

**ALASKA STATE LEGISLATURE
SENATE RAILBELT ELECTRIC SYSTEM**

February 3, 2020
3:32 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Elvi Gray-Jackson
Senator Peter Micciche
Senator Cathy Giessel

MEMBERS ABSENT

Senator Mike Shower

OTHER LEGISLATORS PRESENT

Representative Grier Hopkins (online)

COMMITTEE CALENDAR

SENATE BILL NO. 123

"An Act relating to the regulation of electric utilities and electric reliability organizations; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 123

SHORT TITLE: ELECTRIC RELIABILITY ORGANIZATIONS

SPONSOR(S): RAILBELT ELECTRIC SYSTEM

05/14/19	(S)	READ THE FIRST TIME - REFERRALS
05/14/19	(S)	RBE, FIN
01/24/20	(S)	RBE AT 3:30 PM BUTROVICH 205
01/24/20	(S)	Heard & Held
01/24/20	(S)	MINUTE(RBE)
01/27/20	(S)	RBE AT 3:30 PM SENATE FINANCE 532
01/27/20	(S)	Heard & Held
01/27/20	(S)	MINUTE(RBE)
01/29/20	(S)	RBE AT 3:30 PM SENATE FINANCE 532

01/29/20 (S) Heard & Held
01/29/20 (S) MINUTE (RBE)
01/31/20 (S) RBE AT 3:30 PM BUTROVICH 205
01/31/20 (S) Heard & Held
01/31/20 (S) MINUTE (RBE)
02/03/20 (S) RBE AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

RENA MILLER, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed suggested changes to SB 123 on behalf of the Senate Special Committee on Railbelt Electric System.

ACTION NARRATIVE

[3:32:38 PM](#)

CHAIR JOHN COGHILL called the Senate Railbelt Electric System meeting to order at 3:32 p.m. Present at the call to order were Senators Giessel, Gray-Jackson, Micciche, and Chair Coghill.

SB 123-ELECTRIC RELIABILITY ORGANIZATIONS

[3:33:24 PM](#)

CHAIR COGHILL announced the consideration of SENATE BILL NO. 123, "An Act relating to the regulation of electric utilities and electric reliability organizations; and providing for an effective date."

He asked Ms. Miller to review the questions and suggested changes to the bill that will affect the policy calls.

[3:36:09 PM](#)

RENA MILLER, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, stated that she is on loan to the committee for the purposes of SB 123. She agreed with the chair that it has been a collaborative process to incorporate the testimony to the committee and the conversations she has had with the stakeholders to address the questions and concerns that were voiced. She advised that she would walk through the bill highlighting the potential changes so the members could make notes in the relevant areas.

MS. MILLER advised that the term "bulk-power system" that is defined in the bill and referenced throughout will change to "interconnected bulk electric system." The utilities prefer the word "electric" over "power" and the RCA feels it is important to clarify that it is an interconnected system.

She directed attention to the dates and timelines in version M that clearly need to be changed because they were based on the original, May 2019, draft of the bill.

MS. MILLER stated that the two effective dates on page 8 will change to July 1, 2021. This reflects that the bill takes effect one year after it passes and the RCA has that year to write the regulations to implement the bill. Assuming the bill passes on July 2020, the effective date would be July 1, 2021.

The date on page 7, line 28, would also change to July 1, 2021. She said those dates are tied to subsection (c) near the bottom of page 2 that tells the RCA that if nobody has applied for certification to be an ERO within 3 months of the RCA adopting regulations and being ready to take applications, the commission shall create an ERO on its own. Thus the date on page 2, line 29, would change to October 1, 2021.

