

1 Robert K. Stewart, Jr.
2 Davis Wright Tremaine LLP
3 701 W. 8th Avenue, Suite 800
4 Anchorage, Alaska 99501
5 Phone: (907) 257-5300
6 Fax: (907) 257-5399

7 Attorneys for Chugach Electric Association, Inc.

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ALASKA

10 CHUGACH CONSUMERS and RAY,)
11 KREIG,)
12 Plaintiff,)
13 vs.)
14 CHUGACH ELECTRIC ASSN., INC.)
15 Defendant.)
16 _____)

Case No. 3:06-cv-00280 (TMB)

17 **AFFIDAVIT OF MARY TESCH**

18 STATE OF ALASKA)
19) ss.
20 THIRD JUDICIAL DISTRICT)

21 Mary Tesch, being first duly sworn on oath, deposes and states as follows:

22 1. I am the Vice President, Human Resources for Chugach Electric
23 Association, Inc. ("Chugach"). I have been the senior human resources representative for
24 Chugach for approximately 18 years. I make this affidavit on the basis of personal
25 knowledge except as may be otherwise stated herein.

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 · 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 · Fax: (907) 257-5399

1 2. During my tenure with Chugach, I have had extensive responsibility for
2 negotiation and administration of Chugach's four labor contracts, three with International
3 Brotherhood of Electrical Workers Local 1547 ("IBEW") and one labor contract with
4 Hotel Employees Restaurant Employees Local 878.
5

6 3. Chugach has three labor contracts with International Brotherhood of
7 Electrical Workers, Local Union 1547 ("IBEW"), all of which expired on June 30, 2006.
8 Chugach began preparing for renegotiation of the labor contracts in the fall of 2005. In
9 preparation for that process, Chugach hired two outside labor counsel, William Mede and
10 Parry Grover, to assist in the bargaining. Both Mede and Grover have extensive
11 experience negotiating labor contracts on behalf of employers. Chugach's attorneys and
12 negotiators interviewed numerous Chugach managers to identify work rule revisions that
13 would be beneficial to Chugach. Chugach also studied the labor contracts and bargaining
14 options. Chugach developed a comprehensive bargaining strategy which were presented
15 to and evaluated and approved by Chugach's Board of Directors.
16
17

18 4. Chugach's bargaining team, its attorneys and its Board of Directors spent
19 many, many hours preparing for the negotiations and developing Chugach's bargaining
20 strategy. Chugach developed a bargaining plan to modernize the Outside Agreement by
21 revising work rules to return various management rights to Chugach that had been
22 surrendered or compromised in prior Outside contracts. Chugach was well aware that to
23 obtain work rule concessions from the union and employees, bargaining would be
24
25

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 - 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 • Fax: (907) 257-5399

1 difficult and wage and benefit increases would likely be necessary to obtain union and
2 bargaining unit approval for such concessions.

3 5. Negotiations with the IBEW started in spring 2006. The bargaining was
4 overseen in great detail by Chugach's Board of Directors. Tesch and Mede regularly
5 reported to the Board of Directors in Executive Session regarding the progress of the
6 negotiations. The Board of Directors was kept informed of numerous details of the
7 bargaining process and made all significant decisions regarding wage and benefit levels
8 to be offered to the union based upon the work rule concessions obtaining during the
9 bargaining.
10

11
12 6. I have been a member of the Chugach bargaining team for the renegotiation
13 of the Outside Agreement that is the subject of this litigation. I participated in developing
14 bargaining strategy and have been integrally involved with negotiating the Outside
15 Agreement which is the subject of this litigation. I attended virtually all of the bargaining
16 sessions for the Outside Agreement. I have knowledge of the anticipated costs and
17 savings of each individual provision of the Agreement and of the Agreement in the
18 aggregate.
19

20
21 7. During the bargaining with the IBEW for the Outside Agreement, the
22 Chugach bargaining team informed the IBEW bargaining team that the bargaining
23 objectives established by Chugach Board of Directors were to modernize the Outside
24 Agreement by: (1) revising various contractual work rules to improve productivity and
25 efficiency; (2) revising contractual work rules to return to Chugach management certain

1 managerial rights and prerogatives that had been surrendered or compromised in prior
2 Outside agreements; and (3) granting wage and benefit increases that would allow
3 Chugach to attract qualified employees in a competitive marketplace. The Chugach
4 bargaining team made it very clear to the IBEW bargaining team that wage and benefit
5 increases were dependent upon revision of contractual work rules.
6

7 8. The Outside Agreement that was recently negotiated between Chugach and
8 the IBEW which is the subject of this litigation has, in my professional opinion, achieved
9 an acceptable level of the objectives established by the Board of Directors because
10 Chugach successfully negotiated numerous work rule revisions that yield monetary
11 savings which offset much of the costs of the negotiated wage and benefit increases.
12

13 9. The new Outside Agreement is for a four year term. There are specified
14 wage increases for the first three years of the Agreement. The fourth year of the
15 Agreement contains a provision for a wage increase based upon the Anchorage Consumer
16 Price Index. The wage and benefit increases specified for the first three years of the
17 Agreement are quantifiable. The wage increase for the fourth year of the Agreement
18 cannot be determined until the Anchorage Consumer Price Index is determined for
19 calendar year 2008 by the U.S. Department of Labor.
20

21 10. Chugach has calculated the three year net work rule savings that have been
22 negotiated to be more than \$1,300,000.
23

24 11. The first year wage and pension increases negotiated in the new Outside
25 Agreement are to be given retroactive effect to July 1, 2006. It is not feasible to give

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 - 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 - Fax: (907) 257-5399

