

**ALASKA ENERGY AUTHORITY
BOARD OF DIRECTORS
July 10, 2006 – 10:43 a.m.
Anchorage, Juneau, Alaska
Teleconference**

1. CALL TO ORDER

Acting Chairman Edwards called the meeting of the Alaska Energy Authority to order on July 10, 2006, at 10:43 a.m. A quorum was established.

2. BOARD OF DIRECTORS ROLL CALL

Directors present in Anchorage: Director Mark Edwards (Designee for Department of Commerce, Community & Economic Development), and Mr. John Winther (Public Member).

Director present in Juneau: Deputy Commissioner Tom Boutin (Designee for Department of Revenue).

Director present via phone: Mike Barry (Chairman/Public Member).

3. PUBLIC ROLL CALL

Staff present in Anchorage: Ronald W. Miller (Executive Director), Chris Anderson (Deputy Director-Credit & Business Development), James A. McMillan (Deputy Director-Credit & Business Development), Karl Reiche (Projects Development Manager) Becky Gay (Project Manager), Sara Fisher-Goad (Financial Analyst), Chris Rutz (Procurement Manager) Leona Hakala (Loan Officer), Brenda J. Fuglestad (Admin Manager), and Jim Strandberg (Project Manager).

Others attending: Brian Bjorkquist and Mike Mitchell (Department of Law), Gene Desjarlais (Anchorage Sportsplex) Scott Merriner (Anchorage Community Development), Richard Richtmeyer (Anchorage Daily News), Don Zoerb (MEA), John Cooley, Brian Hickey, Don Edwards, and Lee Thibert (Chugach Electric Association), Jenny Trieu, Kate Lamal, and Henri Dale (Golden Valley Electric Association), Cindy Cartledge (Wohlforth, Johnson, Brecht, Cargledge & Brooking), Lou Agi (ML&P), and Ken Vassar (Birch Horton Bittner & Cherot).

4. PUBLIC COMMENTS

There were no public comments.

5. PRIOR MINUTES –June 21, 2006

The June 21, 2006 minutes were approved as presented.

6. OLD BUSINESS

There was no old business.

7. NEW BUSINESS

7A. Resolution No. 2006-04, Resolution of the Alaska Energy Authority Relating to the Alaska Intertie; Notice of Termination of the Alaska Intertie Agreement; and Related Matters

Mr. Miller stated staff was requested to report on the effects that would arise if the Authority gave notice of termination of the Alaska Intertie Agreement, and provide staff findings regarding whether it was necessary for the Authority to give notice of termination of that agreement. He referred the board to the memorandum provided in the packet for background information.

The defects of the Alaska Intertie Agreement have been extensively discussed with the Intertie Operating Committee (IOC) and participating utilities over the past few years. Those Intertie agreement defects can be summarized from AEA's point of view as a lack of any mechanism to provide for major maintenance and repair, debt financing, and problems with decision making responsibility. There is consensus that it would be unwise to return to the pre-1993 operating approach reflected in the language of the current agreement that the Authority assume greater control over operating and maintenance decision making. The general managers, at a July 22, 2005 meeting, advocated that prudent utility practice requires utilities to routinely determine the timing for major maintenance and repairs. The current practice is for maintenance scheduling and budgeting to be done at the IOC level. That practice appears to be consistent with what the general manager's advocate, but deviates from the language in the agreement. Modifications to the agreement are necessary to continue the preference approach for that decision making. There are also problems that AEA has identified with the indemnity provisions of the agreement. It creates a disincentive for any entity to voluntarily undertake any action to support intertie operations. When the Authority or any IOC utility takes an action, the agreement provides that they agree to defend and indemnify all others from such action. It essentially punishes action and rewards inaction. The IOC has undertaken to improve the terms and conditions and procedures reflected in the language of the existing agreement by disregarding sections with which they disagree. The IOC compiled a list of such provisions, which is attached to the board memorandum, and some utilities suggest that this approach has helped the intertie operate in a safe and reliable fashion. The concern is the ambiguity that arises from disregarding those contractual provisions encourages inaction and delay.

