

HOUSE BILL NO. 182

"An Act establishing the Greater Railbelt Energy and Transmission Corporation and relating to the corporation; relating to transition, financial plan, and reporting requirements regarding planning for the initial business operations of the Greater Railbelt Energy and Transmission Corporation; relating to exemption of the Greater Railbelt Energy and Transmission Corporation from regulation by the Regulatory Commission of Alaska and ; authorizing the Alaska Energy Authority to convey the Bradley Lake Hydroelectric Project and the Alaska Intertie to the Greater Railbelt Energy and Transmission Corporation; and providing for an effective date."

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

\* **Section 1.** AS 42 is amended by adding a new chapter to read:

**Chapter 50. Greater Railbelt Energy and Transmission Corporation.**

**Sec. 42.50.010. Greater Railbelt Energy and Transmission Corporation.**

(a) The Greater Railbelt Energy and Transmission Corporation is established.

(b) The purpose of the corporation is to ~~ensure plan for and~~

~~(1) provide~~ adequate, reliable, safe, and stable wholesale electric power to greater Railbelt electric utilities, on a non-discriminatory basis, at the lowest feasible cost. In furtherance of this purpose, the corporation may plan for, recommend, coordinate and otherwise address;

~~(2) the procure~~ adequacy ~~of~~ fuel supply, fuel storage, and fuel transport resources required to meet the short-term and long-term electric power needs of the greater Railbelt region service territory; and

~~(23) -ensure that the~~ adequacy ~~of~~ generation and transmission assets ~~exist~~ to prudently meet, both locally and regionally, the short- and long-term electric power and

reliability needs of the electrically interconnected greater Railbelt region service territory, including, but not limited to:

(i) ~~ensuring that adequate~~ generation reserves ~~are available~~ to meet ~~prudent~~ planning and operational requirements;

(ii) ~~ensuring that cost effective~~ base load generation ~~resources are available~~ line ~~to~~ all parts of the greater Railbelt region service territory;

(iii) ~~ensuring that~~ generation and transmission power dispatch resources ~~are~~ availability and interconnection ~~effectively interconnected~~ with the distribution dispatch resources of each greater Railbelt electric utility so as to allow for real time communication and coordination of power and energy deliveries;

(iv) ~~ensuring~~ diversity in generation resources, including renewable energy based generation resources, to the maximum extent possible when doing so is consistent with the goal of providing electric generation and transmission services at the lowest feasible [ALTERNATE LANGUAGE: ...at just and reasonable...] cost;

(v) integration of ~~ensuring that~~ renewable energy generation resources ~~are~~ integrated into the greater Railbelt electric grid in a manner that ~~prudently~~ prevents adverse impacts on service quality or price.

(c) The corporation shall operate on a not for profit basis, offering its services based upon uniform rates for like services pursuant to standard tariffs or contractual arrangements.

(d) The corporation is exempt from the provisions of AS 10.15 (Alaska Cooperative Corporation Act), AS 10.20 (Alaska Nonprofit Corporation Act), and AS 10.25 (Electric and Telephone Cooperative Act).

(e) The corporation has a separate and independent existence from the state. The corporation may not be considered the state, a state agency, an administrative unit of the executive branch of state government, a governmental unit of the state, a public corporation of the state, a municipal corporation, or a political subdivision of the state.

(f) The exercise by the corporation of the powers granted by this chapter is considered to be for a public purpose.

(g) The corporation is authorized, and shall assume as of July 31, 2010, all rights and obligations of the greater Railbelt electric utilities to negotiate power purchase agreements with developers of renewable energy and co-generation electric generation resources at avoided cost rates. During the transition period between July 31, 2010 and the date on which the corporation is capable of providing generation and transmission service to the greater Railbelt electric utility service territory in which a renewable energy electric generation resource is being developed, the avoided cost rate paid to the developer shall be calculated based upon the avoided cost of the greater Railbelt electric utility in whose service territory the resource is located.

[\[PURPA provisions need legal review. One question is whether reference to “avoided cost” or “average avoided cost” meets legal requirements, and more difficult than current compliance is potential future compliance if PURPA changes or other federal/state requirements are enacted.\]](#)

#### WALKER ALTERNATIVE

[\(g\) The corporation is authorized to assume, as of July 31, 2010, all rights and obligations of the greater Railbelt electric utilities to negotiate power purchase agreements with developers of renewable energy and co-generation electric generation resources. The corporation shall assume such rights and obligations for each of the greater Railbelt electric utilities that enters into an agreement to purchase power and energy from the corporation in quantities not less than the](#)

power and energy purchased by the corporation from developers of renewable energy and co-generation resources within their respective service territory. The corporation shall sell such power and energy to greater Railbelt electric utilities at rates that do not exceed the purchasing utility's avoided cost rate calculated in a manner consistent with regulations adopted by the Regulatory Commission of Alaska

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(g) The corporation is authorized, and shall assume as of July 31, 2010, all rights and obligations of the greater Railbelt electric utilities to negotiate power purchase agreements with developers of a qualified facility at the estimated average avoided cost less the cost incurred with the integration (including voltage regulation) of the energy produced by the qualified facility producing the energy. During the transition period between July 31, 2010 and the date on which the corporation is capable of providing generation and transmission service to the greater Railbelt electric utility service territory in which a qualified facility is located, the estimated average avoided cost paid to the qualified facility shall be calculated based upon the estimated average avoided cost, as prescribed by 3 AAC 50.770, of the greater Railbelt electric utility in whose service territory the qualified facility is located.