MS. MILLER said she and the chair realized the need to incorporate another date. The RCA has explained that the application to be an ERO would be treated like a certificate of public convenience and necessity (CPCN) application. Once an application has been received and deemed properly filed, the RCA would have 6 months to accept it, or not. She pointed out that somebody may have applied in that timeframe but they haven't been certificated, and the RCA is instructed to form an ERO if nobody has applied within three months. But if somebody has applied and after some time it was pulled or deemed insufficient, there is no date for the RCA to stand up an ERO. The solution is to extend another three months. Therefore, if nobody files the RCA will form an ERO in three months; if somebody has filed but hasn't received certification, the RCA will stand up an ERO six months after the filing.

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CHAIR COGHILL added that the application process could go on forever without this additional clarification.

MS. MILLER agreed and cited the situation the RCA encountered last year when a couple of utilities and a private company applied to the RCA for certification as a TRANSCO. The

application was deemed insufficient and the applicant pulled it. She said that is an example of someone who applied but nobody had been certificated.

CHAIR COGHILL noted that House Energy Committee Chair Hopkins was listening online.

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SENATOR MICCICHE referenced the date on page 2, line 29, and asked Ms. Miller to repeat the explanation of the deadline after October 1, 2021 for someone who has submitted an application.

MS. MILLER explained that if someone has applied but has not been certified as an ERO, the RCA will wait six months before it forms an ERO on its own. The new date will be January 1, 2022.

CHAIR COGHILL added that those instructions were sent to the drafters.

MS. MILLER, responding to a further query, explained that it is six months from July 2021 when the RCA is open to applications. Three months after that is October 2021 and three months after that is January 2022. .

CHAIR COGHILL advised that the RCA brought the issue forward.

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MS. MILLER continued to discuss the proposed changes. She said no changes have been proposed for the sections on pages 1 and 2 that talk about the application process for the ERO and what an applicant must demonstrate regarding governance and internal rules.

She directed attention to the dates on the bottom of page 2 and advised that Chair Coghill was interested in adding a backstop provision to authorize the RCA to waive the requirement for an interconnected network to have an ERO in certain circumstances. The reasoning is that in five or ten years rural areas may have interconnected utilities and it may or may not be appropriate to have an ERO in that network. The language that's contemplated is that the utilities would need to agree to petition the RCA for the waiver.

CHAIR COGHILL clarified that the RCA retains its authority; this just contemplates the potential of a different organization.

MS. MILLER agreed that in the future there may be instances where an ERO isn't appropriate for certain interconnected utilities.

She directed attention to the bottom page 2 and onto page 3 that discusses what reliability standards should provide for. The language on page 3, lines 10-12, says reliability standards may provide for additions or modifications to a facility to provide for reliable operation of the system. Then the language on lines 13-14 says the standards may not require enlargement of facilities or construction of new transmission or generation capacity. To avoid potential conflict, the suggestion is to change the language on lines 13-14 to say "may not be designed with the intent to require" so the standard doesn't require an enlargement. If an enlargement is necessary to meet reliability or a security need, that is potentially a different standard. The proposed language was developed in collaboration with the RCA.

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MS. MILLER reminded the committee that utilities will be able to comment individually on standards that the ERO submits to the RCA for approval. She said there has been collaborative work and there is a backstop if a utility believes a standard may not cover their needs.

CHAIR COGHILL added that an individual utility would have the ability to make their case to the RCA on a particular issue that the ERO isn't interested in.

MS. MILLER agreed. She added that an ERO applicant has to show it created a rule that the representatives of users and stakeholders are working independently of their specific organization or utility when they are serving as the ERO board. But nothing waives a utility's right to intervene independently of the ERO.

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MS. MILLER directed attention to subsection (e) on page 3, lines 15-22, relating to the ability of the RCA to modify standards. She said the utilities voiced concern that the RCA may, at will, modify a standard that the ERO has put forward. Commissioner Scott testified that it is the RCA's practice to have a back-and-forth with the utility to talk about a modification, but there is no rule. The suggested modification in subsection (e) is that when the RCA receives a standard or an IRP and decides a modification is required, the commission must return the

standard with an order and the ERO has the opportunity to modify it. She said the RCA's ability to modify is the ultimate backstop.

