

# **1996 EKLUTNA HYDROELECTRIC PROJECT TRANSITION PLAN**

by and among

**THE UNITED STATES OF AMERICA d/b/a ALASKA POWER  
ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE  
MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT &  
POWER; CHUGACH ELECTRIC ASSOCIATION, INC.;  
and MATANUSKA ELECTRIC ASSOCIATION, INC.**

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## **TRANSITION PLAN**

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ADMINISTRATION, a unit of the DEPARTMENT OF ENERGY; THE  
MUNICIPALITY OF ANCHORAGE d/b/a MUNICIPAL LIGHT &  
POWER; CHUGACH ELECTRIC ASSOCIATION, INC.;  
and MATANUSKA ELECTRIC ASSOCIATION, INC.**

This plan comprises:

- Transition Plan, consisting of 13 Sections contained on 10 pages;
- Exhibit A, consisting of 33 pages;
- Exhibit B, consisting of 5 pages;
- Exhibit C, consisting of 12 pages;
- Exhibit D, consisting of 25 pages;
- Exhibit E, consisting of 9 pages; and

THIS PLAN ("PLAN") dated as of May 28, 1996, is adopted by and among, namely, The United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE); The Municipality of Anchorage (ML&P); the Chugach Electric Association, Inc. (CEA); and the Matanuska Electric Association, Inc. (MEA). Unless specifically referred to herein, the above are hereinafter designated the "Parties."

### **RECITALS:**

WHEREAS, by the Alaska Power Administration Asset Sale and Termination Act, APA is authorized to sell to the undersigned Utilities (hereinafter the "Eklutna Purchasers"), physical assets, property interests, and all other interests the DOE may have in the Eklutna Hydroelectric Generation Plant, tunnels, transmission lines, rights-of-way, equipment, rolling stock, and other rights in contract (hereinafter the "Eklutna Project") as set forth in the Eklutna Purchase Agreement, dated August 2, 1989, attached hereto and incorporated below by reference as

Exhibit A (hereinafter referred to as the Purchase Agreement) together with all amendments thereto; and

WHEREAS, the Eklutna Purchasers are required prior to May 28, 1996, pursuant to the Purchase Agreement to jointly develop and adopt specific transition plans setting forth the arrangements and a timetable for completing the sale and transfer; and

WHEREAS, the Eklutna Purchasers have signed a Memorandum of Understanding dated July 25, 1989, attached hereto as Exhibit B, in which they mutually declare their respective proportionate shares of the Eklutna Project's capacity, energy, and undivided interest in Eklutna assets to be 16/30 to ML&P (53.33%); 9/30 to CEA (30%); and 5/30 to MEA (16.67%), and further declare that the Eklutna Project operating costs will be borne in these same proportions; and

WHEREAS, the Eklutna Purchasers, subject to the rights of the Parties to amend the terms of the Purchase Agreement subsequent to adoption of this Plan, desire to formalize transition plans and arrangements by the terms of this Plan; and

WHEREAS, the Parties intend that this Plan shall foster an efficient, orderly, and expeditious transfer of the Eklutna Project and its operation to the Eklutna Purchasers, and further intend that the transfer be accomplished with minimum costs and minimum adverse impacts to APA employees.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants set forth herein, the Parties agree as follows:

## **SECTION 1. PARTIES**

**Parties to This Plan:** The Parties to this Plan are the United States of America d/b/a Alaska Power Administration (APA) a unit of the Department of Energy (DOE), and the Eklutna Purchasers: The Municipality of Anchorage d/b/a Municipal Light & Power (ML&P), purchaser of 16/30ths of the Eklutna Project (53.33%); the Chugach Electric Association, Inc. (CEA), purchaser of 9/30ths of the Eklutna Project (30%); and the Matanuska Electric Association (MEA), purchaser of 5/30ths of the Eklutna Project (16.67%). The Eklutna Purchasers shall, after the Transaction Date, own an undivided interest in the Eklutna Project assets identified in Section 4 of the Purchase Agreement that are the subject of this Plan, and will exercise the rights and bear the responsibilities of such ownership in proportion to their respective shares.

## **SECTION 2. TERM OF PLAN**

(a) **Effective Date.** This Plan shall become effective upon execution by all of the Parties ("Effective Date").

