

COUNTERPART 1 OF 3

BRADLEY LAKE HYDROELECTRIC PROJECT
AGREEMENT FOR THE DISPATCH OF ELECTRIC POWER
AND FOR RELATED SERVICES
("BRADLEY LAKE DISPATCH AGREEMENT")

by and among

CHUGACH ELECTRIC ASSOCIATION, INC.

and

THE ALASKA ENERGY AUTHORITY

August 1996

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BRADLEY LAKE HYDROELECTRIC PROJECT
AGREEMENT FOR THE DISPATCH OF ELECTRIC POWER
AND FOR RELATED SERVICES

THIS AGREEMENT is entered into on August 20th, 1996, by CHUGACH ELECTRIC ASSOCIATION, INC. ("Chugach"), and the STATE OF ALASKA, ALASKA ENERGY AUTHORITY ("Authority"), hereinafter collectively referred to as "Parties."

SECTION 1. RECITALS

A. The Authority owns the Bradley Lake Hydroelectric Project ("Project"), and has sold the output to various utilities ("Purchasers"), including Chugach, under the Power Sales Agreement.

B. Chugach is designated as the dispatcher of energy from the Project ("Dispatcher"), and as the entity providing wheeling and related services to the other Purchasers under an "Agreement for the Wheeling of Electric Power and for Related Services" (the "Services Agreement").

C. Chugach is a qualified utility within the meaning of AS 44.83.425(3) and is authorized to operate and maintain a power project acquired or constructed by the Authority and shall perform the services under this Agreement solely as an independent contractor.

D. The Authority on May 24, 1994, entered into the Bradley Lake Hydroelectric Project Master Maintenance and Operating Agreement with the BPMC for the purpose of establishing contract administration and budgeting procedures for contracting the operation and maintenance of the Project and all related Project facilities and services and the provisions of Exhibit A to that agreement are incorporated in the terms of this Agreement.

E. Pursuant to the Power Sales Agreement, the BPMC has approved the terms of this Agreement.

SECTION 2. NATURE OF AGREEMENT

Chugach will provide all of the Dispatch Services needed to dispatch Project output. This Agreement sets forth the rights and duties of the Parties relating to the provision of Dispatch Services.

SECTION 3. RELATIONSHIP TO OTHER AGREEMENTS

Except as provided below, this Agreement does not modify, alter, or amend any other contract or agreement that now exists between the Parties. The Parties intend that this Agreement should be interpreted in a manner compatible with other contracts and agreements associated with the Project.

A. Power Sales Agreement. In their performance of this Agreement, the Parties will comply with the terms and provisions of the Power Sales Agreement.

B. Master Maintenance and Operating Agreement. Except for paragraphs (c) Subcontracting, (o) Notice and Communications and (t) Third Party Beneficiaries, the provisions of Exhibit A, Master Contract Provisions, of the Master Operating Agreement are expressly incorporated by reference in this Agreement. Paragraphs (c), (o) and (t) are modified and included below as Sections 5C, 8A and 8B.

C. Services Agreement. To the extent that the terms of the Services Agreement are incorporated by specific reference into this Agreement, such specific terms shall be binding on the Authority, without regard to whether the Authority is also signatory to the Services Agreement.

D. February 1992 Dispatch Agreement. This Agreement supercedes the Bradley Lake Hydroelectric Project Agreement for the Dispatch of Electric Power and for Related Services dated February 19, 1992, between the Authority and Chugach.

SECTION 4. TERM OF AGREEMENT; RELATED MATTERS

A. Term.

1. This Agreement will be effective when executed and after it has received approval by the Bradley Lake Project Management Committee ("BPMC").

2. This Agreement will remain in effect for the term of the Services Agreement unless, under the terms of the Services Agreement, Chugach is replaced as Dispatcher, in which case it will terminate on the date Chugach ceases to be the Dispatcher.

SECTION 5. DUTIES OF THE DISPATCHER

A. Duties. The Dispatcher's duties shall be as set forth in Section 8(a)(i) of the Services Agreement and any applicable operating criteria or guidelines adopted by the Project Management Committee and set forth as Scope of Dispatch Duties in the Allocation and Scheduling Procedures.

B. Limitations on Dispatcher's duties. Subject to the limitations on Chugach's duties set forth in Sections 7(b) and (c) of the Services Agreement, Chugach will dispatch the Project's output consistent with Prudent Utility Practice as defined in Section 1(x) of the Power Sales Agreement, for the benefit of the integrated system. This Agreement shall not require Chugach to install or operate on Chugach's system any facilities or equipment that Chugach would not otherwise have installed or operated on that system unless those additional facilities or equipment are: (1) funded and approved in advance and in writing by the BPMC and (2) not detrimental to Chugach's system or operations.