(h) The corporation is authorized to interconnect with, and provide services to, electric utilities other than those listed in AS 42.50.900 on terms and conditions approved by the corporation's board of directors. The corporation may decline to interconnect with an electric utility that fails to meet standards for interconnection. Each such electric utility shall become a greater Railbelt electric utility, and their service territory shall be incorporated as part of the

~~greater Railbelt region service territory, for the purposes of this chapter when the electric utility is interconnected to the railbelt grid.~~

**Sec. 42.50.020. Board of directors.** (a) The corporation shall be governed by a board of directors consisting of ~~up to 13 individual members, including the following:~~

(1) two representatives from each greater Railbelt electric utility; one representative director shall be the chief executive officer of each greater Railbelt ~~the~~ utility or the chief executive officer's designee, and the second representative director shall be an individual appointed by the governing body of each greater Railbelt electric utility;

(2) one public director appointed by the governor from a list of at least three persons submitted by the directors described in (a)(1) of this section; if the governor rejects the entire list, the directors described in (a)(1) of this section must submit a new list that includes at least three persons who were not included on the previously rejected list. .

(b) The term of a director representing a utility under (a)(1) of this section ~~immediately expires on the earlier of the date~~

~~(1) when the individual no longer holds the position that qualified the individual to be a director, or~~

~~(2) when~~ the utility notifies the board, **or the date that the utility's representative on the board is notified,** [same issues as before regarding provision not functioning well] that the individual has been replaced as a utility representative on the board.

(c) The term of the director appointed by the governor under (a)(2) of this section is four years. If a vacancy occurs, the governor shall appoint under (a)(2) of this section a public director to serve the remaining term of the director. The governor may reappoint to the board the director described in this subsection.

(d) [GRETC should be able to remove the public member for cause.] Except for the director appointed by the governor under (a)(2) of this section, ~~t~~The board may remove a director of the board for cause upon two-thirds majority vote of the full board. The bylaws must provide a mechanism for a greater Railbelt electric utility to appoint an alternative director if the chief executive officer of the utility is removed from the corporation board.

(e) A majority of the members of the board constitutes a quorum for the transaction of business and the exercise of the powers and duties of the board.

(f) The members of the board shall annually elect from among themselves a chair and vice-chair and other board officers as may be provided in the corporation's bylaws.

(g) The directors shall receive no salary, but the corporation may pay directors per diem and travel expenses, ~~not to exceed the maximum amounts allowed for permitted to be paid to members of boards and commissions under AS 39.20.180.~~

**Sec. 42.50.030. Board meetings ~~open~~; exceptions.** (a) A meeting of the board may be attended by the public. The bylaws of the corporation must provide for public participation at board meetings. Except when a voice vote is authorized, a vote shall be conducted in a manner that the public may know the vote of each director entitled to vote. The board may conduct a meeting by teleconference or similar communications equipment if the board gives reasonable notice of the meeting and if the public is able to attend the meeting and hear the meeting. This section applies only to a meeting at which a quorum of the board participates.

(b) Before holding an executive session, the board must first be convened as a regular or special meeting. The board may hold an executive session to discuss matters that come within the exceptions contained in (c) of this section on a majority vote of the board. A subject may not be considered at the executive session except those mentioned in the motion calling for the

executive session unless auxiliary to the main question. Formal action may not be taken during an executive session of the board.

(c) The following excepted subjects may be discussed in an executive session:

(1) matters the knowledge of which would clearly have an adverse effect on the finances of the corporation;

(2) subjects that tend to prejudice the reputation and character of a person; however, the person may request a public discussion;

(3) matters discussed with an attorney for the corporation, the knowledge of which could have an adverse effect on the legal position of the corporation;

(4) matters that by law are required to be confidential;

(5) matters pertaining to a plan, a program, or procedures for establishing, maintaining, or restoring security, or to a detailed description or evaluation of systems, facilities, or infrastructure in the corporation, but only to the extent that the discussion of the matter in

open session public

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare.

(d) Notice shall be given for all regular or special meetings of the board as provided in the bylaws of the corporation.

**Sec. 42.50.040. Officers and employees.** (a) The board ~~may~~shall employ a chief executive officer. The chief executive officer may not be a member of the board and serves at the pleasure of the board. [\[“may” in \(a\) does not appear consistent with duties of CEO in](#)

[\(c\) - - if CEO is not employed, who will do duties?\]](#)

(b) The board shall appoint officers of the corporation as required by the corporation's bylaws and as the board determines to be necessary for the effective operations of the corporation. ~~No~~An executive, operating, administrative, or other salaried officer of the corporation may ~~not~~ be a member of the board.

(c) The chief executive officer may hire employees of the corporation as may be determined necessary for the efficient performance of the functions of the corporation. The board shall approve the range of compensation for employees. Employees of the corporation are not employees of the state and are not considered to be employees of a public organization for the purposes of AS 39.

**Sec. 42.50.050. Membership.** The members of the corporation are the greater Railbelt electric utilities ~~that voluntarily choose to participate~~. The corporation provides all member benefits solely to the greater Railbelt electric utilities and affiliated electric utilities. Other parties or entities may become members as approved by the board of directors.

**Sec. 42.50.060. Bylaws.** The board ~~shall~~may adopt bylaws for the corporation for the governance and management of the affairs of the corporation, and may alter, amend, or repeal them. The bylaws shall be consistent with this chapter and other laws that apply to the corporation.

**Sec. 42.50.070. Indemnification of directors, officers, and employees.** The corporation

~~shall may~~ indemnify directors, officers, and employees in a manner consistent with AS

10.06.490.

**Sec. 42.50.100. General powers of the corporation. (a)** The corporation may

- (1) sue and be sued in its name;
- (2) have perpetual existence;
- (3) adopt a corporate seal and alter it;

(4) participate with federal, state, and local ~~governments~~~~departments and agencies~~ in formulating and implementing electric power policy, and in planning for the development, construction, and operation of adequate electric power generation and transmission facilities, for the greater Railbelt region service territory;

(5) accept by grant, sale, contract, operating agreement or any other arrangement, assets from members of the corporation or other public or private entities, persons or governments.

