

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON ENERGY

March 30, 2010

3:10 p.m.

MEMBERS PRESENT

Representative Bryce Edgmon, Co-Chair
Representative Charisse Millett, Co-Chair
Representative Nancy Dahlstrom
Representative Kyle Johansen
Representative Jay Ramras
Representative Pete Petersen
Representative Chris Tuck

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 182

"An Act establishing the Greater Railbelt Energy and Transmission Corporation and relating to the corporation; relating to transition, financial plan, and reporting requirements regarding planning for the initial business operations of the Greater Railbelt Energy and Transmission Corporation; relating to a report on legislation regarding the Regulatory Commission of Alaska and the Greater Railbelt Energy and Transmission Corporation; authorizing the Alaska Energy Authority to convey the Bradley Lake Hydroelectric Project and the Alaska Intertie to the Greater Railbelt Energy and Transmission Corporation; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 182

SHORT TITLE: RAILBELT ENERGY & TRANSMISSION CORP.

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/12/09	(H)	READ THE FIRST TIME - REFERRALS
03/12/09	(H)	ENE, L&C, FIN
03/26/09	(H)	ENE AT 3:00 PM BARNES 124
03/26/09	(H)	Heard & Held

03/26/09	(H)	MINUTE(ENE)
04/09/09	(H)	ENE AT 3:00 PM BARNES 124
04/09/09	(H)	Heard & Held
04/09/09	(H)	MINUTE(ENE)
03/18/10	(H)	ENE AT 3:00 PM BARNES 124
03/18/10	(H)	Heard & Held
03/18/10	(H)	MINUTE(ENE)
03/23/10	(H)	ENE AT 3:00 PM BARNES 124
03/23/10	(H)	-- MEETING CANCELED --
03/25/10	(H)	ENE AT 3:00 PM BARNES 124
03/25/10	(H)	Heard & Held
03/25/10	(H)	MINUTE(ENE)
03/30/10	(H)	ENE AT 3:00 PM BARNES 124

WITNESS REGISTER

BRIAN BJORKQUIST, Senior Assistant Attorney General
 Labor and State Affairs Section
 Department of Law (DOL)
 Anchorage, Alaska

POSITION STATEMENT: Presented the changes to HB 182.

JANET REISER, Board Member
 Chugach Electric Association, Inc. (Chugach Electric)
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 182.

JOE GRIFFITH, General Manager
 Matanuska Electric Association, Inc., (MEA)
 Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 182.

KATIE HURLEY, Board Member
 Matanuska Electric Association, Inc. (MEA)
 Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 182.

KIT JONES, Board Member
 Matanuska Electric Association, Inc. (MEA)
 Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 182.

LARRY DEVILBISS, Board Member
 Matanuska Electric Association, Inc. (MEA)
 Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 182.

BOB PICKETT, Chairman
Regulatory Commission of Alaska (RCA)
Anchorage, Alaska

POSITION STATEMENT: Presented his personal observations during the hearing on HB 182.

CAITLIN HIGGINS, Executive Director
Alaska Conservation Alliance (Alliance)
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 182.

ACTION NARRATIVE

[3:10:21 PM](#)

CO-CHAIR CHARISSE MILLETT called the House Special Committee on Energy meeting to order at 3:10 p.m. Present at the call to order were Representatives Millett, Johansen, Petersen, Tuck, and Edgmon. Representatives Dahlstrom and Ramras arrived as the meeting was in progress.

[3:10:46 PM](#)

HB 182-RAILBELT ENERGY & TRANSMISSION CORP.

[3:10:47 PM](#)

CO-CHAIR MILLETT announced that the only order of business would be HOUSE BILL NO. 182, "An Act establishing the Greater Railbelt Energy and Transmission Corporation and relating to the corporation; relating to transition, financial plan, and reporting requirements regarding planning for the initial business operations of the Greater Railbelt Energy and Transmission Corporation; relating to a report on legislation regarding the Regulatory Commission of Alaska and the Greater Railbelt Energy and Transmission Corporation; authorizing the Alaska Energy Authority to convey the Bradley Lake Hydroelectric Project and the Alaska Intertie to the Greater Railbelt Energy and Transmission Corporation; and providing for an effective date." She stated the committee substitute (CS) for HB 182, 26-GH1041\S, Chenoweth/Bailey, 3/24/10, was the working document before the committee.

