

July 22, 2020

Regulatory Commission of Alaska
701 W. 8th Avenue, Suite 300
Anchorage, AK 99501

Re: R-20-001

Dear Commissioners:

Renewable Energy Alaska Project (REAP) respectfully submits the following comments to supplement comments it made in this matter on June 1, 2020, and to detail some of the history of the Railbelt Reliability Council Memorandum of Understanding (RRC MOU) from its perspective.

1) Nowhere in its June 1, 2020 comments did REAP call for any of the Railbelt utilities to be left off the ERO governing board. The question REAP raised is whether the 6-6-1 board proposed in the RRC MOU is a “balanced stakeholder” board. REAP stated that it “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.”¹ This remains a principle that REAP hopes the Commission will consider when promulgating regulations related to ERO governance.

2) REAP did not request the RCA to mandate that the ERO have an independent board in its June 1, 2020 comments. Rather, REAP acknowledged that it is likely that “...today’s conditions are not ripe for developing a truly independent ERO board of directors...”² Since SB 123 allows for the ERO to be governed by an independent board *or* a balanced stakeholder board *or* a combination independent-balanced stakeholder board, it does not appear that the RCA can mandate that an ERO board be independent.³

3) The various parties perceive the RRC MOU history differently. The utilities, as evidenced by some of their recent comments to the Commission, see the MOU process as a “substantial RRC negotiation”⁴ while REAP sees the process as a period of limited comments on a document that was substantially drafted by the six utilities *before* any other stakeholders ever saw it.

The MOU “process” is one that occurred in the first place in part because REAP requested it. At an informal meeting with the Commission on October 9, 2018, several utility representatives told the Commission that they had just signed an MOU to form a Railbelt Reliability Council (RRC), had formed an Organizational Development Committee (ODT) and would be asking other stakeholders to join the ODT to draft foundational documents for the RRC. I was present at that meeting, and expressed

¹ REAP June 1, 2020 comments, page 2.

² REAP June 1, 2020 comments, page 2.

³ AS 42.05.762 (4)(B).

⁴ Matanuska Electric Association comments by Tony Izzo, June 16, 2020, page 9.

REAP's strong concern that REAP had not been consulted at all on the MOU. I also expressed skepticism that an MOU had actually been executed. I stated that if the utilities wanted REAP to participate with the ODT in forming the RRC, REAP would have to have some input into the MOU.

During the public comment period at an RCA public meeting a little more than two weeks later on October 24, 2018, I reiterated that no stakeholders had been made aware of the MOU by the utilities prior to the October 9, 2018 meeting. During that comment, I also noted that when the final report and recommendations from the utilities' consultant GDS had come out the previous spring that "REAP was pleasantly surprised that GDS recommended that no more than three of the Railbelt utilities should serve on the proposed RRC governing board".⁵ I also expressed disappointment during that public comment that the function of Railbelt-wide economic dispatch had not been recommended by GDS.⁶ I said, "I've already lodged REAP's concerns with the commission about the MOU, one being that the MOU is not a collaborative product. Instead it is a utility product that the other electric stakeholders in the Railbelt are now being asked to affirm by joining what is being referred to as an RRC implementation committee. This is an MOU that was not shared by the utilities with stakeholders before the October 9th meeting, the workshop where the Memorandum of Understanding was the main topic of conversation. Instead stakeholders like REAP saw the MOU before October 9th only because it was on the City of Seward's website. The MOU demonstrates that the utilities are not following the RRC governance advice of GDS."⁷

As far as REAP knows, no non-utility stakeholders were given an opportunity to make comments on the RRC MOU until January 2, 2019 when Brian Hickey from Chugach Electric Association (Chugach) sent an electronic copy of the MOU to REAP. REAP began to make comments on the document, and would receive intermittent feedback from the ODT on those comments. Invariably, each time a draft was sent back to REAP the utilities had made other changes requiring further comment.

In May 2019, both HB 151 and SB 123 were introduced in the state legislature. Both bills had language in them about the governance of an ERO, the same language that was still contained in SB 123 when it passed the legislature in March 2020. From the time the legislation was introduced, the legislation, not the MOU, became REAP's primary focus.