(6) engage in programs to support the efforts of the greater Railbelt electric utilities and affiliated electric utilities in order to enhance the development, efficiency, reliability, safety, and price stability of electric power in the greater Railbelt region service territory;

(7) generate, manufacture, purchase, acquire, accumulate, transmit, meter, and economically dispatch electric power, and sell at wholesale, supply, and dispose of electric power to greater Railbelt electric utilities and affiliated electric utilities;

(8) procure fuel supplies, fuel storage capacity, and fuel transmission resources; fuel in the ground or in other natural or man-made storage and deposits;

- (9) own and operate facilities to find and extract fuel deposits;

(10) construct, buy, lease, or otherwise acquire, and equip, maintain, and operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of or encumber land, buildings, structures, electric power lines or systems, dams, plants and equipment, and any other real or personal property, tangible or intangible, that is necessary, convenient, or appropriate to accomplish the purpose for which the corporation is organized;

(11) buy, lease, or otherwise acquire, and use, and exercise and sell, assign, convey, mortgage, pledge, or otherwise dispose of or encumber franchises, rights, privileges, licenses, permits, and easements;

(12) borrow money and otherwise contract indebtedness, and issue evidences of indebtedness, and secure the payment of the indebtedness by mortgage, pledge, or deed of trust of, or any other encumbrance on its real or personal property, assets, franchises, or revenues;

(13) construct, maintain, and operate electric transmission lines, along, upon, under, and across publicly owned land and public thoroughfares, including, without limitation, all roads, highways, streets, alleys, bridges, and causeways;

(14) ~~exercise the power of eminent domain as a public utility~~ [NOTE: THIS SECTION IS ONLY PARTIALLY CHANGED AND MAY REQUIRE SPECIFIC ATTENTION] exercise the power of eminent domain ~~as a public utility~~ under AS 42.05.631, except the corporation may not exercise the power of eminent domain to take an electric power generation or transmission asset, excluding rights-of-way, from a greater Railbelt electric utility or affiliated electric utility. **Other than as specifically limited by this section, any activity by the corporation authorized by this chapter is considered a public utility use;** ~~\_\_\_\_\_~~; [Last sentence probably will require policy review after determining full scope of what chapter will authorize GRETC to do, and whether it authorizes “non public utility” uses.]

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(14) exercise the power of eminent domain as a public utility under AS 42.05.631, except the corporation may not exercise the power of eminent domain to take an electric power generation or transmission asset from a greater Railbelt electric utility or affiliated electric utility. Other than as specifically limited by this section, any activity by the corporation authorized by this chapter is considered a public utility use;

(15) acquire by purchase, lease, bequest, devise, gift, exchange, the satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property, rights, rights-of-way, franchises, easements, and other interests in land, and acquire by appropriation water rights that are located in the state, taking title to the property in the name of the corporation;

(16) hold, maintain, use, operate, improve, lease, exchange, donate, convey, alienate, encumber, or otherwise grant a security interest in, or authorize use or dispose of, land or personal property, subject to other provisions of this chapter;

(17) contract with and accept transfers, gifts, grants, or loans of funds or property from the United States or from the state or its political subdivisions, subject to other provisions of federal or state law or municipal ordinances;

(18) undertake and provide for the management, operation, maintenance, use, repair, renovation, and control of all of the property of the corporation;

(19) apply to the state, the United States, and foreign countries or other proper agencies for the permits, licenses, rights-of-way, or approvals necessary to construct, maintain, and operate electric power and related services, and obtain, hold, and reuse the licenses and permits in the same manner as other similar operators;

(20) enter into agreements with the state or a state agency or other instrumentality of the state;

(21) make all contracts necessary, convenient, or appropriate for the full exercise of its powers;

(22) conduct its business and exercise its powers inside or outside the state;

(23) develop operating standards applicable to all interconnected greater Railbelt electric utilities;

(23) do and perform any other act and thing, and have and exercise any other power that may be necessary, convenient, or appropriate to accomplish the purposes for which the corporation is organized;

~~(24) create subsidiary corporations, including subsidiary corporations organized under AS 10.20.~~ [\[Delete last phrase; see AS 10.20.005 which prohibits electric cooperatives from forming under AS 10.20.\]](#) ;

(b) The corporation may not require its members to enter into power purchase agreements that restrict the ability of members to enter into bi-lateral power purchase or wheeling agreements among themselves, except as a condition for participation in specific new generation or transmission projects when such condition is required in order for the corporation to finance the project.

**Sec. 42.50.110. Public utility powers and regulation.** The corporation shall have all of the powers and duties of a regulated electric public utility under AS 42.05, except ~~as inconsistent with this chapter or as follows:~~

- (1) the corporation is not required to obtain a certificate under AS 42.05.221;
- (2) the corporation may not make retail sales of electric power;

(3) the corporation shall be exempt from payment of a regulatory cost charge under AS 42.05.254.

**Sec. 42.50.120. Integrated resource plan.** (a) The corporation shall adopt an integrated resource plan for the corporation to use in conjunction with the long-range fuel supply plan~~y~~ for determining the need for, and selection of, electric generation and transmission projects to ensure delivery of safe, reliable, and sustainable electric power to **greater railbelt electric utilities** [with lower case “r” in railbelt, is this intended to be a non-defined term? Here and next several sections.] at the lowest feasible long-term [ALTERNATE LANGUAGE; ...just and reasonable] cost. The corporation in adopting and updating the plan shall evaluate and consider recommendations made in any applicable state energy plan or state integrated resource plan. If the corporation’s integrated resource plan deviates from other state energy or resource plans, the corporation’s plan must include a report explaining the reasons for the deviation.