[3:11:16 PM](#)

BRIAN BJORKQUIST, Senior Assistant Attorney General, Labor and State Affairs Section, Department of Law (DOL), referred to page

3, line 16, of the proposed CS that authorized the formation of the corporation. He explained that this section allows four or more municipal or cooperative public utilities, that are first authorized by law, to form. Section 13, page 21, line 17, provides the required authorization to form the Greater Railbelt Energy and Transmission Corporation (GRETC) from four or more of the public utilities listed in the bill. Subsection (b) provides a contingency that the corporation must agree to conduct a management audit of the corporation after three, six, and ten years, and provides criteria for the audit. Section 14 provides a conditional effective date for the bill and most of the amendments; under that section if the utilities provide a letter of intent to the Alaska Energy Authority (AEA) by 7/30/10, the authorization to form the corporation takes effect. Also on page 3, lines 20-25, there are two initial purposes for the formation of the corporation: (1) to acquire, operate, or maintain power and transmission projects from the AEA; (2) to plan for, recommend, coordinate, and otherwise address power generation and transmission (G&T) needs for the service territory of the corporation. Mr. Bjorkquist stated this provision is critical and is tied to replacing some of the void that will be caused by the termination of the Alaska Intertie Agreement.

[3:15:38 PM](#)

CO-CHAIR MILLETT asked Mr. Bjorkquist to explain how this structure is different from a joint action agency (JAA).

[3:15:58 PM](#)

MR. BJORKQUIST explained that the JAA statute pertains to projects acquired from the AEA, and was enacted to assist in the divestiture of the Four Dam Pool Power Agency project. House Bill 182 adds the purpose of planning for the interconnected service territory of the corporation, and has a greater public function. For example, the Four Dam Pool projects were isolated projects, and the JAA legislation focused on the acquisition of the projects. Furthermore, a JAA can be a joint venture between two or more public utilities to deal with a project or projects.

[3:18:39 PM](#)

CO-CHAIR MILLETT referred to AS 42.45.310, and pointed out that a JAA can request revenue bonds from the Alaska Industrial Development & Export Agency (AIDEA). She asked for the difference between the purposes of a JAA and GRETC, beyond the

fact that GRETC is authorized to own fuel storage, fuel resources, leases, land, pipelines, and to limit the abilities of independent power producers (IPPs). She asked for the reasons to form under GRETC instead of a JAA.

[3:19:51 PM](#)

MR. BJORKQUIST clarified that GRETC legislation also deals with issues such as electrically interconnected utilities, and obligates long-range regional planning functions-including the integrated resource plan (IRP)-and long-range fuel supply, capital improvement, and financial management plans. These regional planning functions are add-ons to GRETC that are not part of the JAA legislation or statutory scheme, because the JAA legislation was established for isolated projects without a need for regional planning. Mr. Bjorkquist stressed the importance of the regional planning component within GRETC.

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CO-CHAIR MILLETT asked whether a JAA could adopt an IRP, and form under a memorandum of understanding (MOU) without a [new] statute.

[3:21:37 PM](#)

MR. BJORKQUIST emphasized that the provisions in HB 182 are mandated, thus the utilities are required to complete regional planning. Without HB 182, all the utilities can "elect" to plan on a regional basis, but historically, comprehensive planning has not happened.

[3:22:15 PM](#)

REPRESENTATIVE JOHANSEN opined that the legislature, AEA, or the governor could require an IRP. He then asked whether there is another JAA in place in the state at this time.

[3:22:58 PM](#)

MR. BJORKQUIST said he was not aware of another JAA operating; however, there has been interest by the Railbelt utilities to form one in anticipation of the divestiture of Bradley Lake and the termination of the Alaska Intertie Agreement.

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CO-CHAIR MILLETT stated a JAA was formed 7/26/05 by Anchorage Municipal Light & Power (ML&P) and Golden Valley Electric Association (GVEA) called the Alaska Railbelt Energy Authority (AREA). She expressed interest in why this JAA failed and how GRETC will accomplish what the utilities could not do "on their own."

[3:24:34 PM](#)

MR. BJORKQUIST returned to page 3, line 30, and said another purpose of the corporation is to be the primary recipient of state financial assistance. In other words, this is a provision that the utilities must coordinate and consolidate before Railbelt energy funds are made available.

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CO-CHAIR MILLETT surmised that the reason to form GRETC is to have access to the Railbelt energy funds.

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MR. BJORKQUIST said yes, and added that there is other state financial assistance, as well. Page 4, line 3, subsection (c), provides for specific types of planning regarding the adequacy of fuel supply, the adequacy of G&T assets, and diversity in generation resources, renewable energy-based generation, and renewable energy generation resources.

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CO-CHAIR MILLETT asked for the meaning of "diversity in generation resources."

[3:26:31 PM](#)

MR. BJORKQUIST responded it means different fuel supplies, rather than having all of the energy generation from oil or gas.

