

**CHUGACH ELECTRIC ASSOCIATION, INC.**  
**Anchorage, Alaska**

**REGULAR BOARD OF DIRECTORS' MEETING**  
**AGENDA ITEM SUMMARY**

**July 30, 2008**

**ACTION REQUIRED**

**AGENDA ITEM NO. V.H.**

Information Only  
 Motion  
 Resolution  
 Executive Session  
 Other

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**TOPIC**

Ratification of Board Policy 128 (Confidentiality)

**DISCUSSION**

Attached as Exhibit A is the document which was included in the Board packet and voted on at the June 11, 2008 Special Board meeting. Exhibit B is a redlined version of Exhibit A which shows, and corrects, a number of errors in Exhibit A: words missing, improper capitalization of words and subparagraph headings, an incomplete sentence, and deletes subparagraph E.4., which language was the subject of Motion 2 of the Agenda Item at the June 11 Special Board meeting, which motion failed. So that it is clear what language the Board approved at the June 11 Special Meeting, Exhibit B should be ratified by the Board. A clean copy is also included for the Board Secretary's signature.

**MOTION**

Move that the Board ratify Exhibit B, which is a revised Board Policy 128 (Confidentiality) that contains the revisions approved at the June 11, 2008 Special Board Meeting.

# CHUGACH ELECTRIC ASSOCIATION, INC.

**BOARD POLICY: 128**

**DATE: June 11, 2008**

## CONFIDENTIALITY

### I. PURPOSE

To adopt policies and procedures to insure the protection of confidential information and documents of the Association, its customers and third parties with whom it does business.

### II. CONTENT

#### A. Types of Confidential Information and Documents.

Though not necessarily limited to the list below, confidential information and documents of the Association will generally fall into one of the following classifications:

1. Attorney-client communications;
2. Attorney work product;
3. Statutory trade secrets;
4. Common law trade secrets;
5. Personnel records;
6. Information which Chugach is contractually required to keep confidential, including information belonging to third persons; and
7. Information discussed or disclosed in executive session.

Confidential information and documents of the Association includes the foregoing items 1-7 which may consist of, by way of example and without limitation: reports and surveys, studies, memoranda, confidential business information, marketing plans, information as to existing or future services, analyses, computer programs, financial projections, customer and supplier lists (including customer identity, rates, services and contract terms), confidential cost and pricing information, concepts, techniques, methods, systems, research,

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<sup>1</sup> Except as provided in Board Policy 120, Requests for Association Information and Article XVII, Member Access to Information, Section 1.(a) of Chugach's Bylaws.

development or experimental work, work in process, operations, schedules of employee compensation,<sup>2</sup> personnel records, and all copies thereof.

If a director or employee has any questions concerning what comprises confidential information and documents of the Association, they should consult with the Chief Executive Officer and/or General Counsel.

B. Obligations to Maintain Confidentiality.

1. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, either directly or indirectly, disclose or permit the disclosure of, reproduce, or in any other way publicly or privately disseminate, any confidential information or documents of the Association to any third parties except as and to the extent expressly authorized by the Association in order to carry out their duties to the Association, or in the case of confidential information or documents belonging solely to customers of the Association and third parties with whom the Association does business, as may be expressly contractually authorized by those persons.
2. Directors and employees shall not, during the term of their membership on the Association's Board of Directors or employment with the Association, or at any time thereafter, make any use of any confidential information or documents of the Association (including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information) for their own purposes, such as for personal gain or advancement, or to the detriment of the Association.
3. Directors and employees shall not remove any confidential information or documents of the Association from the Association's facilities at any time during or after their membership on the Association's Board of Directors or employment with the Association except as necessary in the performance of their duties, subject to the following. Certain documents may be identified by the Association as being such a sensitive nature that they shall not be copied, removed from or sent outside the Association headquarters building in any form. In those instances, the documents shall at a minimum be marked as "Extremely Confidential and Sensitive Information; For Your Review Only. Do Not Copy or Remove from Association Premises." Board members shall be notified of the existence

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<sup>2</sup> Except as provided in Board Policy 120, Requests for Association Information and Article XVII, Member Access to Information, Section 1.(b) of Chugach's Bylaws.

<sup>3</sup> See footnote 2 above.

of this information in advance of any board meeting at which action is to be taken relating to information contained in these document(s) and the document(s) shall be made available for the board members to review at the Association headquarters building. A majority of all board members can vote to waive this requirement after discussion and advice from management and/or consultants, as appropriate. Employees will be advised by their supervisors of the identity of sensitive documents that cannot be copied, removed from or sent outside the Headquarters building in any form.

Additionally, pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and Association Operating Policy 022, employee health care information cannot be disclosed to any individuals except as provided in that Act and Operating Policy.

