

**CHUGACH ELECTRIC ASSOCIATION, INC.
ANCHORAGE, ALASKA**

OPERATIONS COMMITTEE MEETING

AGENDA

Jim Nordlund, Chair
Dan Rogers, Vice Chair
Sisi Cooper, Director

Bettina Chastain, Director
Mark Wiggan, Director

October 9, 2024

4:00 P.M.

Chugach Board Room

- I. CALL TO ORDER (4:00 p.m.)
 - A. Roll Call
- II. APPROVAL OF THE AGENDA* (4:05 p.m.)
- III. APPROVAL OF THE MINUTES* (4:10 p.m.)
 - A. September 16, 2024 (Mankel)
- IV. PERSONS TO BE HEARD (4:15 p.m.)
 - A. Member Comments
- V. NEW BUSINESS (scheduled) (4:25 p.m.)
 - A. Eklutna Project Update (Hasquet/Laughlin) (4:25 p.m.)
 - B. Rate Case Update/ Simplified Rate Filing Process (Clarkson/Ratliff) (4:45 p.m.)
- VI. EXECUTIVE SESSION* (scheduled) (5:05 p.m.)
 - Recess (20 minutes)
 - A. Gas Supply Update (Rudeck/Gerlek/Armfield/Herrmann) (5:25 p.m.)
 - B. Battery Energy Storage System Update (Clarkson) (6:05 p.m.)
- VII. NEW BUSINESS (none)
- VIII. DIRECTOR COMMENTS (6:45 p.m.)
- IX. ADJOURNMENT* (7:00 p.m.)

* Denotes Action Items

** Denotes Possible Action Items

CHUGACH ELECTRIC ASSOCIATION, INC.
Anchorage, Alaska

September 16, 2024
Monday
4:00 p.m.

OPERATIONS COMMITTEE MEETING

Recording Secretary: Amanda Mankel

I. CALL TO ORDER

Chair Nordland called the Operations Committee meeting to order at 4:00 p.m. in the boardroom of Chugach Electric Association, Inc., 5601 Electron Drive, Anchorage, Alaska.

A. Roll Call

Committee Members Present:

Jim Nordlund, Chair
Dan Rogers, Vice Chair, *telephonically*
Bettina Chastain, Director
Sisi Cooper, *telephonically*
Mark Wiggin

Board Members Present:

Susanne Fleek-Green, Director, *telephonically*
Rachel Morse, Director, *telephonically*

Guests and Staff Attendance Present:

Arthur Miller	Dan Herrmann	Trish Baker
Sherri Highers	Josh Travis	Grace Johnston
Andrew Laughlin	Julie Hasquet	Bart Armfield, Consultant
Allan Rudeck	Eugene Ori	Bernie Smith, Member
Dustin Highers	Sean Skaling	Steve Gerlek, Consultant

Via Teleconference:

Sandra Cacy	Mark Henspeter	Jeremy VanderMeer, AK
Heather Slocum	Paul Millwood	Renewables
Stephanie Huddell	Todd Glass, Wilson Sonsini	George Donart, Member

II. APPROVAL OF THE AGENDA

Director Wiggin moved, and Director Chastain seconded the motion to approve the agenda. The motion passed unanimously.

III. APPROVAL OF THE MINUTES

Director Chastain moved, and Director Wiggin seconded the motion to approve the July 10, 2024, Operations Committee Meeting minutes. The motion passed unanimously.

IV. PERSONS TO BE HEARD

- A. George Donart, member, gave comments regarding federal program funding opportunities, fuel costs renewables and questions on current projects.

V. NEW BUSINESS

- A. *Eklutna Project Update (Hasquet/Laughlin/Glass)*
Julie Hasquet, Sr. Manager of Corporate Communications, Andrew Laughlin, Chief Operating Officer, and Todd Glass, Wilson Sonsini, provided an update on the Eklutna Project and responded to questions from the Committee.
- B. *Indian Girdwood Transmission Line Update (Laughlin/Hasquet)*
Julie Hasquet, Sr. Manager of Corporate Communications, and Andrew Laughlin, Chief Operating Officer, provided an update on the Indian Girdwood Transmission Line and responded to questions from the Committee.
- C. *Renewable Programs Update (D. Highers)*
Dustin Highers, VP of Corporate Programs, provided an update on Renewable Programs and responded to questions from the Committee.

VI. EXECUTIVE SESSION

- A. *Eklutna Project Update (Hasquet/Laughlin/Glass)*
- B. *Gas Supply Update (Rudeck)*
- C. *Anchorage Wind (Rudeck)*
- D. *ERP Update (Travis/Highers)*

At 4:51 p.m. Director Wiggin moved and Director Chastain seconded that pursuant to Alaska Statute 10.25.175(c)(1) and (3), the Board of Directors go into executive session to: 1) discuss and receive reports regarding matters the immediate knowledge of which would clearly have an adverse effect on the finances of the cooperative; and 2) discuss with its attorneys matters the immediate knowledge of which could have an adverse effect on the legal position of the cooperative. The motion passed unanimously.

The meeting reconvened in open session at 7:33 p.m.

VII. NEW BUSINESS

- A. *ERP Update (Travis/Highers)*

Director Chastain moved, and Director Wiggin seconded that the Operations Committee recommend the Board of Directors authorize the Chief Executive Officer to carry out the ERP Project in the manner discussed in executive session at the Operations Committee Meeting on September 16, 2024. The motion passed unanimously.

VIII. DIRECTOR COMMENTS

Comments were made at this time.

IX. ADJOURNMENT

At 7:45 p.m., Director Wiggin moved, and Director Chastain seconded the motion to adjourn. The motion passed unanimously.

DRAFT

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500



550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450

Governor Mike Dunleavy
STATE OF ALASKA

October 2, 2024

Mr. Anthony M. Izzo
Matanuska Electric Association
163 E. Industrial Way
Palmer, AK 99645

Mr. Arthur W. Miller
Chugach Electric Association
5601 Electron Drive
Anchorage, AK 99518

Ms. Sara Boario
Regional Director
United States of America
Department of the Interior
U.S. Fish & Wildlife Service
1011 East Tudor Road
Anchorage, AK 99811-0001

Mr. Jonathan M. Kurland
Regional Administrator
United States of America
Department of Commerce
National Oceanic & Atmospheric Admin.
P.O. Box 21668
Juneau, AK 99802-1668

Mr. Aaron Leggett
Chair/President
Native Village of Eklutna
26339 Eklutna Village Road
Chugiak, AK 99567

The Honorable Suzanne LaFrance
Mayor
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Mr. Curtis Thayer
Executive Director
Alaska Energy Authority
813 Northern Lights Boulevard
Anchorage, AK 99503

Dear Parties,

Thank you to the Owners for your submission on April 25, 2024, of the Proposed Final Fish and Wildlife Program (Proposed Final Program) for the Eklutna Hydropower Project (Project) and to the remaining parties for their comments and participation in developing the Proposed Final Program.

As you know, through an act of Congress, the Project was sold by the federal government to Chugach Electric Association (CEA), Matanuska Electric Association (MEA), and Anchorage

Municipal Light & Power (through the Municipality of Anchorage). As part of this transaction, the 1991 Fish and Wildlife Agreement (Agreement) laid out the process for the purchasers of the Project to fund studies to examine and quantify impacts to fish and wildlife from the Project, and to develop a proposed Final Program for the protection, mitigation, and enhancement of fish and wildlife effected by the Project and for the other Parties to offer their comments.

As Governor, my duties under the Agreement are to evaluate the Proposed Final Program, attempt to reconcile differences between the Parties to the Agreement, and establish a Final Program that “adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources.”

The evaluation process requires me to give “equal consideration” to eight factors to “ensure that Eklutna [is] best adapted for power generation and other beneficial public uses.” The factors are: purposes of efficient and economical power production; energy conservation; the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat); the protection of recreational opportunities; municipal water supplies; the preservation of other aspects of environmental quality; other beneficial public uses; and requirements of State law.

The Final Program established today includes my evaluation of these eight criteria and my amendments to the Proposed Final Program that attempt to reconcile differences among the Parties and the Native Village of Eklutna.

The Proposed Final Program restored year-round water flows to the Eklutna River by connecting Eklutna Lake to the existing Anchorage Water and Wastewater Utility (AWWU) infrastructure; required the Purchasers to provide funding for ongoing monitoring studies, physical habitat enhancement, and lakeside trail repairs; the creation of a Monitoring and Adaptive Management Committee (Committee); and two limited reopeners of the Program for the potential construction of a Fixed Wheel Gate to replace the existing outlet and spillway and for the potential construction of fish passage into and out of Eklutna Lake.

In accordance with my responsibilities to attempt to reconcile differences, I have adopted the Proposed Final Program with the establishment of three amendments to the Proposed Final Program:

1. I added a Governor-appointed seat to the Monitoring and Adaptive Management Committee. This allows future Governors and myself to continue our responsibility under the Agreement as the work of the Committee is ongoing in the final Program.
2. I accepted the request by federal signatories, U.S. Fish and Wildlife Service, and National Marine Fisheries Service, to modify the Proposed Final Program. The Proposed Final Program allocated up to \$10 million to study and potentially construct the Fixed Wheel Gate at the Eklutna Dam. If the Fixed Wheel Gate is determined to not be structurally or economically feasible, as requested by the federal parties, the remaining funds not expended of up to \$10 million will be made available to the Monitoring and Adaptive

Management Committee for additional studies or measures that protect, mitigate damage to, or enhance fish and wildlife habitat.

3. I am accepting the request by the Municipality of Anchorage and Native Village of Eklutna in their joint resolution of September 5, 2024, to evaluate the Pumped Storage Hydro alternative. However, the Agreement does not provide any party the authority to unilaterally suspend or delay implementation of the Final Program and therefore the necessary work to design, permit, and construct the connection to AWWU's infrastructure and to evaluate the Fixed Wheel Gate is required to begin immediately.

The Final Fish and Wildlife Program established today under the Agreement balances the eight factors I am required to consider, and the Program is designed to be an iterative one that will be able to adapt to changing conditions and technologies well before the process is required to repeat itself.

I want to thank the Parties, the Native Village of Eklutna, and the members of the public who helped shape this Final Program with their time, resources, input, and participation over the past five years. This is not the end of the process, and I am committed to seeing this Final Program successfully enacted. I encourage everyone to join me in working together to implement this Program without delay.

Sincerely,



Mike Dunleavy
Governor

BEFORE GOVERNOR MIKE DUNLEAVY

IN THE MATTER OF THE EKLUTNA : DECISION
RIVER FISH & WILDLIFE PROGRAM : October 2, 2024

This matter comes before the Governor pursuant to the 1991 Agreement (“Agreement”) among the Municipality of Anchorage (“MOA”), Chugach Electric Association, Inc. (“Chugach”), Matanuska Electric Association, Inc. (“Matanuska”) (MOA, Chugach and Matanuska are collectively referred to as “Eklutna Purchasers” or “Owners”; when discussing issues where the Owners disagree, Chugach and Matanuska will be referred to as the “Operators” and MOA will be listed separately), the United States Fish & Wildlife Service (“FWS”), The National Marine Fisheries Service (“NMFS”), the Alaska Energy Authority (“AEA”) and the State of Alaska (“State”) concerning the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Eklutna Hydroelectric Project (“Project”) near the Native Village of Eklutna (“NVE”).¹ Per the Agreement the Governor is required to establish a “final Fish and Wildlife Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project”.²

I. PROJECT HISTORY

¹ The Agreement also involved the Snettisham Hydroelectric Project, but that project is not part of this decision.

² Agreement, Section 5 at P. 4.

The U. S. Bureau of Reclamation built the Project in the 1950s and it was rehabilitated over time. It currently consists of a dam which is an earth and rockfill structure 815 feetlong and 41 feet high with a rectangular spillway that runs through the dam.³ The intake structure for the Project is located 36 feet below the natural Eklutna Lake level. From there, water is diverted north into a 4.6-mile-long tunnel through Goat Mountain and then into a 1,370-foot-long penstock before reaching the powerhouse located on Old Glenn Highway. The tailrace flows under the highway and then discharges into the Knik River. The powerhouse contains two generating units.⁴ Eklutna Lake, approximately seven miles long and one mile wide, is located within Chugach State Park and provides almost 90 percent of the domestic water supply for the Municipality of Anchorage. As of 2018 the Project produced 177,438 megawatt hours of clean energy, enough to power more than 24,600 residential homes for an entire year.⁵

The federal government owned and operated the project until October 1997 when it sold it to the Eklutna Purchasers and is currently owned by Chugach (30%), Matanuska (16.67%) and MOA (53.33%), however, it has been operated exclusively by Chugach and Matanuska since October 30, 2020.⁶ The purchase by the Eklutna Purchasers also included a requirement that the Eklutna Purchasers enter into the Agreement with NMFS,

³ <https://eklutnahydro.com/background/>.

