

911. Merger or Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association and shall be authorized by law to perform all the duties imposed upon it by this Resolution, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

912. Adoption of Authentication. In any case any of the Bonds contemplated be issued under this Resolution shall have been authenticated but not delivered, any successor Trustee may adopt the certification of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and in case any of the said Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all cases such certificate shall have the full force which it is anywhere in said Bonds or in

this Resolution provided that the certificate of the Trustee shall have.

913. Resignation or Removal of Paying Agent and Appointment of Successor. 1. Any Paying Agent may at any time resign and be discharged of the duties and obligations created by this Resolution by giving at least 60 day's written notice to the Authority, the Trustee, and the other Paying Agents. Any Paying Agent may be removed at any time by an instrument filed with such Paying Agent and the Trustee and signed by an Authorized Officer of the Authority. Any successor Paying Agent shall be appointed by the Authority with the approval of the Trustee, and shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, having capital stock and surplus aggregating at least \$25,000,000, and willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it by this Resolution.

2. In the event of the resignation or removal of any Paying Agent, such Paying Agent shall pay over, assign and deliver any moneys held by it as Paying Agent to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Paying Agent, the Trustee shall act as such Paying Agent.

## ARTICLE X

### Supplemental Resolutions

1001. Supplemental Resolutions Effective Upon Filing With the Trustee. For any one or more of the following purposes and at any time or from time to time, a Supplemental Resolution of the Authority may be adopted, which, upon the filing with the Trustee of (i) a copy thereof certified by an Authorized Officer of the Authority and (ii) a certificate of the Committee stating that such Supplemental Resolution has been adopted in accordance with Section 11 of the Power Sales Agreement, shall be fully effective in accordance with its terms:

(1) To close this Resolution against, or provide limitations and restrictions in addition to the limitations and restrictions contained in this Resolution on, the authentication and delivery of Bonds or the issuance of other evidences of indebtedness;

(2) To add to the covenants and agreements of the Authority in this Resolution, other covenants and agreements to be observed by the Authority which are not

contrary to or inconsistent with this Resolution as theretofore in effect;

(3) To add to the limitations and restrictions in this Resolution, other limitations and restrictions to be observed by the Authority which are not contrary to or inconsistent with this Resolution as theretofore in effect;

(4) To authorize Bonds of a Series and, in connection therewith, specify and determine the matters and things referred to in Section 202, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Resolution as theretofore in effect, including without limitation the form of coupon bonds as provided in Section 301, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first authentication and delivery of such Bonds;

(5) To confirm, as further assurance, any pledge or assignment under, and the subjection to any lien, pledge or assignment created or to be created by, this Resolution, of the Revenues or of any other moneys, securities or funds;

(6) To modify any of the provisions of this Resolution in any other respect whatever, provided that (i) such modification shall be, and be expressed to be, effective only after all Bonds of each Series Outstanding at the date of the adoption of such Supplemental Resolution shall cease to be Outstanding, and (ii) such Supplemental Resolution shall be specifically referred to in the next text of all Bonds of any Series authenticated and delivered after the date of the adoption of such Supplemental Resolution and of Bonds issued in exchange or in place thereof; and

(7) To appoint the Trustee.

1002. Supplemental Resolutions Effective Upon Consent of Trustee. For any one or more of the following purposes and at any time from time to time, a Supplemental Resolution may be adopted, which, upon (i) the filing with the Trustee of a copy thereof certified by an Authorized Officer of the Authority, (ii) a certificate of the Committee stating that such Supplemental Resolution has been adopted in accordance with Section 11 of the Power Sales Agreement, and (iii) the filing with the Authority of an instrument in writing made by the Trustee consenting thereto, shall be fully effective in accordance with its terms:

(1) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Resolution; or

(2) To insert such provisions clarifying matters or questions arising under this Resolution as are necessary or desirable and are not contrary to or inconsistent with this Resolution as theretofore in effect.

(3) To make any changes which do not in the sole opinion of the Trustee, materially and adversely affect the rights of the Bondholders.

1003. Supplemental Resolutions Effective With Consent of Bondholders. At any time or from time to time, a Supplemental Resolution may be adopted subject to consent by Bondholders in accordance with and subject to the provisions of Article XI, which Supplemental Resolution, upon the filing with the Trustee of (i) a copy thereof certified by an Authorized Officer of the Authority and (ii) a certificate of the Committee stating that such Supplemental Resolution has been adopted in accordance with Section 11 of the Power Sales Agreement, and upon compliance with the provisions of said Article XI, shall become fully effective in accordance with its terms as provided in said Article XI.

1004. General Provisions. 1. The Resolution shall not be modified or amended in any respect except as provided in and in accordance with and subject to the provisions of this Article X and Article XI. Nothing in this Article X or Article XI contained shall affect or limit the right or obligation of the Authority to adopt, make, do, execute, acknowledge or deliver any resolution, act or other instrument pursuant to the provisions of Section 704 or the right or obligation of the Authority to execute and deliver to any Fiduciary any instrument which elsewhere in this Resolution it is provided shall be delivered to said Fiduciary.

2. Any Supplemental Resolution referred to and permitted or authorized by Section 1001 and 1002 may be adopted by the Authority without the consent of any of the Bondholders, but shall become effective only on the conditions, to the extent and at the time provided in said Sections, respectively. The copy of every Supplemental Resolution when filed with the Trustee shall be accompanied by an Opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted in accordance with the provisions of this Resolution, is authorized or permitted by this Resolution, and is valid and binding upon the Authority and enforceable in accordance with its terms.

3. The Trustee is hereby authorized to accept the delivery of a certified copy of any Supplemental Resolution referred to and permitted or authorized by Sections 1001, 1002 or 1003 and to make all further agreements and stipulations which may be therein contained, and the Trustee, in taking such action, shall be fully protected in relying on a Opinion of Counsel that such Supplemental Resolution is authorized or permitted by the provisions of this Resolution.

4. No Supplemental Resolution shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

## ARTICLE XI

### Amendments

1101. Mailing. Any provision in this Article for the mailing of a notice or other paper to Bondholders shall be fully complied with if it is mailed postage prepaid only to each registered owner of Bonds then Outstanding at his address, if any, appearing upon the registry books of the Authority and each Fiduciary.

1102. Powers of Amendment. Any modification or amendment of this Resolution and of the rights and obligations of the Authority and of the Holders of the Bonds thereunder, in any particular, may be made by a Supplemental Resolution, with the written consent of the Committee and, if required by the terms of a written commitment for Bond insurance, the consent of the Bond insurer, and with the written consent given as provided in Section 1103 of the holders of at least a majority in principal amount of the Bonds Outstanding at the time such consent is given, and (ii) in case less than all of the several Series of Bonds then Outstanding are affected by the modification or amendment, of the Holders of at least a majority in principal amount of the Bonds of each Series so affected and Outstanding at the time such consent is given, and (iii) in case the modification or amendment changes the terms of any Sinking Fund Installment, of the Holders of at least a majority in principal amount of the Bonds of the particular Series and maturity entitled to such Sinking Fund Installment and Outstanding at the time such consent is given; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified like Series and maturity remain Outstanding the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section. No such modifications or amendment shall permit a change in the terms of redemption or maturity of

the principal of any Outstanding Bond or any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon without the consent of the Holder of such Bond, or shall reduce the percentages or otherwise affect the classes of Bonds the consent of the Holders of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto. For the purposes of this Section, a Series shall be deemed to be affected by a modification or amendment of this Resolution if the same adversely affects or diminishes the rights of the Holders of Bonds of such Series. The Trustee may in its discretion determine whether or not in accordance with the foregoing powers of amendment Bonds of any particular Series or maturity would be affected by any modification or amendment of this Resolution and any such determination shall be binding and conclusive on the Authority and all Holders of the Bonds.