As the summer and fall of 2019 progressed, REAP continued to provide comments on the RRC MOU. Several times REAP was told that the utilities would soon provide a "final version" of the MOU to REAP. As the end of 2019 approached and the beginning of the legislative session came closer, utility changes to the language in the MOU became more frequent. REAP scheduled several Public Policy Committee meetings to consider those changes. Organizational Development Committee members like Mr. Hickey were working overtime to get the six utilities to sign the MOU. After each round of changes made by the utilities, the new draft was forwarded to REAP. REAP does not know which

⁵ RCA Public Meeting Minutes, October 24, 2018, page 5.

⁶ RCA Public Meeting Minutes, October 24, 2018, page 5.

⁷ RCA Public Meeting Minutes, October 24, 2018, page 6.

other stakeholders the ODT may have been sending the updated drafts to. Because of the number of changes made to the MOU over a relatively short time period, it became increasingly difficult to pull together REAP's Public Policy Committee each time to review the changes.

Ultimately, REAP's board of directors did not feel comfortable supporting the RRC MOU and no action on the RRC MOU was taken at REAP's board meeting on January 8, 2020. By that time, REAP felt there was a chance that legislation would pass, and that legislative language would control the contours of electric reliability organizations in Alaska.

While several substantive changes were indeed made to the RRC MOU based on stakeholder comments, REAP never attempted to negotiate the basic balance of the RRC governance structure. As a non-utility stakeholder coming into the MOU drafting process more than a year after it began, REAP never felt it had the leverage to try to change something that it believed was non-negotiable. REAP knew from the utilities' opposition to bills REAP had supported to form an independent system operator in 2015 (HB 187) and in 2018 (HB 382) that the utilities were averse to an independent board. It was also clear that the ARCTEC utilities (Chugach, MEA, Golden Valley and City of Seward) had decided to disregard the governance advice they had received in 2018 from GDS to include just three utilities on the RRC board. REAP also felt that even trying to negotiate the balance of the governance board would likely have upset the utilities' already difficult negotiations between themselves. In very much the same way, REAP knew that attempting to re-introduce the concept of economic dispatch to the RRC MOU would also have upset the utilities' delicate negotiations among themselves. However, just because REAP did not actively try to modify the balance of the governance structure of the RRC, or add economic dispatch as a mandatory RRC function to the MOU, it does not mean that REAP's concerns about either issue simply went away.

After the legislative session opened in January 2020, REAP continued to express its concern about the proposed RRC MOU governance structure. On January 29, 2020, at a joint meeting of the Senate Special Committee on the Railbelt Electric System and the House Special Committee on Energy, I testified on SB 123/HB 151 that REAP was concerned that the RRC MOU governance structure was not independent.⁸

⁸ "MR. ROSE stated that REAP has a few concerns about the governance structure of the proposed RRC. First, the governing board outlined in the RRC memorandum of understanding (MOU) that the utilities negotiated is not independent. REAP and other non-utility stakeholders worked with the utilities to tighten the language but didn't have any leverage to encourage the utilities to change the governance structure in the MOU. He pointed out that if AEA (Alaska Energy Authority) weren't a state entity, it would be classified as a utility because it owns generation and transmission. From that standpoint, the board has seven utilities and five non-utilities. He said REAP would like to see a requirement that minority positions of the RRC in the Integrated Resource Planning process are reported to the RCA. Then the RCA could consider that when it decides whether or not to modify or approve an IRP. He said REAP would also like a commitment from the utilities that the governance board will evolve over the next 5-10 years to become truly independent." Joint Meeting of the Senate Railbelt Electric System and the House Special Committee on Energy, January 29, 2020 at 3:51:13

I also stated that the legislation should reflect the needs of Alaskans, *not* the needs of the utilities to form the RRC.⁹

I reiterated REAP's concern with the RRC MOU governance structure a couple weeks later when testifying in front of the Senate Special Committee on the Railbelt Electric System. During that hearing, in reference to a proposed utility amendment to SB 123 that REAP opposed, I stated that "due weight" should *not* be given to the Integrated Resource Plans developed by the ERO since the utilities were proposing a governing board in the RRC MOU that would include all of the Railbelt's market participants.¹⁰

CONCLUSION

REAP did appreciate the opportunity to make comments on the RRC MOU. However, that process did not include REAP or other stakeholders until *after* the document was already substantially completed by the utilities in October 2018, when REAP asked to make comments on the document. However, the actual process of making comments did not begin until 2019, was sporadic and did not include a wide range of stakeholders outside of REAP. *Ultimately, the REAP board of directors did not take any action to formally support the MOU, nor was REAP or any other non-utility stakeholders a signatory to the RRC MOU document.* While it was an accomplishment for the Railbelt utilities to agree on a version of an ERO that they could live with, the process was not inclusive of all parties from the beginning, and it was rushed at the end.

