

**SPECIAL ASSEMBLY MEETING
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

February 26, 2018 5:30 PM

Municipal Building - Assembly Chambers
Special Meeting 2018-06

I. CALL TO ORDER / ROLL CALL

II. AGENDA TOPICS

- A. PUBLIC HEARING - Ordinance 2017-06(AF) An Ordinance Appropriating to the Manager the Sum of \$75,000 as Funding for Intervention in Docket U-17-097 with the Regulatory Commission of Alaska, Funding Provided by the General Fund's Fund Balance.

This ordinance would appropriate \$75,000 to fund the costs associated with CBJ's participation as an intervenor in the matter before the Regulatory Commission of Alaska, where Hydro One Limited is seeking authority to acquire control of Alaska Electric Light & Power Company.

AEL&P is the power utility for Juneau. On July 1, 2014, Avista Corp., based in Washington, bought out AEL&P's parent Alaska Energy and Resources Company. On July 20, 2017, Avista Corp. announced they would join forces with Hydro One.

The Assembly Finance Committee took up this matter at its meeting on January 10, 2018.

The Assembly Committee of the Whole unanimously recommended this at its meeting of February 5, 2018.

The City Manager recommends this ordinance be adopted.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

IV. EXECUTIVE SESSION

- A. Appeal Deliberation - 7th Day Adventist Church School v. CBJ Assessor

V. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 72 hours prior to any meeting so arrangements can be made to have a sign language interpreter present or an audiotape containing the Assembly's agenda made available. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

PUBLIC HEARING - Ordinance 2017-06(AF) An Ordinance Appropriating to the Manager the Sum of \$75,000 as Funding for Intervention in Docket U-17-097 with the Regulatory Commission of Alaska, Funding Provided by the General Fund's Fund Balance.

MANAGER'S REPORT:

This ordinance would appropriate \$75,000 to fund the costs associated with CBJ's participation as an intervenor in the matter before the Regulatory Commission of Alaska, where Hydro One Limited is seeking authority to acquire control of Alaska Electric Light & Power Company.

AEL&P is the power utility for Juneau. On July 1, 2014, Avista Corp., based in Washington, bought out AEL&P's parent Alaska Energy and Resources Company. On July 20, 2017, Avista Corp. announced they would join forces with Hydro One.

The Assembly Finance Committee took up this matter at its meeting on January 10, 2018.

The Assembly Committee of the Whole unanimously recommended this at its meeting of February 5, 2018.

RECOMMENDATION:

The City Manager recommends this ordinance be adopted.

ATTACHMENTS:

Description	Upload Date	Type
❑ 2017-06(AF)	2/7/2018	Appropriating Ordinance
❑ Cover letter	2/22/2018	Cover Memo
❑ CBJ petition	2/22/2018	Exhibit
❑ Staff Report	2/23/2018	Staff Report
❑ RCA Order #2	2/26/2018	Exhibit

Presented by: The Manager
Introduced: 2/12/2018
Drafted by: Finance

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2017-06(AF)

An Ordinance Appropriating to the Manager the Sum of \$75,000 as Funding for Intervention in Docket U-17-097 with the Regulatory Commission of Alaska; Funding Provided by the General Fund's Fund Balance.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a noncode ordinance.

Section 2. Appropriate. There is appropriated to the Manager the sum of \$75,000 for Intervention in Docket U-17-097 with the Regulatory Commission of Alaska.

Section 3. Source of Funds.

General Fund's Fund Balance	\$ 75,000
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Section 4. Effective Date. This ordinance shall become effective upon adoption.

Adopted this __ day of _____, 2018.

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica, Municipal Clerk

KIRK GIBSON
Direct (503) 290-3626
kirk@mrg-law.com

February 22, 2018

VIA ELECTRONIC FILING

Regulatory Commission of Alaska
Suite 300
701 W. Eighth Avenue
Anchorage, AK 99501

Re: Docket No. U-17-097: In the Matter of the Joint Application Filed by Hydro One Limited and Avista Corporation for Authority for Hydro One Limited to Acquire a Controlling Interest in ALASKA ELECTRIC LIGHT & POWER COMPANY

Dear Records and Filing:

Attached for filing in Docket No. U-17-097 is an electronic copy of the City and Borough of Juneau's Petition for Formal Proceedings and Petition for Intervention.

Very truly yours,

/s/ Kirk Gibson
Kirk Gibson, AK Bar No. 9611058
McDowell Rackner & Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Phone: (503) 290-3626
Fax: (503) 595-3928
Electronic Mail Address: kirk@mrg-law.com

Enclosures

Transmittal Letter to CBJ's Petition for Formal Proceedings and
Petition for Intervention
Docket No. U-17-097
February 22, 2018
Page 1 of 1.

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Stephen McAlpine, Chair
Paul F. Lisankie
Rebecca Pauli
Robert M. Pickett
Janis W. Wilson

In the Matter of the Joint Application Filed)
by Hydro One Limited and Avista)
Corporation for Authority for Hydro One)
Limited to Acquire a Controlling Interest)
in ALASKA ELECTRIC LIGHT &)
POWER COMPANY

Docket No. U-17-097

**PETITION FOR FORMAL PROCEEDINGS
and
PETITION FOR INTERVENTION**

The City and Borough of Juneau, Alaska ("CBJ") hereby respectfully petitions the Regulatory Commission of Alaska ("Commission") for an order:

1) scheduling formal proceedings on the jointly submitted application ("Application") filed by Hydro One Limited ("Hydro One") and Avista Corporation ("Avista") requesting authority by Hydro One to acquire controlling interest in Alaska Electric Light & Power Company ("AEL&P"); and 2) granting the CBJ's Petition to Intervene should the Commission decide to consider the Application in formal proceedings. These petitions filed by the CBJ are made pursuant to the Alaska Public Utilities Regulatory Act, including, AS 42.05, 3 AAC 48.070, and 3 AAC 48.110.

1.

The CBJ is a municipality under the laws of the State of Alaska. The CBJ's principal address is: 155 South Seward Street, Juneau, Alaska 99801. All correspondence and communications regarding this proceeding should be addressed to:

Duncan Rorie Watt, PE
City/Borough Manager
City and Borough of Juneau, Alaska
155 South Seward Street
Juneau, AK 99801
Tel. - (907) 586-5240
Fax - (907) 586-5385
Rorie.Watt@juneau.org

and,

Amy Gurton Mead, Alaska Bar No. 9705019
Municipal Attorney
City and Borough of Juneau, Alaska
One Sealaska Plaza, Suite 202
155 South Seward Street
Juneau, AK 99801
Tel. - (907) 586-5340
Amy.Mead@juneau.org

and,

Kirk H. Gibson, Alaska Bar No. 9611058
Jocelyn C. Pease, Alaska Bar No. 1511125
McDowell Rackner Gibson, PC
419 SW 11th Ave. Ste. 400
Portland, OR 97205
Tel. – (503) 595-3922
kirk@mrg-law.com
jocelyn@mrg-law.com

Petition for Formal Proceedings

2.

The Application was filed on November 21, 2017. Since that time, an unprecedented amount of comments has been received by the Commission and numerous concerns have been raised by the citizens of the CBJ, as well as United States Congressman Don Young, and the Alaska Independent Power Producers Association. The Commission has recently scheduled a conference to receive additional public comment and provide an opportunity for response to public comment. The Commission has not yet scheduled any formal proceedings in the above-captioned matter. As discussed further in this pleading, formal proceedings are necessary under the circumstances presented in this docket for many important public interest reasons.

3.

A controlling interest in a Certificate of Public Convenience and Necessity ("Certificate") may not be sold or otherwise transferred without the Commission's prior approval.¹ In evaluating applications for transfer of a Certificate, the Commission must determine whether the transferee is fit, willing, and able to provide the utility service authorized by the Certificate and whether the proposed transfer is consistent with the public interest.² The Commission's regulations provide that an application for authority to acquire a controlling interest in a certificated public utility³ will be docketed and considered in a formal

¹ AS 42.05.281.

² AS 42.05.241.

³ AEL&P holds Certificate of Convenience and Necessity No. 1, authorizing the provision of electric utility service in the City and Borough of Juneau, Alaska.

proceeding.⁴ The CBJ is requesting the Commission order the commencement of formal proceedings as soon as practicable so that the necessary investigation and consideration can be performed in an orderly manner so that an order can be issued by the Commission within the statutorily required time frame.⁵

4.

AEL&P is the electric utility that serves the people, businesses, and government of the CBJ; consequently, any issues that affect AEL&P and its ability to provide electric utility services affects the entire community and economy of the CBJ. The Commission is charged with making a finding that the proposed transaction is in the public interest. The public interest would not be served if the transaction results in harm to AEL&P ratepayers. It is only through formal proceedings that the Commission can properly investigate and consider whether the proposed transaction will bring harm to the public interest of the people, businesses, and government of the CBJ.

5.

The transaction and the resulting change in ownership present new risks that do not exist today. Avista and AEL&P will now be controlled by another entity, Hydro One. Only two (2) years ago Hydro One underwent a significant organizational change when it began operations as a public company.⁶ Hydro One is likely still in the initial stages of integrating its team, thus any perceived benefits from the transaction flowing to AEL&P from Hydro One may be far-off,

⁴ 3 AAC 48.070.

⁵ The Commission has identified May 18, 2018, as the date that an order must be issued pursuant to AS 42.05.175(a)(4). See Commission Order U-17-097(2) at Page 3 of 10.

⁶ Application at Pages 6 – 8. See *a/so* Exhibit 4 to Application (Page 4 of 167). In Hydro One's 2016 annual report, David Denison, Chair of the Board of Hydro One Limited notes that, "2016 was Hydro One's first full year as a public company."

at best. Hydro One is by law at least forty percent (40%) owned by the Province of Ontario. A change in government in Ontario, or other political pressures, could result in Avista (and therefore AEL&P) being a less stable and secure company than it is today. One cannot know without further examination and consideration whether the Province of Ontario, with its level of ownership in Hydro One, could or would require contributions from Avista and AEL&P for matters that the voters in Ontario deem important, to the detriment of the utility operations of AEL&P and the citizens of the CBJ. AEL&P ratepayers must be protected.

6.

A regulated utility must be insulated from investment activity or other obligations at the parent-level in terms of credit ratings, access to capital, and control of its utility assets and resources. AEL&P's utility management must be undistracted by parent-level activities that are unrelated to its obligation to provide electric utility service to customers in Juneau, Alaska. Poor credit ratings at Hydro One, or a Hydro One bankruptcy, could cause serious harm to Avista (and therefore AEL&P) if adequate separation is not achieved between Hydro One, Avista, and AEL&P. AEL&P needs to be protected from the possibility that its parent, or the parent's affiliates incur financial difficulties.

7.