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MR. BJORKQUIST, in further response to Co-Chair Millett, clarified that this section is for planning and making recommendations; in fact, the diversity in generation resources would be focused more on the generating assets that would use various types of fuels.

[3:27:43 PM](#)

CO-CHAIR MILLETT asked whether Sec. 42.50.[090] provides authority for the corporation to own, manufacture, purchase, acquire, accumulate, transmit, meter, and dispatch energy.

[3:28:05 PM](#)

MR. BJORKQUIST indicated yes. He called attention to page 4, line 19, and said this provision clarifies that the corporation will operate on a not-for-profit basis and will offer services at uniform standard-not necessarily postage stamp rates-due to the differences in the cost of providing services to various customers. Page 4, lines 26-27, provide that the corporation is for a public service.

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CO-CHAIR MILLETT recalled interest in the corporation's interconnection policy because promoters of renewable energy projects are unsure of whether the standards GRETC may adopt may exclude renewable projects from the grid.

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MR. BJORKQUIST referred to page 18, lines 7-9, and said this provision ensures that others can participate in the transmission system by giving the RCA jurisdiction over joint use and interconnection of the facilities. Furthermore, this provision will apply "forever" and empowers the RCA to order GRETC to allow an IPP to put power on the transmission system. He opined the provision demonstrates that GRETC can not close off the Railbelt system to others. It is very clear that the corporation is subject to this jurisdiction even after it otherwise ceases to be subject to RCA regulation in 2015.

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CO-CHAIR MILLETT asked for the purpose of [subsection] (g) that provides for the corporation adopting its own interconnection criteria.

[3:32:51 PM](#)

MR. BJORKQUIST explained that subsection (g) allows GRETC to establish a base of standards that can be arbitrated by the RCA in the case of disputes.

[3:33:36 PM](#)

MR. BJORKQUIST, in further response to Co-Chair Millett, said currently there is one interconnection standard within the Alaska Intertie Agreement applicable throughout the Railbelt and followed by the utilities voluntarily, or by agreement.

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CO-CHAIR MILLETT questioned whether the standards are approved by the RCA.

[3:34:40 PM](#)

MR. BJORKQUIST said he was unsure. The proposed statute on interconnection requires that the utilities first negotiate with each other, and then go to the RCA in the case of impasse. He continued to page 5, line 2, and said it provides that the board of directors includes two directors from each of the public utility members of the corporation, and one public director appointed by the governor from nominees supplied by directors on the board. Also on page 5 are provisions for the operation of the board. Proposed Sec. 42.50.040, on page 7, line 6, is the provision that establishes the hiring of employees. Page 7, line 17, is the provision that addresses membership. Mr. Bjorkquist pointed out the public utility members will have directors on the board, and other members could include public utilities that choose not to be public utility members, or those that do not qualify. A public utility member must be a public utility or a cooperative.

[3:36:59 PM](#)

CO-CHAIR MILLETT asked whether the chief executive officer (CEO) is appointed from the board or outside of the board.

[3:37:20 PM](#)

MR. BJORKQUIST answered that the CEO is from outside of the board. In further response to Co-Chair Millett, he guessed that there are no specific requirements of the CEO because the selection will be made by the sophisticated directors of the utilities.

[3:39:01 PM](#)

REPRESENTATIVE TUCK asked whether the CEO can be an employee of a non-voting member utility.

[3:39:43 PM](#)

MR. BJORKQUIST said correct. He added that the CEO can not be a director, but could be an employee of one of the public, or member, utilities.

[3:39:47 PM](#)

CO-CHAIR EDGMON asked whether the [CS] has been scrutinized by tax experts as to its not-for-profit status.

[3:40:16 PM](#)

MR. BJORKQUIST acknowledged that this topic has not been vetted, but it is understood by the utilities that there will be tax issues. He then noted that one change from the original bill regarding membership is that members can be added, or can withdraw, after the initial formation of the corporation.

[3:42:05 PM](#)

REPRESENTATIVE DAHLSTROM asked what would happen if half of the members want to withdraw.

[3:42:29 PM](#)

MR. BJORKQUIST advised that if the criteria were met, the members could withdraw, and the consequence is that the corporation would have fewer than the designed number of members. In further response to Representative Dahlstrom, he reminded the committee that the purpose of the bill is to give an opportunity for the Railbelt utilities to work together even if the utilities withdraw, and the goals of the corporation are not met.

[3:43:48 PM](#)

REPRESENTATIVE DAHLSTROM assumed that if a utility withdraws and it has received a benefit it would be liable.

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MR. BJORKQUIST referred to page 8, line 3, and pointed out that in order for a member to withdraw, it must pay liabilities.