1103. Consent of Bondholders. The Authority may at any time adopt a Supplemental Resolution making a modification or amendment permitted by the provisions of Section 1102 to take effect when and as provided in this Section, provided that such modification or amendment receives the written consent of the Committee. A copy of such Supplemental Resolution (or brief summary thereof or reference thereto in form approved by the Trustee), together with a request to Bondholders for their consent thereto in form satisfactory to the Trustee, shall be mailed by the Authority to Bondholders (but failure to mail such copy and request shall not affect the validity of the Supplemental Resolution when consented to as in this Section provided). Such Supplemental Resolution shall not be effective until (i) there shall have been filed with the Trustee (a) the written consents of Holders of the percentages of Outstanding Bonds specified in Section 1102 and (b) an Opinion of Counsel stating that such Supplemental Resolution has been duly and lawfully adopted and filed by the Authority in accordance with the provisions of this Resolution, is authorized or permitted by this Resolution, and is valid and binding upon the Authority, the Fiduciaries and the Bondholders and enforceable in accordance with its terms, and (ii) a notice shall have been mailed as hereinafter in this Section 1103 provided. Each such consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 1202. A certificate or certificates executed by the Trustee and filed with the Authority stating that it has examined such proof and that such proof is sufficient in accordance with Section 1202 shall be conclusive that the consents have been given by the Holders of the Bond described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Holder of the Bonds signing such consent and,

anything in Section 1202 to the contrary notwithstanding, upon any subsequent Holder of such Bonds and of any Bonds issued in exchange (whether or not such subsequent Holder has notice thereof) provided however that any consent may be revoked by any Holder of such Bonds by filing with the Trustee, prior to the time when the written statement of the Trustee hereinafter in this Section 1103 provided for is filed, such revocation. The fact that a consent has not been revoked may likewise be proved by a certificate of the Trustee filed with the Authority to the effect that no revocation thereof is on file with the Trustee. At any time after the Holders of the required percentages of Bonds shall have filed their consents to the Supplemental Resolution, the Trustee shall make and file with the Authority a written statement that the Holders of such required percentages of Bonds have filed such consents. Such written statements shall be conclusive that such consents have been filed. At any time thereafter, notice stating in substance that the Supplemental Resolution (which may be referred to as a Supplemental Resolution adopted by the Authority on a stated date, a copy of which is on file with the Trustee) has been consented to by the Holders of the required percentages of Bonds, and will be effective as provided in this Section 1103, may be given to Bondholders by the Authority by mailing such notice to Bondholders (but failure to mail such notice shall not prevent such Supplemental Resolution from becoming effective and binding as in this Section 1103 provided). The Authority shall file with the Trustee proof of the mailing of such notice to Bondholders. A record, consisting of the certificates or statements required or permitted by this Section 1103 to be made by the Trustee, shall be proof of the matters therein stated. Such Supplemental Resolution making such amendment or modification shall be deemed conclusively binding upon the Authority, the Fiduciaries and the Holders of all Bonds at the expiration of 40 days after the filing with the Trustee of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Resolution in a legal action or equitable proceeding for such purpose commenced within such 40 day period; provided, however, that any Fiduciary and the Authority during such 40 day period and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Resolution as they may deem expedient.

1104. Modifications by Unanimous Consent. The Resolution and the rights and obligations of the Authority and of the Holders of the Bonds thereunder may be modified or amended with the written consent of the Committee in any respect by a Supplemental Resolution effecting such modification or amendment and the consents of the Holders of all the Bonds then

Outstanding, each such consent to be accompanied by proof of the holding at the date of such consent of the Bonds with respect to which consent is given. Such Supplemental Resolution shall take effect upon the filing (a) with the Trustee of (i) a copy thereof certified by an Authorized Officer of the Authority, (ii) such consents and accompanying proofs and (iii) the Counsel's Opinion referred to in Section 1103 and (b) with the Authority and the Trustee of the Trustee's written statement that the consents of the Holders of all Outstanding Bonds have been filed with it. No mailing of any Supplemental Resolution (or reference thereto or summary thereof) or of any request or notice shall be required. No such modification or amendment, however, shall change or modify any of the rights or obligations of any Fiduciary without its written assent thereto.

1105. Exclusion of Bonds. Bonds owned by or for the account of the Authority shall not be deemed Outstanding for the purpose of consent or other action or any calculation of Outstanding Bonds provided for in this Article XI, and the Authority shall not be entitled with respect to such Bonds to give any consent or take any other action provided for in this Article. At the time of any consent or other action taken under this Article, the Authority shall furnish the Trustee a certificate of an Authorized Officer of the Authority upon which the Trustee may rely, describing all Bonds so to be excluded.

1106. Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in Article X or Article XI provided may, and if the Trustee so determines, shall, bear a notation by endorsement or otherwise in form approved by the Authority and the Trustee as to such action, and in that case upon demand of the Holder of any Bond Outstanding at such effective date and presentation of his Bond for the purpose at the principal corporate trust office of the Trustee or upon any transfer or exchange of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer or exchange by the Trustee as to any such action. If the Authority or the Trustee shall so determine, new Bonds so modified as in the opinion of the Trustee and the Authority to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Holder any Bond then Outstanding shall be exchanged, without cost to such Bondholder, for Bonds of the same Series and maturity then Outstanding, upon surrender of such Bonds.

## ARTICLE XII

### Miscellaneous

1201. Defeasance. 1. If the Authority shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the time and in the manner stipulated therein and in this Resolution, then the pledge and assignment of any Revenues, and other moneys and securities pledged under this Resolution and all covenants, agreements and other obligations of the Authority to the Bondholders, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Trustee shall cause an accounting for such period or periods as shall be requested by the Authority to be prepared and filed with the Authority and, upon the request of the Authority shall execute and deliver to the Authority all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiduciaries shall pay over or deliver to the Authority all moneys or securities held by them pursuant to this Resolution which are not required for the payment of principal or Redemption Price, if applicable, and interest on Bonds. If the Authority shall pay or cause to be paid or there shall otherwise be paid, to the Holders of all Outstanding Bonds of a particular Series, or of a particular maturity within a Series, the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, such Bonds shall cease to be entitled to any lien, benefit or security under this Resolution, and all covenants, agreements and obligations of the Authority to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