- (b) **Expiration Date.** Unless earlier terminated pursuant to other provisions of this Plan, this Plan shall expire upon completion of the tasks herein defined or as otherwise mutually agreed upon by all of the Parties.

### **SECTION 3. SELECTION OF A TRANSACTION DATE**

The date upon which ownership of the Eklutna Project transfers to the Eklutna Purchasers is the "Transaction Date" and shall be within 30 days of the completion of all items listed in Exhibit C and section 10 of this Plan to the satisfaction of all Parties or as late as November 28, 1997, or later if mutually agreed upon.

### **SECTION 4. SCHEDULE FOR PAYMENTS TO THE UNITED STATES TREASURY**

- (a) Section 5(a) of the Purchase Agreement specifies the selling price of the Eklutna Project as the discounted present value of the remaining payment stream (as described in the 1987 repayment study) plus \$1,000,000.00. The present value using the 9% discount rate will be determined by APA using the methodology of Section 5 of the Purchase Agreement and the remaining payments described in Exhibit B of Amendment No. 3 to the Purchase Agreement dated June 22, 1995. The price estimated in the Purchase Agreement assumes adjustments for a Transaction Date that is other than the beginning of a federal fiscal year. If the established Transaction Date is a date other than the start of the federal fiscal year, the selling price will be established and payments scheduled in accordance with the Purchase Agreement.

The payment to the U.S. Treasury will be fully paid within five years of the Transaction Date. The portion paid to the U.S. Treasury following the Transaction Date will carry interest of 9% per annum.

- (b) The Eklutna Purchasers intend to make payments to the U.S. Treasury or deposits in an escrow account with certified funds (by check or wire transfer) on the Transaction Date. If any Eklutna Purchaser should otherwise choose to make payments within the allowable five year window, such election must be announced prior to the Transaction Date. A schedule will then be developed and any and all interest charges associated with the established schedule will be borne by the Eklutna Purchaser (or Purchasers) that so elect to make payments.

An interest bearing escrow account may be established in which the Eklutna Purchasers may deposit payment amounts. Funds will be held in this escrow account to cover completion of outstanding land, property, or other issues identified on the Transaction Date. Funds will be released to the U.S. Treasury as mutually agreed to by the Parties. Interest on funds held in this escrow account shall be credited toward the 9% per annum interest to be paid by the

Eklutna Purchasers to the U.S. Treasury on the portion paid following the Transaction Date, from the Transaction Date until the date the payments are actually made to the U.S. Treasury.

**SECTION 5. ARRANGEMENTS AND TIMETABLE FOR TRANSFER OF OPERATIONS, MAINTENANCE, POWER MARKETING, AND ADMINISTRATION OF THE EKLUTNA PROJECT**

<b>EVENT</b>	<b>TIMETABLE</b>
APA and the Eklutna Purchasers set mutually agreeable functional transfer date of October 1, 1996 ("Transition Date").	Complete
Eklutna Purchasers provide APA with proposed organization and staffing requirements related to employees currently at the Eklutna Project.	May 28, 1996
Eklutna Purchasers representatives meet with the Eklutna Project personnel to discuss detailed transition staffing plans.	Jun 10, 1996
Eklutna Operating Committee (EOC), as established in this Plan, begins to meet, develops coordination procedures for functional control in consultation with APA, and conduct other business.	Jun 28, 1996
Parties determine the budgetary offsets to current Eklutna Project rates and propose new power rates for the transition period.	Jul 1, 1996
APA initiates personnel actions necessary to facilitate the functional transfer to the utilities.	Aug 15, 1996
Detailed plans, agreements, and SOP's in place and executed for October 1, 1996 change in functional control.	Aug 30, 1996
Eklutna personnel transition to their respective utility employer.	Oct 1, 1996
EOC manages the operation and adjusts procedures as required in consultation with APA.	Commences Oct 1, 1996
Office space and full access to all government records for an APA real estate person and rewind contracting officer's representative will be provided by Eklutna Purchasers.	Commences Oct 1, 1996

## **SECTION 6. ACTIVITIES AND SCHEDULES FOR COMPLETION OF SALE**

### **EVENT**

### **TIMETABLE**

Formal environmental, engineering, and safety inspections continue until complete.

Aug 1, 1996

Parties agree on resolution of inspection issues.