Also, a public utility member can withdraw, but remain a member so it would not have to pay liabilities in a lump sum, or provide for payment. He continued to page 8, line 21, that was the provision for articles of incorporation, and stated that articles of incorporation are necessary to prove the existence of the corporation to the U.S. Department of Commerce, and for business purposes. Page 9, line 12, provides for bylaws, and page 9, line 22, provides for the indemnification of officers and employees. Page 9, line 25, provides for the general powers of the corporation. He described some of the conditions by which the corporation may sell energy power at retail to industrial customers.

[3:47:29 PM](#)

CO-CHAIR MILLETT observed that the corporation will sell power to the utilities for distribution. She asked whether GRETC can sell directly to an industrial anchor.

MR. BJORKQUIST clarified that GRETC can sell power to an industrial customer with the consent of the utility in the affected service area, and to industrial customers outside of service areas.

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CO-CHAIR EDGMON asked, "And do this as a not-for-profit corporation?"

[3:48:37 PM](#)

MR. BJORKQUIST said yes. He continued to page 11, line 8, that allows the corporation the power of eminent domain as a public utility, except to take a G&T asset from another public utility.

[3:49:17 PM](#)

CO-CHAIR MILLETT questioned whether eminent domain could be exercised over a private company that owns a pipeline, a gas storage facility, or a lease.

[3:49:55 PM](#)

MR. BJORKQUIST said he was unsure and would research the question.

[3:50:33 PM](#)

CO-CHAIR MILLETT provided an example of GRETC exercising eminent domain for the public good over a facility in which a private entity has invested millions of dollars.

[3:51:25 PM](#)

MR. BJORKQUIST said this was "theoretically possible" but, exercising eminent domain requires full payment of value-including the profitability of the asset-which is difficult to ascertain.

[3:52:07 PM](#)

CO-CHAIR MILLETT further asked about eminent domain over a depreciated pipeline with access to a gas lease in which GRETC is interested.

[3:52:22 PM](#)

MR. BJORKQUIST clarified that the issue in eminent domain is the fair market value, whether or not an asset has been depreciated.

[3:52:32 PM](#)

CO-CHAIR MILLETT pointed out that interest in the exploration of Cook Inlet by private industry may be ruined by the presence of a state-funded oil and gas company.

[3:53:14 PM](#)

MR. BJORKQUIST suggested that this topic may be addressed by the last set of amendments that remove the power of exploration from the corporation. Nevertheless, the acquisition of fuel supply is necessary for any utility that generates power.

[3:53:55 PM](#)

REPRESENTATIVE JOHANSEN noted on page 12, line 9, GRETC may create subsidiary corporations. He asked whether subsidiary corporations are subject to the same conditions and powers as the parent corporation.

[3:54:51 PM](#)

MR. BJORKQUIST opined GRETC is limited to perform the 25 powers of the corporation and other duties authorized by HB 182, thus

it could not expand into other areas by a subsidiary corporation. The purpose of creating a subsidiary corporation is to assist in the financing of a project. He then continued to page 12, line 15, that addressed public utility powers and regulation, and noted that GRETC is subject to RCA general regulation for the first five years. In addition, the corporation may not have retail sales of electric power except to an industrial customer with certain conditions, and it is not required to obtain a certificate under AS 42.05.221. This section will be amended by provisions found in Sec. 7 and Sec. 8 of the [CS], that provide exemptions from regulation, regulatory cost charge, and rate regulation in 2015. Further, Sec. 8 adds a new subsection that makes clear that the corporation will comply with principles and requirements of the RCA as if the corporation were a regulated public utility. Mr. Bjorkquist explained that these provisions deal with recordkeeping and documenting information regarding rates.

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CO-CHAIR MILLETT asked for the location of the five-year sunset.

[3:57:57 PM](#)

MR. BJORKQUIST stated on page 23, lines 7-8 identify which sections take effect 8/16/2015. Therefore, the exemption from rate regulation "sunrises" in 2015. He returned to page 12, and the sections dealing with regional planning. In combination, the provisions relate to advantages to ratepayers and future rates by regional planning for projects. Regional planning will provide information to the corporation and members, ratepayers, and the legislature. Furthermore, the legislature will provide oversight so it will need information to evaluate funding requests. In fact, on page 14, lines 11-14, subsection (b) addresses the ways in which the corporation can obtain state financing; however, the bill does not obligate the state to provide a specific type of financial assistance, or any type of financial assistance, and there is no limit to the "strings" the state can impose on financing in the form of terms and conditions. Although there is an expectation that the state will provide financing, there will be negotiations over the terms and conditions thereof.

