

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON ENERGY**

March 15, 2011

3:05 p.m.

**MEMBERS PRESENT**

Representative Lance Pruitt, Co-Chair  
Representative Bob Lynn  
Representative Kurt Olson  
Representative Dan Saddler  
Representative Pete Petersen  
Representative Chris Tuck

**MEMBERS ABSENT**

Representative Neal Foster, Co-Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 36

"An Act establishing the Alaska energy efficient small business grant fund and program."

- HEARD & HELD

HOUSE BILL NO. 37

"An Act relating to the net metering of electric energy for electric utilities subject to economic regulation by the Regulatory Commission of Alaska and for a utility's retail consumers; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 36

SHORT TITLE: SMALL BUSINESS ENERGY EFFICIENCY GRANTS

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/18/11	(H)	PREFILE RELEASED 1/7/11
01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	ENE, FIN
03/15/11	(H)	ENE AT 3:00 PM BARNES 124

BILL: HB 37

SHORT TITLE: NET ENERGY METERING

SPONSOR(s): REPRESENTATIVE(s) OLSON

01/18/11	(H)	PREFILE RELEASED 1/7/11
01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	ENE, L&C
03/15/11	(H)	ENE AT 3:00 PM BARNES 124

**WITNESS REGISTER**

JENNIFER SENETTE, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 36 and HB 37 on behalf of Representative Olson, sponsor.

CARY BOLLING, Government Relations Officer  
Alaska Housing Finance Corporation (AHFC)  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 36.

SEAN SKALING, Program Manager for Energy Efficiency  
Alaska Energy Authority (AEA)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 36.

JAMES KEEN, Chief/Engineer  
Regulatory Commission of Alaska (RCA)  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 37.

MARILYN LELAND, Executive Director  
Alaska Power Association (APA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 37.

DEAN THOMPSON, Attorney  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 37.

JOE GALLAGHER, Public Relations Coordinator

Homer Electric Association, Inc. (HEA)  
Homer, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 37.

JAMES ADAMS  
Nome, Alaska

**POSITION STATEMENT:** Testified in support of HB 37.

MEGS TESTARMATA  
Nome, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 37.

GENE THERRIAULT, Vice President  
Golden Valley Electric Association, Inc. (GVEA)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 37.

#### **ACTION NARRATIVE**

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**CO-CHAIR LANCE PRUITT** called the House Special Committee on Energy meeting to order at 3:05 p.m. Representatives Pruitt, Saddler, Petersen, Tuck, and Olson were present at the call to order. Representative Lynn arrived as the meeting was in progress.

#### **HB 36-SMALL BUSINESS ENERGY EFFICIENCY GRANTS**

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CO-CHAIR PRUITT announced that the first order of business would be HOUSE BILL NO. 36," An Act establishing the Alaska energy efficient small business grant fund and program."

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JENNIFER SENETTE, Staff for Representative Kurt Olson, Alaska State Legislature, stated that HB 36 "mirrors" the existing successful Alaska Housing Finance Corporation (AHFC) energy rebate program. The existing energy rebate program benefits residential buildings and HB 36 intends to establish an energy rebate program to benefit small businesses, such that small business owners wishing to make energy efficiency improvements on their businesses can receive a rebate for some of their expenditures. In a manner similar to the residential program, an energy rater will evaluate the business structure before and

after the improvements are made, thus the rebate is based on the amount of energy efficiency gained. Furthermore, HB 36 includes guidelines that businesses must meet as follows: 1. The assessed value of the structure does not exceed \$1 million; 2. The structure must be owned by a business owner licensed in Alaska and who does not have outstanding liabilities to the state; 3. The structure must meet the additional criteria set by AHFC. Ms. Senette explained that extending the energy efficiency rebates to the commercial sector will encourage small businesses in the state to embrace energy efficiency. She acknowledged that some details of the proposed legislation are yet to be worked out, such as how the program will be capitalized.