CHAIR COGHILL added that while the utilities recommended this change, Legislative Legal Services has been asked to develop appropriate language.

MS. MILLER agreed. The intent is to balance the utilities' concern as well as the RCA's concern that it retain that ultimate backstop.

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SENATOR GIESSEL directed attention to the sentence on page 3, lines 20-21, and said she crossed it out and made the notation "recommend remove."

CHAIR COGHILL asked Ms. Miller to respond.

MS. MILLER confirmed that the sentence should be removed. She explained that the section that relates to standards and how the RCA processes them relies on the existing public utility statute, AS 42.05. The process and how it takes effect is very clear in existing statute. That sentence creates a question as to whether a standard or modification is meant to apply, when they absolutely are intended to apply.

Continuing, she said pages 3 and 4 talk about penalties that that can be assessed by both the ERO and the RCA. The language in subsection (i) on page 4, line 8, allows the appeal of penalties to the commission. However, it is counterintuitive to say a commission assessed penalty can be appeal to and reviewed by the commission. The suggestion is to delete the references to subsection (h) on lines 9 and 10. Thus, if the ERO assesses a penalty, it can be appealed to the RCA and the commission can review it. If the RCA assesses a penalty, existing processes are in place for the party to question the penalty. This process includes taking the question outside the RCA.

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MS. MILLER directed attention to the language on page 5, lines 6-7, that states that regulations related to standards may include a requirement that an ERO obtain a certificate of public convenience and necessity. The suggestion is to remove that provision because the bill already say that an ERO has to have a CPCN.

SENATOR GRAY-JACKSON asked if the reference to subsection (h) on page 4, line 16, should be removed since it was removed from lines 9 and 10.

MS. MILLER answered no; that reference should stay because a penalty that is imposed, regardless of who imposes it, must be reasonable relative to the violation.

MS. MILLER directed attention to the language on page 5, starting on line 15 relating to integrated resource planning. She advised that a process should be inserted in this section that relates to the RCA's ability to modify what's been submitted to them. It would be a process similar to what was discussed for standards. To that end, Sec. 42.05.293(a) and (b) would be amended to clarify that when an IRP is submitted, and the RCA decides it should be modified, it must first be returned to the ERO with the suggested modification. The backstop (just as for standards) is that the RCA retains the authority to make the modification.

She explained that because an IRP would not be submitted as a standard tariff provision, the language must be clear that an IRP is to be filed with the RCA as a petition. That is a term the RCA is familiar with and it works with their other statutes. She said the utilities recommended inserting a time limit for the RCA to take action whether it is to accept the petition as-filed or to open a docket for investigation and potential modification after the investigation. She said the parties seem to think 45 days is reasonable and would mimic the timeline for the standards that are filed as tariff provisions.

CHAIR COGHILL asked if the timeline would be added to subsection (b) or in a new subsection.

MS. MILLER replied Legislative Legal Services is working on that right now, but she believes it would be inserted in subsection (b).

She noted the reference to lowest cost on page 5, line 23, and relayed that a number of stakeholders want assurance that "lowest possible cost" is not the only consideration because other values should sometimes factor into decisions of whether something is in the public necessity or interest. That language will perhaps be changed to look at the greatest value and the RCA will be encouraged to define that in regulation. Stakeholders have been party to this discussion, she said.

CHAIR COGHILL added that the idea has been to create a system approach to balance cost-effective and load-serving so it is consistent with the public interest and has a value statement.

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SENATOR GIESSEL commented that the lowest value isn't necessarily the best consideration.

CHAIR COGHILL clarified that he said value statement.

MS. MILLER pointed out that the range of things that must be considered in the plan have to be cost effective, but the lowest cost may not necessarily be what the stakeholders, the ERO, or the RCA feels is in the best interest.