⁴ Id.

⁵ Id.

⁶ MOA was required to surrender its right to operate the Project. RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39). Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

FWS, AEA, and the State (the Eklutna Purchasers, NMFS, FWS, AEA and State are collectively referred to as the “Parties⁷”).

II. THE AGREEMENT

To obtain Congressional approval of the Project sale to the Eklutna Purchasers and as a substitute for federal licensing under the Federal Power Act⁸ and its accompanying regulations⁹, the Parties were required to enter into the Agreement to develop a fish and wildlife program that provides for the protection, mitigation of damages to, and enhancement of fish and wildlife affected by the Project.¹⁰ The Agreement outlined a 35 year timeline to develop the fish and wildlife program. The timeline ran from the date of the sale, i.e., October 2, 1997, and initially culminates with the complete implementation of the fish and wildlife program by October 2, 2032. This process is designed to reoccur every 35 years.

A. Agreement Requirements

The Agreement set forth a comprehensive process to arrive at a final fish and wildlife plan. It required the Parties to perform the following:

⁷ For purposes of this decision, Parties will also include NVE, unless stated otherwise, even though they are not an actual party to the Agreement.

⁸ 16 U.S. C. §791a et seq.

⁹ 18 C.F.R. 4.1 et seq.

¹⁰ The Agreement was a substitute for the requirements of the Federal Power Act and its regulations and there are no requirements in the Agreement imposing those laws on the Parties. Rather, the Agreement specifically spells out all requirements the Parties must follow to develop a fish and wildlife program.

- a. Purchasers to fund and perform studies in consultation with the other Parties and other State of Alaska agencies to “examine, and quantify, if possible, the impacts to fish and wildlife from the Project and to develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the Project.”¹¹
- b. Purchasers develop a draft program, the remaining Parties and other interested persons comment on the draft program, and the Purchasers reply to the comments, with all comments and the replies to be made part of the public record.¹²
- c. Preparation of draft summary of the study results and a draft Fish and Wildlife Program by Purchasers.¹³ Purchasers to hold public meetings and receive public comments on the program.¹⁴
- d. Purchasers develop a Proposed Final Fish and Wildlife Program (“Proposed Final Program”), an explanation of its reasons for the final program, and provide them and all public comments to the other Parties and the Governor.¹⁵

¹¹ Agreement, Section 2, P. 2.

¹² Id. Section 3, P. 2.

¹³ Id. Section 4, P. 3.

¹⁴ Id. Section 5, P. 3.

¹⁵ Id. Section 5, P. 4.

- e. The remaining Parties prepare written comments to the Proposed Final Program and Purchasers prepare a reply. The comments and reply are provided to the Governor.¹⁶
- f. The Governor establishes a Final Fish and Wildlife Program.¹⁷
- g. The Agreement requires the Owners to implement the final Program within 30 years of the transaction date and for the Governor to approve the Final Fish and Wildlife Program three years prior to commencement of the implementation of the Program.¹⁸

III. PROPOSED FINAL PROGRAM AND PARTIES' COMMENTS¹⁹

The Proposed Final Program was provided to the Parties and the Governor on April 25, 2024. The Proposed Final Program can be summarized as follows²⁰:

1. Proposed Final Program

- a. Construction of a new valve and release structure (“Eklutna River Release Facility”) located adjacent to the existing Anchorage Water and Wastewater Utility (“AWWU”) portal valve to restore year-round water

¹⁶ Id. Section 5, P. 4.

¹⁷ Id.

¹⁸ Id. Section 7, P. 4-5. The transaction date is October 2, 1997, which is the date of the sale of the Eklutna Project to the Owners. Program implementation must therefore begin by October 2, 2027, and the Governor’s approved final Plan must be issued by October 2, 2024, i.e., three years prior to the commencement of Plan implementation.

¹⁹ AEA did not provide comments to the Final Proposed Fish and Wildlife Program. NVE did provide comments even though it was not a party to the Agreement. I will consider those comments as part of this decision.

²⁰ The Final Proposed Fish and Wildlife Program is attached hereto as Appendix “A”.

flow to the Eklutna River (“River”) one mile downstream from the Eklutna Dam;²¹

1. The Eklutna River Release Facility is projected to provide year-round water flow to the River one mile below the dam at rates of 27 cubic feet per second to 40 cubic feet per second;²²
2. The Eklutna River Release Facility is designed to increase available spawning habitat for chinook, coho, pink and chum salmon;
 - b. Automation of the existing outlet gate at the base of the spillway at the Eklutna Dam for remote operation;²³
 - c. Development of a channel maintenance flow regime to support fish habitat over the long term;²⁴
 - d. Construction of eight new bridges for Anchorage Water and Wastewater Utility (AWWU) at each existing ford crossing to be designed and built to withstand the projected flows;²⁵
 - e. One-time payment of \$234,000 for lakeside trail repairs;²⁶
 - f. Monitoring and Adaptive Management Plan;²⁷

²¹ Proposed Final Fish and Wildlife Program, Section 2.1.1 at P. 4-5.

²² Id. at Section 2.1.2 at P. 6-7. And

²³ Id. Section 2.2.1 at P. 7.

²⁴ Id. Section 2.2.2 at Pp. 8-10.

²⁵ Id. Section 2.5 at P. 10.

²⁶ Id. Section 2.4.1 at P. 11.

²⁷ Id. Section 3.0 – 3.4 at P. 12 - 15. This plan includes the creation of a Monitoring and Adaptive Management Committee consisting of five voting members, one each from the following entities: Alaska Department of Fish and Game, Alaska Department of Natural Resources, NMFS, FWS and NVE. Id. Section 3.1 at P. 12.

- g. Two limited reopeners, i.e., the study and potential construction of a fixed wheel gate to replace the existing overflow spillway and provisions to review fish passage alternatives to allow adult salmon to pass into the lake from the River and juvenile salmon to pass from the lake downstream into the River (“Limited Reopeners”)²⁸.

2. MOA Comments

MOA raised the following issues in response to the Proposed Final Program²⁹:

- a. Although the prior Mayor supported the Proposed Final Program, the new Administration believed that Anchorage Assembly approval was necessary, and the prior Mayor failed to obtain it³⁰;
- b. Requests full water restoration to the Eklutna River for the full 12 miles from the Eklutna River Dam downstream and permit fish passage to and from Eklutna Lake;
- c. Removal of the limited reopeners; and

²⁸ The Fixed Wheel Gate Limited Reopener does not trigger the process terms of the 1991 Agreement; the Fish Passage Limited Reopener does not alter any other components of the Final Program. Proposed Final Program, Section 4.0, Pgs. 17, 20.

²⁹ Letter from Mayor Susanne LaFrance to Governor Dunleavy, July 19, 2024, and accompanying AR No. 2024-218(S).

³⁰ Mayor LaFrance was sworn into office on July 1, 2024. David Bronson previously served as Mayor of Anchorage from July 1, 2021 – June 30, 2024. The Proposed Final Program was drafted during and completed while Mayor Bronson served as Mayor of Anchorage. Former Mayor Bronson submitted a letter of support to the Governor’s office on April 26, 2024.

- d. Requested a two-year extension for the purpose of studying pumped storage hydropower as a potential alternative.

3. FWS Comments

In general, FWS agreed with the Proposed Final Program, but it believed full restoration of water flow to the Eklutna River and fish passage to and from Eklutna Lake was an “important component of a long-term mitigation strategy and that the Proposed Final Program was a starting point to reconnecting the River with their phased approach.” They also commented that “[n]either an engineering solution nor funding support have yet been identified that can accomplish all criteria, but we look forward to exploring opportunities to accomplish river connectivity and return an anadromous sockeye salmon run to the Eklutna River”.³¹

FWS requested one modification to the Proposed Final Program. FWS requested that if the Fixed Wheel Gate is determined to not be feasible, that the \$10 million in funding committed for that purpose be allocated for other protection, mitigation, and enhancement measures “to improve habitat by other means.”³²

4. NMFS Comments

NMFS raised similar issues raised by FWS but did not object to the Proposed Final Program. It concluded the “Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources and will support the next

³¹ Sara Boario, Regional Director, FWS, letter to Governor Dunleavy, June 24, 2024.
³² Id.

iteration of a mitigation plan.”³³ NMFS had one request for a modification of the Proposed Final Plan. NMFS requested that if the Fixed Wheel Gate was determined to not be feasible or did not proceed, that either the \$10 million committed for that purpose be allocated for other protection, mitigation, and enhancement measures in coordination with the Monitoring and Adaptive Management Committee, or that the NVE pump station alternative be studied.³⁴

5. NVE Comments

NVE maintains the primary purpose of the Agreement was to “restore and maintain sockeye salmon that depend on free passage into and out of Eklutna Lake, their preferred spawning habitat.”³⁵ NVE further states the Program is deficient in the following ways:

- a. Failure to restore water to all 12 miles of the Eklutna River from the dam downstream at sufficient volumes to support salmon habitat;
- b. Failure to permit passage of sockeye salmon to and from Eklutna Lake;
- c. Low water flows only minimally enhance chinook and coho salmon habitat;
- d. Jeopardizes Anchorage drinking water; and
- e. Burdens ratepayers and taxpayers with excessive costs.³⁶

³³ Jonathan M. Kurland, Regional Administrator, National Marine Fisheries Service, letter to Governor Dunleavy June 21, 2024. Mr. Kurland’s letter acknowledges that the mitigation process is ongoing and repeats every 35 years beginning 25 years after implementation of the Final Fish and Wildlife Program has been implemented.

³⁴ Id.

³⁵ Aaron Leggett, Chair/President, NVE, letter to Governor Dunleavy, June 21, 2024.

³⁶ Id.

6. Operators' Reply to Comments

The Operators replied to the comments from the other Parties and NVE and continued to maintain the Proposed Final Program was consistent with the Agreement. The Operators identified the federal Parties generally approved the Proposed Final Program with some reservations and they identified some key disagreement with MOA and NVE, including:

- a. Flow regimes will enhance spawning habitat for chinook, coho, chum and pink salmon that currently exist in the Eklutna River;
- b. Included a limited reopener in the Proposed Final Program for the Monitoring and Adaptive Management Committee to address fish passage to and from the Eklutna Lake in the future;
- c. Operators worked with AWWU to negotiate agreements that protected the supply of drinking water to Anchorage;
- d. NVE's proposed Pumped Station alternative posed higher costs and increased risks to the Project;
- e. Removal of the Eklutna Dam in 10 years was not feasible due to foreseeable energy needs, inhibition of renewable energy goals, excessive replacement and removal costs, and damage to infrastructure and property downstream; and

- f. The two-year delay requested by MOA for further study will thwart implementation of the Final Approved Program in the timeline required by the Agreement.³⁷

7. Joint MOA/NVE Resolution for Pumped Storage Hydropower

Well after the comment period had expired and even after the deadline for Owners' reply to the comments, MOA and NVE provided the Governor and the other Parties a joint resolution recommending a new alternative, pumped storage hydropower, they believed "could result in full restoration of waterflow to the River, protection of Anchorage's drinking water source, and increased power generation, potentially with lower costs to municipal taxpayers and ratepayers".³⁸ MOA and NVE claim that pumped storage hydropower is used worldwide and it has the "potential to maintain and improve existing power production, meet municipal water supply needs and provide full river hydrological function and connection into and out of Eklutna Lake for fish passage". They requested the Governor require, as part of the Final Approved Program, Owners to use two years of the three year pre-implementation period in the Agreement to explore alternative infrastructure options, including pumped storage hydropower, so water could be restored to the entire Eklutna River and permit fish passage to and from the Eklutna Lake.³⁹ This joint resolution was virtually identical to MOA's prior request to delay the Governor's decision on a final

³⁷ Operators Response to Comments, July 24, 2024.

³⁸ Anchorage Assembly and NVE Joint Resolution, No. 2024-001.

³⁹ Id.

program, with the exception of it now identified a proposed alternative to pursue, i.e., pumped storage hydropower. The Operators did not have an opportunity to respond to this joint resolution, but it was addressed in the meeting of the Parties with the Governor's office on September 9, 2024.

IV. DISCUSSION

The Proposed Final Program and the comment period that followed ends a long public process that started with the Agreement in 1991. The most recent process started in March 2019 and included:

- Years of studies, consultations, and alternative analysis;
- Several public meetings;
- Extensive public comments;
- A draft fish and wildlife program;
- Numerous parties' comments, meetings, and discussions; and
- A Proposed Final Program.⁴⁰

Almost all the Parties have described the process of reaching the Proposed Final Program as a negotiation.⁴¹ As with any negotiation, participants do not always come away with

⁴⁰ Operators Response to Comments on Proposed final Fish & Wildlife Program, July 2024 at P. 1.

