

**REAP COMMENTS**  
**TO THE REGULATORY COMMISSION OF ALASKA**  
**IN ADVANCE OF THE JUNE 3, 2020 TECHNICAL CONFERENCE**  
**FOR R-20-001**  
**SUBMITTED JUNE 1, 2020**

**I INTRODUCTION**

Renewable Energy Alaska Project (REAP) respectfully submits the following comments to be considered in advance of the June 3, 2020 technical conference to open the rulemaking process for SB 123 (R-20-001). REAP is a 501(c)(3), statewide, non-profit education and advocacy organization that was formed in 2004 to promote renewable energy and energy efficiency. REAP has been actively involved in Railbelt grid reform efforts for over six years.

There are many issues that this docket will cover and REAP has questions about the process that it hopes will be answered at the technical conference. Accordingly, in these initial comments REAP will discuss the over-arching importance of governance, and then briefly describe what REAP hopes several other final regulations will cover.

**II COMMENTS**

**A. GOVERNANCE OF THE ELECTRIC RELIABILITY ORGANIZATION**

A central issue for REAP is the governance of the electric reliability organization (ERO). REAP believes that if Alaska does not get governance right for the ERO, the new organization will not function as intended. Governance is a key issue that all ERO applicants must understand early-on in the formation process.

The legislation that was passed near unanimously and signed by the Governor states that an ERO “shall be governed by a board that is formed as an independent board; a balanced stakeholder board; or a combination independent and balanced stakeholder board.”<sup>1</sup>

Alaska Statute 42.05.762 outlines various capabilities to determine whether an applicant to become the ERO will be found competent. These competencies include the ability to establish reliability standards, develop integrated resource plans, and establish internal rules for the ERO.

These internal rules of the ERO are closely linked to its governance structure. The first of these rules must “ensure that the directors of the electric reliability organization and the electric reliability organization act independently from the users, owners, and operators

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<sup>1</sup> AS 42.05.762 (4)(B).

of the interconnected electric transmission network.”<sup>2</sup> This rule is designed to ensure that the ERO acts in the public’s interest by eliminating, or at least reducing, conflicts of interests that may arise between the ERO and/or its directors and the users, owner and operators of the grid.

REAP believes that easiest way for an ERO applicant to ensure the ERO and its directors act independently from the users, owners, and operators of the grid would be to form the ERO with an independent board. By doing so, the ERO applicant would greatly decrease the risk of the ERO or any of its board members acting in a self-interested manner.

It would be useful for the RCA to provide a definition of an “independent” board. Regional transmission organizations (RTOs), independent system operators (ISOs) and EROs in other parts of the nation are typically governed by board members that are *not* market participants subject to the RTO, ISO or ERO’s jurisdiction. As noted above, there are sound reasons for this. The obvious concern is that if an entity has an opportunity to govern itself it will be inclined to make governance decisions that favor its own interests, rather than the public interest. In order to avoid such a clear conflict of interest, most similar regional entities in the United States require that governance be “independent”. This has been done in a variety of ways. The Western Electric Coordinating Council (WECC), a non-profit which promotes bulk power system reliability and security in the Western Interconnection, is governed by nine directors that are independent of any registered entity in the Western Interconnection, either by employment or affiliation. The WECC Board is elected by the WECC membership and the Directors are compensated for their time.<sup>3</sup> The Southwest Power Pool (SPP), an RTO which oversees the bulk electric grid and wholesale power market in the central United States on behalf of a diverse group of utilities and transmission companies in 14 states does not allow directors to be employees or contractors of entities that are supplied services by SPP.<sup>4</sup> The California Independent System Operator (CAISO) does not allow a search firm seeking CAISO director nominations for the Governor’s consideration to consider candidates who are employed by, or provide consulting services to persons or entities that are affiliated with any actual or potential participant in any market administered by the ISO.<sup>5</sup> If today’s conditions are not ripe for developing a truly independent ERO board of directors, REAP hopes the parties can agree to transitioning over a period of time to an independent board. In the absence of an independent board, REAP will turn its attention to a “balanced stakeholder” board of directors.

REAP believes that the only way that a “balanced stakeholder” board could reduce the appearance or reality of self-interested decision-making is to ensure that no one “stakeholder” or group of stakeholders with the same interests is able to dominate the decision-making of the board. REAP does not believe the governance structure that the

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<sup>2</sup> AS 42.05.762 (3)(A).

