

SENATE FINANCE COMMITTEE  
February 2, 2015  
9:04 a.m.

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CALL TO ORDER

Co-Chair Fairclough called the Senate Finance Committee meeting to order at 9:04 a.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair  
Senator Pete Kelly, Co-Chair  
Senator Peter Micciche, Vice-Chair  
Senator Click Bishop  
Senator Mike Dunleavy  
Senator Donny Olson

MEMBERS ABSENT

Senator Lyman Hoffman

ALSO PRESENT

Bill O'Leary, President and CEO, Alaska Railroad Corporation; Eileen Reilly, Vice President, Advanced Train Control Systems and Technology, Alaska Railroad Corporation.

SUMMARY

PRESENTATION: POSITIVE TRAIN CONTROL

Co-Chair MacKinnon discussed the day's agenda.

^PRESENTATION: POSITIVE TRAIN CONTROL

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BILL O'LEARY, PRESIDENT AND CEO, ALASKA RAILROAD CORPORATION, the PowerPoint presentation, "Positive Train Control (PTC): Alaska Railroad Status" (copy on file). The presentation would be in three pieces: the fiscal situation of the Alaska Railroad; a description of PTC; and a focus on the PTC project. He shared that it was an understatement

to declare that it had been a difficult six years for the Alaska Railroad. He shared that there were significant reductions in commercial activity related to the freight hauls of petroleum products and coal for export from the Seward terminal. He relayed that there were significant reductions in federal financial support and passenger services. He shared that the railroad had experienced three significant reductions since 2003, totaling loss of nearly 300 positions from the railroad. He shared that there were steps to reduce costs by initiated wage freezes and benefit alterations. He shared that there were hopes that the negative impacts would cease in 2014, but the largest customer informed the railroad that they would be conducting independent terminal operations, causing significant financial impact to the railroad. He stressed that meeting the unfunded federal mandate of PTC was not financially possible for the railroad. The railroad chose to approach the legislature for funding for the mandate. He stated that the administration and the legislature were receptive to the approach, and had given the railroad a total of \$34 million over two years for PTC. The project would cost \$160 million, and was mandated by the federal government with no incremental funding for the project. He pointed out that legislative requests were unusual for the Alaska Railroad, and shared that the railroad preferred to solve their problems within the organization. He restated that it was unusual for the railroad to approach the legislature for funding.

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Senator Olson recalled that the Alaska Railroad had previously announced that most of its revenue was derived from the land leases from railroad-owned land. He wondered if that was an accurate summation. Mr. O'Leary replied that the freight revenue was the greatest generator for the Alaska Railroad, ranging from two-thirds to three-quarters of the total revenue. The passenger revenue was the second largest component, and real estate was the third largest component of the three major revenue streams. He stressed that a significant portion of the railroads profitability came from the real estate revenues.

Co-Chair Kelly wondered what portion of the total revenue represented real estate. Mr. O'Leary responded that there was approximately \$145 million of gross revenue in real

estate revenue, and was approximately \$18 million in the previous year.

Senator Dunleavy requested a comparison of the cost of diesel for the previous, current, and projected years. Mr. O'Leary agreed to provide that information.

Senator Dunleavy remarked that the state was facing a budget shortfall because of the low cost of oil. He suggested that the industries that use high volumes of diesel, would possibly face a cost savings, because of the current low price of oil. Mr. O'Leary remarked that the railroad had a fuel surcharge program that was facing a decrease.

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EILEEN REILLY, VICE PRESIDENT, ADVANCED TRAIN CONTROL SYSTEMS AND TECHNOLOGY, ALASKA RAILROAD CORPORATION, looked at slide 2, "What is PTC?":

Train-to-train collisions by enforcing authority limits;

Over speed derailments;

Trains entering maintenance of way work zone limits; and

Train movement through a main line switch in the improper position.

Ms. Reilly highlighted slide 3, "PTC System Overview." She stated that there was a computer aided dispatch system at the operating center, with a backup system in the data center. She explained that the train would receive authority, and communicate with the hand thrown switch to ensure the correct position. The maintenance of way (MOW) vehicles were required to carry technology that allowed the train to come in their authority. The MOW vehicles were also equipped with a global positioning system (GPS), to inform the locomotive of their location.

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Ms. Reilly discussed slide 4, "PTC System Overview." The picture was intended to display the technology and how it

functions. She stated that there were 35 communication towers, and a number of the communication sites were helicopter sites. There was a signal to the communication shelter in order to communicate with the train and dispatch offices.