(b) The board shall establish a schedule for annually-review- of the integrated resource plan and update the plan at least once every five years.

(c) The corporation shall ~~make~~ its integrated resource plans available on the Internet to greater Railbelt electric utilities, the governor, the legislature, and the public.

**Sec. 42.50.130. Long-range fuel supply plan.** (a) The corporation shall adopt a long-range fuel supply plan for the corporation to use in conjunction with the integrated resource plan for determining the need for, and selection of, fuel supplies to be used by electric generation projects to ensure delivery of safe, reliable, and sustainable electric power to greater Railbelt electric utilities at the lowest feasible long-term [ALTERNATE LANGUAGE; ...just and reasonable...] cost. In adopting and updating the long-range fuel supply plan, the corporation shall evaluate recommendations made in any applicable state energy plan or state integrated

resource plan. If the corporation deviates from recommendations in a state plan, the adopted or updated long-range fuel supply plan shall include a report explaining the reasons for the deviation.

(b) The board shall ~~regularly annually~~ review the long-range fuel supply plan, and update the plan at least once every five years. [Provision arguably could create obligation to review more often than annually, or give grounds for someone to complain that GRETC board should to obey statute.]

(c) The corporation shall make its long-range fuel supply plans available on the Internet to greater Railbelt electric utilities, the governor, the legislature, and the public.

**Sec. 42.50.140. Long-range capital improvement plan.** (a) The corporation shall adopt a long-range capital improvement plan. The plan must describe the manner in which the corporation intends to accomplish the purposes of this chapter, and anticipated capital improvements during each of the following 10 years. The plan shall be based on the principle of providing safe, reliable, and sustainable electric power to greater railbelt electric utilities at the lowest feasible long-term [ALTERNATE LANGAUGE; ...just and reasonable...] cost.

(b) The board shall ~~regularly annually~~ review, approve revisions to, and update the long-range capital improvement plan ~~at least once every five years, on or before September 30 of each year.~~

(c) The corporation shall make its long-range capital improvement plans available on the Internet to greater Railbelt electric utilities, the governor, the legislature, and the public.

**Sec. 42.50.150. Long-range capital management plan.** (a) The corporation shall adopt a long-range capital management plan. The plan must describe the manner in which the corporation intends to accomplish the purposes of this chapter, and the corporation's plans for

acquisition, accumulation, and issuance of equity and debt for the next 10 years. The plan shall be based on the principle of providing safe, reliable, and sustainable electric power to greater railbelt electric utilities at the lowest feasible long-term [ALTERNATE LANGUAGE: ...rust and reasonable...] cost.

(b) The board ~~shall~~ shall regularly annually review, approve revisions to, and update the long-range capital management plan at least once every five years, on or before September 30 of each year.

(c) The corporation shall make its long-range capital management plans available on the Internet to greater Railbelt electric utilities, the governor, the legislature, and the public.

**Sec. 42.50.160. Pledge of the state.** (a) The state pledges to and agrees with any lender to the corporation that the state will not limit or alter the rights and powers given to the corporation by this chapter to fulfill the terms of a contract between the corporation and the lender, or in any way impair the rights and remedies of the lender under such contract. The corporation is authorized to include this pledge and agreement of the state in a contract with any lender to the corporation.

(b) The pledge of the state is limited to the express provisions of (a) of this section and is not a guarantee, surety, promise, undertaking, or assurance of repayment or performance of any obligation of the corporation.

**Sec. 42.50.163. Financing Arrangements.** (a) The corporation may utilize all financing arrangements permitted by law in achieving the purposes and objectives of the corporation. All proposed financing arrangements will be consistent with and contained in the long term capital improvement plan required by AS 42.50.140 and the long term capital management plan required by AS 42.50.150. [Would that be too limiting, particularly if there

was need for short-term, operating financing? Would GRETC board be always obligated to amend capital plans in context of financing?]

(b) Financing arrangements may be developed for individual projects. Financing arrangements include, but are not limited to, ownership by the corporation, joint ownership of assets with the State, joint ownership of assets with individual member utilities, joint ownership of assets with individual utilities or entities which are not members of the corporation, and agreements to operate and manage individual assets, The corporation may be a party to any lease or contract, including a power sales contract, necessary to achieve the purposes and objectives of the corporation.

(c) [The first sentence should start “The Corporation may obtain assistance from state agencies in financing infrastructure projects . . .” If the intent is instead to give every state agency authority to help GRETC finance projects, it would be too broad and create significant policy concerns.] ~~(e)~~ State agencies may assist the corporation in financing

infrastructure projects through direct grants, debt guarantees, granting of a moral obligation of the state to insure payment of debt instruments, purchase of issued debt instruments or other

financial methods appropriate to the projects or tasks. In conformance with the requirements of a grant from the State, the corporation may require that the benefits of a grant for an energy project or improvement accrue to consumers in the rates charged for the energy supplied by or through a project. [Is this intended to have GRETC obey grants (in which case its unnecessary) or is it intended to allow GRETC to enforce grant conditions on IPP’s, in which case the provision will require some thought, or is something else intended?]

Sec. 42.50.167. Administrative Costs and Other Services. The corporation may annually assess and collect a fee for administrative expenses from members of the corporation. The corporation shall pay members of the corporation for services rendered by the members and shall charge members of the corporation for services provided to the members.