[4:02:08 PM](#)

CO-CHAIR EDGMON asked:

By definition, the corporation, obviously, would tie in the subsidiary corporation ... is that sort of unspoken?

[4:02:19 PM](#)

MR. BJORKQUIST opined a subsidiary corporation would not have the powers of GRETC, for example, the ratemaking powers. He concluded, "So there's a limitation on what it can do and a limitation in the other statutory scheme as to what powers the subsidiary could have."

[4:03:36 PM](#)

CO-CHAIR MILLETT observed that GRETC legislation does not mention whether AIDEA revenue bonds could be requested. She asked why AIDEA is not a bonding source.

[4:04:01 PM](#)

MR. BJORKQUIST recalled the expectation that AIDEA will finance the sale of the Four Dam Pool Power Agency. He advised that the use of AIDEA or AEA financing is not precluded by the lack of language in HB 182.

[4:05:04 PM](#)

MR. BJORKQUIST returned to page 12, and said lines 25-30 refer to an IRP and require the corporation to provide a report explaining any deviation from an existing state plan. The provision will provide a degree of transparency and political accountability in that it provides pertinent information, and also that if GRETC deviates from the state energy plan it must explain why, in writing. On page 14, line 15, changes to the previous workdraft removed provisions dealing with producing oil or gas.

[4:06:51 PM](#)

CO-CHAIR MILLETT asked whether "direct ownership of transportation and storage facilities" remained in the bill.

[4:07:04 PM](#)

MR. BJORKQUIST advised page 14, lines 17-18, still include that language. In further response to Co-Chair Millett, he said the definition of a transportation facility is something like a

pipeline that could move a fuel source, and a storage facility could be a variety of means to store a fuel source; additionally, there is nothing in the language that would limit the type of fuel storage. Returning to the CS, tax provisions begin on page 14, line 22, and the intent of the tax provision is that the corporation maintains a tax-neutral stance towards local government. Public utilities are exempt from municipal taxes because they are governmental entities, and cooperatives are exempt from local property taxes by statute, and pay an electric cooperative tax instead. The corporation is exempt from taxes unless it sells electricity at retail; therefore, in the case of the sale of electricity at wholesale to a cooperative, the cooperative pays a tax to the state on its sales that is reimbursed to the local government, thus becoming a payment in lieu of taxes.

[4:09:42 PM](#)

CO-CHAIR EDGMON asked whether severance and royalty taxes are factored into that provision.

[4:10:05 PM](#)

MR. BJORKQUIST stated that the provision currently applies to electric cooperatives in Alaska and he was unsure how severance and royalty taxes apply.

[4:10:27 PM](#)

CO-CHAIR EDGMON surmised this issue must be addressed in the future.

[4:10:34 PM](#)

REPRESENTATIVE JOHANSEN referred to page 13, line 23, that establishes a schedule for review of the long-range plan every five years. He asked whether the intent is to wait for five years because "they have five years to get all of these plans out to the public and to the legislature."

[4:11:45 PM](#)

MR. BJORKQUIST opined that is not the intent of the bill; in fact, the reference is to establish a schedule for reviewing the long-range fuel supply plan, and for an up-date at least once every five years. He called attention to subsection (a), that directs the corporation to adopt a plan, and subsection (b),

that schedules the review and update, without a timeframe for when the initial plans are to be provided.

[4:13:02 PM](#)

CO-CHAIR MILLETT assumed the review will be done by the public and the legislature.

[4:13:26 PM](#)

MR. BJORKQUIST observed that the review is by the board, and after the board updates the plan, it is made available to the governor, the legislature, ratepayers, and members, at least every five years.

[4:14:37 PM](#)

CO-CHAIR MILLETT inquired about other state entities that come up for long-range financial management plan reviews.

[4:14:56 PM](#)

MR. BJORKQUIST pointed out GRETC is a private, not a state, corporation and the reason for the reports is that one of the primary purposes of GRETC is to be the vehicle for the utilities to come to the state for financial assistance.

[4:15:40 PM](#)

CO-CHAIR MILLETT questioned whether the legislature and the state should fund an organization without annual reviews.

[4:17:07 PM](#)

MR. BJORKQUIST pointed out the provisions on page 15, line 28, that call for an annual audit to be submitted to the governor and the legislature. In addition, page 14, line 27, provides for the board to publish an annual report on the Internet that includes any other information requested by the legislature.

[4:18:28 PM](#)

REPRESENTATIVE JOHANSEN asked what type of legislative request for information is required.

[4:19:02 PM](#)

MR. BJORKQUIST opined the request from the legislature would be a resolution.

