

*Submitted by Thomas Van Flein of  
Clapp Peterson Van Flein Tiemessen & Thorsness, LLC on October 15, 2007*

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

**BOARD MEETING  
AGENDA ITEM SUMMARY**

October 17, 2007

**ACTION REQUIRED**

**AGENDA ITEM NO. X.E.**

Information Only  
 Motion  
 Resolution  
 Executive Session  
 Other

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**TOPIC:**

*Chugach Electric Association, Inc. v. Ray Kreig, Stephen Routh and Chugach Consumers*, Case No. 3 AN-06-13743- Ratification of settlement documents.

**DISCUSSION AND SUMMARY:**

The Board previously voted to resolve the litigation pending in *Chugach Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 and instructed counsel Thomas Van Flein to negotiate such a resolution. On September 19, 2007, the Board approved in principle a resolution of the litigation that would result in a release of all claims Mr. Kreig and the other Defendants could have against the Association, board members, employees, and attorneys, and others, the return to Mr. Kreig of documents previously held by Mr. Kreig, the vacation of all court orders entered in the litigation, and a reimbursement of the Defendants' legal fees and costs up to a maximum of \$30,000 to thus position the Defendants *status quo ante*.

Subsequently, Mr. Van Flein, counsel for Chugach, met with the Defendants and their counsel on several occasions and worked out the details of the settlement documents, which ultimately resulted in a final written settlement agreement and release agreement, along with stipulations and proposed Orders (hereafter "Settlement Documents"). The amount agreed to for reimbursement of attorney's fees and costs to Defendants was \$21,558.25 to Mr. Kreig and Chugach Consumers and \$1,000 to Mr. Routh. Legal Counsel for the Board (Gary Zipkin) and Counsel for the Association (Carol Johnson) extensively reviewed the Settlement Agreement. After this review, the agreement was presented to the defendants, which they signed.

The agreement was then provided to the Chair for her review and signature. The Chair instructed Mr. Van Flein to file the documents with the court, which was done on Monday, October 15, 2007. The Court has accepted the settlement agreement and it has been signed by the Judge.

**MOTION**

Move that the Board ratify the Board Chair's execution of the Settlement Documents in this matter.

**MUTUAL RELEASE OF ALL CLAIMS AND  
SETTLEMENT AGREEMENT**

This Mutual Release of All Claims and Settlement Agreement (hereinafter "Agreement") is made and entered into this 12th day of October 2007, by and between CHUGACH ELECTRIC ASSOCIATION, Inc., (referred to as "Plaintiff") and RAY KREIG, STEPHEN ROUTH and CHUGACH CONSUMERS (referred to as "Defendant" or "Defendants"), and all of whom shall be referred to as "the Parties." The Parties desire to enter into this Mutual Release of Claims and Settlement Agreement in order to provide for full and final release and discharge of all claims Plaintiff may have against Defendants which exist in the action, *Chugach Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 CI ("the Action"), as well as all counter-claims or cross-claims or new claims that the Defendants have, or may have, or which could have been raised in that action, or could be raised in any court or other forum, including administrative and appellate fora, that relate to this case. Other than the agreement relating to documents, nothing in this Agreement shall be deemed to prohibit Mr. Kreig, Mr. Routh, or Chugach Consumers from filing any future action before any public utility board. The Parties hereto agree as follows:

**1. Release and Discharge.** For and in consideration of:

(1) Plaintiff's payment to Ray Kreig in the amount of \$21,558.25 for legal costs and expenses (no compensation is to be

paid to Mr. Kreig personally for his time involved in the litigation or any damages, if any); and

(2) Plaintiff's payment to Stephen Routh in the amount of \$1,000 for legal fees and expenses;

To be paid by check at the time this Agreement is executed by Plaintiff, and in further consideration of:

(3) the Parties' execution of a stipulation for dismissal of all claims, with prejudice, each side to bear their own fees and costs as set forth in this Agreement, in the case entitled *Chugach Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 CI, in the form attached hereto as Exhibit 1; and