**Sec. 42.50.170. Fuel supply.** The corporation may acquire long-term fuel supplies as required to ensure electric power generation facilities can operate without fuel-related interruption, including direct ownership of fuel supply production, transportation, and storage facilities as required to meet the corporate purpose stated in AS 42.50.010(b). The corporation is authorized to bid on interests in State lands, including bids for oil and gas leases, and may not be required to post a deposit pursuant to AS 38.05.860. [\[still possible issue with DNR/state policy\]](#)  
The corporation may acquire long-term fuel supplies under this section in conjunction with other persons acquiring long-term fuel supplies for any lawful purpose in any lawful manner.

**Sec. 42.50. 180. Rates for Services.**

(a) Schedules of rates and charges for electric energy and other services produced by the corporation become effective upon adoption by the board of directors of the corporation ~~and acceptance by the Commissioner of Revenue~~. Rate schedules for the sale of electric energy or other services which may be generated by a project owned or operated by the corporation shall be based upon the principle that the recovery of the prudently-incurred cost of producing and transmitting such electric energy or other services, including the amortization of the capital investment over a reasonable period of years shall be permitted. Rate schedules may provide for uniform rates or rates uniform throughout prescribed transmission areas in order to extend the benefits of an integrated generation and transmission system and encourage the equitable

distribution of the electric energy developed by the corporation. In the alternative, the corporation may adopt rate schedules for a service provided by a specific asset owned or operated by the corporation that reflect differences in the cost of providing that service to a specific customer or group of customers.

(b) In establishing rates under this section, the corporation shall use the following procedures:

(1) Notice of the proposed rates shall be published so as to reasonably inform the public with a statement of the justification and reasons supporting such rates. Such notice shall include a date for ~~the filing of comments, a hearing in accordance with paragraph (2) of this subsection.~~

(2) One or more hearings ~~may~~ shall be conducted pursuant to procedural rules adopted by the board and as expeditiously as practicable by a the corporation ~~or a hearing officer appointed by the corporation~~ to develop a full and complete record and to receive ~~public~~ comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. ~~In any such hearing—~~

~~—————(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the corporation, and~~

~~—————(B) the hearing officer, in the officer's discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.~~

(3). ~~In addition to the opportunity to submit oral and written material at the hearings,~~ Any written views, data, questions, and arguments submitted by persons prior to the

~~date for filing of comments, or before the close of, hearings shall~~ be made a part of the administrative record.

(4). After ~~consideration of filed comments~~~~such a hearing,~~ the corporation ~~or hearing officer~~ may propose revised rates, publish such proposed rates so as to reasonably inform the public, ~~and conduct additional hearings in accordance with this subsection.~~

(5). The corporation shall make a final written decision establishing a rate or rates based on the record which shall include the ~~filed comments, hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the hearing examiner.~~ The decision shall include a full and complete justification of the final rates pursuant to this section.

(6). The final decision of the corporation shall become effective ~~ninety days after issuance of the written decision~~~~on acceptance of such rates by the Commissioner of Revenue pursuant to subsection (a) of this section. The Commissioner shall have the authority, in accordance with such procedures, if any, as the Commissioner shall promptly establish and make effective within one year after (effective date of this act), to accept the final rate submitted by the corporation on an interim basis, pending the Commissioner's final acceptance in accordance with such subsection. Pending the establishment of such procedures by the Commissioner, if such procedures are required, the corporation is authorized to adopt such interim rates during such one year period.~~

(7) The corporation may establish other procedural rules consistent with this subsection to protect the interests of ~~consumers~~ ~~customers.~~ [who is included - -only ratepayers or more? If ratepayers, should it be 'public'??]

(c) Validated costs incurred by the corporation in connection with the projects or related agreements described in (b) of this section must be allowed in the rates charged by a public utility. In this subsection, "validated costs" are the actual costs that a public utility pays to the corporation for electric energy or other services. This subsection does not grant the Regulatory Commission of Alaska jurisdiction to alter or amend the rates established under subsections (a) and (b) of this section.

(d) Meetings between the corporation and public utilities concerning a wholesale agreement for the sale of power or other matter exempted from review of the commission under (b) of this section must comply with AS 44.62.310.

**Sec. 42.50.190. Tax exemption.** The real and personal property of the corporation and the assets, income, and receipts of the corporation are exempt from all taxes and special assessments of the state or a political subdivision of the state.

**Sec. 42.50.200. Reports and publications.** The board shall publish on the Internet an annual report for the greater Railbelt electric utilities. This electronic report shall be made available to the governor, the legislature, and the public. The report must include financial statements audited by independent outside auditors, a discussion of the corporation's circumstances and operations during the period covered by the report, and any other information that the board believes would be of interest to the governor, the legislature, and the public, or that the legislature requests the board to include. The board may publish other reports considered appropriate to its purposes.

**Sec. 42.50.210. Right to examine books and records.** (a) Except as provided in (c) of this section, greater Railbelt electric utilities and the public may, at a reasonable time and for any

proper purpose, examine and make copies of the books and records of the corporation at the principal office of the corporation.

(b) The corporation may charge a requestor an amount equal to the actual cost of locating and duplicating documents requested under this section.

(c) The corporation may withhold books and records concerning the following subjects:

- (1) records required to be kept confidential by law;
- (2) personnel records including wages and salaries;
- (3) records that are proprietary, privileged, or a trade secret;
- (4) records or information pertaining to a plan, program, or procedures for

establishing, maintaining, or restoring security, or to a detailed description or evaluation of systems, facilities, or infrastructure of the corporation, but only to the extent that the production of the records or information

(A) could reasonably be expected to interfere with the implementation or enforcement of the security plan, program, or procedures;

(B) would disclose confidential guidelines for investigations or enforcement and the disclosure could reasonably be expected to risk circumvention of the law; or

(C) could reasonably be expected to endanger the life or physical safety of an individual or to present a real and substantial risk to the public health and welfare;

(5) specific matters that were prepared for or during an executive session of the board, and not subsequently made public by the corporation.