The Application states that Hydro One and Avista have offered fifty-five (55) specific commitments to the customers of Avista in the State of Washington. These commitments involve areas such as governance, rates, regulatory oversight, financial integrity, ring-fencing, environmental and renewable energy, and community and low-income assistance commitments.⁷ The Application goes

⁷ Application at Pages 24, 25 of 45.

on to state that “[A]s applicable and practicable, the 55 commitments will be honored with respect to AEL&P’s operations in Alaska.”⁸ Hydro One and Avista state that “AEL&P will continue to operate relatively independent from Avista...”⁹ Such representations leave the level of commitment to maintain utility operations as they currently exist open to future interpretation and to the sole discretion of AEL&P’s parent corporations. Further examination is warranted regarding whether these commitments should be required by the Commission as part of its approval of the transfer of Certificate No. 1.

8.

As filed, it is unclear whether substantial additional funds could be extracted from Avista (and AEL&P) that are more than the current dividends that are paid to satisfy Avista’s investors today. AEL&P must be protected from unhealthy dividend extractions by its parent organizations. The Application states that the Proposed Transaction will not affect the liquidity and debt ratios or any other aspect of AEL&P’s financial performance or health.¹⁰ The CBJ proposes that the Commission utilize ring-fencing to assure that AEL&P can operate on a stand-alone basis; isolated from and protected against any negative financial impacts of the parent’s investment activities. Ring-fencing is the most common regulatory approach to providing protection from the risks associated with mergers and acquisitions. However, ring-fencing provisions cannot be developed in a vacuum; further analysis and a better understanding of the corporate obligations by and between AEL&P, Avista and Hydro One is needed for the

⁸ Application at Page 25 of 45.

⁹ Application at Page 26 of 45.

¹⁰ Application at Page 40 of 45.

Commission to be able to make the finding that the proposed transaction is in the public interest.

9.

There is nothing specific in the Application as filed to ameliorate these legitimate financially-related concerns. A formal proceeding would provide the appropriate opportunity for the Commission to investigate the relationship between the various subsidiaries and consider whether ring-fencing conditions should be imposed on this transaction to assure the AEL&P customers are adequately protected.

10.

Hydro One, through a series of subsidiaries, will acquire all the outstanding common stock in Avista.¹¹ Hydro One will have controlling interest in Avista. Avista owns all the stock of Alaska Energy and Resources Company ("AERC"), and AERC owns all the stock of AEL&P, AJT Mining Properties, and Snettisham Electric Company ("SEC"). It would necessarily follow that because Avista owns all the stock of AERC, the proposed transaction will result in Hydro One acquiring a controlling interest in AEL&P as well as the SEC. SEC holds the assets of the Snettisham Dam. Congressman Young, as well as many commenters in Docket U-17-097, have raised concerns regarding whether this proposed transfer would change the control over the Snettisham Dam assets to an extent that Hydro One would be in position to control the disposition and use of the Snettisham Dam asset. Congressman Young has stated that it was never the intent of the Congress of the United States to have the Snettisham Dam

¹¹ Application at page 6 of 45.

assets be transferred to a foreign government entity.¹² The Commission stated that the Snettisham ownership transfer matter, including transfer to SEC under the Snettisham Option Agreement, will have to be addressed in a proceeding to transfer Certificate No. 549.¹³ The Commission added that a Certificate No. 549 transfer proceeding would include an investigation into whether the transfer is in the public interest based upon the facts of an actual proposed transfer.¹⁴ The Commission did not address the issue of how a change of control in SEC through the corporate restructuring proposed in this transaction would be considered. The CBJ believes this issue may be ripe for consideration in Docket U-17-097. It appears that the agreement between AEL&P and the Alaska Industrial Development and Export Authority regarding the Snettisham Hydroelectric Project dealt with the corporate relationship by and between AERC, SEC, and AEL&P concerning the Snettisham Option Agreement and includes a reference to “permitted successors” to AEL&P.¹⁵ There is some question regarding whether the approval of this proposed transaction would make Hydro One, the entity with the controlling interest in AEL&P, a “permitted successor” for purposes of the Snettisham Option Agreement. The CBJ wants this important public interest

¹² Letter from U.S. Congressman Don Young, dated December 4, 2017. Filed with the Commission in Docket U-17-097 on December 17, 2017.

¹³ Order U-17-097(2) at Page 7 of 10, Line Nos. 7-9.

¹⁴ Order U-17-097(2) at Page 7 of 10, Line No. 9 through Page 8 of 10, Line Nos. 1-2.

¹⁵ See AGREEMENT FOR THE SALE AND PURCHASE OF THE ELECTRIC CAPABILITY OF THE SNETTISHAM HYDROELECTRIC PROJECT between ALASKA LIGHT AND POWER COMPANY and THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY (“Power Sales Agreement”) at Attachment 1 to TA271-1. In the Power Sales Agreement, SEC is the “Affiliate.” The Affiliate is defined as a corporation that is a wholly owned subsidiary of AERC and is under common control with the Purchaser. The “Purchaser” is defined as AEL&P **and/or any permitted successor thereto** (*emphasis added*). See Power Sales Agreement at Section 1 Definitions.

issue to be examined and determined by the Commission in this docket so that certainty can be achieved regarding the ultimate disposition of Snettisham Dam assets. The CBJ urges the Commission to establish formal proceedings to investigate the proposed transaction and address this critical issue which is of paramount concern to the citizens of Alaska and the CBJ while the Commission has jurisdiction over Hydro One during the pendency of this Application.

11.

As noted earlier, the Commission must determine whether the transferee is fit, willing, and able to provide the utility service authorized by the Certificate before a transfer of a Certificate will be approved. The CBJ has concerns whether AEL&P has been willing to allow energy developers to have access to the transmission facilities owned and/or operated by AEL&P in a non-discriminatory manner. In the Application, the Joint Applicants have represented to the Commission that AEL&P's operations will have no negative impacts on AEL&P's current fitness, willingness, and ability to provide the electric utility service for which it is certificated.¹⁶ The CBJ's concerns regarding willingness of AEL&P to implement procedures for non-discriminatory access to the grid serving CBJ does follow through to Hydro One, the proposed new controlling corporate interest. Whether artificial barriers are being placed (and whether the barriers will continue under Hydro One's ownership) on non-utility energy developers and stifling economic development in the CBJ is an important public interest issue that should be addressed by the Commission in this docket because it goes to the intentions and willingness of both the current and new controlling ownership to provide the utility service authorized by the Certificate, i.e., non-discriminatory

¹⁶ Application at Page 27 of 45.

electric utility service, including non-discriminatory access to its transmission facilities. The CBJ wants to have AEL&P and its proposed new owners delineate the process and requisite financial obligations which an energy developer must address to have access to the AEL&P transmission system. The Applicants have the burden of furnishing whatever information and data that may be required to prove to the Commission's satisfaction that the Applicants do, or will, comply with the governing law and the provisions of any applicable rule, regulation, or order of the Commission.¹⁷ A formal proceeding during the transfer of the controlling interest provides the appropriate forum for the Applicants to address and readily resolve these concerns.

12.

On February 6, 2018, Hydro One and Avista filed a Joint Reply to the Comments received in Docket No. U-17-097.¹⁸ In the Joint Reply, Hydro One and Avista referenced the fifty-five commitments that "...were tailored to certain requirements and past practices of the Washington, Oregon, and Idaho utility commissions..."¹⁹ Hydro One and Avista added that the commitments "...are not applicable to the controlling interests requirements of this Commission nor AEL&P." Hydro One and Avista added that "...as applicable and practicable, those commitments will be honored with respect to AEL&P's operations in Alaska." Again, this representation concerning the commitments is open to future interpretation and the discretion of AEL&P's parent corporations. The importance of the Commission's examination and consideration of these commitments

¹⁷ 3 AAC 48.660.

¹⁸ Hydro One and Avista also filed comments regarding the earlier-referenced letter by Congressman Don Young.

¹⁹ Applicant's Joint Reply to Comments at Page 5 of 84.

1 cannot be understated. If ring fencing and other conditions effecting the financial
2 integrity of the corporate relationship by and between Hydro One and Avista are
3 implemented by other state public utility commissions, and not likewise ordered
4 by this Commission for AERC, and ultimately AEL&P, AEL&P and the citizens of
5 the CBJ may be more vulnerable to issues affecting the corporate parent(s)
6 because the protections (i.e., commitments) may not be effective for AERC and
7 AEL&P – to the detriment of AEL&P customers. The CBJ is still reviewing the
8 filing made in U-17-097, including the responses and the new commitment of \$1
9 million of rate credits for AEL&P customers. Further examination and
10 consideration by the Commission is warranted.

11 13.

12 The protection of the public interest requires that this transaction be
13 examined and considered in a formal proceeding before the Certificate can be
14 transferred. No harm to AEL&P ratepayers should result from this transaction,
15 now and in the future. This filing marks the one opportunity that the Commission
16 will have to exercise its authority over Hydro One to address any issues raised
17 due to Hydro One obtaining a controlling interest in Avista and ultimately AERC
18 (AEL&P and SEC). The Commission's consideration of all the substantive
19 aspects of this transaction is critically important. There is no guarantee that the
20 decision making of the Ontario-based utility will align with the interests of remote
21 customers in Alaska. While the Commission will retain jurisdiction over AEL&P,
22 if the Commission approves the Application but does not adopt adequate
23 conditions that protect the public interest from the actions of Hydro One that may
24 potentially harm the ratepayers of AEL&P, there will more than likely not be
25 another opportunity. The CBJ is requesting the Commission not unduly restrict
26

public comments at the Public Conference scheduled for February 27, 2018, in Juneau, Alaska²⁰ and order the commencement of formal proceedings pursuant to 3 AAC 48.070 so these issues can be appropriately considered and addressed.

Petition to Intervene

14.

The Commission's regulations provide that permission to intervene as a party will be considered only in those cases that are to be decided upon an evidentiary record after notice and hearing.²¹ The CBJ respectfully requests the Commission grant the CBJ's Petition to Intervene if the Commission decides to consider the Application in formal proceedings. The participation by the CBJ will serve the public interest, be conducive to the ends of justice, and will not unduly delay the conduct of the formal proceedings.

15.

The CBJ Assembly was informed that the Attorney General's Office of Regulatory Affairs and Public Advocacy ("RAPA") was not planning on participating in the Commission's Docket No. U-17-097 which was established to handle the review of the Application. The CBJ Assembly unanimously voted to request intervention in the Commission's docket considering the Application on behalf of the citizens of the CBJ because of the important public interest issues involved. The CBJ Assembly is the political entity comprised of

²⁰ In its Order No. U-17-097(2), the Commission proposed to narrow the issues concerning the ownership of the Snettisham Dam assets and the handling of non-discriminatory access to the electric grid serving the CBJ that were initially commented on by the Juneau public. For the reasons discussed in this pleading, the CBJ urges the Commission to listen to all the concerns of the citizens of the CBJ because of the important public interest issues involved in this proposed transaction.

²¹ 3 AAC 48.110(a).

representatives elected by the people to represent the individual, business, and governmental interests of the City and Borough of Juneau, Alaska. The CBJ is in the best position to represent those individuals and businesses

16.

AEL&P is the utility that provides electric services to most of the CBJ. AEL&P is an integral part of the CBJ community. The continued financial viability and operational capabilities of AEL&P are critical to the economic development of the CBJ and to the health and welfare of the citizens of the CBJ.