2. Bonds or interest installments for the payment or redemption of which moneys shall have been set aside and shall be held in trust by the Paying Agents (through deposit by the Authority of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section 1201. Prior to the maturity or redemption date thereof, Bonds shall be deemed to have been paid within the meaning and with the effect expressed in subsection 1 of this Section 1201 if (a) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Authority shall have given to the Trustee irrevocable instruction accepted in writing by the Trustee to mail as provided in Article IV notice of redemption of such Bonds on said date, (b) there shall have been deposited with the Trustee either moneys (including moneys withdrawn and deposited pursuant to subsection 4 of Section 507) in an amount which shall be

sufficient, or Federal Obligations (including any Federal Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay when due the principal or Redemption Price, if applicable, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be, and (c) the Authority shall have given the Trustee in form satisfactory to it irrevocable instructions to mail, as soon as practicable, a notice to the Holders of such Bonds that the deposit required by (b) above has been made with the Trustee and that said Bonds are deemed to have been paid in accordance with this Section 1201 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or Redemption Price, if applicable, and interest on said Bonds. Neither Federal Obligations nor moneys deposited with the Trustee pursuant to this Section 1201 nor principal or interest payments on any such Federal Obligations shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price, if applicable, and interest on said Bonds; provided that any cash received from such principal or interest payments on such Federal Obligations deposited with the Trustee, (A) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Authority as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this Resolution, and (B) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in Federal Obligations maturing at times and in amounts sufficient to pay when due the principal or Redemption Price, if applicable, and interest to become due on said Bonds, on or prior to such redemption date or maturity date thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Authority as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing said Bonds or otherwise existing under this Resolution. For the purposes of this Section 1201, Federal Obligations shall mean and include only such Federal Obligations which shall not be subject to redemption prior to their maturity other than at the option of the holder thereof.

3. Anything in this Resolution to the contrary notwithstanding any moneys held by a Fiduciary in trust for the payment and discharge of any of the Bonds which remain unclaimed for six years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Fiduciary at such date, or for six years after the date of deposit of such

moneys if deposited with the Fiduciary after the said date when such Bonds became due and payable, shall, at the written request of the Authority, be repaid by the Fiduciary to the Authority for payment into the Revenue Fund, and shall be deemed "other available funds" within the meaning of Section 712 to be used for the payment of amounts required to be paid therein or for the payment of refunds to the Purchasers pursuant to Section 13 of the Power Sales Agreement, and the Fiduciary shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the Authority for the payment of such Bonds.

1202. Evidence of Signatures of Bondholders and Ownership of Bonds. 1. Any request, consent, revocation of consent or other instrument which this Resolution may require or permit to be signed and executed by the Bondholders may be in one or more instruments of similar tenor, and shall be signed or executed by such Bondholders in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, shall be sufficient for any purpose of this Resolution (except as otherwise therein expressly provided) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further and other proof in cases where it deems the same desirable:

The fact and date of the execution by any Bondholder or his attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or by the certificate of any notary public or other officer authorized to take acknowledgements of deeds, that the person signing such request or other instrument acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution is by an officer of a corporation or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of his authority.

2. The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be proved by the registry books.

3. Any request or consent by the owner of any Bond shall bind all future owners of such Bond in respect of anything done or suffered to be done by the Authority or any Fiduciary in accordance therewith.

1203. Moneys Held for Particular Bonds. The amounts held by any Fiduciary for the payment of the interest, principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be

set aside on its books and held in trust by it for the Holders of the Bonds entitled thereto.

1204. Preservation and Inspection of Documents. All documents received by a Fiduciary under the provisions of this Resolution shall be retained in its possession and shall be subject at all reasonable times to the inspection of the Authority, any other Fiduciary, and any Bondholder and their agents and their representatives, any of whom may make copies thereof.

1205. No Recourse on the Bonds. No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon or on this Resolution against any member of the Board of Directors of the Authority or officer of the Authority or any person executing the Bonds.

1206. Severability of Invalid Provisions. If any one or more of the covenants provided in this Resolution on the part of the Authority or any Fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Resolution.

1207. Holidays. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Resolution, shall be a legal holiday or a day on which banking institutions in the city in which is located the principal office of the Trustee are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are not authorized by law to remain closed, with the same force and effect as if done on the nominal date provided in this Resolution.

1208. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper on the Authority or the Trustee, as the case may be, if the same shall be duly mailed by registered or certified mail and addressed to it at Alaska Power Authority, P. O. Box 190869, Anchorage, Alaska 99519-0869, Attention: Executive Director, or to such other address as the Authority may from time to time file with the Trustee (in respect of the Authority) or at [Name of Trustee], \_\_\_\_\_, Attention: \_\_\_\_\_, or at such other address as the Trustee may from time to time file with the Authority (in respect of the Trustee).

ARTICLE XIII

Bond Form and Effective Date

1301. Form of Bonds and Trustee's Certificate of Authentication. Subject to the provisions of this Resolution, the form of the Bonds of each Series and the Trustee's Certificate of Authentication, shall be substantially the following tenor with such variations, omissions and insertions as are required or permitted by this Resolution:

ALASKA POWER AUTHORITY

Power Revenue Bond, Series

\_\_\_\_\_ % Due July 1, \_\_\_\_\_

\$ \_\_\_\_\_

No. \_\_\_\_\_

ALASKA POWER AUTHORITY (herein called the "Authority"), a public corporation of the State of Alaska organized and existing under and by virtue of the laws of the State of Alaska, acknowledges itself indebted to, and for value received hereby promises to pay to \_\_\_\_\_ or registered assigns, on the first day of July, \_\_\_\_\_, the principal sum of \_\_\_\_\_ Dollars in any coin or currency of the United State of America which at the time of payment is legal tender for the payment of public and private debts, upon presentation and surrender of this bond at the principal corporate trust office of \_\_\_\_\_ or \_\_\_\_\_ (such banks and any successors thereto being referred to herein as the "Paying Agents"), at the option of the registered owner hereof, and to pay to the registered owner the interest on such principal sum in like coin or currency from the date hereof, at the rate per annum specified above, payable on the first days of January and July in each year, until the Authority's obligation with respect to the payment of such principal sum shall be discharged by check or draft mailed to the registered owner of record hereof as of the 15th day of the calendar month next preceding such interest payment date at the address of such owner appearing on the registration books maintained by the Authority for such purpose at the principal corporate trust office of \_\_\_\_\_, in the City of \_\_\_\_\_, as bond registrar.

This bond is one of a duly authorized issue of bonds of the Authority designated as its "Power Revenue Bonds, \_\_\_\_\_ Series \_\_\_\_\_" (herein called the "\_\_\_\_\_ Series \_\_\_\_\_ Bonds"),

in the aggregate principal amount of \$ \_\_\_\_\_ issued pursuant to the \_\_\_\_\_ (herein called the "Act"), and under and pursuant to a resolution of the Authority, adopted \_\_\_\_\_, entitled "Power Revenue Bond Resolution" and a supplemental resolution of the Authority authorizing the \_\_\_\_\_ Series \_\_\_\_\_ Bonds (said \_\_\_\_\_ being herein called the "Resolution").

