

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 2, 2011

3:18 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Dan Saddler
Representative Paul Seaton
Representative Steve Thompson
Representative Lindsey Holmes
Representative Bob Miller

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

OVERVIEW: REGULATORY COMMISSION OF ALASKA

- HEARD

Division of Insurance

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

ROBERT PICKETT, Commissioner; Chair
Regulatory Commission of Alaska (RCA)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Presented an overview of the Regulatory Commission of Alaska (RCA)

ACTION NARRATIVE

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CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Olson, Miller, Johnson, Saddler, Thompson, and Holmes were present at the call to order. Representatives Seaton arrived as the meeting was in progress.

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Overview: Regulatory Commission of Alaska

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CHAIR OLSON announced that the only order of business would be an overview by the Regulatory Commission of Alaska (RCA).

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ROBERT PICKETT, Commissioner; Chair, Regulatory Commission of Alaska (RCA), began his PowerPoint overview by explaining that the RCA is an independent agency, nested in the Department of Commerce, Community, & Economic Development (DCCED) for administrative purposes, consisting of five commissioners, appointed by the governor for six-year terms, and confirmed by the legislature. He characterized the current timeframe as a critical juncture for the RCA, since it faces numerous challenges and dockets. He stated that the RCA's statutory authority is AS 42.05 for public utilities and AS 42.06 for state pipelines. He acknowledged that striking a balance between the interests of the utilities, pipeline carriers, the public and ratepayers is challenging given the Railbelt alone. Utilities in that area are making tremendous capital investments to replace aging infrastructure. In the past 18 months alone, the RCA has been asked to expedite determinations on the new Chugach Electric Southcentral power plant, which is a joint venture.

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MR. PICKETT related the RCA has expedited the natural gas storage facility, Cook Inlet Natural Gas Storage System (CINGSA), which is a natural gas storage facility on the Kenai Peninsula, essentially is a utility about the size of ENSTAR. He offered the examples to indicate the types of things the RCA is asked to do in a compressed time frame. At the same time, the ratepayers have constraints and need to be assured that the process that leads to increased rates is sound, credible, professionally performed, and that someone is looking out for

their interests. He offered his belief that the overlay is the need for a stable regulatory environment that all parties can depend upon and have some assurance. He contrasted his role at the Alaska Housing Finance Corporation (AHFC), in which the outcome was assisting parties to achieve an outcome such as build a housing project, and his role as commissioner and chair of the RCA, is that the RCA must strive for the correct balance and in doing so cannot please everyone.

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MR. PICKETT said the RCA has recently received the first filing on a policy initiative, the Renewable Energy Grant Programs. The RCA will integrate its legislative goals with current statute and regulatory practice. He offered to keep members apprised of any bumps in the road. He reported the natural gas issues in Cook Inlet will occupy time, even with the additional storage and incentives the legislature put in place, some long term trends will impact all of the Cook Inlet utilities and northern Railbelt region.

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MR. PICKETT turned to FY 12, and pointed out the biggest challenges for the commission will relate to the Trans-Alaska Pipeline System (TAPS) and reconfiguration issues. He elaborated by stating that the RCA has concurrent hearings scheduled with the Federal Energy Regulatory Commission (FERC) beginning on November 1, 2011. The hearings will be held for four weeks in Anchorage and four weeks in Washington D.C. He offered his belief that from discussions he has held, with respect to previous rate cases, that this is an optimistic schedule. He said he thinks it is fair to state that the TAPS matters will take considerable focus, time, and energy beginning this spring. He stressed the importance in having adequate staffing resources to do so. He offered his belief that legislators will hear from constituents on utility matters, which receive some press coverage that is basically correct, but some salient points may not be pointed out. He urged members to contact him with questions. He related the RCA's workload is heavy but the RCA is as responsive as possible.

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REPRESENTATIVE HOLMES referred to the TAPS issue. She asked what that would mean to the RCA in terms of the workload.

MR. PICKETT responded that the TAPS rate review will create a rather challenging balancing act for the RCA. He expanded on this, such that the RCA has statutory deadlines for its filings. The RCA has largely been successful in meeting the deadlines, but have had to at times extend a statutory deadline for good cause. He hoped that would not happen frequently, but he said it is fair to say that TAPS needs the consideration and attention it is due given the significance of TAPS to the State of Alaska (SOA).