4. All confidential information or documents of the Association which are furnished to directors and employees by the Association, used by them on the Association's behalf, or generated or obtained by them during their membership on the Association's Board of Directors or employment with the Association shall be and remain the property of the Association.
5. Directors, at the discretion of the Board of Directors, and employees, at the discretion of the Chief Executive Officer, may be required to sign written confidentiality agreements in order to effectuate the terms of this Policy.
6. This Policy is intended to supplement, and does not supersede, those duties and obligations imposed upon directors and employees by the Alaska Uniform Trade Secrets Act, Alaska Stat. sec. 45.50.910, et seq., and all other applicable laws and regulations.

C. Obligations Upon Termination of Employment and Board Membership.

1. Employees shall immediately return all confidential information and documents of the Association in their possession, including those in electronic format, to the Association upon request of the Association, and, in any event, upon termination of their employment with the Association.
2. The duties and obligations of directors and employees under this Policy shall survive the termination of their employment with the Association.

D. Procedures for Waiver or Release of Confidential Information and Documents.

1. It is the general policy of the Association that the confidentiality which attaches to confidential information and documents of the Association shall continue indefinitely, unless released according to this Policy.

2. Only the Association's Board of Directors, acting in its official capacity, and Chief Executive Officer have the authority to waive the confidentiality protections which attach to confidential information and documents of the Association or authorize the release of confidential information and documents of the Association as an exception to this Policy.
3. If at any time a Director believes that it is in the best interests of the Association to waive the confidentiality protections of particular confidential information and documents of the Association, or to release particular confidential information and documents of the Association as an exception to this Policy; or that particular trade secret or executive session information or documents are no longer legally entitled to confidential treatment, he or she may bring such matter to the attention of the Board of Directors, acting in its official capacity, for consideration and action.
1. Nothing in this Policy shall prohibit the Association from complying with obligations it may have under state and federal law, legal process issued pursuant thereto or lawful orders of governmental authorities, to disclose confidential information and documents of the Association.

**E. Scheduled Review and Release of Confidential Information and Documents Presented to Board**

1. **Definitions.** Confidential documents and confidential presentations given to the Board of Directors will be reviewed and may be released as follows: For Purposes of this Section II.E. "Board of Directors" includes any committee of two or more Directors created by the Board or the Bylaws. All releases of confidential information scheduled under this Section II.E. are subject to the procedures set forth in Paragraphs E.2. through 5. of this section.
  - a. **Labor agreements.** Collective bargaining agreements will be released when ratified by all parties. Analyses and other information describing the ratified agreement and (ii) all voted on, but rejected agreements will be released six months after ratification of an agreement. This category does not include documents or information containing analysis and bargaining strategies prepared or used in connection with negotiations.
  - a. **Financial, strategic and long:-term planning: matters.** Information concerning financial, strategic and long-term planning: matters the release of which would have an adverse effect on the finances of the Association will be released (i) one year after presentation to the Board of Directors or (ii) one year after termination of the circumstances that would cause release of the information to have an adverse effect on finances, whichever occurs last.

- b Personnel matters. Generally confidential information concerning matters of personnel will not be released except when determined by the Board, on a case-by-case basis, that it is in the interests of the Association to do so because it is a matter of serious concern and the members must be advised, such as a matter of misconduct involving substantial financial loss to the Association.
  - c Matters involving Prejudice to reputation. Release of confidential information that might prejudice the reputation and character of a person must be determined by the Board on a case-by-case basis.
  - d Labor analysis and strategy. Release of confidential information, analyses and strategies used in collective bargaining; negotiations must be determined by the Board on a case-by-case basis.
  - e Other. Release of any other confidential information must be determined by the Board on a case-by-case basis.
- 2 Management will maintain a comprehensive list of all documents presented to the Board of Directors. This list will identify those materials designated as classified. Individual e-mail traffic need not be included as part of this list.
- 3 Release Procedure: Written Materials. Monthly, starting by July 1 2008, Management will prepare all written materials 12 months old for review by the General Counsel and/or Chief Executive Officer or their designees. Each will report to the Board any concerns they have that release of a document or other information will be harmful to the Association or any other person. In conducting this review they may consider, among: other things: the effect the release may have on sensitive negotiations; personnel matters; matters in litigation; the finances of the Association; any person's reputation or character; contractual requirements of confidentiality; trade secrets; and protected health information under HIPAA. The General Counsel and Chief Executive Officer should identify any elements of confidential information that may be redacted to alleviate their concerns while releasing the remainder. They should also identify those documents and other items of information that they conclude may be released in whole.
- 4 Upon consideration of the report of management, the Board will decide to release in whole or in part the recordings, documents and other items of information under consideration. The Board will keep in mind its general duties that its approval of disclosures should be in the best interests of the Association and that a release of information should be more beneficial than harmful to the Association's interests.
- 5 Those items approved for release will be so marked and made available to the members upon request. They will not otherwise be published except by direction of the Board or Chief Executive Officer, or pursuant to paragraph

**II.E.5.**

- 6 If any release of information under this Policy triggers Securities Exchange Commission reporting requirements. Timely reports will be made.
- 7 The schedule and procedures set forth in this Section II.E. do not preclude a review and release at any time under Section II.D. of this Policy.