If the Authority gives notice of termination there would be no significant immediate impact under the agreement. Notice of termination would not result in actual contract termination for 48 months from the date of notice. The status quo would continue meaning that the existing contract language including all of its defects would stay in place; however, that would only be for four years rather than indefinitely as the case is now. The notice of termination could increase uncertainty regarding operating procedures under the agreement. Simply following the status quo tends to provide a certain degree of comfort while changes tend to create discomfort. The relationship between the Authority and the IOC might become more contentious during any transition until issues are resolved. If the IOC and the Authority fail to timely negotiate acceptable modifications to the intertie agreement as the end of the 48 months approaches, those operating matters might become more difficult. For example, utilities may be less willing to include items in the annual budgets if long term benefits from their use of the intertie is not

contractually assured. Those potential problems would be avoided if the parties negotiated modifications with a greater sense of urgency.

At the April 21, 2006 meeting, the IOC general managers suggested that notice of termination would create chaos. The concern was that the intertie agreement incorporates terms and conditions for the relationships between the utilities operating in an interconnected manner. Those terms and conditions were very difficult to negotiate and would be difficult to renegotiate. At the June 21, 2006 board meeting, IOC utility representatives suggested that the problem with the Authority giving notice of termination is that it would require parties to abandon the entirety of the existing agreement and renegotiate every term and condition even though they believe relatively few sections actually require modifications to cure the defects. One of the utilities' concerns is premised on an assumption that the Authority giving notice of termination would result in a complete abandonment of the contract and that assumption does not appear to be valid. The concern also appears to suggest that the utilities fear suffering from self-inflicted wounds. The Authority has consistently attempted to narrow focus on curing specific limited defects in the existing agreement. The utilities however, appear to have a broader range of concerns with the agreement. At least one utility has objected to any proposed amendment until other concerns the utility has with the agreement are addressed. The entirety of the agreement is therefore made hostage to curing any particular section. That circumstance will continue as long as the existing agreement is in place. After notice of termination, AEA can negotiate modifications to the agreement with less than all of the IOC utilities. Nothing would preclude the Authority from executing an agreement to incorporate the modifications as part of what would become the subsequent Alaska Intertie Agreement. Providing notice of termination signals that the Authority will no longer be an enabler of any one or more IOC utilities that indefinitely block cures to the agreement.

Staff agrees with the IOC utilities that certain modifications to the agreement are necessary to ensure the continued safe, reliable, and efficient operation of the intertie. As outlined in the memorandum and attachments, failure to implement these modifications will likely result in disruption to the intertie operations and could directly harm IOC utilities that rely on the intertie for energy transfers that enable their systems that serve the railbelt. Ensuring that these modifications be made to the agreement is an effort required to improve power systems serving the Alaska railbelt utilities.

It is AEA's conclusion that giving notice of termination is the only mechanism that would ensure the necessary modifications will, in fact, be implemented in an expeditious manner.

Amending the agreement will require unanimous consent and at least one IOC utility has refused to agree to the necessary modifications. There is no factual basis on which to conclude that IOC unanimous consent is likely to occur anytime in the near future. Absent unanimity between IOC utilities, no modification to the Alaska Intertie Agreement could be implemented without the Authority providing notice of termination. While the Authority could postpone giving notice of termination, after one or more replacements or side agreements are negotiated that course would delay the time at which cures to the defects in the agreement would become effective. There is no factual basis on which to conclude that one or more replacements or side agreements can be timely negotiated. Further, one IOC utility has suggested that it would legally challenge the side agreement approach if it were implemented.

PUBLIC COMMENT – Verbatim

JENNY TRIEU: Mr. Chairman, Board members, my name is Jenny Trieu, I represent Golden Valley Electric. I'm here with Don Edwards of Chugach Electric Association, and Lou Agi of

Municipal Light & Power. Since the June 21 board meeting, the IOC participating utilities have continued to meet and try to work out solutions both long and short term to the problems brought by AEA. We have prepared an outline that represents the consensus that we have reached. At this point in time we would like to give the board a chance to review the outline and, to the extent helpful, we are available to discuss the outline and answer questions.

