

REGULATORY COMMISSION OF ALASKA

PUBLIC MEETING

December 15, 2021



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STATE OF ALASKA

REGULATORY COMMISSION OF ALASKA

Before Commissioners: Robert M. Pickett, Chairman
 Keith Kurber II
 Antony G. Scott
 Daniel A. Sullivan
 Janis W. Wilson

REGULATORY COMMISSION OF ALASKA

701 West 8th Avenue, Suite 300
Anchorage, Alaska 99501

PUBLIC MEETING

Wednesday, December 15th, 2021
9:07 a.m.

BEFORE COMMISSIONER ROBERT M. PICKETT
Chairman

1 P-R-O-C-E-E-D-I-N-G-S

2 (On record - 9:07 a.m.)

3 MADAM COURT REPORTER: I believe we're ready to go on
4 record if Chairman Pickett is available.

5 (Pause)

6 MADAM COURT REPORTER: I know that his name showed up
7 earlier, so I'm wondering if he's having problems connecting.
8 Juliaah, do you know anything?

9 MS. JULIAH: No, I do not. I will do my best to get a
10 hold of him.

11 MADAM COURT REPORTER: Thank you.

12 MS. BARNETT: Ladonna, this is Juliaah. I'm going to
13 see if I can get a hold of Chairman Pickett.

14 MADAM COURT REPORTER: Okay, thanks.

15 MS. BARNETT: Okay, thank you.

16 (Pause)

17 MS. BARNETT: Okay, Ladonna, I just -- this is Juliaah.
18 I just spoke with the Chairman, he's having issues with his
19 internet where he is and he is asking Jan to take proxy and
20 start with agenda item number one, Public Participation.

21 MADAM COURT REPORTER: Thank you, Juliaah. Commissioner
22 Wilson, we are now on the record.

23 COMMISSIONER WILSON: This is the Public Meeting of
24 December 15, 2021 -- Public Meeting of the Regulatory
25 Commission of Alaska. First item on the agenda is Public

1 Participation. Are there any members of the public who wish to
2 speak to the Commission this morning? Please identify
3 yourself. Once again, are there any members of the public who
4 wish to speak to the Commission this morning? Hearing none, we
5 will close agenda item number one and move on to agenda item
6 number two.

7 Agenda item number two is R-20-001, R-20-002 and R-20-
8 003, In the Matter of Consideration of Regulations in Support
9 of SB 123. Commissioner Scott, are you available to take over
10 this agenda item?

11 COMMISSIONER SCOTT: I am, Madam Chair, thank you very
12 much.

13 COMMISSIONER WILSON: And do we want to proceed without
14 the Chairman? I think he gave us permission to go forward with
15 agenda item number one, but perhaps we should wait a few
16 minutes to see if he can connect for this agenda item.

17 COMMISSIONER SCOTT: I would be very happy to take a
18 brief at ease.

19 COMMISSIONER WILSON: All right, let's take a brief at
20 ease then to see if we can get him connected.

21 MADAM COURT REPORTER: I'm moving off the record then
22 at 9:09.

23 (Off record)

24 COMMISSIONER WILSON: Good morning, Mr. Chairman, we
25 have completed agenda item number one and we will be moving on

1 to agenda item number two if you so choose.

2 MADAM COURT REPORTER: We are now back on record.

3 CHAIRMAN PICKETT: Okay, very good. This is Chairman
4 Pickett, I apologize. MTA network difficulties in my
5 subdivision, so I am on the phone and I understand we're at
6 agenda item number two, which is R-20-001, R-20-002 and R-20-
7 003, In the Matter of Consideration of Regulations in Support
8 of SB 123. Commissioner Scott, I'm turning it over to you.

9 COMMISSIONER SCOTT: Thank you very much, Mr. Chairman.
10 At this point, I would like to turn it over to Claire Knudsen-
11 Latta to make some introductory remarks. Thank you.

12 MS. KNUDSEN-LATTA: Good morning.....

13 CHAIRMAN PICKETT: Go ahead, Claire.

14 MS. KNUDSEN-LATTA:for the record -- oh, pardon
15 me, sir. For the record, this is Claire Knudsen-Latta
16 presenting on R-20-001, R-20-002 and R-20-003. Since we last
17 discussed this topic, we have worked with the Department of Law
18 to review and refine language previously adopted by the
19 Commission with order number R-20-001(4), 002(5) and 003(5).

20 Such refinements have included transitioning from
21 passive to active voice and making other grammatical revisions
22 a number of places including, as an example, 46.050(e),
23 language was added instead of citing to the statute.

24 And then we had a number of definitions that were
25 either new -- well, the only new new definition was the

1 definition of business day or broken out or moved from within
2 the body of the regulations to the definition section. These
3 include capacity, interconnected bulk electric system and
4 reliability standards.

