MEA Synergy Works.

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September 16, 2005

VIA FACSIMILE NO. (907) 343-7927
David J. Tremont, Project Manager
Title 21 Rewrite Project
Municipality of Anchorage
Planning Department
P.O. Box 196650
Anchorage, AK 99519

Re: June 2005 Public Review Draft Title 21 Revisions

Dear Mr. Tremont:

Matanuska Electric Association, Inc. (MEA) has provided electric utility services to the communities of Eagle River and Chugiak, plus the remaining northern portion of what is now the Municipality of Anchorage (hereinafter referred to as the "Municipality"), since 1950. During the year 2004, we expanded our utility distribution infrastructure within the Municipality substantially more than Chugach Electric Association, Inc. (Chugach) and the Municipality of Anchorage d/b/a Municipal Light and Power (ML&P) combined. MEA has an ongoing construction program within the Municipality adding new services and upgrading older facilities to handle increased loads.

MEA has reviewed the current draft revisions to Title 21 of the Anchorage Municipal Code. Generally speaking, implementing this proposed code revision would increase the cost of providing new electric utility services within the Municipality. MEA takes no position on whether or not this increased cost is justified by the public benefits that will be achieved through such implementation. However, MEA does suggest that the Municipality perform a cost/benefit analysis before these or any similar revisions are adopted.

In addition to this general comment, MEA generally agrees with the comments submitted September 12, 2005 by Chugach. MEA also agrees with the comments related to placement of utility infrastructure in road right-of-ways submitted the Alaska Department of Transportation & Public Facilities (ADOT&PF). It would clearly be unreasonable for the Municipality to require utility infrastructure to be placed in road right-of-ways if the owner of the right-of-way is prohibited by federal regulation from permitting such use.

MEA does have a few specific comments regarding the draft Title 21 revisions, the first of which relates to the last sentence of proposed ordinance 21.07.080(c), located on

page 408. This sentence currently states: "*The utility must provide written notice to the affected property owner at least one week prior to disturbance of the landscaping, except in emergencies involving life or safety.*" As a matter of practice, MEA does mail advance written notice to customers with their monthly billing statement more than one week in advance of line clearing activities. MEA also provides notice of line clearing activities through our own monthly newsletter sent to all MEA customers, and requires our clearing crews and contractors to place door hangers notifying property owners of impending line clearing activities on their property a few days in advance of the actual clearing.

MEA believes that its current practice sufficiently provides local residents with notice of line clearing activities, although absentee landowners may not receive such notice. Utilities cannot reasonably be required to assure that all property owners actually receive written notice of line clearing at least one week prior to the work being done. Requiring full title searches and boundary surveys for every parcel of affected land would be cost prohibitive. It would be unreasonable to prohibit a utility from performing necessary line clearing merely because one affected property owner is on a world cruise and not picking up their mail. It would also be unreasonable to hold that a utility violated this requirement because of an unrecorded change in property ownership.

Therefore, in addition to the change to this sentence proposed by Chugach, MEA proposes that this sentence be modified to read: "*The utility must **make a good faith attempt to** provide written notice to the affected **residents** at least one week prior to disturbance of the landscaping, except for power restoration or in case of emergencies involving life or safety.*" (MEA's proposed revision in bold font) In the event of a dispute regarding notice under this requirement, it would be up to the utility to justify its efforts at providing notice, and the property owner to explain why such efforts did not meet the good faith standard.

MEA notes that it disagrees with footnote 42 related to proposed AMC 21.070080(c), which states: "*Anchorage has a serious problem with overlapping landscaping and utility easements in Anchorage, in part because utility easements tend to be on site and not in public ROW.*" As noted by ADOT&PF, utility infrastructure often cannot be located in public rights-of-way and thus must be located in utility easements. This is a fact that must be lived with, not a problem that can be resolved through municipal ordinances. While landscaping in utility easements can be a problem, MEA has employed a trained arborist to assist property owners in our service territory with this problem. It is our understanding that Chugach also provides the services of an arborist to property owners. While overlapping landscaping and utility easements may pose problems, MEA does not believe that this can be classified as a serious problem.

Finally, MEA is concerned with the proposed requirements in draft AMC 21.05.040(J)(3)(b). Electric substations are architecturally different from any surrounding buildings, and thus this proposal effectively requires substations to be screened by L3 Separation Landscaping. New substations could conceivably be placed on a parcel of property sufficiently large to accommodate such landscaping plus the required substation infrastructure. Whether incurring the cost of doing so could be

justified by the benefits appears doubtful if additional private property has to be acquired, but that does not mean that it would be impossible to comply with this requirement.

However, compliance with this screening requirement appears impossible for at least some existing substations. For example, MEA's Pippel Substation in the Eagle River business district already fully occupies the available space and there is no room to plant L3 Separation Landscaping between that substation and the Old Glenn Highway or the adjacent buildings.

Under AMC 21.01.040(C), MEA would have to bring its existing substations into compliance with proposed AMC 21.05.040(J)(3)(b) every time MEA altered substation infrastructure. Altering substation infrastructure to accommodate new load configurations and technology happens frequently. Thus, the interaction of these two ordinances is effectively a regulatory taking of substations where L3 Separation Landscaping cannot be accomplished. MEA doubts that the Municipality desires this result, and therefore proposes that AMC 21.05.040(J)(3)(b) be either deleted in its entirety or modified to read: "*Substations initially constructed after the effective date of this ordinance shall be designed and constructed to ensure visual and aesthetic compatibility with the surrounding neighborhood. Compatibility may be achieved either by using similar architectural design and materials as building(s) in the surrounding neighborhood or by screening the facility with L3 Separation Landscaping.*

Thank you for giving MEA this opportunity to comment on these proposed changes to the Anchorage Municipal Code. If you have any questions, please call met at (907) 761-9275.

Sincerely,

James L. Walker
Senior Counsel

cc: Edward M. Jenkin, P.E., Chugach Electric Association, Inc.