

Introduced by: Cooper, Dunne  
Date: 05/07/19  
Hearing: 05/21/19  
Action: Enacted  
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2018-19-35**

**APPROPRIATING FUNDS TO THE LEGAL DEPARTMENT FOR COSTS  
ASSOCIATED WITH HIRING OUTSIDE COUNSEL TO REPRESENT THE KENAI  
PENINSULA BOROUGH IN THE TARIFF REVISION DESIGNATED AS TA310-4  
FILED BY ENSTAR NATURAL GAS COMPANY WITH THE REGULATORY  
COMMISSION OF ALASKA, MATTER NUMBER U-19-014**

**WHEREAS**, in Resolution 2019-028 the assembly authorized the Kenai Peninsula Borough (“borough”) to intervene in Enstar Natural Gas Company’s (“Enstar”) Tariff Revision Designated as TA310-4, before the Regulatory Commission of Alaska (“RCA”), matter number U-19-014, regarding the Homer Extension Surcharge (“surcharge”); and

**WHEREAS**, the borough contracted with the law firm of Birch Horton Bittner & Cherot, P.C. (“Birch Horton”) to represent the Kenai Peninsula Borough jointly with the City of Homer and Kachemak City (“petitioners”) in this RCA matter; and

**WHEREAS**, the deadline to intervene in that matter was April 22, 2019; and

**WHEREAS**, on April 18, 2019, Birch Horton filed a joint petition on behalf of petitioners to intervene in the RCA matter; and

**WHEREAS**, as discussed by the assembly during the legislative committee meeting of April 16, 2019, if the assembly approved Resolution 2019-028 the borough would pay one-third of the attorney fees incurred in this matter while it is represented by Birch Horton; and

**WHEREAS**, the assembly approved Resolution 2019-028 and attorney fees were incurred beginning April 17, 2019 for the motion to intervene and will continue to be incurred for representing the borough in this matter; and

**WHEREAS**, this is a specialized area of law and the continuing services and expertise of Birch Horton will be needed to adequately represent the borough’s interest in this matter; and

**WHEREAS**, it is estimated that at this time funds of up to approximately \$33,333 may be needed to pay the borough’s one-third of the fees and costs incurred by outside counsel on behalf of the borough; and

WHEREAS, the legal department has \$16,486.69 remaining from the previous cases before the RCA which are available to be transferred for use in this case; and

WHEREAS, an additional \$16,847 would fund the remaining estimated amount needed should the case go to a hearing or be resolved through extended settlement negotiations;

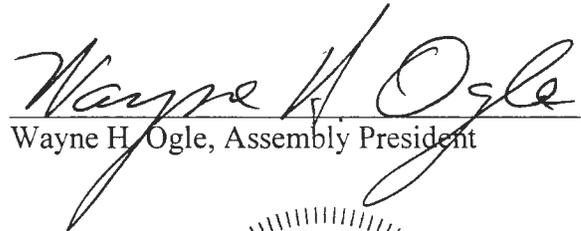
**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** The sum of \$16,486.69 may be transferred from account number 100.11310.17RCA.49999 to account number 100.11310.19RCA.49999.

**SECTION 2.** The sum of \$16,847 is hereby appropriated from the General Fund's fund balance to account number 100.11310.19RCA.49999 for fees and costs associated with hiring outside counsel to represent the borough in Enstar's tariff revision matter number TA310-4 filed with the RCA.

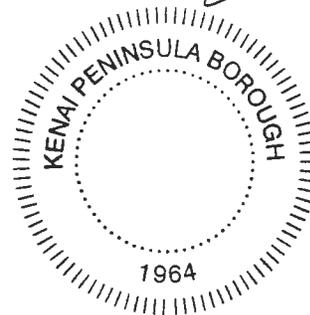
**SECTION 2.** That this ordinance shall become effective retroactively on April 17, 2019.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 21ST DAY OF MAY, 2019.**

  
Wayne H. Ogle, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle

No: None

Absent: None