<sup>3</sup> WECC website, <https://www.wecc.org/BOD/Pages/Default.aspx>

<sup>4</sup> SPP Bylaws, Conflicts of Interest Section 4.2.3,

<https://www.spp.org/documents/13272/current%20bylaws%20and%20membership%20agreement%20tariff.pdf>

<sup>5</sup> CAISO Board Selection Policy, Version #4.6,

<http://www.caiso.com/Documents/BoardSelectionPolicy.pdf>

Railbelt utilities are currently proposing in their Memorandum of Understanding (MOU) to form the “Railbelt Reliability Council”, or RRC, meets the definition of a balanced stakeholder board.

The board that the utilities are proposing in their RRC MOU would be composed of all six utilities in the Railbelt, plus six “non-utility” stakeholders. The board would also include a representative from the RCA and the Regulatory Affairs and Public Advocacy (RAPA) office of the Alaska Attorney General as non-voting, ex-officio members.<sup>6</sup> As conceived in the RRC MOU, the CEO of the RRC would cast any vote necessary to break a 6-6 tie.<sup>7</sup>

This structure is problematic. First, the proposed RRC governing board in the MOU assumes that “balance” means utility interests on one side, and *all other* possible interests on the other side. This conception of what “balance” means greatly discounts the importance of other stakeholder perspectives. REAP does not believe “balanced” means six utilities and six of everyone else in the universe of stakeholders that could be interested in the way that electricity is produced, transmitted and consumed in the state’s most populous region. The only two specific categories of non-utility interests that are included in the RRC MOU are “a group that represents the interests of Railbelt consumers” (one seat) and “independent power producers” (two seats).<sup>8</sup> The other three “non-utility” board seats in the RRC MOU would go to the Alaska Energy Authority and to “two members with knowledge of utility operations and planning functions, but not associated with any Railbelt electricity-producing or delivering entity i.e. non-affiliated members.”<sup>9</sup> This “non-affiliated” group of two does not need to represent any particular stakeholder group.

The governance board contemplated by the Railbelt utilities in the RRC MOU leaves out important stakeholder groups that could have been represented, including renewable energy advocates like REAP. Given that *the way* that electricity is produced is arguably one of the most important issues of our day in a carbon-constrained world, advocates of electricity produced without carbon emissions is a category of interest group that should be considered a valid stakeholder in the Railbelt. Other stakeholders that are left out in the governance structure contemplated in the RRC MOU are the *different types* of electrical consumers. In the Railbelt, the interests of residential electrical consumers are very different than the interests of commercial consumers. Those respective stakeholders use different amounts of electricity, and pay different rates. There are many different sizes of commercial consumers, none of which are represented in the proposed RRC governance model. The interests of industrial consumers are also left out of the RRC MOU. Other possible stakeholders in the Railbelt not mentioned in the RRC MOU include local, borough and tribal governments and environmental organizations.

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<sup>6</sup> RRC MOU dated December 6, 2020, Page 4, Section 7(A).

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

The common understanding of the word “balanced” would necessitate a governing board that consisted of roughly equal numbers of *representatives* of all identified interests/stakeholders. This would include representatives for different kinds of utilities such as electric cooperatives, municipalities and investor-owned utilities as well as for all of the other stakeholder categories discussed above.

The proposed board of directors in the RRC MOU is not balanced. The RRC MOU combines residential, commercial and industrial consumer interests into one board seat, versus the four seats allocated to electric cooperatives. An example of a balanced stakeholder board is the Electric Reliability Organization of Texas (ERCOT), which has a governance structure that includes representatives from many different market *segments*.<sup>10</sup>

Another reason the proposed governance structure in the RRC MOU is problematic is that even when viewed through the narrow lens of “utility” versus “non-utility” it still does not describe a 6-6 board. One of the stakeholders named in the MOU as a “non-utility” is the Alaska Energy Authority (AEA), which shares its board of directors with the Alaska Industrial Development and Export Authority (AIDEA).<sup>11</sup> REAP believes that AEA/AIDEA is essentially a utility, and shares many of the same interests and attributes as the other Railbelt utilities. AEA/AIDEA owns both generation and transmission infrastructure. Like the Railbelt utilities, the AEA has not had to concern itself with cost recovery. AEA has also holds seats on utility committees such as the Intertie Management Committee (IMC) and the Bradley Lake Project Management Committee (BPMC). Even viewed through the utility/non-utility lens this makes the governing board currently proposed in the RRC MOU a 7-5 board, with seven utility interests and five non-utility stakeholders. This structure would allow utility interests to form a voting block and dominate the decision-making of the board, including the decision to choose the RRC’s CEO. That decision-making power to choose the RRC CEO would, in turn, give the utilities still another board position, and another vote in the event of a tie. This proposed structure would give utilities and utility interests eight representatives, with just five “non-utility” representatives. This imbalance would persist if the utilities were to invite another utility to be part of the governance structure if/when Anchorage Municipal Light and Power (ML&P) is acquired by Chugach Electric Association, which is something the utilities have stated publicly that they wish to do. REAP does not believe that the structure proposed in the RRC MOU describes a balanced stakeholder board under any definition.