⁴¹ Transcript of Proceedings before the Governor's Office, September 9, 2024 at Pp. 26 (Operators); P. 73 (FWS); and P. 83 (NMFS). NVE although not a Party to the Agreement also commented that the process included negotiations. Id. at P. 85. MOA did not describe the process as a negotiation, but is now represented by a different administration than the one in place when the Proposed Final Program was drafted. However, see Former Mayor Bronson's letter of support to the Governor's office on April

what they want, and the end result is a resolution that neither side may be completely happy with but nevertheless agree to the terms to move the matter forward. This is certainly the case with the Proposed Final Program put forth by the Operators. The Parties have disagreements as to what should be included and how far the Final Program should go. The Parties, at the time they entered the Agreement, clearly understood that not everyone would get what it desired. The Agreement includes provisions on how to resolve those differences.

A. Governor as Final Decision Maker

1. Review Standard

The Agreement sets forth the role of the Governor in establishing a Final Program. The Governor is required to “review the Proposed Final Program, comments, testimony, summary and analysis materials, and any alternative recommendations for the protection, mitigation, and enhancement of fish and wildlife resources”.⁴² He is then tasked with “attempting to reconcile any differences between the Parties, giving due weight to the recommendations, expertise, and statutory responsibilities of FWS, NMFS, the State Resource Management Agencies and the Purchasers”.⁴³ Finally, the Agreement provides:

In order to ensure that Eklutna . . . [is] best adapted for power generation and other beneficial public uses, the Governor shall give equal consideration to the purposes of efficient and economical power production, energy conservation, the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat), the protection of recreation opportunities, municipal water

26, 2024, wherein he states MOA (Anchorage Hydropower) was involved in the process every step of the way.

⁴² Agreement at Section 5, P. 4.

⁴³ Id.

supplies, the preservation of other aspects of environmental quality, other beneficial public uses, and requirements of State law (“Eight Factors”).⁴⁴

The Governor is then tasked with establishing the Final Program that adequately and equitably protects, mitigates damage to, and enhances fish and wildlife resources affected by the Project.

2. Operators’ Proposed Final Program and Analysis of Eight Factors

We must first evaluate the Proposed Final Program in light of the Eight Factors outlined in the Agreement.

a. Efficient and Economic Power Production and Energy Conservation - Factors One and Two

The Operators assert the Project “produces nearly six percent of the Owners’ combined generation portfolio, which also amounts to roughly 25% of Chugach’s renewable energy and 44% for Matanuska.”⁴⁵ This power is also alleged to be the lowest cost resource for power in the Alaska Railbelt.⁴⁶ The Project also assists with power reliability for the region.⁴⁷ None of the Parties challenge these assertions. Obviously, the downside to restoring water flow to the River from a power production standpoint is the loss of the water for that production. This comes at a cost, both financial and in terms of

⁴⁴ Id.

⁴⁵ Operators’ Brief to Governor, September 4, 2024 at P. 4.

⁴⁶ Id. citing SID at 2.2.2

⁴⁷ Operators’ Brief, September 4, 2024, P.p. 4-5. Operators also cite an example of how the Project assists other power production in the region. When a natural gas company experienced delivery problem, Operators were able to maximize their usage of the Project to maintain system reliability. Id. (Citing Tony Zellers, et al, letter to MOA, February 12, 2024).

power availability, which cannot be overlooked. Maximizing the Project's power output results in energy conservation by reducing natural gas usage, avoidance of diesel usage for power generation and thus lower emissions, and thus reduced costs if these other power production methods were employed.

The Operators chosen method for restoring instream water flow to the River was also based on using cost effective means to achieve the goal and consideration of the costs to the rate payer. They also rejected alternatives that shut the Project down for lengthy periods of time which would have impacted the Project's value for capacity reserves and grid reliability.⁴⁸ These facts are likewise not challenged by any Party.

b. Protection, Mitigation of Damage to, and Enhancement of Fish and Wildlife (including related spawning grounds and habitat) – Factor Three

The Proposed Final Program provides several steps for restoring water flow to the River and thus enhancing, protecting, and mitigating damage to fish and wildlife. The Program restores water flow to the River at rates between 27cfs and 40cfs throughout the year.⁴⁹ It also requires periodic channel maintenance flows up to 220cfs.⁵⁰ It rewaters 11 of the 12 miles of River at the rates noted above thus restoring water flow to the River that has not existed for years. The plan also creates a Monitoring and Adaptive Management Committee of experts to review, evaluate and modify flow regimes within a water budget to increase and enhance fish habitat. Likewise, the increased flow and enhancement of fish habitat will have a corresponding effect on other wildlife, including

⁴⁸ Id.

⁴⁹ Proposed Final Fish and Wildlife Program, Section 2.1.2.

⁵⁰ Id. at Section 2.2.

bear and moose populations. Operators' modeling projects increases in chinook spawning and rearing habitat by 209 and 53 percent respectively with increases for coho by 65 and 67 percent, respectively.⁵¹ Limited Reopeners are also included, i.e., potential installation of a fixed wheel gate and fish passage in the future.

The federal Parties, NVE, and MOA correctly point out that the Proposed Final Program fails to include rewatering of the entire River and allow for fish passage to and from Eklutna Lake. NVE and MOA believe that this failure alone makes the Proposed Final Program deficient. They also challenge whether the flows proposed will result in any substantial benefit to salmon habitat. The federal Parties, although proponents of full water flow and fish passage, realize that this process is long and with technological advancements in the future, the goals can be achieved. For that reason, they did not reject the Proposed Final Program. The Agreement provides the Governor must give due weight to the recommendations, expertise, and statutory responsibilities of the Parties, including FWS and NMFS.⁵² Due weight is given to the FWS and NMFS' expertise and the fact that they have not objected to proceeding with the Proposed Final Program is a very strong indicator that it meets Factor Three.

⁵¹ SID at Section 4.10.1.

⁵² Agreement at Section 5, P. 4. The Agreement also permits the Governor to give due weight to the Purchasers, which includes MOA. However, MOA gave up their right to vote on operations at the Project and conceded they lacked the expertise to participate in the Project's operations, which included establishing the Proposed Final Program per the Agreement. See RCA Order U-18-102(44)/U-19-020(39)/U-19-021(39) and Surrender of Eklutna Operation Committee (EOC) Voting Rights dated as of October 27, 2020, and filed with the RCA in docket number U-18-102(44).

As stated earlier herein, fish passage is not a requirement in the Agreement, nor is restoration of complete waterflow to the River and fish passage. However, from a review of the record, it appears all parties recognize the importance of eventual complete waterflow restoration and fish passage. The difference between the Parties is focused on the methods and timeline to achieve those goals. The Proposed Final Program includes a Limited Reopener to achieve full water restoration and fish passage, understanding that as technology advances, those goals may be cost effective or technically feasible to achieve in the future.⁵³

c. The Protection of Recreation Opportunities – Factor Four

Several positive impacts on recreational activities are included within the Proposed Final Program:

- Commitment of \$234,000 as a match to Chugach State Park or its designee for lakeside trail repairs;
- Potential fishing in the River;
- Kayaking on the Eklutna Lake
- Hunting opportunities;
- Camping;
- Wildlife viewing; and
- Protection of the tailrace fishery.⁵⁴

⁵³ See Section IV.A.3. herein for further discussion on restoration of complete waterflow and fish passage.

⁵⁴ Operators' Brief, September 4, 2024, P.p. 8-9.

The other Parties did not address this issue in their briefs.⁵⁵ There are clear benefits and protections from the Proposed Final Program as outlined above.

d. Municipal Water Supplies – Factor Five

The Parties once again disagree on the impacts the Proposed Final Program will have on municipal water supply. Operators acknowledge they will use AWWU infrastructure to restore water flow to the River. They assert it will not negatively affect the water supply and, in some ways, enhance the water supply infrastructure. MOA and NVE on the other hand believe it will negatively affect municipal water supply. However, neither MOA nor NVE have been able to adequately detail these alleged negative effects. Once again, the Agreement permits the Governor to rely on the expertise of the Operators and give due weight to their findings.⁵⁶

Operators maintain the Project’s infrastructure and Anchorage’s municipal water supply have been “inextricably linked as a matter of physical infrastructure, operations, contract, water rights, and authorizing law since the 1980s when AWWU connected its intake pipe to the Project’s intake structure”.⁵⁷ Operators assert they worked closely with AWWU leadership and engineers to develop legal terms and agreements by which AWWU will be comfortable with the use of AWWU infrastructure to release water into

⁵⁵ MOA makes a passing reference that the “proposed program fails to adequately advance recreational and other beneficial public uses such as fishing or taking in the beauty of a real mountain river with real water in it”. MOA Brief at P. 11.

⁵⁶ See also, Footnote 51.⁵⁷ Operators’ Brief, September 4, 2024, P. 9.

⁵⁷ Operators’ Brief, September 4, 2024, P. 9.

the River.⁵⁸ AWWU and Operators have agreed on key terms for an agreement to govern the construction and use of the Eklutna River Release Facility and an agreement for the long term sharing of Eklutna Lake water rights. AWWU and Operators also negotiated three agreements to detail and govern the arrangement if the Governor approves the Proposed Final Program. Finally, Operators agreed to commit to not take any action in connection with the Fish and Wildlife Program that would compromise Anchorage's water supply, and they agreed to accept liability if they did so. Additionally, other benefits flowed to AWWU, including design approval rights, the construction of eight new bridges over Eklutna River for AWWU to maintain access to its infrastructure, new communications systems, flow meters and a new isolation valve structure for safer maintenance of their facilities, as well as other benefits. AWWU receives its water under a contract with the Eklutna Owners; the proposed term sheet according to Operators would reduce the current water supply costs by half under the new contract to replace contract expiring at end of 2025. For all these reasons, the Proposed Final Program does meet the requirements of the Agreement concerning municipal water supply.

The central issue here is not whether the water supply is protected and/or enhanced, as the evidence clearly demonstrates it is, but rather, whether the Operators and AWWU's agreements must be approved by MOA and to date that approval has not been achieved. In Resolution 2024-182(S-1), the Assembly stated "The Municipality of Anchorage does not intend to issue authorizations or provide funds or any other form of

⁵⁸ Id.

support of the Proposed Final Program or any alternative that doesn't work toward the restoration of the full length of the River..."⁵⁹. The Operators believe they have legal avenues to pursue the agreements even if MOA withholds approval, but litigation does not move the Final Program forward, creates delay in restoring water flows to the River, and impedes implementation of the Final Program.

**e. The Preservation of Other Aspects of Environmental Quality –
Factor Six**

The redirection of lake water to the River instead of the Project's powerhouse reduces the generation of carbon free power that will most likely be replaced by natural gas generation. However, all alternatives considered reduce the power generation from the Project. The Proposed Final Program has the smallest impact in this regard of all the alternatives considered.

f. Other Beneficial Public Uses – Factor Seven

The Operators cite restoration of salmon habitat in the River as another beneficial public use and that flows will not impact infrastructure downriver, including bridges over the River. Enhanced salmon habitat is important to the public and to NVE and its people. Protecting existing infrastructure used by the public is also a beneficial public use.

g. Requirements of State Law – Factor Eight

Numerous areas of State law are impacted by this Proposed Final Program, including permitting, safety, fish and game, natural resources to list a few. The Operators

⁵⁹ MOA Resolution 2024-182(S-1), June 25, 2024

acknowledge the need to comply with all State laws that apply to the Proposed Final Program and their need to obtain an amendment to their certificate of authority from DNR to permit the conveyance and release of water into the River. Additionally, as operators of an electric utility, Operators also have an obligation to comply with all State laws related to utility operations.

h. MOA and NVE Proposed Alternatives

Neither MOA nor NVE have provided any analysis with respect to how their proposed alternatives consider the Eight Factors. Rather, they seem to rely on the belief that their proposed alternatives, such as dam removal or pumped storage hydro, will result in full water restoration to the River and allow for fish passage thus promoting the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat). While that is one factor that must be considered, the Governor is required to give equal consideration to all Eight Factors. They have not provided any evidence or analysis of how these proposed alternatives will impact the other seven factors. For example, there is no evidence of how these alternatives will promote the purposes of efficient and economical power production and energy conservation or impact municipal water supplies.

3. Differences Between the Parties

In addition to giving equal consideration to the Eight Factors, the Governor must also attempt to reconcile differences among the Parties. Although the Parties have generally agreed that the Proposed Final Program was arrived at through rigorous studies, public review, comment, and negotiation, two glaring differences were identified, 1)

water flow for the entire Eklutna River from the dam downstream; and 2) fish passage to and from Eklutna Lake.⁶⁰

The Operators believe that current technology and cost are major prohibitions to obtaining full water flow throughout the River and fish passage to and from the lake at the present time. They posit that the agreement provides a mechanism to continually review these goals and as technology evolves and costs decline, the goals may be achievable, and have provided for this to be regularly evaluated by the Monitoring and Adaptive Management Committee.

