

Appendix C

Progress on Recommendation No. 3

Voluntary efforts by the Railbelt electric utilities have failed to produce sustainable institutional change under Recommendation Nos. 1 and 2. On March 15, 2019, the RCA issued an order seeking input on possible statutory changes:

We invite comment on legislative language that would provide express statutory authority for this agency to certificate and regulate an electric reliability organization, and to oversee integrated resource planning and project pre-approval of large electric generation and transmission facilities.

After the receipt of public comments on the proposed statutory language by the RCA, several bills were introduced in the Alaska Legislature. On May 3, 2019, the House Committee on Energy introduced HB 151. On May 14, 2019, the Senate Special Committee on the Railbelt Electric System introduced SB 123. Both bills were titled "An Act relating to the regulation of electric utilities and electric reliability organizations; and providing for an effective date." Both bills are very similar in language and intent. At the Public Meeting of the RCA held December 11, 2019, the RCA voted unanimously to support SB 123. Appendix C details representations made to the RCA and actual results, the statutory language the RCA put out for public comments, and the comments received. Appendix C will be submitted on January 22, 2020.

- **March 15, 2019 – Order I-15-001(13)/I-16-002(13), - *Order Inviting Comment on Proposed Legislative Language*:** One question raised at the Commission level is whether this agency has the requisite statutory authority over an electric reliability organization (ERO) such as the RRC. Enabling statutes addressing RCA jurisdiction over electric utilities focus on the provision of service to the public, whether directly or through a resale arrangement. An ERO would adopt and enforce system reliability standards - the core function of the RRC, which would also establish interconnection protocols, conduct regional integrated resource planning, and evaluate security-constrained economic dispatch. None of these activities have the direct nexus of electric service to the public and thus create a certain level of doubt regarding the RCA's regulatory authority over the RRC or any other ERO. While some Railbelt electric utility representatives believe the RCA possesses statutory authority to certificate and regulate a reliability organization, we believe that legislative clarification may be appropriate given the lack of explicit statutory language authorizing us to regulate an ERO. Attached as an appendix to this order is draft legislative language that provides us with express authority to certificate and regulate an ERO and would ensure enabling the proposed RRC construct to provide a Party's right to appeal RRC decisions to the RCA

- March 15, 2019 – Appendix to Order I-15-001(13)/I-16-002(13), - Proposed Statutory Language:** The proposed statutory language:
amends AS 42.05.990 by adding additional subsections, and
amends AS 42.05 by adding language and additional sections 292, 293,
- March 29, 2019 - Comments of Alaska Public Interest Research Group (AkPIRG):**
AkPIRG supports the RCA’s proposed legislative language. AkPIRG stated that Railbelt ratepayers had not had a meaningful voice for the last decade and further stated that the “RCA’s proposal to implement region-wide planning is necessary, and the correct response to the 2014 mandate by the Alaska Legislature to determine the best path forward for an Independent System Operator-type entity. The inclusion of other stakeholders besides the utilities co-ops themselves--notably, consumer and renewable energy advocates, member-owner representatives, and independent power producers--will make the Railbelt electric utility landscape more efficient, diverse, resilient and responsive.”
- April 4, 2019 - Alaska Railbelt Transmission, LLC (ART or Transco) Comments:**
ART acknowledges and agrees with the RCA’s prior conclusions in its recommendation to the Alaska Legislature, specifically, “An independent transmission company should be created to operate the transmission system reliably and transparently and to plan and execute major maintenance, transmission system upgrades, and new transmission projects necessary for the reliable delivery of electric power to Railbelt customers. This independent transmission company should be certificated and regulated as a public utility under AS 42.05.” ART also stated that RCA pre-approval of transmission projects was consistent with RCA proposed legislative language and that “vetting of projects pursued for the benefit of multiple utilities, consumers and ratepayers is appropriate to ensure conformance with planning protocols and reliability standards, to promote projects that provide economic benefit to electricity consumers, and to meet the objective of a Railbelt-wide integrated resource plan.
- April 4, 2019 – Comments of Chugach Electric Association, Inc., on Commission’s Proposed Legislative Language Docket I-15-001/I-16-002:** Chugach points out that in Comparison to grid overseen by the Electric Reliability Council of Texas (ERCOT) (which is the smallest of the North American interconnected grids) the Railbelt is miniscule and despite the significant size difference, the challenges of access, cost allocation, efficiency, investment, reliability, and stakeholder investment are much the same. Chugach goes on to state that since 2014 through at least five different forums, the six Railbelt utilities have worked diligently and cooperatively and seek to craft a blueprint for a restricted electric grid business model adapted to the unique conditions of the Railbelt and considers the Commission’s desires. Chugach welcomes the

Commission's interest and willingness to propose statutory language recognizing an electric reliability organization as it presents an opportunity to realize the Railbelt Reliability Council (RRC), which presently is bound only by a draft Memorandum of Understanding which has not been agreed to by the six Railbelt Utilities. Chugach points out that not all the utilities agree that legislation is necessary. However, Chugach believes that the proposed language is premature in that the utilities have not yet put an RRC governing board in place and so have not yet had the opportunity to work with the RCA to craft legislative language. Chugach further states that the siting authority and integrated resource planning in the proposed language presents a significant change to current practice in electric project development and again, Chugach would prefer to have an RRC governing Board to work with the RCA in developing such a mechanism. In Conclusion, Chugach welcomes the Commission's interest and support but believes the proposed language is premature and will distract the utilities from solving transmission capital investment challenges.