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<sup>10</sup> The 16-member ERCOT board of director is composed of representatives of the Independent Retail Electric Provider Market Segment; the Consumer Market Segment – Residential Sub-Segment; the Investor-Owned Utility Market Segment; the Independent Power Marketer Market Segment; the Cooperative Market Segment; the Consumer Market Segment – Commercial Sub-Segment; the Consumer Market Segment - Industrial Sub-Segment; the Independent Generator Market Segment; the Municipal Market Segment; the ERCOT CEO and; five unaffiliated members. It also includes as a non-voting member a representative from the Public Utility Commission of Texas.

<sup>11</sup> RRC MOU dated December 6, 2020, Page 4, Section 7(A).

The utilities have an understandable desire to keep tight control of the RRC given their long history of independence. The advice on RRC governance provided by GDS Associates, which was hired by a subset of the six Railbelt utilities, recommended that eight voting members of the RRC “be made up of four (4) Railbelt transmission owners and four (4) Railbelt non-transmission owners. The four Railbelt transmission owners will be AEA, and one Railbelt utility from each of the south, Anchorage, and north regions. This will be further defined in the MOU. The four (4) non-transmission voting members will be the Regulatory Affairs and Public Advocacy (RAPA), two Renewable/IPPs, and one outside non-affiliated member.”<sup>12</sup> This advice was not followed in the RRC MOU. In addition, prior drafts of the RRC MOU would have allowed the utilities a voice in choosing the non-affiliated seats on the governance board. While this desire by the utilities to maintain control is not surprising given the long history of autonomous operation in their respective service areas, it is not consistent with the intent of SB 123 to ensure that the ERO can take actions that are in the public interest but may run counter to the interests of individual stakeholders. REAP is hopeful that the RCA will consider what independent and balanced stakeholder boards look like in other jurisdictions along with the characteristics and history of the Railbelt system and provide early guidance to interested parties on what the definitions of a “balanced stakeholder” and “independent” board will be in Alaska. REAP believes this guidance will reduce the possibility that great effort will be exerted by many parties to form an entity that ultimately has little or no chance of being certified by the RCA as the ERO for the Railbelt.

## **B. OTHER INTERNAL RULES OF THE ELECTRIC RELIABILITY ORGANIZATION**

Alaska Statute 42.05.762 requires an ERO to equitably allocate reasonable dues, fees, and charges among all load-serving entities connected to the interconnected electrical transmission network; to provide fair and impartial procedures for the enforcement of reliability standards; and to provide reasonable notice and opportunities for public comment, due process, openness, and the balancing of interests in exercising ERO duties.<sup>13</sup> REAP is most interested in the rules regarding allocating dues, fees and other charges<sup>14</sup> and public process and the balancing of interests.<sup>15</sup>

REAP believes for the ERO “to provide reasonable notice and opportunities for public comment, due process, openness, and the balancing of interests in exercising its duties”<sup>16</sup> it will be essential for the ERO’s meetings to be open and accessible to the public, with at least 30-days’ notice for regularly scheduled meetings and rules describing under what circumstances special meetings may be called on shorter notice. The requirements for executive sessions should also be described to discourage those sessions unless

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<sup>12</sup> Facilitation of the Development of the Railbelt Reliability Council Report and Recommendations, May 11, 2018, page 8.

<sup>13</sup> AS 42.05.762 (3)(B-D)

<sup>14</sup> AS 42.05.762 (3)(B)

<sup>15</sup> AS 42.05.762 (3)(D)

<sup>16</sup> Ibid.

absolutely necessary to protect sensitive financial or personnel information. The ERO should maintain a website, and all meeting minutes should be available there, along with all other ERO foundational documents and draft plans.

REAP also believes it will be important for RCA regulations to describe how “dues, fees, and other charges” will be “equitably allocated”.<sup>17</sup> REAP has questions about how those dollars will be used “for all activities under AS 42.05.760 – AS 42.05.790”.<sup>18</sup> REAP is interested in knowing what “dues, fees and other charges” might be levied against non-utility interests that are part of the ERO and whether those “dues, fees and other charges” will be allocated among non-utility interests that are not “load-serving entities connected to the interconnected electric transmission network”. Specifically, REAP would like to see regulations that ensure that all revenues of the ERO, including “surcharges added to the rate for each participating load-serving entity”<sup>19</sup> are spent in a way that balances the interests of all stakeholders, despite the source of those revenues. This would include the types of experts and consultants that the ERO hires to educate its board of directors and to assist with integrated resource planning.