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REPRESENTATIVE HOLMES offered her willingness to hear any ideas of what can be done to ensure things move forward on all fronts.

MR. PICKETT answered that he has also held discussions with the executive branch. He pointed out that in 2008, an RCA task force was finalized, and many of the recommendations were sound, and identified problems that persist to this day, which still must be addressed.

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MR. PICKETT stated that the RCA works closely with the Alaska Energy Authority (AEA), since it has some overlapping jurisdiction. He used that to segue into the joint responsibility between the AEA and the RCA, the Power Cost Equalization (PCE) program. He explained that the RCA performs the calculations of the baseline rate or floor for communities, and for the specific utility applying for the assistance. That relationship has improved, particularly the staff to staff communication, but some areas still need attention. The SOA and federal government have invested significant money in rural Alaska, probably in excess of \$3 billion in the past 15 years. Currently, 125 certificated electric utilities lie in rural Alaska, serving about 170 communities. This infrastructure requires reliable electric service that is reasonably affordable to survive. He cautioned that it is not pleasant to consider a utility going down in the middle of the winter in an isolated community. He mentioned some issues including an inability to file timely PCE paperwork, noting the RCA's staff works hard to assist the utility in the event it is "bounced out" for noncompliance to try and resolve the problem. He related some instances in which the RCA has held some "show cause" hearings to revoke the Certificate of Public Convenience and Necessity (CPCN), which is the license the commission gives the pipeline company or utility to operate and collect freights.

Approximately 600 CPCNs exist statewide. With respect to the electric utilities, the RCA only economically regulates 37 of 125 utilities, although it certifies all of them. If a problem arises, the RCA must hold hearings in instances in which the utility is not willing, fit, and able to provide electric utility service it is approved to offer. He recalled a show cause hearing held in Adak recently, noting other proceedings of this nature may arise.

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MR. PICKETT referred to exemptions to this regulation, turning to the broad statutory authority for the RCA and the definition of a public utility [slides 2-4]. He then turned to the definition of "public" or "general public" which he read: (A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility; [slide 5]. He offered that the next definition deals with the certification area and total annual compensation that must be met, which triggers the \$50,000 for the sales of electricity [slide 6].

MR. PICKETT pointed out the definition of public is expanded [slide 7]. He noted the CPCN is detailed, including the "bottom line" for the RCA, which is that they must be fit, willing, and able, which also encompasses financial fitness as well as managerial fitness and experience [slide 8].

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MR. PICKETT elaborated on the Statutory Exemptions from certification [slides 9-10]. He explained that the first bullet describes an exemption for any utility making less than \$50,000 unless their customer(s) petition for regulation (AS 42.05.711 (e)); a joint action agency, which is a current statutory provision for exemption, and any qualifying facility (QF) designation from the FERC, noting the threshold has changed.

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MR. PICKETT, in response to Representative Saddler, clarified that the \$50,000 or less refers to net revenues. He then referred to the exemptions from economic regulation [slide 10]. He clarified that the prior four pages applied to exemptions from certification, but economic regulation means the commission does not have any statutory jurisdiction to enforce a cost of service rate making methodology on an entity. This refers to a

utility owned by a political subdivision, with the exception of a utility owned by the subdivision but has competition with a regulated entity. He mentioned some instances in larger communities a municipality may own a utility, but other utilities exist that are subject to the RCA's regulation.

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MR. PICKETT explained that the second bullet refers to utilities between \$50,000 and \$500,000 that have a deregulation election. The third bullet pertains to cooperatives that have a deregulation election, if the cooperative chooses not to be subject to the RCA's regulation. Again, that fourth bullet pertains to utilities that receive a QF designation from the FERC.

MR. PICKETT pointed out the challenging set of circumstances, with respect to Cook Inlet natural gas. The region has been fortunate for the past 40 years to have access to some of the most available and cheap gas in country. Five fairly major fields were discovered as a byproduct of oil exploration. About 10 years ago, those times changed as fields have become depleted and utilities have been pressured to find adequate natural gas for their services. He offered his belief that this is something that the RCA will deal with the foreseeable future. "There is no silver bullet and the answers are going to come with a price tag," he said.

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MR. PICKETT related, as previously noted, that the utilities are confronted with an aging infrastructure. This continues to put pressure on the utilities' finances, and stresses ratepayers. He stressed it is imperative RCA "gets this balance" right.

