HB

78

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16. HB 78 Supporting Documents - Presentation AIPPA - Designing Alaska's Future Removing Energy Gridlock.pdf

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CS FOR HOUSE BILL NO. 78( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES WILSON, Muñoz

A BILL

FOR AN ACT ENTITLED

"An Act bearing the short title of the 'Alaska Competitive Energy Act of 2015'; and relating to the Regulatory Commission of Alaska."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SHORT TITLE. This Act may be known as the Alaska Competitive Energy Act of 2015.

*** Sec. 2.** AS 42.05 is amended by adding a new section to read:

Sec. 42.05.315. Qualifying facilities. (a) An electric utility shall meet all applicable requirements, criteria, and obligations set out in 18 C.F.R. 292.101 - 292.602, as those regulations read on January 1, 2015. The commission may also require an electric utility to

(1) purchase power from a qualifying facility at the avoided cost of the electric utility or at an alternate negotiated rate;

(2) make available to the commission and maintain for public inspection the data the utility used to derive an avoided cost;

(3) provide, at the request of the commission, justification for an avoided cost calculation;

(4) purchase power on an as-available basis from a qualifying facility; and

(5) provide for energy and capacity sales, joint use or interconnection, and transmission services to facilitate power purchases described in (4) of this subsection.

(b) A qualifying facility is exempt from state laws and regulations to the extent provided in 18 C.F.R. 292.602(c), as that regulation read on January 1, 2015.

(c) The commission may, by order, direct an electric utility to purchase power from a qualifying facility or otherwise take action in accordance with this section. The commission may prescribe the terms and conditions of the arrangement to be made between the persons affected by the order, including the apportionment of cost between an electric utility and a qualifying facility, the compensation or reimbursement reasonably due to the persons, and the time for implementation of the order. The commission may remand rates, charges, terms, and conditions to the electric utility for review and revision if necessary to meet the requirements of this section.

(d) This section applies to each electric utility for which the commission has ratemaking authority, regardless of whether the electric utility is exempt from other regulations under AS 42.05.711.

(e) In this section,

(1) "avoided cost" means the incremental cost to an electric utility of electric energy or capacity, or both, which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source;

(2) "qualifying facility" means a cogeneration facility or a small power production facility that meets the criteria prescribed by the Federal Energy Regulatory Commission in 18 C.F.R. 292.101 - 292.602, as those regulations read on January 1,

2015.

* **Sec. 3.** AS 42.05.311 is amended by adding new subsections to read:

(d) Upon receiving a request for joint use, interconnection, or transmission services from one or more other entities engaged in the generation, transmission, or sale of electric energy, an electric utility shall, for reasonable compensation and within a reasonable time, establish joint use or interconnection of its transmission facilities with the requesting entity or provide transmission services to the requesting entity if

(1) an undue burden will not be placed on the electric utility;

(2) the action is consistent with the public interest; and

(3) the action will not impair adequate service to the customers of the electric utility.

(e) The rates, charges, terms, and conditions imposed by an electric utility with respect to joint use, interconnection, and transmission services shall be comparable to those that the electric utility imposes on itself, shall promote the economically efficient transmission and generation of electricity, shall be just and reasonable, and may not be unduly discriminatory or preferential. To the extent practicable, the costs incurred by an electric utility in providing joint use, interconnection, or transmission services to a connecting entity, properly allocated to the connecting utility, shall be recovered from the connecting entity and not from the customers of the electric utility.

(f) For purposes of (d) and (e) of this section,

(1) "reasonable compensation" means an appropriate share, if any, of legitimate, verifiable, and economic costs incurred by an electric utility in establishing joint use, interconnection, or transmission services with a connecting entity, taking into account any benefits to the transmission system of providing the joint use, interconnection, or transmission services to the connecting entity and the costs of any enlargement of transmission facilities;

(2) "transmission" means facilities, lines, and equipment used to move bulk electricity at a voltage of 69 kilovolts or greater from where the electricity is produced or generated to distribution lines; and

(3) "distribution" means facilities, lines, and equipment used to move

electricity at a voltage of less than 69 kilovolts from transmission facilities to retail customers.

*** Sec. 4.** AS 42.05.321(a) is amended to read:

(a) In case of failure to agree **on** [UPON] the joint use**,** [OR] interconnection of facilities**, or provision of transmission services,** or the conditions or compensation for **the** joint use**, interconnection, or transmission service** [OR INTERCONNECTIONS], **a** [THE] public utility, including any municipality, or an interested person may apply to the commission for an order requiring the interconnection. If, after investigation and opportunity for hearing, the commission finds that public convenience and necessity require the joint use**, interconnection,** or **transmission service** [CONNECTION], and that the **joint** use**, interconnection,** or **transmission service** [CONNECTION] will not result in substantial injury to the owner utility or its customers, or in substantial detriment to the services furnished by the owner utility, or in the creation of safety hazards, it shall**, consistent with 18 C.F.R. 292.101 - 292.602, as those regulations read on January 1, 2015,**

(1) order that the **joint** use**, interconnection, or transmission service** be permitted;

(2) prescribe reasonable conditions and compensation for the joint use**, interconnection, or transmission service**;

(3) order the **joint use,** interconnection**, or transmission service** to be made **or provided**;

(4) determine the time and manner of the **joint use,** interconnection**, or transmission service**;

(5) determine the apportionment of costs and responsibility for operation and maintenance of the **joint use,** interconnection**, or transmission service**.

CIRI

March 3, 2015

The Honorable Tammie Wilson, Representative
Alaska House of Representatives
State Capitol Room 412
Juneau, Alaska 99801

RE: CIRI support for HB 78

Dear Representative Wilson:

I am writing today on behalf of Cook Inlet Region, Inc. (CIRI) to express support for House Bill 78, a bill that would begin a long-needed process of introducing competition to the electric utility system in Alaska. CIRI appreciates your attention to the significant and substantive problems that HB 78 seeks to help resolve.

CIRI has become a knowledgeable participant in the Alaska electric utility sector through its development of the Fire Island Wind Project, one of Alaska's few independent power producer-developed and non-utility owned power generation projects. The process of learning our electric utility system to navigate the project development process has revealed to us the significant flaws and barriers inherent to our existing system. Unfortunately, the ratepayers of Alaska's existing electric utilities bear the financial burden of this flawed system. We believe that HB 78 and subsequent measures will spur much needed competition and private enterprise, which in turn contribute and bring innovation that will lower rates for ratepayers.

Competition and the investment of private risk capital are two cornerstones of the U.S. economy. Unfortunately the existing electric utility structure in Alaska essentially prevents both. The consequences of virtually excluding competition and investment result in obvious and unavoidable costs: Alaska has the second highest average cost of residential electric power in the nation and the lowest level of privately owned electrical generation in the country. In fact, the rate of privately owned generation in Alaska is less than in communist China.

Duplication of services and management, an on-going overbuild of new generation projects, inefficient financial management, accountability for project cost increases and cost overruns, and transmission rate pancaking have recently resulted in double digit percentage rate increases for ratepayers of Railbelt electric utilities. In the face of these stark realities, independent power producers willing to risk their own capital to deliver competitive energy are shut out by an uncompetitive and lawless market.

HB 78 sets out to help rectify this situation by introducing competition to this currently isolated market. Legislative reform to allow competition and innovation is

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critical to restore the market-based efficiencies in Alaska on which the rest of our national economy thrives. CIRI fully supports the immediate passage of HB 78.

Sincerely,

Cook Inlet Region, Inc.

Ethan Schutt
Senior Vice President, Land and Energy Development

Cc: The Honorable Jim Colver, Co-Chair House Energy Committee
The Honorable Liz Vazquez, Co-Chair House Energy Committee
Jerry Mackie

March 3, 2015 - 10:15A House Energy – LIO Testimony on HB78 – More testimony on Thursday, March 5, 2015 10:15A

Thank you co-chairs Colver and Vazquez for taking public testimony on this bill; I was not able to testify at my LIO today and will not be available to testify Thursday.

My name is Clay Koplin, a life-long Alaskan, registered professional electrical engineer via UAF, and MBA with 22 years of Alaska electric utility experience as staff engineer, operations manager, and for the past 8 years as CEO of Cordova Electric Cooperative.

I appreciate Representative Wilson bringing this discussion forward; it is an important one that I hope will lead to a better understanding and appreciation of the challenges of producing and distributing energy in Alaska.

I want to make three points regarding this bill:

1) Competition is not always good in closed markets. High rates are not due to a lack of competition and monopoly profiteering. The primary cost driver is economy of scale (and yes, the Alaska rail belt has a tiny scale economy compared to the national grid, multiply this for rural Alaska). The electric utility industry is the most capitally intensive on earth which means high fixed costs. The best way to reduce kilowatt hour rates is to sell more of them against these fixed costs. Unfortunately, each Alaska grid has to carry its own backup capacity that goes largely underutilized creating a necessary over-capacity. Artificially removing the financial and market barriers to adding more generation to Alaska systems generally hurts, rather than helps, this problem. There are presently IPPs connected to utility grids that make financial and operational sense proving that there is workable opportunity in some community markets, and a workable process - no new business venture is without headwinds.

2) Most electric utilities in this state are private businesses, owned, built, and operated by Alaskans; ultimately the rate-payers. Electric utilities are one of the only industries in this state that is actually owned by Alaskans - why are we eager to have them financed, and therefore controlled, with private equity? Private equity moves margins, and often jobs and decision-making outside our communities and our state. Another problem with private equity is that it requires short-term growth and return on investment that is just the kind of short-nearsightedness that often makes for higher costs in the long run. Cordova's consumer-owned utility decided in 1978 to bury all of its overhead power lines though costlier at the time. It took 38 years to complete the project, but now we have exceptionally high reliability in our power system and extremely low operations and maintenance costs. Private capital managed outside of our communities or our state would never have this vision or patience – the short term pain for longer term gain.

3) One of the most frustrating and cost-intensive challenges in our industry is the regulatory tsunami that has been battering the industry for the past 10 years. Forcing administrative overheads on utilities, or business relationships with firms that often, to be frank, have never built or operated electric system infrastructure, particularly in Alaska were the risks and uncertainties are unique and complex, is not a cost-saving solution. There are enough abandoned plants and technologies scattered around the state to prove this. In a true market economy, utilities would be free to select their business partners and opportunities, both internally and externally. Their cost-quality-reliability-environment balanced score cards which consumers now seek required trade-offs to the sole metric of cost. Utilities would be free to decide whether or not IPP projects or vendor credibility warrant a business relationship, and factor the uncertainties and risks into their decision-making. "Reasonable", "fair" and "non-discriminatory" are subjective terms. Non-discrimination implies equality, and not all projects or firms are created equal. Picking winners and losers at the state and federal legislative levels literally turned off the lights in California 15 years ago during "deregulation" - I hope we don't follow a similar path.

In summary, the electric utilities are not the barriers to adding generation to a largely over-built system, the barriers are the barriers; economies of scale, regulatory costs, logistics & environment, risk and uncertainty in future fuel and operating costs, and geographic distribution resulting in very, very low customer density &

revenue per dollar of plant investment. Competition is not as compelling to a local utility as the desire to improve the quality and reduce the energy costs for their neighbors and community *unless* that competition stands between the utility and that goal – that may be one of the reasons there is such a strong industry response to this bill. While this bill has good intentions, it will most likely detract from the very goal it pursues; lower energy costs for Alaskans.

CC: House Special Committee on Energy, Bill Sponsor, and Cordova District Senator Stevens and Representative Stutes

CHUGACH
POWERING ALASKA'S FUTURE

March 3, 2015

Representative Liz Vazquez
Co-Chair of the House Special
Committee on Energy
State Capitol
Room 428
Juneau, AK 99801

Representative Jim Colver
Co-Chair of the House Special
Committee on Energy
State Capitol
Room 424
Juneau, AK 99801

Re: Comments of Chugach Electric Association ("Chugach") on HB 78 – "An Act Bearing the Short Title of the 'Alaska Competitive Energy Act of 2015'

Dear Representatives Vazquez and Colver:

Due to various regulatory proceedings at the Regulatory Commission of Alaska ("Commission"), Chugach has not had the opportunity to appear before the House Energy Committee hearings on HB 78. With continued commitments before the Commission over the next few weeks, Chugach thought submitting written comments would assist the Committee in its consideration of HB 78. While Chugach supports efforts to provide mechanisms for lowering costs to electric ratepayers, several ongoing regulatory efforts appear to provide avenues for considering all of the issues raised in HB 78, at least with respect to the Railbelt transmission system. As a result, Chugach opposes HB 78 in order to prevent the duplication of effort and potential for inconsistent policy decisions on these important electric policy issues.

The two most important regulatory efforts at the Commission that address issues raised in HB 78 are:

(1) the docket opened on February 27, 2015 to address an independent system operator for the Railbelt transmission system, In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System, Docket I-15-001; and

(2) the proposed regulations presented by Commission staff in Docket R-13-002 designed to bring Alaska's regulations implementing the Federal Public Utility Regulatory Policy Act of 1978 ("PURPA") up to date to reflect changes made by the Federal Energy Regulatory Commission ("FERC") to its regulations over the last several years.

In its order opening Docket I-15-001, the Commission requests that each Railbelt utility answer questions arising from the Legislature's directive in Chapter 18 SLA 14 Section 31(b) to determine "whether creating an independent system operator or similar structure for electric utilities in the Railbelt area is the best option for effective and efficient electric transmission." In addition to the utilities, the Commission also asks the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested

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persons, to participate in the docket and answer the Commission's questions. Chugach supports the concept of an independent/unified system operator, for many reasons, including that it would allow for least-cost economic dispatch of generation so all Railbelt electric customers benefit, identification and implementation of cost-effective system upgrades and the independent operation of the system including interconnection and integration. Chugach will be filing comments in the docket that fully illustrate the benefits of, and Chugach's reasons for supporting, that approach to operating the Railbelt transmission system.

In public hearings on February 11 and 25, 2015, the Commission considered in IPP Docket R-13-002, its staff's proposed new changes to its regulations implementing PURPA, 3 AAC 50.750-820. The proposed changes would bring Alaska up to date with the revised Federal regulations. Specifically, the proposed regulations, among other things, would:

- require the same level of transparency and reporting obligations as FERC for about 20 Alaska utilities' "avoided cost;"

- address interconnection costs and integration fees in a reasonable, non-discriminatory way; and

- update the definition of avoided cost to include incremental cost as FERC does.

Considering that these are the areas addressed by HB 78, Chugach expects that the Commission's proceedings on the proposed regulations will result in the same playing field under PURPA as found in other states and likely eliminate any concerns HB 78 might be intended to address.

Finally, on issues such as those raised by these dockets, Chugach recognizes the Commission has specialized expertise in these types of complex matters, staff resources to fully investigate all positions, and established processes for allowing input from all parties to develop a useful record. Chugach fully expects the Commission will utilize this record to set a path forward and inform the Legislature at the same time.

Thank you for the opportunity to present these comments.

Respectfully submitted,

CHUGACH ELECTRIC ASSOCIATION, INC.

Bradley W. Evans
Chief Executive Officer

H2Oasis
Indoor Waterpark

"A Tropical Island in the Last Frontier"

Alaska Waterpark Company, Inc.
1520 O'Malley Road
Anchorage, AK 99507
907 522-4420

February 27, 2015

Re: Support for Alaska Competitive Energy Act

To Speaker of the House Mike Chenault and President of Senate Kevin Meyer

I am writing this letter to express Alaska Waterpark Co., Inc.'s support for the Alaska Competitive Energy Act which will benefit numerous Alaskans and businesses in getting control of their very high Alaska energy costs.

Our company is the operator of the H2Oasis Indoor Waterpark located in Anchorage which has for 12 years provided waterpark entertainment, water exercise, and swim lessons to over 1,500,000 guests from all over the state as well as from the lower 48. We are very proud of the many young people from bush Alaska that have enjoyed our facility and learned to swim. There is no doubt that many young lives have avoided a drowning situation as a result of attending the waterpark.

Waterparks by their very nature require a large amount of energy to operate, let alone one that is operating in Alaska. We operate grid connected Capstone natural gas micro turbines which produce combined heat and power. (CHP) In addition, we operate solar collectors for heating pool water during the summer months. This enables us to operate what we believe to be the most energy efficient commercial enterprise in the Anchorage area. Since waterpark operating costs in Alaska are incredibly high, this energy efficiency goes a long way to keeping our doors open for business and keeping a high comfort level for our guests even on the coldest Alaskan days.

The Act will provide for:

- Increased private sector investment in Alaska's electrical infrastructure.
- Open access to spare transmission capacity on equal terms.
- Increased wholesale competition
- An RCA empowered to engage in rulemaking that supports Alaska's energy policy goals of 50% renewable energy by 2025 and increased private sector investment in infrastructure

Sincerely,

Dennis E. Prendeville
President & CEO

HB 78: ALASKA COMPETITIVE ENERGY ACT OF 2015
BILL SUMMARY

AS 42.05, the authorizing statute for the Regulatory Commission of Alaska (RCA), is out of compliance with federal law, inconsistent with State energy policy, and hostile to private-sector wholesale competitive participation in Alaska's electric generation and utility industry.

Accordingly, AS 42.05 is decades out-of-date compared to prevailing trends in the Lower 48 that have resulted in lower electric rates, increased system reliability, and increased private sector investment in the electric utility and renewable energy industry. The result is complacency in the electric utility industry that leads to a dependence on state handouts for capital renewal.

RCA commissioners have asked for legislative direction to reform RCA regulations for guidance on implementing State energy policy. HB 78 reforms key portions of AS 42.05 with regard to the electric utility industry to correct these matters.

HIGHLIGHTS OF HB 78 SECTIONAL ANALYSIS

1. **Brings AS 42.05 into compliance with federal law.**

   AS 42.05 is not consistent with key provisions of PURPA. HB 78 corrects these inconsistencies and reduces the likelihood of a federal lawsuit to force compliance. Although R-13-002 evolves Alaska regulations within a narrow scope in the proper direction, it fails to resolve the following matters:

2. **Aligns AS 42.05 to be consistent with State energy policy (AS 44.99.115).**
   HB 78 empowers the RCA to adopt regulations to advance the State energy policy.

   - **Encourages development of renewable and local energy resources** *(.115(2)(A), (B))*.
   - **Requires fair and non-discriminatory practices, encouraging private-sector investment to develop Alaskan energy resources** *(.115(2)(D))*.
   - **Provides for open wholesale electric competition and provides for open access to in-state transmission assets** *(.115(2)(D))*.
   - **Streamlines regulatory processes by improving the balance between the cost of regulation and protection of the public interest** *(.115(4)(A))*.

3. **Reforms AS 42.05 to support private-sector investment in the electric industry.**

   - **Shortens the statutory timeframe for RCA rulemaking proceedings from two years to one.** Government delays and stall by study cripples private enterprise.
   - **Exempts eligible independent power producers (IPPs) from RCA regulation.** Currently, the RCA must consider and exempt IPPs on a case-by-case basis, which takes six months and wastes both RCA and IPP resources. The RCA must still review IPP contracts with utilities to safeguard the public interest.
   - **Provides statutory framework for open access to transmission lines on an non-discriminatory, cost-neutral basis.** Further provides the RCA authority to investigate and correct discriminatory and anti-competitive behavior.

February 25, 2015

Members of the Alaska State Legislature,

The purpose of this letter is to express STG Incorporated's (STG) support of HB78, the Alaska Competitive Energy Act of 2015 (ACEA).

STG is an Alaskan based construction company with over 20 years of experience in every aspect of rural construction with a focus on energy infrastructure in rural and urban settings.

STG performed the crane work to erect the first 11 turbines installed under the 1st phase of CIRI's Fire Island Wind project. Phase 1 was only made possible through proactive cooperation of Chugach Electric. Otherwise, the project would have fallen by the wayside.

Most recently, STG planned to erect the next 11 turbines for CIRI's 2nd phase of their Fire Island Wind project. STG, their employees, shareholders, and vendors, counted on this work for 2015. However, it has been suspended indefinitely due to the lack of a voluntary buyer or access to transmission line interconnection.

The lack of legislative rule regarding fair consideration and non-discriminatory open access transmission service are the primary barriers preventing successful development of Fire Island Wind Phase 2 and other projects similar in nature.

Additionally, as a rate payer, STG supports an equal playing field for independent power providers (IPPs) and utilities. Alaska needs a fair governing standard between IPPs and utility organizations. STG asks that the Alaska Legislature pass the ACEA to ensure that Alaska attracts private capital and creates private industry jobs to develop Alaska's in-state electrical energy resources.

Thank you for your consideration on this important matter.

Sincerely,

James St. George
President

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March 2, 2015

VIA E-MAIL PDF FORMAT

The Honorable Liz Vazquez
Representative and Co-Chair of the House
Special Committee on Energy
State Capitol
Room 428
Juneau, AK 99801

Re: Questions posed by Members of the House Energy Committee at the February 26, 2015 hearing on HB 78

Dear Co-Chair Vazquez:

At the hearing of the House Energy Committee on HB 78 held on February 26, 2015, several committee members, including yourself, asked questions of Carolyn Elefant, an attorney appearing on behalf of the Alaska Independent Power Producers Association. Unfortunately, before I had a chance to respond to the questions, the Committee ran out of time and adjourned the hearing. In an effort to efficiently respond to questions posed by the Committee Members (as best as I can recall them), I write with answers on behalf of Chugach Electric Association, Inc. ("Chugach") based on my almost 27 years of experience as an energy lawyer working with the Federal Public Utility Regulatory Policy Act of 1978 ("PURPA"). Because Chugach is a Railbelt utility, my answers focus on that region.

Through the Co-Chair, I offer the following answers on behalf of Chugach:

1. Co-Chair Colver asked: how Alaska is different from the other states when considering PURPA?

My answer: Alaska is different from most other states insofar as the Alaska Railbelt transmission system is owned largely by non-profit electric utilities. Most transmission systems in the United States are owned by for-profit investor owned utilities that must earn a profit to return to shareholders. Alaska's Railbelt transmission system, on the other hand, is primarily owned by four electric cooperative associations which are owned by their customers (Chugach, Golden Valley Electric Association, Inc., Homer Electric Association, Inc. and Matanuska Electric Association, Inc.) and two municipal utilities (Municipality of Anchorage d/b/a Municipal Light & Power and the City of Seward). In addition, the State of Alaska owns a portion of the system through the Alaska Energy Authority.

Notably, in other states where non-profit public power utilities dominate the state electric service areas, independent power producers own very little generation. For instance, Tennessee, due to the Tennessee Valley Authority, Nebraska, due to the fact that all of its utilities are public power districts, Missouri, Kentucky and South Carolina, due to the predominance of electric cooperatives, all have a lower percentage of electric generation capacity provided by independent power producers than Alaska. Enclosed as Attachment A is a chart that shows the comparable percentages. Those same states plus Utah, all have a lower percentage of energy produced from independent power producers. See Attachment A. In my experience, the reason for these low levels of generation and energy from independent power producers is largely due to the fact that non-profit utilities, including electric cooperatives and municipal utilities, have lower costs of capital and no need for returns for shareholders so that they mostly provide lower-cost generation than independent power producers.

Alaska is also different in that the Alaska Railbelt transmission system owners are part of a recently opened docket with the Regulatory Commission of Alaska ("Commission"), where the Commission requests each to answer questions around the Legislature's directive in Chapter 18 SLA 14 Section 31(b) to determine "whether creating an independent system operator or similar structure for electric utilities in the Railbelt area is the best option for effective and efficient electric transmission." Enclosed as Attachment B is the Commission's order dated February 27, 2015. In addition to the utilities that own the Railbelt transmission system, the Commission also asked the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested persons, to participate in the docket and answer the Commission's questions. I recall that Ms. Elefant mentioned that transmission systems in other states that have independent system operators provide opportunities to independent power producers to participate and compete on a non-discriminatory basis, a conclusion with which I agree.

2. Representative Claman asked: how PUPRA applies in Alaska?

My answer: Prior to 1982, the Alaska Legislature adopted statutes implementing PURPA, AS 42.025.361-42.05.441. Thereafter, in 1982, the Commission adopted regulations following the regulations issued by the Federal Energy Regulatory Commission ("FERC") implementing PURPA, 3 AAC 50.750-820. Most recently, in public hearings on February 11 and 25, 2015, the Commission considered in IPP Docket R-13-002, its staff's proposed new regulations that would bring Alaska up to date with the revised Federal regulations. Specifically, as set forth in the staff presentation of February 11, 2015, the proposed regulations (enclosed as Attachment C), among other things, would:

- require the same level of transparency and reporting obligations as FERC for about 20 Alaska utilities' "avoided cost;"

- address interconnection costs and integration fees in a reasonable, non-discriminatory way; and

- update the definition of avoided cost to include incremental cost as FERC does.

Notably as a backdrop for PURPA and FERC's regulations implementing PURPA, FERC and several Courts have found that states cannot adopt statutes, policies or regulations that would increase the costs to a utility's ratepayers (compared to the utility's costs without the PURPA project), including forcing a utility to buy capacity when not needed or energy at higher than the utility's avoided costs. Any such attempt would be preempted by PURPA.

3. Representative Claman asked: will HB 78 increase the potential for lawsuits.

My answer: PURPA provides an opportunity to sue and in fact, FERC ruled on December 18, 2014 that the Alaska Power & Telephone Company d/b/a Ketchikan Electric Corporation in its capacity as agent for the Mahoney Lake Hydroelectric Company could "bring an enforcement action against the Southeast Alaska Power Agency in the appropriate court" in response to a Petition filed by Ms. Elefant at FERC in October 2014. Enclosed as Attachment D is FERC's order in that matter.

4. Co-chair Vazquez asked: how does HB 78 address transparency for avoided cost, interconnection fees and integration costs.

My answer: As noted above, the Commission is considering proposed regulations that increase transparency for avoided cost, interconnection fees and integration costs. If adopted, the proposed regulations would most likely eliminate the need for passage of HB 78. In addition, with the Commission's new docket for considering the Legislature's directive regarding an independent system operator for the Alaska Railbelt transmission system, it is possible that the benefits to competition that independent system operators have brought to many other states, as noted by Ms. Elefant, would be available in Alaska, also likely eliminating any need for passage of HB 78.

Thank you for the opportunity to present these answers and I stand ready to answer any other questions the Committee might have for me.

Respectfully submitted,

James J. Bertrand
Partner and
Co-chair of the Energy, Mining,
Transportation and Telecommunications Division

cc: Bradley Evans, CEO of Chugach Electric Association

ATTACHMENT A

State Rankings For IPP Percentages Of Generation Based On 2012 Energy Information Agency Reports

State	Percentage of IPP MWs 2012 EIA	Rank
Tennessee	3.2%	50
Nebraska	5.6%	48 (tie)
Missouri	5.6%	48 (tie)
Kentucky	6.7%	47
South Carolina	7.8%	46
Alaska	8.1%	45
Washington	12.5%	44
Utah	13.0%	43
Wyoming	13.2%	42
South Dakota	15.5%	41
Virginia	16.9%	40

State	Percentage of IPP MWhs 2012 EIA	Rank
Nebraska	0.4%	50
Kentucky	0.9%	49
Missouri	3.3%	48
Tennessee	3.6%	47
South Carolina	4.1%	46
Utah	7.7%	45
Alaska	8.4%	44
Washington	8.7%	43
Wyoming	8.8%	42
Kansas	10.1%	41
North Dakota	11.5%	40

ATTACHMENT B

STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Paul F. Lisankie
T.W. Patch
Norman Rokeberg
Janis W. Wilson

In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System	I-15-001 ORDER NO. 1

ORDER OPENING DOCKET AND REQUESTING RESPONSES

BY THE COMMISSION:

At our public meeting on February 25, 2015, we decided to open a docket to gather information about the Alaska Railbelt electric transmission system.

Questions About Legislative Directive on Independent System Operator

Chapter 18 SLA 14, Section 31(b) directs us to determine "whether creating an independent system operator or similar structure for electric utilities in the Railbelt area is the best option for effective and efficient electrical transmission." In making this determination, we request that the Railbelt electric utilities,[1] the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested persons respond to the following questions:

[1]Chugach Electric Association, Inc.; Golden Valley Electric Association, Inc.; Homer Electric Association, Inc.; Matanuska Electric Association, Inc.; Municipality of Anchorage d/b/a Municipal Light & Power; and Seward Electric System.

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1. Would the creation of an independent system operator or similar structure for electric utilities in the Railbelt be the best option for effective and efficient electrical transmission? If not, what other approach would be best?

2. To what extent does our existing statutory and regulatory authority extend to mandating the creation of an independent system operator or similar entity and to regulating the rates and practices of such an entity?

Questions About Regulatory Authority over Railbelt Electric System

As we consider the potential formation of an independent system operator or similar structure, and as a result of issues that have been raised by electric utilities in recent contested proceedings, we are reviewing the scope and adequacy of the existing statutes and regulations that govern our statutory and regulatory authority over the Railbelt transmission system and bulk power supplies. We are also considering the appropriate level of our oversight of an independent system operator or similar structure if it is created either by legislation or after an application for a certificate of public convenience and necessity. As part of our review, we request that the Railbelt electric utilities, the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested persons respond to the following questions:

3. Are existing statutes and regulations governing our regulation of electric transmission adequate for us to effectively address current and future Railbelt transmission issues?

4. If our regulations require changes, what specific changes should be considered in a rulemaking docket and is it appropriate to consider making those changes at this time?

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5. If regulatory changes are found to be necessary, how narrow or broad should a rulemaking docket be and what scoping process should be used to determine the boundaries of the proceeding?

6. Regarding the reliability of electric service, is our authority limited to addressing utility practices and service quality within each utility's service territory, or does it extend across service territory boundaries such that, for example, we can address the effects of one utility's practices on the service quality of another utility?

7. Should there be a set of mandatory reliability standards for the Alaska Railbelt similar to those of the North American Electrical Reliability Corporation, and if so, do we or should we have the authority to mandate or regulate those standards (beyond the existing voluntary arrangements such as the existing Railbelt Operating and Reliability Standards)?

8. Considering our authority to "promote the conservation of resources used in the generation of electric energy" under AS 42.05.141(c), to require reasonable management practices under AS 42.05.511, to provide rate recovery of energy conservation efforts, and other statutory grants of authority, do we have the authority to order the Railbelt electric utilities to jointly and cooperatively manage their generation and transmission assets, or is our authority limited to matters within each utility's service territory? If our authority is limited to each utility's operations within its particular service area without regard to other interconnected utilities, explain why it is limited.

9. Do AS 42.05.311(a) and other statutes provide us with authority to order system-wide wheeling rates across utility-owned Railbelt transmission facilities, even if ownership of the facilities remains with individual utilities?

10. Does the AS 42.05 provide us with authority to review or regulate the integrated planning, determination of need for, and/or siting of new generation and transmission facilities of regulated electric utilities? If it does, how can that authority be

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employed to help ensure that new facilities are planned and constructed to optimize efficient and reliable provision of electric service to the entire Railbelt region?