As provided in the Resolution, the bonds are direct and general obligations of the Authority for the payment of which the full faith and credit of the Authority is pledged, which are secured as to payment of the principal and redemption price thereof, and interest thereon, in accordance with their terms and the provisions of the Resolution by (i) the proceeds of the sale of the bonds, (ii) the Revenues (as defined in the Resolution, and (iii) all funds established by the Resolution including the investments, if any, thereof, subject only to the provisions of the Resolution permitting the application thereof for the purposes and on the terms and conditions set forth in the Resolution. Copies of the Resolution are on file at the office of the Authority and at the principal corporate trust office of \_\_\_\_\_, as Trustee under the Resolution, or its successor as Trustee (herein called the "Trustee"), and reference to the Resolution and any and all supplements thereto and modifications and amendments thereof and to the Act is made for a description of the pledge and assignment and covenants securing the bonds, the nature, extent and manner of enforcement of such pledge and assignment, the rights and remedies of the registered owners of the bonds with respect thereto, the limitations on such rights and remedies and the terms and conditions upon which the bonds are issued and may be issued thereunder.

As provided in the Resolution, bonds of the Authority may be issued from time to time pursuant to supplemental resolutions in one or more series, in various principal amounts, may mature at different times, may bear interest at different rates and may otherwise vary as in the Resolution provided. The aggregate principal amount of bonds which may be issued under the Resolution is not limited except as provided in the Resolution, and all bonds issued and to be issued under the Resolution are and will be equally secured by the pledge and assignment and covenants made therein, except as otherwise expressly provided or permitted in the Resolution.

To the extent and in the manner permitted by the terms of the Resolution, the provisions of the Resolution, or any resolution amendatory thereof or supplemental thereto, may be modified or amended by the Authority, with the written consent of the owners of at least a majority in principal amount

of the bonds then outstanding under the Resolution, and, in case less than all of the Series of bonds would be affected thereby, with such consent of at least two-thirds in principal amount of the bonds of each Series so affected then outstanding under the Resolution, and, in case such modification or amendment would change the terms of any sinking fund installment, with such consent of at least two-thirds in principal amount of the bonds of the particular Series and maturity entitled to such sinking fund installment then outstanding; provided, however, that, if such modification or amendment will, by its terms, not take effect so long as any bonds of any specified like Series and maturity remain outstanding under the Resolution, the consent of the owners of such bonds shall not be required and such bonds shall not be deemed to be outstanding for the purpose of the calculation of outstanding bonds. No such modification or amendment shall permit a change in the terms of redemption or maturity of the principal of any outstanding bond or of any installment of interest thereon or a reduction in the principal amount or redemption price thereof or in the rate of interest thereon without the consent of the owner of such bond, or shall reduce the percentages or otherwise affect the classes of bonds the consent of the owners of which is required to effect any such modification or amendment, or shall change or modify any of the rights or obligations of the Trustee or of any Paying Agent without its written assent thereto.

This bond is transferable as provided in the Resolution, only upon the books of the Authority kept for the purpose at the above-mentioned office of the Trustee, by the registered owner hereof in person, or by his duly authorized attorney, upon surrender of this bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney, and thereupon a new registered bond or bonds, and in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Resolution, and upon payment of the charges therein prescribed. The Authority, the Trustee and any Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

The bonds of the issue of which this bond is one are subject to redemption prior to maturity, upon published notice as hereinafter provided, (i) by operation of the Principal Account established under the Resolution to satisfy sinking fund installments, on any interest payment date on and after \_\_\_\_\_ at the principal amount thereof together with accrued interest to the redemption date, and (ii) otherwise, as a whole, or in part in inverse order of maturities, at

any time on or after \_\_\_\_\_, at the respective redemption prices (expressed as percentages of the principal amount of the bonds or portions thereof to be redeemed) set forth below, in each case together with accrued interest to the redemption date:

Period During Which  
(both dates inclusive)

Redemption  
Prices

If less than all the bonds of like maturity are to be redeemed, the particular bonds to be redeemed shall be selected by the Trustee.

(Further Redemption provisions per the Resolution and Supplemental Resolution)

The bonds of the issue of which this bond is one are payable upon redemption at the above-mentioned offices of the Paying Agents. Notice of redemption, setting forth the place of payment, shall be mailed to each registered owner not less than 25 days nor more than 40 days prior to the redemption date, all in the manner and upon the terms and conditions set forth in the Resolution. If notice of redemption shall have been given as aforesaid, the bonds or portions thereof specified in said notice shall become due and payable on the redemption date therein fixed, and if, on the redemption date, moneys for the redemption of all the bonds and portions thereof to be redeemed, together with interest to the redemption date, shall be available for such payment on said date, then from and after the redemption date interest on such bonds or portions thereof so called for redemption shall cease to accrue and be payable.

Neither the State of Alaska nor any political subdivision thereof, other than the Authority, nor any member of the Authority nor any Power Purchaser (as defined in the Resolution) is obligated to pay the principal, premium, if any, or interest on this bond and the issue of which it is one and neither the faith and credit nor the taxing power of the State of Alaska or any political subdivision thereof is pledged to the payment of the principal of, premium, if any, or interest on this bond or the issue of which it is one.

It is hereby certified and recited that all conditions, acts and things required by law and the Resolution to exist, to have happened and to have been performed precedent to and in the issuance of this bond, exist, have happened and have been performed and that the issue of bonds of which this is one, together with all other indebtedness of the Authority, complies in all respects with the applicable laws of the State of Alaska,

including, particularly, the Act and is within every debt and other limit prescribed by said laws of the State of Alaska.

This bond shall not be entitled to any benefit under the Resolution or be valid or become obligatory for any purpose until this bond shall have been authenticated by the execution by the Trustee of the Trustee's Certificate of Authentication hereon.

IN WITNESS WHEREOF, ALASKA POWER AUTHORITY has caused this bond to be signed in its name and on its behalf by the facsimile signature of its Chairman or its Vice-Chairman, and its corporate seal (or facsimile thereof) to be hereunto affixed, imprinted, engraved or otherwise reproduced and attested by the facsimile signature of its Secretary or its Assistant Secretary.

DATED: \_\_\_\_\_

ALASKA POWER AUTHORITY

By \_\_\_\_\_  
(Vice) Chairman

ATTEST:

\_\_\_\_\_  
(Assistant) Secretary

[ FORM OF CERTIFICATE OF AUTHENTICATION ON ALL BONDS ]

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This bond is one of the \_\_\_\_\_ Series \_\_\_\_\_ Bonds delivered pursuant to the within mentioned Resolution.

\_\_\_\_\_  
Trustee,

By \_\_\_\_\_  
Authorized Officer

1302. Effective Date. This Power Revenue Bond Resolution shall take effect immediately.

Power Revenue Bond Resolution approved and adopted by Alaska Power Authority on \_\_\_\_\_, 19\_\_.

ALASKA POWER AUTHORITY

By \_\_\_\_\_  
Chairman

EXHIBIT BDelivery Point  

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The Delivery Point of the Project and the point at which the Purchasers accept delivery shall be at the point where the 115 kV Project transmission lines connect to a 115 kV switching station (included within the Project) at Bradley Junction on the Fritz Creek - Soldotna transmission line to be built by the Homer Electric Association, Inc.