SENATOR MICCICHE suggested that the parts of the sentence that evaluate lowest cost and overall impact need to be independent, but both should be considered.

CHAIR COGHILL said the goal is to get an organization to do economic dispatch and the question is how to get there under planning.

SENATOR MICCICHE suggested that the emphasis should be on the lowest cost but the other factors should be considered as well.

CHAIR COGHILL said the language that was sent for consideration was cost/value but if it's lowest cost there will need to be balancing language. If the primary consideration is to be cost effective then that has to be considered through the whole system. For example, an IPP may not be cost effective on one end of the line but it is somewhere else. He noted that REAP made that point.

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SENATOR MICCICHE opined that the current wording takes that into account.

CHAIR COGHILL said it's good to have the discussion, particularly because the stakeholders, the RCA, the organizational development team, and REAP came at it from different perspectives. "If that's the way the language stays, we'll have a public record on it, but if it does change, we'll have to debate that change." He asked Ms. Miller to confirm that they asked the drafters to craft a cost/value statement.

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MS. MILLER responded that they are working through that. She said she's clearly hearing from the committee that low cost to the ratepayers is very important, but it has to be balanced with questions of the public good. It should not be just a monetary equation.

CHAIR COGHILL said he believes there is balance in the statement.

SENATOR MICCICHE suggested that lines 26 and 27 are redundant. He added that he believes the committee discussion has been sufficient.

[4:00:58 PM](#)

MS. MILLER said she'd look at that. She added that the ERO stakeholders raised a different question about those same two lines. They expressed a desire to have the RCA's decision on an IRP include an account of the process that went into the ERO's plan. They want some weight given to the effort to build consensus among the ERO board and other stakeholders and evidence to show that people had a voice. Further, the language should reflect the need to consider the process to build the IRP.

[4:02:05 PM](#)

MS. MILLER directed attention to page 6, line 13, relating to project preapproval. She said this area generated a lot of comment and recommendations from all stakeholders. She advised that the term "the most cost-effective manner" on line 20 will be massaged to be more representative of the range of values used to determine whether a project is necessary. The utilities want to understand how the RCA would treat projects between now and when an integrated resource plan is in place in terms of preapproval. The forthcoming CS will try to ensure that the RCA is directed to write regulations that make it clear how projects under development will be handled during the transition to project preapproval.

CHAIR COGHILL summarized the intent.

MS. MILLER agreed that the idea is to give some consideration without creating a loophole.

SENATOR MICCICHE referenced the RRC Organizational Development Team's suggested change for preapproval that says, "Exclude from RCA jurisdiction authority over facility location and transmission route and to preserve local authority." and "Add

undersea transmission lines, storage and ancillary services." He asked if the suggestion is to add to the exemptions for RCA jurisdiction or include those in the conditions for preapproval.

MS. MILLER explained that the utilities want to make sure that undersea and buried cables are subject to preapproval so they are part of the large energy facilities. She said Chair Coghill wanted the record to be clear about why the length for an undersea line is shorter than the larger transmission lines. She said the utilities have recommended changing the provision (starting on page 6) in subsection (c)(2)(B) that describes the length of a high-voltage transmission line of a large energy facility. The utilities recommend increasing the length from 5 miles 10 miles, which would accommodate utilities that supply power to homes and other facilities in sparsely populated areas. It would apply to high-voltage undersea lines that are greater than 3 miles in length. She cited the example of the line between Beluga and Anchorage. People agree that when that needs to be replaced, it will be put into the IRP process. She noted that there has also been a request to add battery projects and reactive compensation devices to the group of things that need preapproval.

CHAIR COGHILL agreed with Senator Micciche that battery projects are used to address power storage needs. He offered his understanding that battery projects for power would be under this definition.

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MS. MILLER suggested the committee check with one of the utilities to get an accurate answer.

CHAIR COGHILL said a utility would go to the RCA for a specific need, but he wasn't sure if it would fall under the large energy facility or the reliability requirements. He said that needs to be answered.