17.

This proposed transaction may greatly affect the way electric utility services are provided in the CBJ. Consequently, the Commission's order in this matter may correspondingly affect the welfare of the community of the CBJ generally, and how the CBJ develops economically in the future. Indeed, it would be cost-prohibitive for many of the people and businesses located in the CBJ to fully participate in the Commission's proceedings. The CBJ is prepared to participate at an appropriate level.

18.

As noted above, it is the CBJ's understanding that RAPA has decided to not be involved at this time. Thus, there is no party assisting the Commission with the development of a full and complete record. The CBJ, the political entity serving the entirety of the CBJ is perfectly situated to participate in the commission's proceedings and is in the best position to assist the Commission in determining how to determine and protect the public interest in this matter.

19.

No party is in a better position to protect the interests of the CBJ. The interests of the CBJ are not represented by any existing parties. Nor is the CBJ aware of any other parties considering participation in this docket that would represent the interest of the CBJ. The Commission cannot make a fully informed decision on the potential harm this transaction may present based solely on comments.

20.

CBJ expects to fully participate in the Commission's proceeding to protect the public interest of the CBJ. In doing so, the CBJ will assist the Commission in developing a full and complete record upon which the Commission can consider the Application and make its decision. The CBJ plans to represent and protect the public interest of the CBJ and expects to address, at a minimum, the following issues:

- The ownership status of the Snettisham Hydroelectric facilities after the current bonds are retired.
- The fifty-five (55) commitments that the Joint Applicants made in the other jurisdictions involved in the same merger and acquisition of Avista by Hydro One that were not comprehensively addressed in the Application.
- The willingness of Hydro One to articulate the process for non-discriminatory access to AEL&P's electric system for energy project developers that is required by the rules and regulations of the Commission so that economic development in the CBJ can flourish.

- The potential to have AEL&P perform its integrated resource planning for the electric utility in a public manner with participation and input from the citizens of the CBJ.
- The ability to have a public forum for review of the Application and the Commission's hearing proceedings be held in Juneau, Alaska.

21.

Participation by the CBJ will not broaden the issues to be addressed or delay the proceeding. Indeed, the participation by the CBJ will be more efficient than having numerous parties involved in the proceedings and representing the public interest of the CBJ. The CBJ wishes to protect the public interest of the people, businesses, and government of the CBJ; nothing more and nothing less.

Prayer for Relief

22.

WHEREFORE, the City and Borough of Juneau, Alaska, respectfully requests the Regulatory Commission of Alaska issue an order scheduling formal proceedings on the Application filed by Hydro One Limited and Avista Corporation (Docket No. U-17-097) and granting the CBJ's Petition to Intervene in Docket No. U-17-097.

1 RESPECTFULLY SUBMITTED, this 22nd day of February 2018.

2
3 **McDowell Rackner Gibson PC**

4
5 /s/ Kirk Gibson

6 Kirk H. Gibson

7 Alaska Bar No. 9611058

8 Jocelyn C. Pease

9 Alaska Bar No. 1511125

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11 Portland, OR 97205

12 Tel. - 503-290-3626

13 kirk@mrg-law.com

14
15 *Of Attorneys for City and*
16 *Borough of Juneau, Alaska*
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Certificate of Service

I hereby certify that on this 22nd day of February 2018, a true and correct copy of Petition for Formal Proceedings and Petition for Intervention was served via email on the following:

<p>Elizabeth Thomas K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 (206) 623-7580 Liz.thomas@klgates.com</p>	<p>Kari Vander Stoep K&L Gates LLP 925 Fourth Avenue, Suite 2900 Seattle, WA 98104-1158 (206) 623-7580 Kari.vanderstoep@klgates.com</p>
<p>James Scarlett Hydro One 483 Bay St, 8th Floor, South Tower Toronto, ON M5G 2P5 (416) 345-1366 jscarlett@hydroone.com</p>	<p>David Meyer Avista Corporation 1411 E. Mission Avenue Spokane, WA 99202 (509) 495-4316 David.meyer@avistacorp.com</p>
<p>Patrick Ehrbar Avista Corp PO Box 3727 Spokane, WA 99220-3727 (509) 495-8620 Patrick.ehrbar@avistacorp.com</p>	<p>Dean Thompson Kemppel Huffman & Ellis PC 255 E. Fireweed Lane, Suite 200 Anchorage, AK 99503 (907) 277-1604 ddt@khe.com</p>

/s/ Alisha Till

Alisha Till
Legal Assistant
McDowell Rackner Gibson PC
419 SW 11th Ave. Ste. 400
Portland, OR 97205



City and Borough of Juneau
City & Borough Manager's Office
155 South Seward Street
Juneau, Alaska 99801

Telephone: 586-5240 | Facsimile: 586-5385

DATE: February 21, 2018

TO: Mayor and Assembly

FROM: Rorie Watt, City Manager

RE: Staff Report on RCA/AELP Update for Assembly Meeting 2/26/18

At the request of the Assembly, staff has opened negotiations with AELP to determine if our municipal goals can be met outside of the RCA consideration of Docket U-17-097. These negotiations are concurrent with the Assembly request to hear an appropriation Ordinance to fund intervention, that public hearing is on the agenda for a Special Assembly meeting on 2/26 at 5:30pm.

Negotiations consisted of discussions between CBJ, AELP and their counsel (upon consultation with Hydro One and Avista), resulting in back and forth discussion and proposed agreement that attempts to address the Assembly's identified policy goals. Those goals are as follows, I have included notes on the conformance of the proposal with those goals:

1. Snettisham (Agreement, I) – The power companies have proposed that they will not exercise the purchase option to acquire the Snettisham Hydroelectric Project “unless doing so will provide overall net benefits to AELP customers.”

This appears to substantially meet the intent of our goal.

Note: Order #2 from the RCA states that it will “not address issues related to any possible transfer of Snettisham in this proceeding.”

2. 55 Commitments (Agreement, II) –The power companies propose a more detailed list of AELP-specific agreements and commitments similar to those provided in other jurisdictions.

This provision of greater detail appears to substantially meet our goal.

3. Open Access/Transmission (Agreement III) – The companies propose to “make available the public process” and “will comply with joint use obligations in a fair and non-discriminatory manner.”

Conformance with our goal will likely be debated.

Note: Order #2 from the RCA states that it “will not be addressing an OATT or interconnection tariff in this proceeding.”

4. Resource Planning (Agreement IV) – The companies agree to biannually “present to the Juneau public AELP’s planned generation” including stand-by and emergency generation plans.

This meets the intent of our goal.

5. Mining Unitization Agreement – This document is over thirty years old and over forty pages long and is the result of substantial policy level negotiation. The agreement may be terminated by either party. Upon review of the document, I did not find it appropriate or possible to negotiate changes, and did not request concessions from AELP.
6. \$50M Bond – A bond, help by AIDEA would incur new costs to AELP rate payers. Upon analysis, I believe that the company has sufficient assets to self-perform system repairs in the event of a disaster (avalanche or otherwise). Combined with the agreement in #1 above, I find this bond to be unnecessary. If (at a future date and for whatever reason) the company was not fit willing and able to maintain the infrastructure, then RCA processes would apply.
7. Land Assets – I did not raise specific land parcels in our negotiations, AELP does have extensive land holdings and has historically cooperated with CBJ on their management of those lands. The commitment to retain a local office, staffing and brand are somewhat relevant to the continued approach to land management.

Request By AELP/Avista/Hydro One

In exchange for the above, the companies have requested that CBJ:

- A. Write to the RCA stating that CBJ does not oppose the Application or the proposed transaction
- B. Not file a petition to intervene as a party in RCA Docket U-17-097 (if a petition has not yet been filed); withdraw any pending CBJ petition to intervene (if a petition has been filed but not ruled on); or, withdraw from the proceeding (if the CBJ has already been granted party status).

Action Required:

Prior to the 26th, CBJ will have filed a Petition for Formal Proceedings and Petition for Intervention with the RCA.

The Assembly must choose to either appropriate funds for continued intervention OR direct staff to agree to the negotiated agreement and withdraw the Petition and write to the RCA.

AGREEMENT REGARDING JUNEAU-SPECIFIC COMMITMENTS

This Agreement is by and among Hydro One Limited (“Hydro One”), Avista Corporation (“Avista”), Alaska Electric Light and Power Company (“AELP”), Snettisham Electric Company (“SEC”), and the City and Borough of Juneau (“CBJ”) (collectively, the “Parties”). This Agreement will become effective when it has been signed by all the Parties.

Recitals

A. Currently pending in Regulatory Commission of Alaska (“RCA”) Docket U-17-097 is a joint application (“Application”) for authorization to acquire a controlling interest in AELP (“proposed transaction”), filed by Hydro One, acting through its indirect, wholly-owned subsidiary Olympus Equity LLC, and Avista (collectively, the “Applicants”).

B. Under the proposed transaction, Hydro One, through a subsidiary, will acquire the outstanding stock of Avista. Avista will continue to exist and will continue to own Alaska Energy and Resources Company (“AERC”), and AERC will continue to own AELP and SEC.

C. As stated in the Application, the proposed transaction will not change AELP’s management, personnel, operations, facilities, services, rates, or tariffs.

D. The CBJ is interested in the proposed transaction to ensure that it will not adversely affect AELP customers and that it is consistent with the public interest.

Agreement

I. Hydro One, Avista, AELP, and SEC agree that, if the Application receives all necessary approvals and the proposed transaction closes, SEC will not exercise the option to acquire ownership of the Snettisham Hydroelectric Project (“Snettisham”), as provided for in the Snettisham Option Agreement dated August 18, 1998, unless doing so will provide overall net benefits to AELP customers. For purposes of this commitment, “benefits” means: (a) causing AELP customer rates (base rates and cost of power adjustment (“COPA”)) to, in net total customer impact, be lower than they would have been without SEC exercising the option (i.e., reducing then-current rates or avoiding future rate increases); (b) improving, or avoiding degradation of, the availability or reliability of the electric service provided to AELP customers; or (c) a combination of (a) and (b) that yields an overall net beneficial effect on the price and quality of AELP electric service for customers. To exercise the Snettisham purchase option, SEC will have to obtain prior RCA approval of the transfer of the Alaska Industrial Development and Export Authority’s (“AIDEA’s”) Snettisham Certificate of Public Convenience and Necessity (“CPCN”), or RCA approval of a new CPCN, for the sale of Snettisham output, which will require proving that the CPCN transfer or new CPCN is in the public interest.¹ If SEC files an application for any such CPCN transfer or new CPCN, it will on the date of filing provide a copy of the complete application to the CBJ Municipal Manager’s office. If Hydro One, Avista,

¹ See RCA Order No. U-17-097(2) at 7-8.

AELP, or SEC violates this commitment, or if the CBJ believes that a proposed exercise of the option will violate this commitment, the CBJ can present and use this Agreement as evidence in advocating that the RCA not approve the CPCN transfer or new CPCN, or that the RCA impose conditions on them.