Ms. Reilly displayed slide 5, "Why PTC?":

Over the last four decades, the National Transportation

Safety Board (NTSB) has investigated a long list of accidents in which crewmembers failed to operate their trains effectively and in accordance with operating rules.

Because of these human performance deficiencies, the NTSB has advocated for systems that would compensate for human error and prevent train collisions.

NTSB 2014 Most Wanted List - reinforces the December 31, 2015 deadline.

Mr. Reilly shared that there was a train accident in The Bronx, because a train took a turn and too high a speed.

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Co-Chair Kelly queried the number of accidents that were not a result of driver error. Ms. Reilly responded that there were few, if any accidents that were not the result of operator error.

Co-Chair Kelly remarked that modern security cameras were sophisticated enough to recognize guns or knives. He felt that a camera could be fixed on the operator to recognize when the operator is falling asleep or allowing the train speed to accelerate, and alarms could alert the driver to their maleficence. Ms. Reilly replied that there would soon be regulation for inward and outward cameras in the rail system. She furthered that there would also need to be communication between the operator and dispatch. She remarked that the cameras would be used for training purposes and evidence.

Co-Chair Kelly agreed that there must be sophisticated communication system.

Mr. Reilly looked at slide 6, "Why Mandatory PTC Regulations?":

Two major railroad accidents in Graniteville, South Carolina in 2005 (pictured at right) and in Chatsworth, California in 2008 (pictured below) were cited as PTC preventable accidents during Congressional hearings that resulted in legislation leading to the unfunded PTC mandate.

Ms. Reilly explained that the left-hand photo displayed a freight train and passenger train collision. She remarked that the passenger trains were not as heavy as freight trains, so they would endure a greater impact. She shared that the Alaska Railroad had both freight and passenger trains in a similar circumstance.

Ms. Reilly explained slide 7, "No Way Out":

\$12 billion to \$15 billion industry cost  
-\$160 million for ARRC

Congressional Delegation

Alaska Attorney General

NTSB Most Wanted List - 2012 & 2014

Association of American Railroads

Vice-Chair Micciche queried the total loss of life from 2010 to 2014 due to work associated with the train control. Ms. Reilly agreed to provide that information.

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Vice-Chair Micciche wanted to understand whether the cost delivered a significant potential improvement in saving lives, and providing an appropriate level of safety. He stressed that the absolute elimination of risk was impossible at any cost.

Vice-Chair Micciche queried the potential for extending the deadline to allow funding over a longer period of time. Ms. Reilly replied that all of the associations were working

diligently on the extension. She explained that any extension language needed to include good-faith efforts.

Vice-Chair Micciche remarked that he wanted to ensure that the investment would actually reduce risk.

Co-Chair MacKinnon asked for the percentages of accident rates compared to the major transportation systems in the United States, such as airplanes. Ms. Reilly shared that there was an accident in Canada, when a train rolled back. She explained that PTC would have prevented that incident. She agreed to provide further information of loss of life and impact on the community.

Senator Dunleavy felt that the federal government was trying to ensure the safety of the train system. He surmised that the total cost of PTC was \$160 million. Ms. Reilly indicated in the affirmative.

Senator Dunleavy wondered if the Alaska Railroad had received any funds in previous years. Ms. Reilly replied with slide 8.

Senator Dunleavy queried the deadline for the project. Ms. Reilly replied that the law would be enacted December 31, 2015. There were regular communications with the Federal Railroad Administration (FRA), which was responsible that the Alaska Railroad met the regulations. The FRA monitored the good-faith efforts of the railroad. She remarked that it was difficult to determine exactly the definition of a "good-faith effort", but it was intended to ensure that the railroad was moving forward in enacting the regulations. She stressed that no one in the railroad industry will meet the deadline of December 31, 2015.

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Senator Dunleavy wondered if there would be an explanation of the penalties. Ms. Reilly responded in the affirmative.

Co-Chair Kelly queried the political strategy of the regulation, and wondered if it was Senator Boxer who encouraged the federal regulation. Mr. O'Leary replied that there were two people.

Co-Chair Kelly surmised that there were two California congressmen that reacted to an accident in California.

Those two senators were no longer in the majority. He understood that the efforts with the two senators were fruitless, because they were immovable. He felt that it was unnecessary for Alaska to enact this regulation. He understood that the regulation may need to be utilized, so Alaska needed financial help or a deadline extension. Mr. O'Leary replied that he was in contact with congressional delegation on the matter at hand. He felt that there would be no change as a result of the adjustment in the U.S. Senate. He stressed that it was a safety issue.