MS. MILLER agreed to follow up.

She advised that there have also been suggestions to exempt refurbishments and capitalized maintenance from the requirement to get preapproval. The RCA will also need direction to define those terms in regulation.

MS. MILLER said suggestions have been made about ensuring that project preapproval addresses an allowance for local government bodies and planning commissions to have their own rules. The

thinking is that the RCA probably should not be solely involved in deciding where to reroute local lines. She said the intent at this point is to include an appropriate acknowledgement of the consideration that the RCA should be given when it looks at preapproval.

She added that there was also discussion about the desire to have preapproval of cost. However, because preapproval has been restricted to the concept of preapproving the need for the project, Chair Coghill was not inclined to include cost preapproval in that early stage of the process.

CHAIR COGHILL opined that cost will still be an issue but the requirement is off-base.

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MS. MILLER directed attention to the definitions on page 7 that she characterized as clean up rather than substantive. She noted that she previously discussed the dates on page 7, [line 28] and page 8.

[4:12:30 PM](#)

CHAIR COGHILL stated that the directions to the Regulatory Commission of Alaska have been very clear and both the RCA and Legislative Legal Services agree that Southeast utilities are not included in the requirements of SB 123. He asked Ms. Miller if any other suggested language had come forward that might be needed.

MS. MILLER replied that Southeast utilities would like very specific exclusionary language, but the legal drafters said that would be redundant and not recommended.

CHAIR COGHILL commented on the misunderstandings that can arise from redundant language in statute. He reiterated:

All the legal team and the regulatory team that we've talked to said this has no impact on the connections that are down here in Southeast Alaska.

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MS. MILLER offered to walk through the mechanics where that appears in the bill.

CHAIR COGHILL requested she do so. "We've said it, now they have to believe us," he said.

MS. MILLER directed attention to the definition of "bulk-power system" on page 7, line 5, and reminded members that, as discussed, the term will change to "interconnected bulk electric system." She explained that to be one of these systems, at least one of the interconnected utilities must be subject to the provisions in AS 42.05.291. AS 42.05.711 exempts certain instrumentality of state utilities from regulation by the RCA; they are exempt from .291. She directed attention to subsection (c) on page 2, lines 26-29, that talks about how the commission shall form an electric reliability organization (ERO). Anybody that is not a bulk-power system doesn't need an ERO.

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MS. MILLER articulated the disclaimer that as she and the chair work with the legal drafters, additional small changes will be needed. Those will be flagged in the summary of changes for the forthcoming committee substitute (CS).

CHAIR COGHILL advised that he will entertain amendments once the committee has the CS. He noted that public testimony will remain open to allow comments on the CS.

SENATOR MICCICHE mentioned Bradley Lake, the Battle Creek bonds, and the exemptions going forward. He said he believes that there is an issue with the exemption and that may need to be addressed in the bill. He asked the chair to look at the material he had gathered so they could have a discussion and allow the utilities to come together on a potential solution. He stated his preference to have the discussion before the amendment process.

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CHAIR COGHILL asked when the rate exemption sunsets.

SENATOR MICCICHE replied the [Bradly Lake] exemption doesn't change for awhile and if the Battle Creek bonds become part of that agreement it could be an ongoing problem. He said the discussion is timely and including the utilities and possibly Bradley Lake as an IPP may help to resolve the issue.

CHAIR COGHILL indicated that he would welcome a simple solution but not if it becomes an Achilles Heel.

SENATOR MICCICHE nodded.

CHAIR COGHILL asked Senator Micciche to help him and the committee understand a simple solution. He noted that the explanation may need to include some of the history and details

of the project. He added that he needed to be convinced that this isn't a misfit for the bill.

SENATOR MICCICHE requested he review the information before making a determination.

[SB 123 was held in committee.]

[4:20:27 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Special Committee on Railbelt Electric System meeting at 4:20 p.m.