FWS and NMFS believe that complete water flow and fish passage were intended as part of the Agreement, but they also indicate that the process must start somewhere and

⁶⁰ MOA and NVE allege the process to arrive at the Operators' Final Proposed Program was flawed. MOA asserts it was denied a viable way to participate due to the fact it lost its vote as an Owner of the Project via an RCA order. However, MOA's assertion in this regard is misguided for three reasons. First, MOA voluntarily gave up its right to vote on matters affecting the operation of the Project and the 1991 Agreement. Secondly, Mayor Bronson formally acknowledged the MOA's complete participation in "every step in the process that led to the Proposed Final Program" and that MOA supported the agreement with the Proposed Final Program. See Mayor Bronson letter to Governor Dunleavy, April 26, 2024. Thirdly, the Operators assert that they and MOA conducted themselves as equals throughout the process and made all decision on the Proposed Final Program through unanimous consent. The record contains no evidence to the contrary. NVE asserts that the Operators failed to pursue alternatives that would have provided for rewatering the entire river and allowed fish passage. Operators counter that they did look at several other alternatives, including NVE's pump station alternative and dam removal, and for various reasons, including economics and other risks, it chose to proceed as outlined in the Proposed Final Program. See NVE comments, June 21, 2024 and Operators' Reply to Comments, July 2024 at Pp. 22-23.

there is time to achieve both and still comply with the Agreement's requirements.⁶¹ They are each committed to pursuit of any alternatives that will achieve those goals.

MOA and NVE however, believe that both goals should be pursued now and absent complete River waterflow and fish passage, the Program should not be adopted. First, the Agreement does not require complete waterflow and fish passage. Had the Parties intended to make those requirements of the Program, they could have and should have so stated in the Agreement itself.⁶² Rather, the Agreement outlines requirements to protect, mitigates damage to, and enhances fish and wildlife resources affected by the Project. At the time the Agreement was signed, the River did not enjoy complete waterflow nor were fish able to pass from River to lake and lake to River. As NVE acknowledges, these goals were not achievable until the lower diversion dam was removed in 2018.⁶³ Courts cannot add words to the contract that would impermissibly rewrite that contract, nor can the Governor in this situation.⁶⁴ Simply put, the Agreement is not ambiguous. Rather, complete waterflow and fish passage can be adopted in a final

⁶¹ “. . . the Program provides a framework to initiate the protection, mitigation and enhancement of fish and wildlife resources, and will support the next iteration of a mitigation plan”. NMFS Comments to Proposed Final Fish and Wildlife Program, June 21, 2024 at P. 2. “Although the proposed Program does not immediately meet the FWS's goals of ecological connectivity . . . the Program, with commitment of all stakeholders, could be an interim step to reconnecting the river, consistent with our request for a phased approach”. FWS comments on the Proposed Final Program, June 24, 2024 at P. 4.

⁶² *McConnell v. Pickering Lumber Corp.*, 217 F.2d 44, 47 (9th Cir. 1954) (“Appellants would have the court under the guise of construction add words to the contract which are not to be found in it. We do not understand such to be the function of the court.”).

⁶³ NVE Brief to Governor Dunleavy, September 4, 2024 at P. 7.

⁶⁴ *JAЕ Properties, Inc. v. AMTAX Holdings 2001-XX, LLC*, __ F. Supp. Ed __, 2024 WL 538570 (USDC S. D. Cal. 2024).

program if supported by an analysis of the factors in the Agreement, but the Agreement did not mandate it.

NVE and MOA also seem to place all their emphasis on Factor Three, i.e., protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds and habitat) without providing for equal consideration of the other seven factors. The Agreement clearly and unequivocally requires the Governor to give “equal consideration” to all Eight Factors.⁶⁵ Although Factor Three is an extremely important element of this process, it cannot be viewed alone or to the detriment of the other factors. Each factor has an impact on the final program.

However, with that said, it does not mean that the Governor cannot alter or improve the Proposed Final Program. The Proposed Final Program meets the requirements of the Agreement, giving equal consideration to the Eight Factors, and provides for the protection, mitigation of damage to, and enhancement of fish and wildlife habitat. It can, however, be improved in certain ways to try to reconcile the differences between the Parties per the requirements in the Agreement.

4. Governor’s Amendments to Final Proposed Program

The Proposed Final Program is established with the following amendments. Discussion on the amendments will follow this section.

Section 3.1 Committee

This section is amended as follows:

⁶⁵ Agreement at Section 5, P. 4.

The Committee will consist of one voting representative from each of the following:

Alaska Department of Fish and Game – member appointed by the Commissioner;

Alaska Department of Natural Resources – member appointed by the Commissioner;

NMFS – member appointed by its Regional Director;

FWS – member appointed by its Regional Director;

NVE - member appointed by its Chair/President; and

Governor of Alaska – appoints one member.

The Committee will make decisions by consensus and four members shall constitute a quorum.

Section 4.1 Fixed Wheel Gate

If it is determined that the construction of the fixed wheel gate is not structurally or economically feasible, the Owners shall make available any remaining funds not expended of the \$10,000,000.00 (up to \$10,000,000.00 in April 2024 U. S. dollars)⁶⁶ for other protection, mitigation, and enhancement measures for fish and wildlife including impacted habitat loss and other effects

⁶⁶ The current estimate for that fixed wheel gate is \$4 million. Operators committed up to \$10 million in 2024 dollars. See Transcript of Proceedings, September 9, 2024 at P. 109.

related the Project in accordance with the terms and process previously outlined in Section 3.3.6.⁶⁷

Section 4.0 Limited Reopeners

New Section 4.3 is added.

Section 4.3 Pumped Storage Hydropower

Pumped Storage Hydropower is added as a Limited Reopener.

The Parties are directed to study this upon terms and conditions they mutually agree to. The terms and conditions will include level of engineering, level of cost analysis, what Party or Parties will fund the study and in what amounts and any other matters the Parties find necessary to implement this Limited Reopener. The study should be consistent with studies performed for other alternatives reviewed by Operators. The Parties, assuming they agree on the above requirements, are directed to undertake the study immediately, but this study will not delay the implementation of the Governor's Approved Final Program or the review and study of the fixed wheel alternative. The results of the study will be reported to the Monitoring and Adaptive Management Committee ("Committee").

The Committee will analyze the study findings and perform the Eight Factor analysis required by the Agreement. The Committee will then provide the study findings and Eight Factor analysis to the Owners for the Owners review. If

⁶⁷

See FWS comments to the Proposed Final Program, June 24, 2024 at Pp. 4-5.

the Owners approve the study findings and Eight Factors analysis, they will provide a statement of support to the Committee and the Committee and Owners will coordinate and cooperate to obtain the Governor's approval. Governor approval of the decision to pursue Pumped Storage Hydropower is required. If the Governor approves the proposal, then the 35-year timeframe requirement to repeat the consultation process required by the Agreement will restart from the date the Governor's approval. The construction of Pumped Storage Hydropower must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of Pumped Storage Hydropower facilities and infrastructure. This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

Discussion of Amendments

Amendment to 3.1

Since the Proposed Final Program provides for ongoing review through the Monitoring and Adaptive Management Committee, and it is the Governor's role under the Agreement to establish a Final Program, adding a Governor appointed seat to the Monitoring and Adaptive Management Committee allows the Governor, and future Governors, to continue to fulfill his or her role under the Agreement to establish the Final Program as the work of the committee is ongoing. The definition of a quorum is added to assist in governance and ensure the recommendations made by the committee have robust involvement from the entities represented.

Amendment to 4.1

As one of the purposes of the Agreement and Final Program is to protect, mitigate damage to, and enhance fish and wildlife habitat, ensuring the funds already set aside for the fixed wheel gate alternative are available to be used for other protection, mitigation, and enhancement measures is consistent with the intent of the Agreement in the event the fixed wheel gate is found to be infeasible. This amendment is responsive to the modification of the Proposed Final Plan requested by NMFS and FWS.

Amendment to 4.0, addition of Section 4.3

MOA and NVE have suggested that Pumped Storage Hydropower (“PSH”) is a viable alternative to the Proposed Final Program. They passed a joint resolution on September 5, 2024, advocating for PSH. They claim it is a “proven energy storage solution used worldwide that provides carbon free power production, storage and grid stabilization and that it has the potential to maintain or improve power production, meet municipal water needs and provide full River hydrological function and connection into and out of Eklutna Lake for fish passage.”⁶⁸ They suggested that the Governor require the Owners use the first two years of the three year implementation period to explore this option.⁶⁹

Neither MOA nor NVE have studied this potential alternative. The Operators have reviewed it but admittedly did not get to any final conclusions on its viability, nor did they engineer or model it to see if it was economically or engineeringly feasible at this location. At the meeting with the Governor’s office, MOA, NVE and Operators each

⁶⁸ MOA/NVE Joint Resolution, September 5, 2024

⁶⁹ Id.

agreed that this was a potential option that could be explored.⁷⁰ However, Operators and the federal Parties do not want to delay implementation of the Final Approved Program to explore this option.

Implementation of the Final Approved Program should not be delayed or extended for an option of unknown cost and feasibility. However, if PSH is as promising as MOA and NVE indicate, there are numerous potential benefits and improvements to the Eight Factors which must be considered when evaluating this Program. As such, conducting this study, under terms agreeable to the Parties, will provide more information relevant to those factors and the potential benefit or harm to the protection, mitigation of damage to, and enhancement of fish and wildlife resources.

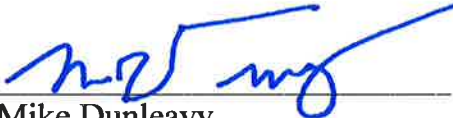
All other components and requirements of the Final Proposed Program are adopted herein unless otherwise amended hereby. The Owners are directed to begin implementation of the Final Approved Program as approved herein as soon as possible.

V. CONCLUSION

The Final Approved Program established today is the culmination of many years of difficult work, analysis, evaluation, discussion, and negotiation by the Parties. Each party did not get all they wanted in this Final Approved Program. However, this is a long-standing problem with no readily available easy solutions and implementation of this

⁷⁰ Transcript of Proceedings, September 9, 2024 at Pp. 105-122. The federal parties did not take a position other than to state they are in favor of exploring options that restores full waterflow to the river and allows for fish passage. *Id.* at Pp. 112-113.

Final Approved Program will put the River on track towards potential full water flow and fish passage.



Mike Dunleavy

Governor

Date: 10-2-2024

Eklutna Hydroelectric Project

Proposed Final Fish and Wildlife Program



April 2024

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Terms, Acronyms, and Abbreviations

1991 Agreement	1991 Fish and Wildlife Agreement
ADEC	Alaska Department of Environmental Conservation
ADFG	Alaska Department of Fish and Game
ADNR	Alaska Department of Natural Resources
AEA	Alaska Energy Authority
AWWU	Anchorage Water and Wastewater Utility
cfs	cubic feet per second
Draft Program	Draft Fish and Wildlife Program
fish and wildlife measures	PME measures for fish and wildlife
Final Program	Final Fish and Wildlife Program
Governor	Governor of Alaska
mgd	million gallons per day
MW	megawatt
NMFS	National Marine Fisheries Service
NVE	Native Village of Eklutna
Parties	Chugach, MEA, MOA, NMFS, USFWS, and the State of Alaska
PME measures	protection, mitigation, and enhancement measures
Project	Eklutna Hydroelectric Project
Project Owners	Chugach, MEA, and MOA
Proposed Final Program	Proposed Final Fish and Wildlife Program
USFWS	U.S. Fish and Wildlife Service

1.0 Introduction

The Eklutna Hydroelectric Project (Project) is located in Southcentral Alaska, approximately 30 miles northeast of downtown Anchorage near the Native Village of Eklutna (NVE). The federal government completed construction of the Project in 1955. Decades later, Chugach Electric Association, Matanuska Electric Association, and the Municipality of Anchorage (collectively the “Project Owners”) agreed to purchase the Project and entered into a Purchase Agreement with the federal government in 1989. Shortly thereafter, concerns were raised about the Project’s potential impacts on fish and wildlife. This led to the execution of a binding agreement in 1991 (referred to as the “1991 Agreement”) amongst the Project Owners, National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the State of Alaska (collectively the “Parties”) that requires the Project Owners to (1) study the Project’s impacts to fish and wildlife, (2) develop proposals for the protection, mitigation, and enhancement of fish and wildlife affected by the development of the Project, (3) consider the impact of fish and wildlife measures on electric rate payers, municipal water utilities, recreational users and adjacent land use, and (4) identify available means to mitigate these impacts. The Project Owners must repeat this process every 35 years and it replaces regulation by the Federal Energy Regulatory Commission. The sale of the Project was authorized by U.S. Congress in 1995, and the Project was sold to the Project Owners in October 1997.