EXHIBIT C

## Description Of The Project

The Bradley Lake Hydroelectric Project site is located on the Kenai Peninsula, about 105 miles south of Anchorage and 27 miles northeast of Homer, Alaska. Bradley Lake, with an existing elevation of 1,080, is situated in the Kenai Mountain Range. A Project Location Map is attached.

The proposed development includes raising the existing Bradley Lake level 100 feet by constructing a diversion tunnel, dam, spillway and outlet facility at the lake outlet. An 18,760 foot long, 11 foot diameter concrete lined power tunnel will connect the reservoir intake works with a two 45 MW (nominal rating) unit powerhouse located just above sea level on the northeast shore of Kachemak Bay.

A substation containing step-up transformers will be located at the power plant. Project transmission facilities include approximately 20 miles of two parallel, single circuit, 115 kV transmission lines to connect the power plant to a 115 kV switching station at Bradley Junction (which is also included within the project). The switching station will connect to a 115 kV transmission line (not included in the project) which will transmit power between Fritz Creek and Soldotna on the Kenai Peninsula. The Project also includes the Middle Fork Diversion consisting of a small diversion structure and excavated channel which diverts the upper Middle Fork flows into Bradley Lake, and the construction of a small diversion works at the headwaters of the Nuka River which diverts flows from Nuka Glacier into Bradley Lake.

The project site is remote and will be designed to be operated as an unattended plant, but will require on-site maintenance personnel. A supervisory control and data acquisition (SCADA) system will be provided. Site access is by water or airborne transportation. To support construction, operations and maintenance of the Project, a barge basin, airstrip, construction camp, permanent housing facilities, and approximately ten miles of access road will be required.

Provisions for adding a third 45 MW turbine-generator will be included in the Project.

A Project Location Map and general plan are attached.

## PROJECT DATA

1. Dam Concrete-faced, rock fill, 610 feet long, 125 feet high, 362,000 cubic yards rock fill, 10,800 cubic yards concrete.
2. Spillway Ungated concrete ogee section, 175 feet long.
3. Power Tunnel 11-foot nominal diameter, fully concrete lined, 18,760 feet long.
4. Diversion 21-foot horseshoe tunnel, 440 feet long.
5. Steel Liner/  
Penstock Steel 11-foot diameter, 2,400 feet long tapering to 9 foot diameter manifold with 6 1/2 foot diameter branches.
6. Middle Fork Excavated channel and river diversion structure.
7. Nuka Diversion 9 foot high gravel fill dike.
8. Powerhouse Above ground, steel superstructure. 160 feet long, 80 feet wide, 92 feet high.
9. Turbines 2 each Pelton, vertical shaft.
10. Generators 2 each; 63 MVA with nominal output of 45 MW.
11. Transmission 115 kV, steel pole, 2 parallel single circuits, 20 Line miles long, with 115 kV switching station at Bradley Junction.
12. Barge Dock Sheetpile cellular structure, granular fill.
13. Access Roads 10.8 miles gravel surfaced.
14. Airstrip Gravel surfaced, 2,400 feet long x 75 feet wide.



Exhibit DPurchasers' Percentage Shares Of Project Capacity  
And Of Annual Project Costs

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<u>PURCHASER</u>	<u>PERCENTAGE SHARE</u>
Alaska Electric Generation & Transmission Cooperative, Inc.	25.8
Chugach Electric Association, Inc.	30.4
Golden Valley Electric Association, Inc.	16.9
Municipality of Anchorage, d/b/a Municipal Light and Power	25.9
City of Seward, d/b/a Seward Electric System	1.0
	<hr/>
	100.00%

Exhibit E

ALASKA POWER AUTHORITY

RESOLUTION NO. \_\_\_\_\_

A SUPPLEMENTAL RESOLUTION AUTHORIZING  
THE ISSUANCE OF \$ \_\_\_\_\_  
POWER REVENUE BONDS, FIRST SERIES

BE IT RESOLVED by the Board of Directors of the Alaska Power Authority on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that pursuant to the General Bond Resolution adopted on \_\_\_\_\_, 19\_\_\_\_, (hereinafter referred to as the "Resolution"), this Supplemental Resolution is adopted as follows:

ARTICLE I

Definitions and Authority

101. Short Title. This Resolution may hereafter be cited by the Authority, and is hereinafter sometimes referred to as the "First Series Resolution".

102. Definitions. (a) All defined terms contained in the Resolution shall have the same meanings, respectively, in this First Series Resolution as such defined terms are given in Section 102 of the Resolution.

(b) In addition, as used in this First Series Resolution, unless the context shall otherwise require, the following terms shall have the following respective meanings:

"Bonds" or "First Series Bonds" means the Bonds of the Authority of the Series authorized by this First Series Resolution and herein designated "Power Revenue Bonds, First Series".

"Series Bonds" means any First Series Bond maturing on or before \_\_\_\_\_.

(c) Unless the context shall otherwise indicate, words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, words importing the singular number shall include the plural

number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons.

The terms "hereby", "hereof", "hereto", "herein", "hereunder", and any similar terms, as used in this \_\_\_\_\_ Series Resolution, refer to this \_\_\_\_\_ Series Resolution and such terms when used in the form of bond herein refer to said bond.

103. Authority for this Resolution. This First Series Resolution is adopted pursuant to the provisions of the Act and the Resolution.

## ARTICLE II

### Authorization, Terms and Issuance

201. Authorization, Principal Amount, Description and Series. In order to provide funds necessary for the purpose specified in Section 203, in accordance with and subject to the terms, conditions and limitations established herein and in the Resolution, a Series of Power Revenue Bonds is hereby authorized to be issued in the aggregate principal amount of \$ \_\_\_\_\_. The Authority is of the opinion and hereby determines that the issuance of the Bonds in said amount is necessary to provide sufficient funds to be used and expended for the purpose specified in Section 203. In addition to the title "Power Revenue Bond", the Bonds of such Series shall bear the additional designation "First Series" and each as so designated shall be entitled "Power Revenue Bond, First Series". The Power Revenue First Series Bonds shall consist of \$ \_\_\_\_\_ principal amount of Serial Bonds and \$ \_\_\_\_\_ principal amount of Term Bonds and shall be issued in fully registered form.

202. Purposes. The purposes for which the \_\_\_\_\_ Series Bonds are being issued are to provide funds for deposit in the Renewal and Contingency Reserve, Capital Reserve Fund, Operating Reserve Account, and Construction Fund, respectively, all to the extent and subject to the limitations and in the amounts provided in the Resolution and in Article III hereof.

203. Issue Date. The First Series Bonds shall be dated \_\_\_\_\_, except as otherwise provided in the Resolution in the case of Bonds issued on or subsequent to \_\_\_\_\_.

