

**ALASKA STATE LEGISLATURE**  
**SENATE SPECIAL COMMITTEE ON RAILBELT ELECTRIC SYSTEM**

February 24, 2020  
9:01 a.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Mike Shower

**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."

- MOVED CSSB 123 (RBE) OUT OF COMMITTEE

**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  
 02/03/20 (S) Heard & Held  
 02/03/20 (S) MINUTE (RBE)  
 02/06/20 (S) RBE AT 1:30 PM BUTROVICH 205  
 02/06/20 (S) -- MEETING CANCELED --  
 02/12/20 (S) RBE AT 9:00 AM FAHRENKAMP 203  
 02/12/20 (S) Heard & Held  
 02/12/20 (S) MINUTE (RBE)  
 02/14/20 (S) RBE AT 9:00 AM BELTZ 105 (TSBldg)  
 02/14/20 (S) Heard & Held  
 02/14/20 (S) MINUTE (RBE)  
 02/17/20 (S) RBE AT 9:00 AM BUTROVICH 205  
 02/17/20 (S) Heard & Held  
 02/17/20 (S) MINUTE (RBE)  
 02/19/20 (S) RBE AT 9:00 AM BUTROVICH 205  
 02/19/20 (S) Heard & Held  
 02/19/20 (S) MINUTE (RBE)  
 02/24/20 (S) RBE AT 9:00 AM BUTROVICH 205

**WITNESS REGISTER**

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

**POSITION STATEMENT:** Described proposed amendments and the Letter of Intent for SB 123.

CHARLES R. BALDWIN, General Counsel  
 Homer Electric Association (HEA)  
 Homer, Alaska

**POSITION STATEMENT:** Responded to questions that arose during the previous hearing on SB 123 and emphasized the importance of maintaining the status quo ante of the existing Bradley Lake exemptions.

JEFF WARNER  
 Municipal Light and Power  
 Anchorage, Alaska

**POSITION STATEMENT:** Testified that the intent statement for SB 123 satisfies ML&P's original concern.

TONY IZZO, CEO  
 Matanuska Electric Association  
 Anchorage, Alaska

**POSITION STATEMENT:** Testified that the intent statement for SB 123 satisfies MEA's earlier concerns.

**ACTION NARRATIVE**

[9:01:25 AM](#)

**CHAIR JOHN COGHILL** called the Senate Special Committee on Railbelt Electric System meeting to order at 9:01 a.m. Present at the call to order were Senators Giessel, Gray-Jackson, Micciche, and Chair Coghill.

**SB 123-ELECTRIC RELIABILITY ORGANIZATIONS**

[9:01:59 AM](#)

**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 noted that Version G was adopted during the previous hearing and there was a proposed amendment, work order 32-LS0959\G.1, relating to the Bradley Lake exemptions and electric reliability organizations (ERO) in the Railbelt. He asked Ms. Miller to review the proposed amendment.

[9:04:09 AM](#)

**RENA MILLER**, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska, stated that she was on loan to this committee for the purposes of SB 123. She explained that the bill drafter suggested that because the exemptions municipal utilities and entities have under AS 42.05.711 are very broad, SB 123 should be amended to clarify that utilities that are part of a network served by an ERO, must comply with the ERO statutes. She reviewed the following from amendment 31-LS0959\G.1:

Page 4, line 3:

Delete "otherwise"

Following "from":

Insert "other"

Following "under":

Insert "AS 42.05.711 or another provision of"

Page 8, line 20, following "utility":

Insert ", including a public utility that is exempt from other regulation under AS 42.05.711 or another provision of this chapter,"

MS. MILLER advised that the [Southeast Alaska Power Agency (SEAPA)] has requested an amendment to amendment G.1 to clarify that the RCA shall not require an ERO for a network where all the entities are exempt under AS 42.05.711. The following would be inserted:

Page 4, line 2, following "network"  
Insert "served by an electric reliability organization,"

MS. MILLER explained that page 1 of the bill says that SEAPA utilities would not be required to have an ERO and this clarifies that the tariff applies to an ERO.

[9:07:27 AM](#)

CHAIR COGHILL restated the amended amendment Ms. Miller described.

[9:08:45 AM](#)

SENATOR MICCICHE moved Amendment 1.

#### **AMENDMENT 1**

Page 4, line 2, following "network"  
Insert "served by an electric reliability organization,"

Page 4, line 3:  
Delete "otherwise"  
Following "from":  
Insert "other"  
Following "under":  
Insert "AS 42.05.711 or another provision of"

Page 8, line 20, following "utility":  
Insert ", including a public utility that is exempt from other regulation under AS 42.05.711 or another provision of this chapter,"

[9:09:33 AM](#)

CHAIR COGHILL found no discussion or questions and announced that without objection, Amendment 1 passed.

