



ML&P Sale – Worksession #1

# Plan for Transaction Review

- November 2<sup>nd</sup>:
  - Review of Asset Purchase and Sale Agreement
  - Review of Summary of Economic Effects
- November 15<sup>th</sup>:
  - Review of PILT Agreement
  - Review of Power Purchase Agreement
  - Review of Regulatory Commission of Alaska Process
- November 30<sup>th</sup>:
  - Presentation on Financial Aspects of the Transaction (Concentric Energy Advisors)

# Materials Subject to Review

- Transaction Documents:
  - Asset Purchase and Sale Agreement
  - Payment in Lieu of Taxes Agreement
  - Power Purchase Agreement
  - BRU Fuel Agreement
- Who has seen them?
  - Assembly
  - Chugach Board
  - ML&P Advisory Commission
  - Regulatory Commission of Alaska
- How can the public review?
  - <http://poweranchorage.com/>
  - <http://www.muni.org/Departments/Assembly/Clerk/Elections/Pages/MLPChugachSale.aspx>
  - <http://www.muni.org/Departments/Assembly/Pages/default.aspx>

# Asset Purchase and Sale Agreement: What Does it Do?



# Article II: What is MOA Selling?

- Real Property
- Personal Property
- BRU Interests
- Contracts
- Permits
- Rights to pursue claims/lawsuits
- Pre-payments
- Insurance Benefits
- Books and Records
- Goodwill

# Article II: What is MOA Keeping?

- Excluded Real and Personal Property
- Excluded Contracts
- Benefit Plans
- Unrestricted Cash
- Shared Facilities and Assets
- Accounts Receivable
- Eklutna

# Article II: What Responsibilities are Taken Over by Chugach?

- Contract liabilities
- BRU obligations
- Eklutna obligations
- Environmental obligations
- Claims in progress related to the purchased assets
- Employee leave
- Other liabilities arising from the purchased assets after closing

# Article II: What Responsibilities are Kept by MOA?

- Accounts payable obligations
- Transaction costs
- Pre-closing taxes/MUSA
- Environmental obligations
- Specific pre-closing claims
- Employee claims
- IGCs
- Debt
- Claims arising from pre-closing actions



# Article II: What is Chugach Paying MOA?

\$767,800,000.00

-- (Accrued Leave Liability)

-- (NBV of Excluded Assets)

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= Purchase Price

# Article II: Can the Price Change?



# Article III: When Will We Close?

- December 4, 2018 – Assembly Vote
  - Execution of Transaction Documents
- RCA Filing
  - 180 days for RCA Review
- Closing within 120 days of RCA Approval



# Article III: What has to Happen Before We Close?

- RCA Approval
- Ancillary Deal Documents
  - Assignment of real property leases and licenses
  - Assignment and assumption of all contracts
  - Transition Services Agreement
  - Documentation of other specific MOA requests

# Articles IV and V: What Warranties are the Parties Offering?

## From the Municipality:

- Organized and Authorized
- No Conflicts, No Consents Required
- Financial Statements
- No Undisclosed Liabilities
- No Material Adverse Effect
- Valid Material Contracts
- Valid Title to Assets
- Assets Usable and Sufficient
- Valid Title to Real Property
- Intellectual Property
- Inventory Owned and Usable
- Material Customers and Suppliers not Terminating
- Insurance in Place
- Legal Proceedings Disclosed
- Compliance with Laws
- Environmental Laws and Permits
- Benefit Plans
- Employees, Collective Bargaining Agreements
- Taxes Paid
- All Customers in Service Territory
- BRU-Specific Concerns
- No Brokers

## From Chugach:

- Organized and Authorized
- No Conflicts, No Consents, No HSR
- No Brokers
- Legal Proceedings Disclosed
- Transition Agreement

# Article VI: Will Operation of ML&P Have to Change Before Closing?

- “Ordinary course of business consistent with past practice and Prudent Utility Practices”
- Chugach consent required for significant acts, including:
  - Merger
  - Material liens
  - High value transactions
  - Disposal of material assets
  - Extraordinary pay raises

# Article VII: What Could Prevent us From Closing?

- No RCA Approval
- Material Consent Lacking
- Failure of Reps or Warranties
  - Material Adverse Effect
  - Condemnation
  - Casualty

# Article VIII: What Liability does MOA Keep After Closing?

- Breach of Representations or Warranties, and breach or non-fulfillment of a covenant, triggered by losses in excess of \$2M, and NTE \$30M
- Environmental liabilities in excess of \$25M over ten years



# Article IX: Can the Parties Get out of This Agreement?

- By mutual consent
- If the other party is in material breach
- Change in law
- Failure to satisfy closing conditions by 1/31/20, unless caused by the other party
- Material casualty or condemnation

# The Big Picture: Employees and Rates

## Protections for Employees:

- Section 6.05: Covenants regarding employee treatment prior to and at closing
- Section 6.21: Post-closing covenant and compliance reporting

## Protection for Rate-Payers:

- Section 6.21: Post-closing covenant and compliance reporting
- RCA process

# Where Will the Money Go?

**MUNICIPALITY OF ANCHORAGE**  
**Assembly Information Memorandum**

No. AIM 111-2018

**Meeting Date:** October 23, 2018

1 **FROM: MAYOR**

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3 **SUBJECT: SUMMARY OF ECONOMIC EFFECTS FOR AO 2018-89**

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5 This information memorandum is submitted to provide the Summary of Economic Effects for cost  
6 associated with AO 2018-89.

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9 Prepared by: Municipal Light and Power  
10 Approved by: Mark Johnston, General Manager  
11 Concur: Alexander Slivka, CFO  
12 Concur: William D. Falsey, Municipal Manager  
13 Respectfully Submitted: Ethan A. Berkowitz, Mayor