- **April 4, 2019 – Comments of Cook Inletkeeper -**, Inletkeeper strongly supports the RCA's proposed legislative language regarding transmission, reliability and security. Inletkeeper has serious concerns about the electrical generation build-out over the past decade along the railbelt, without the planning and coordination needed to protect consumers from substantial debt and rising rates. Inletkeeper supports the language because: it provides the RCA with much-needed authority and jurisdiction over an Electric Reliability Organization (ERO) and allows the RCA to establish an ERO if none applies to be certificated. Inletkeeper supports the proposed language because it provides for the ERO to finance itself and authorizes the ERO to perform regional least cost planning, impose meaningful penalties, and enforce planning decisions with RCA approval processes.
- **April 4, 2019 – Golden Valley Electric Association, Inc. (GVEA)'s Response to Commission Order Nos. I-15-001(13)/I-16-002(13):** GVEA provided an overview of the years long concerted and collaborative efforts made by the Railbelt utilities to address the recommendations made to Legislature by the RCA in 2015. GVEA points out that the voluntary efforts of the utilities should be allowed to continue and that any legislative proceeding may detract from the efforts of the utilities. And while GVEA believes that the Commission does indeed possess the statutory authority to certificate and regulate a "reliability organization," it does see benefit in legislative clarification. GVEA believes that significant discussion regarding the proposed siting authority is warranted. GVEA expressed concerns regarding the cost of legislative route considering it chose to forgo paying a lobbyist in the coming year, a decision the GVEA may need to now reconsider. GVEA advises that before "the Commission proceeds with an effort to secure legislation, GVEA recommends that the Commission convene a technical conference so that the

Commission, the Railbelt Utilities, and other stakeholders can collectively work together to amend the proposed statutory language.”

- **April 4, 2019 – Comments by Homer Electric Association in Response to I-15-001(13)/I-16-002(13):** Homer Electric Association, Inc. (HEA) briefly sets forth as that the formation of Alaska Railbelt Transmission, LLC (“ART”), a transmission-only entity, initially composed of four of the six Railbelt utilities and American Transmission Company, LLC and the Railbelt utilities negotiated a Memorandum of Understanding (“MOU”) harmonizing the separate reliability standards and committing to create the Railbelt Reliability Council (RRC) as an entity charged with overseeing the rules and regulations regarding reliability on the Railbelt as examples of the Railbelt utilities ability to work together. HEA states that the current RRC process should be continued and further states that the RCA’s request for legislation appears to be premature and counterproductive. HEA notes that the current proposed legislation does not create an ERO, nor does it allow the RCA to create an ERO, yet mandates the adoption of regulations which mandated interconnected utilities join an ERO.

HEA is concerned with the prospect of granting the RCA siting authority and warrants that additional discussion is required for HEA to consider such an expanded role.

HEA also shares concerns regarding generation siting authority and states that additional discussion is warranted before such an expanded role could be considered by HEA. HEA does offer that within the context of a Transco, RCA review and approval of projects is desirable in overcoming difficulties in siting transmission lines. However HEA points out that seeking pre-approval could pose problems if the scope of project changes and suggests that generation projects planned under in IRP should be allowed to adapt as “different realities emerge,” stating that projects approved in an IRP a few year old may become imprudent. HEA points out that the proposed legislation does not set forth whether an IRP included project is guaranteed full rate recovery.

HEA points out that the proposed legislation gives both the ERO and the RCA the ability to impose penalties. HEA suggest that because the ERO will not be a State energy, that perhaps the ERO should recommend a penalty and the RCA could then impose the penalty. HEA asks whether any penalty would be rate recoverable.

HEA closes stating the collaborative efforts of the Railbelt utilities should continue and that the RCA has the power to set firm deadlines. It goes on to state that legislation may be premature and cause delays.