**III. RESPONSIBILITIES**

- A. Each Director and employee shall comply with the letter and the spirit of this policy.
- B. The Chief Executive Officer shall inform all employees about the content of this policy and insure that it is complied with.
- C. Each Director and employee shall disclose any situation which violates, may violate, or could appear to violate the intent of this policy.
- D. Any Director or employee whose conduct violates this policy shall be subject to: (1) if Chief Executive Officer, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the Chief Executive Officer; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association's Bylaws.
- E. In addition to the disciplinary provisions of Section III.D, the Association may seek legal and equitable relief in any court of competent jurisdiction to prevent or restrain any disclosure, breach or threatened breach of this policy and the legal protections afforded to confidential information and documents of the Association by any current or former director, employee, their partners, agents,



# CHUGACH ELECTRIC ASSOCIATION, INC.

BOARD POLICY: 128

DATE: June 11, 2008

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Confidential information and documents of the Association includes the foregoing items 1-7 which may consist of, by way of example and without limitation: reports and surveys, studies, memoranda, confidential business information, marketing plans, information as to existing or future services, analyses, computer programs, financial projections, customer and supplier lists (including customer identity,<sup>1</sup> rates, services and contract terms), confidential cost and pricing information, concepts, techniques, methods, systems, research, development or experimental work, work in process, operations, schedules of employee compensation,<sup>2</sup> personnel records, and all copies thereof.

<sup>1</sup> Except as provided in Board Policy 120, Requests for Association Information and Article XVII, Member Access to Information, Section 1.(a) of Chugach's Bylaws.

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**Exhibit B**

If a director or employee has any questions concerning what comprises confidential information and documents of the Association, they should consult with the Chief Executive Officer and/or General Counsel.

B. Obligations to Maintain Confidentiality.

1. Directors and employees shall not, during the term of their membership on the Association’s Board of Directors or employment with the Association, or at any time thereafter, either directly or indirectly, disclose or permit the disclosure of, reproduce, or in any other way publicly or privately disseminate, any confidential information or documents of the Association to any third parties except as and to the extent expressly authorized by the Association in order to carry out their duties to the Association, or in the case of confidential information or documents belonging solely to customers of the Association and third parties with whom the Association does business, as may be expressly contractually authorized by those persons.
2. Directors and employees shall not, during the term of their membership on the Association’s Board of Directors or employment with the Association, or at any time thereafter, make any use of any confidential information or documents of the Association (including, but not limited to, bids, awarding of contracts, or other information of a competitive nature, real estate transactions, personnel records, salary information<sup>3</sup>) for their own purposes, such as for personal gain or advancement, or to the detriment of the Association.
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advised by their supervisors of the identity of sensitive documents that cannot be copied, removed from or sent outside the Headquarters building in any form.

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**Exhibit B**

Policy.

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**Exhibit B**

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4.   
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6. If any release of information under this Policy triggers Securities

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Exhibit B

Exchange Commission reporting requirements, timely reports will be made.

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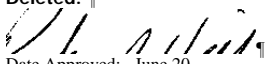
D. Any Director or employee whose conduct violates this policy shall be subject to: (1) if Chief Executive Officer, termination by appropriate action of the Board of Directors in accordance with any contract of employment; (2) if an employee, termination by appropriate action of the Chief Executive Officer; or (3) if a Director, removal pursuant to Article IV, Section 7 of the Association’s Bylaws.

E. In addition to the disciplinary provisions of Section III.D., the Association may seek legal and equitable relief in any court of competent jurisdiction to prevent or restrain any disclosure, breach or threatened breach of this Policy and the legal protections afforded to confidential information and documents of the Association by any current or former director, employee, their partners, agents, representatives, employers, employees, and all other persons acting for or with them. Equitable relief may include, but not be limited to, temporary restraining orders, preliminary injunctions, and permanent injunctions. The equitable remedies described above are in addition to, and not any limitation upon, all rights and remedies as the Association may be entitled under applicable law.

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F. The Chairman of the Board of Directors and the Chief Executive Officer are responsible for the administration of this Policy.

Date Approved: \_\_\_\_\_  
\_\_\_\_\_  
Alex Gimarc  
Secretary of the Board

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Date Approved: June 20,  
2007 . . . Attested: . ¶  
Secre . of the Board

**REVIEW & AMENDMENT HISTORY:**

This Board Policy should be reviewed at least once every two years. Amendments may occur any time necessary.

<u>Reviewed by</u>	<u>Review Date</u>	<u>Amended by</u>	<u>Amendment Date</u>

To enter data: From the toolbar select "View" and then select "Header and Footer". Right click in the box above and select "Toggle Field Codes". Enter the data. Once complete right click again in the box above and select "Toggle Field Codes". Close the "Header and Footer".

**Exhibit B**