(4) the Parties' execution of a stipulation to vacate the orders issued by the court in *Chugach Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 CI, as follows: (a) The order dated June 8, 2007 adopting and consisting of the revised preliminary injunction; (b) the May 10, 2007 order to show cause; and (c) the April 4, 2007 order granting preliminary injunction, in the form attached as Exhibit 2. In the event the Court does not vacate all or some of these orders, this Mutual Release and Agreement shall remain fully in force and effect, and the risk of the Court taking some

other action than what the Parties agree to is known and accepted by the Parties;

(5) the return of all documents previously possessed by Mr. Kreig and deposited by court order with a third party custodian, upon the express agreement that certain documents shall be and are deemed “confidential” and shall not be subject to disclosure to any third party except as mutually agreed between Mr. Kreig and Chugach Electric Association, in the form of the agreement attached as Exhibit 3 as well as in the form of the instructions to the custodian of records as set forth in Exhibit 3. The Parties each reserve their rights to enforce any legal or equitable claim regarding these documents in the event there is a disclosure in violation of this provision.

**2. Plaintiff’s Release:**

The Plaintiff, completely and unequivocally releases and forever discharges the Defendants and the Defendants’ respective past, present, and future: attorneys, agents, servants, representatives, employees, subsidiaries, affiliates, insurers, bonds or bondsman, predecessors and successors-in-interest (hereinafter collectively “Released Parties”), from any and all claims, demands, actions, causes of action, lawsuits, appeals and liabilities, of any kind or nature, arising out of or relating in any way to all claims or causes of action that were made in *Chugach*

*Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 CI or that could have been made by Plaintiff in this action.

**3. Defendants' Release:**

For and in consideration for the items set forth in sub-paragraphs one through five above, the Defendants, and each of them, completely and unequivocally release and forever discharge Chugach Electric Association, Inc. as well as its respective past, present, and future: attorneys (including in-house counsel, and outside retained counsel, as well as board of director's counsel), agents, any director who served on the Chugach board, servants, representatives, employees, management, members or shareholders, parent companies, subsidiaries, affiliates, insurers, bonds or bondsman, predecessors and successors-in-interest (hereinafter collectively "Released Parties"), from any and all claims, demands, actions, causes of action, lawsuits, appeals and liabilities, of any kind or nature, arising out of or relating in any way to, Chugach Electric Association business, and any other Agreement or business arrangement involving Chugach Electric Association, and any other interaction, event or occurrence between the Parties and the Released Parties as defined herein up to the date of this Agreement, and also from any claim arising out of, or relating in any way to, the manner in which the lawsuit was litigated or prosecuted. This includes, without limitation, any and all claims or causes of action, counter-claims, or future claims that were

made, or could have been made, in *Chugach Electric Association, Inc. v. Ray Kreig, et al.*, Case No. 3AN-06-13743 CI or arising out of that action particularly against any board member or Chugach employee or agent.

**4. Authority to Release and Dismiss All Claims**

The Parties represent and warrant that they are mentally competent, and that they are fully and duly authorized to execute this Mutual Release of Claims and Settlement Agreement. The person signing this agreement on behalf of Chugach Electric Association, Inc. represents that the company has duly authorized this Settlement and Mutual Release and the terms contained herein and is authorized to sign on behalf of Chugach Electric, Inc. In addition, the person signing on behalf of Chugach Consumers represents that he or she has the properly vested authority to do so on its behalf. The Parties represent and warrant that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any claims, demands, obligations, or causes of action referred to in this Mutual Release of Claims and Settlement Agreement. The Parties represent and warrant that no other person or entity has or had any interest in the claims, demands, actions, or causes of action, lawsuits, appeals or liabilities referred to in this Mutual Release of Claims and Settlement Agreement.

**5. Disclaimer of Liability**

The Parties agree and acknowledge that they accept the consideration

specified in this Mutual Release of Claims and Settlement Agreement as a full and complete compromise of all matters involving disputed issues; that neither the consideration given by the Parties nor the negotiations pertaining to this settlement (including all statements, admissions, or communications by the Parties hereto or their attorneys or representatives) shall be considered as an admission by any party of any wrongdoing or liability, and that no past or present admission of wrongdoing or liability shall be implied by such consideration or such negotiations, the same being expressly denied.