DON EDWARDS: If I might, I can address the structure and the approach. What we've tried to do in our discussions is recognize that there are some primary issues that were mentioned in the lead in to this that have to do with things like funding capital improvements, what we considered sort of the medium size projects that are capital maintenance. They are not the small projects that could be included in each years budget but they are not the gigantic projects that you might actually sell a separate bond to finance. What we tried to do is look at a short term approach that could address some of those issues, that include the issues that I think AEA has indicated are most important, which are sort of the governance question and liability question which are two sides of a coin. They are how to exercise judgment about what things should be done and then the flip side of that is how to deal with liabilities that could result from that. The other question is how to actually set up to actually do things that we might decide need to be done. We looked at both of those as our primary goals particularly in light of the short-term. In the short term, we examined the contract and tried to figure out things that could happen with no change to the contract at all. No requirement of unanimous approval and that's what we set out in the first short term section. In the long term section, we discussed ways that we might be able to improve the contract on a long term basis but we recognize would require a unanimous approval, and that approach we would be willing to – this is just a proposal and we would be willing to make a commitment over the next 120 days to continue doing what we have been doing only direct our attentions toward a permanent fix. But again, that would require unanimous approval and... That's just the approach we took just by way of explanation.

DON ZOERB: Director of Administration and Chief Financial Officer of Matanuska Electric Association in Palmer. I'd like to compliment Director Miller for his very concise and articulate explanation as to why it is appropriate to terminate the Alaska Intertie Agreement. It is MEA's position and it has been for some considerable period of time that that is the right thing to do. We believe the time has come where it is the necessary thing to do if any progress is to be made with respect to the well documented problems with the agreement. The proposal that was just distributed to you is not a joint proposal of all the utilities with an interest in the intertie agreement. MEA is not sponsoring this proposal, in fact, we disagree with the proposal. We did attend a telephonic conference the week of your last board meeting; I believe it was on the 30th of June. At that meeting an earlier version of this proposal was distributed and discussed. We were excluded from the follow-up meeting from which the July 10th version presently before you emerged; however, that version has two glaring differences relative to the June 29th version. The first is the addition of a new sentence, the final sentence in section 1.3. But perhaps most perplexing to us is the addition, or the change, in section 2 in the introductory sentence. They have changed the period of time within which the participating utilities agreed to respond to these issues from 90 to 120 days. We don't know what the thought process was behind that change but we would observe that the only real event of significance occurring in that 90 – 120 day out window is the statewide general election. With that, we think the time has come to cancel the agreement as Director Miller explained; nothing catastrophic is going to happen, business will continue as usual, the utilities will simply be put on a 48 month notice that it is time to come together and negotiate terms that meet both their needs and the needs of the state.

DON EDWARDS: I just want to correct the record, and I think that my colleagues will agree, that both in the last meeting and then again today, MEA has made representations that they were excluded from the meetings and this is just simply not the case. They were invited to a

number of meetings earlier and they were invited to both of the meetings, teleconferences, that we have had since then.

DON ZOERB: Our designated representative is Tuckerman Babcock. I spoke with Mr. Babcock this morning and there was an understanding that there would be a follow-up meeting on Friday of last week. Mr. Babcock relates to me that Ms. Trieu committed to inform him of the time and means of participating in that meeting and he never heard back from Ms. Trieu.

JENNY TRIEU: Mr. Chairman, I don't want to take time away from substantive discussions on this topic, but indeed I have written confirmation in response to my emails inviting all the participating utilities to attend that teleconference.

MARK EDWARDS: I think we have heard both sides of that issue and I do hope we can continue to move forward with some agreements as it relates to the major issues in the contract. With that, I would like to move on to any other topic of interest and other public comments at this time.

JOHN WINTHER: In the first paragraph they are asking AIDEA or AEA to fund possibly \$10 - \$15 million dollars. How would that be handled if that wasn't funded. Where would that money come from now if you have to repair or replace an item?

DON EDWARDS: I think the parties would have to decide whether or not they were going to come up with the money, but I think – this is not something that I'm speaking on behalf of the group about because we haven't really discussed this for some time. But, our view was that since it is a state project that it would be appropriate for the state to fund it. And our belief was, perhaps incorrectly, that if there was reticence on the part of the state to issue those bonds it stemmed from a concern that it would trigger the abilities of the utilities to withdraw from the agreement and that's why you see in there the willingness of the utilities to provide reassurance, at least some of them are willing to provide reassurance, that we would not withdraw on that basis. If our understanding of that is incorrect, then we could presumably discuss another funding mechanism and we would be willing to consider any other proposal. But it was our belief that the state's reticence to fund this was based on a concern that it would trigger a withdrawal of the utilities and we thought that if we would give that reassurance that we could fix the problem then we...