11. What authority do we have to require or to encourage greater cooperation, power pooling, and/or centralized transmission system planning and operations among Railbelt electric utilities?

Responses to these questions and any related information or comments any person wants to bring to our attention should be filed into this docket by March 31, 2015.

ORDER

THE COMMISSION FURTHER ORDERS that by March 31, 2015, interested persons may file into this docket responses to questions related to the operation and regulation of the Alaska Railbelt electric transmission system as discussed in the body of this order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 27th day of February, 2015.

BY DIRECTION OF THE COMMISSION

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

Article 2. Cogeneration and Small Power Production.

Section
750. Application, purpose, and waiver
760. Interconnection **and Integration**
770. Purchases
780. Sales
790. Implementation
800. Disconnection
810. Disputes
820. Definitions

3 AAC 50.750. Application, purpose, and waiver.
(a) 3 AAC 50.750 – 3 AAC 50.820 apply to all electric utilities subject to the regulatory jurisdiction of the commission under AS 42.05.361 – 42.05.441. These sections govern interconnection and purchases and sales of electric power between an electric utility and a qualifying facility.

(b) The purpose of 3 AAC 50.750 - 3 AAC 50.820 is to encourage cogeneration and small power production by setting out guidelines for the establishment of reasonable, nondiscriminatory charges, rates, terms, and conditions under which interconnection and purchases and sales of electric power will occur between an electric utility and a qualifying facility.

(c) Any requirement in 3 AAC 50.750 - 3 AAC 50.820 may be waived, in whole or in part, or be modified by order of the commission upon application and a showing of good cause. An entity shall file and the commission will consider an application in accordance with 3 AAC 48.805.

3 AAC 50.760. Interconnection and Integration.
(a) An electric utility shall make interconnection with a qualifying facility as may be necessary to accomplish purchases or sales under 3 AAC 50.750 - 3 AAC 50.820.

(b) Notwithstanding (a) of this section, an electric utility is not required to interconnect with a qualifying facility if
(1) the electric utility, solely because of purchases and sales over the interconnection, would become subject to federal regulation under Subchapter II of the Federal Power Act, 16 U.S.C.§ 824; or

(2) a qualifying facility does not comply with the safety and reliability standards prescribed for interconnection by the commission.

(c) An electric utility may assess a qualifying facility interconnection charges which are reasonable and nondiscriminatory with respect to other customers that have similar load characteristics.

(d) Interconnection charges may include the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, administration, and other costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent these costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric power from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(e) An electric utility may assess a qualifying facility integration fees based on the costs of integrating the qualifying facility into the electric utility's system. Such fees are subject to the following limitations:

(1) Integration fees must be just and reasonable, must not discriminate against qualifying facilities, and must not adversely affect consumers or the public interest.

(2) Integration fees may include costs that are reasonably necessary under accepted industry standards for maintaining the safety, integrity, and reliability of the electric utility's system; provided, however, that such costs must be:

(A) directly related to and necessary for the operation of the qualifying facility within the electric utility's system;

(B) in excess of the corresponding costs which the electric utility would have incurred if it had not received power from the qualifying facility, but instead had generated an equivalent amount of electric power from other sources; and

(C) not duplicative of the costs associated with facilities or measures utilized by the utility for reasons other than the integration of the qualifying facility.

(3) To the extent facilities or measures support the integration of more than one qualifying facility or any other type of generation facility, the costs shall be allocated appropriately between or among such facilities.

(4) Integration fees shall not include any costs already accounted for in the calculation of avoided costs or interconnection costs.

(5) Integration fees shall be offset by definable and quantifiable integration benefits that accrue to the utility as a result of interconnection with the qualifying facility. To the extent that the benefits of integration exceed the costs of integration, the difference shall be paid to the qualifying facility.

([e]**f**) An electric utility shall offer a qualifying facility the option of reimbursing the electric utility for interconnection charges over a reasonable period of time. The electric utility may charge reasonable interest, to be prescribed in its tariff or special contract, for the financing of the interconnection costs.

([f]**g**) If a dispute arises under 3 AAC 50.810, an electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing the charges assessed to a qualifying facility for interconnection.

([g]**h**) An electric utility shall offer to operate in parallel with a qualifying facility.

[(h) AN ELECTRIC UTILITY SHALL OFFER A QUALIFYING FACILITY THAT HAS A GENERATING CAPACITY OF 10 KILOWATTS OR LESS THE OPTION OF USING A SINGLE DETENT METER DURING PARALLEL OPERATION.]

3 AAC 50.770. Purchases.

(a) An electric utility shall purchase, in accordance with (c) – (~~f~~g) of this section, any electric power which is made available from a qualifying facility.

(b) Notwithstanding (a) of this section, an electric utility is not required to purchase electric power from a qualifying facility if

(1) due to operational circumstances, purchases from a qualifying facility result in costs greater than those which the electric utility would have incurred if it had not made such purchases but had instead generated or purchased an equivalent amount of power; if purchases have started, an electric utility seeking to stop purchase under this paragraph shall notify in writing **the commission and** each affected qualifying facility in time for the qualifying facility to stop the delivery of electric power to the electric utility, or the electric utility shall pay the expense it would have incurred had power continued to be purchased from the qualifying facility at established rates during the same period; **a claim by an electric utility that such a period has occurred or will occur is subject to verification by the commission either before or after the occurrence, upon the commission's own motion or upon complaint by a qualifying facility.**

(2) during a system emergency, purchases from a qualifying facility would further contribute to the emergency; or

(3) with the agreement of the qualifying facility, the electric utility transmits the electric power to another electric utility which is obligated to purchase that electric power as if it were supplied directly by the qualifying facility.

(c) Rates for purchases of electric power must be just and reasonable and must not discriminate against qualifying facilities or adversely affect the consumers of the electric utility.

(d) For purchases from a qualifying facility [WHICH SUPPLIES NON-FIRM POWER], rates must be based on the cost of energy **and capacity** which the electric utility avoids by virtue of its interconnection with the qualifying facility. [RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:]- **The following factors shall, to the extent practicable, be taken into account:**

[(1) UNLESS OTHERWISE MODIFIED BY THE COMMISSION, AVOIDED ENERGY COSTS, EXPRESSED IN CENTS PER KILOWATT-HOUR, MUST BE DETERMINED FROM THE SUM OF FUEL AND VARIABLE OPERATION AND MAINTENANCE EXPENSES AND THE ENERGY PORTION OF PURCHASED-POWER EXPENSE FOR A 12-MONTH PERIOD, APPROVED BY THE COMMISSION, UPDATED BY SUBSEQUENT FUEL COSTS, AND DIVIDED BY THE NUMBER OF KILOWATT-HOURS SOLD FOR THE SAME TIME PERIOD. EXPENSES AND KILOWATT-HOURS SOLD ASSOCIATED WITH HYDROELECTRIC GENERATION MUST BE SPECIFICALLY EXCLUDED FROM THE COMPUTATION OF AVOIDED COSTS FOR AN ELECTRIC UTILITY WHICH RELIES ON HYDROELECTRIC GENERATION FOR 25 PERCENT OR MORE OF ITS TOTAL POWER REQUIREMENTS.
(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE FOLLOWING INFORMATION FOR THE CALENDAR OR FISCAL YEAR PRECEDING THE' DATE OF FILING, OR A MORE RECENT 12-MONTH PERIOD, TO SUPPORT RATES FOR PURCHASES OF NON-FIRM POWER:
(A) THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS SPECIFIED IN (D)(1) OF THIS SECTION; AND
(B) AT ITS OPTION, THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS BASED ON ANY OTHER METHODOLOGY DEEMED APPROPRIATE AND JUSTIFIABLE BY THE ELECTRIC UTILITY.
(3) RATES FOR PURCHASES OF NON-FIRM POWER MUST BE ADJUSTED CONTEMPORANEOUSLY WITH FUEL-COST RATE ADJUSTMENTS AND WITH CHANGES IN AVOIDED ENERGY COSTS IN GENERAL RATE REVISIONS.]

(1) The data provided pursuant to 3 AAC 50.790(e);

(2) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:
(A) The ability of the utility to dispatch the qualifying facility;
(B) The expected or demonstrated reliability of the qualifying facility;
(C) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
(E) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
(F) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
(G) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and
(H) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (d)(2) of this section, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased and equivalent amount of electric energy or capacity.

(5) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for purchase power based on avoided energy and capacity costs.

[(E) FOR PURCHASES FROM A QUALIFYING FACILITY WHICH SUPPLIES FIRM POWER, RATES MUST BE BASED ON THE COSTS OF ENERGY AND CAPACITY WHICH THE ELECTRIC UTILITY AVOIDS BY VIRTUE OF ITS INTERCONNECTION WITH THE QUALIFYING FACILITY. RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:

(1) IN DETERMINING AVOIDED ENERGY AND CAPACITY COSTS, TO THE EXTENT PRACTICABLE, THE FOLLOWING FACTORS MUST BE TAKEN INTO ACCOUNT:

(A) THE ESTIMATED AVOIDED ENERGY COSTS STATED ON A CENTS PER KILOWATT-HOUR BASIS FOR THE CURRENT CALENDAR OR FISCAL YEAR AND EACH OF THE NEXT FIVE YEARS;

(B) THE ELECTRIC UTILITY'S PLAN FOR THE ADDITION OF CAPACITY BY AMOUNT AND TYPE, FOR PURCHASES OF FIRM ENERGY AND CAPACITY, AND FOR REQUIREMENTS FOR EACH YEAR DURING THE NEXT 10 YEARS;

(C) THE ESTIMATED CAPACITY COSTS AT COMPLETION OF THE PLANNED CAPACITY ADDITIONS AND PLANNED-CAPACITY FIRM PURCHASES, ON THE BASIS OF DOLLARS PER KILOWATT AND THE ASSOCIATED ENERGY COSTS OF EACH UNIT, ON THE BASIS OF CENTS PER KILOWATT-HOUR; THESE COSTS MUST BE EXPRESSED IN TERMS OF INDIVIDUAL GENERATING UNITS AND OF INDIVIDUAL PLANNED FIRM PURCHASES;

(D) THE AVAILABILITY OF CAPACITY OR ENERGY FROM A QUALIFYING FACILITY DURING SYSTEM DAILY AND SEASONAL PEAK PERIODS;

(E) THE ABILITY OF THE ELECTRIC UTILITY TO AVOID COSTS DUE TO THE AVAILABILITY OF ENERGY OR CAPACITY FROM THE QUALIFYING FACILITY; AND

(F) THE COSTS OR SAVINGS RESULTING FROM VARIATIONS IN LINE LOSSES DUE SOLELY TO PURCHASES FROM QUALIFYING FACILITIES.

(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE INFORMATION NECESSARY TO SUPPORT THE METHODOLOGY AND CALCULATIONS USED IN DEVELOPING RATES FOR PURCHASE OF FIRM POWER BASED ON AVOIDED ENERGY AND CAPACITY COSTS.]

(e) For purchases of energy from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, the avoided energy costs must be expressed in cents-per kilowatt-hour and determined from the sum of fuel and variable operation and maintenance expenses and the energy portion of purchased-power expense for the period equal to that used in the utility's adjustment clause methodology, approved by the commission, updated by subsequent fuel costs, and divided by the number of kilowatt-hours sold for the same time period. Expenses and kilowatt-hours sold associated with generation that is not avoided by virtue of purchases from qualifying facilities with a design capacity of 100 kilowatts or less must be specifically excluded from the computation of avoided costs.

(2) An electric utility shall submit to the commission the following information for the same period used in support of the utility's adjustment clause filing, to support rates for purchases of energy:

(A) the data and computation of avoided energy costs specified in (e)(1) of this section; and

(B) at its option, in addition to the information required in (A) of this section, the data and computation of avoided energy costs based on any other methodology deemed appropriate and justifiable by the electric utility.

(3) The utility's request to use an alternate methodology in (2)(B) of this section is subject to review and approval by the Commission.

(4) Rates for purchase of energy must be adjusted contemporaneously with fuel-cost rate adjustments or cost of power adjustments, and with changes in avoided energy costs in general rate revisions.

(f) For purchases of capacity from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, avoided capacity costs must be expressed in cents-per kilowatt and based on the cost of capacity which the electric utility would avoid by virtue of its interconnection with the qualifying facility.

(2) An electric utility shall submit to the commission the relevant information from (d)(2) – (d)(5) from this section and the information specified in 3 AAC 50.790(e), to support rates for purchases of capacity.

(3) Rates for purchase of capacity must be updated every two years.

([f]g) Rates for purchases from a qualifying facility, the construction of which was commenced on or after November 9, 1978, must be set at an electric utility's full avoided costs as determined under (d) or (e) of this section. Rates for purchases from a qualifying facility, the construction of which was commenced before November 9, 1978, may be set at less than full avoided costs, provided that the lower purchase rates are established in accordance with (c) of this section.

([g]h) An electric utility which is legally obligated to obtain all of its requirements for electric power from another electric utility shall submit to the commission the requisite avoided cost data of its supplying utility and the rates at which it currently purchases such energy and capacity. The supplying electric utility shall make the necessary information available to the purchasing electric utility at the time its wholesale power rates are approved by the commission.

([h]i) An electric utility or qualifying facility may agree by special contract, subject to 3 AAC 48.390, to different rates, terms, or conditions for purchases than otherwise required by this section. A contract between an electric utility and a qualifying facility is valid if the commission determines the rates, terms, or conditions for purchases are just and reasonable to the customers of the electric utility and in the public interest. The contract may not be nullified under 3 AAC 50.770(b)(1) without prior commission approval.

(j) Each qualifying facility shall have the option either:

(1) to provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

(2) to provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:

(A) the avoided costs calculated at the time of delivery; or

(B) the avoided costs calculated at the time the obligation is incurred.

(k) All data submitted by an electric utility under this section shall be subject to review by the commission. In any such review, the electric utility has the burden of providing justification for its data.

3 AAC 50.780. Sales.

(a) An electric utility shall provide service to a qualifying facility including, but not limited to, supplementary power, back-up power, maintenance power, and interruptible power.

(b) Notwithstanding (a) of this section, an electric utility is not obligated to provide supplementary power, back-up power, maintenance power, and interruptible power to a qualifying facility upon a showing to and determination by the commission, after reasonable notice and an opportunity for public comment, that compliance with that requirement will either impair the electric utility's ability to give adequate service to its customers or impose an undue burden on the electric utility.

(c) Rates for sales must be just and reasonable and in the public interest and must not discriminate against the other consumers of the utility or against a qualifying facility in comparison to rates for sales to other customers of the electric utility with similar load or other cost-related characteristics.

(d) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for sales of electric power to a qualifying facility in conformance with applicable commission regulations.

(e) Rates for sales of back-up power and maintenance power

(1) must not be based upon an assumption that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously, or during the system peak, or both, unless the assumption is supported by factual data; and

(2) must take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with the scheduled outages of the electric utility's facilities.

(f) During any system emergency, an electric utility may discontinue sales to a qualifying facility, provided that the discontinuance is on a nondiscriminatory basis.

3 AAC 50.790. Implementation.

[(A) THE EFFECTIVE TARIFF OF AN ELECTRIC UTILITY MUST DELINEATE AND AUTHORIZE INTERCONNECTION AND PURCHASES AND SALES OF ELECTRIC POWER BETWEEN AN ELECTRIC UTILITY AND A QUALIFYING FACILITY INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR

(1) THE CHARGES, TERMS, AND CONDITIONS FOR INTERCONNECTION TO A QUALIFYING FACILITY, INCLUDING THE METHOD AND TIMING OF PAYMENT OF INTERCONNECTION CHARGES BY A QUALIFYING FACILITY;

(2) THE RATES, TERMS, AND CONDITIONS FOR PURCHASES OF FIRM AND NON-FIRM POWER FROM A QUALIFYING FACILITY; AND

(3) THE RATES, TERMS, AND CONDITIONS FOR SALES OF POWER TO A QUALIFYING FACILITY.]

([b]a) Not later than 60 days after receipt of a written request for interconnection from a qualifying facility, an electric utility shall file with the commission for its consideration a tariff for interconnection, purchases, and sales with the requesting qualifying facility in accordance with applicable provisions of AS 42.05.361 - 42.05.441, 3 AAC 48.200 - 3 AAC 48.390, and 3 AAC 50.750 - 3 AAC 50.820.

(b) The tariff of an electric utility filed in accordance with (a) must delineate and authorize interconnection and purchases and sales of electric power between an electric utility and a qualifying facility including, but not limited to, provisions for

(1) the charges, terms, and conditions for interconnection to a qualifying facility, including the method and timing of payment of interconnection charges by a qualifying facility;

(2) the rates, terms, and conditions for purchases of energy and capacity from a qualifying facility; and

(3) the rates, terms, and conditions for sales of power to a qualifying facility.

(c) Notwithstanding (a) and (b) of this section, an electric utility may enter into a special contract with a qualifying facility **in accordance with 3 AAC 50.770(i)** specifying the charges, rates, terms, and conditions of interconnection,

purchases, and sales between an electric utility and a qualifying facility, provided use of a special contract otherwise conforms to applicable commission regulations.

[(d) NOT LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF 3 AAC 50.750 - 3 AAC 50.820, EACH ELECTRIC UTILITY SHALL COMPILE AND MAINTAIN FOR PUBLIC INSPECTION UPON REQUEST THE CURRENT DATA AND INFORMATION SPECIFIED IN 3 AAC 50.770(D)(1) AND (E)(1)(A) - (E)(1)(C) AND A SCHEDULE SETTING FORTH ALL CURRENT TARIFF AND SPECIAL CONTRACT PURCHASE RATES WITH QUALIFYING FACILITIES.]

(d) By NEW DATE, each electric utility shall submit to the commission for inclusion in its tariff, standard rates for the purchase of energy and capacity from qualifying facilities with a design capacity of 100 kilowatts or less in accordance with 3 AAC 50.770(e) and (f).

[(e) BY JANUARY 14, 1983, EACH ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION FOR INCLUSION IN ITS TARIFF, STANDARD RATES FOR THE PURCHASE OF NON-FIRM ELECTRIC POWER FROM QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KILOWATTS OR LESS. THESE PURCHASE RATES MUST BE BASED ON THE UTILITY'S AVOIDED COSTS IS DETERMINED UNDER 3 AAC 50.770(D).]

(e) By NEW DATE, each electric utility shall compile and maintain for public inspection upon request all current tariff and special contract purchase rates with qualifying facilities and the data and information specified in (1) – (3), which shall be updated every two years, contemporaneously with the utility's calculation of the standard offer capacity rate in 3 AAC 50.770(f).

(1) the estimated avoided energy costs stated on a cents per kilowatt-hour basis for the current calendar or fiscal year and each of the next five years; for utilities with retail sales in excess of 500 million kilowatt-hours during the previous calendar year, the costs shall be stated in blocks of not more than 10 percent of the system peak demand and reflect daily and seasonal peak and off-peak periods by year;

(2) the electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the next 10 years;

(3) the estimated capacity costs at completion of the planned capacity additions and planned-capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, on the basis of cents per kilowatt-hour; these costs must be expressed in terms of individual generating units and of individual planned firm purchases.

3 AAC 50.800. Disconnection.
(a) An electric utility has the right to disconnect a qualifying facility without notice if a hazardous condition exists in the equipment of the qualifying facility and immediate action is necessary to protect persons, utility facilities, or other customers' facilities from damage or interference imminently likely to result from the hazardous condition.
(b) Not later than 10 days after disconnection under (a) of this section, the electric utility shall notify the qualifying facility in writing of the reasons for the disconnection.

3 AAC 50.810. Disputes.
Disputes regarding implementation of 3 AAC 50.750 - 3 AAC 50.820 must be filed with the commission for consideration under the complaints procedures prescribed in 3 AAC 48.120 - 3 AAC 48.130.

3 AAC 50.820. Definitions.
Unless the context indicates otherwise, in 3 AAC 50.750 -, 3 AAC 50.820

(1) "avoided costs" means the **incremental** costs to an electric utility of electric energy or capacity or both, which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate or purchase from another source;

(2) "back-up power" means electric power supplied by an electric utility during an unscheduled power outage of a facility to replace energy ordinarily generated by the facility's own generation equipment;

(3) "cogeneration" means the production of electric energy and forms of useful thermal energy (such as heat or steam), employed for industrial, commercial, heating, or cooling purposes, through the sequential use of energy;

[(4) "DETENT METER" MEANS A WATT-HOUR METER WHICH CAN TURN IN ONLY A FORWARD DIRECTION AND WHICH IS USED TO MEASURE THE NUMBER OF KILOWATT-HOURS SOLD TO A QUALIFYING FACILITY BY AN ELECTRIC UTILITY;]

([5]4) "electric power" means electric energy or capacity, or both;

([6]5) "firm power" means electric power [GENERATED BY THE QUALIFYING FACILITY, INDIVIDUALLY OR IN CONJUNCTION WITH ANOTHER QUALIFYING FACILITY OR FACILITIES, WHICH IS] supplied to the electric utility in predetermined and reliable quantities at specific times and intervals, and which will enable the electric utility to reduce, defer, or eliminate planned generating units or purchases of capacity;

(6) "integration fees" mean the ongoing cost of utility operational adjustments necessary to accept the output of a qualifying facility.

(7) "interconnection costs" mean the cost of physical facilities necessary for a utility to connect to and accept the output of a qualifying facility.

([7]8) "interruptible power," means electric power supplied by an electric utility subject to interruption by the electric utility, under specified conditions;

([8]9) "maintenance power" means electric power supplied by an electric utility during scheduled power outages of the qualifying facility;

[(9) "NON-FIRM POWER" MEANS THE ELECTRIC POWER GENERATED BY THE QUALIFYING FACILITY WHICH IS SUPPLIED TO THE ELECTRIC UTILITY IN UNPREDICTABLE QUANTITIES AND AT UNSCHEDULED TIMES AND INTERVALS, AND WHICH WILL ENABLE THE ELECTRIC UTILITY TO AVOID ENERGY-RELATED COSTS;]

(10) "parallel operation" means a method of interconnection which enables a qualifying facility to generate electric power to meet its electrical consumption needs first and to automatically transmit any surplus electric power to the electric utility, and which also enables the qualifying facility to automatically purchase power from the electric utility if the qualifying facility cannot generate enough power to meet its electrical demands;

(11) "qualifying facility" means a cogeneration facility or a small power production facility which meets the criteria prescribed by Part 292, Subpart B of the Federal Energy Regulatory Commission Regulations, 18 C.F.R. Part 292, as effective [JUNE 30, 1982] NEW DATE [, INCLUDING SIZE, FUEL USE, OWNERSHIP, AND EFFICIENCY STANDARDS];

(12) "supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

(13) "system emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

ATTACHMENT D

149 FERC ¶ 61,234
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Alaska Power & Telephone Company
City of Saxman, Alaska

Docket Nos. EL15-12-000
QF98-54-001

NOTICE OF INTENT NOT TO ACT

(December 18, 2014)

1. On October 30, 2014, Alaska Power & Telephone Company (Alaska Power), in its capacity as agent for the City of Saxman, and owner of the Mahoney Lake Hydroelectric Project, filed a petition for enforcement against the Southeast Alaska Power Agency (SEAPA), pursuant to section 210(h) of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] Alaska Power contends that SEAPA has not made available avoided cost data as required by section 292.302(b) of the Commission's regulations implementing PURPA,[2] and requests that the Commission issue an order instructing SEAPA to produce the avoided cost data pursuant to section 292.302(c)(2) of the Commission's regulations.[3] In the alternative, Alaska Power requests that the Commission initiate an enforcement action against SEAPA pursuant to section 210(h)(2)(A) of PURPA for failure to implement regulations for making available cost data available.

2. Notice is hereby given that the Commission declines to initiate an enforcement action pursuant to section 210(h)(2)(A) of PURPA. Our decision not to initiate an enforcement action means that the Petitioner may itself bring an enforcement action against SEAPA in the appropriate court.[4]

By direction of the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[1] 16 U.S.C. § 824a-3(h)(2)(A) (2012).

[2] 18 C.F.R. § 292.302(b) (2014).

[3] 18 C.F.R. § 292.302(c)(2) (2014).

[4] 16 U.S.C. § 824a-3(h)(2)(B) (2012).

ALASKA RAILBELT COOPERATIVE TRANSMISSION & ELECTRIC COMPANY

Prepared Remarks of the Alaska Railbelt Cooperative Transmission and Electric Company on Alaska House of Representatives Bil HB 78: *"Alaska Competitive Energy Act of 2015".* Presented to the Alaska House of Representatives Special Committee on energy March 3, 2015.

Thank your for providing me with the opportunity to address you today on this important topic.

My name is David Gillespie and I am the Chief Executive Officer of the Alaska Railbelt Cooperative Transmission & Electric Company, ***ARCTEC*** for short. ARCTEC is an organization formed by four railbelt utilities to address industry issues of mutual concern. Our members are Golden Valley Electric Association, Matanuska Electric Association, Chugach Electric Association and the City of Seward, Alaska. Each of our members exists only to provide low cost, sustainable and reliable electric service to its resident and cooperative owners.

Personally, I have worked in the energy industry since 1982. I have been involved first-hand in the implementation of restructured energy markets in New England and in California. I worked for ten years in the Independent power business. I also have worked in the renewable energy industry.

I am before you today to speak in opposition to HB78 the "*Alaska Competitive Energy Act of 2015*" not because ARCTEC does not support the basic principles of open transmission access and competition; we do. We believe that independent producers can manage risks and innovate in ways our existing utilities may not. It is in all of our interests to create a regulatory environment that is transparent and fair both to new private investors and our existing customers.

However, our view is that HB78, though well intended, is not the appropriate vehicle to achieve our mutual goals of low cost, reliable and sustainable energy and the economic development opportunities it affords.

My comments will address four primary topics:

1. The detailed implementation outlined in the bill is best left to the RCA. It is an undeniable fact that workings of the electric system are complicated, and it is unlikely that a single prescriptive piece of legislation can optimally address the myriad circumstances that the RCA deals with every day. We believe legislation

should focus on "What" we are trying to accomplish and leave "how" we get there to regulators. In fact, the RCA is working on just these details in its R13-02 docket.

2. The bill contains a number of ambiguities and potential unintended consequences, which are likely to *reduce* clarity for stakeholders, not increase it. For example, Bill Section 9 proposes changes to AS.42.05.221 to replace the word "Customer" with a new term "end user" which is then defined to exclude "industrial use" and "bulk buyers of electricity". Is it the legislature's intent to create a new distinction between "industrial" customers and other classes of user? Is it clear what a "bulk buyer" is, or is it in the eye of the beholder?

Bill Section 14 proposes changes to AS. 42.05.381 that would, in most cases, disallow utilities from recovering the costs of "...adjudicatory proceedings or judicial actions against a qualifying facility or independent power producer...". Is it the intent of the Legislature to prohibit utilities from EVER having a dispute with a QF or IPP, regardless of the circumstances?

These are just two examples. How will these ambiguities be sorted out? How will customers benefit, if each of these points must be hashed out through the courts instead of through an orderly regulatory process? Rather than creating a stable regulatory framework, we believe the Bill could actually have the opposite effect.

3. Most of the provisions of the bill are already covered by Federal Law or the RCA's recently proposed rules in R-13-02 (the IPP Docket), so at best much of the Bill is redundant, at worst it is in conflict with existing statutes/ regulations. Some of the Bill's proponents have stated that part of HB78's intent is to "harmonize" State law with The Federal PURPA Law. This makes no legislative sense. PURPA is indeed Federal Law, and it applies in Alaska just as it does in the rest of the United States. If our objective is to be "more like PURPA", we don't need a new law; we need to enforce the existing one.

Furthermore, the RCA, is in the final stages of issuing guidance on many of these very issues. What will be the outcome if those regulations are ultimately found to conflict with the provisions of this Bill? We believe it is most appropriate to defer to the RCA's process, which has thoughtfully reviewed reams of evidence and hours of testimony on this topic.

4. Finally, HB 78 doesn't get to the real, fundamental problem in the railbelt: a lack of robust infrastructure and a regulatory framework that will allow energy to economically flow to *where* it is most needed, *when* it is most needed. The Legislature should focus its efforts on enabling law that sends clear direction to the RCA to implement a stakeholder governed *Independent or Unified System Operator* model that is based on a set of broadly accepted guiding principles. A new regulatory paradigm, governed by a USO will provide the level playing field and regulatory stability to needed to create real opportunity for independent power producers. It will allow the State to attract

capital for needed infrastructure. It will enable additional economic activity. And most importantly, implementing a USO in the railbelt will help us to better provide low cost, reliable and sustainable energy to our residents, members and taxpayers.

Thank you again for the opportunity to address you today.

STATE OF ALASKA
REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Paul F. Lisankie
T.W. Patch
Norman Rokeberg
Janis W. Wilson

REGULATORY COMMISSION OF ALASKA
701 West Eighth Avenue, Suite 300
Anchorage, Alaska

PUBLIC MEETING EXCERPT

Discussion: House Bill 78 (ENE) An Act Bearing the short title of the 'Alaska Competitive Energy Act of 2015'; and Relating to the Regulatory Commission of Alaska

February 25, 2014
9:40 a.m.

EXCERPT

(On record - 9:40 a.m.)

CHAIRMAN PICKETT: Agenda Item No. 5 is a discussion on House Bill 78 an Act Bearing the Short Title of the 'Alaska Competitive Energy Act of 2015'; and relating to the regulatory Commission of Alaska.

In your public meeting packet you do have a number of items relating to HB 78: The Bill itself, the statement by the sponsor of the bill, Representative Tammie Wilson, an e-mail from Duff Mitchell to myself dated Thursday, February 19th, and then a flyer brochure from AIPPA, a letter from the Alaska Power Association to Representative Wilson, and then some documents from our Attorney General with the initial going through the Bill and some items that have been identified.

So with that I will first open it up to any thoughts or comments individual Commissioners may have. It's a difficult thing for the Commission when it comes to the legislative process to oppose or support a particular bill, and we are put in a position many times where we're asked to sort of weigh

in. This happened on the development of the regulation for common carrier instate pipelines, which led to the creation of 42.08.

I personally was involved with the development of the regulatory regime for natural gas storage and evaluation of gas supply contracts, probably five years ago, and it's a very delicate balancing act, because we are not legislators, we are regulators. And I, personally, speaking for myself, find it to be a bit of an anathema when regulators attempt to legislate. Having said that, however, I do think it's important for the Commission to identify areas, perhaps of concern, or how a particular bill will affect what we do at the Regulatory Commission.