#### **6. Scope of Release**

The Parties intend and agree that this Mutual Release of Claims and Settlement Agreement shall be as broad as possible within the plain meaning of this Agreement and shall extend to the Released Parties who may in any way be responsible for any damages sustained, whether or not such Parties are specifically named in this Mutual Release of Claims and Settlement Agreement, and whether or not such damages are presently known or unknown. The Parties acknowledge that they are familiar with the decisions of the Alaska Supreme Court in the cases of *Young v. State of Alaska*, 455 P.2d 889 (Alaska 1969), *Alaska Airlines v. Sweat*, 568 P.2d 916 (Alaska 1977), and *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978), and that they have had the benefit of advice of an attorney, or could have hired an attorney of their choice concerning the meaning and import of these decisions, and

it is still their true intent and desire to fully and forever release each other and the Released Parties.

**7. Additional Documents**

The Parties agree to cooperate fully and execute any and all supplementary documents, and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Mutual Release of Claims and Settlement Agreement.

**8. No Duress, Promises, or Inducements**

The Parties acknowledge that no promises or inducements which are not expressed herein have been made, and in executing this Mutual Release of Claims and Settlement Agreement, the Parties do not rely upon any statements or representations made by or on behalf of any person or entity hereby released, or by any persons representing them concerning the nature, extent, or duration of any damages, injuries, or losses, for the legal liability therefore.

**9. Voluntary and Informed Release**

The Parties, being of lawful age, hereby declare that the terms of this Mutual Release of Claims and Settlement Agreement have been completely read and are fully understood, and that they voluntarily accept them, for the purpose of making a full and final release of any and all claims, disputed or otherwise.

**10. Controlling Law**

This Mutual Release of Claims and Settlement Agreement is entered into in the State of Alaska and shall be construed and interpreted in accordance with the laws of the State of Alaska.

**11. Effective Date**

This Mutual Release of Claims and Settlement Agreement shall become effective immediately following its execution by the Parties.

**12. The Entire Agreement and Successors-in-Interest**

This Mutual Release of Claims and Settlement Agreement executed herein contains the entire Agreement between the Parties with regard to the matters set forth in it, and shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto. This Mutual Release of Claims and Settlement Agreement is the exclusive, final, and complete agreement of the Parties hereto, and the terms of this Mutual Release and Agreement are contractual and not merely a recital. This is an integrated agreement and cannot be varied by any oral testimony.

IN WITNESS WHEREOF, the Parties have executed and entered into this Mutual Release of Claims and Settlement Agreement.

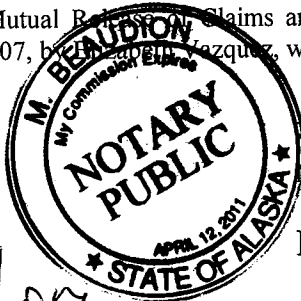
**Chugach Electric Association, Inc.  
Plaintiff**

Dated: 10/13/07

By: Elizabeth Vazquez  
Elizabeth Vazquez, its Chairman of  
the Board

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

13th The foregoing Mutual Release of Claims and Settlement Agreement was acknowledged before me this day of October 2007, by Elizabeth Vazquez, who proved to me by identification who she was.



M. Beaujon  
Notary Public in and for Alaska  
My Commission Expires Apr. 12, 2011

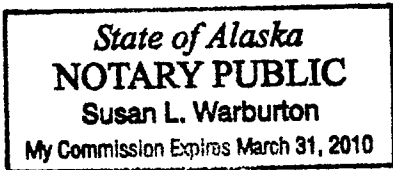
**Ray Kreig, Defendant**

Dated: 10/12/07

By: Ray Kreig  
Ray Kreig

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

12th The foregoing Mutual Release of Claims and Settlement Agreement was acknowledged before me this day of October 2007, by Ray Kreig, who proved to me by identification who he was.