- April 4, 2019 – Comments of Matanuska Electric Association, Inc., on Commission's Proposed Legislative Language Docket I-15-00 I/I-16-002:** Matanuska Electric Association, Inc. ("MEA") understands the necessity of and will generally support necessary Commission efforts to clarify or establish its authority to create and regulate electric reliability organizations (EROs); realizing that a legislative solution is a possible option in realizing the Railbelt Reliability Council (RRC). MEA states that while legislation may ultimately be a necessary step, it is concerned that at this juncture, the proposed legislation may derail utility efforts in regard to the RRC. MEA the RRC should be established before any regulations to regulate an ERO are drafted. MEA suggests that an alternative to any legislation would be contractually binding the utilities to any reliability standards. MEA believes that the RCA already has the authority to oversee reliability matters. MEA prefers the concept of project pre-approval to the proposed legislative "siting authority." MEA states that any future legislation should incorporate the full intent of a finalized Memorandum of Understanding between the Railbelt utilities; that the RRC should have the authority to: levy penalties, and establish an Open Access Transmission Tariff; should clearly define what transmission facilities are considered part of the bulk power system; and provide the Commission with clear authority to approve, reject or modify a transmission project proposed by the RRC. MEA additionally states that and regional integrated resource plan should be through a process of utilities and other stakeholders.

And, "although it is not advocating for this proposed legislation at this time," MEA went on to offer specific comments regarding the proposed legislation. One of the comments in particular: The definition of 'interconnected electric energy transmission network' and/or 'ERO' should be clarified to specify whether non-Railbelt entities are covered by the ERO. As written, the standards apply statewide." Finally MEA states that it appreciates the Commission's support of efforts amongst the utilities but points out that there is not agreement as to whether or not such legislation is warranted. If further analysis determines statutory language is necessary, MEA recommends that the RRC work with the Commission to develop appropriate language.

- April 4, 2019 - Public Comments of Municipal Light and Power:** The Municipality of Anchorage d/b/a Municipal Light and Power ("ML&P") offered specific comments on the proposed legislation. In regard to an Electric Reliability Organization (ERO), ML&P recognizes that adequacy and security of electric power in the Railbelt could be enhanced through the establishment of an ERO and does not oppose the Commission's seeking to clarify or establish its authority to oversee such an organization. ML&P believes that in order to protect the Railbelt grid, cyber security standards should be enforceable beyond the boundaries of the bulk power system. ML&P believes that the ERO should have the authority to consider any ERO board approved standard valid and enforceable unless the

RCA orders it to be modified, as submitting each ERO board approved standard may prove administratively cumbersome. Additionally ML&P offered specific comments and suggested language: determining cost of the proposed legislation; establishing timelines for many of the approval, modification or rejection sections of the proposed legislation; discussed “least-cost” vs “cost-effective” integrated resource planning; and supported siting authority “as a general conceptual matter.”

- **April 4, 2019 - Renewable Energy Alaska Project (REAP) Comments:** REAP supports the language becoming law. It would provide the Commission the explicit statutory authority necessary to implement Railbelt grid reforms that the region has been attempting for more than a decade. REAP supports granting the Commission explicit authority, pre-approve projects that align with regional planning so that ratepayers do not pay for excess capacity. REAP supports a self-funded ERO and supports the ERO’s authority to set penalties for non-compliance with standards. REAP continues to work with Railbelt utilities in order to arrive at agreed upon language in the utilities Memorandum of understanding which is the basis for developing an RRC. In addition to reliability, REAP believes the RRC could be responsible for ensuring non-discriminatory open access to the grid and monitoring merit order economic dispatch in the Railbelt, if the Railbelt utilities agree. REAP hopes that an RRC can still be formed through a voluntary process. If that process can begin soon, it increases the urgency to pass legislation mirroring the language the Commission has offered. REAP’s primary concern is reliability.
- **April 24, 2019 - RCA Public Meeting:** Chairman Pickett reported “Since our last public meeting, I have had fairly extensive conversations with the Chair of the House Energy Committee. I’ve been requested to telephonically appear tomorrow. It sounds like it’s specifically on the statutory language that the Commission put out for comment. My personal opinion, it may be a little bit premature, given the fact the letter and the final, but I think what I’m going to do is use the opportunity to set the stage, context it sort of how we got in, how this stuff came forward, basically. And I don’t think they, at this point, are fully cognizant of the complexity and the depth of all this, and it’s not something you’re going to deal with in a hearing. I’ve also had fairly extensive conversations with staff for the Senate majority, and last Friday spoke at length with Senate President Giessel, and she had a fair degree of awareness, but just sort of filled in and kind of let her know of the schedule that I just disclosed, and she indicated at that time, if I contact her, you know, after the Friday public meeting next week and can give assurances that the timeline is still on track, she is going to figure out the best -- best mechanism for the senate referral on the report to deal with it, once they adjourn between that time and when they come back to Juneau next year, so that sounds like a fairly reasonable way to deal with a lot of these things.” TR8-9.