[4:19:30 PM](#)

CO-CHAIR EDGMON asked for the intent behind the "long-range capital improvement plan."

[4:19:54 PM](#)

MR. BJORKQUIST explained that the long-range capital improvement plan looks at the activities of the corporation 10 years in the future. This ties in with the long-range financial management plan after decisions are made about what facilities to build.

[4:20:55 PM](#)

CO-CHAIR EDGMON observed this is influenced by the six utilities.

[4:21:16 PM](#)

MR. BJORKQUIST agreed, adding that this language is part of the legislation developed from the taskforce process. He returned to page 18, line 20, that determines rates for electric power, energy, and services. He said this section takes effect in 2015, and described the process to establish rates and charges, arbitration, and litigation.

[4:22:56 PM](#)

CO-CHAIR MILLETT asked for the reason the RCA would not be involved in the ratemaking instead of "mediated internally in the GRETC corporation straight to litigation."

[4:23:18 PM](#)

MR. BJORKQUIST assured the committee the details of the corporation's internal dispute resolution mechanism will be provided in its by-laws, because internal disputes can take place at any time. Setting of the rates, however, takes place in 2015, after the RCA is no longer involved. Page 21, line 3, begins Sec. 11 that authorizes AEA to contract with GRETC to operate and maintain a power project in order to allow GRETC to participate in the Bradley Lake Hydroelectric Project and the Alaska Intertie. He advised that the balance of the CS is the effective date provisions and concluded his sectional analysis.

[4:25:30 PM](#)

REPRESENTATIVE TUCK referred to the long-range capital improvement plan and the long-range financial management plan on page 13, and asked what projects will happen in the next five years that would need rate regulation by the RCA.

[4:25:57 PM](#)

MR. BJORKQUIST explained that the planning function is looking at the next 10 years and must begin immediately after the formation of the corporation. However, there may be immediate needs for projects that the utilities can develop more quickly.

[4:27:20 PM](#)

REPRESENTATIVE PETERSEN stated that at least four members are needed to create the corporation. He asked whether the corporation would continue forward with less than four after it was established.

[4:27:56 PM](#)

MR. BJORKQUIST said yes. The organization of the corporation requires four members but, once the corporation is organized, it does not lose the ability to exist.

CO-CHAIR MILLETT opened the hearing to public testimony.

[4:28:23 PM](#)

JANET REISER, Board Member, Chugach Electric Association, Inc. (Chugach Electric), informed the committee Chugach Electric is the largest electric generating entity in the state and she expressed the board's unqualified support of HB 182. She emphasized the amazing process that resulted in this legislation; in fact, the utilities have come together as they are interested in the ratepayer situation, gas supply, and electricity generation issues, and to take advantage of economies of scale and to reduce regulatory risk. GRETC legislation is in line with the REGA study and the IRP, and Ms. Reiser urged support of the bill, and recognized the long process and work of the utilities and the taskforce.

[4:32:44 PM](#)

REPRESENTATIVE TUCK asked what projects the utilities may undertake within the next five years.

[4:33:02 PM](#)

MS. REISER said there are opportunities to develop renewable energy projects, gas storage projects, and combined gas generation projects. She also mentioned Southcentral Power Projects (SPP) and pointed out that big ticket projects can not be handled by individual utilities. In further response to Representative Tuck, she said she was unsure of the GRETC timeline.

[4:34:20 PM](#)

CO-CHAIR EDGMON asked whether the state can pursue an in-state gas pipeline and GRETC concurrently.

[4:35:02 PM](#)

MS. REISER opined GRETC will provide the opportunity for common planning-including for transmission-with all of the utilities, and that GRETC and a gas pipeline project are not mutually exclusive.

[4:35:55 PM](#)

CO-CHAIR MILLETT asked for Chugach Electric's policy on continuing RCA oversight of GRETC if the five-year sunset were eliminated.

[4:36:28 PM](#)

MS. REISER said, "My general feeling is ... that is not a stop-issue for Chugach."

[4:36:55 PM](#)

MS. REISER, in further response to Co-Chair Millett, said there has been no discussion at the board level about Chugach Electric getting into the oil and gas business.

[4:37:17 PM](#)

JOE GRIFFITH, General Manager, Matanuska Electric Association, Inc., (MEA), informed the committee HB 182 is a crucial bill for

the Railbelt in order to avoid very difficult times for the electrical industry. He advised this legislation was needed ten years ago, and the way to a new gas supply and G&T improvements is by collective effort. Mr. Griffith requested that the committee pass the bill in the version submitted by the governor.

[4:40:26 PM](#)

CO-CHAIR MILLETT asked whether continuing RCA oversight for the life of the GRETC organization was a "game-killer."