5 Revisions to the definitions were also done in the 3AAC
6 48.080, the confidentiality standards where definitions were
7 added for interconnected bulk electric system and cyber
8 security incident.

9 The most significant revisions in the regulations we're
10 presenting today is the addition of a new section, .990
11 providing a universal framework for identifying good cause as
12 required for waivers throughout this chapter and instructions
13 for entities wishing to file a petition.

14 Becki, if you wouldn't mind terribly sharing that
15 language to the screen? And that's on, I believe, page 84 --
16 or 85.

17 So this is the language that is being proposed. As I
18 noted, it provides framework for identifying good cause and
19 instructions for filing the -- filing the waivers. There are
20 also some alternative provisions being proposed for 990(a)(1).
21 These provisions were drafted by ALJ Rich Gazaway, who I
22 believe is on the line if the Commission has questions about
23 those.

24 Commissioner Scott, is there anything else you would
25 like me to discuss at this point?

1 COMMISSIONER SCOTT: Thank you very much, Claire. I
2 think you've done an admirable job. I think we're good at this
3 point.

4 Before I make any final motion about re-adopting these
5 regulations that you have in front of us, I want to ask whether
6 there are other members of the Commission who have questions of
7 staff.

8 CHAIRMAN PICKETT: Commissioner Wilson, do you have any
9 comments or questions?

10 COMMISSIONER WILSON: I do and it's concerning what is
11 on the screen now and that's the new section 990. Just for the
12 record, I'm wondering if we -- if an explanation could be given
13 of how this originated and where the language came from that is
14 on our screen right now.

15 CHAIRMAN PICKETT: (Indiscernible - simultaneous
16 speech).....

17 MR. GAZAWAY: This is Judge Gazaway.....

18 CHAIRMAN PICKETT: Thanks.

19 MR. GAZAWAY: I was going to speak up. So you have
20 some waiver clauses in your regulations, but there was no
21 standard for a waiver. So what the Department of Law did was
22 added a standard that, at first, was based on the standard for
23 waiver 3AAC 48.805 and that language had no -- the fact that --
24 for the purposes of waiver under this chapter, a good cause
25 shown or good cause determined on the Commission's own motion

1 must be based on a fine (indiscernible - mumbled) by the
2 Commission that no one, no legitimate public interest will be
3 served by enforcing the requirement to be waived.

4 That was what was previously under subsection (a)(1).
5 During conversations with laws of representative and with
6 Commissioner Scott and staff, there was a desire to move away
7 from that language of the no legitimate publications will be
8 served language, and find some alternatives. We submitted
9 those to the Department of Law to make sure that they were all
10 viable and they actually liked this alternative (indiscernible)
11 screen, best of them all, so they changed the language to
12 waiver of the requirement will not conflict with the provisions
13 of AS 42.05.760 through AS 42.05.790 and is consistent with the
14 public interest. That's that clause.

15 The following clause in (2) is basically drew out of
16 our statutes for modifications, suspension over certificate and
17 that was the language that Claire referred to earlier. I
18 forget the number, I think it was 240(e) where we had
19 references the statute and he -- and Mr. Weaver from law made
20 the reference more explicit and actually referred to these
21 clauses and we add those in this waiver of provision as well.

22 Any further questions?

23 COMMISSIONER WILSON: So as we look at the screen,
24 (a)(2) is original language by the Department of Law?

25 MR. GAZAWAY: Correct.

1 COMMISSIONER WILSON: As it came to us, although (a) (1)
2 did not come to us originally this way, this is the way it came
3 back from the Department of Law after discussion, is that
4 correct understanding?

5 MR. GAZAWAY: Correct.

6 COMMISSIONER WILSON: I have no further questions.

7 CHAIRMAN PICKETT: Commissioner Sullivan, do you have
8 any comments or questions?

9 COMMISSIONER SULLIVAN: No, other than to appreciate
10 the Department of Law's review and the staff's coordination
11 with them. I think the language on the screen in the context
12 that was just explained makes sense. Thank you.

13 CHAIRMAN PICKETT: Commissioner Kurber?

14 COMMISSIONER KURBER: My only question is, given
15 previous waiver language in the original document, does this
16 comport with that and essentially make it simpler by taking
17 maybe a couple sections of that waiver language and placing it
18 into one?

19 MR. GAZAWAY: Could you repeat the last part of that
20 question, please? This is Judge Gazaway.

21 COMMISSIONER KURBER: Sure. Does this essentially take
22 a couple of places where we had waiver language out and put it
23 into one sort of overarching lump?