204. Maturities and Interest Rates. The \_\_\_\_\_ Series Bonds shall mature on the anniversary of their date in:

the following years and the Bonds maturing in each such year shall mature in the principal amount and bear interest from the date thereof, payable semi-annually on the first day of each month commencing 6 months and 12 months from date, at the rates set opposite such year in the following table:

<u>Years</u>	<u>Amount Maturing</u>	<u>Interest Rates</u>	<u>Years</u>	<u>Amount Maturing</u>	<u>Interest Rates</u>
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205. Denominations, Numbers and Letters. The First Series Bonds maturing in each year shall be issued in denominations of \$5,000, or any whole multiple thereof not exceeding the aggregate principal amount of First Series Bonds maturing in such year, in the case of fully registered Bonds. The First Series Bonds shall be lettered A and numbered separately from 1 consecutively upwards in such order as the Trustee in its discretion shall determine.

206. Paying Agents. \_\_\_\_\_, in \_\_\_\_\_, and \_\_\_\_\_, are hereby appointed the Paying Agents for the \_\_\_\_\_ Series Bonds pursuant to Section 902 of the Resolution.

207. Redemption at the Election of the Authority and Terms. The Bonds maturing \_\_\_\_\_ and thereafter shall also be subject to redemption, either as a whole or in part, and in such amount or amounts of such maturity or maturities as the Authority shall elect, on any date (which date shall be determined by the Authority or selected by the Trustee, subject to the provisions of, and in accordance with, the Resolution and when so determined or selected shall be deemed and is hereby set forth as the redemption date) on and after \_\_\_\_\_, and prior to their respective maturities, upon notice as provided in Article IV of the Resolution, at the respective Redemption Prices (expressed as percentages of the principal amount of such Bonds to be so redeemed) set opposite such period in the following table, plus in each case interest accrued to the redemption date:

Period  
(Both Dates Inclusive)

Redemption Prices  
(Expressed as a  
Percentage)

208. Sinking Fund Payments. The Term Bonds shall be subject to redemption in part by operation of the Principal Account through application of Sinking Fund Payments as provided in subsection 507(2) of the Resolution on \_\_\_\_\_ and on each \_\_\_\_\_ 1 thereafter as herein provided in each case at a Redemption Price equal to the principal amount of each Bond or portion thereof to be redeemed, together with interest accrued to the redemption date. There shall be due and the Authority shall at any and all events be required to pay on \_\_\_\_\_ 1 of each of the years set forth in the following table the amount set opposite each such year in said table and said amount is hereby established as and shall constitute a Sinking Fund Payment for the retirement of the Term Bonds, provided, however, that the amount set opposite \_\_\_\_\_ in said table shall be payable at the stated maturity date of the Term Bonds and shall not constitute a Sinking Fund Payment:

Year

Sinking Fund Payments

209. Selection by Lot. If less than all of the First Series Bonds of a like maturity are to be redeemed, the particular Bonds of such maturity to be redeemed shall be selected by lot in accordance with Section 404 of the Resolution.

ARTICLE III

Disposition of Proceeds

301. Deposits. Upon receipt of the proceeds of sale of the First Series Bonds, there shall be deposited (a) in the Capital Reserve Fund to equal the Capital Reserve Fund Requirement immediately after delivery of the First Series Bonds, (b) in the Interest Account the amount of accrued interest on the First Series Bonds from their date to the date of delivery thereof and payment therefor, (c) in the Renewal and Contingency Reserve Fund the amount necessary to cause the amount in the Fund to equal the Renewal and Contingency Reserve Requirement, and (d) in the Operating Reserve Account \$ \_\_\_\_\_.

302. Construction Fund. After the deposits referred to in Section 301 hereof have been made, the balance of the proceeds of sale of the First Series Bonds shall be deposited in the First Series Bonds Account of the Construction Fund.

ARTICLE IV

Effective Date

401. This Resolution shall take effect immediately.

THE FOLLOWING DOCUMENT(S) MAY NOT FILM  
LEGIBLY BECAUSE OF POOR QUALITY OF THE  
ORIGINAL.

John H. ... from the Consumer Advocacy Program  
Chairman ...

During my testimony, it was asked what, if any, changes could be made in the existing bill which would make it more palatable from the consumers' perspective.

In reviewing the bill, Sec. 2, part D (line 74), it is ~~proposed~~ <sup>to</sup> allow utilities to recover all costs for 50 years, even though the assets are scheduled for retirement in 30 years.

I would like to suggest a small language change to read: beginning of line 74. Insert:

ACAP believes that this change may allay the fear that excessive or unprogrammed costs will be incurred or passed along in the rates charged by the consumer. From a public policy perspective, allowing only reasonable costs to be passed along to consumers will be beneficial to everyone.

"Insert" Just and reasonable costs incurred by a utility in connection with a wholesale agreement or contract described in AS 42.05.431(c)(2), including reasonable general costs incurred under such an agreement or contract, must be allowed in the rates charged by the utility. This section shall be in effect for ~~the~~ 30 years.

RESOLUTION NO. 87-19

A RESOLUTION of the Project Management Committee ("PMC"), providing for the adoption of an open meetings policy.

WHEREAS, the members of the PMC desire to conduct their business in public; and

WHEREAS, the six parties to the Agreement establishing the PMC all routinely conduct business in open meetings; and

WHEREAS, while the PMC may not be a governmental unit, neither is it entirely a "private" entity, as that term is commonly used; and

WHEREAS, Alaska public policy favors openness and public access; and

WHEREAS, opening meetings to the public may have a positive substantive impact on the deliberations of the PMC by insuring that important decisions are made with adequate information; and

WHEREAS, public exposure may deter misconduct, discourage hasty decision-making, and enhance consumer acceptance of PMC actions; and

WHEREAS, Section 7(d) of the Agreement empowers the PMC to enact procedural rules.

NOW, THEREFORE, BE IT RESOLVED by the PMC as follows:

Section 1.

All formal meetings of the Committee and its subcommittees shall be open to the public except as otherwise provided in these bylaws. Except when voice votes are authorized, all votes shall be conducted in such a manner that the public may know the vote of each person entitled to vote.

Section 2.

If excepted subjects are to be discussed at a meeting, the meeting shall first be convened as a regular or special meeting and the question of holding an executive session to discuss matters that come within the exceptions contained in Section 3 of this rule shall be determined by a majority vote of the Committee. No subjects may be considered at the executive session except those mentioned in the motion calling for the executive session unless auxiliary to the main question. Formal action may not be taken during the executive session. Only members of the Committee and designated alternates, attorneys for members of the Committee and members of the Technical Standards Committee may attend an executive session, unless the motion calling for the executive session specifies other persons who are to present information to the Committee.

### Section 3.

The following excepted subjects may be discussed in an executive session:

- (A) Matters the immediate knowledge of which would clearly have an adverse effect upon the finances of the Committee, the Initial Project, or any of the individual parties represented on the Committee;
- (B) Subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion;
- (C) Matters which by law are required to be confidential;
- (D) Matters discussed with an attorney retained by the Committee members, or with a consultant retained by such attorney, the immediate knowledge of which could have an adverse effect on the legal position of the Committee, the Initial Project, or any of the parties represented on the Committee.

### Section 4.

Reasonable notice shall be given for all regular or special meetings of the Committee.