MR. PICKETT stated that most of electric utilities infrastructure needs listed have been derived from the AEA's Railbelt Integrated Resource Plan (RIRP) [slide 13]. He remarked that they provide some "eye popping numbers, noting one study estimated the cumulative capital investment requirements ranging from \$2.5 to 8.1 billion over the next 30 years. He characterized these numbers, including projections for the proposed Susitna Dam and proposed in state natural gasline as staggering numbers.

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MR. PICKETT stated the assumptions for the RIRP are outlined [slide 14].

MR. PICKETT turned to the "Installed Railbelt Generation" slide which provides an assessment of the Railbelt generation and proposed projects [slides 15-16]. He pointed out that the majority of the generation is natural gas in Cook Inlet, with several power plants responsible for about 50 percent of the generation of electricity in the Railbelt.

MR. PICKETT indicated that the projects listed below the dotted line on the bar graph represent proposed generation projects. He indicated that lots of capital pieces are in motion. He explained that last summer the RCA held a proceeding on the proposed Southcentral Power Plant, 183 megawatts (MW). The Chugach Electric was given approval to recapture its capital investments in rates. That process is currently underway and is a joint project with the Municipal Light & Power. He anticipated that the RCA will hold a meeting this spring on the proposed Matanuska Electric Association (MEA) since in 2014 its power sale agreement will end. The MEA has been planning generation at Eklutna and will be informing the RCA of its plans. He offered to keep legislators apprised. The Homer Electric also has proposed plans to increase its generation, he stated.

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MR. PICKETT recalled changes to the Fire Island wind project, which he read has been scaled back although he has not yet seen any filings to date.

MR. PICKETT brought up regulatory issues and the distinction between firm power and power [slide 17]. He advised that from a regulatory perspective the distinction between firm and non-firm power. He offered that firm power is power that can be dispatched "24/7. You flip the switch. The power is there," he said. Non-firm power is fueled by some source that is unpredictable and cannot be scheduled by a utility on a "24/7" basis, he said. From the perspective of regulators a different value is assigned because non-firm power cannot displace firm power capital assets, since those must be still in place. He explained that if something happens on the non-firm side, the firm power is then used. He explained that as we integrate renewable energy into the system this will be an economic fact of life, unless something changes in statute, he stated.

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MR. PICKETT turned to the Greater Railbelt Energy & Transmission Company (GRETC) [slide 18]. He related his understanding that five utilities have created a cooperative. He was uncertain of the cooperative's priorities, but said he thought what was driving the GRETC were limited redundancy, limited economies of scale, heavy dependence on fossil fuel, CI natural gas deliverability and storage issues [slide 19]. He reported that the RCA approved the CINGSA storage in the lower Kenai River Cannery Loop facility. Additionally, besides issuing that order, the RCA also issued an order to ENSTAR, authorizing the utility to capture firm storage rates in its service agreement.

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MR. PICKETT outlined other challenges, including aging generation and transmission infrastructure, inefficient fuel use, and financing challenges [slide 20]. He thought the new cooperative could begin to address some of these things, either on the transmission piece or some project, which he characterized as a good development over time. He provided a brief synopsis on the Power Cost Equalization (PCE) Program [slides 21-22]. He related that the PCE represents a significant investment of state resources to "level the playing field" for rural Alaska's communities. Under the PCE program, the state pays a portion of the electric bills for consumers served by utilities participating in the program. He stated that the program applies to the first 500 kilowatt-hours (KWh) of residential consumption but not to businesses or for consumption beyond 500 KWh. The high KWh charges in rural Alaska create a burden for communities and viable renewable projects could lessen some of the burden. The fuel displaced is one evaluation the AEA uses when awarding grant funds, he said.