**Sec. 42.50.220. Audits and examinations of corporation.** ~~(a) At the direction of the Legislative Budget and Audit Committee, the legislative auditor may conduct an audit of the corporation in the manner and under the conditions established by AS 24.20.281. The legislative~~

~~audit division is authorized free access to all books and papers of the corporation that relate to the business of the corporation and books and papers kept by a director, officer, or employee relating to or upon which a record of the business of the corporation is kept. The legislative audit division may summon witnesses and administer oaths or affirmations in the examination of directors, officers, or employees of the corporation or another person in relation to the affairs, transactions, and conditions of the corporation, and may require and compel the production of records, books, papers, contracts, or other documents by court order if not voluntarily produced.~~

~~(b) The legislative auditor and the auditor's employees may not disclose information acquired by them in the course of an audit of the corporation concerning the particulars of the business or affairs of a member of the corporation or another person, unless the information is required to be disclosed by law or under a court order.~~

~~(e)~~ The corporation shall be audited annually by an independent outside auditor with public utility accounting and ratemaking experience. ~~The legislative auditor may confer with the outside auditor and review the work papers of the audit.~~ The board shall engage the outside auditor, who shall be responsible to the board. The corporation shall submit copies of each report of the outside auditor to the legislative auditor within 30 days after receipt of the report by the corporation.

**Sec. 42.50.230. Dissolution, merger, consolidation, and disposition of assets.**

Without prior legislative approval, the corporation may not

- (1) dissolve;
- (2) merge or consolidate; or
- (3) dispose of corporate assets other than in the ordinary course of business.

**Sec. 42.50.240. Title to Grant Funded Improvements.** ~~(a)~~ Notwithstanding any other provision of law, the corporation is authorized to hold title to improvements paid for in part or in whole with state funds in its own name.

~~(b) the corporation is authorized to~~

**Sec. 42.50.900. Definitions.** In this chapter, unless the context otherwise requires,

- (1) "affiliated electric utilities" means an electric utility that is wholly owned by one or more greater Railbelt electric utilities, and by or through which one or more greater Railbelt electric utilities obtain electric power or electric generation or transmission services;
- (2) "board" means the board of directors of the corporation;
- (3) "corporation" means the Greater Railbelt Energy and Transmission Corporation;
- (4) "electric power" means electric energy and capacity;
- (5) "greater Railbelt electric utilities" initially means
  - (A) Homer Electric Association, Inc.;
  - (B) the City of Seward, Electric Utility Department;
  - (C) Chugach Electric Association, Inc.;
  - (D) the Municipality of Anchorage d/b/a Municipal Light and Power;
  - (E) Matanuska Electric Association, Inc.;
  - (F) Golden Valley Electric Association, Inc.; and
  - (G) an entity holding a certificate of public convenience and necessity issued by the Regulatory Commission of Alaska, that succeeds to the entity named in (A) - (F) of this paragraph as the result of a merger or acquisition; if two or more of the entities named in (A) - (F) of this paragraph merge or otherwise combine under this subparagraph, the list of entities that make up the greater Railbelt electric utilities is reduced to include only the succeeding entity;

(6) "greater Railbelt region service territory" means the combined service territories identified in the certificates of public convenience and necessity issued by the Regulatory Commission of Alaska for each of the greater Railbelt electric utilities.

(7) "public" means the ratepayers of the greater Railbelt electric utilities.

ADDITIONAL DEFINITION AND LANGUAGE TO BE CONSIDERED IN CONNECTION WITH DISCUSSION ON PURPA AND QF ISSUES (FROM BRIAN NEWTON):

[\[Next section requires further legal analysis\]](#)

(8) "estimated average avoided cost" means (a) in accordance with (c) - (f) of this section, any electric power which is made available from a qualifying facility.

(b) Notwithstanding (a) of this section, the corporation 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 corporation 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, the corporation shall notify in writing each affected qualifying facility in time for the qualifying facility to stop the delivery of electric power to the corporation, or the corporation 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;

(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 corporation 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 [mentioned earlier, should this be changed to ratepayers or public, or be defined?] of the corporation.

(d) For purchases from a qualifying facility which supplies non-firm power, rates must be based on the cost of energy 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) Unless otherwise modified, estimated average 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 updated by subsequent fuel costs, and divided by the number of kilowatt-hours sold for the same time period.

(2) The corporation shall make available the following information for the calendar or fiscal year, or a more recent 12-month period, to support rates for purchases of non-firm power:

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

(B) at its option, the data and computation of estimated average avoided energy costs based on any other methodology deemed appropriate and justifiable by the corporation.

(3) Rates for purchases of non-firm power must be adjusted contemporaneously with fuel-cost rate adjustments and with changes in estimated average avoided energy costs in general rate revisions.

(e) For purchases from a qualifying facility which supplies firm power, rates must be based on the costs of energy and capacity which the corporation avoids by virtue of its interconnection with the qualifying facility. Rates under this subsection must comply with the following requirements:

(1) In determining estimated average avoided energy and capacity costs, to the extent practicable, the following factors must be taken into account:

(A) the estimated average 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 corporation'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 as prescribed in the corporation's integrated resource plan in Sec. 42.50.120;

(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 corporation 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) The corporation shall make available the information necessary to support the methodology and calculations used in developing rates for purchase of firm power based on estimated average avoided energy and capacity costs.

(f) Rates for purchases from a qualifying facility, the construction of which was commenced on or after November 9, 1978, must be set at an corporation's full estimated average avoided costs as determined under (d) or (e) of this section.

(g) The corporation or qualifying facility may agree by special contract to different rates, terms, or conditions for purchases than otherwise required by this section.