II. In addition to any commitments made in the Application, Hydro One, Avista, AELP, and SEC (as applicable) agree that if the Application receives all necessary approvals and the proposed transaction closes, they will honor the following commitments, some of which are derived from the 55 commitments in other jurisdictions, which were set forth in Exhibit 9 to the Application (“Hydro One/Avista Commitments”):

(1) The proposed transaction will not alter the direct ownership of AELP by AERC or the direct ownership of AERC by Avista, or any aspect of AELP’s management, operations, facilities, financing, services, rates, or tariffs.

(2) Consistent with past practice, AELP will continue to operate independently from Avista and Hydro One, under the same experienced management team and employees as existed prior to the proposed transaction. (This overlaps with Hydro One/Avista Commitment 2).

(3) AELP employee compensation and benefits levels will be maintained for a period of three years and will not be less favorable than the current compensation and benefits, in the aggregate. (This overlaps with Hydro One/Avista Commitments 8, 37).

(4) AELP will not seek to recover in rates (a) any premium or acquisition adjustment associated with the proposed transaction, or (b) any transaction costs associated with the proposed transaction. (This overlaps with Hydro One/Avista Condition 17).

(5) Hydro One, Avista, and AELP affirm the commitment to adhere to the affiliated interest transaction cost assignment and allocation methodology that was reviewed in Docket U-13-197. Specifically, to the extent Avista or Hydro One employees dedicate time or otherwise incur costs in the future related to the operation of AELP, those costs will be directly assigned to AELP and will be included in the proposed revenue requirement in future AELP rate cases. Those costs are expected to be relatively small since AELP will continue to be operated by the existing employees, including the existing management team. Any Avista or Hydro One costs charged to AELP will be subject to review by the RCA and potential disallowance from AELP rates under applicable affiliated interest transaction statutes, regulations, and RCA precedent. Likewise, should AELP employees dedicate time or otherwise incur costs related to Avista or Hydro One utility operations, such costs will be directly assigned to Avista or Hydro One. In the future, should there be a consolidation of certain utility functions among Hydro One, Avista, and AELP, it may be appropriate for some form of cost allocation to occur between the utilities, but any such allocation will be subject to review by the RCA as stated earlier. (This overlaps with Hydro One/Avista Commitment 23).

(6) The proposed transaction will not increase AELP rates or revenue requirements. (This overlaps with Hydro One/Avista Commitments 16-18, 23).

(7) The proposed transaction will not impair the ability of AELP to raise necessary capital or maintain a reasonable capital structure. (This overlaps with Hydro One/Avista Commitments 16-18, 23).

(8) Avista and the Avista Foundation provide charitable contributions and support for economic development and innovation in AELP's service territory. Since Avista acquired AERC in 2014, Avista and the Avista Foundation have contributed over \$224,000 to charitable and economic development causes in Juneau. The overall increase in this type of support provided for Avista and the Avista Foundation in the Hydro One/Avista Commitments (see Commitments 11 and 53) will also benefit AELP's customers and the Juneau community. (This overlaps with Hydro One/Avista Commitments 11 and 53).

(9) AELP will provide a rate credit to AELP customers (if and as approved by the RCA). This credit will be in the amount of \$1 million over 10 years. This amount roughly approximates the per-customer rate credits that the Applicants have committed to in the other jurisdictions. AELP will request RCA approval of the credit as follows: The \$1 million rate credit will be provided to AELP customers through AELP's quarterly COPA calculation. Specifically, AELP's COPA calculation will include a \$25,000 credit entry to the COPA balancing account every quarter (\$100,000 per year and \$1 million over 10 years), beginning with AELP's first COPA filing following RCA approval of the Application and closing of the proposed transaction. With that first COPA filing, AELP will file revisions to its COPA tariff sheets (Rate Schedule 98) reflecting these changes. (This overlaps with Hydro One/Avista Commitments 16 and 18).

(10) AELP will maintain AELP's brand and AELP will establish the plan for the operation of its business and any subsidiaries. (Adopting Hydro One/Avista Commitment 4).

(11) Consistent with past practice, AELP will continue development and funding of its and any subsidiaries' innovation activities. (Adopting Hydro One/Avista Commitment 6).

(12) AELP will honor its labor contracts and has the authority to negotiate, enter into, modify, amend, terminate, or agree to changes in any collective bargaining agreement or any of AELP's other material contracts with any labor organizations, union employees, or their representatives. (Adopting Hydro One/Avista Commitment 7).

(13) AELP will maintain its headquarters in Juneau, Alaska, and maintain no less of a significant presence in Juneau than what it maintained immediately prior to completion of the proposed transaction. (Adopting Hydro One/Avista Commitment 9).

(14) AELP will maintain its staffing and presence in the community in which AELP operates at levels sufficient to maintain the provision of safe and reliable service and cost-effective operations and consistent with pre-acquisition levels. (Adopting Hydro One/Avista Commitment 10).

(15) AELP will maintain its safety and reliability standards and policies and service quality measures in a manner that is substantially comparable to, or better than, those currently maintained. (Adopting Hydro One/Avista Commitment 15).

(16) AELP will maintain books and records separate from Hydro One and Avista. (Adopting Hydro One/Avista Commitment 21).

(17) In RCA formal adjudicatory dockets (including AELP rate cases) in which AELP is a party, Olympus Holding Corp. and its subsidiaries, including AELP, will provide the RCA, RCA Staff, the Regulatory Affairs and Public Advocacy section of the Attorney General's office ("RAPA"), and other parties reasonable access to AELP's books and records; access to financial information and filings; audit rights with respect to the documents supporting any costs that may be allocable to AELP; and access to AELP's board minutes, audit reports, and any information provided to credit rating agencies pertaining to AELP.

Olympus Holding Corp. and its subsidiaries, including AELP, will maintain the necessary books and records so as to provide an audit trail for all corporate, affiliate, or subsidiary transactions with AELP, or that result in costs that may be allocable to AELP.

The proposed transaction will not result in reduced access to the necessary books and records that relate to transactions with AELP, or that result in costs that may be allocable to AELP. AELP will provide RCA Staff, RAPA, and other parties to regulatory proceedings reasonable access to books and records (including those of Olympus Holding Corp. or any affiliate or subsidiary companies) required to verify or examine transactions with AELP, or that result in costs that may be allocable to AELP.

Nothing in the proposed transaction will limit or affect the RCA's rights with respect to inspection of AELP's accounts, books, papers and documents in compliance with all applicable laws. Nothing in the proposed transaction will limit or affect the RCA's rights with respect to inspection of Olympus Holding Corp.'s accounts, books, papers and documents pursuant to all applicable laws; provided, that such right to inspection shall be limited to Olympus Holding Corp.'s accounts, books, papers and documents that pertain solely to transactions affecting AELP's regulated utility operations.

Olympus Holding Corp. and its subsidiaries, including AELP, will provide the RCA with access to any written information provided by and to credit rating agencies that pertains to AELP. Olympus Holding Corp. and each of its subsidiaries will also provide the RCA with access to written information provided by and to credit rating agencies that pertains to Olympus Holding Corp.'s subsidiaries to the extent such information may affect AELP.

None of these commitments will preclude Olympus Holding Corp. or any of its subsidiaries, including AELP, from seeking confidential designation for any documents and limiting disclosure thereof to parties to the docket, as provided for under applicable law. (Adopting Hydro One/Avista Commitment 22).

III. If the Application receives all necessary approvals and the proposed transaction closes, AELP will make available to the public the process by which other energy developers become able to use AELP's transmission facilities and the effect on current and future ratepayers. AELP is subject to AS 42.05.311 and AS 42.05.321 (joint use statutes), and AELP will comply with its joint use obligations² in a fair and nondiscriminatory manner. Attached as Exhibit 1 is a flowchart showing AELP's current 15-step interconnection review process applicable to proposed generators having a nameplate capacity of 5,000 kVA or greater. The studies referenced in the flowchart are necessary to ensure that the interconnection will not adversely affect AELP's system or its service to other customers.

IV. If the Application receives all necessary approvals and the proposed transaction closes, every two years AELP will present to the Juneau public AELP's planned generation capacity additions (including stand-by and emergency generation), planned purchases of firm energy and capacity (including from stand-by and emergency generation), and planned generation capacity retirements (including stand-by and emergency generation), for the next ten years. The public will have an opportunity to comment on the information presented.

V. Once this Agreement is signed by all Parties, the CBJ will not seek to intervene as a party in RCA Docket U-17-097. Within two business days after this Agreement is signed by all Parties, the CBJ will: (1) submit a written notice to the RCA stating that the CBJ does not oppose the RCA approving the Application without substantive conditions (and will not subsequently withdraw that non-opposition or oppose such approval); and (2) withdraw any pending CBJ petition to intervene as a formal party in RCA Docket U-17-097 or, if the CBJ has already been granted party status, withdraw from the proceeding. If the CBJ violates any of its obligations under this Section V, or otherwise opposes approval of the Application or proposed transaction, this Agreement shall terminate, and Hydro One, Avista, and their subsidiaries, including AELP and SEC, shall not be bound by this Agreement.

VI. Coincident with, or promptly after, the CBJ's submittals to the RCA under Section V, the Applicants will submit a copy of this Agreement to the RCA in Docket U-17-097.

HYDRO ONE LIMITED

[Title]
AVISTA CORPORATION

Date: _____

² AELP is not obligated to provide transmission or distribution services to an energy developer to facilitate that developer providing retail electric service within AELP's certificated service area.

[Title]

Date: _____

ALASKA ELECTRIC LIGHT AND POWER COMPANY

[Title]

Date: _____

SNETTISHAM ELECTRIC COMPANY

[Title]

Date: _____

CITY AND BOROUGH OF JUNEAU

[Title]

Date: _____

Exhibit 1

Large Generator Interconnection Request Flow Chart



STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners:

Stephen McAlpine, Chairman
Paul F. Lisankie
Rebecca L. Pauli
Robert M. Pickett
Janis W. Wilson

In the Matter of the Joint Application Filed by Hydro)
One Limited and Avista Corporation for Authority)
for Hydro One Limited to Acquire a Controlling)
Interest in ALASKA ELECTRIC LIGHT & POWER)
COMPANY)

U-17-097

ORDER NO. 2

**ORDER SCHEDULING PUBLIC CONFERENCE, ADDRESSING SCOPE OF
PROCEEDING, AND REDESIGNATING COMMISSION PANEL**

BY THE COMMISSION:

Summary

We schedule a conference to be held in Juneau, Alaska, to receive additional public comment and provide an opportunity for response to public comment. We address the scope of this proceeding. The chair redesignates the commission panel.

Background

Alaska Electric Light & Power Company (AEL&P) provides electric utility service in the City and Borough of Juneau under Certificate of Public Convenience and Necessity (Certificate) No. 1. AEL&P is a wholly owned subsidiary of Alaska Energy and Resources Company, which is a wholly owned subsidiary of Avista Corporation (Avista).¹ Hydro One Limited (Hydro One), a publicly traded corporation organized under the laws of the Province of Ontario, Canada, acting through its indirect, wholly owned subsidiary

¹Order U-13-197(2), *Order Approving Joint Application for Authority to Acquire Controlling Interest in Alaska Electric Light and Power Company*, dated May 30, 2014.