24 MR. GAZAWAY: No, it does not. What it does is there
25 was some places where -- you said a requirement could be

1 waived, but there was no standard of review on the waiver
2 request. In other words, what would be to grant the waiver
3 request, so that's what the Department of Law added.

4 COMMISSIONER KURBER: Thanks, that's all I have and I
5 think the language is pretty clear and a good addition. Thank
6 you.

7 COMMISSIONER WILSON: So just to.....

8 CHAIRMAN PICKETT: Commissioner Scott, did you have
9 any.....

10 COMMISSIONER WILSON: (Indiscernible - simultaneous
11 speech).....

12 CHAIRMAN PICKETT: Go ahead.

13 COMMISSIONER WILSON: Just to clarify, Judge Gazaway,
14 this is -- this shows how we find good cause rather than the
15 waiver itself. This is how we -- what we need to do to show
16 good cause to.....

17 MR. GAZAWAY: Correct, this is (indiscernible -
18 simultaneous speech).....

19 COMMISSIONER WILSON:determine the cause. Sorry.

20 MR. GAZAWAY: Correct, this is the finding the
21 Commission's required to make to determine that good cause is
22 justified.

23 COMMISSIONER WILSON: Or what someone applying to the
24 Commission for a waiver would have to show in their filing.

25 MR. GAZAWAY: Correct.

1 COMMISSIONER WILSON: Thank you.

2 CHAIRMAN PICKETT: Commissioner Scott, did you have any
3 additional comments or questions? I like the 990 language that
4 was added.

5 COMMISSIONER SCOTT: I don't other than just to explain
6 to the public that when we asked the Department of Law whether
7 any re-noticing would be required associated with this new
8 provision, the answer was emphatically no, that there was no
9 need, that this was fully within the context of the original
10 notice and that we were -- we could non-problematically adopt
11 the Department of Law re-keyed version to.

12 CHAIRMAN PICKETT: So at this point, Commissioner
13 Scott, is there anything else that needs to be discussed with
14 version two that I believe you're probably going to make a
15 motion on?

16 COMMISSIONER SCOTT: I am about to make a motion, so I
17 have nothing further to discuss at this time. Mr. Chairman, I
18 move that we adopt regulations concerning electric reliability
19 organizations and specifically, I move that re-adopt Department
20 of Law's rewrite of our earlier adopted regulations contained
21 in our packet this morning and entitled Re-Key Version Two.

22 CHAIRMAN PICKETT: Is there a second to Commissioner
23 Scott's motion?

24 COMMISSIONER WILSON: I'll second it.

25 COMMISSIONER SULLIVAN: This is Commissioner Sullivan,

1 I'll.....

2 COMMISSIONER WILSON: Go ahead, Commissioner Sullivan.

3 CHAIRMAN PICKETT: Okay, Commissioner Sullivan. Is
4 there further discussion on the motion before the Commission
5 this morning? Hearing none, we will need to do a roll call
6 vote. Commissioner Wilson?

7 COMMISSIONER WILSON: Aye.

8 CHAIRMAN PICKETT: Commissioner Sullivan?

9 COMMISSIONER SULLIVAN: Aye.

10 CHAIRMAN PICKETT: Commissioner Kurber?

11 COMMISSIONER KURBER: Aye.

12 CHAIRMAN PICKETT: Commissioner Scott?

13 COMMISSIONER SCOTT: Aye.

14 CHAIRMAN PICKETT: And I vote aye also, that makes it
15 unanimous. Commissioner Scott, is there anything else on this
16 agenda item number two this morning?

17 COMMISSIONER SCOTT: Yes, there is, Mr. Chairman. I
18 have a couple of small matters. First, Mr. Chairman, I move
19 that we provide notice under AS 42.05.760 to the load serving
20 entities within the interconnected bulk electric system that is
21 commonly known as the Railbelt, that they're subject to the
22 requirements of that section of statute is clarified and
23 further delineated by the regulations that we adopt here today.

24 Once notices, that will begin the 90-day clock by
25 which an application must be received under the provisions of

1 AS 42.05.760 (e).

2 CHAIRMAN PICKETT: Is there a second to Commissioner
3 Scott's motion?

4 COMMISSIONER SULLIVAN: It's Commissioner Sullivan,
5 I'll second.

6 CHAIRMAN PICKETT: Further discussion on the motion
7 before us? Hearing none, we will proceed to a roll call vote.
8 Commissioner Wilson?