\* **Sec. 2.** AS AS 42.50.010, 42.50.020, 42.50.030, 42.50.040, 42.50.050, 42.50.060, 42.50.070, 42.50.100, 42.50.110, 42.50.120, 42.50.130, 42.50.140, 42.50.150, 42.50.160, 42.50.170, 42.50.180, 42.50.190, 42.50.200, 42.50.210, 42.50.220, 42.50.230 and 42.50.900, enacted by sec. 1 of this Act, are repealed.

\* **Sec. 3.** AS 42.50.900(5)(A), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 4.** AS 42.50.900(5)(B), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 5.** AS 42.50.900(5)(C), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 6.** AS 42.50.900(5)(D), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 7.** AS 42.50.900(5)(E), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 8.** AS 42.50.900(5)(F), enacted by sec. 1 of this Act, is repealed.

\* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**TRANSITION:**

(a) Prior to the time that the Greater Railbelt Energy and Transmission Corporation is capable of providing generation, fuel, transmission and ancillary services the corporation may

(1) acquire existing utility generation, transmission, and fuel assets through sale, lease, or other beneficial operating agreements at the option of the utilities owning such assets;

(2) contract to the greater Railbelt utilities for generation, fuel, transmission, and ancillary services required to meet member needs . Contracts entered into for such services by the greater Railbelt utilities after the effective date of this Act must include provisions allowing transfer of utility contractual rights and obligations to the corporation. Services can be supplied on a bundled or unbundled basis and may include:

(a) Planning reserves;

(b) Operating reserves;

(c) Base load power;

(d) Wind integration;

(e) Acquisition of Independent Power Producer (IPP) renewable resource

projects;

(f) Generation and transmission construction project management;

(g) Fuel supply aggregation, acquisition, storage, and delivery scheduling;

(h) Grant application processing and management for management for generation, transmission and fuel related grant opportunities; and

(i) Other services as deemed appropriate by the corporation's board of directors.

(3) The corporation and the greater Railbelt electric utilities shall jointly develop a single set of interconnection guidelines that will go into effect by November 1, 2010.

(4) The corporation shall not require the termination of wholesale power supply or fuel supply contracts in effect as of the effective date of this Act, except upon terms mutually acceptable to all parties to such contracts.

(b) The corporation shall organize and, jointly with the Alaska Energy Authority, develop on or before January 18, 2011 a transition and finance plan to enable the corporation to become a supplier of electric power and transmission services to greater Railbelt electric utilities. The transition and finance plan must include the following:

(1) an agreement among the Alaska Energy Authority, the corporation, and one or more Greater Railbelt electric utilities that identifies commitments by the corporation, the Alaska Energy Authority, the state, and the greater Railbelt electric utilities, that will be necessary to enable the corporation to achieve the corporate purpose stated in AS 42.50.010(b); and

(2) provisions to address the equity and creditworthiness of the corporation and the greater Railbelt electric utilities to secure repayment of existing and new, intermediate and long-term financing for the construction or acquisition of electric power generation and transmission assets (including fuel supply, transport, and storage assets) needed to reliably provide generation and transmission service in the greater Railbelt region service territory; the provisions made under this paragraph must include provisions to

(A) pay debt associated with any electric power generation or transmission asset transferred to the corporation by sale, lease, or other arrangements;

(B) secure~~y~~ adequate financing for new electric power generation or transmission assets that become necessary before the corporation becomes fully functioning; and

(C) create a capital defeasance fund to secure repayment of new or existing debt associated with new or existing electric power generation and transmission assets;

(3) a plan to develop the business organization of the corporation;

(4) provisions to ensure that the transition:

(A) does not negatively affect the ability of any greater Railbelt electric utility to operate and generate sufficient revenues to meet all obligations to ratepayers, creditors, and lenders; and

(B) includes adequate mechanisms to build sufficient equity to provide for the financing of and for the construction or acquisition of generation and transmission assets needed in the greater Railbelt region service territory before the corporation becomes the a supplier of electric power and transmission services to greater Railbelt electric utilities; and

(5) a recommendation of proposed statutory changes to improve the ability of the corporation to achieve the corporate purpose stated in AS 42.50.010(b), enacted by sec. 1 of this Act.

(6) standards of reliability for electric generation and transmission services the corporation provides, based upon national loss of load probability for forced outage rates and outage duration standards, as modified to reflect the unique configuration of the greater Railbelt region service territory; and

(7) recommendations for statutory changes to allow the Alaska Energy Authority to finance and own generation, fuel and transmission assets (similar to the Bradley Lake Hydroelectric financing) for the benefit of greater Railbelt electric utilities through the corporation.

(c) The Greater Railbelt Energy and Transmission Corporation shall annually report on the Internet to the governor, the legislature, and the public on progress made toward implementing the transition and financing plan. The annual report must include a description of

(1) progress made and actions taken since the last annual report;

(2) actions taken to unify existing electric power generation and transmission assets (including fuel supply, transport, and storage assets) from greater Railbelt electric utilities and affiliated electric utilities;

(3) actions taken to plan for acquisition or construction of new electric power generation and transmission assets (including fuel supply, transport, and storage assets), including project status relating to design, permitting, construction, and financing;

(4) recommendations for financing the construction or acquisition of necessary electric power generation or transmission assets (including fuel supply, transport, and storage assets) , which may include the acquisition of those services from independent power producers;

(5) action taken to develop or adopt an integrated resource plan;

(6) action taken to maintain reliability standards by each greater Railbelt electric utility; and

(7) other information requested by the governor or legislature.

(d) Notwithstanding AS 42.50.020(c), enacted by sec. 1 of this Act, the term of the initial public director appointed by the governor under AS 42.50.020(a)(3), enacted by sec. 1 of this Act, expires on June 30, 2013.