I've heard a couple of comments. I did listen in to part of the hearing yesterday in the House Special Committee on Energy and unfortunately had a very poor connection so I may not have been able to hear everything put in context, but what I did hear was this bill is an effort to give more direction to the Commission; and it's based on statements that a number of Commissioners have made at either

legislative hearings or in separate in separate, concurring and/or dissenting statements with particular dockets that more clarity and direction from the legislature would be desirable.

Just speaking for myself, on a particular docket as it relates to the State Energy Policy Act 2010, the challenges I had were how do you take something that is not a renewable portfolio standard and a fairly aggressive one at that, 50 percent by 2025, and at no specific reference to 42.05, but the intent of the legislature is something is going to happen amongst all the State agencies that will start moving the ball in that general direction. Then the other part with just energy efficiency. I did not see in the bill itself -- and I can't say that I've spent hours and hours analyzing it -- that I personally would have more direction or clarity because, in effect, what I see is an expansion to other utilities that previously are not under the economic regulation of the RCA. We have 123, plus or minus, certificated electric utilities in the state of Alaska that outside of the 32

we economically regulate, our role is much more limited. We have dealings with the power cost equalization program, and if I'm reading the language of this bill it kind of raises some questions. Does the bill intend for all of these utilities in FERC land -- and PURPA there's a very clear above the line, below the line type of thing -- and does that bill have that type of mechanism here or are we going to expect very tiny electric utilities to be responsible for providing incremental avoided cost data -- and quite frankly, they have a challenge filling out a very simple PCE forms for the PCE subsidy. Is the RCA supposed to use the PCE subsidy as a hammer to get this avoided cost data? I mean, I don't know. Perhaps I missed it in the bill but I didn't see it.

I also didn't see that it moved it towards a bonafide RPS. It still seems to be a rather aspirational desire, policy goal, that type of thing. But in terms of where we're at today, you know, what percent are we using for the baseline data today, and what specifically you expect the RCA to do as future rate cases

come in.

At this point in time the presumption of 2010 was Watana was going to be the bulk of the 50 percent aspirational goal. As we all know that's a highly, highly optimistic, if not unrealistic assumption in view of the realities today. So just my initial thoughts.

There's a number of other things in terms of application of the bill to nonelectric utilities and shortening of the timeline to cutting rulemaking dockets timelines essentially in half for all sectors, whether it be telecommunications, all the other areas of the economy that we do have a role in regulating. So with that I will shut up and turn to other Commissioners.

Commissioner Patch.

COMMISSIONER PATCH: Thank you very much, Mr. Chairman. I think it is -- I think we can -- many of us -- can agree that we do not live in a perfect world. That said, I appreciate the fact that Ms. Wilson has at least attempted to open the discussion. I appreciate that Mr. Mitchell has participated

in the drafting of some regulation or some proposed legislation and I would suggest that a fulsome discussion, which in my opinion has not yet taken place, should be the protocol for moving forward with this legislation.

There are two maxims which come to mind. One is a medical maxim and that is not "Physician heal thyself," but "First do no harm." Secondarily the parallel to that, perhaps made popular in garages is "If it ain't broke, don't fix it."

I would suggest that, as you observed, that the shortening of the timeline, just to pick one specific instance within the context of the bill, shortening it by half -- the timeline for the Regulatory Commission of Alaska to issue a final order in a regulations docket manifests a complete lack of understanding of the nature of the workload, the nature of the staffing that is available to us and would, by its nature, impose upon us a horrendous burden, which, in fact, then belies the observation that there is no fiscal impact to this particular bill. I --

CHAIRMAN PICKETT: Now,

Commissioner Patch, just for the record, on the fiscal note, it's an indeterminate fiscal note at this point. We had started the process to see what the impact additional staffing were going to be, but until this bill is fully vetted, I don't think it's fair to the bill to put a number on it.

COMMISSIONER PATCH: I'm certainly aware -- thank you. I appreciate the note of caution. I am aware that the fiscal -- the note is indeterminate but the fiscal impact on the agency, I think, indicates to me that to do our work twice as fast without additional staff has an impact.

Now, it might not be an impact on staff financially, but it could well be an impact on qualitative evaluation. I'm just not prepared to concede that -- that even at in that one instance that there is not a risk of adverse impact.

Because my whole point in opening my mouth and addressing this is that this bill, in my opinion, requires a much more fulsome discussion than I have seen thus far and I hope that our legislature, as they continue to

consider it, engages in that and that the affected industries participate fully and meaningfully. Thank you very much for the opportunity to speak. I conclude my remarks.

CHAIRMAN PICKETT: Further Commissioner comments?

Commissioner Rokeberg, since you've been on both sides of the fence, I'm curious about your perspective.

COMMISSIONER ROKEBERG: Thank you, Mr. Chairman, I'll do my best to restrain myself. The -- because I find this legislation particularly alarming in many respects.

Let me just open by saying that in my experience in the legislature I had the honor of serving with Senator Bert Sharp, and I think in the period of about 1998 to 1999 -- subject to a review of my chronology -- as co-chairs of a special committee, a joint committee established by the Alaska State Senate and the House of Representatives, the study over a period of two years the potentiality of implementing any type of electrical restructuring on the State of Alaska with particular emphasis on the Railbelt.

This was not taken lightly. There was numerous hearings, there was -- it was -- as a special joint committee conducting two years of hearings.

And, incidentally, concurrent with that, the Alaska Public Utility Commission also had commissioned a major study, I believe by Black & Veatch to review the same types of issues to see if these issues which were in the common political sphere and discussion at the time nationally were -- to see if they were also applicable to Alaska.

I think that's an important assertion, as I take, on House Bill 78 is to open up Alaska for more private competition in supplying of electrical energy. And at the conclusion of that special committee was, I think, summed up in one paragraph and it said that Alaska was too small to be able to accept any type of wholesale or retail restructuring as it was then contemplated and it has been incidentally implemented in a number of states, about half the states of the country and in some nature adopted the -- some forms, particularly in the bulk electrical sales

systems which are implemented primarily by RTOs and ISOs or other organizations in the western part of the United States to provide a more competitive atmosphere for -- and have, I think, an opportunity to lower some of the costs, because with the larger interconnected grids the fact that you can use economic dispatch and on a bid system now, which is actually down into minutes, if not seconds, anymore about -- it's rather extraordinary what can be done.

So Alaska, we certainly remain in some point of the 20th century, and the difficulty of trying to implement this type of thing is extremely costly and difficult.

The Black & Veatch study also concluded much the same as the legislative committee so implementation was not undertaken at that time in any way.

The question then becomes is in the intervening 15-some year period have circumstances changed to the degree that we should be more opened because of newer technologies and newer forms of generation to accepting more private generation. I think to

a degree we have, but the last has proven to be difficult because of certain constraints on our own physical system. In the whole Railbelt we have a baseload of some 800 to 850 megawatt nameplate with a -- now we have an inventory of about almost 1,700 megawatts. With everything that's been built a number of units will be retiring of that and we've gone through a new cycle so almost every utility in the state -- excuse me -- in the Railbelt has new major generation facilities. They also have with that a concurrent billion dollar plus debt that goes along with this.

We found such things -- particularly when we were studying the Federal Government's Clean Power Plan that an area like Fairbanks with the purchase of the Healy 2 plant and the renovation of that particular plant to provide lower-cost service that's much needed in the Interior of the State of Alaska we'll be putting hundreds of millions of dollars in the rehabilitation of that particular plant and it has a cost figure if that plant were shut down in terms of that service commitments, of activity in the rate

results of providing for substitute power of $459 million just in one plant.

The impact. We are seeing budgets in the range of $300-million plus for the EGS system being constructed and being commissioned by Matanuska Electric now. We've seen the SPP. We've seen the developments in Homer Electric system. All of these things have come about because of the complete change and shifting of the power and, if you will, the distributed energy creation of our new Railbelt system. And what's happening right now is that this Commission and the utilities of the state are engaged in a complete evolutionary change how they're delivering electricity to the people when they turn their light switch on and it's a great concern right now. Right now this Commission has cases of first impression that we're undertaking to develop transmission tariffs. We're in the federal -- the Superior Court on these same cases. We're juggling a lot of things with our entire workload. We've just issued initial comments on the 111(d) clean air requirements for the federal administration which are going to be issuing

final goals that we need to achieve for greenhouse gas sometime at the end of next year -- or perhaps in the middle of the year, I should say. The amount of the effort that we're trying to put forward to do these many things is extremely difficult.

I guess one of the things that -- so there's a -- I think there's a -- possibly we're dealing with ISO, USO issues which are extremely important. It's something I've been particularly interested in for a number of years. So the totality and other things I think I probably missed is putting a great deal of pressure on the Commission to be able to perform and perform to the level we all know we can and want to perform to meet our duties, but I think that this particular bill right now just adds something I'd call almost an existential threat to our ability to operate and I'm concerned about that, because it does change the -- almost universally adopted in North America concept of an obligatory compact allowing utility systems to operate in a monopoly sense under a fully economically regulated basis. And leaving to the regulatory

framework of each state and the federal government to set the rates and be able to make sure the lights are on and the people are getting reliable, affordable power. And so there's certain issues.

I haven't done a complete analysis of the newer version of the bill and I will be doing so, but our hands are full right now. We've got a 90-day session and we've got hearings underway right now, so it's hard for us to respond to this.

And I would just say one other thing. Commissioner Patch mentioned that he was concerned about the timelines of delivering and I'm sure that when we are able to testify before the legislature that we will remind the legislature of the fact that when they introduce bills they're good for two years. So even the legislature gets two years to do their work and we want the same amount at the minimum when we're talking about regulatory dockets. They're very analogous in many respects. So with that I'll cease and desist and I hope I having broken my rule of not using --

CHAIRMAN PICKETT: No I was

wondering what the Commission's filibuster rules are, but we'll --

COMMISSIONER ROKEBERG: Right. Yeah.

CHAIRMAN PICKETT: Commissioner Wilson, did you have anything?

COMMISSIONER WILSON: Yes. Many of the things that I intended to say have already been said by Commissioner Rokeberg and some by Commissioner Patch.

I brought a copy of the Black & Veatch report from 1999 with me to illustrate that it was a relatively comprehensive study of the situation at the time and I have not had the opportunity to listen into any of the legislative hearings to determine whether the work that is reflected in this report has been talked about or brought forward in any of the hearings but I think we should -- and let me just ask a question first: Is it our intent to make some kind of written comment on House Bill 78; have we been asked to do that?

CHAIRMAN PICKETT: I think the expectation is for the Commission to report the nature of our discussions this morning on the

agenda. I intend to get the relevant parts of the transcript and all of the discussions we've had from the dais as soon as it's available and we'll request some expedited treatment of that to the extent possible -- I know you don't have anything else going on right now -- and if the committee that it is currently in does request our participation at a future hearing I intend to participate and reflect the things that were said from the dais this morning. As far as an up or down vote on this bill I could not make one today one way or the other.

COMMISSIONER WILSON: Thank you for that. The date on this report is April 1, 1999, so almost 16 years have passed since this report was done and many things have changed. I'm just not sure how much has changed in Alaska in terms of the conclusions of this report, but a lot of effort went into it and I just want to make sure everyone takes advantage of the effort that went into this report at the time.

I do see this as a restructuring bill. It isn't called restructuring but I think it is a restructuring and that it ought

to be -- that we ought to comment that it is of that magnitude and that careful consideration should be made. We are creatures of the legislature. We talk about that all the time. We are here to implement the statutes that the legislature passes, but in so implementing those statutes we come across knowledge that is not generally available to legislators or anyone else.

So I think in that guise we do have some duty to use our special expertise to make comment on things that others may not be aware of and I think a lot of the comments so far reflected that we do have a special expertise. And as I understand it normally the Attorney General in the form of the Regulatory Affairs and Public Advocacy section doesn't comment on bills so that ratepayer and other public interest considerations are not represented from that forum. So we do have some duty to represent ratepayers and other public interest considerations.

I am a strong supporter of renewable energy and this bill does promote renewable energy but it also brings into the

picture nonrenewable energy considerations. I think that's what makes it fundamental restructuring bill.

As far as our timelines, I just want to make my own timelines and that is that I think that it might be reasonable if someone gave us a set of regulations fully formed and we go yay or nay on those regulations within the 365-day time period. I don't think that's unreasonable, but to go through the normal process that we go through to get comments and issue a notice of inquiry, go through all the APA requirements I do not think that it's reasonable to do that within the 365 days provided for in this bill. And it does separate out petitions from others to when we initiate a rulemaking docket. So that's my comment on that area.

I do have concerns about -- as the Chairman stated about the smaller electric utilities complying with this or whether there's any reason why we should -- why the legislature should require them to comply with this and competitively procure their energy -- have a requirement that they competitively

procure their energy. I'll stop there for the moment.

CHAIRMAN PICKETT: Commissioner Lisankie, would you care to say anything?

COMMISSIONER LISANKIE: Well, since I have two days before any opinion I express becomes a mile to circle fact I probably won't give everybody my collective wit and wisdom.

I will say, though, that having spent 30-some years in and out of administrative jobs for the state that it's not unusual to see time constraints being imposed from the outside in and I don't necessarily think that that's the best way to do it, so if I was to make any suggestion at all about some kind of a comment that we might be willing to make I would certainly express that -- and say that, you know, if some shorted timeline is particularly justified for some reason that the agency be able to address the implications of changing that timeline and then the legislature could make an informed decision about what the implications -- those implications are.

I'd like to say that that happens more often than not, but in my limited

experience it doesn't, but I am an optimist so I would certainly suggest that if the particular bill in front of us has any changes to our timelines that the proponents would probably be willing to discuss that in order to deal with it in an adult kind of way and make sure that there isn't any untoward impacts whether it's financial work product or anything else that comes with imposing a timeline. There's always -- there's always implications for every timeline and I think the unjustified belief is that you can always do everything faster and I tend to echo some of the comments of my colleagues here that there probably isn't any one thing that I've seen come before us in my nearly six years that couldn't be done in a year or less if there was nothing else going on. Since that presumption doesn't hold any water whatsoever, nobody could make that suggestion with a straight face, I stand by my earlier comment that any shortening or lengthening has potential implications then it would behoove everybody involved to explore them fully. Thank you. And it's been a pleasure having this conversation.

CHAIRMAN PICKETT: Oh, sure. And I would just echo that last comment of Commissioner Lisankie. I can think of a recent telecommunications R docket that we would not have been able to complete it in 365 days and the telecommunications industry today would look very different than it does, and not in a positive way, if we were not able to do that.

I would like to close my comments and I'll turn it back to one last round for any of the Commissioner thoughts. One thing I did hear at the hearing yesterday a couple of the legislators on the special committee did allude to the fact the RCA has a rulemaking process going on that's going to deal with avoided costs. We also have the transmission report to the legislature and doesn't -- don't these items sort of mitigate against the need to do anything in this bill. I guess I keep coming back to the fact that one of the big questions -- and it hasn't been teed up quite this way is: Does the State of Alaska need a binding renewable portfolio standard? I mean, this reference back to 2010 we'll keep chasing our tails. So that's a policy thing. That's a

legislative policy thing. If the legislature makes that determination, are there any boundaries on what it takes to get to that point given the nature of our electric generation and transmission system in the State of Alaska today or do we take the German approach and we have de facto feed in tariffs -- we may not call them that -- so whatever it costs to get to whatever point, you set as the set point for the RPS, anything goes.

So I think that's a question that needs to honestly be put out there and addressed yay or nay. And I don't see that this bill does that does that.

Commissioner Wilson, I'll defer again, you know, you're the -- but I didn't see it, I could have missed it but it absolutely does not do that.

And the combining of FERC QF status with IPP status seems to sort of be blended together in a way. And trust me I've learned a lot more about how ISOs in California and ERCOT and MISO in the western interconnect work and I'm also very aware in the California Public Utilities Commission, you know, some of these

issues have come to the forefront in terms of long-term contracting with IPPs and sort of how the pricing mechanism works and it's kind of astounding and I would suggest that in view of filling out the record that we don't have to make the same mistakes that have been made Outside.

Having said that, I think the intent of the bill promoting competition, getting the rules of the road and pricing for transmission are entirely legitimate and we are trying to do that in other venues.

But the systems Outside are so much bigger and much more complicated than what we have going on in the State of Alaska, it is mind-boggling. I've spent hours on ERCOT site, I've done the training in Texas and I'm going to be going again here in June, I think there are things you can kind of learn from it but some of it's -- it's overkill, it really is. And when you get into, say, even merchant generators or IPPs of a particular type that are used for peaking, the Texas PUC right now is -- if they haven't already -- considering peaking charges almost $10,000 a megawatt hour.

So these assets that sort of sit there and then all of a sudden in a short period of time -- and I would bet money that no IPP in the State of Alaska contemplates anything of that nature. They're looking for long-term PPAs with utilities to be used as a mechanism to get long-term financing. And we have approved such long-term PPAs, but the challenge is we're a cost of service regulatory body and when you get into a 20- or 25-year PPA with all kinds of modeling and assumptions built in you can get off into the boundaries and it's a challenge for the utilities to evaluate this stuff, it's certainly a challenge for the Commission. So if the intent is to promote an RPS, do it. But that's a legislative function not an RCA function.

Commissioner Rokeberg?

COMMISSIONER ROKEBERG: Mr. Chairman, just a couple of things. I take to heart Commissioner Wilson's reminder that the -- our functions and responsibilities to speak, in this instance, for the ratepayers of the state because of RAPA's inability to comment. I think we need to keep that in mind. Because

to me, looking at the greater picture, it seems to me, particularly with the work that I've put in on the 111(d) situation where the EPA is, even in their rulemaking language has unabashedly used the term "environment dispatch" as a goal within their own thousands of pages of rulemaking.

I think there may be a portion of the thrust of this legislation to give that greater weight when, in fact, the policy of the State right now should be to try to find economic dispatch, because this is truly the only way we're going to have lower utility or electric rates in the State of Alaska is through economic dispatch.

You could add incremental renewable wind in such a way that it may be able to compete against other thermal generation, but it's going to be really incremental and very marginal, I think, to a large degree. So the real true savings -- and now we're in a period we're going to extremely high individual retail rates to customers and the reason for that is the breakup of the Railbelt system. And we're going to get this rate shock all throughout the

Railbelt. It starts with Homer. It's hitting the Matanuska Valley and I'm getting letters and comments daily now and the next shoe that's going to drop is here in Anchorage. So the whole Railbelt is going to get hammered by this and it's for things that -- you can point fingers and a lot of them don't belong -- don't rightly be -- should not be pointed toward this direction because of the nature of what this Commission can or cannot do. but I think that should be the policy goal of the State right now. It should be lowering the rates that are going up because of higher fuel costs. Keep in mind 18 months or two years ago we were fearful of not having sufficient natural gas to spin our steam turbines and I'm concerned about that. We should keep that in mind. But those contracts that we enter into are incrementally pushing costs up and all the new hardware is pushing costs up. Now we have the transmission tariff. And that transmission tariff is being applied to all electrical generators and all electric utilities. We're not being -- we're not carving out anything special because of the circumstances we find ourselves in. It's very

unfortunate. But -- thank you, Mr. Chairman.

CHAIRMAN PICKETT: Any further Commissioner comments on this matter? Seeing none, we will close out Agenda Item No. 5. We will take a short ten-minute break.

(END OF EXCERPT - 10:20 a.m.)

TRANSCRIBER'S CERTIFICATE

I, Christine P. Talley, hereby certify that the foregoing pages numbered 2 through 28 are a true, accurate and complete transcript of the Excerpt from the Public Meeting, held before the Regulatory Commission of Alaska on February 25th, 2015, transcribed by me from a copy of the electronic sound recording to the best of my knowledge and ability.

_____ _____

Date Christine P. Talley, Transcriber

Article 2. Cogeneration and Small Power Production.

Section
750. Application, purpose, and waiver
760. Interconnection **and Integration**
770. Purchases
780. Sales
790. Implementation
800. Disconnection
810. Disputes
820. Definitions

3 AAC 50.750. Application, purpose, and waiver.
(a) 3 AAC 50.750 – 3 AAC 50.820 apply to all electric utilities subject to the regulatory jurisdiction of the commission under AS 42.05.361 – 42.05.441. These sections govern interconnection and purchases and sales of electric power between an electric utility and a qualifying facility.

(b) The purpose of 3 AAC 50.750 - 3 AAC 50.820 is to encourage cogeneration and small power production by setting out guidelines for the establishment of reasonable, nondiscriminatory charges, rates, terms, and conditions under which interconnection and purchases and sales of electric power will occur between an electric utility and a qualifying facility.

(c) Any requirement in 3 AAC 50.750 - 3 AAC 50.820 may be waived, in whole or in part, or be modified by order of the commission upon application and a showing of good cause. An entity shall file and the commission will consider an application in accordance with 3 AAC 48.805.

3 AAC 50.760. Interconnection and Integration.
(a) An electric utility shall make interconnection with a qualifying facility as may be necessary to accomplish purchases or sales under 3 AAC 50.750 - 3 AAC 50.820.

(b) Notwithstanding (a) of this section, an electric utility is not required to interconnect with a qualifying facility if
(1) the electric utility, solely because of purchases and sales over the interconnection, would become subject to federal regulation under Subchapter II of the Federal Power Act, 16 U.S.C.§ 824; or

(2) a qualifying facility does not comply with the safety and reliability standards prescribed for interconnection by the commission.

(c) An electric utility may assess a qualifying facility interconnection charges which are reasonable and nondiscriminatory with respect to other customers that have similar load characteristics.

(d) Interconnection charges may include the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, administration, and other costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent these costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric power from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(e) An electric utility may assess a qualifying facility integration fees based on the costs of integrating the qualifying facility into the electric utility's system. Such fees are subject to the following limitations:

(1) Integration fees must be just and reasonable, must not discriminate against qualifying facilities, and must not adversely affect consumers or the public interest.

(2) Integration fees may include costs that are reasonably necessary under accepted industry standards for maintaining the safety, integrity, and reliability of the electric utility's system; provided, however, that such costs must be:

(A) directly related to and necessary for the operation of the qualifying facility within the electric utility's system;

(B) in excess of the corresponding costs which the electric utility would have incurred if it had not received power from the qualifying facility, but instead had generated an equivalent amount of electric power from other sources; and

(C) not duplicative of the costs associated with facilities or measures utilized by the utility for reasons other than the integration of the qualifying facility.

(3) To the extent facilities or measures support the integration of more than one qualifying facility or any other type of generation facility, the costs shall be allocated appropriately between or among such facilities.

(4) Integration fees shall not include any costs already accounted for in the calculation of avoided costs or interconnection costs.

(5) Integration fees shall be offset by definable and quantifiable integration benefits that accrue to the utility as a result of interconnection with the qualifying facility. To the extent that the benefits of integration exceed the costs of integration, the difference shall be paid to the qualifying facility.

([e]**f**) An electric utility shall offer a qualifying facility the option of reimbursing the electric utility for interconnection charges over a reasonable period of time. The electric utility may charge reasonable interest, to be prescribed in its tariff or special contract, for the financing of the interconnection costs.

([f]**g**) If a dispute arises under 3 AAC 50.810, an electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing the charges assessed to a qualifying facility for interconnection.

([g]**h**) An electric utility shall offer to operate in parallel with a qualifying facility.

([h]**i**) An electric utility shall offer a qualifying facility that has a generating capacity of 10 kilowatts or less the option of using a single detent meter during parallel operation.

3 AAC 50.770. Purchases.

(a) An electric utility shall purchase, in accordance with (c) – (~~f~~g) of this section, any electric power which is made available from a qualifying facility.

(b) Notwithstanding (a) of this section, an electric utility is not required to purchase electric power from a qualifying facility if

(1) due to operational circumstances, purchases from a qualifying facility result in costs greater than those which the electric utility would have incurred if it had not made such purchases but had instead generated or purchased an equivalent amount of power; if purchases have started, an electric utility seeking to stop purchase under this paragraph shall notify in writing **the commission and** each affected qualifying facility in time for the qualifying facility to stop the delivery of electric power to the electric utility, or the electric utility shall pay the expense it would have incurred had power continued to be purchased from the qualifying facility at established rates during the same period; **a claim by an electric utility that such a period has occurred or will occur is subject to verification by the commission either before or after the occurrence, upon the commission's own motion or upon complaint by a qualifying facility.**

(2) during a system emergency, purchases from a qualifying facility would further contribute to the emergency; or

(3) with the agreement of the qualifying facility, the electric utility transmits the electric power to another electric utility which is obligated to purchase that electric power as if it were supplied directly by the qualifying facility.

(c) Rates for purchases of electric power must be just and reasonable and must not discriminate against qualifying facilities or adversely affect the consumers of the electric utility.

(d) For purchases from a qualifying facility [WHICH SUPPLIES NON-FIRM POWER], rates must be based on the cost of energy **and capacity** which the electric utility avoids by virtue of its interconnection with the qualifying facility. [RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:]- **The following factors shall, to the extent practicable, be taken into account:**

[(1) UNLESS OTHERWISE MODIFIED BY THE COMMISSION, AVOIDED ENERGY COSTS, EXPRESSED IN CENTS PER KILOWATT-HOUR, MUST BE DETERMINED FROM THE SUM OF FUEL AND VARIABLE OPERATION AND MAINTENANCE EXPENSES AND THE ENERGY PORTION OF PURCHASED-POWER EXPENSE FOR A 12-MONTH PERIOD, APPROVED BY THE COMMISSION, UPDATED BY SUBSEQUENT FUEL COSTS, AND DIVIDED BY THE NUMBER OF KILOWATT-HOURS SOLD FOR THE SAME TIME PERIOD. EXPENSES AND KILOWATT-HOURS SOLD ASSOCIATED WITH HYDROELECTRIC GENERATION MUST BE SPECIFICALLY EXCLUDED FROM THE COMPUTATION OF AVOIDED COSTS FOR AN ELECTRIC UTILITY WHICH RELIES ON HYDROELECTRIC GENERATION FOR 25 PERCENT OR MORE OF ITS TOTAL POWER REQUIREMENTS.
(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE FOLLOWING INFORMATION FOR THE CALENDAR OR FISCAL YEAR PRECEDING THE' DATE OF FILING, OR A MORE RECENT 12-MONTH PERIOD, TO SUPPORT RATES FOR PURCHASES OF NON-FIRM POWER:
(A) THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS SPECIFIED IN (D)(1) OF THIS SECTION; AND
(B) AT ITS OPTION, THE DATA AND COMPUTATION OF AVOIDED ENERGY COSTS BASED ON ANY OTHER METHODOLOGY DEEMED APPROPRIATE AND JUSTIFIABLE BY THE ELECTRIC UTILITY.
(3) RATES FOR PURCHASES OF NON-FIRM POWER MUST BE ADJUSTED CONTEMPORANEOUSLY WITH FUEL-COST RATE ADJUSTMENTS AND WITH CHANGES IN AVOIDED ENERGY COSTS IN GENERAL RATE REVISIONS.]

(1) The data provided pursuant to 3 AAC 50.790(e);

(2) The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:
(A) The ability of the utility to dispatch the qualifying facility;
(B) The expected or demonstrated reliability of the qualifying facility;
(C) The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for non-compliance;
(E) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
(F) The usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
(G) The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and
(H) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (d)(2) of this section, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased and equivalent amount of electric energy or capacity.

(5) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for purchase power based on avoided energy and capacity costs.

[(E) FOR PURCHASES FROM A QUALIFYING FACILITY WHICH SUPPLIES FIRM POWER, RATES MUST BE BASED ON THE COSTS OF ENERGY AND CAPACITY WHICH THE ELECTRIC UTILITY AVOIDS BY VIRTUE OF ITS INTERCONNECTION WITH THE QUALIFYING FACILITY. RATES UNDER THIS SUBSECTION MUST COMPLY WITH THE FOLLOWING REQUIREMENTS:

(1) IN DETERMINING AVOIDED ENERGY AND CAPACITY COSTS, TO THE EXTENT PRACTICABLE, THE FOLLOWING FACTORS MUST BE TAKEN INTO ACCOUNT:

(A) THE ESTIMATED AVOIDED ENERGY COSTS STATED ON A CENTS PER KILOWATT-HOUR BASIS FOR THE CURRENT CALENDAR OR FISCAL YEAR AND EACH OF THE NEXT FIVE YEARS;

(B) THE ELECTRIC UTILITY'S PLAN FOR THE ADDITION OF CAPACITY BY AMOUNT AND TYPE, FOR PURCHASES OF FIRM ENERGY AND CAPACITY, AND FOR REQUIREMENTS FOR EACH YEAR DURING THE NEXT 10 YEARS;

(C) THE ESTIMATED CAPACITY COSTS AT COMPLETION OF THE PLANNED CAPACITY ADDITIONS AND PLANNED-CAPACITY FIRM PURCHASES, ON THE BASIS OF DOLLARS PER KILOWATT AND THE ASSOCIATED ENERGY COSTS OF EACH UNIT, ON THE BASIS OF CENTS PER KILOWATT-HOUR; THESE COSTS MUST BE EXPRESSED IN TERMS OF INDIVIDUAL GENERATING UNITS AND OF INDIVIDUAL PLANNED FIRM PURCHASES;

(D) THE AVAILABILITY OF CAPACITY OR ENERGY FROM A QUALIFYING FACILITY DURING SYSTEM DAILY AND SEASONAL PEAK PERIODS;

(E) THE ABILITY OF THE ELECTRIC UTILITY TO AVOID COSTS DUE TO THE AVAILABILITY OF ENERGY OR CAPACITY FROM THE QUALIFYING FACILITY; AND

(F) THE COSTS OR SAVINGS RESULTING FROM VARIATIONS IN LINE LOSSES DUE SOLELY TO PURCHASES FROM QUALIFYING FACILITIES.

(2) AN ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION THE INFORMATION NECESSARY TO SUPPORT THE METHODOLOGY AND CALCULATIONS USED IN DEVELOPING RATES FOR PURCHASE OF FIRM POWER BASED ON AVOIDED ENERGY AND CAPACITY COSTS.]

(e) For purchases of energy from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, the avoided energy costs must be expressed in cents-per kilowatt-hour and determined from the sum of fuel and variable operation and maintenance expenses and the energy portion of purchased-power expense for the period equal to that used in the utility's adjustment clause methodology, approved by the commission, updated by subsequent fuel costs, and divided by the number of kilowatt-hours sold for the same time period. Expenses and kilowatt-hours sold associated with generation that is not avoided by virtue of purchases from qualifying facilities with a design capacity of 100 kilowatts or less must be specifically excluded from the computation of avoided costs.

(2) An electric utility shall submit to the commission the following information for the same period used in support of the utility's adjustment clause filing, to support rates for purchases of energy:

(A) the data and computation of avoided energy costs specified in (e)(1) of this section; and

(B) at its option, in addition to the information required in (A) of this section, the data and computation of avoided energy costs based on any other methodology deemed appropriate and justifiable by the electric utility.

(3) The utility's request to use an alternate methodology in (2)(B) of this section is subject to review and approval by the Commission.