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REPRESENTATIVE OLSON further explained that a committee substitute (CS) is being prepared; one change under consideration is to base the evaluation of a structure on its square footage - instead of its assessed value - in order to better serve rural communities. He urged the chair to hear public testimony, but to hold the bill in committee.

REPRESENTATIVE SADDLER asked why rebates will be extended to new construction.

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MS. SENETTE acknowledged that most new buildings are built with energy efficiency in mind, however, the bill follows the parameters set by AHFC's home energy rebate program, and new homes are included in that program.

REPRESENTATIVE SADDLER then asked whether the bill will authorize the state to provide second mortgages to businesses.

CARY BOLLING, Government Relations Officer, Alaska Housing Finance Corporation (AHFC), Department of Revenue (DOR), responded that the present home energy rebate program has a separate component that allows an applicant to apply for a \$30,000 loan for energy-saving improvements. After the work is done, the rebate is applied to the loan balance. However, AHFC does not have a loan program for businesses at this time. In further response to Representative Saddler, he said AHFC would undertake a similar program for businesses if one were appropriated by the legislature.

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REPRESENTATIVE SADDLER called attention to page 2, line 11, of the bill and read, "None of the applicants for the grant has outstanding liabilities to the state." He asked what the sponsor intended by this language.

REPRESENTATIVE OLSON indicated he was unsure; however, it is prudent to ensure that any previous liabilities to the state are current.

REPRESENTATIVE PETERSEN asked whether a student loan from the state would disqualify an applicant.

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MS. SENETTE offered to further define the language.

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REPRESENTATIVE PETERSEN asked whether a large chain store like Wal-Mart would be able to apply if it had a small building.

MS. SENETTE indicated yes, if it met the guidelines.

REPRESENTATIVE OLSON opined the fiscal note would grow if applicants are qualified on their assets and liabilities. His personal experience with AHFC's home energy program was favorable, and his intent by this legislation is to extend the same benefits to small businesses.

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REPRESENTATIVE PETERSEN agreed with the idea, and asked whether the legislation needs to define "a small business." The federal definition of 100 employees may not apply in Alaska.

REPRESENTATIVE OLSON recalled legislation on this issue was to be included in the "omnibus energy bill" that passed last year, and offered to reassign HB 36 to the energy committee for further refinement.

REPRESENTATIVE PETERSEN reminded the committee AHFC estimated an additional \$75 million was required to continue its existing rebate and weatherization programs.

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SEAN SKALING, Program Manager for Energy Efficiency, Alaska Energy Authority (AEA), Department of Commerce, Community & Economic Development (DCCED), informed the committee AEA has in place a commercial energy audit program funded by the American Recovery and Reinvestment Act of 2009 (ARRA). During the six-week application period, one hundred and thirty-five applications were received. He explained that this program will subsidize the cost of an energy audit for an amount from \$1,000-\$6,000 on a commercial building up to one hundred and twenty-five thousand square feet in size. Mr. Skaling opined the number of applications received indicates that there is a need for energy-related programs for the privately-owned commercial sector.

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REPRESENTATIVE PETERSEN asked whether rental property would qualify for the small business energy rebate program established by HB 36.

MS. SENETTE said she was unsure.

REPRESENTATIVE SADDLER supported the idea of the bill.

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[HB 36 was held for further testimony.]

[3:27:48 PM](#)

The committee took an at-ease from 3:27 p.m. to 3:27 p.m.

[3:30:34 PM](#)

### **HB 37-NET ENERGY METERING**

[3:30:41 PM](#)

CO-CHAIR PRUITT announced that the final order of business would be HOUSE BILL NO. 37, "An Act relating to the net metering of electric energy for electric utilities subject to economic regulation by the Regulatory Commission of Alaska and for a utility's retail consumers; and providing for an effective date."