Per the 1991 Agreement, the Project Owners were required to initiate this process no later than 25 years after the sale of the Project. Since the Project was sold in October 1997, the Project Owners were not required to initiate this process until October 2022. However, in order to allow adequate time for a comprehensive analysis, the Project Owners initiated the process in March 2019, more than three years early. After several years of study and consultation with all interested stakeholders detailed in the Supporting Information Document, the Project Owners issued a Draft Fish and Wildlife Program (Draft Program) as required in the 1991 Agreement in October 2023. The Project Owners met with the Parties and the Native Village of Eklutna several times from December 2023 through March 2024 to attempt to resolve differences. They also held six public meetings in January 2024 to solicit public comments. After considering all comments received, and giving due weight to the recommendations and expertise of the Parties and the Native Village of Eklutna, the Project Owners have developed this Proposed Final Fish and Wildlife Program (Proposed Final Program) for submittal to the Governor.

Accordingly, the Project Owners are excited for the next phase of the Project. Details of the Proposed Final Program are described in subsequent sections and include the following:

- Construction of the Eklutna River Release Facility and establishment of year-round instream flows in the Eklutna River;
- Automation of the existing outlet gate at the dam to provide periodic channel maintenance flows in the Eklutna River;
- Construction of eight new bridges along the Anchorage Water and Wastewater Utility (AWWU) access road to enable AWWU's access to critical infrastructure year-round following the establishment of instream flows;
- Payment to Chugach State Park for lakeside trail repairs;
- Establishment of a Committee to oversee implementation of the Monitoring and Adaptive Management Plan;
- Funding to conduct monitoring studies in the Eklutna River throughout the 35-year program;
- Funding for physical habitat enhancement in the Eklutna River based on the monitoring results;
- Procedures for the Committee to adaptively manage the flow regime in the Eklutna River based on the monitoring results;
- Provisions for banking water in Eklutna Lake and potentially increasing the water budget for instream flows in the future;
- Potential installation of a fixed wheel gate to accommodate higher inflows in the future and/or allow higher channel maintenance flows if needed; and
- Potential installation of upstream and downstream fish passage facilities that meet specific criteria.

Approval of the Proposed Final Program will enable the Project Owners to implement these significant fish and wildlife measures at the Project, while simultaneously protecting the municipal water supply and continuing to provide low cost, renewable energy to Southcentral Alaska. The Project Owners anticipate the Governor's issuance of a Final Fish and Wildlife Program by October 2024.

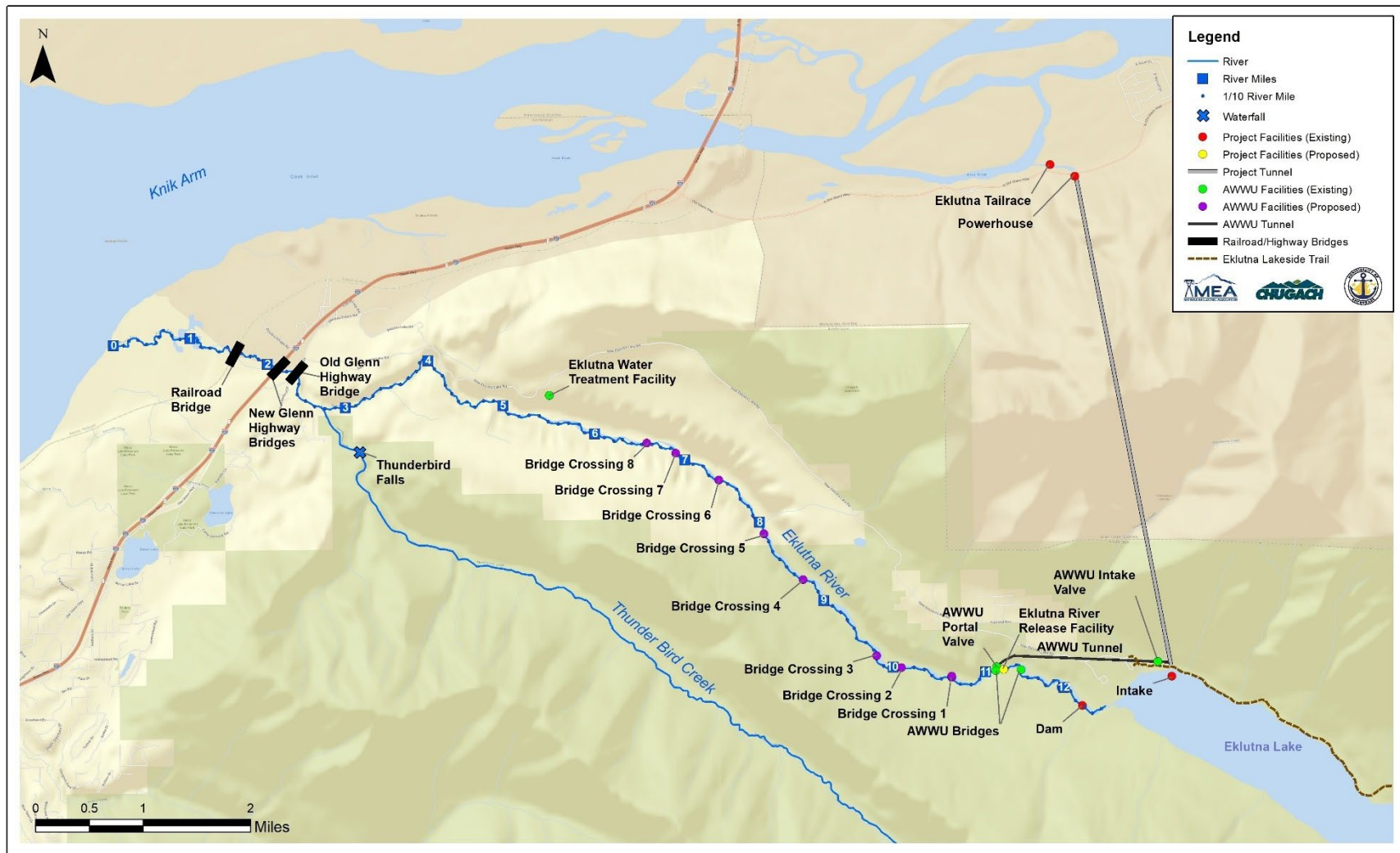


Figure 1-1. Existing and Proposed Infrastructure.

2.0 Protection, Mitigation, and Enhancement Measures

The Project Owners will continue to operate the Project in a manner consistent with the current operating procedures. In addition, The Project Owners will implement the following protection, mitigation, and enhancement (PME) measures for fish and wildlife habitat, the municipal water supply, and recreational facilities.

2.1 Year-Round Instream Flows

2.1.1 Eklutna River Release Facility

In order to provide year-round instream flows to the Eklutna River for fish and wildlife habitat, the Project Owners will construct a new valve and release structure located adjacent to the existing Anchorage Water and Wastewater Utility (AWWU) portal valve approximately one mile downstream of Eklutna Dam. The proposed infrastructure, referred to as the Eklutna River Release Facility, will consist of a tee off the existing 54-inch pipeline that conveys water from Eklutna Lake as part of AWWU's Eklutna Water Project and new control valves to bypass water into the Eklutna River. The 30% design drawings for the Eklutna River Release Facility are provided in the Supporting Information Document. The infrastructure included as part of the 30% level of design for the Eklutna River Release Facility is as follows:

- Construction of a new isolation gate structure immediately upstream of the AWWU portal valve shaft;
- Replacement of approximately 25-ft of existing pipeline with a newly fabricated steel 54-inch x 42-inch tee;
- Installation of a 54-inch gate valve on the main segment of pipe intended to provide dual means of isolation for AWWU's pipeline segment P-4;
- Installation of a 42-inch gate valve on the branch segment intended to provide isolation to the river release structure;
- Installation of a draining and filling system around each isolation valve;
- Installation of a pressure monitoring system and flow meter to provide dual redundancy to AWWU's portal release valve facility;
- Construction of a new river release structure approximately 30-ft downstream of the isolation gate structure;

- Installation of a 30-inch sleeve valve or alternative energy dissipation valve to control flow into the Eklutna River;
- Installation of a flow monitoring system to monitor flow releases into the Eklutna River;
- Construction of a bypass channel from the river release structure to the Eklutna River; and
- Upgrades to communication infrastructure to provide direct communication between the Eklutna River Release Facility, AWWU portal valve shaft, AWWU intake valve shaft, Eklutna Water Treatment Facility, and the Eklutna Power Plant.

The addition of this release facility on the existing Eklutna Water Project will not reduce or impact flow available for water supply purposes, as required by state law. Flow releases through the facility will be limited to a maximum of 80 cfs to protect the AWWU valves and pipeline. The closure rate of the proposed river release valve will be set to keep transient pressures within the rating of the lake diversion tunnel and AWWU pipeline. Additional instrumentation including new flow meters and pressure transducers will be installed to monitor the new facility and protect AWWU infrastructure in the event of an emergency.

The current design allows the AWWU pipeline to be dewatered for maintenance, and in the event of a pipeline rupture, it allows for emergency closure at the AWWU portal valve, in both cases allowing continued operation of the Eklutna River Release Facility. Any maintenance activities that may be required to replace the intake valve shaft will be planned for the fall when the lake level is high and instream flows can be released through the existing outlet gate at the dam.

The Project Owners have closely coordinated with AWWU throughout the preliminary design of the Eklutna River Release Facility and will obtain AWWU approval on all final designs related to AWWU infrastructure. The Project Owners and AWWU have also discussed the water transportation services, compensation, and water rights issues that need to be resolved in order to utilize AWWU infrastructure for providing instream flows to the Eklutna River. A summary of proposed arrangements with AWWU is set forth in the Supporting Information Document. Upon the Governor's approval, the Project Owners will enter into long-term agreements with AWWU following, and subject to, all necessary approvals. If such approvals are delayed or are not able to be obtained, the Project Owners will continue with the other PME measures outlined in this program to the degree possible.

2.1.2 Default Year-Round Instream Flow Regime

Once construction is complete, the Project Owners will utilize the existing Project intake, excess capacity in the AWWU tunnel, and new Eklutna River Release Facility to provide year-round instream flows to approximately 11 out of 12 miles of the Eklutna River. The default year-round instream flow regime, shown in Table 2-1 and Figure 2-1, varies seasonally and was developed based on field studies and modeling.

Table 2-1. Default Year-Round Instream Flow Regime.

Month	Flow (cfs)	Volume (acre-feet)
January	27	1,660
February	27	1,500
March	27	1,660
April	27	1,607
May	34	2,060
June	40	2,380
July	40	2,460
August	40	2,460
September	40	2,380
October	40	2,460
November	34	1,993
December	27	1,660
Total	-	24,280

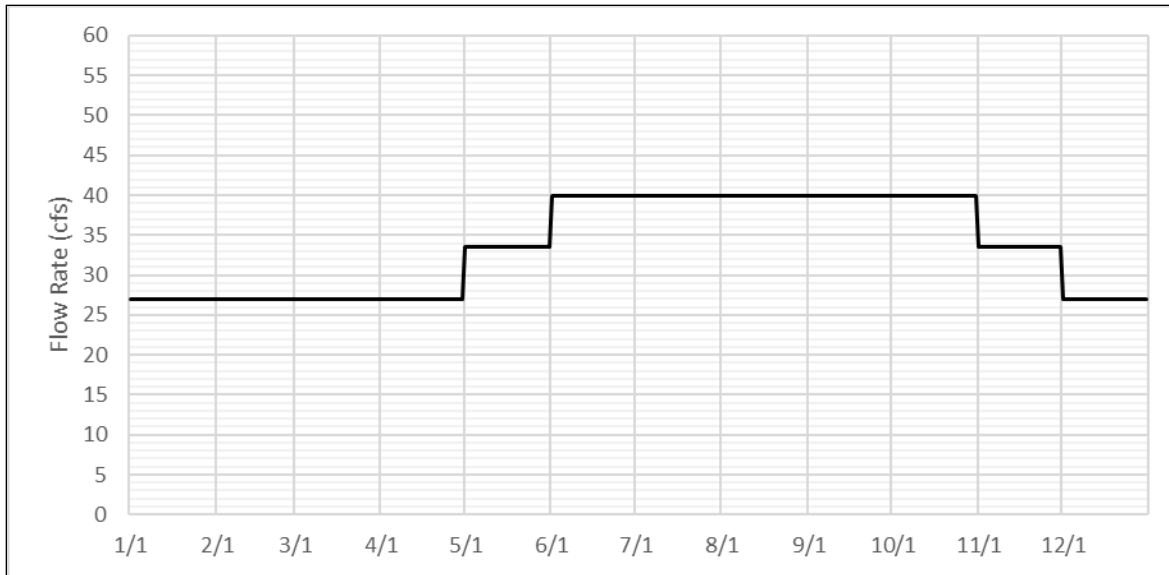


Figure 2-1. Default Year-Round Instream Flow Regime.