(4) Rates for purchase of energy must be adjusted contemporaneously with fuel-cost rate adjustments or cost of power adjustments, and with changes in avoided energy costs in general rate revisions.

(f) For purchases of capacity from a qualifying facility with a design capacity of 100 kilowatts or less, the rates shall be calculated, supported, and filed as follows:

(1) Unless otherwise modified by the commission, avoided capacity costs must be expressed in cents-per kilowatt and based on the cost of capacity which the electric utility would avoid by virtue of its interconnection with the qualifying facility.

(2) An electric utility shall submit to the commission the relevant information from (d)(2) – (d)(5) from this section and the information specified in 3 AAC 50.790(e), to support rates for purchases of capacity.

(3) Rates for purchase of capacity must be updated every two years.

([f]**g**) Rates for purchases from a qualifying facility, the construction of which was commenced on or after November 9, 1978, must be set at an electric utility's full avoided costs as determined under (d) or (e) of this section. Rates for purchases from a qualifying facility, the construction of which was commenced before November 9, 1978, may be set at less than full avoided costs, provided that the lower purchase rates are established in accordance with (c) of this section.

([g]**h**) An electric utility which is legally obligated to obtain all of its requirements for electric power from another electric utility shall submit to the commission the requisite avoided cost data of its supplying utility and the rates at which it currently purchases such energy and capacity. The supplying electric utility shall make the necessary information available to the purchasing electric utility at the time its wholesale power rates are approved by the commission.

([h]**i**) An electric utility or qualifying facility may agree by special contract, subject to 3 AAC 48.390, to different rates, terms, or conditions for purchases than otherwise required by this section. A contract between an electric utility and a qualifying facility is valid if the commission determines the rates, terms, or conditions for purchases are just and reasonable to the customers of the electric utility and in the public interest. The contract may not be nullified under 3 AAC 50.770(b)(1) without prior commission approval.

(j) Each qualifying facility shall have the option either:

(1) to provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

(2) to provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on either:

(A) the avoided costs calculated at the time of delivery; or

(B) the avoided costs calculated at the time the obligation is incurred.

(k) All data submitted by an electric utility under this section shall be subject to review by the commission. In any such review, the electric utility has the burden of providing justification for its data.

3 AAC 50.780. Sales.

(a) An electric utility shall provide service to a qualifying facility including, but not limited to, supplementary power, back-up power, maintenance power, and interruptible power.

(b) Notwithstanding (a) of this section, an electric utility is not obligated to provide supplementary power, back-up power, maintenance power, and interruptible power to a qualifying facility upon a showing to and determination by the commission, after reasonable notice and an opportunity for public comment, that compliance with that requirement will either impair the electric utility's ability to give adequate service to its customers or impose an undue burden on the electric utility.

(c) Rates for sales must be just and reasonable and in the public interest and must not discriminate against the other consumers of the utility or against a qualifying facility in comparison to rates for sales to other customers of the electric utility with similar load or other cost-related characteristics.

(d) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for sales of electric power to a qualifying facility in conformance with applicable commission regulations.

(e) Rates for sales of back-up power and maintenance power

(1) must not be based upon an assumption that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously, or during the system peak, or both, unless the assumption is supported by factual data; and

(2) must take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with the scheduled outages of the electric utility's facilities.

(f) During any system emergency, an electric utility may discontinue sales to a qualifying facility, provided that the discontinuance is on a nondiscriminatory basis.

3 AAC 50.790. Implementation.

[(A) THE EFFECTIVE TARIFF OF AN ELECTRIC UTILITY MUST DELINEATE AND AUTHORIZE INTERCONNECTION AND PURCHASES AND SALES OF ELECTRIC POWER BETWEEN AN ELECTRIC UTILITY AND A QUALIFYING FACILITY INCLUDING, BUT NOT LIMITED TO, PROVISIONS FOR

(1) THE CHARGES, TERMS, AND CONDITIONS FOR INTERCONNECTION TO A QUALIFYING FACILITY, INCLUDING THE METHOD AND TIMING OF PAYMENT OF INTERCONNECTION CHARGES BY A QUALIFYING FACILITY;

(2) THE RATES, TERMS, AND CONDITIONS FOR PURCHASES OF FIRM AND NON-FIRM POWER FROM A QUALIFYING FACILITY; AND

(3) THE RATES, TERMS, AND CONDITIONS FOR SALES OF POWER TO A QUALIFYING FACILITY.]

([b]a) Not later than 60 days after receipt of a written request for interconnection from a qualifying facility, an electric utility shall file with the commission for its consideration a tariff for interconnection, purchases, and sales with the requesting qualifying facility in accordance with applicable provisions of AS 42.05.361 - 42.05.441, 3 AAC 48.200 - 3 AAC 48.390, and 3 AAC 50.750 - 3 AAC 50.820.

(b) The tariff of an electric utility filed in accordance with (a) must delineate and authorize interconnection and purchases and sales of electric power between an electric utility and a qualifying facility including, but not limited to, provisions for

(1) the charges, terms, and conditions for interconnection to a qualifying facility, including the method and timing of payment of interconnection charges by a qualifying facility;

(2) the rates, terms, and conditions for purchases of energy and capacity from a qualifying facility; and

(3) the rates, terms, and conditions for sales of power to a qualifying facility.

(c) Notwithstanding (a) and (b) of this section, an electric utility may enter into a special contract with a qualifying facility **in accordance with 3 AAC 50.770(i)** specifying the charges, rates, terms, and conditions of interconnection,

purchases, and sales between an electric utility and a qualifying facility, provided use of a special contract otherwise conforms to applicable commission regulations.

[(d) NOT LATER THAN 60 DAYS AFTER THE EFFECTIVE DATE OF 3 AAC 50.750 - 3 AAC 50.820, EACH ELECTRIC UTILITY SHALL COMPILE AND MAINTAIN FOR PUBLIC INSPECTION UPON REQUEST THE CURRENT DATA AND INFORMATION SPECIFIED IN 3 AAC 50.770(D)(1) AND (E)(1)(A) - (E)(1)(C) AND A SCHEDULE SETTING FORTH ALL CURRENT TARIFF AND SPECIAL CONTRACT PURCHASE RATES WITH QUALIFYING FACILITIES.]

(d) By NEW DATE, each electric utility shall submit to the commission for inclusion in its tariff, standard rates for the purchase of energy and capacity from qualifying facilities with a design capacity of 100 kilowatts or less in accordance with 3 AAC 50.770(e) and (f).

[(e) BY JANUARY 14, 1983, EACH ELECTRIC UTILITY SHALL SUBMIT TO THE COMMISSION FOR INCLUSION IN ITS TARIFF, STANDARD RATES FOR THE PURCHASE OF NON-FIRM ELECTRIC POWER FROM QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF 100 KILOWATTS OR LESS. THESE PURCHASE RATES MUST BE BASED ON THE UTILITY'S AVOIDED COSTS IS DETERMINED UNDER 3 AAC 50.770(D).]

(e) By NEW DATE, each electric utility shall compile and maintain for public inspection upon request all current tariff and special contract purchase rates with qualifying facilities and the data and information specified in (1) – (3), which shall be updated every two years, contemporaneously with the utility's calculation of the standard offer capacity rate in 3 AAC 50.770(f).

(1) the estimated avoided energy costs stated on a cents per kilowatt-hour basis for the current calendar or fiscal year and each of the next five years; for utilities with retail sales in excess of 500 million kilowatt-hours during the previous calendar year, the costs shall be stated in blocks of not more than 10 percent of the system peak demand and reflect daily and seasonal peak and off-peak periods by year;

(2) the electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the next 10 years;

(3) the estimated capacity costs at completion of the planned capacity additions and planned-capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, on the basis of cents per kilowatt-hour; these costs must be expressed in terms of individual generating units and of individual planned firm purchases.

3 AAC 50.800. Disconnection.
(a) An electric utility has the right to disconnect a qualifying facility without notice if a hazardous condition exists in the equipment of the qualifying facility and immediate action is necessary to protect persons, utility facilities, or other customers' facilities from damage or interference imminently likely to result from the hazardous condition.
(b) Not later than 10 days after disconnection under (a) of this section, the electric utility shall notify the qualifying facility in writing of the reasons for the disconnection.

3 AAC 50.810. Disputes.
Disputes regarding implementation of 3 AAC 50.750 - 3 AAC 50.820 must be filed with the commission for consideration under the complaints procedures prescribed in 3 AAC 48.120 - 3 AAC 48.130.

3 AAC 50.820. Definitions.
Unless the context indicates otherwise, in 3 AAC 50.750 -, 3 AAC 50.820

(1) "avoided costs" means the **incremental** costs to an electric utility of electric energy or capacity or both, which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate or purchase from another source;

(2) "back-up power" means electric power supplied by an electric utility during an unscheduled power outage of a facility to replace energy ordinarily generated by the facility's own generation equipment;

(3) "cogeneration" means the production of electric energy and forms of useful thermal energy (such as heat or steam), employed for industrial, commercial, heating, or cooling purposes, through the sequential use of energy;

(4) "detent meter" means a watt-hour meter which can turn in only a forward direction and which is used to measure the number of kilowatt-hours sold to a qualifying facility by an electric utility;

(5) "electric power" means electric energy or capacity, or both;

(6) "firm power" means electric power [GENERATED BY THE QUALIFYING FACILITY, INDIVIDUALLY OR IN CONJUNCTION WITH ANOTHER QUALIFYING FACILITY OR FACILITIES, WHICH IS] supplied to the electric utility in predetermined and reliable quantities at specific times and intervals, and which will enable the electric utility to reduce, defer, or eliminate planned generating units or purchases of capacity;

(7) "integration fees" mean the ongoing cost of utility operational adjustments necessary to accept the output of a qualifying facility.

(8) "interconnection costs" mean the cost of physical facilities necessary for a utility to connect to and accept the output of a qualifying facility.

([7]**9**) "interruptible power," means electric power supplied by an electric utility subject to interruption by the electric utility, under specified conditions;

([8]**10**) "maintenance power" means electric power supplied by an electric utility during scheduled power outages of the qualifying facility;

[(9) "NON-FIRM POWER" MEANS THE ELECTRIC POWER GENERATED BY THE QUALIFYING FACILITY WHICH IS SUPPLIED TO THE ELECTRIC UTILITY IN UNPREDICTABLE QUANTITIES AND AT UNSCHEDULED TIMES AND INTERVALS, AND WHICH WILL ENABLE THE ELECTRIC UTILITY TO AVOID ENERGY-RELATED COSTS;]

([10]**11**) "parallel operation" means a method of interconnection which enables a qualifying facility to generate electric power to meet its electrical consumption needs first and to automatically transmit any surplus electric power to the electric utility, and which also enables the qualifying facility to automatically purchase power from the electric utility if the qualifying facility cannot generate enough power to meet its electrical demands;

([11]**12**) "qualifying facility" means a cogeneration facility or a small power production facility which meets the criteria prescribed by Part 292, Subpart B of the Federal Energy Regulatory Commission Regulations, 18 C.F.R. Part 292, as effective [JUNE 30, 1982] **NEW DATE** [, INCLUDING SIZE, FUEL USE, OWNERSHIP, AND EFFICIENCY STANDARDS];

([12]**13**) "supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

([13]**14**) "system emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.

February 25, 2015, RCA Public Meeting

Docket R-13-02 – Revisions to Energy Conservation Regulations

James Keen

Before the Commission

- A petition by Alaska Environmental Power, LLC (AEP) for a rulemaking proceeding to amend and supplement Commission regulations within Chapter 50, Article 2, 3 AAC 50.750-820, addressing "Cogeneration and Small Power Production."

Procedural History

- 10/2/13 – Order 1 opened R-13-002 and:
  - Incorporated documents from C-13-108 & TA245-13
  - Sought public comments
  - Scheduled a public hearing
- 11/18/13 – Initial Comments Due
  - 16 comments filed, including draft regulations from AEP
- 12/26/13 – Reply Comments Due
  - 8 comments filed
- 1/29/14, 2/4/14 – Public Hearing
- 1/28/15 –Public Meeting Update
- 2/11/15 – Initial Draft Regulations Presentation

Staff Proposed Regulations

Article 2. Cogeneration & Small Power Production (3 AAC 50.xxx)

Section:

750. Application, purpose, and waiver

760. Interconnection and Integration

770. Purchases

780. Sales

790. Implementation

800. Disconnection

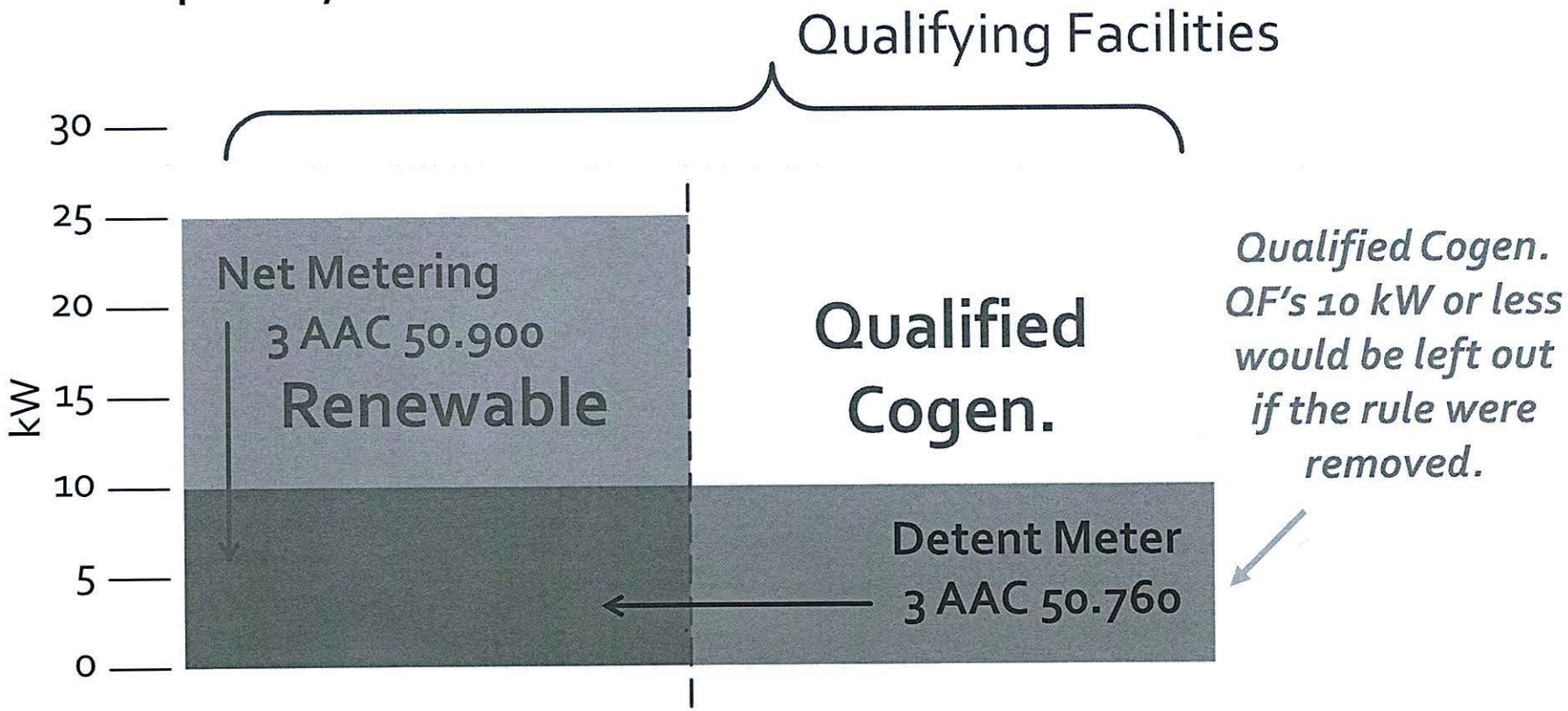
810. Disputes

820. Definitions

- **Staff's goals:**
  - Mirror FERC's regulations to the extent possible and appropriate;
  - Administrative efficiency; and
  - Improve clarity.

Additional Suggested Changes

- Leave 3 AAC 50.760(~~h~~i) unchanged
  - Detent Meter rule that applies to QF's with a capacity of 10 kW or less.



Additional Suggested Changes

Pertaining to Interconnection & Integration:

- **3 AAC 50.760(~~f~~g)** If a dispute arises under 3 AAC 50.810, an electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing the charges assessed to a qualifying facility for interconnection and integration. All data submitted by an electric utility under this section shall be subject to review by the commission. In any such review, the electric utility has the burden of providing justification for its data.

3 AAC 50.760(g) – Interconnection & Integration

Added language is identical to proposed 3 AAC 50.770(k):

3 AAC 50.770 (k) All data submitted by an electric utility under this section shall be subject to review by the commission. In any such review, the electric utility has the burden of providing justification for its data.

Added language is derived from FERC's §292.302(e)

(1) Any data submitted by an electric utility under this section shall be subject to review by the State regulatory authority which has ratemaking authority over such electric utility.

(2) In any such review, the electric utility has the burden of coming forward with justification for its data.

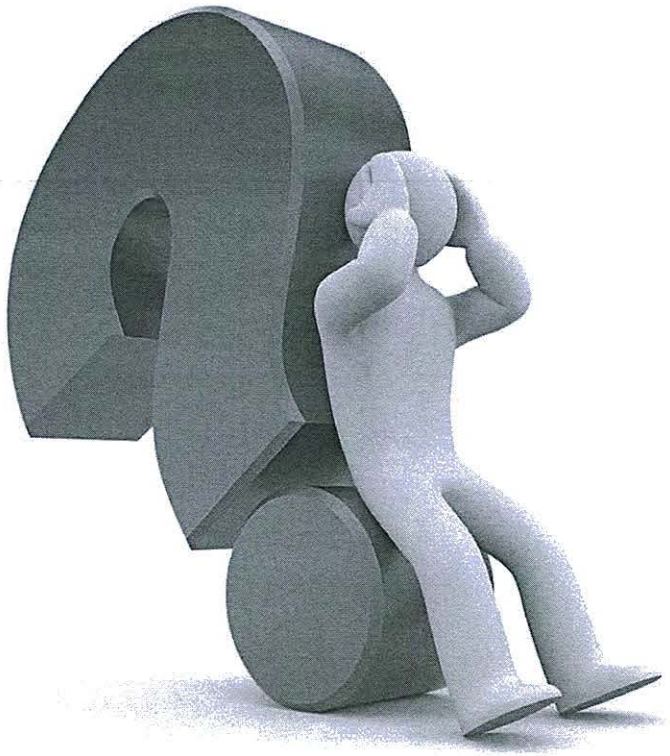
§292.302 applies to:

- Interconnection rules (§292.306)
- Rates for purchases, from which integration section is derived (§292.304)

Before the Commission

- At this time, the Commission must determine whether to issue draft regulations or pursue a different procedural path

Questions?



STATE OF ALASKA

THE REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
Paul F. Lisankie
T.W. Patch
Norman Rokeberg
Janis W. Wilson

In the Matter of the Evaluation of the Operation and Regulation of the Alaska Railbelt Electric Transmission System	I-15-001 ORDER NO. 1

ORDER OPENING DOCKET AND REQUESTING RESPONSES

BY THE COMMISSION:

At our public meeting on February 25, 2015, we decided to open a docket to gather information about the Alaska Railbelt electric transmission system.

Questions About Legislative Directive on Independent System Operator

Chapter 18 SLA 14, Section 31(b) directs us to determine "whether creating an independent system operator or similar structure for electric utilities in the Railbelt area is the best option for effective and efficient electrical transmission." In making this determination, we request that the Railbelt electric utilities,[1] the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested persons respond to the following questions:

[1]Chugach Electric Association, Inc.; Golden Valley Electric Association, Inc.; Homer Electric Association, Inc.; Matanuska Electric Association, Inc.; Municipality of Anchorage d/b/a Municipal Light & Power; and Seward Electric System.

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

1. Would the creation of an independent system operator or similar structure for electric utilities in the Railbelt be the best option for effective and efficient electrical transmission? If not, what other approach would be best?

2. To what extent does our existing statutory and regulatory authority extend to mandating the creation of an independent system operator or similar entity and to regulating the rates and practices of such an entity?

Questions About Regulatory Authority over Railbelt Electric System

As we consider the potential formation of an independent system operator or similar structure, and as a result of issues that have been raised by electric utilities in recent contested proceedings, we are reviewing the scope and adequacy of the existing statutes and regulations that govern our statutory and regulatory authority over the Railbelt transmission system and bulk power supplies. We are also considering the appropriate level of our oversight of an independent system operator or similar structure if it is created either by legislation or after an application for a certificate of public convenience and necessity. As part of our review, we request that the Railbelt electric utilities, the Attorney General, the Alaska Power Association, the Alaska Energy Authority, independent power producers, and other interested persons respond to the following questions:

3. Are existing statutes and regulations governing our regulation of electric transmission adequate for us to effectively address current and future Railbelt transmission issues?

4. If our regulations require changes, what specific changes should be considered in a rulemaking docket and is it appropriate to consider making those changes at this time?

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5. If regulatory changes are found to be necessary, how narrow or broad should a rulemaking docket be and what scoping process should be used to determine the boundaries of the proceeding?

6. Regarding the reliability of electric service, is our authority limited to addressing utility practices and service quality within each utility's service territory, or does it extend across service territory boundaries such that, for example, we can address the effects of one utility's practices on the service quality of another utility?

7. Should there be a set of mandatory reliability standards for the Alaska Railbelt similar to those of the North American Electrical Reliability Corporation, and if so, do we or should we have the authority to mandate or regulate those standards (beyond the existing voluntary arrangements such as the existing Railbelt Operating and Reliability Standards)?

8. Considering our authority to "promote the conservation of resources used in the generation of electric energy" under AS 42.05.141(c), to require reasonable management practices under AS 42.05.511, to provide rate recovery of energy conservation efforts, and other statutory grants of authority, do we have the authority to order the Railbelt electric utilities to jointly and cooperatively manage their generation and transmission assets, or is our authority limited to matters within each utility's service territory? If our authority is limited to each utility's operations within its particular service area without regard to other interconnected utilities, explain why it is limited.

9. Do AS 42.05.311(a) and other statutes provide us with authority to order system-wide wheeling rates across utility-owned Railbelt transmission facilities, even if ownership of the facilities remains with individual utilities?

10. Does the AS 42.05 provide us with authority to review or regulate the integrated planning, determination of need for, and/or siting of new generation and transmission facilities of regulated electric utilities? If it does, how can that authority be

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employed to help ensure that new facilities are planned and constructed to optimize efficient and reliable provision of electric service to the entire Railbelt region?

11. What authority do we have to require or to encourage greater cooperation, power pooling, and/or centralized transmission system planning and operations among Railbelt electric utilities?

Responses to these questions and any related information or comments any person wants to bring to our attention should be filed into this docket by March 31, 2015.

ORDER

THE COMMISSION FURTHER ORDERS that by March 31, 2015, interested persons may file into this docket responses to questions related to the operation and regulation of the Alaska Railbelt electric transmission system as discussed in the body of this order.

DATED AND EFFECTIVE at Anchorage, Alaska, this 27th day of February, 2015.

BY DIRECTION OF THE COMMISSION

Regulatory Commission of Alaska
701 West Eighth Avenue, Suite 300
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

DESIGNING ALASKA'S FUTURE:
Removing Energy Gridlock

Opening Alaska for Electrical Competition through Legislative Action

THE POWER OF Alaska
ALASKA INDEPENDENT POWER PRODUCERS ASSOCIATION

Duff Mitchell
Executive Director, AIPPA

WHO IS AIPPA?

The Alaska Independent Power Producers Association is comprised of Alaska Native Corporation and private Alaska energy developers and operators in Alaska's wind, hydropower, ocean/ river kinetic and combined heat & power sectors.

AIPPA Members

THE POWER OF Alaska
ALASKA INDEPENDENT POWER PRODUCERS ASSOCIATION

CHENEGA® ENERGY, LLC

Juneau Hydropower Inc.

FISHOOK RENEWABLE, LLC

AP&T

CIRI

ORPC OCEAN RENEWABLE POWER COMPANY

ALYESKA RESORT

DeltawindFarm

STG

Competitive IPP role vs. Utility role in America

- Utilities Role- Provide reliable service, billing, maintenance to ratepayers either producing **or purchasing** the lowest cost power available.
- IPP Role- Developing Private Power with private investment and risk to produce electricity at the most economical and reasonable possible price…or IPP's are out of business

These Roles are well defined and work everywhere in US, but Alaska legislation and regulations discourage this relationship.

WHY WE MUST REMOVE GRIDLOCK

ALASKA ELECTRICAL CHALLENGES

- Challenge #1 Alaska has the 2nd Most Expensive Electricity in the Nation
- Challenge #2 Alaska non-oil Industry is Energy Intensive
- Challenge #3 Alaska High cost power has social costs
- Challenge #4 Government "energy fix" monies are dwindling or nonexistent
- Challenge #5 Alaska's In-state energy potential is untapped
- Challenge #6 Alaska is ranked last in Competitive Energy Environment
- Challenge #7 Legislation is holding us back from some solutions.

THE HIGH COST OF ELECTRICITY IS IMPAIRING ALASKA'S ECONOMY AND COSTING ALASKAN'S JOBS

Challenge #1. Alaska ranks 2nd in the highest electricity costs in America

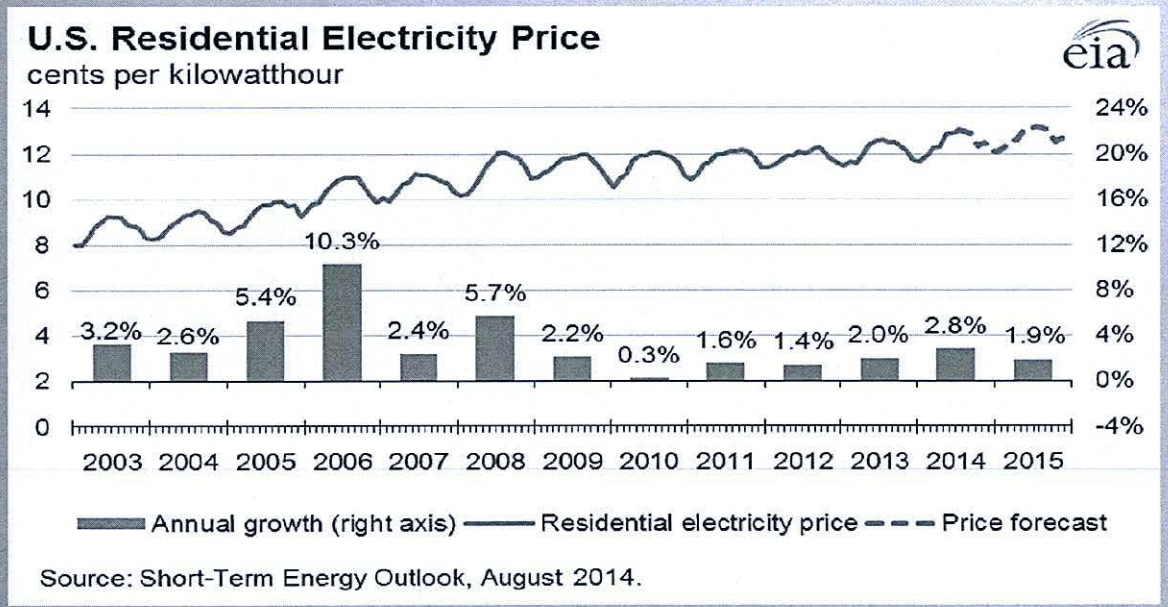
From Alaska EIA Average Retail Price by Sector, May 2014			
	AK 2014 cents/kWh	US 2014 cents/kWh	% difference Alaska higher over US
Average Retail Price (cents/kWh)			
Residential	17.88	12.84	**39%**
Commercial	14.93	10.51	**42%**
Industrial	16.82	6.76	**149%**
Total	16.33	10.04	

U.S. Energy Information Administration, Form EIA-861, "Annual Electric Power Industry Report."

JOB robbing Electrical rates

Alaska has the 2nd Highest Rates of Electricity in the U.S. hurting Alaska's non-oil economy and unnecessarily raising Alaskans household costs and costing jobs.

Alaska Rate Growth vs US



Some Railbelt Utilities have applied for or will be applying for double digit rate increases.

Alaskans Suffer

Alaska Rate Growth and Inflation is one of the highest in the Nation

Alaska is suffering from rate increases-impacting Alaska businesses, military off base housing, and crippling the private sector economy of Alaska

Examples: September 2013. ML&P proposes **a 31.52 percent rate increase U-13-184**

December 2012. Chugach proposed a **22 percent base rate increase** for residential consumers, and a higher rate increase for each of Chugach's wholesale customers (a **28 percent base rate increase** for Homer Electric Association; a **42 percent base rate increase for MEA**; and a **32 percent base rate increase** for the City of Seward)**U-13-007**

Challenge #2. ALASKAN "non-oil" industries are electricity intensive

- Alaska Mining Industry- Electricity is **up to 50%** of a mine's Operating Cost
- Alaska Seafood Processing Industry- Electricity **is up to 35%** of a seafood plants Operating Cost
- Timber Mills **7.5%** and Biomass up to **25%** Operating Cost
- Hotel, lodging and Tourism Industry **15%+**
- Hospitals and Universities-Government and Military Bases **10% to 20%** Operating Cost.

Electricity Rates IMPACT every Alaskan Employer

Challenge #3 High Cost Electricity has social costs in Alaska

- **Eat or Heat**
- Stagnant Rural Alaskan Economies-No Jobs
- High Energy Costs and Lack of Jobs = High unemployment, alcoholism, suicide rates, and social problems.
- High Cost Electricity has created a legacy of dependency on governmental subsidy programs.
- **"Energy Refugees"- Alaskans move from high energy cost communities to lower cost communities with jobs.**

High Cost Electricity creates a negative downward spiral affecting all Alaskans

Challenge #4 State of Alaska does not have the $$$ to solve Alaska's In State Energy needs

- Susitna Watana $5.2 B?
- Fairbanks In State Gas Trucking $350 Million?
- Railbelt Intertie Maintenance $900 Million+?
- Southeast Intertie $400 Million?
- Unmet Rural Community Energy Projects >$?
- Gas Lines A, B, or C $?
- In next 15 years 67% of existing generation will need to be replaced or upgraded…requiring $9 to $19 billion dollars (RIRP-2010).

More Demand on Government resources than $$ exists for next 20 years.