- May 8, 2019 - RCA Public Meeting:** Chairman McAlpine: stated in regards to the pause suggested by the utilities arising out of the proposed acquisition of ML&P by Chugach, “this seems to me to -- to just be one delay after -- after another, and I'm sure that there's probably some commercial reasons for that; however, I will say – and you in the audience are probably aware that the Legislature has taken up this issue, and there are some draft bills floating around, and you will have to live with what they -- what they come up with. · I don't know what efforts are -- are ongoing to kill any legislation that -- that may be presented in the short term, but I suspect that by the end of this session -- and what I mean by the "end of this session," · is the end of the second year of this session next year -- I'm fairly comfortable that they're going to pass some -- some legislation, unless something happens that majority caucus in either body falls apart, both sides · are looking at it, and it will be out of our hands, so what has been discussed ought to come to fruition fairly shortly if you want it on your terms; otherwise, we're all going to be living with -- with what they put forward. · I've had the chance to review some of the proposed legislation, as well as some of the comments that -- that have gone with it. · It doesn't match up with what we have put together, and so if -- if you want to take your best shot at this, I'd suggest that you get · your heads together and come up with something, or it's going to be imposed.” TR40-41 who was followed by Commissioner Pickett “you know, I agree with much of what you have said, and, just for the record -- and this goes to what the Chair also said -- on the house side, there have been references to, quote, an RCA bill. · There is no RCA bill. · Let's be very, very clear about that. I've talked to, you know, representatives of the senate leadership. · I think they understand where we're at at this point, but we have put out proposed language, and we specifically requested input from the impacted party, the utilities, and other impacted parties. · We received those comments, and to date, we have not officially -- and there were some good comments. · I mean, some of them I didn't agree with, but there were some good comments too that I think need to be incorporated and thought in some more discussion, and hopefully that will -- that's probably not all going to happen before we get our letter to the Legislature.” TR43-44
- June 21, 2019 - Joint Comments of Chugach Electric Association, Inc. And Matanuska Electric Association, Inc. Regarding U-15-001, In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System:** Chugach Electric Association ("Chugach") and Matanuska Electric Association, Inc. ("MEA") jointly submit this letter informing the Regulatory Commission of Alaska ("Commission") that a filing will be submitted to the Commission supporting the approval of the Railbelt Reliability Council ("RRC") along with other supplemental participants as a proposed means to solve the Transmission ("Commission") that a filing will be submitted to the Commission supporting the approval of the Railbelt Reliability Council ("RRC") along with other supplemental

participants as a proposed means to solve the Transmission coordination and planning issues raised in the RCA's June 2015 letter to the legislature.

- **August 19, 2019 - Comments by Homer Electric Association, Inc., In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System:** Homer Electric Association, Inc. ("HEA") states that the May 29, 2019 MOU does not reflect the understanding of the parties and further states that it was not made aware that the parties were drafting the MOU let alone invited to participate in the drafting process. HEA further argues that the RRC and any proposed OAT as set out in the MOU cannot be utilized to dispatch Bradley Lake power.
- **November 13, 2019 – RCA Public Meeting:** MEA stated “There’s also the folks that think they want change, they hop in and then they get scared and turn around and there’s the folks then that are afraid of change and will often resist it even though it may not make logical sense. And I think, you know, we’re seeing all of those, and I think, you know, throughout the decade that we’ve been talking about this, we’ve probably played all different roles – those roles in different ways depending on who was representing the utility at the time, but it is time for a new day. We need to work differently or expect the same results if we don’t and that’s why I’m encouraged by the leadership of this body and wanted to express that MEA is going to be working actively in support of Senate Bill 123 to ensure that there is the proper amount of leadership because that’s the other thing that you learn in doing change management is a leader that’s supportive, committed and firm, often can turn any of those three issues around and so we look forward to supporting that legislation. TR 59-60.
- **December 11, 2019 – RCA Public Meeting:** The Renewable Energy Alaska Project, REAP commented that it believes that the legislation pending in Juneau, Senate Bill 123 and House Bill 151, are crucial elements to establishing a new electric reliability organization in the railbelt. We will be working to educate legislators on the importance of that legislation, including making certain that the Commission is given explicit statutory authority to approve all new large transmission and generation projects. We believe that such pre-approval authority is essential, if regional integrated planning which is contemplated by the RRC MOU is going to have any teeth at all. TR 9-10.

MEA commented on SB 123; “MEA has believed for some time that the need for statutory authority by this body, by the Regulatory Commission of Alaska, is a critical key part of a foundation to ensure that institutional reform survives beyond the terms of board members and utility CEOs and others. So we have supported it in writing, and we expect to continue to do so. TR14.

The Commission then went on to discuss SB 123, An Act Relating to the Regulation of Electric Utilities and Electric Reliability Organizations and Providing for an Effective Date, with individual Commissioners speaking about the reasons they supported the bill and why they supported the Commission support of the bill. After the commissioners spoke, they unanimously moved that Commission would support SB 193. TR16- 25