1 retroactive effect to the work rule revisions negotiated in the new Outside Agreement.
2 The monetary savings to be realized by Chugach from the work rule revisions in the new
3 Outside Agreement can only be realized prospectively. Therefore, Chugach is being
4 financially harmed by this lawsuit every day the new Outside Agreement is not given
5 effect because Chugach is being deprived, on a daily basis, of the monetary savings that it
6 will realize from the new work rules that have been adopted. Plaintiffs claim the purpose
7 of their lawsuit is to save Chugach consumers money. Unfortunately, it is having
8 precisely the opposite effect. The lawsuit is financially harming Chugach customers.
9
10

11 12. The work rules that have been revised that will yield monetary savings for
12 Chugach once they are implemented include, but are not limited to, the following
13 sections of the contract: Sections 5.1.2.1 and 5.1.2.2 which make changes favorable to
14 management to the meal provisions of the contract; Section 5.2.3 regarding holiday
15 compensation which yields cost savings by specifying that certain hours are no longer
16 paid at triple time; Section 6.1.1 which contains more favorable apprentice ratios for
17 Chugach; Section 8.9 regarding oversized items which expands the type of equipment
18 that can be utilized by warehousemen; Section 11.3.4 regarding transportation of
19 electrical equipment which also expands the duties of warehousemen to utilize certain
20 equipment; Section 11.4 regarding call-outs and switching which gives Chugach greater
21 latitude to utilize hot apprentices; and Section 15.3.1 regarding classification committee
22 procedures which streamlines and expedites the classification committee process
23 significantly.
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

13. Chugach was also successful in negotiating other revisions to the Outside Agreement that modify various contract work rules that are likely to save the utility money but have not been included in estimated cost savings because such savings are difficult to quantify. Those work rule revisions include:

Section 8.11, Random Drug Testing – Expands random testing to all employees in the bargaining unit. Hopefully, with employees knowing they are now subject to random drug and alcohol testing at any time, drug or alcohol use/abuse will be further minimized. If one fatal or serious accident is avoided because of this new work rule, the dollar savings could be enormous. Additionally, conventional wisdom is that random drug testing reduces employee absenteeism and leads to increased productivity.

Section 3.5.1, Apprentice Layoffs - Chugach negotiated the right to lay off NECA temporary employees and in certain circumstances not be required to lay off apprentices. This will yield cost savings for the utility because apprentice wage rates are less than journeyman rates.

Section 5.1.3.4, New Sunday Through Thursday Loop Wagon - New contract language gives Chugach flexibility to establish a new Sunday through Thursday loop wagon. This will yield greater efficiencies/productivity when Chugach elects to establish such a new loop wagon.

Probationary Employees – Chugach negotiated the right to release probationary employees without such decision being subject to grievance or arbitration.

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 - 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 • Fax: (907) 257-5399

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

This language precludes any backpay or other monetary costs being ordered under the contract for discharged probationary employees.

Section 4.3.1(b), Leave Without Pay – Added new contract language to reduce leave without pay abuse, including requirement that an employee on leave without pay for certain absences in excess of 40 cumulative hours pays his pro-rata share of monthly health care premiums.

Section 4.4, Sick or Disability Leave –

- Prior Outside contract gave employees up to two years leave without pay, depending upon employee’s years of service, for sick or disability leave.
- New contract language specifies the one and two year caps on sick leave are calculated on a cumulative basis using a rolling five year period.
- The new contract language limits the amount of such leave to the five year period.

14. In addition, Chugach was successful in the negotiations in resisting IBEW efforts to secure more restrictive work rules including the following areas: erosion of work force (would have made it more difficult to contract out); temporary employees (would have further restricted ability to use temporary employees); holidays (dropped proposal for extra holiday); aircraft (would have adopted more rigorous aircraft standards to transport employees); licenses and certifications (would have increased Chugach’s

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 · 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 · Fax: (907) 257-5399

1 costs); health care (would have increased Chugach's costs); life insurance (would have
2 increased Chugach's costs). A reopening of the collective bargaining agreement could
3 put those issues back on the table and subject Chugach to additional labor costs.

4
5 15. If the Court issues a temporary restraining order precluding the Chugach
6 Board of Directors from approving the newly negotiated Outside Agreement, Chugach
7 will continue to be harmed by being denied, for the duration of the injunction, from
8 taking advantage of the monetary and productivity benefits of these favorable work rule
9 revisions.

10
11 Dated this 18th day of December, 2006.

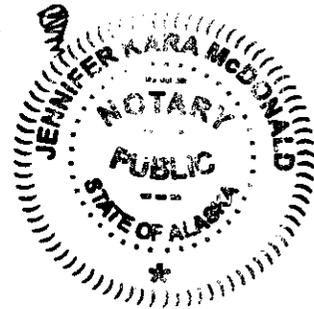
12 Mary Tesch
13 Mary Tesch

14 SUBSCRIBED AND SWORN to before me this 12 day of December
15 2006.

16 Jennifer Kara McDonald
17

18 NOTARY PUBLIC IN AND FOR ALASKA
19 My Commission

20 Expires: 9/9/08



21 Certificate of Service

22 I certify that on ___ of _____, a true
23 and correct copy of the foregoing document was served
24 via First Class Mail on the following:

25 Kenneth P. Jacobus
310 K Street, Suite 200
Anchorage, AK 99501-2064

/s/ Kris Hamann

Davis Wright Tremaine LLP
LAW OFFICES
Suite 800 - 701 West 8th Avenue
Anchorage, Alaska 99501
(907) 257-5300 - Fax: (907) 257-5399