JOHN WINTHER: Maybe you just didn't quite understand the question, let me rephrase it. The intertie has been operating x number of years, in the meantime there would have had to be some major repairs, I would assume?

DON EDWARDS: Well, I'm not in a good position to answer that but I think there are people here who are...

JOHN WINTHER: I was just wondering how that's been handled in the past.

DON EDWARDS: ...if we could call on them I can ask them.

BRIAN HICKEY: Chugach Electric. We have not done any major repairs. We did put a Stolten (ph) monitoring system on in the early 1990's which was financed by Golden Valley Electric. One of the problems we had with the agreement has been the lack of an ability to do capitalized maintenance of large projects. Looking back we haven't done anything other than Golden Valley financed the Stolten monitoring system.

JOHN WINTHER: So there have really been no major repairs or replacement since it was built.

DON EDWARDS: I think it is fair to say that there is a general recognition that there may be some that are needed.

JOHN WINTHER: We realize that.

DON EDWARDS: That's the point of trying to put forward this kind of a proposal. Again, it is just a proposal – to see if we can make progress toward that and our conundrum was to figure out how to do that under the existing agreement. I think we all believe that it can be done under the existing agreement. We might prefer, in a perfect world, to have unanimous agreement and be able to do some other fixes, but in terms of the highest priority things to get done, we believe that you can get those done under the existing agreement.

MIKE BARRY: I apologize that I'm not at a place where I can receive the proposal directly. I tried to follow the dialogue between John Winther and the two representatives from the utilities. I admit to you that I'm perplexed that it does not appear that the so called proposal has any language in it that would say that AIDEA would only be providing the financing to be repaid from proceeds paid by the utilities and their members that use the facility. Could someone clarify for me whether there is language in this proposal that makes it clear that the state would just be providing the financing mechanism and would not be required and have liability for payments.

JOHN WINTHER: Mr. Chairman, I read this as it would basically be a grant. I see nothing here as to how it would be repaid.

DON EDWARDS: No, I don't think that's our intention at all. Our intent, with the proposal, is intended to operate with the existing agreement in place and the existing agreement already covers, in some detail, the ways in which costs are assigned to the utilities under the budgeting mechanism. Our proposal is a way to use the existing agreements and we are not suggesting that there ought to be a grant.

BRIAN BJORKQUIST: In the past we have had conversations with the general managers where at least three utilities have suggested, as part of a bond package, that there would be utility guarantees to make the bonds bankable. Is that part of this also?

DON EDWARDS: I don't think I've discussed that with anyone, that doesn't mean it is off the table. Again, this is a proposal.

JOHN COOLEY: I have been working with the IOC for approximately 20 years. The current agreement says that capital repayments, if there were any, are included as a budgeted annual expense. My understanding, if this proposal was to happen and there was an annual expense associated with the bonds that would become part of the intertie operating budget and would be paid by the revenues that in the mechanism specified for how the budget expenses are to be recovered every year.

MIKE BARRY: As I understood the proposal, there is a short term proposal and then a long term proposal. It appears to be that the representation is that the short term proposal can be effective because it is within the existing agreement and does not require a unanimous approval of the IOC members. Is that correct?

JENNY TRIEU: Yes, Mr. Barry.

LOU AGI: That's correct, and what you do get though is the commitment from the participating utilities not to walk under the agreement because of the charges coming down from the creation of the fund, so we will be there.

MIKE BARRY: I appreciate that, I'm not concerned that those participating utilities that are direct beneficiaries of the intertie would be going somewhere anyway. That's certainly never been a concern that this board has raised. It may be a functional problem of the agreement itself that's been raised, but it certainly has not been our insinuation that we expect the utilities would go away from the operation of the intertie and the benefits that the intertie provides. The second part then is the part that is at best speculative, is that correct, there isn't any way, barring unanimity, that that could be brought into fruition?

DON EDWARDS: I think that no one has closed the door on any discussion like that. I think it is fair to say that the utilities would be willing to entertain any discussions on how that might work. We did feel that it was problematic enough that we decided not to address it in this proposal, because again, we think we can address the most pressing issues under a short term proposal and then agree to discuss a longer term proposal. Whether or not you could develop a long term proposal that fixes everything anybody has raised as a possible problem with the agreement and do that without unanimous approval of all of the participating utilities, participating under the existing agreement, I think that's a more difficult question and because we weren't able to see a way that we could quickly and easily propose to you that might make that happen. I think we decided that we would make you the proposal we think has a likelihood of being able to be developed under the existing...