### C. INTEGRATED RESOURCE PLANNING

Without going into detail at this time, REAP is expecting final regulations related to integrated resource planning to include:

- 1) Meaningful stakeholder participation;
- 2) Meaningful RCA oversight;
- 3) Detailed consideration of load forecasts; reserves and reliability; demand-side management; supply and energy storage options; short and long-term fuel forecasts; environmental costs and constraints including the possibility of higher future costs associated with greenhouse gases; evaluation of existing resources; integrated analysis of all six Railbelt service areas; “criteria for determining cost-effectiveness and greatest value”<sup>20</sup>; planning horizon and update time frames; uncertainty analysis; valuing and selecting plans and; action plan and documentation.
- 4) Scenario modeling of different possible future resource mixes, including sensitivity analyses;
- 5) Planning horizons of at least 20 years and;
- 6) A requirement to update plans every two years.

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<sup>17</sup> AS 42.05.762 (3)(B)

<sup>18</sup> Ibid.

<sup>19</sup> AS 42.05.770 (3)

<sup>20</sup> AS 42.05.780 (d)

## **D. NON-DISCRIMINATORY OPEN-ACCESS INTERCONNECTION STANDARDS**

Without going into detail at this time, REAP is expecting final regulations related to non-discriminatory open-access interconnection standards to describe one, transparent Railbelt-wide process of interconnection that prohibits market manipulation by transmission providers; requires utilities to provide accurate and transparent data; outlines a fair, transparent and reasonably-paced interconnection and system impact study processes and; fairly allocates the costs of system upgrades that benefit the bulk power system.

## **E. TRANSMISSION SYSTEM COST RECOVERY**

Without going into detail at this time, REAP is expecting final regulations related to transmission system cost recovery to facilitate a transition to some type of open access transmission tariff (OATT) that will provide certainty and transparency to the cost of using, maintaining and making additions to the transmission system and eliminate “pancaking” of transmission tariffs.

## **F. PROJECT PREAPPROVAL**

Without going into detail at this time, REAP is expecting final regulations related to project pre-approval to:

- 1) Define what “necessary” is, as it relates to large energy facilities on the interconnected transmission network.<sup>21</sup>
- 2) Define what a “cost effective manner”<sup>22</sup> is as it relates to “meeting the needs of a load-serving entity that is substantially served by the facility”, and define over what period of time cost effectiveness is measured.
- 3) Define “refurbishment or capitalized maintenance”.<sup>23</sup>

REAP is concerned that a push may ensue to build projects before July 1, 2021 and believes regulations that address “projects undertaken before integrated resource plan approval”<sup>24</sup> are also extremely important rules to address early-on in the rulemaking process.

## **G. RELIABILITY STANDARDS**

Without going into detail at this time, REAP is expecting final regulations related to reliability standards to define how a reliability standard “may provide for additions or modifications to an interconnected bulk electric system facility to the extent necessary to

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<sup>21</sup> AS 42.05.785 (a)(1)

<sup>22</sup> AS 42.05.785 (a)(3)

<sup>23</sup> AS 42.05.785 (c)(1)

<sup>24</sup> AS 42.05.785 (d)(4)

provide for reliable operation” of the network.<sup>25</sup> Likewise, REAP expects the final regulations to describe ways to determine whether or not a reliability standard has been “designed for the purpose of, requiring enlargement of interconnected bulk-electric system facilities or construction of new transmission capacity or generation capacity”.<sup>26</sup>

### III CONCLUSION

REAP believes that the collaborative governance of a balanced stakeholder board of directors for the ERO would serve the public interest and hopes that the RCA will provide early guidance on the definition of an “independent” and a “balanced stakeholder” board. REAP is also hoping that the Commission will outline what the rulemaking process and schedule will look like over the next several months. REAP does not have the resources that the utilities have, particularly the larger coops that have legal and engineering staffs. In order to participate on the same level, REAP would like to know when certain issues will be brought up during the process. REAP also believes it would be fair to all stakeholders to be able to comment on “straw man” regulations that are written by the Commission, rather than relying on industry to write the first draft of those regulations. Finally, REAP hopes that the Commission will be able to tap into the various national and international resources that exist to aide it in this extremely abbreviated rulemaking process.

REAP thanks the Commission for this opportunity to participate in R-Docket 20-001, and looks forward to continuing to provide input to this important process.

Sincerely,



Chris Rose  
Executive Director

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<sup>25</sup> AS 42.05.765 (a)(2)(C)

<sup>26</sup> AS 42.05.765 (a)(3)