On July 10, 2020, I received notice that I was selected to join the RRC Implementation Committee (IC) as one of its two "non-affiliated" members. As the RRC implementation committee process begins, REAP is concerned that it has been criticized by the utilities for submitting comments to the RCA about ERO governance that they don't like, comments that are similar to ones REAP made during public testimony to the legislature as recently as February 14, 2020. REAP is also concerned by recent utility comments that essentially ask that the Commission do nothing to undermine the RRC process.¹¹ The legislature has passed SB 123 and the Commission is now bound to promulgate regulations that have *statewide application*, not just application in the Railbelt. Though REAP is very interested in being a productive and collaborative member of the RRC

⁹ "He said the last point is that the legislation should reflect the needs of Alaskans, not necessarily the needs of the utilities' MOU to form the RRC. He noted the testimony from the utilities on Monday was that they would like the legislation to comport to the MOU whereas REAP believes the legislation should protect Alaskans first." Joint Meeting of the Senate Railbelt Electric System and the House Special Committee on Energy, January 29, 2020 at 3:54:59 pm.

¹⁰ "CHRIS ROSE, Executive Director, Renewable Energy Alaska Project (REAP), Anchorage, Alaska, stated support SB 123, Version K and the proposed amendments Ms. Miller outlined.

He referenced Mr. Hickey's concern and suggested amendment and said REAP does not support that proposal. He pointed out that the ERCOT Board is different than what the Railbelt utilities are proposing in their MOU. He noted his previous testimony that the governing structure outlined in the MOU is getting close but still isn't exactly what REAP would have suggested if it had more leverage to increase public participation on the board. Different than the ERCOT Board, there will be market participants on this board that all have their own interests. REAP does not believe that the RCA's authority to modify an IRP should be subverted in any way. The commission should be the final backstop that supports the public interest. The existing language on page 6, lines 24-29 allows for a back-and-forth process between the RCA and the ERO. This ERO will be a brand new entity and should not have the deference it may have in other jurisdictions. He pointed out that ERCOT has been around for quite a while, it has evolved over time, and has earned the trust of the Texas regulatory commission. That is very different than the ERO that is proposed in the Railbelt." Senate Railbelt Electric System, February 14, 2020 at 9:33:59 am.

¹¹RCA Public Meeting Minutes, June 24, 2020, pages 3-7. Golden Valley Electric Association public comments by John Burns.

Implementation Committee, REAP also wants to maintain its right to make individual comments to the RCA during the public rulemaking process. REAP does not believe that monolithic comments coming out of the RRC to the Commission in these three rulemaking dockets is the right process, or even possible. The RRC process is now playing catch-up to an already fast-moving RCA process. Rather, REAP believes it is still important for voices that are part of the RRC to be able to make their own individual voices heard during the rulemaking process. If REAP and other RRC IC members are to be criticized for making public comments that don't comport with what the utilities want, there is a very strong concern that minority views will not be given adequate consideration at the ERO level if the RCA certifies the RRC with its current proposed governance structure. The ERO governance structure needs to have built-in mechanisms to assure that minority views are adequately considered while at the same time ensuring that the expertise of the utilities is duly weighted on technical decisions involving reliability standards and integrated resource plans. Such mechanisms would incentivize the collaboration necessary for an ERO to function successfully.

REAP understands that the utilities feel that REAP broke an agreement on governance that was contained in the RRC MOU by submitting its June 1, 2020 public comment in this docket. REAP hopes the utilities will now better understand REAP's perspective on the RRC MOU process. REAP also wants the utilities to understand that their last minute, unsuccessful attempt to re-write SB 123 just before the legislature convened in January 2020 created trust issues for REAP. REAP's hope is that all parties can now move forward and work together to re-build trust.

REAP is involved in the process of Railbelt grid reform to make the region a better place to live and work. REAP has no profit motive, and no ambition to consolidate power. The world, and the electric industry, are both changing quickly and REAP would like to contribute its time and knowledge to a new organization that will help make the Railbelt more resilient and secure. REAP respects the technical expertise and hard work that the utilities have brought to the RRC process, and hopes the utilities will understand and acknowledge the capacity, expertise and perspectives that other stakeholders can also bring.

REAP thanks the Commissioners for all their hard work and consideration.

Respectfully,



Chris Rose
Executive Director