Olympus Equity LLC, a limited liability company organized under the laws of Delaware, is in the process of acquiring ownership of Avista. As part of this process, Hydro One and Avista jointly filed an application for Hydro One to acquire an indirect controlling interest in AEL&P.² We issued public notice of the Application with comments due by December 21, 2017. We received approximately 100 comments from customers or potential customers of AEL&P. Hydro One and Avista filed responses to these comments.³

Discussion

Conference

Many of the comments received asked us to accept additional comments on this matter at a public hearing in Juneau.⁴ In addition, Hydro One and Avista indicated

²*Joint Application for Authorization to Acquire a Controlling Interest in Alaska Electric Light and Power Company*, dated November 21, 2017 (Application).

³*Applicants' Joint Reply to Comments*, filed December 11, 2017 (December Reply); *Applicants' Joint Reply to Comments*, filed February 6, 2018.

⁴See Correspondence from M. Waring, filed December 13, 2017 (Waring Comment); Correspondence from A. Lujan, filed December 18, 2017; Correspondence from C. Peacock (Peacock Comment), filed December 18, 2017; Correspondence from R.A. Woolf, filed December 19, 2017 (twice) (Woolf Comments); Correspondence from J. Macnak, filed December 19, 2017 (Macnak Comment); Correspondence from C. Munoz, filed December 19, 2017 (Munoz Comment); Correspondence from L. Spengler, filed December 19, 2017 (Spengler Comment); Correspondence from C. Brodersen, filed December 19, 2017 (Brodersen Comment); Correspondence from D. Klein, filed December 19, 2017; Correspondence from J. Crondahl, filed December 19, 2017 (Crondahl Comment); Correspondence from K. Troll, filed December 20, 2017 (Troll Comment); Correspondence from M.S. McGowan, filed December 20, 2017; Correspondence from M. Bernstein, filed December 20, 2017 (Bernstein Comment); Correspondence from H. Schlosstein, filed December 20, 2017; Correspondence from N. Davidson, filed December 20, 2017 (Davidson Comment); Correspondence from J. Mannix, filed December 20, 2017 (Mannix Comment); Correspondence from J. Levy, filed December 20, 2017; Correspondence from G. Keiser, filed December 20, 2017 (Keiser Comment); Correspondence from K. Bausler, filed December 20, 2017 (Bausler Comment); Correspondence from L. Stats, filed December 20, 2017 (Stats Comment); Correspondence from K. Crane, filed December 20, 2017; Correspondence from J.A.

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

a desire to respond to the comments in this docket.⁵ Under AS 42.05.175(a)(4), we are required to issue a final order in this proceeding by May 18, 2018.⁶ To provide an

Dunker, two comments filed December 21, 2017 (Dunker Comments); Correspondence from A. Romanoff, filed December 21, 2017; Correspondence from J. Hoegler, filed December 21, 2017 (Hoegler Comment); Correspondence from B. Weed, filed December 21, 2017 (Weed Comment); Correspondence from K. Hart, filed December 21, 2017 (Hart Comment); Correspondence from S. Rue, filed December 21, 2017; Correspondence from B. Sylte, filed December 21, 2017 (Sylte Comment); Correspondence from K. Cuzzort, filed December 21, 2017; Correspondence from D. Stickel, filed December 21, 2017 (Stickel Comment); Correspondence from A. Florendo, filed December 21, 2017 (Florendo Comment); Correspondence from S. Millay, filed December 21, 2017 (Millay Comment); Correspondence from H. Fair, filed December 21, 2017 (Fair Comment); Correspondence from S. Klawnoo, filed December 21, 2017 (Klawnoo Comment); Correspondence from S. Varnadoe, filed December 21, 2017 (Varnadoe Comment); Correspondence from Newallweather, filed December 21, 2017 (Newallweather Comment); Correspondence from I. Stepanov, filed December 21, 2017 (Stepanov Comment); Correspondence from D. Palicka, filed December 21, 2017 (Palicka Comment); Correspondence from B. Epperly, filed December 21, 2017 (Epperly Comment); Correspondence from M. Brown, filed December 21, 2017 (Brown Comment); Correspondence from F. Rue, filed December 21, 2017; Correspondence from M. Hausler, filed December 21, 2017; Correspondence from D. Redmond of Renewable Juneau, filed December 21, 2017 (Renewable Juneau Comment); Correspondence from L. Miller, filed December 21, 2017 (Miller Comment); Correspondence from M. Gruening, filed twice on December 21, 2017 (Gruening Comments); Correspondence from J.L. Hall, filed December 21, 2017 (Hall Comment); Correspondence from M. and C. Dau, filed December 21, 2017 (Dau Comment); Correspondence from R. Sutak, filed December 21, 2017 (Sutak Comment); Correspondence from J. McBride, filed December 21, 2017 (McBride Comment); Correspondence from L. Davis, filed December 21, 2017 (Davis Comment); Correspondence from D. Woodby, filed December 21, 2017 (Woodby Comment); *Comments of Juneau Hydropower, Inc. on Avista Acquisition*, filed December 21, 2017 (JHI Comment); Correspondence from W. Leighty, filed December 21, 2017 (Leighty Comment); Correspondence from D. Hart, filed December 21, 2017; Correspondence from H. Hopkins, filed December 21, 2017 (Hopkins Comment); Correspondence from M. Darrah, filed December 22, 2017 (Darrah Comment).

⁵December Reply at n.1.

⁶Order U-17-097(1), *Order Addressing Timeline for Decision, Designating Commission Panel, and Appointing Administrative Law Judge*, dated December 8, 2017, at 2.

opportunity for additional comment and issue an order within the statutory timeline, we schedule a conference in Juneau for February 27, 2018, convening at 7:00 p.m. The purpose of this conference is to receive written and oral comments and to provide Hydro One and Avista an opportunity to respond to those comments.

Scope of Proceeding

This proceeding was opened to consider Hydro One's application to acquire a controlling interest in AEL&P, holder of Certificate No. 1. A controlling interest in a Certificate may not be sold or otherwise transferred without our prior approval.⁷ In evaluating applications for transfer of a Certificate, we determine if the transferee is fit, willing, and able to provide the utility service authorized by the Certificate and whether the proposed transfer is consistent with the public interest.⁸

Many of the comments we have received address issues that are not within the scope of this proceeding. To give the public a better opportunity to focus conference comments on the issues that are within the scope of this proceeding, we identify two issues of concern raised in comments that are outside of scope of this proceeding and explain why they are outside of the scope.

Ownership of the Snettisham Hydroelectric Project

The Snettisham Hydroelectric Project (Snettisham) was constructed by the federal government and owned by a federal agency, the Alaska Power Administration (APA). Snettisham consists of lake taps into Crater Lake and Long Lake, a power house with 78 MW of generation capacity on Port Snettisham, a 44-mile long 138 kV

⁷AS 42.05.281.

⁸AS 42.05.241; Order U-15-090(2), *Order Granting Expedited Consideration; Granting Application for Authority to Acquire Controlling Interest in Fairbanks Natural Gas, LLC; and Requiring Filing*, dated August 13, 2015, at 5.

transmission line from the power house to Thane Substation in Juneau. In 1989, APA negotiated an agreement to sell Snettisham to an agency of the State of Alaska now known as the Alaska Industrial Development and Export Authority (AIDEA).⁹ This agreement required AIDEA to enter into a wholesale power agreement with AEL&P that fulfilled all of APA's obligations under the wholesale power agreement between APA and AEL&P.¹⁰ Congress approved the sale of Snettisham to AIDEA pursuant to the terms of the 1989 agreement, as amended, on November 28, 1995.¹¹

The Snettisham power sales agreement between AIDEA and AEL&P was filed for approval on December 24, 1997,¹² and Docket U-97-245 was opened to investigate that agreement.¹³ This power sales agreement provided the sole source of revenue for use in payment of the bonds AIDEA issued to purchase Snettisham, and approval of the agreement was a prerequisite for closure of the Snettisham purchase.¹⁴ An integral part of the Snettisham power sales agreement is the Snettisham Option Agreement,¹⁵ under which AEL&P affiliate Snettisham Electric Company (SEC) has the right to purchase Snettisham from AIDEA for a price equal to the amount of the

⁹TA271-1, filed December 24, 1997, at Attachment 4 (AIDEA became the purchasing agency by Amendment No. 3, dated January 17, 1995).

¹⁰TA271-1, Attachment 4 at Amendment No. 2, dated February 5, 1993.

¹¹TA271-1, Attachment 5 (*Alaska Power Administration Asset Sale and Termination Act*, (Public Law 104-58)).

¹²TA271-1, Attachment 1.

¹³Order U-97-245(1), *Order Approving Power Sales Agreement, Subject to Conditions; Approving Application and Related Hatchery Electric Service Agreement, Subject to Conditions; and Requiring Filing*, dated June 24, 1998 (Order U-97-245(1)).

¹⁴TA271-1 at 4, 6-8.

¹⁵Order U-97-245(1), Appendix at 14.

outstanding Snettisham bonds and interest plus closing costs and other Snettisham expenses incurred by AIDEA.¹⁶

The Snettisham power sales agreement was amended during consideration of Docket U-97-245. Our predecessor, the Alaska Public Utilities Commission (APUC), approved the Snettisham power sales agreement as amended.¹⁷ The approved Snettisham power sales agreement, including the Snettisham Option Agreement is attached to Letter Order No. L9800671.¹⁸

While the Snettisham power sales agreement was under consideration by the APUC, AIDEA filed a petition seeking exemption from the requirement that it obtain a Certificate to make wholesale power sales from Snettisham to AEL&P.¹⁹ The APUC denied the AIDEA Petition and issued a Certificate to AIDEA authorizing wholesale power sales from Snettisham.²⁰ The APUC held that: "Certification of AIDEA will also provide regulatory review of AIDEA's disposition of Snettisham."²¹ In reaching this decision, the APUC was responding to concerns about future transfer of Snettisham ownership to SEC pursuant to the Snettisham Option Agreement.²² AIDEA holds Certificate No. 549, authorizing the provision of wholesale electric public utility service from Snettisham.²³

¹⁶TA271-1 at 7-8, Attachment 1 at Exhibit D.

¹⁷Order U-97-245(1) at 5-8.

¹⁸Letter Order No. L9800671, dated November 2, 1998 (the Snettisham Option Agreement begins at page 127 of the attachment to Letter Order No. L9800671, and the Project Sale Agreement between AIDEA and SEC begins at page 136 of the attachment).

¹⁹*Petition*, filed February 3, 1998, in Docket U-98-021 (AIDEA Petition).

²⁰Order U-98-021(1), *Order Denying Petition and Approving Application with Conditions*, dated July 16, 1998 (Order U-98-021(1)).

²¹Order U-98-021(1) at 3.

²²Order U-98-021(1), Appendix at 3-6.

²³See Certificate No. 549 at Appendix A.