Challenge #5 Alaska 's Energy Potential is virtually untapped

- Potential Hydropower in Alaska is 40% of U.S. untapped hydropower (192 billion kWh energy potential)-*ACEP- Alaska Center for Energy and Power*
- Alaska is blessed with a phenomenal Wind Power Potential based on our enormous coastline.
- Tidal and wave – over 90% of the total US tidal and wave resource-*NREL- National Renewable Energy Laboratory*
- Biomass – over 20% of the total US Resource-*NREL*

"We have more energy potential than just about anywhere in the world."
U.S. Sen. Lisa Murkowski, R-Alaska

Challenge #6 Alaska Ranks Dead Last in IPP Competitive Power Generation

U.S. Energy Information Administration

Electricity

State Electricity Profiles

Data for 2012 | **Release Date:** May 1, 2014 | **Next Release:** May 2015

Alaska Electricity Profile 2012

Table 1. 2012 Summary Statistics (Alaska)

Item	Value	U.S. Rank
NERC Region(s)		--
Primary Energy Source		Natural Gas
Net Summer Capacity (megawatts)	**2,119**	48
Electric Utilities	1,946	39
Independent Power Producers & Combined Heat and Power	172	50
Net Generation (megawatthours)	**6,946,419**	49
Electric Utilities	6,361,802	39
Independent Power Producers & Combined Heat and Power	584,618	50

THIS MUST CHANGE

Alaska is ranked last in IPP electrical generation percentage

EIA Table 1.6.B Net Generation by State, by Sector, Year-to-Date through June 2014 and 2013 (Thousand Megawatthours)

Census Division and State	All Sectors			Electric Power Sector				Independent Power Producers
				Electric Utilities		Independent Power Producers		
	June 2014 YTD	June 2013 YTD	Percentage Change	June 2014 YTD	June 2013 YTD	June 2014 YTD	June 2013 YTD	Percent of total Generation
Alaska	**2,994**	**3,154**	**-5.1%**	**2,720**	**2,918**	**126**	**125**	**4.2%**
U.S. Total	2,010,193	1,959,358	2.6%	1,182,108	1,142,203	752,428	738,895	37.4%

Source: U.S. Energy Information Administration, Form EIA-923, Power Plant Operations Report.

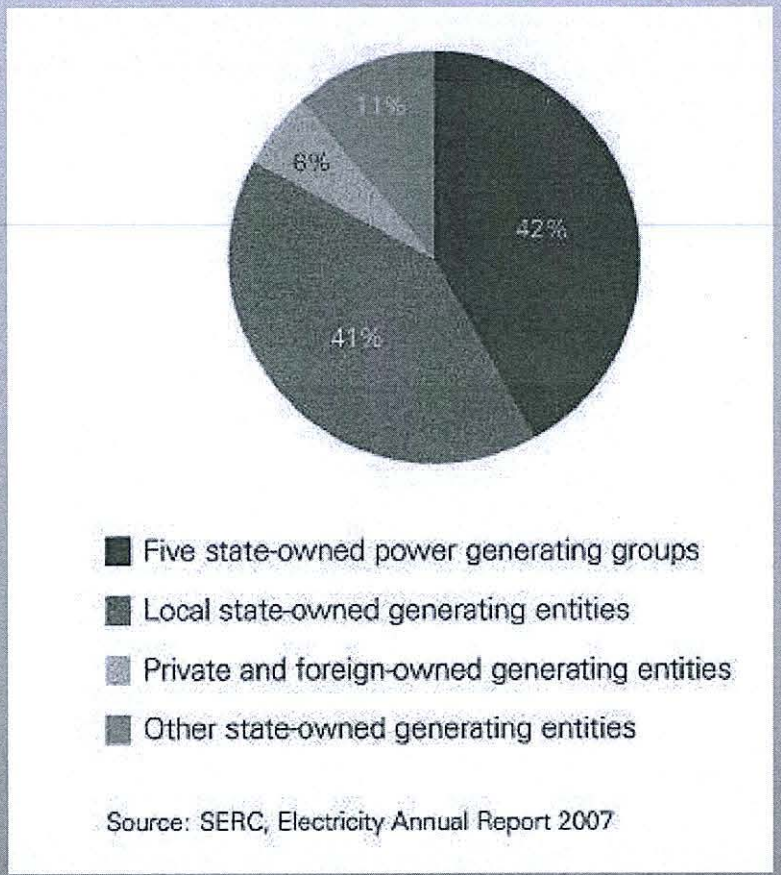
Alaska Ranks 50th out of 50 States for percentage of independent power production- Source EIA June 2014

How empty is theory in the presence of facts-Mark Twain

Comparatively 6% of China's electricity is supplied by Independent Power Producers

What Market is a *Command Economy* and what Market is *Open?*

The Chinese, State Energy Regulatory Commission (SERC) is increasingly supportive of privately funded IPP projects as a means to increase competition, to lower energy costs and to develop renewable energy technologies.

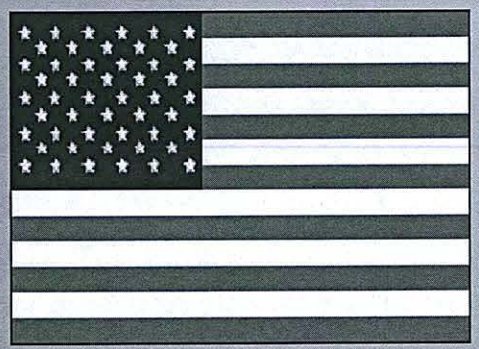


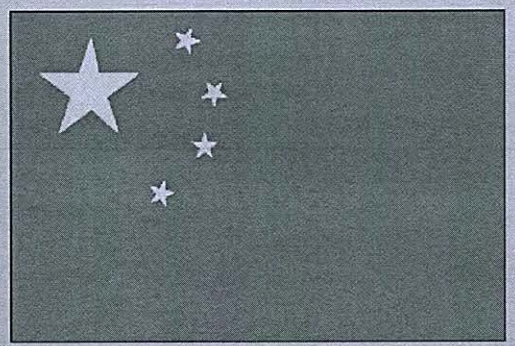
In Comparison, Alaska's percentage of electricity supplied by IPP's is only

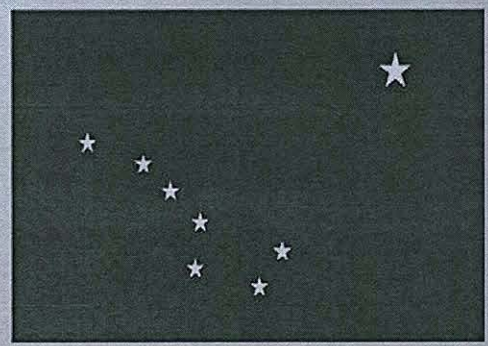
4.2%

China regulations allow IPP electrical competition and as a result has a more open electrical market than Alaska

IPP GENERATION AS A PERCENTAGE OF MARKET







37.4% VS 6% VS 4%

Alaska has less electrical competition than Communist China

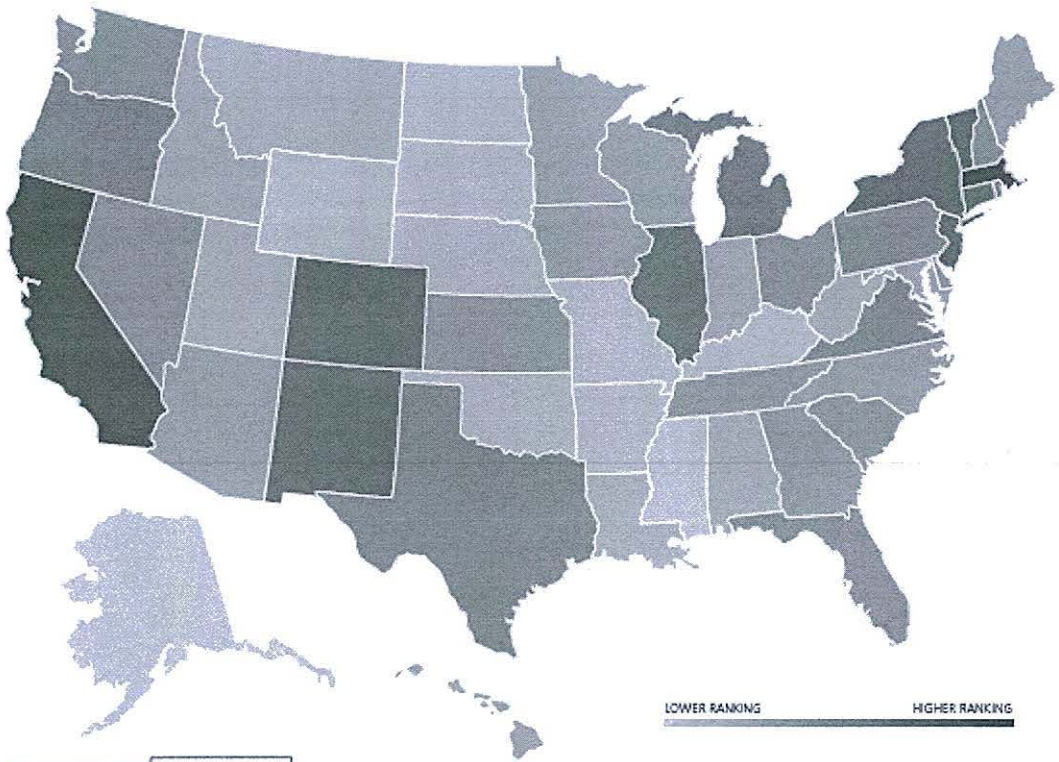
Source EIA 2014, SERC China 2007

In this report, Alaska is last in attracting Private Capital Investment

WELLS FARGO

Wells Fargo

CAPITAL



RANK	STATE	LEADERSHIP SCORE
1	Massachusetts	87.8
2	California	86.6
3	Vermont	71.3
4	Colorado	68.2
5	New York	66.3
6	New Mexico	64.5
7	New Jersey	64.3
8	Connecticut	62.1
9	Illinois	60.1
10	Michigan	55.6
11	Oregon	53.1
12	Virginia	45.8
13	Rhode Island	45.6
14	Texas	45.4
15	Pennsylvania	44.0
16	Washington	43.5
17	Florida	42.0
18	New Hampshire	40.6
19	Nevada	36.7
20	Ohio	36.6
21	Delaware	34.9
22	South Carolina	34.7
23	Georgia	33.3
24	Tennessee	33.0
25	Kansas	30.9
26	Maine	28.8
27	North Carolina	27.7
28	Arizona	27.5
29	Wisconsin	27.1
30	Iowa	25.8
31	Maryland	23.5
32	Minnesota	22.8
33	Idaho	21.8
34	Hawaii	19.8
35	Indiana	19.5
36	Alabama	16.8
37	West Virginia	16.3
38	Montana	16.2
39	Utah	16.0
40	Louisiana	14.6
41	Wyoming	6.6
42	Arkansas	4.9
43	Oklahoma	4.6
44	Kentucky	4.4
45	Nebraska	3.8
46	Missouri	3.5
47	North Dakota	3.3
48	South Dakota	2.9
49	Mississippi	1.1
50	Alaska	1.0

CLEAN EDGE

ENERGY FOUNDATION
building a new energy future

CLEAN ENERGY FINANCE AND INVESTMENT AUTHORITY

MASSACHUSETTS CLEAN ENERGY CENTER

NYCEDC

PDC | PORTLAND DEVELOPMENT COMMISSION

sparkpr

Why is Alaska is lagging...last?

Our low ranking in many electricity metrics **confirm that that our State regulations and utility practices are outdated, and discourage competition**, competency and efficiency at the detriment of Alaskan ratepayers.

- Wholesale Competition is legislatively and regulatory discouraged in Alaska and should be reversed. Utilities that take mismanaged actions or make poor financial decisions are protected and exempt from Market Forces whereby costs have been historically passed onto the consumer. **Implementing competition makes all industry participants wiser.**

- State money always bails out problems and provides a safety net for expansion of generation or for financially bailing out poor decision making and business practices or utilities. **Why privately invest in Alaska when the State seems to always be willing to bail out or provide free money?**

- Alaska Legislation and regulations are **"utility centric" and anti-competitive** rather than **"market force centric".**

Alaska has created an inefficient and expensive electrical system that is devoid of competition and insulated from healthy market forces that would otherwise exert a downward pressure on rates.

Alaska's outdated regulations have created a poor investment climate and a private capital flight away from developing Alaska's in-state energy resources.

Alaska receives what it incentivizes

Challenge #7 Regulatory processes and statutes versus State Energy Policy & PURPA

- State Energy Policy favors Private Investment and Private development of Alaska's energy resources.
- State Energy Policy calls for streamlining of regulations and government processes.
- State Legislation and regulations for competitive power have not been modernized since *1982*...*yes, before computers, cell phones, mass adoption of the internet.*
- State Government agencies and processes are not "competition" friendly.
- Directional vs. Aspirational
- Alaska violates PURPA that requires competition and purchase of IPP generation at a Utilities incremental avoided cost.

What is PURPA's Purpose?

Public Utility Regulatory Policies Act § 210

Section 210 of PURPA "is designed to promote the development of alternative energy resources by overcoming the historical reluctance of electric utilities to purchase power from nontraditional facilities."

- *Consol. Edison Co. v. Public Serv. Comm'n of New York*, 470 U.S. 1075, 1076 (1985) (emphasis added).

Congress "directs FERC" to promulgate "rules requiring utilities to offer to ... purchase electricity from qualifying cogeneration and small power production facilities."

- *FERC v. Mississippi*, 456 U.S. 742, 751 (1982) (emphasis added).

FERC's rules "shall insure that ... the rates for such purchase ... shall not discriminate against qualifying cogenerators or qualifying small power producers."

- 16 U.S.C. § 824a-3(b), (b)(2) (emphasis added).

Where we took a left turn

- Alaska's 1982 APUC Docket U-81-35 Order No. 4 effectively stamped out competitive energy development and private capital investments removing Alaska from market forces. Even this was supposed to be temporary until Alaska utilities were "sophisticated" enough to have competition.
- Now 32 years later...same **closed market anti-competitive system** that was supposed to be temporary.

What is that Avoided Cost Stuff?

PURPA and FERC Regulations

FERC regulations require states to ensure that utilities purchase power from QFs at a level that "equals" the utility's "avoided costs," unless the parties mutually agree otherwise.

- 18 C.F.R. § 292.304(b)(2).

"[E]ach State regulatory authority shall ... implement such rule ... for each electric utility for which it has ratemaking authority."

- 16 U.S.C. § 824a-3(f)(1) (emphasis added).

Under both PURPA and FERC regulations, **"avoided costs" are defined as the "incremental costs to an electric utility of electric energy or capacity or both** which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source."

- 16 U.S.C. § 824a-3(d); 18 C.F.R. § 292.101(b)(6).

Bridges Forward to regain Alaska's competitiveness and reinvigorate Alaska's Economy

- Recognize that competition is good and that IPP's play a vital role in lowering Alaskan's electrical rates.
- Recognize that our State Energy Plan was only a first goal setting step that directs fiscal and regulatory regime to support private energy development.
- Next Step is to collaborate, hear and pass a Competitive Energy Bill (similar to last year's SB 217) being circulated around by Senator John Coghill along with other Senators and Representatives.
- Establish Railbelt Transmission System that is separate, independent from generation and that is not 100% subsidized by State of Alaska.
- All transmission in Alaska should be open access, at the same cost to all participants, and non-discriminatory.
- Measure outcomes, not objectives.

WE CAN DO SOMETHING ABOUT IT

- Alaska needs to change direction
- Competition and Market Forces are "good"
- Create positive regulatory certainty with market centric principles
- Unleash Alaskan private capital investment and job creation in energy resource development

Alaska Competitive Energy Act

- Alaskans Deserve Competition
- Alaskans Deserve Market Forces to keep Electrical rates in check
- Alaskans Deserve the job creation and a diversified economy that only comes from lower electrical rates
- Alaskans Deserve to have resources developed by attracting Private Capital and Know How
- **Alaskans Deserve the Alaska Competitive Energy Act**

Energy 20/20: A Vision for America's Energy Future

Senator Lisa Murkowski

February 2013

Overview/Principles

- America's energy and natural resources policy must be re-imagined. The year 2020 is a sensible horizon for implementation.
- As we move ahead to 2020, Congress should enact discrete bills and conduct targeted oversight that proceeds from an understanding of the facts.
- There is a consensus that it is in our national interest to make energy *abundant, affordable, clean, diverse, and secure*. Our challenge is to align federal law and policy with that consensus.
- *Energy 20/20* includes ideas under seven categories: *producing more, consuming less, clean energy technology, energy delivery infrastructure, effective government, environmental responsibility* and "*an energy policy that pays for itself.*"

Imperatives/Trends

- Dramatic changes have taken place in global and national economic conditions. There is a heightened awareness of energy production and consumption which moves us toward greater environmental responsibility. America's energy infrastructure has aged, the price of oil is high, and the need for reliable and secure energy supplies has never been greater.
- The future is bright. New technologies are making more energy production possible, and output has risen dramatically on state and private lands in recent years.
- Clean energy sources – defined in this report as having less environmental impact than their next most likely alternative – are increasingly attractive.
- We are using energy more efficiently, and we are witnessing gains in biofuels, electricity, and natural gas as transportation fuels.
    - Modernized federal energy policies can help spur these trends, in part by removing roadblocks erected by the government itself.
- A prudent balancing of energy goals with the proper standards for environmental regulation is more pressing than ever.
    - Our nation is too often hamstrung by regulatory overreach, permitting delays, and litigation seeking to apply environmental laws well beyond their original intent.
    - Too often, necessary and worthwhile energy and resource projects are rendered uneconomic by attrition, and endless rounds of administrative disputes and lawsuits.
    - These never-ending cycles stand in the way of timely, efficient, and urgently-needed investments in energy supply and conservation.

Goals/Objectives

- *Energy 20/20* is an effort to begin a conversation about the direction energy and resource policy should take over the next few years. This report is a blueprint for discussion, not an energy plan in itself.
- Through the 'all of the above' policies outlined in this report, the United States can achieve full independence from OPEC oil imports by the year 2020.
- We must also continue to fund scientific research critical to continued progress. Basic and applied research combined with demonstrations of advanced technologies will produce the dramatic breakthroughs we need to reach a future in which 'clean energy' and 'energy independence' are more than just slogans.

Representative Policy Ideas From *Energy 20/20*

- Increase domestic oil and natural gas production and partner with Canada and Mexico to ensure their oil exports are brought to our country. This should begin immediately with the approval of the Keystone XL Pipeline project.
- Reform permitting processes and review decisions for energy, natural resources, and infrastructure projects to reduce uncertainty, delay, and excessive litigation, while still meeting environmental standards; fast track projects of national importance; and defer to state agencies when possible.
- Redefine clean energy as "less intensive in global lifecycle impacts on human health and the environment than its likeliest alternative." Implement this definition across all programs and policies.
- Use the increased revenues that result from measures advocated in *Energy 20/20* to create an Advanced Energy Trust Fund for clean energy research and to pay down the national debt.
- Define hydropower as a renewable resource across all federal programs and initiatives.
- Eliminate dependency on traditional government subsidies, supporting instead clean energy finance mechanisms that are technology-neutral, cost-effective, and conducive to private investment.
- Upgrade energy delivery infrastructure, including pipelines and transmission lines.
- Develop more of our offshore resources and provide revenue sharing for coastal producing states.
- Open the coastal plain of ANWR, as authorized by law, to oil and gas development and ensure the federal government promotes the maximum responsible production in the National Petroleum Reserve-Alaska.
- Address climate change by funding basic research, lowering the cost of financing for especially promising technologies, providing prudent and temporary subsidies that are fully offset, and reducing regulatory burdens for deployment.
- Diversify coal use, facilitate exports, and reform regulations that inhibit improvements in the environmental performance of power plants.
- Encourage and accelerate efforts to make oil shale and methane hydrates commercially viable.
- Make solar and wind power more cost-effective by increasing R&D of energy storage technologies.
- Expand nuclear power and support for new technologies, including Small Modular Reactors, and resolve the pressing back-end issues of the fuel cycle.
- Promote a comprehensive energy efficiency approach by making financing accessible for efficiency retrofits, both in the federal space and private markets, and pursuing integrated efficiency systems, without creating any mandates, all while pursuing efficiency *per unit of GDP* rather than less energy production.
- Reform the Vehicle Technologies Program to focus on a technology-neutral suite of pre-commercial research, and eliminate the Advanced Technology Vehicles Manufacturing program.
- Reform the Renewable Fuels Standard and the Department of Energy's Loan Guarantee Program.
- Focus federal research and development on basic and applied research with demonstrations of advanced technologies, and continue to fund ARPA-E.

***Energy 20/20* Does NOT Advocate:**

- New mandates or regulatory regimes.
- Any policy that would increase the price of energy or limit consumer choice.
- Any new spending that is not fully offset via reductions in other areas or increased revenue.
- Higher taxes.

Northwest & Intermountain Power Producers Coalition

P.O. Box 504
Mercer Island, WA 98040
206.236.7200

January 27, 2015

The Honorable Tammie Wilson
State Capitol, Room 412
Juneau, AK 99801-1182

Re: Alaska Competitive Energy Act of 2015 – HB No. 78

Dear Representative Wilson:

I write in my capacity as the Executive Director of the Northwest and Intermountain Power Producers Coalition (NIPPC). Our organization's diverse membership of independent power producers, electricity service suppliers, transmission developers and industrial customers are committed to facilitating truly competitive and transparent markets in the power sector.

We applaud your efforts to bring competition to Alaska. I know first hand the resistance HB 78 will face from the state-sanctioned monopoly electric companies. While utilities offer essential services, Federal law, applicable in the Lover 48, prevents utilities from holding monopoly control over the generation of electric power.

Here in the Lower 48, independent power producers (IPPs) generate 40% of our electric power. Privately held companies like NIPPC's members drive down costs, spur innovation and protect consumer interests. In one example, Idaho Power secures roughly 30% of its power supply at competitive wholesale prices from small, in-state generators who produce electricity from wood waste, small hydro dams, geothermal, wind and solar power.

Your farsighted legislation if enacted, will create opportunities for Alaskans to exercise their ingenuity in tapping indigenous resources, building local economies all while enhancing the reliability of your power system. Alaska should seize this opportunity to bring competition to your electric grid in a distinctly-Alaskan, self-reliant fashion.

As you're nearest neighbor, we wish you well and offer any support we can provide in the current legislative session.

Sincerely,

Robert D. Kahn

Robert D. Kahn, Ed.D.
Executive Director

COMPETE
Electricity Competition Drives Innovation and Consumer Benefits

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Washington, DC 20004
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www.competecoalition.com

January 13, 2015

Mr. Duff W. Mitchell
Executive Director
Alaska Independent Power Producers Association
8585 Old Dairy Rd.
Suite 104
Juneau, AK 99801

Dear Mr. Mitchell,

Thank you for sharing with me information regarding the current status of electricity competition in Alaska and AIPPA's important work to promote legislation to establish competitive electricity markets in Alaska. And on behalf of the COMPETE Coalition, I welcome AIPPA as a member.

As you may be aware, COMPETE's sole mission is to advocate competitive electricity markets at the wholesale and retail levels. On AIPPA's website, please feel free to refer your members and other visitors to COMPETE's website, competecoalition.com. There is a wealth of material on the site that could be useful in your efforts to establish competitive electricity markets in Alaska. New and updated material is frequently added under the Watt Matters Blog and the Resources tabs. Please feel free to use any of our material.

COMPETE is a diverse coalition, 774 members strong and growing. Among our ranks are electricity customers, demand response providers, technology companies, utilities and independent power producers, all of whom support well-structured electricity markets for the benefit of consumers. Fully one-fourth of our membership are electricity customers. The extensive, long-term experience of COMPETE's members with competitive electricity markets, as well as published data, demonstrate convincingly that robust customer choice and retail electric competition are the best ways to ensure that residents and businesses have access to reliable, lowest-possible-cost, environmentally-sound electricity. In the next few paragraphs, I summarize the major ways competitive markets benefit customers. These points may be helpful in discussions with legislators and other policy makers.

Markets keep prices as low as possible. Competitive electricity markets do the best job of ensuring the lowest available price for consumers. From 1997 through 2013, retail electricity prices in states with restructured competitive retail markets increased 3.6% *less* than the inflation rate while those in states that rely on monopolies increased 8.2% *more* than the inflation rate. Please see the restructured markets price chart on our web site for more details.

Markets empower consumers. Electricity is one of business' largest operating costs, and control of electricity costs enhances growth and profitability. Competitive electricity markets give customers the flexibility to choose a supplier that best meets their respective business goals, with targeted service offerings providing choices on price, reliability, generation portfolio mix, risk management, and other specific product and service features. Markets also allow customers to better manage financial risk. In contrast to monopoly utility companies that are guaranteed recovery of their costs from captive customers, competitive service providers must offer superior service at a better prices and bear investment risks themselves.

These market features produce substantial savings on electricity costs that allow commercial and industrial users of electricity to maintain lower prices for their own customers and to invest in their own businesses. For example, customers in Illinois have saved $37 billion since shopping was allowed in 1997; $19 billion of those savings were by commercial and industrial customers. These savings were reported in a 2014 report by the Illinois Chamber of Commerce and others.

Markets promote innovation. Competitive electricity markets facilitate innovative demand response resources, which have flourished in these markets. Demand response providers have introduced product and service innovations allowing consumers to reduce or modify their electricity consumption to control their electricity use and costs. This helps to keep prices down and avoids the need to build expensive new generating plants. Competitive markets also provide a superior platform for the emerging Smart Grid technologies that will enable customers to take advantage of the market's transparent price signals and make smart consumption and investment decisions.

Markets help attain environmental goals. In a Joint Statement of General Principles, the Environmental Defense Fund joined COMPETE in recommending "market-based mechanisms both to encourage the efficient operation and use of existing and new resources and to achieve environmental improvements through conservation and biddable demand response." In Pennsylvania, the American Lung Association advocated that customers switch to competitive electricity suppliers offering clean wind energy. And retail electric competition is an efficient way to attain renewable energy goals. Retail suppliers compete with each other and thus have an incentive to procure renewable energy efficiently. Accordingly, the market will determine which renewable energy resources meet renewable energy goals at the least cost.

Consumers favor competitive electricity markets. A COMPETE report showed that in the 17 states and the District of Columbia where retail competition is allowed, competitive providers supply 68% of eligible non-residential demand and more than 31% of residential demand. The report also shows that during the economic slowdown between 2008 and 2011 when electricity usage in the continental U.S. declined, the electricity demand served competitively increased by 40%, and the number of customers served under retail choice grew by over 53%. And surveys in various parts of the U.S. found strong support for competitive retail electricity markets.

Because of the value of electricity markets to customers, COMPETE promotes competitive electricity markets and opposes policies that threaten the sustainability of existing markets. To provide clarity and guidance to those endeavors, COMPETE has adopted a set of Principles for Well-Functioning Competitive Electricity Markets that are reflected in all of COMPETE's positions and activities. These principles and their rationales may be useful to AIPPA in policy discussions.

I hope you find this information and the materials on COMPETE's web site helpful. Best wishes for success in your efforts to bring competitive electricity markets to Alaska.

Sincerely,

William L. Massey
Counsel to the COMPETE Coalition

The Alaska Competitive Energy Act

THE Power OF Alaska

www.aippa.info

Because Alaskans Deserve Competitive Power Production

Competition is Good for Alaska.

Competition, private investment, and free enterprise are as American as they are Alaskan. **Archaic 30-year-old electric energy laws are crippling our Alaskan economy.**

The **Alaska Competitive Energy** Act

This act introduces and encourages competition and eliminates discriminatory practices in Alaska's energy practices.

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THE POWER OF Alaska

The Alaska Competitive Energy Bill

Because Alaskans Deserve Competitive Power Production

- ✓ Improve opportunities for project development, capital investment, and job creation by independent power producers
- ✓ Streamline regulatory processes and remove barriers
- ✓ Drive down costs for ratepayers, diversify energy sources, and improve energy security
- ✓ Help Alaska achieve its energy policy goals
- ✓ Attracts private capital and investments into Alaska

The Alaska Competitive Energy Act

Competition is Good for Alaska

www.aippa.info

Alaska has **world-class energy resources**, including abundant **wind**, **solar**, **geothermal**, **hydroelectric**, **tidal**, **wave**, and **biomass resources**, as well as traditional **oil**, **gas**, and **coal resources**.

Alaska's utility regulations are over 30 years old and were adopted before cell phones and the internet! They must be updated to encourage competition and promote clean energy.

Encouraging competition in Alaska's energy system will:

- ◇ Give utilities access to lower-cost power than they can produce themselves, driving Alaskan rates lower
- ◇ Attract private capital that will reduce the need for State subsidies to inefficient utility monopolies
- ◇ Reduce red tape and streamline the regulatory process
- ◇ Encourage free enterprise and innovation, which will help diversify generation, reduce costs, and improve energy security
- ◇ Lower energy costs for resource development, service sector, healthcare and military that require lower-cost energy to operate and create jobs
- ◇ Prompt utilities to operate more efficiently

ENERGY FACTS

- Alaskans pay some of the highest rates for electricity in the nation, **48% - 140% more** than the national average.
- Alaska ranks **49th of all 50** states in independent power production, **only 4.2%** compared to the **national average of 38%** of production.
- States with competitive electricity generation **pay lower rates** and **bear lower risks.** Competition keeps costs low and **drives innovation.**
- Alaska's **job-creating industries** (mining, fish processing, timber, military, etc.) are **energy-intensive** and require **low-cost power.**
- Even **Communist China** has more (6%) **independent power** production than Alaska.

THE POWER OF Alaska

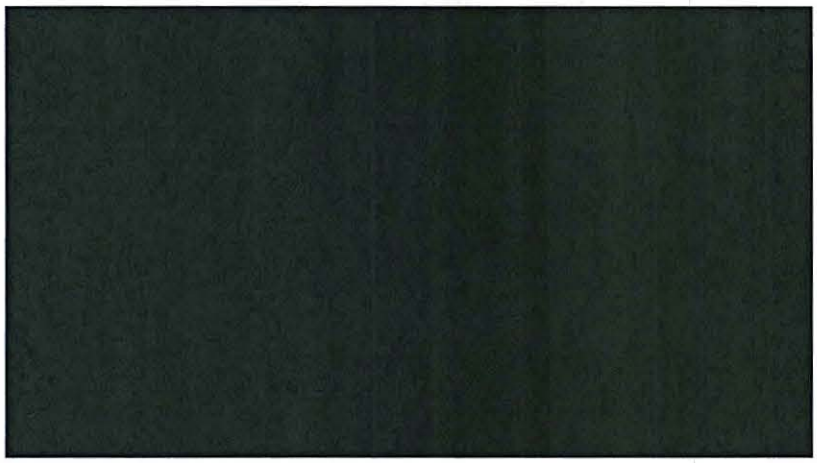
The Alaska Independent Power Producers Association

For more information go to www.aippa.info or scan this code:

Call your Senator and Legislator and tell them you feel that competition is good for Alaska.