MIKE BARRY: Don, I think I didn't phrase my question correctly, or did not make it clear enough. My question was strictly about whether or not those changes proposed by the long term proposal would require unanimity. I didn't ask you to comment and make a valued judgment as to whether you could achieve unanimity.

DON EDWARDS: I guess I'm not ready to absolutely rule out the possibility of a fix without unanimity. I would say that I think that it would be difficult and it doesn't seem like an easy solution to me to develop a new contract without unanimity.

MIKE BARRY: Thank you.

BRIAN BJORKQUIST: Mr. Barry, I would take a different view on that. One of the concepts that we have on the table right now is that a new agreement can be implemented without unanimity but you just have to wait the 48 months after notice of termination is given. Then the new agreement effectively replaces what currently exists and it takes affect when the current agreement ceases to exist 48 months out from the date notice of termination is given. So there is some options or opportunities available, short of getting unanimity, to get long term fixes in place, they may just not take effect as quickly as they would – they certainly would not take effect as quickly as they would if unanimity is achieved.

MIKE BARRY: Thank you. I have one more question that I think wasn't covered by any of the comments either at the last board meeting or this one. My memory is that one of the disputes between the utilities during the past three years has been the use of the intertie, a portion of MEA's transmission line, and that that dispute between the utilities was taken to the RCA for resolution. I'm not sure that it has been resolved, but if the fear is, as it has been represented by a couple of the utilities, that if we give notice of termination that undoes all of the good things in this agreement that were very difficult to achieve. Why wouldn't there be that forum before the RCA to address that issue?

BRIAN BJORKQUIST: Mr. Chairman, I'll start with just some background. The issues related to the MEA TLS have been resolved by the RCA and there is now, under an RCA order, right of the utilities to use that 19.5 mile stretch of transmission line with direct relationship with MEA so it is no longer under the Alaska Intertie Agreement per se.

LOU AGI: And that order is on appeal. The order is on appeal and I believe is scheduled for oral argument this week, the 12th, in Superior Court.

MIKE BARRY: I wasn't trying to get the merits of the RCA order, Mr. Agi, but only to the idea that there is a forum there for the interests of the members of the utilities to be heard, is there not?

LOU AGI: There is, the problem becomes you're never certain what your product will be. You now have certain products in place that did achieve unanimity in their initially being secured. It becomes another unknown. Sometimes it will work to somebody's satisfaction, other times the contrary.

BRIAN BJORKQUIST: Mr. Chairman and Mr. Barry, there is also a jurisdictional question whether the RCA has jurisdiction over the Alaska intertie and would have under those types of circumstances. At best right now, I could say that it is uncertain whether the RCA could do anything about resolving issues on its own.

MIKE BARRY: If the issues that we have in front of us are unresolved at the end of the termination notice period then I would expect that all of the parties would be happy to go to the RCA for a resolution.

LOU AGI: But there is a problem, as Mr. Bjorkquist suggests, with subject matter jurisdiction. In this one incident we were dealing with a regulated utility under an established statute that deals with joint access by one utility to another regulated utility's facilities. For the remainder, we would be dealing with access to state owned facilities and, back in 1986, when a lot of blood and other treasure dropped, the intertie left jurisdiction of the PUC.

MIKE BARRY: I can appreciate that there are troubling issues in front of us, I hope that everyone else appreciates that preserving the status quo is equally troubling if not more troubling.

JENNY TRIEU: I believe, if I understand correctly, the cooperation is trying to support its taking place currently and I discourage termination because I'm not sure that we would be in the position to maintain the momentum or cooperation.

BRIAN BJORKQUIST: There is on aspect of this proposal, many aspects of it are good, but one aspect of this proposal troubles me and that is the way that the short term and the long term agreement are bifurcated with the concept of having bond financing and AEA agreeing not to withdraw from the agreement under a short term agreement, the short term proposal. The trouble that that causes, without the right to terminate there is no mechanism for AEA to ensure that there are long term fixes and without long term fixes all we are doing is taking care of the existing problems without a mechanism in place for problems that arise in the next several years as they hopefully don't arise, but we need to be prepared to take care of the intertie no matter what happens. There needs to be a merging of the short term and the long term solution and hopefully you are now at the point where you are ready to negotiate with the Alaska Energy Authority so we can work through some of these issues, but that is one aspect of this that in my

view will not work. Entering into a short term agreement with a promise to enter into a long term agreement some time into the future, that is a recipe for getting back to a worse situation than we're in right now, in my view.