1 Many comments in this proceeding have suggested that Hydro One's
 2 proposed indirect acquisition of AEL&P should only be approved with a condition requiring
 3 Hydro One to surrender, or at least not exercise, the rights granted SEC under the
 4 Snettisham Option Agreement.²⁴ Many of these comments expressed the position that
 5 transfer of a controlling interest in Snettisham to a wholly owned subsidiary of a
 6 corporation organized in Canada would not be in the public interest.

7 Any Snettisham ownership transfer, including transfer to SEC under the
 8 Snettisham Option Agreement, will have to be addressed in a proceeding to transfer
 9 Certificate No. 549. A Certificate No. 549 transfer proceeding would include an

10 ²⁴Correspondence from the Honorable Don Young, filed December 5, 2017;
 11 Correspondence from D. Parks, filed December 5, 2017; Correspondence from T. Davis,
 12 filed December 13, 2017; Correspondence from D. French, filed December 13, 2017;
 13 Waring Comment; Correspondence from K. McCarthy, filed December 14, 2017;
 14 Correspondence from P. Metcalfe, filed December 15, 2017; Correspondence from
 15 J. Dybdahl, filed December 15, 2017; Correspondence from K. Dzinich, filed
 16 December 18, 2017; Correspondence from E. Champion, filed December 18, 2017;
 17 Peacock Comment; Woolf Comments; Macnak Comment; Munoz Comment; Spengler
 18 Comment; Brodersen Comment; Crondahl Comment; Correspondence from M. Miller,
 19 filed December 20, 2017; Correspondence from R. Wanamaker, filed December 20,
 20 2017; Troll Comment; Correspondence from G. Baluss, filed December 20, 2017;
 21 Correspondence from D. Hand, filed December 20, 2017; Bernstein Comment;
 22 Correspondence from C. Baxter, Juneau & Vicinity Building and Construction Trades
 23 Council, Inc. (Juneau Building Trades Comment), filed December 20, 2017; Davidson
 24 Comment; Mannix Comment; Keiser Comment; Bausler Comment; Stats Comment;
 25 Correspondence from M.A. McKeen, filed December 20, 2017; Correspondence from
 26 T. Wagner, filed December 20, 2017; Dunker Comments; Hoegler Comment; Weed
 Comment; Correspondence from T. Kulbeth, filed December 21, 2017; Hart Comment;
 Correspondence from M. Quinto, Alaska Native Brotherhood Camp 70 Glacier Highway,
 filed December 21, 2017; Sylte Comment; Stickel Comment; Florendo Comment; Millay
 Comment; Klawnoo Comment; Varnadoe Comment; Newallweather Comment; Stepanov
 Comment; Palicka Comment; Epperly Comment; Brown Comment; Renewable Juneau
 Comment; Correspondence from C. Conlon, filed December 21, 2017 (twice); Miller
 Comment; Gruening Comments; Correspondence from the Honorable T. Wilson, filed
 December 21, 2017 (Wilson Comment); Hall Comment; Dau Comment; Sutak Comment;
 McBride Comment; Davis Comment; Woodby Comment; Correspondence from C.W.
 Thayer, Alaska Chamber, filed December 21, 2017; JHI Comment; Correspondence from
 J. Powell, Ph.D., filed December 21, 2017; Leighty Comment; Correspondence from
 U. Mendbayer, filed December 21, 2017; Correspondence from T.B. Clemmer, Esq., on
 behalf of the Alaska Independent Power Producers Association, filed December 21, 2017
 (AIPPA Comment); Hopkins Comment; Darrah Comment.

investigation into whether the transfer is in the public interest based upon the facts of an actual proposed transfer. There is currently no application to transfer Certificate No. 549. Therefore, we will not address issues related to any possible transfer of Snettisham ownership in this proceeding.

Open Access Transmission and Interconnection Tariff

Several commenters asserted that approval of Hydro One's indirect acquisition of AEL&P should be conditioned on AEL&P's adoption of a Federal Energy Regulatory Commission (FERC) style open access transmission tariff (OATT) and interconnection tariff. The assertion is intended to facilitate construction of the proposed Sweetheart Lake Hydroelectric Project (Sweetheart Lake) by Juneau Hydropower, Inc. (JHI).²⁵ JHI asserts that Sweetheart Lake is a qualifying facility (QF).²⁶ As proposed to the FERC, Sweetheart Lake will interconnect with the Snettisham transmission line south of the Snettisham powerhouse and east of Juneau.²⁷

Allowing joint use and interconnection of utility facilities under reasonable terms is mandatory in Alaska.²⁸ We are authorized to resolve disputes related to joint use

²⁵See Correspondence from R. Alderfer, Director Echo Ranch Bible Camp – Juneau, filed December 13, 2017; Munoz Comment; Troll Comment; Juneau Building Trades Comment; Correspondence from L. McGuire, filed December 20, 2017; Weed Comment; Hart Comment; Sylte Comment; Stickel Comment; Florendo Comment; Millay Comment; Fair Comment; Klawnoo Comment; Varnadoe Comment; Newallweather Comment; Stepanov Comment; Palicka Comment; Epperly Comment; Brown Comment; Correspondence from S. Cohen, Interfaith Power and Light, filed December 21, 2017; Miller Comment; Wilson Comment; Hall Comment; Dau Comment; Correspondence from M.A. Kiessling, Coeur Mining, filed December 21, 2017, at 2; Sutak Comment; JHI Comment; AIPPA Comment; Hopkins Comment; Darrah Comment.

²⁶JHI Comment at 4.

²⁷See an excerpt of *Application for Final License, Sweetheart Lake Hydroelectric Project*, filed May 2014, in FERC No. P-13563, Volume 1, Exhibit A at A-18, Exhibit B at B-14, B-29.

²⁸AS 42.05.311(a).

and interconnection “after investigation and opportunity for hearing[.]”²⁹ AIDEA is exempt under AS 42.05.711(b) from most requirements of AS 42.05. However, the legislature has specifically provided that even utilities otherwise exempted from our regulation by AS 42.05.711 are subject to the joint use and interconnection requirements of AS 42.05.311 and our jurisdiction over joint use and interconnection disputes under AS 42.05.321(a).³⁰ Our regulations require economically regulated electric utilities, such as AEL&P, to file an interconnection, integration, purchases, and sales tariff within 60 days of the date they receive a written interconnection request from a QF.³¹

As proposed, Sweetheart Lake will need to physically interconnect with AIDEA’s Snettisham transmission line and may need to wheel energy over the AEL&P transmission system to serve load. JHI has not applied for our assistance in resolving interconnection disputes under AS 42.05.321(a) and has not filed a complaint alleging that AEL&P has violated 3 AAC 50.790. JHI can initiate a proceeding under either of these avenues available by presenting us with a dispute which we could resolve after investigation and opportunity for hearing as required by AS 42.05.321(a). AIDEA is not a party to this proceeding and would be an essential party to any proceeding in which interconnection of Sweetheart Lake with the Snettisham transmission line is at issue. For these reasons, we will not be addressing an OATT or interconnection tariff in this proceeding.

Commission Panel

The chairman redesignates the commission panel for this docket. The chairman designates Commissioners Paul F. Lisankie, Rebecca L. Pauli, Robert M.

²⁹AS 42.05.321(a).

³⁰AS 42.05.321(b).

³¹3 AAC 50.790.

Pickett, Janis W. Wilson and himself as the commission panel and further designates himself as the commission docket manager.

ORDER

THE COMMISSION FURTHER ORDERS:

1. A conference is scheduled to convene at 7:00 p.m., Tuesday, February 27, 2018, in the Sheffield Ballroom No. 3 of Centennial Hall Convention Center, 101 Egan Drive, Juneau, Alaska 99801, for the purposes discussed in the body of this order.³²

2. Commissioners Paul F. Lisankie, Stephen McAlpine, Rebecca L. Pauli, Robert M. Pickett, and Janis W. Wilson are designated as the commission panel.

3. Commissioner Stephen McAlpine is designated as the commission docket manager.

DATED AND EFFECTIVE at Anchorage, Alaska, this 9th day of February, 2018.

BY DIRECTION OF THE COMMISSION



³²If you are a person with a disability who may need a special accommodation, auxiliary aid or service, or alternative communication format to participate in the scheduled event, please contact Valerie Fletcher-Mitchell at 1-907-276-6222, toll free at 1-800-390-2782, or TTY/Alaska Relay at 7-1-1 or 1-800-770-8973, or send your request by electronic mail to rca.mail@alaska.gov at least three business days before the scheduled event to make the necessary arrangements.

Any party wishing to appear telephonically at the scheduled event must advise us in advance and provide a telephone number where it may be reached for that appearance.

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Appeal Deliberation - 7th Day Adventist Church School v. CBJ Assessor

ATTACHMENTS:

Description	Upload Date	Type
❑ Original Notice of Appeal	2/20/2018	Appeal
❑ Joint Stipulation on the Issues	2/20/2018	Appeal
❑ Motion to Dismiss with proposed order and letter from Assessor	2/20/2018	Appeal
❑ Opposition to motion to dismiss	2/20/2018	Appeal
❑ Order regarding pending motion to dismiss	2/20/2018	Appeal
❑ Reply in support of motion to dismiss	2/20/2018	Appeal



OFFICE OF THE MUNICIPAL CLERK

155 S. Seward St., Room 202
 Phone: (907)586-5278 Fax: (907)586-4552
 email: city.clerk@juneau.org

Notice of Appeal

This appeal is governed by CBJ 01-50, the Municipal Appellate Code. This code establishes the standards and procedures for appeals.¹ Anyone who files an appeal should be familiar with the appellate code. The clerk can give you a copy of the code.

Attach a copy of the decision being appealed. Do not attach any other documents, exhibits, or additional pages to this form, except for any pages needed to continue the answers to the requested information below. The clerk will accept this form only if the appropriate filing fee is attached. The fee to file an appeal to the assembly is \$500.00. To be timely, an appeal must be filed within 20 days of the date the decision being appealed is filed with the clerk.

Action Being Appealed

Board decisions are appealable: board recommendations and most staff decisions are not.

☒ Agency Appealed From:

~~Juneau Seventh-day Adventist Christian School~~ **Tax ASSESSORS Office**
 4890 Glacier Highway
 Juneau AK 99801

☒ Description and Date of Decision:

July, 2017

Received notification of 2017 real property tax liability in the amount of \$1,845.55.

Concerned Parties

Identify the people who have an interest in the action being appealed: yourself and others.

<input checked="" type="checkbox"/> Party Filing Appeal	Mailing Address	Telephone	Fax	Email
---	-----------------	-----------	-----	-------

See attachment #1.

<input type="checkbox"/> Parties Who Won the Decision Appealed	Mailing Address	Telephone	Fax	Email
--	-----------------	-----------	-----	-------

1 01.50.070 STANDARD OF REVIEW AND BURDEN OF PROOF. (a) The appeal agency may set aside the decision being appealed only if:

(1) The appellant establishes that the decision is not supported by substantial evidence in light of the whole record, as supplemented at the hearing;

(2) The decision is not supported by adequate written findings or the findings fail to inform the appeal agency of the basis upon which the decision appealed from was made; or

(3) The agency failed to follow its own procedures or otherwise denied procedural due process to one or more of the parties.