Independent Generation of Electricity

By Steve Heimel, APRN - Anchorage | January 23, 2015



It's power politics of an electrifying kind. What should the rules be for selling independently generated power to utilities, who have borrowed money and invested heavily to assure reliability for their customers?

VmP

HOST: Steve Heimel, Alaska Public Radio Network

GUESTS:

- **Robert Kahn,** director, Northwest and Intermountain Power Producers Coalition
- **Suzanne Gibson,** Senior Director of Energy Development, Cook Inlet Region Incorporated
- **Callers statewide**

PARTICIPATE:

- Post your comment before, during or after the live broadcast (comments may be read on air).
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LIVE Broadcast: Tuesday, January 27, 2015 at 10:00 a.m. on APRN stations statewide.

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Independent power producers air grievances at legislative roundtable

Suzanna Caldwell November 14, 2013

A battle quietly -- though contentiously -- has been brewing among electrical producers in Alaska. On one side are independent power producers, a group with wildly different entities sharing one goal: To privately produce power, usually renewable power, either for themselves or to sell to utilities.

On the other side are the electric utilities, who ultimately are beholden to their customers, and are constantly looking to produce and sell power at the cheapest rates possible.

And for both sides, there's the state of Alaska's energy policy, which in 2009 set a goal of having 50 percent of the state's power come from renewable projects by 2025.

Almost five years since that goal was set, state Sen. Lesil McGuire, R-Anchorage, is looking back to see if Alaska is on its way -- and what can be done to move toward the goal. On Tuesday she brought together the independent power producers and a handful of other legislators to figure out the challenges facing independent power producers and what, if anything, can be done at the state level to encourage them. Today, about 21 percent of all Alaska energy comes from renewables, mostly hydropower projects.

According to numbers from Department of Energy, Alaska ranks last in terms of power produced by independent power producers. In the Lower 48, about 38 percent of all power comes from independent producers. In Alaska, that number is around 3 percent -- mostly through Fire Island Wind, the CIRI subsidiary that sells wind power to Chugach Electric in Southcentral Alaska.

McGuire got an earful. Independents say the reasons why more hasn't been done are complicated, but it comes down to this: Utilities don't want to play nice when it comes to negotiations.

"We just want a fair playing field," said Duff Mitchell, executive director of the Alaska Independent Power Producers Association. "We have a policy that says 50 percent renewables. We shouldn't be kicking and fighting those."

Looking to cut costs

Most Alaska communities struggle with high energy costs. In Fairbanks, Unalaska and most rural villages across the state, residents use fuel oil to run the diesel-powered generators that power those communities.

But that cost is directly tied to the increasing cost of oil. That burden has become harder and harder to bear. The Fairbanks North-Star Borough is trying to work with the Environmental Protection Agency to clean up its toxic air, which has only become worse as more people turn to wood to heat their homes in winter, a direct result of the high cost of energy.

Even in Anchorage, Alaska's largest city, costs have crept up. Gone are the days of stable, 25-year natural gas contracts that kept the price of gas consistently low. Instead, with production waning in Cook Inlet, producers are only meeting demands a few years out, leaving the 300,000 Anchorage residents at the will of Cook Inlet suppliers and global market prices.

That's led to Anchorage residents joining the "choir of concern" over the availability of affordable energy, McGuire said.

"As a state it should not take that kind of thing to happen," McGuire said. "But sadly, it did."

Independent power producers play a role in solving the energy puzzle, she said, though she pointed out that the meeting was not meant to be anti-utility or anti-hydrocarbon producers. Still, mostly renewable energy entities were represented at the table, including the Delta Wind Farm, Ocean Renewable Power Company, Chenega Energy and Alyeska Resort. Some have projects and energy being produced in Alaska; others are just starting to look or make investments.

"We're brothers-in-arms, but we're competitors," said Mitchell.

Challenges to independent power producers

Mitchell gave a presentation on the biggest challenges power producers are facing in the Alaska marketplace. He said there's plenty of room to grow, too.

Mitchell noted that independent power producers often make their own private investments, different from the massive state projects funded by taxpayers. He noted that projects like the Susitna-Watana dam and natural gas pipelines that could bring energy relief are expected to cost the state billions of dollars and take decades to complete.

Independent power producers can help bridge the gap. "It's wishful thinking if we think the state or feds can do everything," Mitchell said.

He noted that a vast amount of renewable energy has yet to be tapped in Alaska. According to a study, Alaska has the potential to produce 192 billion kilowatts of energy from renewable resources like geothermal, tidal, biomass and wind. Mitchell said that "virtually untapped" resource would equate to roughly 40 percent of the the Lower 48's total use of power.

"We're a breadbasket of energy resources," he said.

Small changes on the way

Last month, Mike Craft, co-owner of the Delta Wind Farm, filed a complaint with the Regulatory Commission of Alaska in September. His goal is to get the RCA to reconsider the rules [3] on how utilities engage small power producers wanting to connect to the grid. In a hearing last month, the regulatory body noted that it was time to reconsider the regulations, which haven't been updated since 1982. A formal RCA hearing on Craft's complaint is expected in January.

Randall Call, general council of Alyeska Resort, outlined the challenges his company faced in trying to come onto the grid. While classified as an independent power producer, Alyeska, Alaska's largest ski resort, has no intentions to sell back to grid. The resort bought two microturbine combined heat and power generators to help go "green" and reduce their utility costs. Before the generators came on-line in February, the company paid $1.2 million for electricity and $500,000 for natural gas in 2012. Call said they're still calculating how much they've saved in energy costs, but the resort expects a net benefit.

But the hotel still uses small amounts of power generated by Chugach Electric. If their generators go out and they have to use Chugach power more than 15 minutes, they pay a "standby demand" charge. Those are higher rates based on what the utility thinks the entity should be charged for that backup generation. They get charged every month for that power whether they use it or not. As an example, Call said if the resort used $3,600 worth of standby power in January, they would be charged that amount for the next 11 months, whether it was used or not, to the tune of about $43,000 a year.

It's been a difficult concept for Call and the hotel to understand. The resort currently has a proposed regulation change to modify the standby demand charges before the RCA.

"We feel like we should be encouraged to reduce our carbon footprint, not discouraged," Call said.

Utilities on the sidelines

Not seated at the roundtable Wednesday were representatives from the utilities. Instead they sat on the sidelines -- Cory Borgeson, president and CEO of Golden Valley Electric, Gene Therriault of the Alaska Energy Authority and Meera Kohler, CEO and president of the Alaska Village Electric Cooperative.

Kohler said she can identify with independent power producers. Her electrical cooperative provides power to 55 villages across Alaska, none of which are connected to larger electrical grids. The cooperative is always looking for ways to make energy more affordable and has experienced first hand which projects work and which fail in rural communities.

"I can bring reality to their perspective," she said.

Therriault said the AEA is watching "with interest" to see how the RCA handles issues involving independent power producers. He also noted that any sort of changes should address the difference between variable and firm sources of power.

McGuire said the hope is to have another roundtable by the end of the month bringing electric utilities into the discussion. From there, the goal is to move forward with legislation.

"The tendency (in Alaska) is to think this is the only model that can work," she said. "(To make changes) will require sacrifices and a change in the way things are done on both sides."

Small independent energy producers trying to elbow in on big Alaska utilities

Suzanna Caldwell; September 11, 2013

It's been 31 years since the Regulatory Commission of Alaska has taken a hard look at the rules of engagement when small, independent power producers try to sell energy to large electric utilities.

One man is hoping to change that and in the process not only encourage development of independent power producers -- many of which focus on clean, renewable electricity -- but also help Alaskans deal with the soaring cost of energy.

Mike Craft, managing partner of Alaska Environmental Power, LLC and co-owner of the Delta Wind Farm, filed an informal complaint with the regulatory body last month in an effort to force the commission to reconsider its rules governing how utilities negotiate with smaller power producers wanting to connect to the grid.

Craft, a self-described "bulldog," has tried to work with Golden Valley Electric Association for years to incorporate his operation into the electric grid. He and other small power producers contend the utilities hold all the power when negotiating how much they'll pay for electricity from independent producers. With no safeguards in place, he argues, small businesses are at the mercy of the utilities. Craft says the goal is to offer a level playing field for independent power producers while diversifying Alaska's energy sources.

The Regulatory Commission examined Craft's informal request Wednesday, with the five-member commission voting unanimously to put the issue on the "R docket" – or rule docket. That sets the request up for public comment, with the commission planning to take it up again at the beginning of 2014. At that time, the commission will take a harder, more in-depth look at whether it has the authority to change regulations governing how utilities negotiate with small energy producers.

According to Craft, it's the first time someone other than the utilities has had a rule change considered by the commission.

Despite the sluggishness of the proceedings, both Craft and Golden Valley agree the issue should be considered. Even the regulatory body seemed poised to take it on.

"It doesn't seem unreasonable after a period of 31 years to look at what our predecessors did and see if it needs to be reshaped," commissioner Paul F. Lisanke said at the hearing. "I think (the possible rule change) is an appropriate request."

No simple solutions

Energy in Alaska is complex, with per-kilowatt hour costs varying dramatically across a state twice the size of Texas. In Southeast Alaska, where hydropower is abundant, residents pay about 10 cents per kilowatt hour. Residents in remote rural Alaska who depend on diesel for electrical generation can pay up to $1.50 for the same amount of energy, according to a 2011 report from the Alaska Energy Authority.

Interior Alaska wrestles with some of the highest energy costs in the state, and that's the electrical grid the Delta Wind Farm would tie into.

Most electrical generation in the region depends on coal and diesel fuel. Not only are those sources expensive, they contribute to Fairbanks' air pollution, which during the winter can be some of the worst in the nation, if not the world.

Craft, who worked as a land developer before making forays into wind power, said the rhetoric surrounding renewable energy got him interested in investing. During the 26th Alaska Legislature (in 2009-10), lawmakers announced a state goal that 50 percent of Alaska's energy come from renewables by 2025. That goal, plus reducing the region's reliance on fossil fuels, spurred him to look into starting his Delta Wind Farm in 2007.

Since then, he's invested thousands of dollars into 10 turbines that currently produce 2 megawatts of power. He hopes to add more – enough to generate up to 25 megawatts of power – but hasn't been able to get approval for a larger project from GVEA, a reluctance he considers arbitrary.

"We never wanted to build a 2 megawatt wind farm," he said. "It's like opening a coffee stand with lots traffic, but you can only sell 5 cups a day."

Complicated issues

The cap issue is just one of a handful of other issues Craft, through Alaska Environmental Power, is looking to address. None are simple to understand. In essence, it all comes down to how electric utilities go about purchasing power.

Other issues Alaska Environmental Power asked the regulatory commission to consider:

- Revising the definition of avoided costs from an average to an incremental rate, in order to be more in line with the federal definition and a better way to promote fair pricing for small producers.
- Define the costs of integrating power into systems.
- Develop an open bidding process for proposed renewable energy projects.

They argue that if the regulations change, all utilities and independent power producers will be better set up reach an agreed-upon rate, which would benefit not only utilities but consumers.

But with no real rules of engagement under the current set up, there's not much independent power producers can do, according to Duff Mitchell, executive director of the Alaska Independent Power Producers Association.

"All we're asking for is a level playing field," he said from Juneau Tuesday. "The deck is so stacked (toward the utilities). This is like playing poker, and as soon as you win a hand they pick up your chips and make a new rule."

But Golden Valley President and CEO Cory Borgeson contends the rules are already fair.

"We looked at all the different projects, and if something was a good deal, Golden Valley would have been more than happy to do it," he said Wednesday. "It isn't about a level playing field, it's about the best opportunity for our members."

The RCA will now put the proposed change up for a 45-day public comment period, followed by 45 days for response. It's likely they will take the issue on again in January.

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SPONSOR STATEMENT FOR HB 78

Alaska Competitive Energy Act

It is my honored to present HB78 on behalf of the Alaska Independent Power Producers.

Competition is good. Competition brings out the best of America and Alaska. Competition is the basis for a free and market force driven society. Business and industrial sectors that have vibrant competitive markets work hard to drive down consumer prices. Competition sparks innovation to improve production, shave unnecessary costs, and continually improve customer service in the never ending pursuit to meet or beat competition. Alaskans understand and embrace competition as an integral component of our existence as Alaskans. Competition is not complicated. Alaskans understand competition in the sports arena and in all endeavors that require a pursuit of excellence. As with our world famous Iditarod Dog Sled Race, we don't just hand out trophies, we expect our Alaskan winners to earn it.

Our Alaska electrical energy laws and regulations that not only discourage competition, but more aptly pre-empt competition and discourage private investment in our electrical energy infrastructure. As a result to our economic counterproductive and anticompetitive policies, Alaska ranks last of all 50 states in the production of competitive electricity from independent power producers. Due, in part, to our lack of wholesale electrical competition Alaska also has the highest average cost of industrial, business electricity rates in the nation. Also, Alaska almost has the highest average residential electricity rates in the nation. Our noncompetitive high electric rates negatively impact our economic development and unnecessarily burden our Alaskan businesses, mines, entrepreneurs and households.

Our high electrical energy costs, not only impact our economy, they also impact our local government operations, schools, hospitals, and services. A school or hospital dollar unnecessarily spent on uncompetitive electricity is a dollar that could be more productively spent on educating our youth or reducing the health care costs for Alaskans.

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As Alaska started out as a territory and as a young state, we rightfully granted monopoly rights to utilities and awarded exclusive service territories in our effort to provide incentives to drive electrical service to all urban and rural Alaskans alike. However, we have outgrown this monopoly model that now holds back the diversification and vibrancy of our non-oil industry economy. We must integrate wholesale competition to encourage private capital investment into energy generation and transmission to not only decrease electricity costs but also to improve Alaskans long term energy security from future rate increases.

Fair play, open access to transmission, nondiscrimination in the procurement of lowest cost energy allows market forces to pick winners and provides an avenue for Alaska to meet its goals as stated in our State Energy Policy. The Alaska Competitive Energy Act embraces competition as the guiding principle for our electrical generation and transmission industry because Alaskans know that competition works.

Thank you for you for supporting the Alaska Competitive Energy Act.

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SECTIONAL ANALYSIS

Alaska Competitive Energy Act of 2015

Sec. 1 - Uncodified law: Short title of legislation; has no substantive effect.

Sec. 2 – AS 29.35.070(a): Removes the cross-reference to an exemption for joint action agencies under AS 42.05.711(o). The exemption in .711(o) has been eliminated in this bill to ensure joint action agencies are subject to RCA regulation along with other utilities (see Sec. 26 below). The cross-reference needs to be removed here since the exemption for joint action agencies will no longer exist.

Sec. 3 - AS 42.05.141(c) amendment: Adds language emphasizing the goals of the legislation and making it the duty of the Regulatory Commission of Alaska (RCA) to promote competition in electric energy generation and to implement the nondiscrimination requirement already present and consistent in US law and applied in other states relating to qualifying facilities.[1] Calls upon the RCA to apply these competitiveness and nondiscrimination principles with respect to all energy producers, including qualifying facilities, independent power producers, and public utilities.

Sec. 4 - AS 42.05.141 new subsections (e) and (f): Subsection (e) authorizes and requires the RCA to ensure that its regulatory decisions are consistent with State energy policy, including the promotion of competition and market-based mechanisms for renewable, alternative, and fossil energy development and the reduction of regulatory burdens as a means to encourage private investment in independent power production.

Subsection (f) requires the RCA to ensure that transmission assets within the State are open and accessible to qualifying facilities, independent power producers, and public utilities on a fair and nondiscriminatory basis. Helps ensure consistency of State law with US law requirements relating to transmission access for competition of Alaskan qualifying facilities.

Sec. 5 - AS 42.05.151(a) amendment: Strengthens the language so that the RCA has both the authority and the duty to adopt regulations in order to carry out its responsibilities under this chapter. Revises the wording slightly to become more straightforward and avoid a double negative. Adds language clarifying that RCA regulations shall be consistent with State energy policy.

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[1] *See generally* 16 U.S.C. 824a-3; 18 C.F.R. Part 292. *See also* RCA regulations implementing US requirements at 3 AAC 50.750(b), .760(c); .770(c), .780(c). *Cf.* AS 42.05.301 (requiring utilities to provide electric service on a non-discriminatory basis).

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Sec. 6 - AS 42.05.175(e) amendment: Streamlines rule making proceedings by shortening the statutory timeframe for the RCA to complete a rulemaking proceeding from two years to one year. A two-year delay in the completion of regulatory rule making decisions can undermine their effectiveness because of the detrimental impact long delays can have on the development and private financing of beneficial private sector projects. Amendment is consistent with State Energy Policy of streamlining government regulatory practices.

Sec. 7 - AS 42.05.211 amendment: Adds numbering (1) and (2) for the items required to be included in RCA annual reports to the legislature. In addition to existing content, requires the RCA to include in each annual report a list specifying the avoided cost for each certificated utility for each source of electrical generation. This annual reporting requirement provides transparency for market costs and provides the ability and encourages competitive independent power production to meet and beat established generation costs to reduce the cost of power for Alaskans.

Sec. 8 - AS 42.05.221(d) amendment: Adds language clarifying that this section governs consumer level utility service and does not authorize the RCA to limit wholesale energy competition. Removes vague and subjective references to public interest. Replaces such language with objective language requiring a showing that competition between public utilities will not lower consumer costs before the RCA is authorized to intervene and impose limits on such competition. When intervention is appropriate, clarifies that the RCA is authorized to (among other things) require a public utility purchase energy from a qualifying facility or independent power producer at the avoided cost rate or a mutually satisfactory negotiated rate. Helps improve compliance with US laws relating to qualifying facilities and competitive power to lower electrical costs for end users.

Sec. 9 - AS 42.05.221 new subsection (g): Differentiates end user from wholesale, industrial, or bulk buyer of electricity.

Sec. 10 - AS 42.05.311(a) amendment: Revises language to address applicability of this subsection to electric utilities, qualifying facilities and independent power producers. Expands RCA authority such that upon a disagreement between a public utility and another requesting party on terms and reasonable compensation that the RCA may require a public utility to comply to terms and reasonable compensation for temporary use.

Sec. 11- AS 42.05.311 new subsections (d) through (i): The following new subsections are important for helping eliminate barriers for qualifying facilities and independent power producers in obtaining access to transmission facilities, and they will help improve compliance with US law requirements relating to competition and qualifying facilities.

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Subsection (d) requires public utilities and other transmission service providers to proceed with interconnection in a timely manner. Provides that this obligation applies where the requested interconnection is consistent with public convenience and necessity and with State energy policy, will not cause injury to the owner or users of the transmission facilities or to transmission services, and will not create safety hazards.

Subsection (e) specifies who shall bear the cost of an interconnection study, and it aims to allocate such burden to a public utility when the transmission asset involved has been paid for with public monies. Where a request for interconnection is made to a public utility, the transmission assets were financed with public monies, and there has been no interconnection study in the past five years, the public utility is required to bear the cost. Where there has been study within the past five years, the party seeking interconnection may obtain such a study at its own expense.

Subsection (f) requires public utilities to provide open access to transmission assets on a fair and non-discriminatory basis and without using its control of such assets to discriminate or impede access by qualifying facilities and independent power producers.

Subsection (g) confirms the ability of utilities and other transmission service providers to impose interconnection and integration charges. At the same time, it requires such charges to be reasonable and not excessive.

Subsection (h) requires any system benefits resulting from an interconnection to be credited to the party seeking connection and used to offset any fees charged by the public utility or other transmission service provider.

Subsection (i) provides that, when requested by the RCA or a party seeking connection, the public utility or other transmission service provider must disclose the basis for its proposed interconnection and integration charges and must demonstrate that such charges are fair, reasonable, nondiscriminatory, and otherwise in compliance with this chapter.

Subsection (j) provides that the RCA may impose a fine against a public utility for failing to comply with this section.

Sec. 12 - AS 42.05.321 amendment to subsections (a) and (b): The following amendments impose duties on the RCA to take action to ensure qualifying facilities and independent power producers shall obtain access to transmission facilities. These provisions will help improve compliance with competitive requirements relating to qualifying facilities.

Subsection (a) amendment expands the list of entities which may seek an RCA order requiring interconnection to specifically include qualifying facilities, and independent power producers, although these were likely already encompassed by "interested person." Requires the RCA to issue an interconnection order where it finds that this would be consistent with [rather than required by] public convenience and necessity, consistent with State energy policy, and will not cause injury to the owner or users of the transmission facilities nor create safety hazards.

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Adds a new subsection (b) which provides that, notwithstanding an exemption from other regulation, this section and other interconnection provisions in AS 42.05.311 shall apply to all utilities, qualifying facilities, and independent power producers.

Sec. 13 - AS 42.05.321 new subsections (c) through (e): The following amendments require the RCA to ensure that fees charged by transmission asset owners for interconnection constitute "reasonable compensation" as defined in the new AS 42.05.990(20) described below. Also requires the RCA to ensure that system charges constitute "reasonable integration charges" as defined in the new AS 42.05.990(21) described below. Emphasizes the portion of the latter definition requiring a transmission asset owner to assess fees to connecting parties on the same basis as it allocates integration costs to its own facilities.

Subsection (c) requires the RCA shall ensure that a fee charged for interconnection is reasonable and that reasonable integration charges are determined in the same manner that transmission owning entity charges or allocates to itself. If the transmission asset owning entity fails to provide sufficient cost information, the RCA may temporarily assign a cost of zero.

Subsection (d) requires the RCA to issue a temporary interconnection within 90 days of receiving a request to do so, or provide a statement it cannot do so and specifying the actions that may be taken to facilitate approval of a joint use or interconnection.

Subsection (e) requires the RCA to issue a permanent interconnection order within one year after receiving a request to do so, or provide a detailed statement of findings demonstrating why it cannot do so.

Sec. 14 - AS 42.05.381(a) amendment: Existing provision limits the types of costs that public utilities can pass on to ratepayers. Amendment adds language providing that utilities generally cannot pass on to ratepayers the costs associated with actions against qualifying facilities or independent power producers, except for the cost of mediators and experts involved in negotiations leading to a mutually satisfactory resolution of such an action, thereby incentivizing mutual cooperation and resolution.

Sec. 15 - AS 42.05.411 new subsection (d): Authorizes and requires the RCA to review new or revised tariffs for consistency with State energy policy and, when found inconsistent, requires the RCA to direct the utility to revise the tariff to eliminate such inconsistency and submit the revised tariff for RCA approval.

Sec. 16 - AS 42.05.431(c) amendment: Amends paragraph 1 to add that any agreement under this paragraph is not exempt from the open access and anti-discriminatory sections provided in AS 32.05.311 or 42.05.321.

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Adds a new paragraph (3) establishing that a wholesale power agreement between a public utility and a qualifying facility or independent power producer is valid and enforceable where the cost of power is at or below the utility's avoided cost. Helps ensure compliance with competitive requirements relating to qualifying facilities.

Adds a new paragraph (4) exempting a wholesale power agreement from RCA review or approval where, at the time of the initial agreement, the power generator is not a utility and the power purchaser is not located within the boundary of any utility's certificated area. Such agreements are generally beyond the scope of RCA jurisdiction already. This provision clarifies that the RCA's lack of jurisdiction continues even if a utility later expands its certificated area in a manner that might otherwise nullify or intrude upon the wholesale power agreement originally entered into between non-regulated entities.

Sec. 17 - AS 42.05.431(e) amendment: Existing provision requires the RCA to allow utilities to pass on to ratepayers certain "validated costs" in connection with "related contracts" associated with pre-1987 Federal Energy Regulatory Commission-licensed projects and a pre-1988 Alaska Energy Authority project until after the long-term debt is retired. Amendment adds language making an exception allowing the RCA to alter or amend the formula for validated costs in these related contracts in order to ensure consistency with State energy policy.

Sec. 18 - AS 42.05.511(a) amendment: Adds paragraph numbering. Expands RCA oversight and investigatory authority by adding paragraph (2) authorizing the RCA to review public utility fuel supply plans for reasonableness, and by adding paragraph (3) authorizing the RCA to investigate suspected discriminatory or anticompetitive practices by public utilities in the procurement of wholesale power from qualifying facilities and independent power producers.

Sec. 19 - AS 42.05.711(b) amendment: Deletes cross-reference to exemption for joint action agencies in (o) that will be repealed under Sec. 26. Expands inclusion of any entity whose primary function is to control, operate, and maintain transmission facilities of 69 kilovolts or more (generally known as high voltage) so that they are subject to this chapter.

Sec. 20 – AS 42.05.711(*l*) amendment: Removes cross-reference to exemption from regulation for joint action agencies. Since that exemption will no longer exist (see Sec. 26), the cross-reference to it should be eliminated as well. **Sec. 21 - AS 42.05.711(r) amendment:** Modifies terms of an existing exemption from regulation under this chapter for certain types of power plants and facilities. Eliminates conditions relating to power being generated entirely from renewable resources and the plant or facility not having been funded with State grants or tax credits. Modifies remainder of existing exemption to apply to (1) a plant or facility placed into operation between 2010 and 2025 [rather than 2016] that is smaller than 80 megawatts [rather than 65 megawatts] and sells all of its power either to a regulated public utility [as in existing law] or to a

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purchaser outside any utility's certificated area that does not constitute the "public" as defined in AS 42.05.990. Also creates a new exemption in paragraph (2) for a plant or facility that sells more than half of its power to purchasers outside of Alaska.

Sec. 22 - AS 42.05.711 new subsection (u): Exempts from regulation under this chapter all qualifying facilities smaller than 80 megawatts. Helps ensure compliance with competitive federal requirements relating to qualifying facilities.

Sec. 23 - AS 42.05.990(6) amendment: Amends the definition of "public utility" or "utility" to include a "joint action agency."

Sec. 24 - AS 42.05.990 new paragraphs (14) through (22): Adds several new defined terms to this chapter.

Paragraph (14) defines "anticompetitive practice" using language based on commonly accepted legal standards for this term.

Paragraph (15) defines "avoided cost" using commonly accepted language derived from and designed to help ensure compliance with competitive requirements relating to qualifying facilities.

Paragraph (16) defines "distribution lines" by reference to their function in delivering power to retail customers.

Paragraph (17) defines "independent power producer" to include a broad array of types of entities and to include entities, other than qualifying facilities, which generate wholesale power for sale to public utilities or for use by customers outside the certificated area of a public utility.

Paragraph (18) defines "joint action agency" by cross-referencing AS 42.45.300 and the exemption in AS 42.05.711(o).

Paragraph (19) defines "qualifying facility" to include renewable, alternative, and cogeneration energy facilities located in the State of the type that would generally constitute "qualifying facilities" under commonly accepted principles and consistent with US law. Also includes facilities whose primary energy source originates in the state, even if this source does not constitute renewable or alternative energy, as a means to implement the "pro Alaskan energy" perspective taken in the State Energy Policy.

Paragraph (20) defines "reasonable compensation" to include a reasonable return on a transmission asset owner's private equity as well as maintenance costs.

Paragraph (21) defines "reasonable integration charges" to establish criteria for determining the appropriateness and lawfulness of such charges in order to help improve access for qualifying facilities and independent power producers and ensure compliance with competitive requirements relating to qualifying facilities. Definition provides that, in order to be considered reasonable, integration charges must be fair, reasonable, nondiscriminatory, directly attributable to the system connection, reasonably necessary for safety and reliability, in excess of other utility costs, not duplicative of other fees, offset by credits for system benefits attributable to the connection, and determined in the same manner as the utility allocates integration costs to its own facilities.

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Paragraph (22) defines "transmission asset" to distinguish these from distribution lines and to refer to facilities involved in the movement of bulk electricity from the generation source to distribution lines.

Sec. 25 - AS 42.45.300 amendment: Modifies language to provide that a joint action agency "may be regulated as" (rather than "has the powers of") a public utility. Helps clarify that the RCA has regulatory jurisdiction over joint action agencies to the same extent as other public utilities.

Sec. 26 – AS 42.05.711 (o) amendment: Repeals an exemption for joint action agencies from regulation under this chapter.

Staff contact: Barbara Barnes, (907) 465-4797

HOUSE BILL NO. 78

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES WILSON, Muñoz

Introduced: 1/23/15
Referred: House Special Committee on Energy, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act bearing the short title of the 'Alaska Competitive Energy Act of 2015'; and relating to the Regulatory Commission of Alaska."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

SHORT TITLE. This Act may be known as the Alaska Competitive Energy Act of 2015.

*** Sec. 2.** AS 29.35.070(a) is amended to read:

(a) The assembly acting for the area outside all cities in the borough and the council acting for the area in a city may regulate, fix, establish, and change the rates and charges imposed for a utility service provided to the municipality or its inhabitants by a utility that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a), (d) - (k), [(o),] (p), or (r) [, OR IS EXEMPTED UNDER REGULATIONS ADOPTED UNDER AS 42.05.810 FROM

COMPLYING WITH ALL OR PART OF AS 42.05.141 - 42.05.721].

* **Sec. 3.** AS 42.05.141(c) is amended to read:

(c) In the establishment of electric service rates under this chapter the commission shall promote the conservation of resources used in the generation of electric energy **and the competitive and nondiscriminatory procurement of electrical energy from and by public utilities, qualifying facilities, and independent power producers**.

* **Sec. 4.** AS 42.05.141 is amended by adding new subsections to read:

(e) The commission shall make regulatory decisions consistent with the state energy policy declared in AS 44.99.115. In addition, the commission shall

(1) promote the competitive procurement and market-driven development of renewable and alternative energy resources, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, and biomass energy, for use by residents of the state and for export;

(2) promote the competitive procurement and market-driven development, transport, and efficient use of energy resources, including fossil, alternative, and renewable energy resources, for use by residents of the state and for export;

(3) work to identify and assist with development of long-term, market-driven sources of energy for each community statewide; and

(4) streamline, including reducing the time and cost of, permitting and regulatory processes to promote private investment and encourage independent power producers to develop, finance, own, operate, and manage qualifying facilities and independent power producers.

(f) The commission shall require the owner of a transmission asset located in the state to provide a qualifying facility, independent power producer, or public facility fair, nondiscriminatory access to a transmission asset, including for joint use or interconnection, in accordance with AS 42.05.311 and 42.05.321.

* **Sec. 5.** AS 42.05.151(a) is amended to read:

(a) The commission **shall** [MAY] adopt regulations, **consistent** [NOT INCONSISTENT] with **state** [THE] law**, including the provisions of**

AS 42.05.141(e) and the state energy policy declared in AS 44.99.115, necessary or proper to exercise its powers and to perform its duties under this chapter.

* **Sec. 6.** AS 42.05.175(e) is amended to read:

(e) The commission shall issue a final order in a rule-making proceeding

(1) not later than **365** [730] days after a complete petition for adoption, amendment, or repeal of a regulation under AS 44.62.180 - 44.62.290 is filed**;** or

(2) [,] when the commission initiates a rule-making docket, not later than **365** [730] days after the order initiating the proceeding is issued.