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MR. PICKETT assessed the RCA's staffing challenges due to the federal government's unfunded mandates. As a self-supporting agency, the RCA collects regulatory cost charges from the ratepayers and pipeline carriers. He pointed out that of the RCA's \$8.5 million budget, less than \$140,000 is from general fund (GF) monies appropriated for the PCE program. He commended his staff's efforts, acknowledging the additional work garnered from federal initiatives, such as the Energy Policy Act of 2005 (EPAct). He viewed the intent of the EPAct as good and has directed the RCA to open proceedings on net metering, fuel

sources, fossil fuel generation efficiency, demand response and time-based metering, and interconnection standards [slide 24]. He explained that commissions nationwide were asked to address the federal standards. However, the RCA realized after undergoing a two year process that the federal standards were not generally applicable to Alaska. He characterized the process as "pounding a square peg in a round hole." He acknowledged that the RCA found merit in the net metering and interconnection standards to open up a follow-up docket on its own motion to develop state standards. He reported that net metering standards went into effect last summer. He offered his belief the regulatory process was a good one, in that it engaged the renewable energy advocates and the utilities in a fairly intense dialogue. The RCA has received more comments on this issue than nearly any other docket in the recent past. While not everyone has been happy with the final regulations, the consensus seemed to be that this is the best that the RCA could do at this point. He pointed out that the regulations do not apply to all electric utilities due to a size threshold. Although small rural utilities are not covered, most of the larger utilities have filed tariff filings for net metering. He hoped the RCA could finalize an Alaska-specific regulation on its docket for interconnection standards.

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MR. PICKETT related net metering standards [slides 27-29]. He provided a brief update on R-09-02, the interconnection standards [slide 30]. He noted significant interest has been expressed by utilities to the process moving, that the RCA held a technical conference on July 12, 2010. He anticipated that draft regulations would be dealt with reasonably soon.

MR. PICKETT turned to the report on the Energy Independence and Security Act (EISA) [slide 31]. The EISA is a follow-up to the 2005 Act. The EISA directed the state regulatory authorities to consider adopting four new standards, which are articulated in slide 32. The standards include integrated resource planning, rate design modification to promote energy efficiency investment, consideration of "Smart Grid" investment, and "Smart Grid" information. He reported that the RCA opened a docket to consider these standards and has taken public comment through December 9, 2010. The RCA will continue to proceed on this docket in the coming months.

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MR. PICKETT outlined challenges ahead for the commission [slide 34]. He characterized these challenges as significant challenges, including telecommunications issues. He highlighted that one regulation docket successfully completed last summer pertained to access charge reform, the in-state access charges that local exchange carriers charge long distance carriers. He offered this as one reason it costs more to call from Kenai to a rural community for intrastate than it does to the Lower 48. The docket's goal was to obtain parity between interstate and intrastate rates. The issue is a complicated issue because "all of the pieces had to move at the same time." This process ensued for a two-year period and at times seemed as though it would not be resolved. Some challenges the RCA faced included the carrier of last resort challenges of the incumbent rural carriers, declining intra-state decline in minutes used, and local carrier dependency on access charges as part of their overall financial picture.

MR. PICKETT suggested most Alaskans are not aware of how heavily subsidized phone system is due to the benefits of the universal service fund at the federal level. Alaska receives approximately \$190 million in federal funds each year to support its system. At the end of the day, the rural coalition, AT&T, and GCI agreed to the approach the RCA decided upon. The Attorney General did not officially "sign on" but Mr. Pickett said he thought it was fair to say the AG's office supported many of the elements of the proposed regulations. He reported that the regulations are currently before the Lt. Governor, for approval. He anticipated the regulations would be implemented sometime this summer. He said the RCA is "keeping a careful eye on the Universal Service Fund (USF) federal reform since it will impact Alaska. He related that the late U.S. Senator Ted Stevens was a powerful advocate as the Chair of the Senate Commerce Committee. He noted with current pressures on the federal budget and the strong initiatives on the part of the Federal Communications Commission (FCC) that the RCA needs to continue to watch the developments carefully.

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MR. PICKETT continued. He read from a list, including major capital investments by utilities, struggling rural utilities, renewable energy goals, Cook Inlet natural gas, TAPS strategic reconfiguration and rate cases, and RCA staffing issues. He stressed the importance of having staff with experience, which he deemed as critical in the RCA. He remarked that it is much easier to accomplish tasks when people remain with an

organization and develop their expertise. He related that with considerable staff turnover an organization spends a lot of time covering bases, conforming to statutory deadlines, and training people.

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REPRESENTATIVE THOMPSON asked for clarification on net metering.

CHAIR OLSON responded that some homeowners "on the grid" generate more power than they use. Homeowners would like to sell the excess power at the retail rate, but the industry norm is to purchase it at a wholesale rate. He stressed safety concerns and the importance of standardization throughout this process to ensure linemen are safe. He highlighted one major concern, which is to ensure that net metering is done in an equitable manner.