[4:40:36 PM](#)

MR. GRIFFITH said MEA sees no reason for multiple layers of regulation in addition to what already exists; in fact, more regulation adds unnecessary cost and delay. The five-year agreement with the sunset clause is acceptable and "makes sense."

[4:41:36 PM](#)

CO-CHAIR MILLETT assumed the RCA has no purpose prior to GRETC's sixth year.

[4:41:56 PM](#)

MR. GRIFFITH disagreed, and stated there may be immediate projects, such as for transmission needs and power plants, that may begin soon and that are "in the regulated environment." He cautioned against development by the utilities without coordination through GRETC. In further response to Co-Chair Millett, he said MEA would not pull out of the agreement if the sunset clause on regulation by the RCA were removed.

[4:43:02 PM](#)

CO-CHAIR MILLETT asked whether MEA is interested in GRETC becoming an oil and gas company.

[4:43:37 PM](#)

MR. GRIFFITH opined the intent was never for GRETC to become an oil and gas company, but to have the authority to get the fuels it needs by importation, fostering drilling, owning gas in the ground, or leasing tracts.

[4:44:16 PM](#)

REPRESENTATIVE JOHANSEN asked whether Mr. Griffith has testified before the committee in another capacity.

[4:45:11 PM](#)

MR. GRIFFITH said he was unsure. He became MEA's general manager in July, 2009.

[4:45:17 PM](#)

REPRESENTATIVE JOHANSEN asked for more information about the aforementioned regulations referred to by Mr. Griffith.

[CO-CHAIR MILLETT handed the gavel to Co-Chair Edgmon.]

[4:45:24 PM](#)

MR. GRIFFITH identified existing regulation as the Sarbanes-Oxley Act of 2002.

[4:45:56 PM](#)

REPRESENTATIVE JOHANSEN surmised federal regulation would be by the U.S. Securities and Exchange Commission (SEC) and the Sarbanes-Oxley Act, in lieu of regulation by the RCA.

[4:47:03 PM](#)

MR. GRIFFITH clarified that irrespective of state regulation, a corporation with public debt is under the regulation of the SEC, and is subject to the Sarbanes-Oxley Act. In further response to Representative Johansen, he said when these regulations apply, he would recommend to the board of directors that it explain to the ratepayers the implications of SEC regulations by issuing applicable reports and following generally acceptable accounting principles. Mr. Griffith observed that "there are a huge number of rules that we have to live by, no matter what."

[4:49:24 PM](#)

REPRESENTATIVE JOHANSEN then asked how the needed short-term projects fit within the process of the long-range capital improvement plan in GRETC. He remarked:

Would you have to go through this process and get the GRETC corporation on board, in order to quickly move to those projects, or are they projects that are more dear to MEA? I'm just not sure of the timing ...

[4:50:27 PM](#)

MR. GRIFFITH said his recommendation to the board of directors would be to conduct the planning processes required: a long-range financial plan; a long-range capital improvement plan; a budget. Additional crucial steps involve public debt and require rating agencies and business plans. The construction of these plans is one of the first steps.

REPRESENTATIVE JOHANSEN asked whether GRETC will help the six entities cooperate.

MR. GRIFFITH expressed his belief that GRETC is the only course of action to undertake. He said, "I can't imagine how we're going to deal with future requirements that we face individually."

[CO-CHAIR EDGMON returned the gavel to Co-Chair Millett.]

[4:50:53 PM](#)

KATIE HURLEY, Board Member, Matanuska Electric Association, Inc. (MEA), stated that this is the first time the Railbelt utilities are in agreement since the construction of the Bradley Lake Hydroelectric Project in 1986. She described the current crises faced by the utilities such as new generation, interties, and fuel supplies, and opined that GRETC is needed to coordinate the utilities, the state, and fuel supplies. MEA supports HB 182, and she urged the committee to consider its passage.

[4:52:45 PM](#)

KIT JONES, Board Member, Matanuska Electric Association, Inc. (MEA), informed the committee that the Railbelt must work together, and a majority of the ratepayers want to see this done. She pointed out that MEA also changed management, and she urged the general manager to comment on the IRP as this report will give the utilities direction.

[4:54:09 PM](#)

LARRY DEVILBISS, Board Member, Matanuska Electric Association, Inc. (MEA), said that he is a seven-year member of the board. He stressed that the MEA board is united on this issue, as is the Railbelt, which represents three-quarters of the population of the state. He opined the uncertainty of gas and the depreciation of infrastructure is a "perfect storm" that will lead to gas shortages before 2015. Mr. DeVilbiss recalled the months of work by the taskforce.