MIKE BARRY: I would point out that those exact comments are a portion of what I was alluding to when I mentioned that preserving the status quo is not an attractive alternative. With that, Mr. Chairman, I would move the adoption of Resolution 2006-04 and as the maker of that motion I would be willing to entertain an amendment or even to amend it myself, but I'd like to get it on the table first.

END VERBATIM

Mr. Winther introduced an amended motion for Resolution 2006-04. Mr. Barry indicated he had no objection and withdrew his previous motion.

MOTION: Mr. Winter moved to approve Resolution No. 2006-04, as amended.

He reviewed for the board the amendments that were made to Resolution 2006-04 stating the second Whereas is new and reads, "Whereas, certain IOC Utilities have informed the Authority that the IOC Utilities are making significant progress towards developing amendments to the Alaska Intertie Agreement and, if necessary, additional "side agreements," which collectively will address the defects in the current Alaska Intertie Agreement, and have requested additional time to complete that process and negotiate amendments and, if necessary, additional side agreements with the Authority; and"

A new Section 2 reads, "The Authority finds that, based upon representations by certain IOC Utilities that the IOC Utilities are making significant progress towards developing amendments to the Alaska Intertie Agreement and, if necessary, additional "side agreements," which collectively will address the defects in the current Alaska Intertie Agreement, and have requested additional time to complete that process and negotiate amendments and, if necessary, additional side agreements with the Authority, that additional time should be provided to IOC Utilities, and that notice of termination should not be given until September 1, 2006."

Section 3 has had additional language added and reads in its entirety as follows: "The Executive Director of the Authority is authorized, directed, and empowered to implement this Resolution by giving 48 months advance written notice of terminating the Alaska Intertie Agreement pursuant to Section 2.2.2 of the Alaska Intertie Agreement if the IOC Utilities fail by September 1, 2006, to negotiate and execute final amendments to the Alaska Intertie Agreement and, if necessary, additional "side agreements," acceptable to the Authority, which collectively will address the defects in the current Alaska Intertie Agreement."

Mr. Barry stated that when Mr. Winther referred to Section 3 he was referring to the old section 2 which is now renumbered as section 3, is that correct. Mr. Winther affirmed that statement.

Seconded by Mr. Barry.

Mr. Winther stated the reason for the changes to the resolution is that the board has heard that there has been some progress made. At the last board meeting it was straight forward that we were going to terminate the Alaska Intertie Agreement, but the comments we have received have made us rethink and give the extra time to try to come together. However, this resolution

states that the Alaska Intertie Agreement has to be finalized and executed by September 1, 2006.

Mr. Barry stated it is not the intent of this Resolution then that this would have to come back before the board, the discretion is with the Executive Director to determine whether or not substantive progress has been achieved.

Mr. Winther affirmed that statement and read into the record Section 4 that states, "The Executive Director of the Authority is authorized and empowered to take any and all actions appropriate and consistent with this resolution."

Mr. Bjorkquist stated Section 3 of the resolution also more explicitly provides authority for the executive director to issue notice of termination on September 1, 2006 if suitable agreements are not reached and executed.

There being no further discussion, the question was called. A roll call vote was taken and the motion passed with Messrs. Boutin, Barry, Winther, and Edwards voting yea. (Commissioner Barton absent)

8A. Director's Status Report of AIDEA Programs and Projects

There were no director's comments.

8B. NEXT MEETING DATE

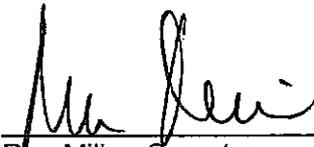
The board will be polled for the next meeting date.

9. BOARD COMMENTS

There were no board comments.

10. ADJOURNMENT

There being no objection and no further business of the Board, the meeting was adjourned at 11:30 a.m.



Ron Miller, Secretary
Alaska Energy Authority