He reminded the members that during the previous hearing they talked about adding intent language to identify Bradley Lake as unregulated but a participant on the Railbelt utility line. He asked Ms. Miller to discuss the proposed intent language and noted that it had been distributed to stakeholders and the committee and reviewed by the drafter.

[9:10:59 AM](#)

MS. MILLER said she'd first step back to remind members that the intent of SB 123 is to require interconnected networks to work together on planning and reliability for an entire system to benefit ratepayers. For this to occur, all entities feeding in and moving power through that system need to be part of an electric reliability organization (ERO) and the planning process. She said this makes sense for the Railbelt that has utilities over which the Regulatory Commission of Alaska (RCA) has jurisdiction to ensure participation and compliance. But that component does not quite fit the Bradley Lake project and the associated transmission lines that are required services by the sweet of contracts that are exempt from RCA oversight and review. The question that's come up, she said, is how SB 123 and these requirements work in an ERO interface with this entity that is not subject to the same levels of regulation as the other entities.

MS. MILLER advised that the intent statement is intended to be a tool that reflects the committee's purpose and intent without wading into ongoing litigation and dispute over some of the Bradley issues. It expresses the intent of this legislature.

[9:13:12 AM](#)

MS. MILLER paraphrased the following Intent Statement for the CS for Senate Bill 123(RBE), version G:

It is the intent of the Thirty-First Alaska State Legislature that under SB 123, reliability standards, electric reliability organization (ERO) tariff standards, planning terms, and project pre-approval requirements will ultimately apply across the entire interconnected Railbelt electric energy network. Broad application is necessary to achieve the desired efficiencies and reliability for Alaskans within the Railbelt.

SB 123 does not in any way affect or change the existing relationship between the RCA and the Bradley Lake project agreements, contracts, and amendments

exempt under AS 42.05.431(c). It is, however, the intent of the Alaska State Legislature that after the Bradley Lake project debt is satisfied and the AS 42.05.431(c) exemption expires, those agreements, contracts, and amendments shall be subject to SB 123.

Should Bradley Lake project agreements, contracts, and amendments receive a future extension of the AS 42.05.431(c) exemptions, the Thirty-First Alaska State Legislature urges consideration of the relationship between Bradley Lake and associated infrastructure and projects, the Railbelt network, and the electric reliability organization, and emphasizes the intent to subject all interconnected network users, owners, or operators to the reliability standards, an electric reliability organization tariff, planning, and project pre-approval requirements.

[9:14:39 AM](#)

CHAIR COGHILL said the idea was to put the planning and the reliability organization together to recognize the extraordinary circumstance where one entity is not subject to regulation but is a participant in the Railbelt energy grid.

CHAIR COGHILL found no committee comment and said he'd like to hear public testimony before adopting the letter of intent. He listed those who were available to answer question and those who wanted to testify.

[9:17:36 AM](#)

CHARLES R. BALDWIN, General Counsel, Homer Electric Association (HEA), Homer, Alaska, stated that he has been general counsel to the utility for 38 years, representing it before the RCA in multiple regulatory matters as well as the transaction related to the construction of the Bradley Lake Hydroelectric Project.

MR. BALDWIN reminded the committee that in an effort to fast-track the construction of the Bradley Lake Hydroelectric Project, the legislature in 1988 amended the Alaska Public Utilities Act by exempting from RCA jurisdiction, the Bradley Lake Power Sales Agreement between the Railbelt utilities and the owner of the Bradley Lake project, the Alaska Energy Authority. This was done to sell very favorable bonds within a window of opportunity. Under AS 42.05.431(c), the legislature also exempted the agreements among the Railbelt utilities that provided for the transmission of Bradley Lake power. That power

now accounts for about half of all wholesale power transmitted within the Railbelt.

MR. BALDWIN highlighted that the legislature understood that the Bradley Lake agreements and statutory exemption were to address a unique circumstance and that uniqueness was provided for by sunseting the Bradley exemption when the bonds were paid.

MR. BALDWIN said he would respond to the two questions that arose during the last hearing on the bill, the first of which asked when the exemption expires. He directed attention to the statutory language that says the exemption of the Bradley agreements remains in effect, "until all long-term debt incurred for the project is retired." He noted that the last bond of the debt originally issued to pay for that project is scheduled to be retired on July 1, 2021. If all the Railbelt utilities accept that expiration, any conflict between SB 123 and the Bradley exemption statute would be of minimal concern. However, HEA understands that certain Railbelt utilities are prepared to argue that the exemption will not expire until 2041, which is when the new bonds for the Battle Lake expansion of the Bradley project are paid.

MR. BALDWIN described this as a significant issue because there can be no unified open access Railbelt transmission system as long as the RCA is precluded from approving electric transmission rates and standards for the Bradley Lake power. He said the Supreme Court agreed when it held that the RCA is without jurisdiction to approve transmission tariffs for Bradley Lake power.