The default winter flow releases (27 cfs) when combined with natural accretion in the Eklutna River should promote favorable ice conditions to protect redds during incubation and provide overwintering habitat for juvenile salmon in the Eklutna River.

The default summer flow releases (40 cfs) when combined with natural accretion in the Eklutna River should (1) significantly increase the available spawning habitat for Chinook, coho, pink, and chum salmon, (2) provide sufficient flows for migrating adult salmon to navigate the potential upstream passage barriers identified in the confined canyon reach, and 3) provide additional rearing habitat for salmon.

The default November flow releases (34 cfs) reflect a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning from summer flows to winter flows.

The total volume of water to be released annually from Eklutna Lake into the Eklutna River for year-round base flows is 24,280 acre-ft/yr, equivalent to approximately 10% of the average annual inflow to the lake.

2.2 Channel Maintenance Flows

2.2.1 Existing Outlet Gate

In order to provide periodic channel maintenance flows to the Eklutna River, the Project Owners will automate the existing outlet gate within the base of the spillway at Eklutna Dam so that it can be controlled remotely. The 30% design drawings for automating the gate are

provided in the Supporting Documentation Document. The infrastructure included as part of the 30% level of design for automating the existing outlet gate is as follows:

- Replacement of existing manual actuator for the dam outlet gate with electric motor actuator with position sensing;
- Construction of new access platform and stilling well with level transducer to measure water surface elevation in Eklutna Lake; and
- Installation of 0.5 miles of new buried power line from Eklutna Lake Road to the dam.

The 30-inch by 30-inch outlet gate has a maximum capacity of approximately 190 cfs at the normal maximum water surface elevation of El 871.0 ft.

2.2.2 Channel Maintenance Flow Regime

Once year-round instream flows have been established in the Eklutna River and the existing outlet gate has been automated, the Project Owners will use both the Eklutna River Release Facility and the automated outlet gate to provide periodic channel maintenance flows to the Eklutna River. The default channel maintenance flow, shown in Table 2-2 and Figure 2-2, was developed based on field studies, modeling, and peak flow statistics in similar unmanaged Alaskan rivers and is shaped to resemble a natural peak flow hydrograph.

Table 2-2. Default Channel Maintenance Flow Releases.

Steps	Duration (hours)	Total Flow (cfs)	Base Flow (cfs)	Additional Flow (cfs)	Additional Volume (acre-feet)
1	3	150	40	110	27
2	3	200	40	160	40
3	36	220	40	180	535
4	12	200	40	160	159
5	6	160	40	120	59
6	6	140	40	100	50
7	6	110	40	70	35
8	6	90	40	50	25
9	6	80	40	40	20
10	6	70	40	30	15
11	4	60	40	20	7
Total for 1 flow	94	-	-	-	971
Total for 3 flows	282	-	-	-	2,913

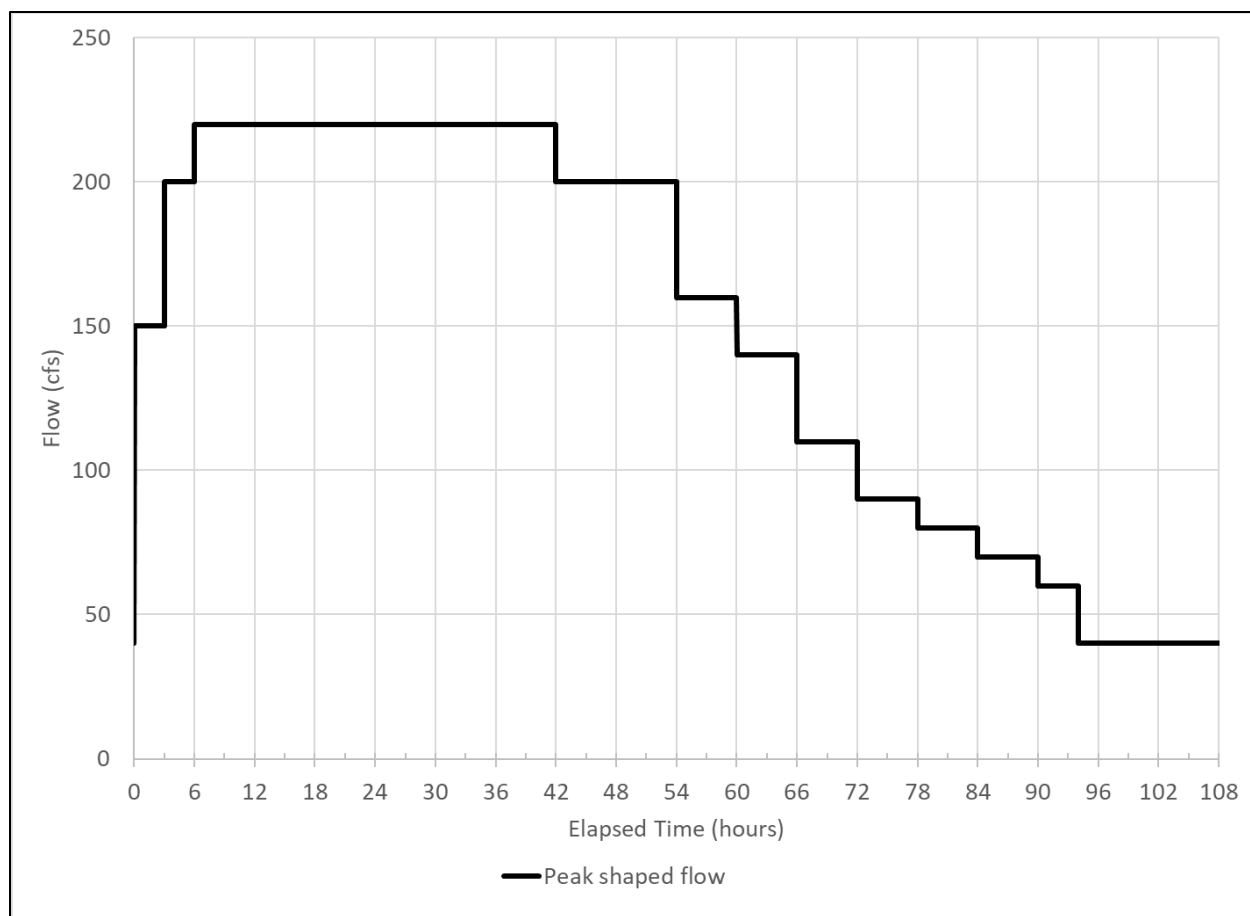


Figure 2-2. Default Channel Maintenance Flow Releases.

The default channel maintenance flow (peaking at 220 cfs for 36 hours) should complement the base flow regime and help create and maintain channel dimensions and substrate characteristics to support physical fish habitat over the long term.

The default downramping schedule (steps 4-11 in Table 2-2) reflects a downramping rate of less than 1 to 2 inches per hour to reduce the risk of any fish stranding downstream when transitioning back to base flows.

Channel maintenance flows will be conducted in the fall when the lake level is highest. The default schedule calls for the Project Owners to conduct a channel maintenance flow in years 2, 5, and 8 of each 10-year period. The first 10-year period will start with the first full calendar year after year-round instream flows are established. The total volume of water to be released in a 10-year period from Eklutna Lake into the Eklutna River for channel maintenance flows is 2,913 acre-ft. Any spill event that exceeds 220 cfs for 36 hours will count as one of the required channel maintenance flows for the current 10-year period.

The intent of providing flexibility in scheduling channel maintenance flows is to allow the Project Owners to take advantage of wet water years. If a planned channel maintenance flow coincides with a dry water year, the Project Owners may choose to postpone the channel maintenance flow to a subsequent year in the current 10-year period. However, if it is already the final year in the current 10-year period, then to the extent possible the Project Owners will curtail generation in order to raise the lake level high enough to achieve the desired flow rate. If due to unforeseen circumstances the Project Owners are unable to provide all three channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

2.3 Flow Monitoring

In order to monitor the year-round flow releases into the Eklutna River, the Project Owners will install a flow meter on the river release pipeline within the Eklutna River Release Facility. The accuracy of this meter is anticipated to utilize the ultrasonic transit time method and have an accuracy of $\pm 1\%$.

In order to monitor channel maintenance flow releases into the Eklutna River, the Project Owners will utilize the rating curve for the existing outlet gate to calculate flow as a function of gate position and water surface elevation in the reservoir. The gate position will be monitored remotely via a new position feedback sensor within the electric motor operator of the gate. To monitor the water surface elevation of the reservoir, a new stilling well and pressure transducer will be located upstream of the gate within the entrance to the Eklutna Dam spillway channel. The addition of this transducer will avoid any potential inaccuracies with the existing USGS gauge measuring water surface elevation near the Project intake. The flow measurement at the gate is anticipated to have an accuracy of $\pm 2\%$.

2.4 AWWU Bridges

Providing year-round instream flows to the Eklutna River will likely make all of the existing ford crossings along the AWWU access road impassable for most of the year. To mitigate these potential impacts, the Project Owners will construct eight new bridges, one at each of the existing ford crossings to allow AWWU year-round access to the AWWU pipeline for maintenance. The new bridges will be designed to pass the same flows as the two existing AWWU bridges. The existing ford crossings will be removed to prevent anyone from attempting to drive through the riverbed in the future. The 15% design drawings for the new AWWU bridges are provided in the Supporting Information Document. The Project Owners will obtain AWWU approval on all final designs related to AWWU infrastructure and will work with AWWU to obtain all necessary permits and easements as may be necessary.

2.5 Recreation

2.5.1 Lakeside Trail Repairs

The Project Owners operate the Project to not spill any water. However, due to various circumstances, spill events have occurred in the past. During past spill events, high lake levels have caused erosion along discrete segments of the lakeside trail. Chugach State Park has received \$234,000 in funding for general lakeside trail repairs. Within 120 days of the Governor's approval or by January 31, 2025, whichever comes later, the Project Owners will provide a one-time payment of \$234,000 to Chugach State Park (or another entity as directed by Chugach State Park) for lakeside trail repairs that address erosion impacts. This funding match brings the total budget for lakeside trail repairs to \$468,000. State Parks will be responsible for seeking and obtaining approval from Eklutna, Inc. if needed. The Project Owners will not be responsible for funding the repair of any future erosion impacts to the lakeside trail that may result from continued Project operations.

2.5.2 Annual Powerhouse Maintenance

The Project Owners conduct annual maintenance activities that require Project shutdown for approximately two weeks every year. In order to avoid having multiple generation assets offline at the same time, the Project Owners coordinate with the other Railbelt utilities when scheduling the annual maintenance shutdown for the Project. In some previous years, this annual maintenance shutdown has coincided with peak fishing times and has had a negative impact on the tailrace fishery. The Project Owners will endeavor to avoid peak fishing times when scheduling the annual maintenance shutdown and any other maintenance activities that would require Project shutdown, taking into consideration the overall system maintenance needs.

2.5.3 Public Access to the Eklutna River

There is currently no free, un-permitted public access to most of the Eklutna River. The land under and surrounding the Eklutna River is largely owned by Eklutna, Inc., which requires permits for access to the Eklutna River. The Project Owners are therefore requesting that Eklutna, Inc. provide free, non-permitted public access to the Eklutna River once the ADFG Board of Fisheries has determined that the Eklutna River fishery for Chinook, coho, or sockeye salmon is sustainable and can be opened for recreational fishing.

3.0 Monitoring and Adaptive Management Plan

The PME measures described in the previous sections are based on the results of field studies, modeling, and extensive consultation. However, the Project Owners recognize there is some inherent uncertainty in modeling and physical habitat conditions in the Eklutna River will evolve over time. Therefore, the following Monitoring and Adaptive Management Plan will be implemented. This approach allows for flexibility and adjustments to PME measures, if needed.

3.1 Committee

Upon the Governor's issuance of the Final Fish and Wildlife Program, a Monitoring and Adaptive Management Committee (Committee) will be established to execute the Monitoring and Adaptive Management Plan. The Committee will consist of one voting representative from each of the following entities: ADFG, ADNR, NMFS, USFWS, and NVE. The Committee will make decisions through consensus, and the Committee chair will be selected by the members of the Committee. One or more representatives from the Project Owners will serve as non-voting participants on the Committee to provide technical expertise about Project operations. All voting and non-voting representatives named to serve on the Committee should possess the technical expertise necessary to carry out the responsibilities of the Committee and should ideally be local to the Project area. Each entity shall bear all costs for its representative to participate on the Committee.

