

REAP Comments on the Language of SB 123
Submitted by REAP Executive Director Chris Rose
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1) 42.05.292 (c)

Consider adding language in the second line of this section after “if no person has applied for certification as an electric reliability organization” that states:

“or the commission has not certified an application for an electric reliability organization...”

Reason: This addition would address a situation where there is an application, but the commission believes it is deficient and does not want to certify it.

2) 42.05.292 (d)(1)(C) and 42.05.292 (d)(2)

Consider reconciling the language in these two sections. Section (d)(1)(C) says that a reliability standard may provide for additions or modifications necessary for reliability while section (d)(2) states that a reliability standard may not require enlargement of facilities.

REAP wants to make sure that provisions regarding reliability standards do not create loopholes that allow projects to be built that would dilute the strength of the Integrated Resource Planning (IRP) process or the RCA’s pre-approval authority.

3) 42.05.292 (i)

Question: If the commission imposed a penalty under 42.05.292 (h), would an appeal of that penalty properly go to Superior Court or to the Commission, as it now states it would in the first line of section 42.05.292 (i)?

4) 42.05.292 (n)(1)

Question: Should it be *permissive* that the RCA require an ERO to obtain a CPCN? How does this language reconcile with 42.05.292 (b) which implies that the RCA will certify an ERO if it meets the requirements of that section? Likewise, how does section 42.05.292 (n)(1) reconcile with section 42.05.990, the definition of an ERO as an organization that is certified by the commission?

5) 42.05.292 (n)(2)

Question: Should providing for the issuance of an open access transmission tariff (OATT) to the ERO be *permissive*? The elimination of “pancaking” transmission tariffs is a concern for all parties. REAP understands that the current language would allow the RCA to assign the OATT to a future transmission company, independent system operator or regional transmission

organization, but the chance of any of those entities being established any time soon seems distant.

6) 42.05.293 Integrated Resource Planning

Comment: REAP feels strongly that the RCA should retain the power to modify any IRP that the ERO may petition the RCA to approve.

As noted in RCA Commissioner Scott's testimony on January 31, 2020, the RCA will hold a non-voting seat on the proposed ERO which should help limit the instances where anyone is surprised by how the RCA feels about a plan at the time the ERO petitions the Commission for approval that plan.

REAP agrees with the utilities' comment that the IRP should contain both the majority and minority opinions on all substantive issues where there was not unanimous agreement by the ERO.

7) 42.05.294 Project preapproval

Comment: REAP does not have any issue with suggestions by utilities to increase the length of transmission lines that would be considered "large" to over 10 miles, or to include energy storage devices or combination of devices that do not exceed 15 MW and one hour of storage and reactive compensation devices or a combination of devices that regulate voltage that do not exceed 15 MW.

REAP strongly disagrees with the utilities' suggestion to include a "grandfather clause" that would exempt large projects that would otherwise need RCA preapproval if those projects are approved for construction by a public utility's governing board by the time of the effective date of the first integrated resource plan contemplated by SB 123. Such a clause could set off a rush by the various utility boards to approve construction projects to avoid preapproval. As noted by the testimony of Commissioner Scott on January 31, 2020, a recent Superior Court case raises serious questions about the prudence utility decisions to build projects. Commissioner Scott also reiterated in his most recent testimony that an avenue will still exist for all utilities to request the Commission to preapprove projects outside of an IRP process.

REAP also believes that project preapproval *means* that the RCA is making a finding of the *necessity* of a project. However, project preapproval should not mean that the RCA is making a finding that the cost of the project is necessarily prudent, particularly because preapproval findings will be made *before* any project costs are actually incurred.

8) Other General Comments

REAP believes the RCA should act as the ultimate backstop for the work of the ERO, and *assign rather than delegate* authority to the ERO. REAP believes the RCA should be given a green light

in SB 123 to immediately begin drafting regulations for the ERO upon the passage of the legislation, with an understanding that that rulemaking process is subject to the Alaska Administrative Procedures Act which allows *any party* to suggest proposed language for those regulations.

REAP agrees with any amendments to the language of SB 123 that would strengthen public process and participation.