MR. BALDWIN said that leads to the second question, which is the extent to which SB 123 might be impacted by the RCA's future inability to review and approve the terms of the Bradley contracts. For context, he said it is important to understand the relationship between public utilities and the public as represented by the RCA. He explained that under what is known as the regulatory compact, the state (as the regulator) gives a utility company a monopoly to serve a specific area. In return, the regulator is vested with the power to regulate that utility as to rates and conditions of service, including the right to review, to approve, and to modify contracts affecting the public interest.

MR. BALDWIN said one of the goals of SB 123 appears to be to foster conditions conducive to common rules and rates for transmitting wholesale power within the Railbelt. In the

industry, these rules are known as an open access transmission tariff (OATT). He directed attention to Sec. 42.05.77 on pages 5 and 6 of version G that allows the RCA to implement regulations requiring the ERO to lay the groundwork for the eventual unified Railbelt transmission rates and services, but not to adopt rules outright to establish an OATT.

[9:27:03 AM](#)

MR. BALDWIN said it is pointless to adopt standards for an OATT if the commission has no jurisdiction to approve an OATT, unless that inability is short-lived. Further, if the RCA is ever able to approve a nondiscriminatory open access Railbelt transmission tariff, it must first be able to approve tariff provisions that overrule the contrary language in the Bradley Lake transmission agreements, because those agreements are both discriminatory and anticompetitive. They are discriminatory in that they give the Bradley Lake Hydroelectric Project transmission priority over every other resource. They are anticompetitive in that they limit the right to transport power to a select group of utilities and they provide that disputes are to be decided by a majority vote of the interested parties, not the RCA that looks out for the public interest. He reiterated that it is impossible to establish an OATT if the RCA does not have authority to oversee these contracts of the monopolies they regulate.

MR. BALDWIN pointed out that while HEA is the only power generator currently constrained by the Bradley transmission agreements, the same constraints will exist for any other entity wishing to make firm power sales off the Kenai Peninsula. Any future peninsula-based wind, solar, or tidal projects would be precluded from access to the Railbelt market. He said HEA urges the committee to adopt the language that clarifies the legislature's understanding that the exemption expires when the original revenue bonds have been paid; that there will be no extension; and the original purpose for which the exemption was granted is satisfied.

MR. BALDWIN concluded his comments saying that only time will tell whether the RCA's jurisdiction to regulate Bradley Lake matters will be challenged after the 2021 sunset date, but a clear statement of legislative intent would make such challenges less likely. That would remove a major impediment to a unified transmission system for the Railbelt.

[9:31:24 AM](#)

CHAIR COGHILL thanked him for the testimony.

[9:31:58 AM](#)

At ease

[9:33:00 AM](#)

CHAIR COGHILL reconvened the meeting and asked Mr. Warner to provide his testimony.

[9:33:25 AM](#)

JEFF WARNER, Municipal Light and Power, Anchorage, Alaska, stated that the intent statement for SB 123 satisfies ML&P's original concern and they appreciate the committee's consideration of the statement.

CHAIR COGHILL asked Mr. Izzo to provide his testimony.

[9:34:34 AM](#)

TONY IZZO, CEO, Matanuska Electric Association, Anchorage, Alaska, stated that the intent statement for SB 123 satisfies the concerns that were raised and MEA supports it completely. It strikes a balance between moving the Railbelt forward and the existing contractual agreements that are in statute and in dispute. He thanked the committee for finding an artful solution to bifurcate those two things and satisfy the concerns. He repeated his earlier testimony that SB 123 is overdue and historic and warned against letting the perfect get in the way of the extremely good.

[9:35:57 AM](#)

CHAIR COGHILL summarized that the intent statement clarifies that SB 123 is trying to stay out of the litigation but when all the issues are satisfied, the power from the Bradley Lake Hydroelectric Project will be part of the planning and ERO process.

[9:37:41 AM](#)

At ease

[9:41:18 AM](#)

CHAIR COGHILL reconvened the meeting.

[9:41:34 AM](#)

SENATOR MICCICHE moved the letter of intent.

[9:41:43 AM](#)

CHAIR COGHILL found no objection and the [Intent Statement for CSSB 123(RBE), version G,] was adopted. He solicited a motion.

9:42:08 AM

SENATOR MICCICHE moved to report the CS for SB 123, work order 31-LS0959\G as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR COGHILL found no objection and CSSB 123(RBE) with intent statement was reported from the Senate Special Committee on Railbelt Electric System.

9:42:59 AM

There being no further business to come before the committee, Chair Coghill adjourned the Senate Special Committee on Railbelt Electric System meeting at 9:42 a.m.