* **Sec. 7.** AS 42.05.211 is amended to read:

Sec. 42.05.211. Annual report. The commission shall, by November 15 of each year, publish an annual report reviewing its activities during the previous fiscal year and notify the legislature that the report is available. The report must

(1) address the regulation of public utility service in the state as of June 30**;**

(2) [AND MUST] contain details about the commission's compliance with the requirements of AS 42.05.175(a) - (e), with the timeline extensions made by the commission under AS 42.05.175(f), and with other performance measures established by the commission**; and**

(3) list the avoided cost of each public utility issued a certificate under AS 42.05.221, including reporting the costs of production, capital, debt, fuel, operation, and maintenance for each source of electrical generation.

* **Sec. 8.** AS 42.05.221(d) is amended to read:

(d) In an area where the commission determines that two or more public utilities are competing to furnish **an** identical utility service **to end users** and that this competition **does not lower electrical costs for end users** [IS NOT IN THE PUBLIC INTEREST], the commission shall take appropriate action to **limit access to the retail market and** eliminate [THE COMPETITION AND] any undesirable duplication of facilities**, but the commission may not limit wholesale competition**. This appropriate action may include [, BUT IS NOT LIMITED TO,] ordering the competing utilities to enter into a contract that, among other things, would [:]

(1) delineate the service area boundaries of each in those areas of

competition;

(2) eliminate existing duplication and paralleling **of infrastructure serving end users** to the fullest reasonable extent;

(3) preclude future duplication and paralleling **of infrastructure serving end users**;

(4) provide for the exchange of customers and facilities for the **purpose** [PURPOSES] of providing **lower electrical costs for end users** [BETTER PUBLIC SERVICE AND OF ELIMINATING DUPLICATION AND PARALLELING]; and

(5) provide [SUCH] other mutually equitable arrangements **to lower electrical costs for end users, including, when appropriate, a requirement that a public utility purchase electric energy or energy capacity from a qualifying facility or independent power producer at the avoided cost of the public utility or at a mutually agreed upon rate** [AS WOULD BE IN THE PUBLIC INTEREST].

* **Sec. 9.** AS 42.05.221 is amended by adding a new subsection to read:

(g) In this section, "end user" does not include a purchaser of electricity for wholesale or industrial use or a bulk buyer of electricity.

* **Sec. 10.** AS 42.05.311(a) is amended to read:

(a) A public utility having sewers, conduits, utilidors, poles, pole lines, pipes, pipelines, mains, **or electric** or other distribution or transmission facilities shall, for [A] reasonable compensation, permit another public utility**, a qualifying facility, or an independent power producer** to use them when the **use is consistent with** public convenience and necessity [REQUIRE THIS USE] and the use will not result in **a demonstrated and** substantial injury to the owner, or in **a demonstrated and** substantial detriment to the service **of** [TO] the **end users** [CUSTOMERS OF THE OWNERS]. The **actual** cost of modifications or additions necessary to **accommodate** a joint use shall be at the expense of the public utility**, qualifying facility, or independent power producer** requesting the use of the facilities. **Except as provided in (d) of this section, if a public utility and another party requesting use under this section cannot agree on terms of use or reasonable compensation, the commission may determine and require a public utility to comply with the terms**

of service and compensation for the use for up to 90 days.

* **Sec. 11.** AS 42.05.311 is amended by adding new subsections to read:

(d) Upon receiving a request for joint use or interconnection from a public utility, qualifying facility, or independent power producer, a public utility having electric distribution or transmission facilities shall, within a reasonable time, permit the joint use or interconnection to be made if the joint use or interconnection

(1) is consistent with public convenience and necessity;

(2) is consistent with AS 42.05.141(e) and the state energy policy declared in AS 44.99.115;

(3) will not result in demonstrated and substantial injury to the owner or other users of the facilities of the entities making the connection;

(4) will not result in demonstrated and substantial detriment to the service provided by the entities making the connection; and

(5) will not create safety hazards.

(e) If a request for interconnection or joint use is made to a public utility for use of a facility located in the state that was financed in whole or in part with federal or state grants or loans and an interconnection or joint use study has not been performed in the five years immediately preceding the request, the public utility shall pay for the applicable study. If an interconnection or joint use study has been completed in the five years immediately preceding the request, the entity requesting interconnection or joint use may procure the applicable study at its own expense.

(f) When providing access to a transmission asset, a public utility may not

(1) discriminate between users of the transmission asset;

(2) employ an anticompetitive practice with a transmission asset; or

(3) use its management, ownership, or control of a transmission asset to increase the cost of or prevent use by a utility, qualifying facility, or independent power producer attempting to use a transmission asset.

(g) A public utility may assess reasonable integration charges or credits to another public utility, qualifying facility, or independent power producer connecting to its system.

(h) A benefit resulting from a connection described in this section shall be

credited toward the connecting entity.

(i) Upon request of the commission or the connecting entity, the owning public utility shall

(1) disclose the basis for the interconnection or integration charges or credits;

(2) bear the burden of demonstrating that the interconnection or integration charges or credits comply with this section;

(3) demonstrate that the interconnection or integration charges and credits are fair, reasonable, and nondiscriminatory and comply with this chapter.

(j) The commission may fine a public utility for failure to comply with this section.

* **Sec. 12.** AS 42.05.321 is amended to read:

Sec. 42.05.321. Failure to agree upon joint use or interconnection. (a) In case of failure to agree upon the joint use or interconnection of facilities or the conditions or compensation for joint use or interconnections, **a qualifying facility, an independent power producer, a** [THE] public utility, including any municipality, or an interested person may apply to the commission for an order requiring the interconnection. If, after investigation and opportunity for hearing, the commission finds that **the joint use or interconnection is consistent with** public convenience and necessity [REQUIRE THE JOINT USE OR CONNECTION], **that the use or connection is consistent with AS 42.05.141(e), 42.05.311, and the state energy policy declared in AS 44.99.115,** and that the use or connection will not result in **demonstrated and** substantial injury to the owner utility **having a transmission asset** or [ITS] customers **of an owner utility**, [OR] in **demonstrated and** substantial detriment to the services furnished by the owner utility **having a transmission asset**, or in the creation of safety hazards, **the commission** [IT] shall

(1) order that the use be permitted;

(2) prescribe reasonable conditions and compensation for the joint use;

(3) order the interconnection to be made;

(4) determine the time and manner of the interconnection;

(5) determine the apportionment of costs and responsibility for

operation and maintenance of the interconnection.

(b) **Notwithstanding an exemption from other regulation, this** [THIS] section and AS 42.05.311 apply to **a utility, qualifying facility, or independent power producer** [ALL UTILITIES WHETHER OR NOT THEY ARE EXEMPT FROM OTHER REGULATION UNDER AS 42.05.711].

* **Sec. 13.** AS 42.05.321 is amended by adding new subsections to read:

(c) The commission shall ensure that a fee charged under this section for joint use or interconnection by a public utility owning a transmission asset is reasonable and that system charges constitute reasonable integration charges and are determined in the same manner that the public utility owning the transmission asset charges or allocates those costs to itself. The commission may temporarily set a fee charged under this section to zero if a public utility does not provide sufficient information for the commission to determine whether a fee charged under this section is reasonable.

(d) Within 90 days after a request for an order requiring joint use or interconnection is filed with the commission under (a) of this section, the commission shall issue a temporary order requiring joint use or interconnection or a statement explaining why the order was denied and actions that may be taken to facilitate the approval of a subsequent request for joint use or interconnection.

(e) Within 365 days after a request for an order requiring joint use or interconnection is filed with the commission under (a) of this section, the commission shall issue a permanent order requiring joint use or interconnection or a detailed finding explaining why the order was denied.

* **Sec. 14.** AS 42.05.381(a) is amended to read:

(a) All rates demanded or received by a public utility, or by any two or more public utilities jointly, for a service furnished or to be furnished shall be just and reasonable; however, a rate may not include an allowance for costs of political contributions, **costs of** [OR] public relations**, or costs related to formal or informal adjudicatory proceedings or judicial actions against a qualifying facility or independent power producer** except for reasonable amounts spent for

(1) energy conservation efforts;

(2) public information designed to promote more efficient use of the

utility's facilities or services or to protect the physical plant of the utility;

(3) informing shareholders and members of a cooperative of meetings of the utility and encouraging attendance; [OR]

(4) emergency situations to the extent and under the circumstances authorized by the commission for good cause shown**; or**

(5) a mediator, independent expert, or similar impartial analyst used in good faith negotiations with a qualifying facility or independent power producer if the negotiations result in a mutually agreed upon resolution of the formal or informal adjudicatory proceeding or judicial action, including a settlement or a power purchase agreement.

* **Sec. 15.** AS 42.05.411 is amended by adding a new subsection to read:

(d) Upon the filing of a new or revised tariff, the commission shall review the entire tariff for consistency with AS 42.05.141(e) and the state energy policy declared in AS 44.99.115. If the new or revised tariff is not consistent with AS 42.05.141(e) and the state energy policy, the commission shall direct the utility to revise the tariff to be consistent with AS 42.05.141(e) and the state energy policy and submit the revised tariff to the commission for approval under this section.

* **Sec. 16.** AS 42.05.431(c) is amended to read:

(c) Notwithstanding (b) of this section,

(1) a wholesale agreement for the sale of power from a project licensed by the Federal Energy Regulatory Commission on or before January 1, 1987, and related contracts for the wheeling, storage, regeneration, or wholesale repurchase of power purchased under the agreement, entered into between the Alaska Energy Authority and one or more other public utilities or among the utilities after October 31, 1987, and before January 1, 1988, and amendments to the wholesale agreement or related contract, and the wholesale agreement or related contract assigned by the Alaska Energy Authority to a joint action agency formed under AS 42.45.310 that purchases the project from the Alaska Energy Authority, are not subject to review or approval by the commission until all long-term debt incurred for the project is retired, or, for a wholesale agreement or related contract assigned to a joint action agency formed under AS 42.45.310, until all long-term debt incurred to pay the purchase price

to the Alaska Energy Authority is retired**, except that an agreement under this paragraph or related contracts or amendments are not exempt from AS 42.05.311 or 42.05.321**; [AND]

(2) a wholesale agreement or related contract described in (1) of this subsection may contain a covenant for the public utility to establish, charge, and collect rates sufficient to meet its obligations under the contract; the rate covenant is valid and enforceable**;**

(3) a wholesale agreement between a public utility and a qualifying facility or independent power producer for the sale of power at or below the avoided cost of the public utility is valid and enforceable; and

(4) a wholesale agreement for the purchase and sale of electricity is not subject to review or approval by the commission if, at the time the initial agreement is made, the entity providing the electricity is not a utility and the purchaser is located outside the certificated service area of a utility, regardless of whether the purchaser later becomes part of the certificated service area of a utility.

*** Sec. 17.** AS 42.05.431(e) is amended to read:

(e) Validated costs incurred by a utility in connection with the related contracts described in (c)(1) of this section must be allowed in the rates charged by the utility. In this subsection, "validated costs" are the actual costs that a utility uses, under the formula set out in related contracts described in (c) of this section, to establish rates, charges for services and rights, and the payment of charges for services and rights. This subsection does not grant the commission jurisdiction to alter or amend the formula set out in those related contracts**, except that the commission may alter or amend the formula to ensure that the contracts are consistent with AS 42.05.141(e) and the state energy policy declared in AS 44.99.115**.

*** Sec. 18.** AS 42.05.511(a) is amended to read:

(a) The commission may

(1) investigate the management of a public utility, including [BUT NOT LIMITED TO] staffing patterns, wage and salary scales and agreements, investment policies and practices, purchasing and payment arrangements with

affiliated interests, for the purpose of determining inefficient or unreasonable practices that adversely affect the cost or quality of service of the public utility**;**

(2) review emergency backup, mid-term, and long-term fuel supply plans of a public utility for reasonableness;

(3) investigate suspected discriminatory or anticompetitive practices in the procurement of wholesale power from a qualifying facility or independent power producer by a public utility.

* **Sec. 19.** AS 42.05.711(b) is amended to read:

(b) Except as otherwise provided in this subsection [AND IN (o) OF THIS SECTION], public utilities owned and operated by a political subdivision of the state, or electric operating entities established as **an** [THE] instrumentality of two or more public utilities owned and operated by political subdivisions of the state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and 42.05.385. However,

(1) the governing body of **the** [A] political subdivision may elect to be subject to this chapter; and

(2) a utility or electric operating entity that is owned **or** [AND] operated by a political subdivision and that directly competes with another **public** utility**, joint action agency, qualifying facility, independent power producer, transmission utility whose primary function is to control, operate, and maintain transmission facilities of 69 kilovolts or more,** or electric operating entity is subject to this chapter [AND ANY OTHER UTILITY OR ELECTRIC OPERATING ENTITY OWNED AND OPERATED BY THE POLITICAL SUBDIVISION IS ALSO SUBJECT TO THIS CHAPTER; THIS PARAGRAPH DOES NOT APPLY TO A UTILITY OR ELECTRIC OPERATING ENTITY OWNED AND OPERATED BY A POLITICAL SUBDIVISION THAT COMPETES WITH A TELECOMMUNICATIONS UTILITY].

* **Sec. 20.** AS 42.05.711(*l*) is amended to read:

(*l*) A person, utility, joint action agency established under AS 42.45.310, or cooperative that is exempt from regulation under (a), (d) - (k), [(o),] or (r) of this section is not subject to regulation by a municipality under AS 29.35.060 and 29.35.070.

* **Sec. 21.** AS 42.05.711(r) is amended to read:

(r) A plant or facility **owned or operated by an independent power producer** [THAT GENERATES ELECTRICITY ENTIRELY FROM RENEWABLE ENERGY RESOURCES] is exempt from regulation under this chapter if **the plant or facility sells more than 50 percent of the net electricity it generates to purchasers located outside the state or**

(1) the plant or facility

[(A)] is first placed into commercial operation on or after August 31, 2010, and before January 1, **2025** [2016];

(2) the plant or facility [AND (B)] does not generate more than **80** [65] megawatts of electricity; **and**

(3) [(2)] the **net** electricity generated by the plant or facility is sold only to one or more electric utilities that are regulated by the commission **or to one or more purchasers who are located outside a certificated service area of a utility and who are not the public, as that term is defined in AS 42.05.990** [; AND

(3) THE PERSON THAT CONSTRUCTS, OWNS, ACQUIRES, OR OPERATES THE PLANT OR FACILITY HAS NOT RECEIVED FROM THE STATE

(A) A GRANT THAT WAS USED TO GENERATE THE ELECTRICITY FROM THE RENEWABLE ENERGY RESOURCES; OR

(B) A TAX CREDIT RELATED TO THE GENERATION OF ELECTRICITY FROM THE RENEWABLE ENERGY RESOURCES].

* **Sec. 22.** AS 42.05.711 is amended by adding a new subsection to read:

(u) A qualifying facility is exempt from regulation under this chapter.

* **Sec. 23.** AS 42.05.990(6) is amended to read:

(6) "public utility" or "utility" includes every corporation whether public, cooperative, **joint action agency,** or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(G) furnishing the service of natural gas storage to the public for compensation;

(H) furnishing the service of liquefied natural gas storage to the public for compensation;

* **Sec. 24.** AS 42.05.990 is amended by adding new paragraphs to read:

(14) "anticompetitive practice" means

(A) a practice that directly or indirectly manipulates the purchase or sale of electric energy, access to an electric transmission facility, the cost of electric energy, the price paid for wholesale electric energy, or the charges or credits allocated to a qualifying facility or independent power producer, including interconnection, integration, wheeling, and demand ratchet charges or credits;

(B) an act, practice, or scheme by a utility to defraud; or

(C) making an untrue statement or omitting a material fact in a communication published by a public utility for use by the commission, a qualifying facility, an independent power producer, or the customers of the utility;

(15) "avoided cost" means the incremental cost to an electric utility of electric energy or electric capacity or both that, but for the purchase of that unit from a

qualifying facility or independent power producer, the utility would have to generate itself or purchase from another source;

(16) "distribution lines" means low voltage transmission lines that deliver power to retail customers;

(17) "independent power producer" means a corporation, person, agency, authority, or other legal entity other than a qualifying facility that owns or operates facilities for the generation of electricity for wholesale delivery to a public utility or for use by customers outside the certificated service area of a utility;

(18) "joint action agency" means an entity established under AS 42.45.300;

(19) "qualifying facility" means

(A) a small power production facility located in the state that generates 80 megawatts of electricity or less and whose primary energy source

(i) is a renewable or alternative energy resource, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, or biomass energy; or

(ii) originates in the state; or

(B) a cogeneration facility located in the state that sequentially produces electricity and another form of useful thermal energy, including steam or heat, in a manner that is more efficient than the separate production of both forms of energy;

(20) "reasonable compensation" means the cost of maintenance plus a return on the private equity of the owning public utility or joint action agency for the portion of the sewer, conduit, utilidor, pole, pole line, pipe, pipeline, main, or other distribution or transmission facility that is jointly used;

(21) "reasonable integration charges or credits" means the fair, nondiscriminatory costs that are directly attributable to the system connection, reasonably necessary to maintain safe and reliable operations of the utility system, in excess of the corresponding costs that the public utility would have otherwise incurred, not duplicative of costs already charged related to the system connection, offset by credits for benefits attributable to the system connection, and determined in

the same manner as the utility allocates the charges to itself;

(22) "transmission asset" means an asset used to move bulk electricity from where it is produced or generated to distribution lines.

* **Sec. 25.** AS 42.45.300 is amended to read:

Sec. 42.45.300. Joint action agencies. Two or more public utilities may form a joint action agency for the purpose of participation in the design, construction, operation, and maintenance of a generating or transmission facility and to secure financing for carrying out the design, construction, operation, and maintenance of the facility. A joint action agency may request the Alaska Industrial Development and Export Authority to issue revenue bonds for projects of the agency. A joint action agency **may be regulated as** [HAS THE POWERS OF] a public utility under AS 42.05.

* **Sec. 26.** AS 42.05.711(o) is repealed.

Resolution #01-2015-03

A RESOLUTION OF THE SAXMAN CITY COUNCIL SUPPORTING THE ALASKA COMPETITIVE ENERGY ACT OF 2015, AND ENCOURAGING THE STATE OF ALASKA TO TAKE ACTION TO ADDRESS PRESSING ELECTRICAL INFRASTRUCTURE NEEDS BY FOSTERING INCREASED PRIVATE INVESTMENT.

WHEREAS, Alaska has an abundance of world-class energy resources, including abundant wind, solar, geothermal, hydroelectric, tidal, wave, and biomass, as well as oil, gas, and coal; and

WHEREAS, Many of Alaska's energy resources are located on lands belonging to Alaska Native Claims Settlement Act (ANCSA) corporations, tribes, and rural governments, which desire to develop these resources for the benefit of their constituencies, shareholders, and all ratepayers; and

WHEREAS, Despite our abundant energy resources, Alaskans pay some of the highest rates for electricity in the nation – 48% to 140% more than the national average; and

WHEREAS, Alaska ranks 49th of 50 states in production of energy by independent power producers, with independent power production at 4.2%, trailing far behind the national rate of 38%, and even behind communist China's rate of 6%; and

WHEREAS, Alaska's job-creating industries (mining, fish processing, forest products, the military, shipbuilding, etc.) are energy-intensive and require low-cost power; and

WHEREAS, the Alaska Competitive Energy Act of 2015 (hereinafter "ACEA") will improve opportunities for energy project development, capital investment, and job creation by independent power producers, and will stimulate production of affordable energy on ANCSA, tribal, and local government lands; and

WHEREAS, ACEA will help utilities to access to lower-cost power than they can produce themselves, driving Alaska's energy rates lower; and

WHEREAS, New private investment in energy will generate new tax income for State and local governments; and

WHEREAS, ACEA will attract and protect new private investment in infrastructure, helping to reduce the State's need to subsidize inefficient monopolies, and allowing the State to shift significant project development costs and risks to private entities best able to manage those risks; and

WHEREAS, ACEA will encourage free enterprise, innovation, and investment by Alaskan entrepreneurs; and

WHEREAS, ACEA will prompt utilities to operate more efficiently through healthy, free-market competition of the type which other US states have been benefitting from for years; and

WHEREAS, ACEA will help streamline regulatory processes and remove barriers; and

WHEREAS, ACEA will help drive down costs for ratepayers, diversify energy sources, and improve energy security; and

WHEREAS, ACEA will help the State of Alaska, Alaskan municipalities, Alaskan utilities, ANCSA corporations, tribal governments, and rural communities achieve their energy development and policy goals; and

WHEREAS, ACEA will help ANCSA corporations, tribes, and rural communities realize the economic benefits of their land base, through assurances of non-discriminatory energy market participation; and

WHEREAS, ACEA is not a new or revolutionary concept; rather, it creates a competitive energy market environment which is consistent with the legal/regulatory environment that other states in the US have been benefitting from for decades; and

WHEREAS, ACEA empowers Alaskan utilities, governments, investors, and Alaska Native entities to use their available resources as efficiently as possible for the benefit of Alaskan families and businesses; and

NOW THEREFORE BE IT RESOLVED BY THE CITY OF SAXMAN AS FOLLOWS:

Section 1. – The City of Saxman hereby endorses the Alaska Competitive Energy Act of 2015, and urges the Alaska State Legislature to adopt this legislation expediently.

Section 2. – The City of Saxman urges the State of Alaska to share energy infrastructure project development costs and risks to a greater extent with the private sector, and to take action to support and protect this investment.

DATED THIS 21st **DAY OF** Jan. 2015

ATTEST:

S Banie

Sylvia Banie, Mayor

Leona Haffner

Leona Haffner, City Administrator

Jason Custer
Project Manager, Upper Tanana Energy
136 Misty Marie Lane
Ketchikan, AK 99901

Jason.c@aptalaska.com
907-225-1950 x 29

Members of the Alaska State Legislature,

The purpose of this letter is to express Upper Tanana Energy's strong support of House Bill 78, an act bearing the short title of the Alaska Competitive Energy Act of 2015 (ACEA).

About Upper Tanana Energy
Upper Tanana Energy (UTE) is a company formed in 2014 by Alaska Power & Telephone Company (AP&T) – an Alaska utility – to develop, build, own, operate, and maintain the 1.5MW Yerrick Creek Hydropower project. Yerrick Creek is located on ANCSA lands owned by Tanacross Inc., the ANCSA Corporation for the Tanacross community. The Yerrick Creek project is a low impact hydropower project designed to provide clean, affordable energy to the Tok utility region, which is currently 100% reliant upon diesel-fired generation of electricity.

AP&T, Tanacross Inc., and the Native Village of Tanacross have executed a MOU expressing all parties' willingness and intent to develop the Yerrick Creek project utilizing a unified approach which leverages each entity's best qualities, unique competencies, and funding options. Together, our entities have been working collaboratively to raise public support and awareness, advance development activities, apply for grants,and ensure environmental and cultural interests are protected, so that together we can enable this important project to be developed for the benefit of ratepayers in the upper Tanana region.

While AP&T is currently the sole owner of Upper Tanana Energy, we have invited Tanacross Inc. and the Native Village of Tanacross to consider becoming vested owners of UTE, through a unique IPP partnership structure incorporating all three entities. Tanacross Inc. and the Native Village of Tanacross are currently considering this ownership option.

This JV arrangement between AP&T and local partners would potentially be modeled on another AP&T IPP joint venture entity – Haida Energy. Haida Energy is an IPP established to build,

own, and operate the Reynolds Creek hydropower project on Prince of Wales Island. Haida Energy is 50% owned by Haida Corporation (an ANCSA corporation), and 50% owned by Alaska Power & Telephone, and will sell energy to AP&T's subsidiary Alaska Power Company.

ACEA Supports Partnership, Competition, and Collaboration – Alaskan Values
Upper Tanana Energy believes that the Yerrick Creek project is an important and successful example of an incumbent Alaskan utility encouraging diverse partnership, and meaningful IPP development within its own service area.

Upper Tanana Energy is an example of how Alaskans can partner and collaborate to bring together the best assets and qualities of a variety of entities for the ultimate benefit of all ratepayers. Our partnership combines AP&T's hydropower development experience and private capital; Tanacross Inc.'s cultural values, ANCSA lands, and business experience; and the Native Village of Tanacross' strong abilities in fund-raising, stewardship, and leadership.

Upper Tanana Energy supports an approach based upon collaboration, competition, and non-discriminatory treatment of all parties. We believe that these are fundamental Alaskan values. The suite of reforms proposed within ACEA are designed to benefit ratepayers, and the State, and prohibit IPPs and utilities from attempting to disadvantage one another.

ACEA will have no adverse impact on utilities and IPPs which are already partnering and competing according to non-discriminatory principals. Meanwhile, the benefits to utilities and IPPs which are struggling or failing to compete and collaborate effectively will be immense. Although some entities' business practices may need to change in order to become more inclusive and competitive, these types of changes will ultimately be of terrific benefit to Alaska's ratepayers.

Comments submitted on ACEA by Alaska Power & Telephone describe the fact that while Alaska has some of the most significant renewable energy potential in the US, our state also has the highest energy rates, and the lowest levels of private investment in America. This is a stunning juxtaposition of facts. With so many excellent resources, Alaska should be a world leader in affordable energy production. Similarly, with so much interest in and passion for our State's energy future – by tribes, ANCSA corporations, private developers, and incumbent utilities – Alaskans should be leading the way in competitive production of energy, and in implementation of unique collaborative business models. ACEA provides reforms which are greatly needed to ensure that all Alaskans compete and collaborate in a manner which assures the most affordable energy possible Alaska's ratepayers, in accordance with the public's best interest.

Upper Tanana Energy is grateful that the Yerrick Creek project is supported and advanced by three diverse partners who are willing to work together. This cooperative approach will be of immense benefit to the Tok region's ratepayers. However, not all projects or utility regions in Alaska are so fortunate. In other regions, incumbent utilities place special emphasis on their own self-build projects, and ANCSA corporations, tribes, and other developers are not afforded opportunities to compete and collaborate within regional energy markets. ACEA helps ensure

that all parties have equal opportunity to bring their best resources to bear to benefit ratepayers, and that energy resource decisions in Alaska are made through competitive procurement.

Please Support the Alaska Competitive Energy Act
Upper Tanana Energy believes that resource planning and procurement should be based entirely on objective factors such as risk, reliability, and price, and agnostic in regard to ownership, politics, ideology, emotions, or subjective judgments. Competitive procurement on a level playing field, grounded in non-discriminatory, objective factors is in the best interest of utilities, ratepayers, and the State of Alaska.

Thank you for your consideration. UTE hopes you will agree that adoption of ACEA supports the best interests of the State of Alaska, ratepayers, incumbent utilities, and independent power producers alike.

Please vote "yes" on HB 78.

Sincerely,

Jason Custer
Project Manager
Upper Tanana Energy

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E: Jason.c@aptalaska.com

Tok Chamber of Commerce
PO Box 389
Tok, Alaska 99780
907-883-5775 P
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February 20, 2015

Rep. Tammie Wilson
State Capital
Juneau, Alaska 99501

Dear Representative Wilson;

Thank you for introducing HB 78 to allow greater competition in the utility business. Our area is suffering under extraordinarily high power costs and our local economy has gone from stagnation to decline.

Our Chamber recognizes the importance of competition in all commerce and we especially need that principle of American business to be invigorated in the utility business. We have been told that many other states now have adopted a more competitive policy and your legislation sets out the foundation here in Alaska to do the same.

Please count on our support for this legislation.

Sincerely,

John Rusyniak / President Tok, Chamber of Commerce

John A. Rusyniak, President
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SEABIA
Southeast Alaska Building Industry Association

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Fax (907) 247-6903
www.sealaskabuilders.com

February 9, 2015

To Whom It May Concern:

The Southern Southeast Alaska Homebuilders Association would like to pledge their support for an Alaskan Competitive Energy Act for the benefit of all private and commercial utility rate payers in the state.

For over two decades the number one priority of the Ketchikan Homebuilders Association has been to partner with the Alaska State Homebuilders Association to design and build the most energy efficient structures in the country. No one foresaw however, the significant increased cost in the price of oil and the impact it has had on both home heating and utility costs. As a result we have seen a large migration away from fossil fuel heating in favor of electrical heating technology.

The recent surge in electrical demand has placed a huge burden on public utilities, causing them to rely more heavily on diesel back- up generation during peak load periods thus driving up costs in the form of diesel fuel surcharges passed on to the public.

Due in part to cumbersome local and state government regulations, we have seen private, competitive development of several smaller energy projects stifled in past years that would have significantly lightened the load on our public utilities and eliminated the necessity for costly diesel back-up generation.

Southeast Alaska is rich in untapped renewable energy resources in the form of hydro, geothermal, wind, and tidal generation and the central and northern regions of the state are open to solar and gas generation as well.

Private development of our resources would remove the burden of further bond indebtedness from the shoulders of rate payers, provide competitive rates, streamline development, and bring more power on line to meet the growing demand all of which would encourage economic growth. Please support an Alaskan Competitive Energy Act which would produce these results.

Sincerely,

Chris Edwards

President
Southern Southeast Alaska Building Industry Association

Jason Custer
Project Manager, Ketchikan Electric Company
136 Misty Marie Lane
Ketchikan, AK 99901

Jason.c@aptalaska.com
907-225-1950 x 29

Members of the Alaska State Legislature,

The purpose of this letter is to express Ketchikan Electric Company's strong support of House Bill 78, an act bearing the short title of the Alaska Competitive Energy Act of 2015 (ACEA).

About Ketchikan Electric Company

Ketchikan Electric Company (KEC) is an independent power producer (IPP) jointly owned by Alaska Power & Telephone and Cape Fox Corporation, the Alaska Native Claims Settlement Act (ANCSA) village Corporation for the community of Saxman. KEC was established for the development, ownership, and operation of the Mahoney Lake hydropower project, a 9.6MW alpine lake tap project located on Cape Fox Corporation's ANCSA lands. The Mahoney Lake project has been designed to provide affordable energy to the community of Ketchikan, now interconnected to Wrangell and Petersburg via the Swan-Tyee intertie owned and operated by the Southeast Alaska Power Agency (SEAPA).