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JENNIFER SENETTE, Staff, Representative Kurt Olson, Alaska State Legislature, stated that HB 37 incorporates the work the Regulatory Commission of Alaska (RCA) has done regarding net metering. In 2009, the RCA opened a docket to consider implementing regulations for an Alaska-specific net metering standard. Later in the year, the RCA heard public comment and adopted net metering regulations. House Bill 37 codifies the regulations adopted by the RCA. Ms. Senette provided a brief description of the net metering process. She then began the sectional analysis at page 1, subsections (a), (b), (c), and (d), of the bill, which address the applicability of the net metering requirement and the possibility of waivers. Generally, the net metering requirement applies to all electric utilities subject to regulation by the RCA, but for two exceptions. The exceptions are described on page 2, subparagraph (A), for utilities that get 100 percent of their power from an eligible facility, and subparagraph (B), for an independent system with retail sales of less than 5 million kilowatt hours (kWhs) during the previous fiscal year. In addition, a utility that can demonstrate that limiting net metering installations is necessary due to its operational system is also exempt, and the RCA can waive requirements. On page 2, subsections (e)-(i) relate to net metering of electricity and set an overall capacity limit on net metering. Subsection (f) allows a utility to opt out of net metering service when the overall nameplate capacity of all of the net metering systems interconnected with the utility exceeds 1.5 percent of the utility's average retail demand. On page 3, subsection (i) allows a utility to request an increase to the 1.5 percent capacity limit. Further on page 3, subsection (g) precludes a utility from disconnecting existing net metering customers, should the cumulative nameplate capacity of net metering systems exceed the cap as a result of a decrease in demand. Subsection (h) requires a utility to annually publish in its tariff the number of kWhs that are equivalent to 1.5 percent of the utility's average retail demand. On page 5, subsection (l), specifies the eligibility criteria for consumer generation facilities, including the capacity limit of 25 kWhs. On page 5, subsections (m)-(p) address charges and credits for net electricity, including a description of net metering. Continuing on page 5, paragraph (2) instructs that compensation is based on the utility's non-firm purchase power rate and that credits can be carried forward and do not expire. Subsection (n) allows utilities to charge a net metering consumer for non-generation consumer charges, if authorized by the utility's tariff. Subsection (p) allows a

utility to request a change to its rate design to incorporate a net metering customer class, but to do this the utility would have to demonstrate an adverse material rate impact on non-net metering consumers. Ms. Senette advised the remainder of the bill is definitions.

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MS. SENETTE noted that the utilities have reported mixed responses to the legislation, primarily because the regulations were adopted recently, thus it is too early to proceed further.

REPRESENTATIVE OLSON added that there were no negative comments prior to yesterday and today; however, the Alaska Power Association (APA) and other interested parties have now pointed out that the regulations have not been completely implemented by the RCA, or approved by the Department of Law (DOL). He requested that the co-chairs hold the bill until 1/12, but continue with today's testimony. Representative Olson cautioned that codifying the regulations at this time could lead to unintended consequences.

REPRESENTATIVE PETERSEN opined it makes sense to wait for further changes in the regulations by the RCA.

REPRESENTATIVE SADDLER asked whether there is a technical limit to how much power a utility can "take back into its system."

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JAMES KEEN, Chief/Engineer, Regulatory Commission of Alaska (RCA), Department of Commerce, Community & Economic Development (DCCED), stated that the utilities indicated there is a limitation as to how much non-firm power a utility can receive and still maintain stability in its system. The net metering power addressed in the regulations is non-firm and is not controlled by the utility, therefore, there are system stability concerns for some utilities. He indicated that for the regulations, this concern was addressed by the insertion of a "low cap." In further response to Representative Saddler, he said the utility may choose to install a second meter to measure net metering power, and existing regulations state that the utility is responsible for the cost of the additional meter so that costs are equal for net metering and non-net metering customers, and is part of the tariff.