MR. PICKETT also referred members to slides 27 and 28 of his PowerPoint overview since these slides illustrate the limitations on net metering regulations the RCA put into effect. He concurred with Chair Olson's outline of utilities' concerns, noting that one reason for the threshold of 5 million KWh was to ensure viability for small rural utilities. Thus, individual generation has been capped at 25 KWh. He stated that a small electrical utility may only have a couple hundred customers on a transmission line at end of the system and even that amount of surge could pose problems. The RCA decided to leave it up to the utilities to figure out if it could integrate the additional generation, he said.

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CHAIR OLSON brought up one side issue, that certain alternative energy sources would not have an impact on peak demand. Often times, in his region, the coldest days are not windy or sunny so wind or solar energy cannot be counted on as an alternate source, whereas other types of energy sources such as geothermal, or nuclear energy are consistently available "24/7".

MR. PICKETT said it is fair to say that utility ratepayers expect power to "come on" when they flip a switch no matter what the weather.

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MR. PICKETT reported that this is a sunset review year and the RCA is scheduled to expire on June 30, 2011. In 2010, the legislative auditors conducted an audit. Auditors were present for most of the year and the RCA's staff worked extensively with them. He pointed out that the auditors had some issues with the star information system as well as with some reports as they fed into its annual report with respect to statutory deadlines. The RCA has a regulatory process underway to review the e-filings issues and plans to incorporate some of the auditor's findings and to make the necessary administrative changes. He added that the auditors recommended continuing with the RCA's discovery regulations, which it has done. He characterized the audit as a "pretty fair-minded" audit. The audit recommended an extension to 2019, he said.

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REPRESENTATIVE JOHNSON asked Mr. Pickett to comment on the overall economic health and viability of utilities in the state. He further asked him what mechanisms are in place in the event of failure of a larger utility.

MR. PICKETT answered that he thought it was fair to say the RCA must evaluate utility health on a utility-by-utility basis, particularly with respect to the larger economically regulated utilities because of their need to come before the commission on rate cases, appreciation studies, and for major capital investments. The RCA has kept abreast of what is happening and continues to monitor utilities in the state. He said he believes that the utilities have the tools to do what is necessary. He reiterated that the RCA continues to carefully monitor utilities.

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REPRESENTATIVE JOHNSON alluded to some rumors circulating. He asked, "Are they too big to fail?"

MR. PICKETT responded that it is a very serious thing for the RCA to evaluate the fitness of any entity to operate a utility, regardless of size. He said the RCA must take into account the realistic options for ratepayers and customers. He said that Alaska is unique in that its largest utilities are small utilities and its systems are islands. He said that even the biggest island, the Railbelt, is still a relatively small entity. He offered that Alaska's natural gas system is disconnected from the rest of the world, outside of the

liquefied natural gas (LNG) transported to Japan. He illustrated the differences in the Lower 48 noting that outside of the pricing indices, the Lower 48 has 3 million miles of pipeline and thousands of storage facilities. However, Alaska is separated from the Lower 48 and cannot use this intricate system. He offered that regulation in Alaska must be reality based, but at the same time the concerns raised by Vice Chair Johnson are probing questions which should be "kept in the back of our minds."

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REPRESENTATIVE JOHNSON referred to the pricing structure just mentioned. He related his understanding of the fine balance between deliverability economics, and the RCA's ability to explore to provide that deliverability. He asked whether Alaska has limited new exploration by linking to Henry Hub and if Alaska has been hobbled by doing so.

MR. PICKETT answered that has not been the case if one examines recent contracts. He said those contracts tend to be the older legacy, tied to some crude oil index. When contracts are in place, the contracts will be honored. However, in going forward, the question alluded to is whether the pricing structure represents the appropriate price signal to encourage exploration in CI. That is an open question, he said. He offered his belief that there are a lot of variables to consider. The legislature took action last year to incentivize production and exploration in CI. He remarked on some initial signs of success. However, he thought it is too early to say what the ultimate impact will be. He offered that the RCA is aware of a number of new small independent fields with a small annual production, which perhaps could lead to other things. He stated that must be evaluated against the backdrop of the mammoth fields in CI and take into consideration the level of decline in those fields. He pointed out that it takes a lot of small fields to make up for the decline.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:10 p.m.