9 COMMISSIONER WILSON: Aye.

10 CHAIRMAN PICKETT: Commissioner Kurber?

11 COMMISSIONER KURBER: Aye.

12 CHAIRMAN PICKETT: Commissioner Sullivan?

13 COMMISSIONER SULLIVAN: Aye.

14 CHAIRMAN PICKETT: Commissioner Scott?

15 COMMISSIONER SCOTT: Aye.

16 CHAIRMAN PICKETT: And I vote aye also, that makes it
17 unanimous. Back to you, Commissioner Scott.

18 COMMISSIONER SCOTT: Thank you very much, Mr. Chairman.
19 You may recall at a Public Meeting some weeks ago, we had a
20 request that we -- once we had final regulations adopted, that
21 we conduct a workshop for all members of the interested public
22 to engage in discussion of the requirements for filing an
23 application to become an electric reliability organization.

24 Now that we have indeed adopted those final
25 regulations, I move that we schedule for January 10th a

1 workshop for all members of the interested public to engage in
2 that discussion. Staff have checked and rechecked the calendar
3 and that day is indeed open and available for that purpose.

4 CHAIRMAN PICKETT: And is there a time you're proposing
5 to start it on the 10th?

6 COMMISSIONER SCOTT: I would propose that we begin at
7 9:00 o'clock.

8 CHAIRMAN PICKETT: Very good. Is there a motion to
9 Commissioner Scott's -- is there a second to Commissioner
10 Scott's motion to have a Technical Workshop on January 10th,
11 2022, at 9:00 o'clock a.m. on this matter?

12 COMMISSIONER SULLIVAN: Commissioner Sullivan, I'll
13 second the motion.

14 CHAIRMAN PICKETT: Further discussion on the motion?
15 Hearing none, we'll move on to the roll call vote.
16 Commissioner Wilson?

17 COMMISSIONER WILSON: Aye.

18 CHAIRMAN PICKETT: Commissioner Kurber?

19 COMMISSIONER KURBER: Aye.

20 CHAIRMAN PICKETT: Commissioner Sullivan?

21 COMMISSIONER SULLIVAN: Aye.

22 CHAIRMAN PICKETT: Commissioner Scott?

23 COMMISSIONER SCOTT: Aye.

24 CHAIRMAN PICKETT: And I vote aye also, that makes it
25 unanimous. Is there anything else on agenda item number two,

1 Commissioner Scott?

2 COMMISSIONER SCOTT: Yes, Mr. Chairman. I'd just like
3 to pause and remark, it's been a long journey and that began
4 under your direction at the legislature's request back in 2014
5 and I think we should all feel very pleased to be finally
6 moving out of this next gate and towards formation of an ERO)
7 for the Railbelt.

8 I would like to thank all of the members of the public
9 who spent untold hours providing comments and feedback and
10 suggestions for these regulations. I would especially like to
11 thank staff for the heroic amount of effort that they have put
12 into this. It was an extremely difficult project, and finally,
13 I would like to thank the other members of their panel for
14 their hard work. So that's all I've got, Mr. Chairman, thank
15 you.

16 CHAIRMAN PICKETT: Thank you, Commissioner Scott, for
17 all of your hard work and I'm sure you expressed the sentiments
18 shared by all of the members of the Commission.

19 With nothing further under agenda item number two, I
20 will close it out. Agenda item number three is Other Business.
21 Is there any other business that any other Commissioners have?
22 I have none. Hearing no other business, I will close agenda
23 item number three.

24 Agenda item number four is Executive Session as
25 required. The Attorney General has not requested an Executive

1 Session for this Public Meeting on any matter, so I will close
2 agenda item number four.

3 Is there a motion to adjourn this Public Meeting of
4 December 15th, 2021, at approximately 9:31 a.m.?

5 COMMISSIONER SULLIVAN: Commissioner Sullivan, so
6 moved.

7 CHAIRMAN PICKETT: Second?

8 COMMISSIONER KURBER: This is Commissioner Kurber, I
9 second that motion.

10 CHAIRMAN PICKETT: With that roll call, Commissioner
11 Wilson, are you okay adjourning this meeting now?

12 COMMISSIONER WILSON: I am. I vote aye.

13 CHAIRMAN PICKETT: Commissioner Scott?

14 COMMISSIONER SCOTT: Aye.

15 CHAIRMAN PICKETT: Commissioner Sullivan?

16 COMMISSIONER SULLIVAN: Aye.

17 CHAIRMAN PICKETT: Commissioner Kurber?

18 COMMISSIONER KURBER: Aye.

19 CHAIRMAN PICKETT: And I vote aye also. I'd like to
20 thank you all for participating this morning. You all have a
21 Merry Christmas and a productive 2022 and we'll look forward to
22 seeing you on January, the 10th, 2022, at 9:00 o'clock a.m.
23 Thank you very much.

24 (Off record)

25 (This proceeding was concluded at 9:31 O'clock AM)

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I, Sonya Hewes, Transcriber with Accu-Type Depositions,
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me to the best of my knowledge and ability.

12-15-21
Date

Sonya Hewes
Transcriber
Accu-Type Depositions

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