C. Subcontracting. Chugach may subcontract the dispatch of the Project or Project Related Facilities to the extent authorized in the Annual Budget or with the written approval of the Authority and the BPMC, which shall not be unreasonably withheld.

SECTION 6. ANNUAL PLANNING AND BUDGET

A. In accordance with a schedule provided by the Authority, Chugach shall prepare and submit each year to the Authority and the BPMC a draft budget for dispatch services for the following budget year. Such draft budget shall specifically include:

1. Labor and related costs:
 - (i) The personnel costs attributable to performing the duties of Dispatcher (as distinct from personnel cost that Chugach would necessarily incur in operating and maintaining its own system); and

- (ii) The costs of training personnel to perform the duties of Dispatcher, including familiarization with Project facilities and equipment through site visits, training and by other means.
- 2. The cost of computer equipment used for dispatching the Project's output, or, if such hardware and/or software serves multiple purposes, then the portion of such costs fairly allocable to that portion of the hardware and/or software capability that is needed for the purpose of dispatching the Project's output. The Bradley Lake allocation of these costs shall be documented annually.
- 3. All costs reasonably necessary for performance of all duties and obligations set forth in this Agreement.

B. The draft budget shall be prepared in a format agreeable to the Authority and the BPMC, and shall be based on a reasonable estimate of all anticipated expenditures for dispatching and maintaining the Project Facility during the budget year.

C. The Authority shall review the draft budget and forward its recommended budget for BPMC approval within sufficient time to allow approval of the Project Budget in accordance with section 13 (c) of the Power Sales Agreement.

D. The Dispatcher shall perform its duties in a manner consistent with the BPMC approved Budget, and shall be responsible to perform only the obligations funded by such budget. If the Dispatcher makes a determination during any budget year that it cannot operate within its budget, the Dispatcher shall report such finding to the Authority and shall submit a revised budget for Authority and BPMC review, and BPMC approval, if necessary.

SECTION 7. INVOICES, PAYMENT & DISPUTE RESOLUTION

A. The ordinary costs of performing under this Agreement will be initially paid by Chugach.

B. Chugach will prepare an invoice identifying the actual and reasonable costs incurred in a format mutually agreeable to the Authority and Chugach. The invoice will be furnished to the Authority by the fifteenth (15) of the month following the month in which the costs are incurred. All such invoices will be subject to audit and approval by the Authority, such approval will not be unreasonably be withheld.

C. Subject to the availability of funds, the Authority will reimburse Chugach for all costs reasonably incurred and properly invoiced and approved under this Agreement.

D. Any amounts owed by the Authority to Chugach will be paid by the Authority within thirty (30) days of receipt of an appropriate invoice from Chugach. Any amounts not paid within thirty (30) days will accrue simple interest at the legal rate of interest at the time payment was due, and will continue until paid by the Authority.

E. The Authority shall work with Chugach to promptly resolve any disputed billings. Consistent with the procedures established in Section 10(b) of the Services Agreement, the Parties shall attempt in good faith to settle reasonably any claim or controversy arising out of this Agreement. In addition to the procedures established by Section 10(b) of the Services Agreement, the Parties may unanimously agree to submit any claim or controversy to a mutually-acceptable mediator. The allocation of costs for such mediation shall be determined by the mediator. The use of such a procedure shall not be construed to affect adversely the rights of any Party under the doctrines of laches, waiver or estoppel. Except as limited by Section 10(b) of the Services Agreement, nothing in this section shall prevent any Party from resorting to judicial procedures. Any judicial action shall be filed in the Superior Court for the State of Alaska at Anchorage.

F. Pending resolution of any dispute, each Party shall continue to perform its obligations under this Agreement, including but not limited to the Authority's obligation to reimburse Chugach for certain costs under Section 6 of this Agreement. Each Party shall be entitled to seek immediate judicial enforcement of this continued performance obligation notwithstanding the existence of a dispute. Application for such enforcement shall be made to the Superior Court for the State of Alaska in Anchorage.

SECTION 8. MISCELLANEOUS PROVISIONS

A. Notice. Notice to the Authority shall be addressed to: Executive Director, Alaska Energy Authority, 480 West Tudor Road, Anchorage, Alaska 99503-6690. Notice to Chugach shall be addressed to: General Manager, Chugach Electric Association, Inc., P.O. Box 196300, Anchorage, Alaska 99519-6300. The foregoing designations of the name or address to which notices or demands are to be directed may be changed at any time by written notice given by one Party to the other Party.

Any notice or request not otherwise provided for in this Agreement will be given in such manner as the Parties agree.

B. Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than the Parties, Chugach and the Authority, and the BPMC as a third party beneficiary. The BPMC is the only third party beneficiary. In any action by the BPMC for damages Chugach shall have the right to assert against the BPMC any defense which it could have asserted against the Authority. The raising of any such defense by Chugach shall not affect any right of a Purchaser or the BPMC under the Master Operating Agreement or Power Sales Agreement.

C. Consultation. The consultation provisions of § 10 (a) of the Services Agreement shall apply to this Agreement.

D. Force Majeure. No Party to the Agreement shall be liable to the other Party for, or be considered to be in breach of or default under this Agreement on account of, any delay in performance or any delay or failure to deliver, receive or accept delivery of energy due to any of the following events:

1. Any cause or condition beyond such Party's reasonable control which such Party is unable to overcome by the exercise of reasonable diligence, including but not limited to: fire, flood, earthquake, volcanic activity, wind, drought and other acts of the elements; court order and act of civil, military or governmental authority; riot, insurrection, sabotage and war; breakdown of or damage to facilities or equipment; electrical disturbance originating in or transmitted through such Party's electric system or any electric system with which such Party's system is interconnected; and, any act or omission of any person or entity other than such Party, or Party's contractors or suppliers of any type or anyone acting on behalf of such Party. Strikes, lockouts, and other labor disturbances shall be considered Force Majeure events and nothing in this Agreement shall require either Party to settle a labor dispute against its best judgment; provided, that during any labor dispute each Party shall make all reasonable efforts under the circumstances, including, to the extent permitted by law and collective bargaining agreements, the use of replacement personnel and or management personnel and/or other personnel under the provisions of a mutual aid agreement to ensure, if possible, the continued ability of the Parties to carry out their obligations under this Agreement, or

2. Any action taken by such Party which is reasonably necessary or prudent to protect the operation, performance, integrity, reliability or stability of the Project or of such Party's electric system or any electric system with which such Party's electric system is interconnected, whether such actions occur automatically or manually.

In the event of any delay excused under this section, the time for performance thereby delayed shall be extended by a period of time reasonably necessary to compensate for such delay. No cost adjustment shall be allowed, only time extensions as appropriate. Nothing contained in this paragraph shall require any Party to settle any strike, lockout or other labor dispute. Each Party shall give the other Party prompt written notice of any delay which the Party giving notice considers to be an excusable delay of its performance.

SECTION 9. DEFINITIONS

The terms used in this Agreement shall be as defined in the Power Sales Agreement, except as specified below. For the purposes of this Agreement, the following definitions and abbreviations apply:

- A. Agreement. This Agreement governing dispatch of Project output.
- B. Bradley Lake Energy. Electric energy, expressed in kilowatt hours (kwh), generated at the Bradley Lake Hydroelectric Project for a Purchaser in a manner consistent with the Power Sales Agreement and the applicable criteria, procedures, and guidelines adopted by the Project Management Committee. As used in this Agreement, Bradley Lake Energy does not include energy produced by generators other than those located at the Bradley Lake Hydroelectric Project, regardless of whether energy or capacity from such other generators is or may be sold to a Purchaser pursuant to provisions of the Power Sales Agreement relating to reserves for the Project.
- C. BPMC means the Bradley Lake Project Management Committee.
- D. Dispatcher. Dispatcher shall mean Chugach Electric Association, Inc., or, as the context requires, the employee(s) of Chugach who perform or supervise the performance of those employees that dispatch Project output pursuant to this Agreement.

E. Dispatch Services. Those duties with respect to the Project that Chugach performs under this Agreement.

F. Party. Either Chugach or the Alaska Energy Authority.

G. Power Sales Agreement. For the purposes of this Agreement, Power Sales Agreement, shall have the meaning provided in Section 1(j) of the Bradley Lake Hydroelectric Project Master Maintenance and Operating Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed the day and year first above written.

CHUGACH ELECTRIC ASSOCIATION, INC.

By: Eugene N. Bjornstad

Its: General Manager

ALASKA ENERGY AUTHORITY

By: William R. Small

Its: Executive Director

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing Agreement was acknowledged before me this 20th day of August, 1996, by William R. Snell, the Executive Director of the Alaska Energy Authority, an Alaska corporation, on behalf of the corporation.

Mauro M. Pear
Notary Public in and for Alaska
My commission expires: 3-14-98

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing Agreement was acknowledged before me this 19th day of August, 1996, by Eugene N. Bjornstad, the General Manager of the Chugach Electric Association, Inc., an Alaska corporation, on behalf of the corporation.

Dennis R. Wither
Notary Public in and for Alaska
My commission expires: 4/8/99