Once the Committee is established, it will develop appropriate evaluation criteria for the Fish and Wildlife Program. These evaluation criteria will help inform monitoring efforts and adaptive management decisions. Decisions made by the Committee shall not be imputed to the Project Owners; implementation of actions pursuant to guidance provided by the Committee shall not create liability to the Project Owners.

3.2 Monitoring

The Project Owners will provide a total of \$450,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG over the length of the Program to fund additional monitoring efforts in the Eklutna River. The Committee will develop a plan to monitor aquatic habitat conditions and fish utilization in the Eklutna River and the straying rate of hatchery fish from the Eklutna Tailrace to the Eklutna River. The Committee may pursue other funding sources to supplement the monitoring budget if desired. ADFG will implement the monitoring plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned monitoring efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various monitoring results will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all monitoring results and reports.

3.3 Adaptive Management

3.3.1 Water Budget

The total volume of water available for release into the Eklutna River in the first water year (June 1 to May 31) following completion of the Eklutna River Release Facility is 24,280 acre-feet. This is based on the default year-round instream flow regime. An additional 24,280 acre-feet will become available at the beginning of each subsequent water year. An additional 2,913 acre-feet of water will become available at the beginning of each 10-year period, starting the first water year after instream flows are initiated. This is based on the default channel maintenance flow being released three times in each 10-year period.

3.3.2 Water Banking

If the entire annual water budget (24,280 acre-feet) is not released into the Eklutna River in a given water year, either intentionally or unintentionally, then that “banked water” can be released in subsequent water years with the following limitations: (1) water can only be banked for up to 5 years, (2) no more than 50% of the total annual water budget can be banked at any given time; and (3) in the event of any unplanned spill event at the Project, banked water is spilled first.

The additional water budget for each 10-year period (2,913 acre-feet) must be used within that period and cannot be carried over to the following 10-year period. However, as described in Section 2.2.2, if due to unforeseen circumstances the Project Owners are unable to provide all of the planned channel maintenance flows in any given 10-year period, then the Project Owners will provide the missed channel maintenance flows in the subsequent 10-year period.

3.3.3 Allocation of Additional Inflow

Climate change is anticipated to cause increased glacial melt in the coming decades. Increased glacial melt would likely result in more inflow to Eklutna Lake, and therefore more water available for both hydropower generation and instream flows. Because of this, the Project Owners will calculate the inflows to Eklutna Lake each year using the available lake level and flow monitoring data. Then 10 years after instream flows are established, the Project Owners will compare the average annual inflows to Eklutna Lake for the last 10 years to the previous 10-year period. Any increase in average annual inflows will be split 50/50 between

hydropower and the annual water budget for instream flows. If there is a decrease in average annual inflows, the annual water budget for instream flows will not be decreased. The Project Owners will repeat this process every 10 years.

3.3.4 Water Accounting Report

The Project Owners will prepare an annual report that summarizes (1) the inflows to Eklutna Lake, (2) instream flow releases, and (3) channel maintenance flow releases for all prior water years as well as the available water budget for the upcoming water year and provide it to the Committee by March 1 each year.

3.3.5 Requests to Modify the Flow Regime

Based on the results of the monitoring program, the Committee may request modifications to the default year-round instream flow regime and/or the magnitude, duration, frequency, or shape of the scheduled channel maintenance flow releases, as long as (1) the requested flows do not exceed the operational limitations of the Project infrastructure, and (2) the ramping rates conform to fisheries ramping rate requirements. If the total volume of water to be released exceeds the available water budget (which includes any banked water that may be available), then that deficit will be carried over into the next water year.

The Committee must provide a 60-day notice to the Project Owners for any requests to modify the default year-round instream flow regime or the default channel maintenance flow schedule. If the requested flows exceed the operational limitations of the Project infrastructure, the available water budget, or the approved ramping rates, then the Project Owners may reject the requested flow modifications. If the Project Owners reject the requested flow modifications, then they must notify the Committee so that the Committee may request alternative flows if desired. The Committee may request modifications to flows within 60 days; however, the Project Owners are not required to meet the request if it is not operationally feasible.

3.3.6 Physical Habitat Enhancement

The Project Owners will provide a total of \$350,000 in April 2024 U.S. dollars (see Section 5.0) to ADFG during the Program to fund physical habitat enhancement and vegetation management efforts in the Eklutna River. The Committee will develop a plan to implement physical habitat enhancement and vegetation management efforts in the Eklutna River. These efforts will focus on enhancing rearing habitat in the Eklutna River. All physical habitat enhancement and vegetation management efforts must occur downstream of the Eklutna River Release Facility. The Committee may pursue other funding sources to supplement the physical habitat enhancement and vegetation management budget if desired. ADFG will implement the

plan based on direction from the Committee and must request funds from the Project Owners by July 1 each year based on the planned physical habitat enhancement and vegetation management efforts for the subsequent year. The Project Owners will then budget accordingly and submit payment to ADFG by January 31 of the subsequent year.

Reports that summarize the various physical habitat enhancement and vegetation management efforts will be prepared by ADFG and provided to the Committee by February 1 each year. The Committee will review and provide a composite report to the Project Owners by March 1 each year. The Committee shall maintain a database/archive for all physical habitat enhancement and vegetation management reports.

The Project Owners are not responsible for responding to natural processes that result in undesirable conditions in the river such as debris flow associated with precipitation or earthquakes, beaver activity, large wood build-up, etc.

3.4 Annual Meeting

The Committee will meet annually in April of each year to (1) review the results of the monitoring efforts conducted in the previous calendar year, (2) review the available water budget for the upcoming water year, (3) discuss any potential adaptive management actions for the upcoming water year, and (4) determine what monitoring efforts and/or physical habitat enhancement should be conducted in the subsequent calendar year. The Committee must notify the Project Owners of any planned monitoring efforts and/or physical habitat enhancement activities for the subsequent calendar year by July 1 so that the Project Owners can budget accordingly.

4.0 Limited Reopeners

Per the 1991 Agreement, the Project Owners are required to repeat this process every 35 years and must initiate the next process by October 2057. In addition, the Project Owners are required to repeat this process before making any major structural or operational modification to the Project that would substantially affect water usage or fish and wildlife. The following two limited reopeners are intended to enable consideration and potential execution of the specified structural and operational modifications during the period between processes without triggering the need to repeat this entire process outlined in the 1991 Agreement.

As set forth below, the two limited reopeners may occur no sooner than 10 years following completion of the Eklutna River Release Facility (Section 2.1.1) and establishment of year-round instream flows (Section 2.1.2). If the Eklutna River Release Facility and instream flows are delayed due to any reason such as litigation or appeals of the Final Fish and Wildlife Program or a failure to complete permitting or gain necessary approvals, the 10-year timeframe leading to the reopeners will be delayed until such time as the Eklutna River Release Facility is completed and the instream flows established.

4.1 Fixed Wheel Gate

During the consultation process, several stakeholders requested that the existing overflow spillway be replaced with a fixed wheel gate because either (1) climate change may cause inflows to the reservoir to increase significantly, which may increase the likelihood of future spill events, and a fixed wheel gate will allow the Project Owners to better manage those future spill events, or (2) while modeling results show that the default channel maintenance flow regime will maintain spawning gravels in the wetted reach of the Eklutna River, future monitoring may show that a higher magnitude channel maintenance flow that exceeds the combined hydraulic capacity of the existing outlet gate and the Eklutna River Release Facility may be warranted. Replacement of the existing overflow spillway with a new fixed wheel gate was evaluated during the study program and alternatives analysis and the Project Owners determined that it was not warranted at this time due to significant dam safety concerns, and the need for future monitoring. Recognizing that the fixed wheel gate might be warranted in the future, however, the Project Owners will continue to investigate the fixed wheel gate as described below and will construct it if certain criteria are met.

Within three years of the Governor's issuance of the Final Fish and Wildlife Program, the Project Owners will conduct a more detailed feasibility study of the fixed wheel gate (including a stability analysis and Class 3 cost estimate). The Project Owners will report the results of that analysis to the Committee.

If the fixed wheel gate is considered feasible and cost effective, then on the 10th anniversary after initiating instream flows, the Project Owners will confer with the Committee to reevaluate the need for the fixed wheel gate. If the monitoring efforts during that 10-year period indicate that (1) average annual inflows to the lake have increased by 20,000 acre-feet, or (2) the Committee determines that higher channel maintenance flows are warranted to maintain spawning gravels, then the Project Owners will commit up to \$10M in April 2024 U.S. dollars (see Section 5.0) to demolish the existing overflow spillway and construct a new fixed wheel gate.

If the demolition/construction costs are estimated to be less than \$10M in April 2024 U.S. dollars, then the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate. If the demolition/construction costs are estimated to be greater than \$10M in April 2024 U.S. dollars, then the Committee may seek supplemental funding payable to the Project Owners from other sources. If the supplemental funding is federal funding and triggers additional NEPA requirements, then the Committee will be responsible for ensuring that outside funding is available and payable to the Project Owners in order to meet those requirements. Upon receipt of such supplemental funding, the Project Owners will obtain necessary permits, demolish the existing overflow spillway, and construct a new fixed wheel gate.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program or trigger the process requirements outlined in the 1991 Agreement. Governor approval of the decision to replace the fixed wheel gate will not be required.

4.2 Fish Passage

During the consultation process, several stakeholders requested that upstream fish passage of adult salmon into Eklutna Lake and downstream fish passage of juvenile salmon out of Eklutna Lake be evaluated. All fish passage measures proposed by the Project Owners and other stakeholders were evaluated during the study program and alternatives analysis. See alternatives analysis in Supplemental Information Document. All of the volitional upstream fish passage measures that were evaluated either (1) would have significant impacts to the hydropower project (i.e., would reduce the storage capacity of the reservoir by approximately 40% or would require the Project to be shutdown throughout the winter when energy is needed most), or (2) are cost prohibitive (the estimated present worth for the stakeholders' preferred alternatives that included volitional fish passage ranged from \$221M to \$385M including capex, operations and maintenance, and replacement energy). In addition, there are still significant concerns regarding the effectiveness of all the downstream fish passage facilities studied (i.e., low attraction flow velocities and/or the inability to operate the

downstream fish passage facilities while the lake is frozen over). Therefore, fish passage measures are not proposed at this time.

Nonetheless, the Project Owners recognize that fish passage may become feasible in the future and fish passage is important to NVE, the federal and state agencies, and others who have commented on the Draft Program. If a new, proven methodology or technology becomes available, then the Committee may reevaluate the potential for the construction and operation of fish passage facilities both into and out of Eklutna Lake on its own initiative or at the request of any of the resource agencies or NVE. Any fish passage measures must meet the following criteria:

1. Fish passage facilities must be safe and effective for human health, the environment, and operations of the Project, the Eklutna River Release Facility, and AWWU's Eklutna Water Project and its water supply;
2. Fish passage facilities must address both upstream and downstream fish passage for anadromous fish (i.e., no effective upstream passage without effective downstream passage);
3. Fish passage facilities cannot affect reservoir operations in a manner that would cause AWWU operation shutdown for any amount of time or Project shutdown for more than two weeks annually (except during construction);
4. Fish passage facilities cannot result in more than 10% loss of storage capacity in the reservoir (i.e., the active storage capacity in the reservoir cannot be reduced by more than 17,480 acre-feet);
5. Fish passage facilities must operate within the available water budget administered by the Committee.

Because fish passage into the lake has the potential to impact recreational use or facilities within Chugach State Park and/or the water quality of the municipal water supply, both of these potential impacts must be evaluated by the Committee. The Committee must also consult with the State Park and AWWU regarding any such impacts and the appropriate mitigation for those impacts. The Committee must ultimately obtain written consent or approval from both the State Park and AWWU for any proposed fish passage measures, including the construction schedule.

The cost of any fish passage measures (including scientific studies, engineering, construction, operation, maintenance, and mitigation for any impacts to recreational use or facilities and/or

the municipal water supply, etc.) must be completely funded by parties other than the Project Owners.

At any time more than 10 years after initiating instream flows, if (1) the Committee has identified fish passage measures that meet all of the listed criteria, (2) the Committee has obtained written consent or approval from both the State Park and AWWU, (3) the Committee has obtained the necessary funding for all fish passage measures, and (4) the Anadromous Waters Catalog maintained by ADFG has been updated to reflect that migrating or spawning adult sockeye salmon have been documented within 1 mile of the Eklutna River Release Facility, then the Committee may propose those fish passage measures to the Project Owners with supporting information. As long as all of the above criteria and prerequisites are met, then the Project Owners will support the development and operation of the proposed fish passage facilities. The Project Owners may choose to waive criteria numbers 3, 4, and/or 5 upon unanimous decision, provided that AWWU must independently consent or approve fish passage measures affecting its facilities or its water supply.