### Section 5.

Sections 1, 2, 3 and 4 shall not apply to:

- (A) Meetings at which a quorum is not present;
- (B) Informal discussions, by telephone or otherwise, among members of the Committee, at which votes are not taken and official business is not conducted;
- (C) Meetings and discussions, formal or informal, of Committee members in which all participants indicate they are acting individually as representatives of the parties to the Agreement and not as the assembled Committee, and at which no Committee business is conducted and no votes are taken.

DATED this 19 day of August, 1987.

PROJECT MANAGEMENT COMMITTEE

By: Richard A. Southworth  
Chairman

ATTEST:

By: [Signature]  
Secretary

APPROVED AT PROJECT MANAGEMENT COMMITTEE MEETING  
HELD JULY 29-30, 1987.

Senate Bill 22 that was vetoed last session. The final section of this memorandum suggests alternative language for HB 356.

### Background

The 90 megawatt Bradley Lake hydroelectric project is currently under construction by the APA on the Kenai Peninsula near Homer, Alaska. The APA has obtained State appropriations (\$168,080,000) and borrowed short-term funds to finance the initial costs of construction. The APA is ready to issue the Request For Proposals for the general civil engineering construction contract. Prior to committing to the completion of the project, however, the APA insisted that all three contracts noted above be agreed upon.

House Bill 356 was introduced by Governor Cowper to exempt these Bradley Lake contracts from APUC review and approval. Exemption from APUC review is deemed necessary to avoid extensive project delay caused by interveners in the APUC hearing process. Public Utility Regulatory Policy Act (PURPA) qualifying alternative energy facilities who intend to sell power to some of the Railbelt utilities are likely to intervene in the Bradley Lake hearing process. Similarly, the State regulatory review process provides an opportunity for parties who may oppose construction of the Bradley Lake project to delay its completion and thus jeopardize the APA's ability to obtain lower interest, tax-free bonding for the project. Deregulation of the Bradley Lake project by HB 356 also allows automatic flow-through of Bradley Lake costs into electric rates, thus guaranteeing revenue required for bond repayment.

As mentioned in the SB 22 hearings last session, removal of APUC authority over the Bradley Lake contracts does not eliminate all judicial opportunities for PURPA interveners; it simply transfers PURPA jurisdiction to the federal government. If APUC authority is removed, interveners can still file suits under PURPA in federal district court. This court would also hear any appeals of APUC decisions related to PURPA. In this regard, removal of APUC review authority would eliminate one step in the judicial process.

The APA has been advised by bond counsel that APUC oversight of the contracts would raise the interest rates on bonds. There has been continued discussion of this point. We are unable to comment on the accuracy of the claims. The APUC review of projects does not preclude the recovery of "prudent" costs. However, given the excess generating capacity in the Railbelt, there is some question that Bradley Lake would be considered a prudent project at this time. The next section provides some general information on the three Bradley Lake project contracts.

# Kay Brown

## Alaska State Legislature House of Representatives

TO: David Teal, Director  
House Research Agency

FROM: Representative Kay Brown *efr*

DATE: January 18, 1988

SUBJ: Issues Related to Bradley Lake and HB 356

*JAN 19 1988*

The purpose of this research request is to ask for your assistance in the review of the power sales contract and related contracts that would be exempted from the review and approval of the Alaska Public Utilities Commission (APUC) under the terms of HB 356. Specifically, these documents include:

- the power sales contracts between the Alaska Power Authority (APA) and the utilities;
- the "services agreement" between Chugach Electric Association and the other Railbelt utilities; and
- the "transmission sharing agreement" between Homer Electric Association (HEA) and the other Railbelt utilities.

As you review the power sales contract and the related contracts, it would be especially useful if you could focus your attention on the following issues and questions in the context of HB 356 as it has been introduced.

1. How does HB 356 compare with the final version of SB 22 as it was approved by the Legislature last year? What is the rationale for the differences relating to the Bradley Lake agreements?
2. How do the Bradley Lake contracts compare to the contract negotiated for the Four Dam Pool? How do the terms of the Bradley contracts compare, if at all, to the Four Dam Pool contracts in terms of "rate reopener" provisions?
3. How does the treatment of debt vs. equity differ between the proposed Bradley contracts and the contracts for the Four Dam Pool?

P. O. Box 20-2661  
Anchorage, AK 99520-2661  
(907) 272-0207

During Session:  
P. O. Box V  
Juneau, AK 99811  
(907) 465-4998

4. Under what circumstances could the power sales rates provided for under the terms of the Bradley power sales contracts be changed (ie, increased or lowered) and what role, if any, would the APUC have in approving such changes in rates under the terms of HB 356 as introduced? Could the "excess payments" called for under Section 29 of the power sales contract be increased without APUC approval under the terms of HB 356?

5. What is the necessity for the language to exempt from APUC review "any subsequent amendments to the wholesale agreement or related contract" (page 1, line 21-22)? What other parties, beyond the signatories to the contracts, need to approve the contracts before they are binding?

6. Would retention of APUC approval authority over the "services agreement" and the "transmission services agreement" necessarily preclude the continuation of construction on the Bradley Lake project this summer? The timely issuance of tax exempt bonds for the project prior to January 1991?

\* \* \* \* \*

As you are aware, a work session on the subject of HB 356 (in anticipation of the bill's referral from House Judiciary) has been scheduled by Representative Swackhammer for this coming Thursday at 8:00 - 9:30 am in the Butrovich Room. The work session is scheduled to continue as necessary on Friday at the same time.

If you have any questions regarding this request, please contact my office.

✓ cc: Representative John Sund

Q: Does the repayment of "excess payments" go into the Railbelt Energy Fund? Sec 29  
Yes  
(Why not put 4 Dam pool payments into the 4 DP Fund?)



Official Business

# Alaska State Legislature

## House

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

TO: Representative John Sund

FROM: Representative Kay Brown

DATE: January 26, 1988 *Kay*

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 \_\_\_\_\_ .

HB

361

Selected Alaska Substance Abuse Facts

- Of the 260 drug arrests in 1985 cocaine was involved in 176. 57% of those arrested were retailers followed by distributors, users, and wholesalers.
- Alcoholics have a 30 times greater risk for suicide; 80% of successful suicides are alcohol-related. Alaska had 95 suicides in 1985.
- In 1985 the equivalent of 4.35 gallons of absolute alcohol was sold per person over age 21 in Alaska. The U.S. average rate is 2.52 gallons per person.
- 58 traffic fatality accidents in 1985 resulted in 69 alcohol-related fatalities. Each fatality is calculated to cost \$306,000. which results in a total cost of \$21,114,000.
- In 1982 there were 1,474 liquor licenses in Alaska. In 1986 there were 1,706 liquor licenses or one license for every 178 Alaskans age 21 or over.
- During the period of July 1985 through June 1986, 61% of the persons receiving alcoholism and drug abuse treatment services were referred by the Criminal Justice System.
- During 1985 youth aged 0-20 accounted for 14% of alcohol-related driving fatalities. This same age group only have 7.1% of the drivers licenses. 71.
- 55% of all crime in Alaska is estimated to be alcohol-related. 16% of 1985 felony court filings were for drug-related charges.
- The estimated value of drugs seized in 1985 by drug enforcement officers was \$9,012,409.
- In up to 90% of child abuse cases alcohol is a significant factor. There were over 9,500 reports of child abuse in Alaska in FY86.
- Alcohol impaired persons accounted for 49.5% of 79 pedestrian fatalities between 1980-1984. Additionally, 30% of the drivers were using alcohol at the time of these crashes.