Susan L. Warburton  
Notary Public in and for Alaska  
My Commission Expires 3/31/10

**Stephen Routh, Defendant**

Dated: 10/12/07

By: Stephen Routh  
Stephen Routh

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

12th The foregoing Mutual Release of Claims and Settlement Agreement was acknowledged before me this day of October 2007, by Stephen Routh, who proved to me by identification who he was.

Steph Routh  
Notary Public in and for Alaska  
My Commission Expires 12/12/2009

**Chugach Consumers, Defendant**

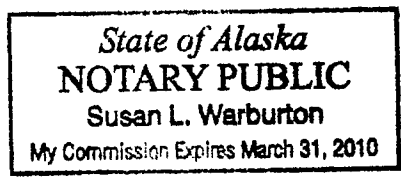
Dated: 10/12/07

By: [Signature]  
By Ray Kreig its Chairman

STATE OF ALASKA )  
THIRD JUDICIAL DISTRICT )

) ss.

12th The foregoing Mutual Release of Claims and Settlement Agreement was acknowledged before me this day of October 2007, by Ray Kreig, who proved to me by identification who he was.



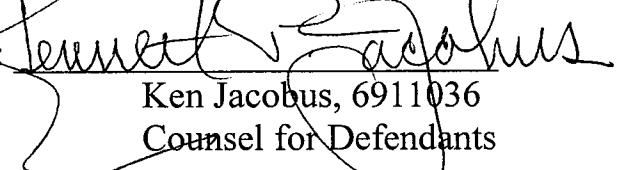
[Signature]  
Notary Public in and for Alaska  
My Commission Expires 3/31/10

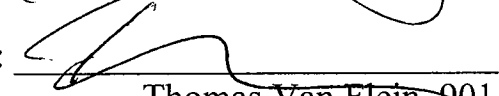
I certify a copy of this document was  
mailed hand delivered to:  
Ken Jacobus, Esq.  
312 K St., Ste 200 A/A 99501  
Date: 10/15/07 By: [Signature]



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(c) the April 4, 2007 order granting preliminary injunction.

DATED: October 8<sup>th</sup>, 2007 By:   
Ken Jacobus, 6911036  
Counsel for Defendants

DATED: October 8<sup>th</sup>, 2007 By:   
Thomas Van Flein, 9011119  
Counsel for Chugach Electric, Inc.

**ORDER**

The stipulation of the parties is entered as the order of this Court. The following orders previously entered by the Court in this matter are vacated:

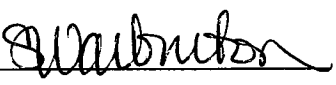
- (a) The order dated June 8, 2007 adopting and consisting of the revised preliminary injunction;
- (b) the May 10, 2007 order to show cause; and
- (c) the April 4, 2007 order granting preliminary injunction.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Judge of the Superior Court

I certify a true copy of this document was served on the following people by U.S. Mail on October 5 2007:

Ken Jacobus, Esq.  
310 K Street, Suite 200  
Anchorage, Alaska 99501

By: 

Clapp, Peterson, Van Flein,  
Tiemesen & Thorsness, LLC  
711 H Street, Suite 620  
Anchorage, Alaska 99501-3454  
(907) 272-9272 fax (907) 272-9586

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

2 THIRD JUDICIAL DISTRICT AT ANCHORAGE

3  
4 CHUGACH ELECTRIC ASSOCIATION, )  
INC., )

5 )  
6 Plaintiff, )

7 Vs. )

8 RAY KREIG, STEPHEN ROUTH AND )  
9 CHUGACH CONSUMERS, )

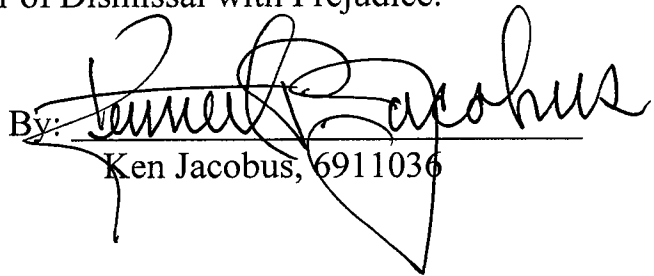
10 Defendants. )