Upon receiving a statement of support from the Project Owners, the Committee and the Project Owners will coordinate and cooperate to obtain the Governor's approval of the proposed fish passage measures. Governor approval of the decision to add the fish passage facilities will be required.

If the Governor approves the proposed fish passage measures, then the 35-year timeframe requirement to repeat the consultation process required by the 1991 Agreement will restart from the date the Governor's approval.

The construction schedule must minimize impacts to Project operations. The Project Owners will oversee all construction activities and will support the development and operation of the fish passage facilities. However, the Project Owners will not operate the fish passage facilities and will be held harmless from the development and operation of such facilities.

This is a limited reopener and will not reopen any other components of the Fish and Wildlife Program.

5.0 Funding Commitments and Inflation Adjustment

All monetary amounts in this Proposed Final Program are in 2024 U.S. dollars, unless otherwise stated. All monetary amounts will be adjusted annually for inflation using a 15-year rolling average reflected in the Bureau of Labor Statistics' Urban Alaska Consumer Price Index (CPI-U) (as currently reported by State of Alaska Department of Labor and Workforce Development at <https://live.laborstats.alaska.gov/cpi/table>).

Rate Case Decision and SRF Plan

Operations Committee Meeting
October 09, 2024

Rate Case Update

- Chugach filed its 2023 Rate Case on June 30, 2023, based on a 2022 Test Year
 - 13 parties intervened over a six-week hearing
 - We entered a partial stipulation with the parties to settle non-TIER revenue requirement and miscellaneous issues
 - Issues that were adjudicated
 - TIER 1.55x versus 1.75x; single versus split TIER
 - Cost of service and rate design
 - Transmission and ancillary services rates

Rate Case Update

- The Commission issued Order U-23-047(12) on September 25, 2024
 - Approved the partial stipulation
 - Change in amortization period of primary regulatory asset from 18 to 25 years (non-margin impact)
 - Removal of \$1.0 million of expense
 - Eliminated split TIER for electric service; approved TIER for G&T and Distribution activity set at 1.55x; BRU TIER increased from 1.35 to 2.20
 - Eliminated demand ratchet
 - Fully unified rates for North and South District
 - Introduction of shore power service rate class (cruise ship interconnection)
 - Exclude all costs associated with the ML&P assets and acquisition costs from the transmission and ancillary services associated with wheeling services provided to third parties

Rate Case Update

- Difference between interim and permanent revenue requirement for retail customers is approximately \$2.3 million (annualized; excluding interest)
- Revenue requirement (base rates)

	Interim	Permanent
Retail	\$254.0	\$251.7
Wholesale (Seward)	\$2.7	\$2.8
Total	\$256.7	\$254.5

Rate Case Update

- Total Bill impact in relation to interim rates

South District

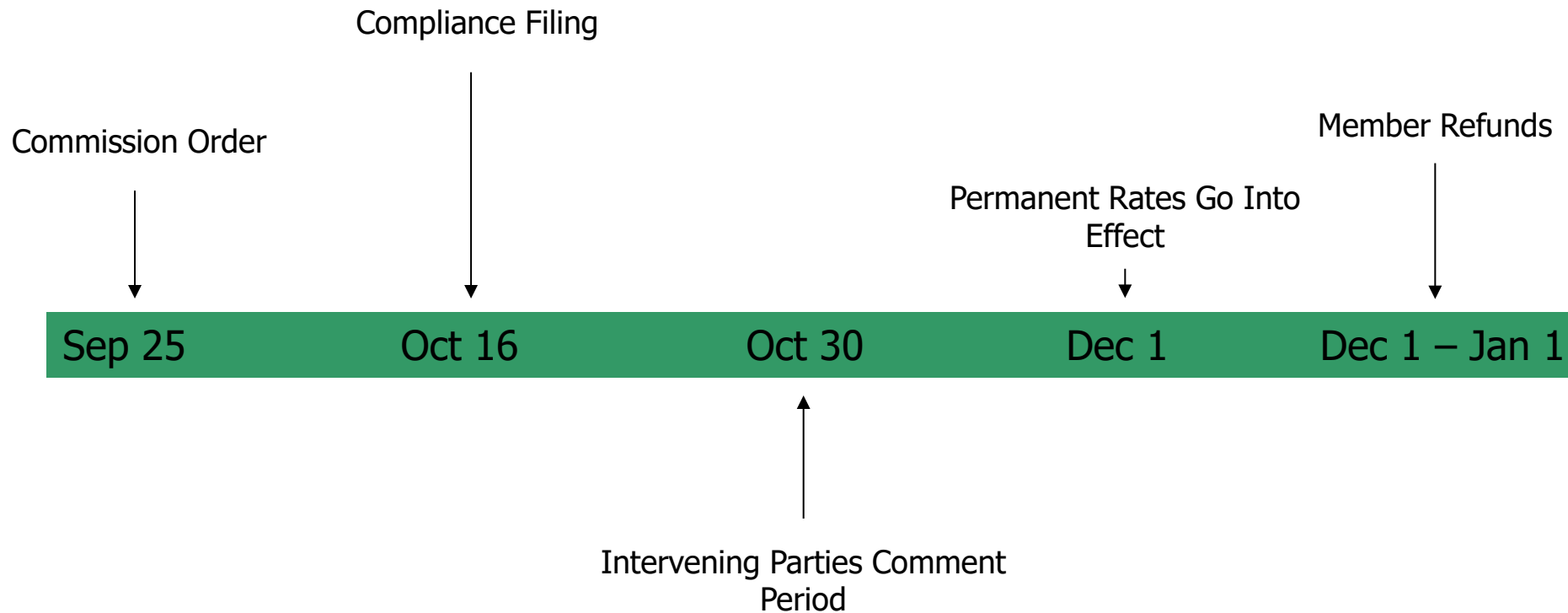
Class	Change
Residential	4.1%
Small General	19%
LGS - Secondary	1.4%
LGS - Primary	4.9%

North District

Class	Change
Residential	(8.3%)
Small General	(0.3%)
LGS - Secondary	(7.5%)
LGS - Primary	7.4%

Rate Case Update

■ Next Steps



Simplified Rate Filing (SRF)

- Plan to re-enter the simplified rate filing (SRF) process
- Commission's final order recognized the importance of re-entry into SRF:

“Chugach’s use of the SRF process going forward should help it realize its currently authorized Target TIER. Access to the SRF process in particular will help ensure that Chugach can maintain its financial integrity at its current authorized Target TIER.”

Simplified Rate Filing (SRF)

- What is the SRF?
 - SRF is a streamlined base rate adjustment process available to Alaska electric cooperatives
 - Energy and demand rates can be adjusted
 - Customer charges cannot be adjusted

Simplified Rate Filing (SRF)

- Benefits of SRF?
 - Improves ability to achieve authorized TIER levels and meet debt covenants
 - Favorably viewed by credit rating agencies
 - Saves time and money for base rate adjustments
 - Minimal lag between changes in cost and sales levels to changes in rates

Simplified Rate Filing (SRF)

■ Rules of SRF

- Process relies on methodology adopted in last general rate case, including return (TIER) requirements
- Base rates adjusted on quarterly or semi-annual basis
- Filing must be submitted to Commission regardless if rate change requested
 - Quarterly filings: Due 60 days following test year
 - Semi-annual filings: Due 90 days following test year

Simplified Rate Filing (SRF)

■ Rules of SRF

- Limitations on rate adjustments
 - Increases limited to 8% over 12-month period
 - Maximum 20% cumulative increase over 36-month period
 - Rate reduction required if return (TIER) exceeds authorized Commission-approved levels by 5 percent
- Submit separate (in-parallel) filings to address non-routine items
- Routine updates
 - Allocators in cost of service
 - Cost Allocation Manual

Simplified Rate Filing (SRF)

■ Rules of SRF

- Rate adjustments applied on a class basis recognizing service level differences and TIER requirements
 - Chugach Retail
 - Seward Electric System
 - Transmission / ancillary services
- General rate cases may be needed; potential events
 - Rate increases greater than SRF limitations
 - Material changes in load ratios

Simplified Rate Filing (SRF)

■ SRF Process

- RCA has 45-days to approve, suspend, or reject
- No public notice issued by RCA
- RCA Staff reviews for compliance with regulation requirements
 - Timeliness of filing
 - Member notice requirement
 - Percentage changes within prescribed limits
 - Required schedules are present and complete
 - Reasonableness of adjustments and explanations
 - Presents recommendation to Commissioners

Simplified Rate Filing (SRF)

■ SRF Re-Entry Process

- Board of Directors resolution is required
- Member notice requirements
 - Acknowledgment that major responsibility for rate adjustments resides with the Board of Directors
 - Potential impact on recurring rates
 - Location and time of meeting scheduled for Board consideration of SRF

Simplified Rate Filing (SRF)

■ Communication Plan

■ November Outlet

- Acknowledgment that major responsibility for rate adjustments resides with the Board of Directors
- Potential impact on recurring rates
- Location and time of the December meeting scheduled for Board consideration of SRF

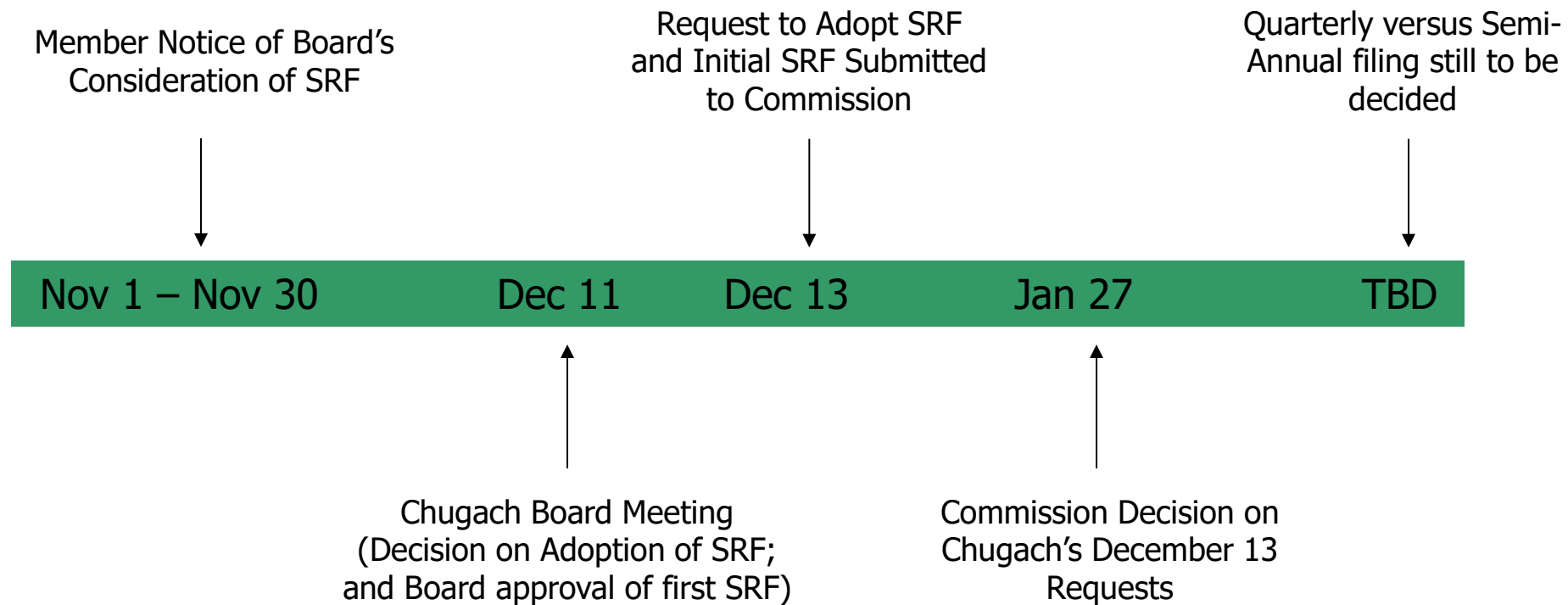
■ December Bill Message

- Rate increase requested
- Effective date of increase if approved

■ January Outlet – Result of Board's decision

Rate Case Update

■ SRF Timeline Assuming Semi-Annual Filings



Thank You

Questions?

Chugach Electric Association, Inc.
Anchorage, Alaska

Summary of Executive Session Topics for
Operations Committee Meeting on October 9, 2024
Agenda Item VI.

- A. Discussion of confidential and sensitive information regarding an update of the natural gas supply, public disclosure of which could have an adverse effect on the finances and legal position of the Association. (AS 10.25.175(c)(1) and (3))
- B. Discussion of confidential and sensitive information regarding the Battery Energy Storage System, public disclosure of which could have an adverse effect on the financial and legal position of the Association. (AS 10.25.175(c)(1) and (3))