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MARILYN LELAND, Executive Director, Alaska Power Association (APA), informed the committee APA is the statewide trade association that represents the electric utilities that supply power to more than 500,000 Alaskans from Barrow to Southwestern Alaska, through the Interior and Southcentral and down the Inside Passage. She paraphrased from the following written testimony [original punctuation provided]:

In the way of background I'd first like to give you a little history of how we got to where we are today. In 2006-2008 net metering was being considered by the Regulatory Commission of Alaska in its docket on the adoption of regulations to implement amendments to the Public Utility Regulatory Policies Act of 1978 by the Energy Policy Act of 2005. In that docket, the Commission was required to make a decision as to whether it would adopt the federal standard for Alaska for net metering. The commission decided that it would not adopt the federal standard, but opened a docket to determine whether it would require net metering standards specific for Alaska.

The docket was opened in January 2009 and several workshops were held for interested parties to work on proposed regulations. Because this docket was already open and under consideration during the last legislative session, APA recommended that the legislature not take action on any of the net metering bills that were before it. No further action was taken by the legislature last session on any of the bills and the RCA process was a success. There was exceptionally good participation in the workshops, with more public participation than the RCA has experienced in any of its dockets. In the workshops, Commission staff, utility representatives and a variety of public participants worked through proposed regulations and came to agreement that all who participated could live with. I would like to commend the RCA for the process it used in this docket.

The Commission issued an Order Adopting Regulations on January 15, 2010. However - and this is very important - the agency has not yet completed work on its net metering regulations. The RCA is considering further revisions to the currently effective net metering regulations, to address interconnection

requirements for net metered generation. As presently proposed, the new requirements will be added as a section within the current net metering regulations. An RCA order in R-09-2 is expected by May 5, but it can take months for Department of Law review and certifications before regulations are finalized and placed into effect. APA and its members support the intent of the sponsor of HB37.

However, we believe that codification is at the least premature, and we urge that no action be taken at this time.

In fact, we believe that putting the RCA's net metering regulations in statute is not necessary. The RCA has addressed the issue well and is the best suited to address any needed changes in the future. Codifying the current regulations will limit the RCA's ability to implement any needed changes in the future and could well lead to unintended consequences by not allowing the RCA to make future changes using its public docket process. Current net metering requirements, and any future changes, involve careful balancing of issues of utility ratemaking, utility system operations, consumer input and policy. APA understands the good intention that codifying net metering regulations guards against precipitous future changes, but based on the RCA's open and thoughtful rulemaking process employed thus far, APA is comfortable leaving net metering in the regulatory arena. As I said, APA understands there are good arguments for the statutory as well as the regulatory approach, but favors the regulatory approach at this point in time.

The RCA is empowered and tasked by statute, and has the technical expertise and experience to conduct the research and the balancing of interests necessary to address net metering. In addition, APA believes the RCA's well-established rulemaking process provides the necessary opportunity for public comment, workshops, and analysis. Also important to note is that some state legislatures have enacted net metering statutes because their public utilities commissions were not able or willing to adequately address the issue. That is not the case in Alaska.

The members of APA [are] not opposed to small scale renewable generation, or to purchasing power from such consumer-owned generation. Our members are likewise not opposed to consumers reducing their electric purchases by using their own generation. The issue is making sure that a purchased-power rate is not just fair for the seller of that power, but is equitable to all ratepayers of a utility who must share in any subsidized rate.

APA believes that the Regulatory Commission is best equipped to make those determinations.

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CO-CHAIR PRUITT noted that utilities purchase power at a wholesale rate and asked how customers who are not participating in net metering will be affected.

DEAN THOMPSON, Attorney, disclosed he worked with APA and its members through the RCA workshops, comments, and other proceedings. He answered that as the regulations are now, the amount by which the net metered customer is compensated for excess generation is determined based upon the utility's avoided cost. For example, if the utility burns one less gallon of fuel, the cost of that fuel is paid to the net metered customer. Thus, this process of calculation does not affect the non-net metering customers. Also, net metering customers can offset their own energy use by a decline in use, which will ultimately reduce cost for everyone; however, this impact is very small on the other customers. Mr. Thompson summarized that as long as the pricing is based on avoided cost, there is no significant impact.