11 ) Case No. 3AN-06-13743 CI

12 **STIPULATION FOR DISMISSAL WITH PREJUDICE AND ORDER**

13  
14 The parties to this case, through their counsel, and subject to the terms and  
15 condition of a separately executed Mutual Release and Settlement Agreement,  
16 stipulate to dismissal of this matter with prejudice, with each party to bear costs  
17 and attorney's fees as set forth in a separate agreement. Counsel certify that  
18 submission of the information regarding Resolution of Cases to the Alaska  
19 Judicial Council required by Alaska Rule of Civil Procedure 41 will be submitted  
20 within 30 days of the date of the Order of Dismissal with Prejudice.  
21

22  
23 DATED: October 12<sup>th</sup>, 2007


24 By:   
Ken Jacobus, 6911036

25 Stipulation for Dismissal and Order  
Chugach Electric v. Krieg, 3AN-06-13743 CI  
26 Page 1 of 2

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Counsel for Defendants

DATED: October 17<sup>th</sup>, 2007

By:   
Thomas Van Flein, 9011119  
Counsel for Chugach Electric, Inc.

**ORDER FOR DISMISSAL WITH PREJUDICE**

Pursuant to the stipulation between the parties, and subject to the terms and condition of a separately executed Mutual Release and Settlement Agreement, this matter is dismissed with prejudice with each party to bear costs and attorney's fees as they have mutually agreed by separate document.

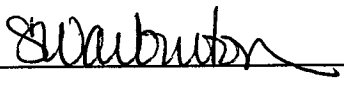
**IT IS SO ORDERED.**

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

By: \_\_\_\_\_  
Honorable Sharon Gleason  
Judge of the Superior Court

I certify a true copy of this document was served on the following by U.S. Mail on October 15, 2007:

Ken Jacobus, Esq.  
310 K Street, Suite 200  
Anchorage, Alaska 99501

By: 

Clapp, Peterson, Van Flein,  
Tiemesen & Thorsness, LLC  
711 H Street, Suite 620  
Anchorage, Alaska 99501-3454  
(907) 272-9272 fax (907) 272-9586

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**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA**  
**THIRD JUDICIAL DISTRICT AT ANCHORAGE**

CHUGACH ELECTRIC ASSOCIATION, )  
INC., )

Plaintiff, )

Vs. )

RAY KREIG, STEPHEN ROUTH AND )  
CHUGACH CONSUMERS, )

CASE NO. 3AN-06-13743 CI

Defendants. )

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**STIPULATION FOR RETURN OF RECORDS AND ORDER**

Pursuant to the terms of a separate settlement agreement, the parties to this case, through their counsel, stipulate to the following:

- (1) Mr. Kreig shall be granted the right of return and re-possession of all documents (and file cabinets) previously possessed by Mr. Kreig as of December 22, 2006 but ordered removed from his possession by the Court in this matter, upon the express agreement that all such documents that were marked by Chugach Electric Association as “confidential” or otherwise considered by Chugach Electric Association to be

1 confidential and not subject to disclosure shall continue to be  
2 deemed “confidential” and not subject to disclosure by Mr.  
3 Kreig, Chugach Consumers or Mr. Routh (or any agent,  
4 employee, representative, or lawyer of these parties) to any  
5 third party, court, or administrative agency, except as mutually  
6 agreed between Mr. Kreig and Chugach Electric Association;  
7

8 (2) The current custodians of these records, including Alaska  
9 Archives or Bob Stewart, are instructed to release the records  
10 to Mr. Kreig upon presentment of this signed Court order;  
11

12 (3) Mr. Kreig shall maintain sole custody and possession of these  
13 documents but shall give notice to Chugach Electric  
14 Association in the event the documents are shredded or stored  
15 in any location other than Mr. Kreig’s residence, office or  
16 facility under Mr. Kreig’s control;  
17