(e) In this section, unless the context otherwise requires,

(1) "Alaska Energy Authority" means the authority created in AS 44.83.020;

(2) "corporation" has the meaning given in AS 42.50.900, enacted by sec. 1 of this Act;

(3) "greater Railbelt electric utilities" has the meaning given in AS 42.50.900, enacted by sec. 1 of this Act;

(4) "Greater Railbelt Energy and Transmission Corporation" means the corporation established in AS 42.50.010, enacted by sec. 1 of this Act;

(5) "Greater Railbelt region service territory" has the meaning given in AS 42.50.900, enacted by sec. 1 of this Act.

\* **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE AUTHORIZATION TO CONVEY. (a) Notwithstanding AS 44.83.396, the Alaska Energy Authority may convey to the Greater Railbelt Energy and Transmission Corporation the Bradley Lake Hydroelectric Project and the Alaska Intertie, under terms and conditions acceptable to the Alaska Energy Authority, under a **phased commitment agreement** negotiated and entered among the Alaska Energy Authority, the Greater Railbelt Energy and Transmission Corporation, and two or more greater Railbelt electric utilities. The Alaska Energy Authority may agree in the phased commitment agreement to convey either the Bradley Lake Hydroelectric Project or the Alaska Intertie after the Alaska Energy Authority obtains necessary

approvals, or after outstanding bonds or other outstanding debt associated with the Bradley Lake Hydroelectric Project or with the Alaska Intertie are paid, refinanced, or defeased. Nothing in this section precludes the Alaska Energy Authority from contracting with the Greater Railbelt Energy and Transmission Corporation for the operation or maintenance of either the Bradley Lake Hydroelectric Project or the Alaska Intertie before completion of a conveyance authorized by this section.

(b) In this section, unless the context otherwise requires,

(1) "Alaska Energy Authority" means the authority created in AS 44.83.020;

(2) "Alaska Intertie" means the electric power transmission intertie owned by, or subject to contractual rights of, the Alaska Energy Authority, and located between the Teeland substation near Knik, Alaska and Healy, Alaska;

(3) "Bradley Lake Hydroelectric Project" means the hydroelectric project owned by the Alaska Energy Authority, and licensed as Project Number 8221 under 16 U.S.C. 792 - 823c (Federal Power Act);

(4) "greater Railbelt electric utilities" has the meaning given in AS 42.50.900, enacted by sec. 1 of this Act;

(5) "Greater Railbelt Energy and Transmission Corporation" means the corporation established in AS 42.50.010, enacted by sec. 1 of this Act;

\* **Sec. 11.** The uncodified law of the State of Alaska enacted by secs. 9 and 10 of this Act, is repealed.

\* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONDITIONAL EFFECT. (a) The following applicable sections of this Act take effect only if the listed utility fails to deliver to the Alaska Energy Authority on or before July 31, 2010 a letter of intent in the form and substance acceptable to the Alaska Energy Authority, under which the listed utility commits to enter **an agreement** [something appears to be missing. This agreement no longer has any substantive criteria. The earlier version of bill tied this to a “phased commitment agreement,” which was defined and required the utility to agree to do certain things, such as over time to obtain power from GRETC. While that might not be the appropriate substantive criteria, something substantive should be required. And, this early date after the bill is likely to be enacted means that there is no trigger tied to transitional planning. If that’s intended, it raises questions about what is purpose/efficacy of section 9(b), and perhaps other transitional provisions.] among the Alaska Energy Authority, the Greater Railbelt Energy and Transmission Corporation, and the listed utility. The listed utilities and applicable sections of this

Act are as follows:

- (1) Homer Electric Association, Inc., sec. 3 of this Act;
- (2) the City of Seward, Electric Utility Department, sec. 4 of this Act;
- (3) Chugach Electric Association, Inc., sec. 5 of this Act;
- (4) the Municipality of Anchorage d/b/a Municipal Light and Power Utility, sec. 6 of this Act;
- (5) Matanuska Electric Association, Inc., sec. 7 of this Act;
- (6) Golden Valley Electric Association, Inc., sec. 8 of this Act.

(b) If none of the listed utilities in (a) of this section meet the conditions described in (a) of this section, secs. 2 and 11 of this Act takes effect.

(c) If none of the listed utilities in (a) of this section meet the conditions described in (a) of this section, secs. 13 and 14 of this Act are repealed.

(d) The executive director of the Alaska Energy Authority shall notify the lieutenant governor and the revisor of statutes when any of the conditions described in (a) and (b) of this section are met.

(e) In this section, unless the context otherwise requires,

(1) "Alaska Energy Authority" means the authority created in AS 44.83.020;

(2) "Greater Railbelt electric utilities" has the meaning given in AS 42.50.900, enacted by sec. 1 of this Act;

(3) "Greater Railbelt Energy and Transmission Corporation" means the corporation established in AS 42.50.010, enacted by sec. 1 of this Act;

[Following sections would need to be reorganized to comply with legislative drafting rules.]

[Section 13 would become section 1 and Section 14 would become section 3.]

**\* Sec. 13. AS 42.05.711 is amended to add a new section to read:**

(q) thea corporation established under as AS 42.50.010 is exempt from regulation under this chapter, including the requirement to obtain a certificate of public convenience and necessity under AS 42.05.221. [only GRETC will be formed under AS 42.50.010]

**\* Sec. 14. AS 44.83.396 is amended to add a new section to read:**

(f) The authority shall transfer operational authority over all power projects owned by the authority and located within the greater Railbelt region service territory defined in AS 42.50.900 to the corporation created by AS 42.50.010, under terms and conditions mutually acceptable to the authority and the corporation, not later than January 1, 2011. [same constitutional & policy concerns as before]

**\*Sec. 15.** This Act takes effect immediately under AS 01.10.070(c).