Vice-Chair Micciche agreed that Alaska should have a waiver on this regulation. The risk profile was different in Alaska compared with the Lower 48, based on population density and the potential for loss of life. Mr. O'Leary agreed.

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Vice-Chair Micciche wondered why there was not a base level for PTC, because of the drastic population difference. He felt that there could be an adjustment in the risk footprint. Ms. Reilly replied that the regulation was over one hundred pages, with many different characteristics. The primary characteristic stated that passenger hauls required PTC. There were numerous deaths on small railroads, like the railroad in Alaska.

Vice-Chair Micciche he stressed that there were different passenger profiles in Alaska than in other parts of the country. He wondered if the Alaska Railroad provided a greater potential for postponing its deadline. Ms. Reilly restated that the Alaska Railroad had consistently communicated with the FRA that it would not meet the December 31, 2015 date. The soonest expected date for the Alaska Railroad was December 31, 2018. She stated that the FRA accepted that estimation, because the Alaska Railroad had shown good-faith efforts.

Senator Bishop queried the revenue generated for freight versus passengers, and whether Europe had PTC. Ms. Reilly replied that all of Europe was using PTC.

Mr. O'Leary furthered that the Alaska Railroad had approximately \$140 million annual gross revenue. Passenger revenue in the previous year was roughly \$28 million.

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Co-Chair MacKinnon wondered if there were accidents in other countries that used PTC. Ms. Reilly replied that there was an accident in Spain, which occurred at the time of PTC implementation. She remarked that the train industry took note of the proper way to conduct the PTC implementation.

Co-Chair Kelly felt that the committee did not need to be convinced that PTC was a good idea. He felt that PTC was not necessary for the Alaska Railroad, but he understood that it was a federal requirement.

Co-Chair MacKinnon shared that she has an automobile that reacted to some road hazards, but she felt that the car was not responding to the hazard appropriately. She shared a story about how her car was reacting inappropriately in an Alaska environment. She wondered if there was an effort to ensure the best available technology for Alaskans.

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Co-Chair Kelly commented that the "antilock brake system" in Alaska should be known as the "anti-brake system." Co-Chair MacKinnon agreed.

In response to the question from Co-Chair MacKinnon, Ms. Reilly stated that the systems in Europe were based on passenger transportation. The United States had a freight and passenger system, without the protection that was in place in Europe. She stressed that PTC would not regularly take over their train operation. The PTC system provided warnings to the train operators. The PTC system did have a brake application, but it had never been triggered. She stressed that it was her responsibility to implement the system effectively and efficiently. She stressed that the system was a safety overlay.

Co-Chair MacKinnon asked if the federal government chose how the PTC would be implemented. Ms. Reilly replied that the federal government did not determine the implementation of PTC. The airline industry's control system was set up by the Federal Aviation Administration (FAA), and the airlines worked to implement that specific control system. The railroad industry, however, had been deregulated. Therefore, the railroad industry needed to interoperate

using different types of equipment. The work had been ongoing since 1999 to encourage the railroads to work together to find a way for the system to interoperate. The FRA's responsibility would then monitor the efforts to ensure a safe and reliable system.

Co-Chair MacKinnon stressed that the Alaska Railroad was not interoperable. She wondered why there was no physical person monitoring the tracks. She stated that she had visited the Alaska Railroad headquarters, and remarked that every train was monitored. Ms. Reilly stated they did look at different systems and currently use GPS to provide situational awareness. She noted that GPS in Alaska has challenges and these needed to be mitigated by PTC. She pointed out challenges in acquiring technology because of our small size.

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Vice-Chair Micciche wondered if the \$140 million was net or gross revenue. Mr. O'Leary responded that that it was gross revenue.

Vice-Chair Micciche noted that the net revenue would be somewhat smaller than \$140 million. He stressed that the expense of PTC was more than one year's net revenue. He assumed that the impact of the Alaska Railroad on that proportion was more significant than other parts of the country. Mr. O'Leary stated that he did not know the exact ratios to the other railroad entities. He agreed that PTC was greater than one year's gross revenue. He declared that he would not use \$160 million for PTC on the Alaska Railroad. He stressed that he did not have a choice in the implementation of PTC, because it was required by the federal government.