Our company has been actively working to develop the Mahoney Lake hydropower project for over 20 years. Through investment of $4,000,000 of private capital, KEC has completed roads to the project's powerhouse, and received a Federal Energy Regulatory Commission license (FERC No. P-11393). This license, issued in the mid-1990s, has been stayed by an act of US Congress – an unprecedented occurrence – due to KEC's lack of success in achieving incumbent utilities' approvals to compete on an equitable basis to provide ratepayers of the region with affordably priced energy. Investors have been ready, willing, and able to provide the private capital necessary to complete the Mahoney Lake project for many years. A third party due diligence report commissioned in 2008 by Ketchikan Public Utilities (KPU) – an incumbent utility and proposed offtaker of Mahoney Lake's output – determined that our project would be

able to provide $0.098 / kwh power ($2008) to the region with conventional financing (30 years at 5%), and provided a favorable development recommendation to KPU.[1]
Despite all of these favorable characteristics, KEC has been unsuccessful in its efforts to complete the Mahoney Lake project for the benefit of the region's ratepayers. This has not been due to Mahoney Lake's lack of virtue as a hydropower project, but rather, due to the fact that KEC has been unable to gain a reasonable opportunity to compete against incumbent utilities' self-build projects on a level playing field, and non-discriminatory basis. Instead, we have watched three of our proposed off-takers' self-build projects – the Swan-Tyee Intertie, the Whitman Lake hydropower project, and most recently SEAPA's Swan Lake Dam expansion – be advanced in favor of our own, without our Mahoney Lake project being afforded equitable consideration. Meanwhile, State of Alaska grant funds are used to subsidize these self-build projects' development costs. This subsidization places our own Mahoney Lake project at a significant disadvantage, and serves to leave our $4,000,000 in private investment effectively stranded, and at strong risk of total loss. It appears based upon incumbent utilities' present activities that they will continue to identify and prioritize new self-build projects, without offering private sector developers any sort of reasonable opportunity for participation and competition on an equitable and non-discriminatory basis.

These conditions have unfortunately limited the ability of Cape Fox Corporation to utilize its ANCSA lands to support regional and state renewable energy goals, and realize the economic promises of ANCSA. They have also limited AP&T's ability to apply our hydropower development expertise, mobilize private capital, and undertake project development risks and costs so that we might compete to meet ratepayer's energy needs more affordably. These conditions have also had the consequence of encumbering ratepayers with energy generation projects selected based upon non-economic, non-competitive factors.

KEC does not seek special treatment or favoritism for the Mahoney Lake hydropower project. Rather, we seek an equal, non-discriminatory opportunity to compete within the energy generation sector – along with incumbent utilities, and every other prospective developer -- so that we might have a fair chance to provide ratepayers with the most affordable and competitively priced increments of energy possible.

Moreover, we seek an investment environment in Alaska where State tax dollars and other public monies are not used to advantage one developer over another. We are particularly concerned about situations in which tax dollars are used to compete against a tax-paying business. If these conditions are allowed to persist, private investment will never occur at meaningful levels, and Alaska will continue to maintain the dubious distinction of having the lowest levels of private investment and competition in the energy sector in the US (4% in Alaska, versus 37.4% in the US, versus 6% in communist China).[2]

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[1] Source: 2008 Mahoney Lake Due Diligence Report provided to KEC by Ketchikan Public Utilities, and available from this letter's author upon request.

[2] Source: US EIA.

Whether IPP or Incumbent Utility, the Ratepayers' Best Interests Come First, and are Supported and Protected via ACEA

KEC believes that the electrical utility sector's core function is to serve the best interests of the public through provision of the most affordable energy possible. This is true of both IPPs, and incumbent utilities. KEC supports ACEA, because we believe it assures the public best interest is being met through free market competition, on a non-discriminatory basis, in a manner consistent with the investment environment currently benefitting the lower 48 States, where energy is far less costly. ACEA provides the framework which IPPs and utilities both need to compete and collaborate in a reasonable manner, in support of ratepayers' best interests.

Utilities Already Meeting the Public's Best Interest Have Nothing to Fear from ACEA

Utilities which are already meeting the public's best interest, treating IPPs in a non-discriminatory manner, and utilizing market forces and fair procurement processes to ratepayers' benefit have no reason to oppose ACEA, or fear RCA oversight.

It is only the utilities which might be failing to meet the public's best interest through fair and non-discriminatory business practices which have cause to fear ACEA's reforms. When an entity expresses fear or resistance to competition, transparency, competitive procurement, and third party oversight, it is usually a sure signal that there are problems present, and that change is needed.

It is important to note that the changes proposed within ACEA are neither new nor revolutionary concepts – they are changes which have already been found to be in ratepayers' best interest, and have been adopted and applied in the lower 48 for decades, to great success.

Despite its Enormous Renewable Energy Potential, Alaska is Failing to Attract Private Investment, and Failing to Provide Low-Cost Energy to Alaskans

Alaska has incredible undeveloped renewable energy potential, including 40% of total US river hydropower, 90% of total US tidal energy potential, the largest terrestrial Class 7 wind potential in America, and the largest offshore wind potential in the US. [3] And yet, communities across the State pay some of the highest energy costs in America, and Alaska has a lower level of private investment than any other State in the US (4% in Alaska, versus 37.4% US-wide).[4]

This unsettling juxtaposition of statistics is in no small part due to the fact that Alaska's regressive utility laws, policy, and regulation fail to encourage a competitive electrical industry, and do not attract or support private investment with the same success as the rest of the US. Key failings of Alaska's legal and regulatory environment include: lack of open access to transmission; lack of an equal playing field for IPPs and utilities; lack of standards governing fair interactions between IPPs and utilities; inconsistency between the State and federal definitions of "avoided cost" (state "average" versus the federal "incremental" requirement); inadequate

[3] Sources: UAF Alaska Center for Energy and Power, and the Wind Energy Atlas of the US.

[4] US EIA

oversight of public utilities including Joint Action Agencies; and the fact that Alaska's energy policies are "aspirational" rather than directive of the RCA.

ACEA is Necessary to Unify IPPs and Utilities in Efforts to Provide Ratepayers with Competitively-Priced Energy

While every relationship and interaction is unique, there is a common and overwhelming theme of prospective IPPs and incumbent utilities across Alaska failing to compete and collaborate to provide more affordable energy to ratepayers. This lack of unity is troubling, as what Alaska needs is a collaborative approach which leverages the best qualities of all parties, and mobilizes all available assets responsibly in support of economic growth and prosperity.

The State of Alaska has thus far failed to provide an environment where this type of collaboration and competition can occur. This failure is seen in Alaska's 4% total private sector participation in electrical energy generation, versus 38% across the US. ACEA provides the framework which IPPs and utilities both need to compete and collaborate in a reasonable manner, in support of the best interest of the ratepayers.

Please Support the Alaska Competitive Energy Act

KEC believes that resource planning and procurement should be based entirely on objective factors such as risk, reliability, and price, and agnostic in regard to ownership, politics, ideology, emotions, or subjective judgments. Our company does not seek special treatment – simply equal opportunity. Competitive procurement on a level playing field, grounded in non-discriminatory, objective factors is in the best interest of utilities, ratepayers, and the State of Alaska.

Thank you for your consideration. KEC hopes you will agree that adoption of ACEA supports the best interests of the State of Alaska, ratepayers, incumbent utilities, and independent power producers alike.

Please vote "yes" on HB 78.

Sincerely,

Jason Custer
Project Manager
Ketchikan Electric Company

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E: Jason.c@aptalaska.com

Juneau Hydropower Inc.

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February 18, 2015

Representative Tammie Wilson
State Capitol, Room 412
Juneau, AK 99801

RE: Support for the Alaska Competitive Energy Act, HB 78

Dear Representative Wilson,

Juneau Hydropower, Inc. is a hydropower developer that will be producing independent power for the capital city of Juneau created through private investment and creating family wage jobs as envisioned and encouraged by our Alaska State Energy Policy[1]. Much of our success and job creation will depend on whether we are granted non-discriminatory and open access for transmission services as directed in the Alaska Competitive Energy Act.

Some of the key components of our State Energy Policy, I would like to highlight:

Alaska to receive 50 percent of its electric generation from renewable and alternative energy sources by 2025;

Encourage economic development by (A) promoting the development of renewable and alternative energy resources, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, and biomass energy, for use by Alaskans;

Encourage economic development by (D) creating and maintaining a state fiscal regime and permitting and regulatory processes that encourages private sector development of the state's energy resources;

4) coordinate governmental functions (A) by reviewing and streamlining regulatory processes and balancing the economic costs of review with the level of regulation necessary to protect the public interest;

The Alaska Competitive Energy Act, sponsored by you and co-sponsored by Rep. Cathy Munoz transforms our State Energy Policy from an "aspirational policy" to meaningful and "directed" legislative action. The Regulatory Commission of Alaska (RCA) has been reluctant to overhaul regulations and become "interventionist" by attempting to create new law or in deciphering

[1] Alaska State Energy Policy HB 306, 2011

legislative intent of the State Energy Policy albeit recognizing that our current regulations no longer meet the current needs of Alaskans. Therefore, the RCA needs and requires legislative guidance. In fact, absent of legislative guidance is harmful to Alaska businesses, utilities and ratepayers because the lack of clear and specific guidance means regulatory dockets consume valuable time and increase regulatory costs due to pontificating on what exactly is the legislative intent. The ACEA takes tangible steps to provide clear direction in AS 42.05.

A case in point is a recent example where the Independent Power Producers (along with many legislators) were shocked that a commonly shared and employed utility attorney representing Alaska utility interests insisted that the RCA should disregard and ignore the State Energy Policy in RCA docket matters because the State Energy Policy was "aspirational" and had no bearing on the RCA unless legislation specifically modified Alaska Statute AS 42.05 which provides authority and guidance to the RCA. This prominent utility attorney successfully argued that absent of directional language in AS 42.05 the RCA must disregard aspirational language. From the docket in question, "The general energy policy, the declaration of State energy policy that was adopted in 2010 and now codified is very general and aspirational. If the legislature wanted to require the RCA to do something it knows how to do that and it does it through amending 42.05[2]". Alaska utility interests provided by this law firm have wisely illuminated the roadmap to incorporate our Alaska values embodied in our State Energy Policy; direct it through legislation in AS 42.05.

Therefore, the Alaska public, Alaska Independent Power Producers Association, Alaska industry, Alaska labor, and utilities that all support our Alaska State Energy Policy are requesting the Alaska legislature to take the next step and pass the Alaska Competitive Energy Act as introduced. The utility and RCA record is clear that legislatively direction is required to transform Alaska's aspirational State Energy Policy into tangible and codified guidance provided in the Alaska Competitive Energy Act. This essential legislative step will provide the Regulatory Commission of Alaska the pathway to move Alaska into the modern era of regulated electric wholesale competition; open and non-discriminatory access to Alaska's transmission assets, transparent and predictable business practices while simplifying, streamlining and shortening the regulatory processes.

As you are all too well aware, Alaskan's already pay some of the highest cost energy in the United States. Alaska ranks last in the nations in providing competitive power from Independent Power Producers. The Alaskan public deserves wholesale competitive electrical generation to assist in lowering their industry, business and residential electrical rates like the rest of the United States already receives to make Alaska competitive. The Alaska Competitive Energy Act not only provides tangible and necessary direction to the RCA, but sends a simple and transparent legislative message to regulated utilities, the investment community, and the Alaska public *that Alaska is open for business* and welcomes private investment and capital crucial for Alaska's future economic development. Our State Energy Policy *talks the talk* and now it is time for the legislature to pass the Alaska Competitive Energy Act to *walk the walk.*

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[2] RCA Docket R-12-006 public hearing August 17, 2012

Alaska was built on competition, Alaskans believe in competition, Alaskans embody the competitive spirit and Alaskans expect nothing less but competition in our free market society. We ask that the legislature and Governor support the transformation of our electrical generation and transmission system from the current status quo of a cartel monopoly based electrical generation and transmission system to an open access and wholesale competition based system in alignment with Alaska competitive values that will serve Alaskans now and well into the future.

Sincerely,

D. Keith Comstock
Chairman

Greater Ketchikan Chamber of Commerce
2417 Tongass Ave., Ste. 223A
Ketchikan, AK 99901

January 15, 2015

To Whom it May Concern:

I write this letter is to express the Greater Ketchikan Chamber of Commerce's support for an Alaska Competitive Energy Act which produces the following results for the benefit of Alaska's businesses and families:

- **Increased private sector investment in Alaska's electrical infrastructure.** Alaska currently ranks last among the 50 states in terms of private investment in the electrical energy sector. Our state also has the highest energy costs in the nation; this is particularly true for our commercial and industrial sectors, which struggle to grow and compete. Our state faces declining oil revenues and is challenged to fund its many billions of dollars of energy infrastructure needs using tax dollars alone. An increase in the sharing of infrastructure costs and risks with the private sector is one way we can assure that our State has the infrastructure it needs for future growth while keeping State spending at sustainable levels and maintaining our excellent credit rating.

- **Open access to spare transmission capacity on equal terms.** Alaska's regulatory framework should be modernized so that spare capacity on transmission lines is made available on an open basis and all users might enjoy equitable costs.

- **Increased wholesale competition.** Alaska's regulatory framework should be updated and harmonized with federal requirements specifying that qualifying renewable energy projects can compete against utilities' avoided costs on an incremental basis. Avoided costs should be calculated on an incremental basis so that renewable energy developers can compete against the most costly increments of power in a region (ex: diesel fuel) rather than averages of all assets combined. This would not impact the financial viability of incumbent utilities, as utilities would still be able to recover existing fixed costs which cannot be avoided.

- **An RCA empowered to engage in rulemaking that supports Alaska's energy policy goals of 50% renewable energy by 2025 and increased private sector investment in infrastructure.** The State of Alaska should create language specifying that the RCA shall take actions that support our state's existing policy goals of increased renewable energy and private investment in renewable energy and resource development. This will help ensure that the RCA is empowered to support development of the clean, affordable energy our businesses and families need.

We support an Alaska Competitive Energy Act which will streamline and modernize regulation, instill wholesale competition, enable private investment in new infrastructure, generate new private sector jobs and tax revenues for state and local government, and help to provide affordable and competitively-priced energy for the benefit of Alaskan businesses and families.

Sincerely,

Chelsea Goucher, Executive Director
Greater Ketchikan Chamber of Commerce
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Arctic Solar Ventures, LLC | Anchorage, AK 99501

February 19 2015

Dear Honorable Representative Tammie Wilson,

Arctic Solar Ventures, LLC is a newly formed project development company that is focused on developing high latitude solar projects. The passage of HB 78 (the Alaska Competitive Energy Act of 2015) is critically important to the future of private investment in Alaska. Without the proposed changes to incremental avoided costs that are included in HB 78, the energy market in Alaska is not favorable to private investment, nor is it competitive with outside markets for the placement of private capital.

As a new clean energy business in Alaska, the passage of HB 78 would be a positive competitive change, and promote new private investment in Alaska. We strongly support the passage of HB 78.

Thank you for your work on this important legislation.

Best Regards,
Steve

Stephen Trimble, Chief Commercial Officer (CCO)
Arctic Solar Ventures, LLC
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(907) 351-5785

Robert Grimm, CEO
Alaska Power & Telephone Company
193 Otto Street
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800-982-0136 x120

Members of the Alaska State Legislature,

The purpose of this letter is to express Alaska Power & Telephone Company's support of House Bill 78, an act bearing the short title of the Alaska Competitive Energy Act of 2015 (ACEA).

About Alaska Power & Telephone Company
Alaska Power & Telephone Company (AP&T) is an investor- and employee-owned utility founded in Skagway, Alaska in 1957 – just prior to statehood. Since that time, our Alaskan presence has grown to include 39 Alaskan communities, where we provide certificated, regulated utilities services, as well as non-regulated services.

AP&T's subsidiaries include both independent power producer (IPP) entities, and incumbent utilities providing certificated, regulated, generation, transmission, and distribution services. We believe that we have the unique distinction of having the perspective of an IPP, and an incumbent utility.

Alaska has incredible undeveloped renewable energy potential, including 40% of total US river hydropower, 90% of the total US tidal energy potential, the largest terrestrial Class 7 wind potential in America, and the largest offshore wind potential in the US. [1] And yet, communities across the State pay some of the highest energy costs in America, and Alaska has a lower level of private investment than any other State in the US (4% in Alaska, versus 37.4% US-wide).[2]

This unsettling juxtaposition of statistics is in no small part due to the fact that Alaska's regressive utility laws, policy, and regulation fail to encourage a competitive electrical industry, and do not attract or support private investment with the same success as the rest of the US. Key failings of Alaska's legal and regulatory environment include: lack of open access to

[1] Sources: UAF Alaska Center for Energy and Power, and the Wind Energy Atlas of the US.

[2] US EIA

transmission; lack of an equal playing field for IPPs and utilities; lack of standards governing fair interactions between IPPs and utilities; inconsistency between the State and federal definitions of "avoided cost" (state "average" versus the federal "incremental" requirement); inadequate oversight of public utilities including Joint Action Agencies; and the fact that Alaska's energy policies are "aspirational" rather than directive of the RCA.

The Benefit of ACEA to Utilities and their Ratepayers

Alaska Power & Telephone has reviewed the Alaska Competitive Energy Act of 2015, and finds that it is in the best interest of utilities, ratepayers, IPPs, and the State of Alaska. Our reasons are as follows:

- **Affordable Energy.** Helps utilities better serve their ratepayers with more affordable electricity, better meeting the intent of utilities' Certificates of Necessity and Public Convenience, and their RCA-determined "public best interest."
- **Competitive Procurement.** Supports competitive procurement from the lowest cost, lowest risk energy sources available, determined based upon objective economic factors.
- **Financial Sustainability.** ACEA is fully protective of utilities' long-term financial best interests, as utilities are still allowed to recover non-avoided costs.
- **Safeguards Utilities' Credit Ratings.** Private investment in new projects reduces strain upon utilities' bonding/debt capacity, allowing utilities to keep their good credit ratings, and reducing risks to ratepayers. Additional private investment in energy also helps reduce the State's exposure to project risks/costs, protecting the State's excellent credit rating.
- **New Revenue.** Generates new revenue from use of underutilized transmission capacity, allowing utilities to share transmission upkeep costs with others.
- **Cost/Risk Sharing.** Reduces the level of risks, costs, and debt that must be assumed by utilities and their ratepayers.
- **New Sources of Funding.** Diversifies funding sources to include private sector investment during the present time of declining State and local government revenues.
- **Standardized Transactions.** Standardizes the processes by which utilities and IPPs interconnect, cooperate, and share costs.
- **Fixes Legal/Regulatory Uncertainty.** Eliminates regulatory uncertainty and legal liabilities which are produced by the current inconsistencies between federal PURPA law, and how it is applied in Alaska by the RCA.
- **Supports Local and Regional Plans.** Supports regional IRPs, and helps utilities realize their individual visions of greater access to affordable, clean energy from renewable sources.

It is important to note that the changes proposed within ACEA are neither new nor revolutionary concepts. Instead, they provide Alaska with the type of investment environment which utilities and ratepayers everywhere else in the US – where energy costs are far lower – have been benefitting from for decades. It is time for Alaska to update its legal/regulatory framework so that our State is able to compete successfully for private investment in the electrical infrastructure needed to maintain, grow and diversify our economy.

Harmonizing Relationships between Utilities and IPPs

Many of the IPP opportunities which AP&T has considered or pursued within Alaska have been frustrated by lack of willingness of incumbent utilities to partner with new private developers and investors. This has unfortunately limited our ability to apply our specialized expertise in renewable energy development, and deploy private capital, in support of the State of Alaska's energy development needs and objectives.

Limits to our ability to invest in Alaska are in large part produced by the fact that many incumbent utilities – particularly municipal utilities and cooperatives – would prefer to utilize their political influence to obtain State grants and subsidies so that they can build infrastructure at no cost, or reduced cost, rather than partnering to leverage the benefits of private investment. While the State is an important investment partner, and certainly has a role to play in development of energy infrastructure, it is imprudent for the State to bypass opportunities for new private investment in Alaska's economy – which is underweighted in private investment in electrical infrastructure -- during a time of declining revenues. It is also imprudent for the State to utilize tax dollars to invest in a utility project which competes with a project undertaken by a private business which pays taxes. The State should be mindful of the fact that if it provides grants and subsidies to incumbent utilities, but not to private developers, incumbents will always be incentivized to choose government subsidies over the opportunity to share costs and risks with the private sector.

AP&T believes that private investors and developers have significant resources, experience, and assets which can be leveraged for the benefit of ratepayers. This is particularly true in Alaska, where many ANCSA corporations own lands located near established communities, which bear significant renewable energy potential. AP&T believes that IPP projects and incumbent utility "self-build" projects should be required to compete against each other on an equal playing field – not one which is skewed in favor of one project or the other by subsidies. We believe the State should invest in whatever project competes best due to economic – rather than political – factors. A State investment approach which is agnostic to ownership and political factors helps assure that public monies are used in the most responsible manner possible, to provide utilities, ratepayers, taxpayers with the greatest level of value. An investment approach based on economic factors alone also has the benefit of insulating the State from "taking sides" in local disagreements based on political differences, which are unfortunately common in the energy sector.

In Alaska, it is unfortunately true that IPPs and utilities tend to have a strained relationship, and struggle to do business together. This is in part due to the above-described "self-build" preference – supported by grants and subsidies. It is also because the current lack of rules and regulation governing utility/IPP transactions creates a dubious investment environment in which incumbent utilities have a number of flexible options available for avoiding interaction with IPPs, and maintaining monopolistic-like market control. ACEA seems to bring the strained and dysfunctional relationship between Alaska's incumbent utilities and prospective IPPs to the forefront of the public's attention. The temptation for IPPs and incumbent utilities to fault and demonize each-other is high – but this type of dichotomization is helpful to no one, least of all ratepayers, and the State.

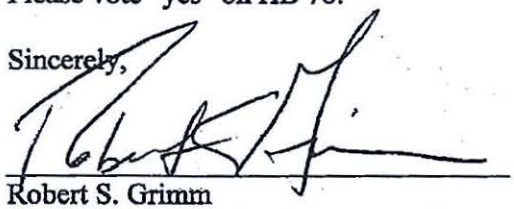
While every relationship and interaction is unique, there is a common and overwhelming theme of prospective IPPs and incumbent utilities across Alaska failing to compete and collaborate together to provide more affordable energy to ratepayers. There is also a theme of failure of the State of Alaska to assure an environment where this type of collaboration and competition can occur. This failure is seen in Alaska's 4% total private sector participation in electrical energy generation, versus 38% across the US.

ACEA will solve the diverse problems that prospective IPPs and incumbent utilities struggle with, by providing a level playing field which maximizes cooperation and competition for the ultimate benefit of ratepayers, utilities, and the State of Alaska. ACEA will fix the suite of IPP/utility problems using the same solutions which have been utilized to great success in the rest of the US for decades. ACEA will assure that energy development occurs in a manner which is supportive of State energy policy (ex: 50% renewable energy by 2025, support for private sector development of resources), as well as the goals and objectives of regional Integrated Resource Plans.

Thank you for your consideration. AP&T hopes you will agree that adoption of ACEA supports the best interests of the State of Alaska, ratepayers, incumbent utilities, and independent power producers alike.

Please vote "yes" on HB 78.

Sincerely,



Robert S. Grimm
President & CEO, Alaska Power & Telephone

CHENEGA® ENERGY, LLC

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Greg Porter, President
Chenega Energy LLC
A Subsidiary of the Chenega Corporation
6151 A Street, Anchorage, AK, 99518
gporter@chenega.com
907-382-7772

Members of the Alaska State Legislature, Please accept this letter of endorsement and strong support for House Bill 78, ACEA; the Alaska Competitive Energy Act of 2015.

Chenega Energy, LLC designs, builds, and maintains Combined Heat & Power and Distributed Generation plants in arctic environments, with installations from the North Slope of Alaska, to Greenland and Iceland, To McMurdo Station in Antarctica.

We help stabilize larger electrical grids, and provide heat and power to smaller grids anywhere. Our primary mission is to use Combined Heat and Power Distributed Generation to help reduce the total energy usage and costs of individuals, businesses, municipalities, school campuses, and military bases so that they can continue to thrive in this age of high energy costs and aging infrastructure failures.

Giving Alaskans the ability to solve their own problems and save themselves, their communities, and their cultures from crippling utility rates should be a right of those people. Alaskans should be allowed to solve Alaskan problems. Overwhelming utility rates and antiquated regulations are definitely a problem for our great state. These problems are rooted in the policies and regulations that keep some incumbent utilities

Chenega Energy believes that the electrical utility sector's core function is to serve the best interests of the public through provision of the most affordable energy possible. This is true of both IPPs, and incumbent utilities. We support ACEA, because we believe it assures the public's best interest is being met through free market competition, on a non-discriminatory basis, in a manner consistent with the investment environment currently benefitting the lower 48 States, where energy is far less costly. ACEA provides the framework which IPPs and utilities both need to compete and collaborate in a reasonable manner, in support of ratepayers' best interests.

Utilities which are already meeting the public's best interest, treating IPPs in a non-discriminatory manner, and utilizing market forces and fair procurement processes to ratepayers' benefit have no reason to oppose ACEA, or fear RCA oversight.

It is only the utilities which might be failing to meet the public's best interest through fair and non-discriminatory business practices which have cause to fear ACEA's reforms. When an entity expresses fear or resistance to competition, transparency, competitive procurement, and third party oversight, it is usually a sure signal that there are problems present, and that change is needed.

It is important to note that the changes proposed within ACEA are neither new nor revolutionary concepts – they are changes which have already been found to be in ratepayers' best interest, and have been adopted and applied in the lower 48 for decades, to great success.

There is a common and overwhelming theme of prospective IPPs and incumbent utilities across Alaska failing to compete and collaborate to provide more affordable energy to ratepayers.

Capstone Turbine Corporation
AUTHORIZED DISTRIBUTOR

CHP
EPA COMBINED HEAT AND POWER PARTNERSHIP

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This lack of unity is troubling, as what Alaska needs is a collaborative approach that leverages the best qualities of all parties, and mobilizes all available assets responsibly in support of economic growth and prosperity.

The State of Alaska has thus far failed to provide an environment where this type of collaboration and competition can occur. This failure is seen in Alaska's 4% total private sector participation in electrical energy generation, versus 38% across the US. ACEA provides the framework which IPPs and utilities both need to compete and collaborate in a reasonable manner, in support of the best interest of the ratepayers.

Chenega Energy believes that resource planning and procurement should be based entirely on objective factors such as risk, reliability, and price, and agnostic in regard to ownership, politics, ideology, emotions, or subjective judgments. Our company's clients do not seek special treatment – simply equal opportunity. Competitive procurement on a level playing field, grounded in non-discriminatory, objective factors is in the best interest of utilities, ratepayers, and the State of Alaska.

I would like to thank you for your time and attention to this matter, and I strongly urge you, from a lifelong Alaskan, to vote "Yes" on HB78. ACEA supports the best interests of the State of Alaska, ratepayers, incumbent utilities, and independent power producers alike.

Sincerely,

Greg Porter
President, Chenega Energy, LLC
Tel: 907-382-7772
Email: gporter@chenega.com

Capstone Turbine Corporation
AUTHORIZED DISTRIBUTOR

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The Honorable Tammie Wilson
Representative
Alaska House of Representatives
State Capitol Room 412
Juneau, Alaska 99801

Dear Representative Wilson,

Thank you for meeting with Alaska Power Association last week and outlining your priorities. We appreciated the opportunity to share with you some of our concerns with House Bill 78, which proposes statutory changes that would materially affect Alaska electric utilities, qualifying facilities (QFs), independent power producers (IPPs) and, likely, the Regulatory Commission of Alaska (RCA). We look forward to a more expansive discussion of the legislation with you, your fellow legislators, and your staff, at your convenience.

Based on our review thus far, we are very concerned that the bill would increase utility costs and consumer rates and create regulatory uncertainty for utilities and the RCA. We believe that many of the proposed changes are unnecessary and redundant in light of rights and obligations already provided for by existing statutes, regulations, and RCA procedures. Some of the proposed amendments appear to address matters that are currently pending in an RCA rulemaking proceeding (Docket R-13-002).

There are sections in the bill that could expose electric utilities to unjustified financial risk related to interconnection and joint use studies and cost recovery disallowance in RCA rate cases. Also, various sections appear to attempt to extend to non-QF IPPs the same (or greater) preferential treatment that currently applies only to QFs. Specifically, non-QF IPPs would not have to satisfy the fuel source, size, efficiency, or any other public interest standard that would justify such preferential treatment.

Thank you for your consideration of these initial comments. As mentioned above, we stand ready to provide more detailed information to assist you and your colleagues in your deliberations on this complicated topic.

Sincerely,

Crystal Enkvist
Executive Director
Alaska Power Association

Fiscal Note

State of Alaska
2015 Legislative Session

Bill Version: HB 78
Fiscal Note Number:
() Publish Date:

Identifier: HB078-DCCED-RCA-02-20-15
Title: REGULATORY COMMISSION OF ALASKA
Sponsor: WILSON
Requester: (H) Special Committee on Energy Labor & Commerce

Department: Department of Commerce, Community and Economic Development
Appropriation: Regulatory Commission of Alaska
Allocation: Regulatory Commission of Alaska
OMB Component Number: 2417

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2016 Appropriation Requested	Included in Governor's FY2016 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	**FY 2016**	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**FY 2020**	**FY 2021**
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	**0.0**	***	***	***	***	***
Fund Source (Operating Only)							
None							
Total	***	**0.0**	***	***	***	***	***
Positions							
Full-time	***		***	***	***	***	***
Part-time							
Temporary							
Change in Revenues	***		***	***	***	***	***

Estimated SUPPLEMENTAL (FY2015) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2016) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No.
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Not applicable, intitial version.

Prepared By:	Robert M. Pickett, Chairman	Phone:	(907)276-6222
Division:	Regulatory Commission of Alaska	Date:	02/20/2015 05:19 PM
Approved By:	Catherine Reardon, Director	Date:	02/20/15
Agency:	Division of Administrative Services		

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Total	***	**0.0**	***	***	***	***	***
Positions							
Full-time	***		***	***	***	***	***
Part-time							
Temporary							
Change in Revenues	***		***	***	***	***	***

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Not applicable, intitial version.

Prepared By:	Robert M. Pickett, Chairman	Phone:	(907)276-6222
Division:	Regulatory Commission of Alaska	Date:	02/20/2015 05:19 PM
Approved By:	Catherine Reardon, Director	Date:	02/20/15
Agency:	Division of Administrative Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2015 LEGISLATIVE SESSION

BILL NO. HB078

Analysis

HB078 fundamentally changes the role of the Regulatory Commission of Alaska (RCA) in electric energy and capacity purchases for the explicit purpose of encouraging utility energy purchases from qualifying facilities and independent power producers.

Specifically, HB078:
- changes the general policy guidance to the RCA in AS 42.05.141 to emphasize the state energy policy and promotion of "competitive procurement and market-driven development" of energy resources.

- shortens by half the timeline for the RCA to issue a final order in a regulations docket, allowing 365 days instead of the current 730 days.

- requires the RCA's annual report to include all certificated (both regulated and unregulated) electric utility avoided costs.

- requires the RCA to review all new or revised tariff filings, in their entirety, for compliance with the state energy policy. This provision is not limited to filings by electric utilities or filings unrelated to an energy purchase or sale.

- extends policy direction to the RCA to include communities and utilities that are currently not within the RCA's jurisdiction.

The fiscal impact of this legislation to the Regulatory Commission of Alaska is indeterminate at this time.