REPRESENTATIVE PETERSEN surmised if the price of fuel goes up, the compensation to the customer would also go up.

MR. THOMPSON said correct.

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JOE GALLAGHER, Public Relations Coordinator, Homer Electric Association, Inc. (HEA), informed the committee HEA is the member-owned cooperative serving the western Kenai Peninsula. Mr. Gallagher relayed HEA is generally supportive of HB 37; however, his organization agrees that action on the bill should be delayed until 1/12. Shortly after the RCA regulations were

adopted, HEA incorporated the language as part of its tariff and has 39 members - 28 wind projects and 11 solar projects - using this system. At this point, the program seems to be working. Although pleased with the results so far, HEA believes it is premature to codify the regulations.

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REPRESENTATIVE SADDLER asked how many ratepayers HEA serves.

MR. GALLAGHER said HEA has approximately 28,000 meters on its system.

REPRESENTATIVE SADDLER asked for the total number of people involved in net metering.

MR. KEEN said currently four utilities have reported the following: Chugach Electric Association has used .25 of its 1.5 percent cap; HEA has used 12.61 percent of its 1.5 percent cap; Matanuska Electric has used 4.36 percent of its 1.5 percent cap; Golden Valley Electric Association has used 1.12 percent of its 1.5 percent cap.

JAMES ADAMS said he has a private windmill connected to the Nome Joint Utility System grid. He expressed his support for the bill because it is good business to use renewable resources to reduce the consumption of diesel fuel.

REPRESENTATIVE PETERSEN asked how much electricity Mr. Adams is producing.

MR. ADAMS reported that he has had his windmill for two to two and one-half years and it has reduced his light bill by \$50 per month. In response to Co-Chair Pruitt, he said this is a savings of 20-25 percent.

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MEGS TESTARMATA said she is a renewable energy engineering student. She noted that the previous speaker does not have net metering available and does not get credit for the power he generates. Ms. Testarmata asked whether net metering percentages are available for Nome.

MR. KEEN advised that Nome Joint Utility System is not economically regulated by the RCA, thus existing regulations and the proposed legislation are not applicable.

MS. TESTARMATA said that is a big disappointment to Nome residents. Although the state is supporting renewable energy, her experience is that there is a consensus that the statewide effort to use sources of renewable energy is being held back by the utilities and their reluctance to work with renewables. She opined that it is possible for rural systems to incorporate renewables, as shown by the systems in Kanakanak and St. Paul. Ms. Testarmata urged passage of the bill so that everyone in the state can participate in Alaska's goal of becoming sustainable in its use of energy. She emphasized her regret that the bill will not benefit those in Nome who wish to participate. Referring to page 3, line 14, subsection (i), of the bill, she suggested that because of the reluctance on the part of some utilities, consumers should also be able to petition for an increase in the 1.5 percent cap.

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GENE THERRIAULT, Vice President, Golden Valley Electric Association, Inc. (GVEA), stated that GVEA is generally supportive of HB 37; however, his company understands the concerns of the smaller utilities because they have more difficulty integrating net meter power into their systems which are not as large and robust as that of GVEA. He noted that at 1.12 percent, GVEA is approaching its limit set out in the bill, but can accommodate those participating in the Sustainable Natural Alternative Power (SNAP) program. Mr. Therriault supported holding the bill from final passage until 1/12, in order to see how the regulations are implemented. Referring to the previous speaker's suggestion, he pointed out that ratepayers can petition for an increase to the 1.5 percent cap through their elected officials. Mr. Therriault encouraged legislators to ensure that the language in the bill, as it moves through committees, continues to be closely related to the RCA regulations.

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REPRESENTATIVE OLSON opined if the bill moved away from its original intent, it would not pass.

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[HB 37 was heard and held.]

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**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Energy meeting was adjourned at 4:11 p.m.