Aug 30, 1996

Generator rewind, plant modifications, and inspection corrective actions continue until completed.

As Required

Title and land conveyance issues continue until complete.

Transaction Date

Conveyance documents in final draft.

Aug 30, 1996

Transaction Date and the Eklutna Project sale executed.

Nov 28, 1997  
(unless earlier  
agreed upon)

## **SECTION 7. TRANSFER OF DATA AND OTHER RECORDS TO PURCHASERS**

### **EVENT**

### **TIMETABLE**

APA Listing of Eklutna Project data and records to be transferred which will include their current location.

May 24, 1996

Site selection by Eklutna Purchasers for data and document relocation plan.

Aug 1, 1996

Data and documents transferred to Eklutna Purchasers after the Transaction Date as mutually agreed to by Parties.

To Be  
Determined

## **SECTION 8. INSPECTION RESULTS AND REQUIRED DOE WORK PLAN**

Inspection results and a required DOE work plan are attached hereto as Exhibit C. The Parties agree that this list may not be all inclusive, and other work items may be added by any Eklutna Purchaser if, in their judgment, new information warrants. The Parties will mutually agree who has the responsibility to correct the added work items and set the schedule for their completion. All formal inspection results and action plans to deal with outstanding issues shall be finalized by August 1, 1996. Description of inspection lists in this Exhibit C:

- (a) Listing of engineering inspection results as known when this Plan is executed, the timetable of work to be completed by APA, and the resolution of other inspection issues.
- (b) Listing of environmental and safety inspection results and the APA responses are in draft form as of the Effective Date of this Plan, and shall be included in this Exhibit C upon receipt of same.

## **SECTION 9. EKLUTNA ASSETS**

Attached as Exhibit D are the Physical assets list of APA and asset lists of each of the utilities for those assets located on APA property. APA intends to transfer, on the Transaction Date, full title to all such assets to Eklutna Purchasers. If the Eklutna Purchasers should choose to operate and/or maintain the Eklutna Project prior to the Transaction Date, they shall be authorized to use listed APA equipment, tools, and vehicles. All assets listed by each utility as their own are not intended to be, and shall not be, transferred to the other Eklutna Purchasers, but shall remain available for the benefit of the Eklutna Project.

APA is in the process of finalizing its survey results on all rights-of-way, easements, and structures intended to be transferred. All parcels, rights-of-way, and easements shall be fully described upon completion and compiled for inclusion in the transfer documents executed on the Transaction Date. Any discrepancies shall be dealt with pursuant to Section 10 below.

## **SECTION 10. TITLE CONDITION TO ALL EKLUTNA ASSETS AND PLANNED REMEDIES**

All personal property transferred to Eklutna Purchasers by APA shall be free and clear of any rights of third parties on the Transaction Date. Pursuant to the Purchase Agreement, APA represents to the Eklutna Purchasers that it, or its designated successor or assigns, shall provide without cost to the Eklutna Purchasers real property interests described as follows:

- (a) Titles to APA fee owned property, including Reed and Palmer substations free and clear of encumbrances or conditions of title which would restrict the Eklutna Purchasers' rights to continue to operate the Eklutna Project,

including the transmission lines and facilities located within described rights-of-way, easements, or permitted areas;

- (b) The generation facility free of any encumbrances, covenants, and/or restrictions which would arise from its designation as historically significant and would prevent the Eklutna Purchasers from use, maintenance, repair, remodel, modification or upgrade of the buildings or equipment of the Eklutna Project assets;
- (c) Fee title to the Anchorage Substation property and other Eklutna Project land rights free and clear of claims of Cook Inlet Region Inc.;
- (d) Access rights-of-way or easements allowing access for line maintenance of the transmission lines presently being used as disclosed by the 1996 survey;
- (e) Easement rights to cross military reserve and fee owned properties owned or controlled by the United States Army within Ft. Richardson, Alaska on the existing transmission line right-of-way;
- (f) Easements, rights-of-way, or permits as required to provide for 115 KV transmission line facilities located in the CEA double circuit portion of the transmission line as set forth in contract No. 85-80AP10022.000;
- (g) Easement rights for the existing transmission lines across private property, including those areas of easements presently authorized under 44LD513 and section 17(b) of ANCSA, free and clear of claims of Eklutna Inc. or other underlying landowners and free of encroachments disclosed by the APA 1996 survey;
- (h) Transfer of all other agreements and rights and obligations with parties who are not purchasers under this agreement; and
- (i) Easement and access rights for the Wasilla Radio Relay facility free and clear of third party claims.
- (j) Rights-of-way across property owned by the United States and managed by the Bureau of Land Management.
- (k) Questions as to any limitations that there may be on the use of or interference with all natural inflows to and waters of the Eklutna Reservoir will be resolved.