(b) The burden of proof is on the appellant. (Serial No. 92-36 2 (part), 1992).1

-over-

CITY CLERK
AUG 30 2017
2017

Notice of Appeal

Attachment #1

Concerned Parties

Juneau Seventh-day Adventist Christian School
4890 Glacier Highway
Juneau AK 99801
Tel/FAX (907) 780-4336

Bruce Romine, School Board Chair
Juneau Seventh-day Adventist Christian School
4890 Glacier Highway
Juneau AK 99801
Tel/FAX (907) 780-4336
bruceromine@gmail.com

Lynne Jackson, Treasurer
Juneau Seventh-day Adventist Christian School
4890 Glacier Highway
Juneau AK 99801
Tel/FAX (907) 780-4336
lynneak91@hotmail.com

2016 - Appeal Form
Page 2 of 3

Issues on Appeal²

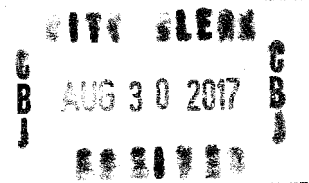
Concisely describe the legal and factual errors that form the basis for your appeal. Do not argue them; argument will be heard later.

Our school has been in operation for more than 60 years at this present location. The building and surrounding property are used solely for religious and educational purposes. At issue is the liability of the property tax assessed for the year 2017.

Relief Requested

What should the Assembly do with the action being appealed: send it back, modify it, or something else?

We are requesting that the Juneau Borough Assembly determine that the Juneau Seventh-day Adventist Christian School property (USS 3263, Lots A & B) be fully exempted from property tax liability due to the fact that it is a religious educational institution. Additionally, we are requesting the return of the \$500 filing fee that we are paying to have this appeal heard by the Assembly.



[Handwritten Signature]
Signature

August 30, 2017
Date

2 01.50.030(b)(5) COMMENCEMENT OF ACTION.

The notice of appeal shall include a concise statement of the legal and factual errors in the decision that form the basis of the appeal.

2016 - Appeal Form
Page 3 of 3

If you are representing any group, or a person other than yourself, you must sign a notarized statement that you are authorized to represent them.

-over-

Authorization to Represent the Juneau Seventh-day Adventist Christian School

Lynne Jackson

Bruce Romine

This notarized document authorizes Lynne Jackson and Bruce Romine to represent the Juneau Seventh-day Adventist Christian School as appellants to the City and Borough of Juneau Assembly regarding loss of religious real property tax exemption.

Attached is a copy of the Juneau Adventist Christian School Board meeting minutes of August 8, 2017, authorizing same.

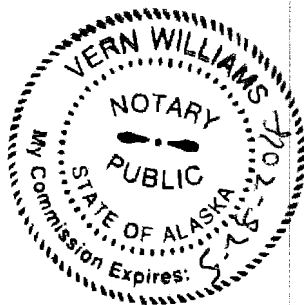
Both parties, Ms. Jackson and Mr. Romine, have appeared before me personally to request this notarized statement.

Vern Williams

Notary Public

5-28-2018

Commission Expires



Parcel Code # 5B1001000040 (p_id:6343) SEVENTH DAY ADVENTIST CHURCH SCHOOL Since Jan 1900 (Owner:9217) 4890 GLACIER HWY ROADED: 1
 Total Building Value: Total Land Value: 227800 Total Misc Imp Value: Total Value: 227800 USS 3263 LTS A & B SEVENTH DAY ADVENTIST CHURCH

(1) Assessor's Office

(1) Assessor's Office-Property Control

Parcel Code Number

5B1001000040

LEGAL DESCRIPTION / Submission/Lot

USS 3263 LTS A & B

Parcel Index

Alternate Parcel Id.

Owner Name

SEVENTH DAY ADVENTIST CHURCH SCHO

(1) Assessor's Office-Real Estate Tax Exemptions Maintenance

Exemption Info

Hardship Info

Exemption

Code

10 (Religious Non-Profit)

Percent Value

☒ Override

24

Amount

☐ Override

554,672.00

Exemption Effective

From

1/1/2017

Net Amount

☐ Override

Until

12/31/209

Eligible Amount

Frozen Assessment

Total Tax Exempted Amount

9581.93

Name

Notes & Comments

CHURCH- 2.14AC EXCESS TAXABLE LAND (76%)

Editing Existing Record (1/1)

New

Save

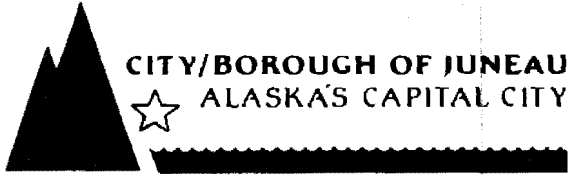
Delete

Browse

Exit

2017 Real Property Tax Bill

Packet Page 49 of 62



REMIT TO: City and Borough of Juneau
155 South Seward St, Juneau, AK 99801
PAYABLE TO: City and Borough of Juneau



6543 1845.55

SEVENTH DAY ADVENTIST CHURCH SCHOOL
C/O TREASURER
4890 GLACIER HWY
JUNEAU AK 99801

Parcel Number:	5B1001000040
Legal Description:	USS 3263 LTS A & B
Total Due:	\$1,845.55
Total Remitted:	
Due Date:	September 30, 2017

FOLD HERE AND DETACH

Please retain below portion for your records. This is the only document you will receive.

2017 Real Property Tax Statement

PARCEL NUMBER 5B1001000040 SEVENTH DAY ADVENTIST CHURCH SCHOOL
PROPERTY LOCATION 4890 GLACIER HWY
LEGAL DESCRIPTION USS 3263 LTS A & B

2017 REAL PROPERTY ASSESSMENT

LAND	227,800
BUILDING	0
EXEMPT TOTAL	(54,672)
TAXABLE VALUE	\$173,128

2017 PROPERTY TAX USES

2017 MILL RATE

2017 TAXES

Areawide - Education and General Government Services	6.70	1,159.96
Areawide - Debt Service	1.30	225.07
Roaded Service Area - Police, Capital Transit, Street Maint, Parks & Rec	2.30	398.19
Fire Service Area - Fire Protection	0.36	62.33
TOTAL 2017 MILL RATE (Do not pay this amount)	10.66	
TOTAL REAL PROPERTY TAX (Assessed Value x Mill Rate / 1000)		\$1,845.55

LOCAL IMPROVEMENT DISTRICT ASSESSMENTS

Description	Principal	Interest	Total
Annual Assessment Installment			

PRIOR YEAR(S) - See back of tax bill for due date and interest information

Delinquent Tax	0.00
Penalty and Interest (Interest calculated through 5/31/2017)	0.00
Credit for prepaid taxes or overpayment of prior year taxes	0.00

Amount due does not include up-to-date interest for prior year taxes. Call (907)586-5261 for amount.

AMOUNT DUE ON OR BEFORE SEPTEMBER 30, 2017

\$1,845.55

Please Note: It is your responsibility to pay any tax obligation each year. If you have a mortgage, it is possible that your taxes are paid by your mortgage company. Please confirm this prior to remitting payment.

Juneau Adventist Christian School

Board Minutes

August 8, 2017

Members

Present:

Nickie Romine, Lynne Jackson, Bruce Romine, Cynthia Lewis, Charlie Laboca, Pearl Younker

Members

Absent:

Pastor Nathan Stearman, Jeorghette Wales

Devotional:

Bruce

Minutes:

Cynthia

18-02

VOTED to approve minutes for June 27, 2017

18-03

VOTED to approve minutes for July 20, 2017

Treasurer's

Report:

Lynne: July reports. Education Endowment payment of \$1202 received

18-04

VOTED to accept treasurer's report

Principal's

Report:

Cynthia

***Discussed** Fundraising options

***Discussed** Updates to student list – Amy will not be attending, Savannah will be delayed in attending

***Discussed** Outstanding bill for student [REDACTED]

***Upcoming Events: - Discussed**

Teacher In-service – Aug 9-11

Registration – Aug 13

First Day of School – Aug 14

Open House – Sept 19

Old Business:

***Discussed** Tax Assessment Update – Response from city clerk and tax assessor's office received. Option to appear before Borough Assembly to appeal case.

**New
Business:**

18-05 **VOTED** for letter to be sent to Tax Assessor's office thanking
for their response and expressing our desire to
appear before Borough Assembly

18-06 **VOTED** for Lynne and Bruce to represent School Board at
Borough Assembly for an appeal

***Discussed** need to bring Tax Assessment and Appeal
information before Church Board

***Discussed** items in attic to be placed on Facebook and
sold by donation

***Tabled** Allowing funds from CD to cover tax bill

Next Meeting: Tues., Sept. 12, 2017 at 6:00 p.m.

Adjourned: 6:27 p.m.

Respectfully submitted,

Cynthia Lewis

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU SEVENTH-DAY ADVENTIST
CHRISTIAN SCHOOL,

Appellant,

vs.

CBJ ASSESSOR OFFICE

Appellee.

JOINT STATEMENT OF ISSUES ON APPEAL

The parties submit the following statement of issues on appeal:

1. Whether the Assessor erred in apportioning the property where there is no non-exempt use of the property.
2. Whether the Assessor applied (an) incorrect standard(s) in determining whether the undeveloped portion of the property qualifies for the religious purpose and education tax exemptions.
3. Whether the assessor erred in finding that use of the undeveloped portion of the property is *de minimus*.

DATED: December 22, 2017

CITY AND BOROUGH OF JUNEAU



Trinidad Contreras
AK Bar No. 1505017
Attorney for Assessor

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU SEVENTH-DAY ADVENTIST
CHRISTIAN SCHOOL,

Appellant,

vs.

CBJ ASSESSOR OFFICE

Appellee.

MOTION TO DISMISS with PROPOSED ORDER

On February 5, 2018, the CBJ Assessor granted Juneau Seventh-Day Adventist Christian School (Seventh Day) a complete exemption based on educational purposes for the property in dispute for 2017. *See* Attachment A. This appeal is now moot. Alaska Statute 29.45.500(a) provides that Seventh Day is entitled to a refund of the property taxes paid (\$1,845.55), interest at eight percent from the date the taxes were paid (Sept. 30, 2017), and costs. *See* CBJ 01.50.150. The Assessor requests that the Assembly dismiss this appeal and order Seventh Day to receive a refund of \$2,407.56 as follows:

Property tax	\$1,845.55
8% Interest (as of 2/28/18)	\$62.01
Costs:	\$500.00 (appeal fee)
Total Refund:	\$2,407.56

CITY AND BOROUGH OF JUNEAU

Robert H. Palmer III

Robert H. Palmer III
AK Bar No. 1405032
Attorney for Assessor

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU SEVENTH-DAY ADVENTIST
CHRISTIAN SCHOOL,

Appellant,

vs.