From: Annual Report to the Legislature, 1986  
Office of Alcoholism & Drug Abuse  
Dept. Health & Social Services.

## BACKGROUND

## RECOMMENDATION

### Treatment for Children of Abusers:

68

One in four children in Alaska has an alcoholic parent. These children and those whose parents abuse other substances are much more likely to become substance abusers than children with non-substance abusing parents. Breaking this generational cycle requires special attention to these high-risk children.

More grant money is needed to educate and treat children of alcoholics and other substance abusers and dysfunctional families through schools, expanded outpatient treatment centers, support groups and camps for children of alcoholics.

### Substance Law Enforcement:

69

Much testimony from around the state concerned the widespread violation of alcohol and drug laws. Current state statutes send a mixed message to youth. When young people see such disregard for the law and a double standard about substance abuse, they come to disrespect existing laws. They also suffer the effects of adult substance use, including domestic violence and child abuse, unemployment, neglect and poor health. Even a small increase in the cost of alcohol has been shown to lessen consumption, particularly among youth. Washington State is considering increasing its taxes and spending the revenue on prevention and treatment of substance abuse. For many young people tobacco consumption is their first experience buying and using substances the law prohibits them from using. Vending machines and tobacco sales in grocery and convenience stores make it possible for children to buy these products anonymously. The Alaska Lung Association discovered recently that even preteens can obtain them easily.

Greater state and local resources and greater emphasis need to be directed to enforcing laws that prohibit selling and providing alcohol, drugs and tobacco to minors. Such measures should include more hiring and effective training of law enforcement personnel, particularly in villages, and enforcement of penalties on adults who purchase for or sell substances to young people. Taxes on alcohol and tobacco should be increased. A review of the statutes regarding marijuana use should be conducted. Laws should require that cigarettes and chewing tobacco be sold in a restricted manner requiring adult supervision and preventing sale to children.

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*"Most children from substance abuse families do not know how to play. Life is far too serious to have developed that skill."*

— Bette O'Moor, Executive Director,  
Alaska Council on Prevention of  
Alcohol and Drug Abuse, Anchorage

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(Sicily Report, 1/1988)

## BACKGROUND

## RECOMMENDATION

### Withholding Privileges:

70

Youth participate in substance abuse for many reasons, including the desire to appear adult, please their peers, or escape boredom, pain or depression. The illegality of alcohol or drug use discourages few youth from substance use. Some states have enacted laws that delay the time when a youth can obtain a driver's license if that youth has consumed illegal substances. These states have found these so-called "use it and lose it" laws to be an effective deterrent. Other states have involved teen idols and other youth in education and training programs to provide role models for teens to say no to drugs.

Alaska should enact legislation that more effectively discourages substance use by withholding or delaying youth privileges such as driver's licenses. Communities and schools should involve youth and respected leaders in programs that help youth make wise choices about drugs in their lives.

### Fetal Alcohol Syndrome:

71

When a pregnant woman uses alcohol, drugs or tobacco her newborn is at high risk of injury. Alcohol addiction is a part of daily life for many pregnant women in Alaska. When a pregnant woman is part of a family or community where alcohol abuse is the rule rather than the exception or when she or her partner are addicted to alcohol, the sad result is often a baby born with fetal alcohol syndrome (FAS) or fetal alcohol effect.

A baby with FAS can be born prematurely, at low birth weight and require extraordinary medical attention, special care through pre-school, special education programs in school and potentially lifelong residential care in severe cases. These burdens on families and service providers can be prevented by addressing causes before and during pregnancy. Medicaid spent more than \$4.6 million in Alaska for 96 infants in newborn intensive care in 1986. Many of these infants had FAS.

Agencies involved in delivering substance abuse services should guarantee voluntary residential treatment programs for pregnant women who choose an alternative to drinking during pregnancy. Public education should continue to be provided regarding the effects of substances including alcohol, drugs and tobacco on the health of a woman and her fetus.

*(Gicco Report, 1/88)*

# Senator Johne Binkley

Senate Finance Committee  
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985



February 11, 1988

Finance Committee  
Co-Chairman

David C. Crosby, Esq.  
Council & Crosby  
424 North Franklin Street  
Juneau, AK 99801

FEB 17 1988

COUNCIL & CROSBY

Dear Mr. Crosby:

I have received your letter dated February 10 regarding SB 383, the so-called "use and lose" bill, along with the attachments. Your written testimony is excellent and the "My Turn" article was very moving. Thank you so much for providing this information to me and my Senate colleagues.

I have written to Senator Abood expressing my agreement with the proposal to increase the ages for revocation to 16-1/2 for the first offense (or 6 months, whichever is longer) and 17 for the second offense (or one year, whichever is longer). I know you advocate a one year revocation for all offenses, giving the court the ability to reinstate the license sooner. I have a couple of problems with making the initial offense a one year revocation. First, I think its important in the first go-around that the revocation period be within a time frame that will have meaning to the minor. To make it too long, I'm afraid, will make the reinstatement seem unobtainable and therefore, the penalty may lose its poignancy. Second, by giving the court the ability to shorten the sentence may serve to benefit only those minors who are themselves or whose parents are familiar with and unintimidated by the "system."

I certainly agree that the penalty must be significant. Raising the ages and perhaps requiring evaluation for treatment for alcohol or drug abuse upon the second conviction would, I believe, fit the criteria.

Again, I want to thank you for taking such an interest in this bill. I have been advised by the State Affairs Committee that it will be heard again on Friday, February 19 at 1:30 p.m. I'm also told that a number of teenagers plan to attend to protest. I hope you too will be able to attend.

Sincerely,

A handwritten signature in black ink, appearing to read "Johne".

Senator Johne Binkley  
Yukon-Kuskokwim and  
Interior Rivers

jka

# Alaska State Legislature

PRESIDENT  
907-465-3755



JAN FAIKS  
POST OFFICE BOX V  
JUNEAU, ALASKA 99811

Senate

February 13, 1988

David C. Crosby  
Council and Crosby  
424 North Franklin Street  
Juneau, Alaska 99801

Dear Mr. Crosby:

Thank you for providing a copy of your written testimony regarding SB-383, concerning minor consuming alcoholic beverages and driving privileges, or popularly known as the "use and lose" bill.

I just want to let you know that I found your presentation to be excellent in its content and organization. I find myself in agreement with your points and your suggested amendments to the legislation.

Thank you for taking time to submit your thoughts about this proposed legislation. Thanks, too, for getting involved in the effort to stem the tide of alcohol and drug abuse that is so pervasive among our young people.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Faiks".

Jan Faiks  
Senator

JF/mg

CUT OF SESSION

3111 C STREET, SUITE 525 ANCHORAGE, ALASKA 99503 907-561-7610