Vice-Chair Micciche understood Mr. O'Leary's concerns. He wondered if the Alaska Railroad had evaluated the cost of passenger service. Mr. O'Leary replied in the affirmative. He stated that it was important to continue passenger service. He stressed that without PTC, the Alaska Railroad would no longer be permitted to run the passenger service. That would have significant impact on the tourism industry and the state in general, and would have direct impact on the Alaska Railroad. He explained that there was only one track running both freight and passenger. He stressed that 650 miles of track, but limited density in certain times of

year to pay for the operation. He explained that the passenger operations ensured the federal receipts of approximately \$28 million per year.

Senator Bishop remarked that the focus of the committee was related to the cost of implementation.

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Co-Chair Kelly wondered how recently the congressional delegation refused to grant a waiver. Mr. O'Leary responded that they had refused in December 2014.

Co-Chair Kelly stressed that the state was in a \$4 billion budget deficit. He felt that the cost of implementing PTC was too expensive. He felt that the federal government was understanding, and noted the good faith efforts. He wondered if Alaska's budget deficit could be used in PTC waiver negotiation efforts. Ms. Reilly replied that the Alaska Railroad provided updates to the FRA on a quarterly basis, and were given information regarding Alaska's budget situation. She stressed that there were hard negotiation techniques.

Co-Chair Kelly felt that the Alaska Railroad was doing good work, and he wanted to stress the reality of Alaska's financial situation. He understood that PTC must be implemented, but it take time.

Senator Dunleavy wondered would happen if the Alaska Railroad did not implement PTC. Ms. Reilly responded with slide 18, "What if ARRC Does Not Comply?":

Federal law provides penalties for non-compliance:

FRA authority to fine 61 different PTC-related violations

Maximum FRA fine for failure to complete PTC installation by December 31, 2015, is \$16,000 per violation and \$25,000 for each "willful" violation. A separate violation is issued for each day the violation occurs. The FRA can fine up to \$100,000 per day as it deems warranted.

FRA rail safety law compliance pertains to "persons" so both the corporation and individuals are on the hook.

Prohibit passenger service

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Senator Dunleavy queried the definition of a "violation." Ms. Reilly replied that each definition was outlined in the regulation. She stated that it could be in each location; brake enforcement; communication errors; etc. She stressed that it was an extensive four-column list.

Senator Dunleavy wondered what the specific financial penalties would be for not implementing PTC. He wondered if the penalty that Ms. Reilly spoke of was for \$105,000. Ms. Reilly replied in the affirmative.

Senator Dunleavy asked if the \$105,000 was the maximum penalty. Ms. Reilly responded that \$105,000 per day was the maximum fine. She explained that there could be fines for problematic individuals. The federal government could finally prohibit passenger service. She explained that the manager of safety for Metro North was fined \$45,000 per day personally until he resigned. The FRA used their ability to fine on a regular basis.

Senator Dunleavy felt that the FRA fines were ridiculous. He wondered if the Alaska congressional delegation would be willing to go against the regulation, if the bill were revisited in Congress. Mr. O'Leary replied that Alaska's delegation did not believe that there was an ability to get an exemption for Alaska. The delegation did, however, feel that an extension was possible.

Senator Dunleavy explained that \$105,000 times 365 a year, was \$38.325 million. The Alaska Railroad had approximately \$470,000 passengers a year, at \$81 per passenger. He wondered why the Alaska Railroad did not pay the penalty, and integrate it as part of the price of doing business. He felt that the Alaska Railroad would also see savings in diesel costs, because of the current low oil prices. Mr. O'Leary replied that the regulators would not stop at the outlined penalty dollars. He felt that the FRA would stop passenger service on the Alaska Railroad.

Senator Dunleavy stressed that it was unknown whether or not the FRA would shut down passenger service. Mr. O'Leary agreed.

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Vice-Chair Micciche stressed that it would take 17.5 years of penalty costs, before it matched the cost of PTC, if the FRA did not prohibit passenger service. He looked at the memo from the FRA Office of Safety and Analysis (copy on file). He remarked that the total accidents and incidents, which equated to 769 fatalities in 2014. He noted that trespasser fatalities was the top fatality, at 498 in 2014. He stressed that PTC would not help to stop trespasser fatalities. The second category for fatalities was highway-rail incidents at 239 fatalities in 2014, and stressed that PTC would not help to reduce those incidents. The third category was 10 employee fatalities in 2014, and PTC would only affect a small portion of those incidents. The fourth category was the only category that PTC would help to reduce. He shared that there 6 to 8 fatalities between 2011 to 2014. He stressed that PTC would only affect a small number of fatalities related to railroad operations. He felt that it was difficult to justify the PTC investment. He felt that the federal government did not effectively understand how to reduce risk when put in a dollar amount. Mr. O'Leary restated that he would not use \$160 million for PTC.