CBJ ASSESSOR OFFICE

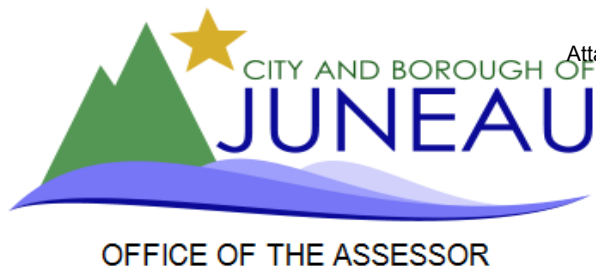
Appellee.

[proposed] ORDER ON MOTION TO DISMISS

Upon considering the CBJ Assessor's Motion to Dismiss, which identified that the CBJ Assessor has granted the requested exemption for the property in dispute for 2017 and Seventh Day's response, if any, this appeal is dismissed. Additionally, consistent with Alaska Statute 29.45.500(a), the CBJ is ordered to pay Seventh Day \$2,407.56 for the costs, interest, and refund of taxes paid.

Loren Jones
Presiding Officer on Appeal

City & Borough Attorney
City & Borough of Juneau, Alaska
155 South Seward Street, Juneau, Alaska 99801
ph: 907-586-5242 CBJLaw.Service@juneau.org



155 S. Seward St. Rm. 114
Juneau, AK 99801
Phone: (907)586-5220 Fax: (907)586-4520
Assessor.Office@juneau.org

February 5, 2018

To Whom This May Concern;

I have granted Seventh Day Adventist Church an educational purposes property tax exemption for parcel 5B1001000040 at 4890 Glacier Highway, Juneau, AK, 99801 (USS 3263 Lots A & B) for 2017. I have granted the exemption based on the arguments made in the Opening Brief, which are based on the evidence that the back undeveloped portion of the property was used for educational purposes in the past and there may have been confusion as to what evidence was necessary to continue receiving the exemption. Although I am granting the educational purposes exemption for 2017, the evidence of education use is not sufficient enough for me to automatically exempt the property for 2018. I am going to audit the property again for tax year 2018.

The governing statute, A.S. 29.45.030(a)(3) requires evidence of actual and exclusive educational use for me to grant the educational purpose exemption. If the entire property is not exclusively used for educational purposes, then it will need to be apportioned according to the information provided to me. If Seventh Day Adventist Church would like to have the property exempted based on educational purposes for 2018, you need to provide me with the following information relevant to the undeveloped portion of the property:

1. A map showing where educational use occurred in 2017.
2. Information describing when and how educational use occurred in the undeveloped portion of the property (back ~65% of property) in 2017.
3. Information describing how you intend to use the property in 2018.

I would likely be most interested in seeing how the educational curriculum used in 2017 and intended to be used for 2018 relates to the undeveloped portion of the property. Normally, the deadline to file for an educational exemption is January 31. However, because this decision occurred after January 31, you have until March 31 to provide me with sufficient information to keep the entire property exempt. If you fail to provide the requested information, then I intend to only exempt the front developed portion (~35%) of the property.

Alternatively, Seventh Day Adventist Church could encumber the undeveloped portion of the property with a conservation easement, which would substantially decrease the taxable value of the entire parcel. A.S. 29.45.062. If you chose to encumber the property with a conservation easement, it would need to be done before May 15, which is the deadline to apply for such an assessment.

In summary, by granting the exemption for 2017, the current appeal is moot. I recognize you are entitled to a refund of the taxes paid, and you are likely entitled to statutory interest of 8% from the date you paid the property taxes. A.S. 29.45.500(a). Because the evidence primarily relied on for me to grant this exemption was not presented to me before this appeal was filed, I believe the Assembly has complete discretion whether to refund the appeal fee. Finally, you have until March 31 to provide the requested information to satisfy the educational exemption audit and until May 15 to apply for a conservation easement assessment if desired. If you have any questions, feel free to contact me.

Sincerely,

Robin Potter, Assessor

BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU SEVENTH-DAY ADVENTIST
CHRISTIAN SCHOOL,

Appellant,

v.

CBJ ASSESSOR OFFICE,

Appellee.

OPPOSITION TO MOTION TO DISMISS

The Juneau Seventh-Day Adventist Christian School opposes the city's motion to dismiss. The letter from the City Assessor approving the tax exemption for 2017 makes clear that all the same issues that are in dispute this appeal will continue to be in dispute in 2018. The School has already expended significant time and energy appealing and briefing these disputed issues for 2017 and will have to expend them again in 2018 if the current appeal is dismissed. It would be most efficient for both parties and the Assembly to complete this appeal and resolve the issues in dispute.

As the School explained in its opening brief, there are two main issues in dispute. First is whether a single lot can be "apportioned" into taxable and tax-exempt portions when there are no commercial, non-exempt uses of the property. The Assessor's letter clearly states that she intend to apportion the School's property in 2018, even if it is not used for

Faulkner Banfield, P.C.
8420 Airport Blvd., Suite 101 ♦ Juneau, Alaska 99801
Phone: (907) 586-2210 ♦ Fax: (907) 586-8090

any commercial non-exempt purpose.¹ The second major issue in dispute is whether the school's educational and religious uses of the back part of the property are sufficient to meet the standard for tax exemption. Specifically, the brief argues whether a use must be "an essential aspect" or "key component of curriculum" in order to be an educational tax-exempt use. The Assessor's letter states that, in order to exempt the property in 2018, she will need to see "how the educational curriculum used in 2017 and intended to be used for 2018 relates to the undeveloped portion of the property." Therefore, it is clear that the same issues that are currently in dispute will continue to be in dispute in 2018.

The Assembly should not waste the time and money that the School has put into preparing and briefing this appeal by dismissing it, only to have the same issues on appeal before it in 2018. The disputes in this appeal are not moot, and clearly will need to be resolved for 2018. The Assembly should resolve them now, and not accept the Assessor's invitation to kick the can down the road.

DATED: February 8, 2018.

FAULKNER BANFIELD, P.C.



Lael A. Harrison
AK Bar No. 0811093
Attorney for Appellant

CERTIFICATE OF SERVICE

¹ "If the entire property is not exclusively used for educational purposes, then it will need to be apportioned."

The undersigned hereby certifies that on February 8, 2018, the undersigned caused a copy of the foregoing to be sent via email to:

Trinidad Contreras

Robert Palmer

CBJ Law Department

Via Email: Trinidad.Contreras@juneau.org, Robert.palmer@juneau.org



Lael A. Harrison

23147

Faulkner Banfield, P.C.
8420 Airport Blvd., Suite 101 ♦ Juneau, Alaska 99801
Phone: (907) 586-2210 ♦ Fax: (907) 586-8090

1 **BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU**

2
3 JUNEAU SEVENTH-DAY ADVENTIST
4 CHRISTIAN SCHOOL,

5 Appellant,

6 vs.

7 CBJ ASSESSOR OFFICE

8 Appellee.
9

10
11 **ORDER RE PENDING MOTION TO DISMISS**

12 On February 7, 2018, the CBJ Assessor filed a Motion to Dismiss with Proposed Order,
13 indicating this appeal is moot and should be dismissed, because the Assessor granted the Appellant
14 an educational purpose property tax exemption for the subject property in its entirety for 2017,
15 based on Appellant's Opening Brief.¹

16 On February 8, the Appellant filed an Opposition to Motion to Dismiss. Appellant does
17 not dispute the Assessor's representation that the educational purpose property tax exemption was
18 granted, but asserts that that action does not moot the appeal or resolve the issues raised in the
19 appeal. Appellant requests the Assembly hear the appeal to resolve the issues in the appeal before
20 the 2018 tax year.

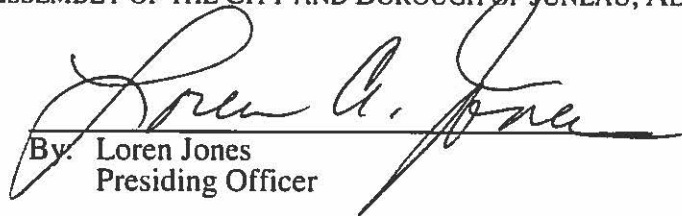
21 Having received the parties' respective pleadings, the following is the order of the
22 Assembly:

23 The Assessor shall file a Reply to the Appellant's Opposition to Motion to Dismiss on or
24 before **Friday, February 16, 2018.**

25
26 _____
1 In requesting dismissal, the Assessor asked that the dismissal include an order that the Assessor refund the Appellant's property taxes, with interest, and appeal fee.

1
2 DATED this 9th day of February, 2018.

3 ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

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5 
6 By: Loren Jones
7 Presiding Officer
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BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

JUNEAU SEVENTH-DAY ADVENTIST
CHRISTIAN SCHOOL,

Appellant,

vs.

CBJ ASSESSOR OFFICE

Appellee.

ASSESSOR’S REPLY IN SUPPORT OF MOTION TO DISMISS

This appeal is done. This appeal originated because Seventh Day was denied a property tax exemption for 2017. The Assessor has granted the requested exemption for 2017, which renders this appeal is moot because Seventh Day received the relief it asked for and it cannot receive any more relief. *E.g., Fairbanks Fire Fighters Ass’n, Local 1324 v. City of Fairbanks*, 48 P.3d 1165, 1167 (Alaska 2002) (“A claim is moot if it is no longer a present, live controversy, and the party bringing the action would not be entitled to relief, even if it prevails.”). Aside from this appeal being moot, there are multiple other reasons that warrant dismissal:

1. **Ripeness:** Seventh Day’s concerns about its 2018 tax status is speculative and unripe. There are no facts from which an appeal for 2018 could be brought, and facts are required to decide exemption disputes. *E.g., City of Nome v. Catholic Bishop of N. Alaska*, 707 P.2d 870, 887 (Alaska 1985) (“The churches bear the burden of proving entitlement for exemption. If no

City & Borough Attorney
City & Borough of Juneau, Alaska
155 South Seward Street, Juneau, Alaska 99801
ph: 907-586-5242 CBJLaw.Service@juneau.org

space was used exclusively as a sanctuary, religious administrative office, or room for religious education, then the City may properly deny the exemptions.”); *SEAL Trust v CBJ Assessor*, at 10 (Assembly, 4/9/17) (“Alaska law requires evidence of actual use for the exempt purposes...”).

2. **Assembly authority:** The Assembly is only authorized to hear an appeal from a final Assessor decision, and the Assembly lacks jurisdiction over any tax disputes for 2018 because the Assessor has not issued a final decision regarding Seventh Day’s 2018 tax status. CBJ 01.50.020(b).
3. **No prejudice for 2018:** Seventh Day cannot be harmed by a dismissal because it can still challenge and receive appellate review if it disputes its tax status in 2018.

Thus, the Assembly should dismiss this appeal as requested by the Assessor.

DATED: February 16, 2018

CBJ ASSESSOR OFFICE

Robert H. Palmer III

Robert H. Palmer III
AK Bar No. 1405032
Attorney for Appellee

Certificate of Service

I hereby certify that the foregoing document was served on the following by email:
Jane Mores, Attorney for Assembly Lael Harrison, Attorney for Appellant
Jane.Mores@juneau.org lharrison@faulknerbanfield.com

DATED at Juneau, Alaska, this _16th_ day of February, 2018.

Robert H. Palmer III