[4:57:16 PM](#)

CO-CHAIR MILLETT stated her appreciation of the taskforce process.

[4:58:43 PM](#)

BOB PICKETT, Chairman, Regulatory Commission of Alaska (RCA), acknowledged the work of the taskforce and its cooperation with AEA. He disclosed that his testimony is his personal observation alone, and not the position of the RCA. He announced that an upcoming RCA public meeting on the GRETC legislation was scheduled for 3/31/10. Mr. Pickett stated that the RCA supports the broad goals of the original GRETC legislation such as cooperation, joint planning, and the lack of duplication; however, protection of the public interest and protection of the ratepayers must be integral to any legislation. Regarding the CS for HB 182, version 26-GH1041\S, Chenoweth/Bailey, 3/24/10, he observed that Sec. 3 is purported to be an interim form of traditional regulation proposed for the RCA, but he cautioned that the language of Sec. 3 is dramatically different from traditional rate regulation. In fact, the language more closely resembles an exemption than regulation. In traditional ratemaking, operating expense recovery is based on historic cost with known and measurable adjustments. For example, the rate of return and depreciation are set to provide funds for system expansion, capital repairs, and overhaul and replacement. Furthermore, the resulting rates must be just and reasonable. However, the deviations in Sec. 3 are generally these: the operating expense recovery is based on management representations about future operations; the capital is accumulated "as an end in itself, with the amounts collected in any particular period determined by an unspecified relationship to future needs;" some individual cost elements are presumed to be just and reasonable without guidance as to how the resulting rates will be evaluated. Mr. Pickett said written comments will be provided to the committee after the RCA meeting, but he advised that if Sec. 3 remains in the bill, the

RCA will require strong legislative clarification because this language "has nothing to do with the traditional ratemaking process." Furthermore, there are other policy and technical questions that arose during Mr. Pickett's review of HB 182. He questioned the underlying policy assumption throughout the bill that auditing or corporate governance equals regulation, or that federal regulation supplants the normal ratemaking process. Mr. Pickett said, "Again, keep in mind I'm speaking for myself, [and] I think nothing could be further from the truth." He called attention to the present financial crisis, and pointed out that there was a plethora of external auditors and regulation regarding those affected financial institutions, "and we all saw where this led."

[5:06:13 PM](#)

MR. PICKETT referred to page 13, lines 28-31, and noted the corporation plans include the issuance of equity and debt. He questioned how GRETC will issue equity as it is a not-for-profit corporation. Regarding Bradley Lake, he acknowledged that the project was a huge success and a benefit to Railbelt utility ratepayers, but the success of Bradley Lake is not a model for, or an endorsement of, all of the provisions of the GRETC legislation. Furthermore, he noted other state projects with significantly lower levels of success. Mr. Pickett concluded that G&T is the biggest cost for ratepayers and capital investment is needed for the Railbelt electrical system. If one of the goals of GRETC is to deregulate the electrical utility system, the ratepayers should be well aware of the situation and be given the opportunity to speak.

[5:08:52 PM](#)

CAITLIN HIGGINS, Executive Director, Alaska Conservation Alliance (Alliance), informed the committee the Alliance has 40 member organizations representing 38,000 Alaskans. She said the Alliance appreciates the administration's work to find consensus, and the positive first steps taken by the Railbelt utilities. Furthermore, the Alliance and the Homer Electric Association, Inc. (HEA) Members Forum encourage the legislators' consideration of the following testimony so the organizations may ultimately support the proposed legislation. Ms. Higgins agreed that a central utility that plans and promotes energy efficiency could provide the Railbelt with significant economic gains, job growth, and needed generation projects. Furthermore, the Alliance supports including statutory language that requires the unified utility to evaluate conservation and renewable

energy in the development of its resource plan. In addition, the Alliance supports ongoing regulatory and financial oversight of the proposed unified utility by the RCA; however, this oversight should not sunset after five years of operation and Ms. Higgins related several benefits of ongoing RCA regulation. She turned to the subject of governance and public input, and urged that the board of directors of the new utility increase citizen participation on the board, or create a separate citizens' utility board. She said the Alliance also supports statutory language that maintains open meeting provisions. Ms. Higgins concluded that in order for the Alliance to support the legislation, its members encourage the committee to consider adding language to HB 182 in order to better address financial and regulatory oversight, governance and public input, and energy efficiency.

[HB 182 was held.]

[5:13:15 PM](#)

ADJOURNMENT

The House Special Committee on Energy was recessed at 5:13 p.m. to a call of the chair. [The meeting was reconvened at 5:03 p.m. on March 31, 2010, for the purpose of adjournment, and no legislation was heard.]