Co-Chair MacKinnon felt that the budget request should be the focus of the presentation.

Mr. O'Leary highlighted slide 8, "PTC Funding Sources 1997 - 2015." He explained that the Alaska Railroad, with its internally generated funds and the available federal monies, put nearly \$69 million into PTC. He explained that the legislature had appropriated \$34.1 million over the two years prior to the Alaska Railroad for PTC.

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Mr. O'Leary addressed slide 9, "ARRC 2016 - 2018 PTC Unfunded Budget." The Alaska Railroad wanted three additional years of legislative requests: 21.65 million in FY 16; \$16.85 million in FY 17; and \$16.45 million in FY 18. The requests were the amounts needed for a December 31,

2018 full implementation. He remarked that this was the plan, prior to Alaska's recent sudden budget deficit.

Ms. Reilly discussed slide 22, "The Way Forward":

Fund remaining \$55 million through a combination of bonds and state funds

\$37 million in ARRC bonds

Maximum amount we can add to bonds

Adds 4 years to maturity schedule

\$18 million in state funding

Shows backing to creditors/bond buyers

Shows "good faith effort" to regulators

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Senator Dunleavy looked at the fund titled "Total Internal Funding Available" with a balance of \$22.127 million. He queried the purpose of that fund. Mr. O'Leary replied that it was the expected 2015 cash flow to be used for the internally funded capital projects. Those projects included replacing track, vehicles, and other general capital needs for the Alaska Railroad.

Senator Dunleavy surmised that the funds were not to be used for PTC. Mr. O'Leary replied that the fund was available for PTC.

Vice-Chair Micciche queried the number of rail systems that would defer maintenance in order to fund PTC, and therefore introducing more risk. Mr. O'Leary responded that everyone already knew the answer to that question.

Mr. O'Leary stressed that the Alaska Railroad did not enjoy requesting funds from the legislature.

Senator Dunleavy reiterated that the Alaska Railroad did not need PTC, but the federal government did not care. He felt that the congressional delegation's refusal to work to bring Alaska a waiver, then the federal government was in trouble.

Co-Chair MacKinnon felt that the federal delegation as merely communicating a likelihood, rather than their unwillingness to work with the Alaska Railroad. Mr. O'Leary agreed.

Senator Dunleavy was not implying that the federal delegation was not working to ensure good thing for Alaska. He stressed that the federal government was a large entity, and opined that PTC was created by someone who did not understand what was best for Alaska.

Co-Chair Kelly queried the cost of an engine that was powered by natural gas. Ms. Reilly replied that there was some current testing on locomotives, and it was estimated at \$3.2 million. She stated that those natural gas powered locomotives were not approved for general rail service.

Senator Bishop looked at slide 22, and felt that there should be an attempt to leverage some funds with the partners.

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Senator Dunleavy wondered if the implementation was required within three years. Ms. Reilly replied in the affirmative.

Co-Chair Kelly wondered if PTC was intended to prepare the infrastructure for high-speed trains. Ms. Reilly replied in the negative.

Co-Chair MacKinnon wondered if the corporation would be negatively impacted by the possible natural gas pipeline. Mr. O'Leary replied that the rail line was in good shape, and had been preparing for a possible natural gas pipeline. The infrastructure was in good shape for the natural gas pipeline.

Co-Chair MacKinnon asked how the railroad may be affected by the recent Fairbanks natural gas proposal. She noted that the liquid natural gas (LNG) trucking may not be utilized. There could be a need for LNG rail cars to Fairbanks. She queried the impact on the railroad. Mr. O'Leary replied that the financial projections for 2016 showed that the North Pole refinery would have a full year of terminal operations. That would be a significant reduction on the railroad freight haul. The railroad had continued to offer the option to the stakeholders of the capabilities to move LNG. He stressed that the railroad was available as an interim solution until the LNG pipeline was constructed.

Co-Chair MacKinnon queried the cost of the containers. Mr. O'Leary replied that the Alaska Railroad was merely one portion of the larger supply chain. He explained that the Alaska Railroad had recently worked with a number of shippers, and had quoted different rates based on logistical solutions. The containers would be approximately \$160,000 per unit. He stressed that the cost was incorporated into a rate that would be given to the shipper as they determine the price of gas at the burner tip.

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ADJOURNMENT

10:30:21 AM

The meeting was adjourned at 10:30 a.m.