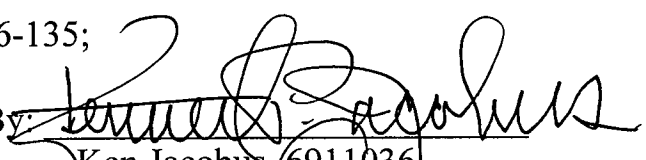
18 (4) Any of the same documents submitted to the court in the case  
19 entitled *Chugach Consumers v. Chugach Electric Association,*  
20 *Inc.*, Case No. 3AN-06-13323, and subsequently removed to  
21 federal court, Case no. 3:06-cv-00280-TMB and thereafter  
22 dismissed by stipulation on January 17, 2007, Docket No. 28  
23  
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Clapp, Peterson, Van Flein,  
Tiemesen & Thorsness, LLC  
711 H Street, Suite 620  
Anchorage, Alaska 99501-3454  
(907) 272-9272 fax (907) 272-9586

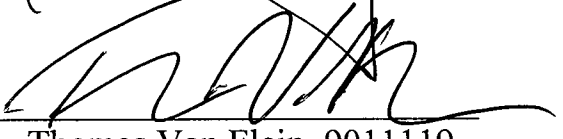
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and 29, shall also be returned to Mr. Kreig and deemed  
“confidential” and subject to the same conditions set forth in  
sections one through three above; as well as the same  
documents submitted to the Regulatory Commission of Alaska  
in the matter entitled *Chugach Consumers v. Chugach Electric  
Association*, Docket # U-06-135;

DATED: October 12<sup>th</sup>, 2007

By:   
Ken Jacobus, 6911036  
Counsel for Defendants

DATED: October 10<sup>th</sup>, 2007

By:   
Thomas Van Flein, 9011119  
Counsel for Chugach Electric, Inc.

**ORDER**

The stipulation of the parties is entered as the order of this Court. The  
Court hereby orders the following:

1. Mr. Kreig shall be granted the right of return and re-possession of  
all documents and his file cabinets previously possessed by Mr.  
Kreig but removed by the Court in this matter, upon the express  
agreement that all such documents that were marked by Chugach  
Electric Association as “confidential” or otherwise considered by

1 Chugach Electric Association to be confidential and not subject to  
2 disclosure shall continue to be deemed “confidential” and not  
3 subject to disclosure by Mr. Kreig, Chugach Consumers or Mr.  
4 Routh (or any agent, employee, representative, or lawyer of these  
5 parties) to any third party, court, or administrative agency, except  
6 as mutually agreed between Mr. Kreig and Chugach Electric  
7 Association.  
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- 10 2. The current custodians of these records, including Alaska  
11 Archives or Robert Stewart, are instructed to release the records  
12 to Mr. Kreig upon presentment of this signed order;
  - 13 3. Mr. Kreig shall maintain sole custody and possession of these  
14 documents but shall give notice to Chugach Electric Association  
15 in the event the documents are shredded or stored in any location  
16 other than Mr. Kreig’s residence, office or other facility under his  
17 control;  
18
  - 19 4. Any of the same documents submitted to the court in the case  
20 entitled *Chugach Consumers v. Chugach Electric Association,*  
21 *Inc.*, Case No. 3AN-06-13323, and subsequently removed to  
22 federal court, Case no. 3:06-cv-00280-TMB and thereafter  
23  
24

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dismissed by stipulation on January 17, 2007, Docket No. 28 and  
29, as well as the same documents submitted to the Regulatory  
Commission of Alaska in the matter entitled *Chugach Consumers*  
*v. Chugach Electric Association*, Docket # U-06-135, shall also  
be returned to Mr. Kreig and deemed “confidential” and subject  
to the same conditions set forth in sections one through three set  
forth above.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_ BY: \_\_\_\_\_  
Judge of the Superior Court

I certify a true copy of this document was served  
on the following people by U.S. Mail on  
October 5, 2007:

Ken Jacobus, Esq.  
310 K Street, Suite 200  
Anchorage, Alaska 99501

By: 