In the event any of these rights can not be transferred to the Eklutna Purchasers, or must be acquired by APA to be transferred to the Eklutna Purchasers, APA and its successor or assigns warrant that they will proceed to acquire such rights through the legal acquisition process, even if such process is not completed by the Transaction Date. APA and its successor or assigns warrant that they have the staff and resources necessary to acquire the interests outlined above and will use such staff and other resources to complete the acquisition in a timely manner. Resolution of any real property issues will be identified in the transaction documents.



**SECTION 11. EKLUTNA PURCHASERS MANNER OF ACTING,  
FUNCTIONAL RESPONSIBILITY, AND STAFFING**

Attached hereto as Exhibit E is the Eklutna Purchasers' plan for delineation of responsibilities and activities to effect the transition of the currently employed APA personnel at Eklutna and Eklutna Project operations.

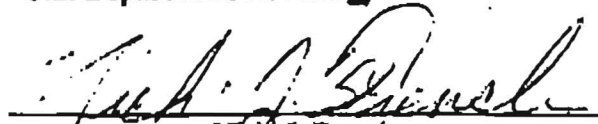
**SECTION 12. ~~NO THIRD-PARTY BENEFICIARIES~~**

The provisions of this Plan shall not create any rights in favor of any person, corporation, or association not a Party to this Plan, and the obligations herein assumed are solely for the use and benefit of the Parties to this Plan and their successors and assigns.

**SECTION 13. MODIFICATIONS TO THIS PLAN**

The provisions of this Plan have been negotiated by the Parties and represent their best effort to follow the intent of the APA Asset Sale and Termination Act pursuant to the Purchase Agreement. Should modifications to this Plan become necessary, the Parties agree to continue their best effort to work toward changes that are mutually agreeable to the Parties, and in timely enough fashion that this agreement and any such modifications are adopted by the Parties on or before the Transaction Date.

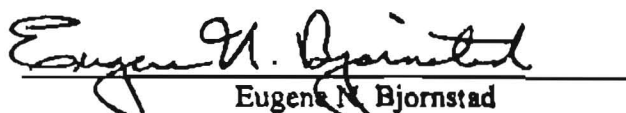
**Alaska Power Administration, a unit of the  
U.S. Department Of Energy**

  
Nick J. French  
Assistant Administrator

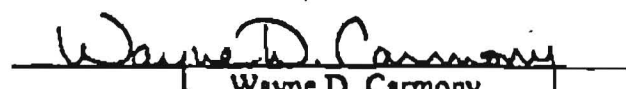
**Municipality of Anchorage**

  
Larry A. Crawford  
Municipal Manager

**Chugach Electric Association, Inc.**

  
Eugene M. Bjornstad  
General Manager

**Matanuska Electric Association, Inc.**

  
Wayne D. Carmony  
General Manager

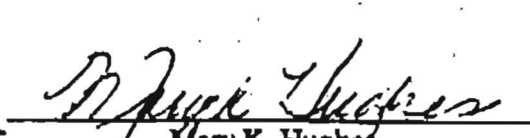
**RECOMMENDED:**

**APPROVED AS TO FORM:**

**Anchorage Municipal Light & Power**

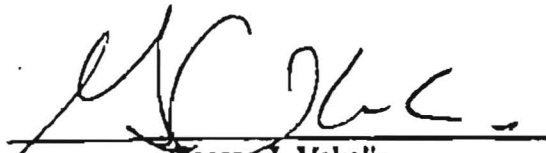
**MUNICIPALITY OF ANCHORAGE**

  
Thomas R. Stahr  
General Manager

  
Mary K. Hughes  
Municipal Attorney

**RECOMMENDED:**

**MUNICIPALITY OF ANCHORAGE**

  
George J. Vakalis  
Operations Manager