

Railbelt Reliability Council Implementation Committee – Meeting

March 3, 2022 (Morning Meeting)

FINAL Minutes

1) Roll-call

The meeting was held via Zoom, was called to order at 8:00 am, and was chaired by JE.

Primary		Alternate		Organization
Brian Hickey (BH)	n	Jeff Warner (JWR)	Y	Chugach Electric Association
Frank Perkins (FP)	Y	John Burns (JB)	n	Golden Valley Electric Association
Dave Thomas (DT)	Y1	Rick Baldwin (RB)	Y	Homer Electric Association
Julie Estey (JE)	Y	Ed Jenkin (EJ)	n	Matanuska Electric Association
Lou Florence (LF)	Y	Shayne Coiley (SC)	n	Doyon Utilities
Dave Burlingame (DB)	Y	Rob Montgomery (RM)	n	City of Seward
Kirk Warren (KW)	n	David Lockard (DL)	Y2	Alaska Energy Authority
Suzanne Settle (SS)	n	Sam Dennis (SD)	Y	Cook Inlet Regional Inc.
Joel Groves (JG)	Y3	Mike Craft (MC)	Y4	Alaska Environmental Power, LLC
Veri di Suvero (VDS)	Y5	Alyssa Sappenfield (ASF)	n	Alaska Public Interest Research Group
Chris Rose (CR)	n	Greg Stiegel (GS)	Y	Renewable Energy Alaska Project (REAP)
Paul Morrison (PM)	Y	Dustin Madden (DM)	n	Large Consumer
Hank Koegel (HK)	Y	David Newman (DN)	n	Unaffiliated seat
<i>Jeff Waller (JWL)</i>	Y	<i>James “Jay” Layne (JL)</i>	Y	<i>Regulatory Affairs and Public Advocacy</i>
<i>Bob Pickett (BP)</i>	n	<i>Antony Scott (AS)</i>	n	<i>Regulatory Commission of Alaska</i>

Y: Attending n: Not attending v: seat is vacant

Y1: DT left from 10:00 to 10:10 AM.

Y4: MC joined at 8:18 AM.

Y2: DL joined at 8:38 AM

Y5: VDS left at 10:00 AM.

Y3: JG joined at 8:59 AM.

IC Consultant	Y/n	Attendance Notes
Tom Lovas, Energy and Resource Economics (TL)	n	
Dana Zentz, Fish Bay Consulting (DZ)	n	
David Hilt, Grid Reliability (DH)	n	
Steve Mahoney, Manley & Brautigam (SM)	Y	
Elena Romerdahl, Perkins Coie (ER)	Y	
Bayunt Ollek, Sapere (BO)	Y	
Sebastian Orillac, Sapere (SO)	Y	
Lori-Jo Oswald, Wordsworth (LO)	n	
Rena Miller (RMR)	Y	

11 of 13 voting members are initially present, one ex-officio member is initially present.

2) Approval of IC Agenda

MOTION to approve today’s agenda, 1VDS, 2FP.

PASSED with no objections. [11-0-2].

3) BySub – Bylaws

JE introduced the bylaws. She advised motion from previous meeting to approve these is still open.

PM asked about the status of his previous motion to amend section 2.1.2.3 that was tabled last session? JE said she thought that this motion had failed. BO recalled from previous minutes that this amendment was in fact tabled and can be brought off the table at the will of the group.

MOTION to BRING AMENDMENT OFF THE TABLE 1PM, 2VDS.

AMENDMENT REMOVED FROM TABLE with no objection.

MOTION to AMEND bylaws to amend first paragraph under 2.1.2.3. to insert "If the appointing entity for Seats A through F". *[Background: the bylaws originally allow that if a director's appointing entity is dissolved, they must resign as well. This amendment allows for directors appointed to a stakeholder class by a singular entity to stay throughout their tenure.]*

PM explained that the intent of this amendment is to avoid a situation where a director may have their position put at risk and may be forced to resign.

LF stated that he appreciates the written amendments that were attached to the agenda packet. Distributing in advance of the meeting allows time for consideration of the implications of the motion.

SM pointed out that this clause applies to seats H and I. These seats are appointed by groups of entities rather than a single entity. If those entities were to cease to exist, what would happen to the directors who represent them? Reality is that there are other seats that are appointed by entities, not just in A-F. The initial concept was that if the group itself ceases to exist what happens to the director's seat?

[MC joined at 8:18 AM, 12 of 13 voting members present.]

JE gave example, if MEA ceases to exist it wouldn't really make sense for their director to stick around. However, for a director appointed by a group of entities, if one member of the group were to dissolve then the elected director may still be a good fit to represent the group. Wouldn't want to require their resignation in this instance.

SM concurred. In the case where a director's appointing entity were to cease to exist, there may be a director who could want to stay if their term wasn't over. This would be a problem for a new group who would certainly want to seat their own director and should apply to all seats. Bylaws would have to be changed and edited then there would be 14 directors and 2 of those directors would be supporting the same class. It gets very messy.

RMR agreed, the RCA would likely take issue with a director who is no longer associated with a stakeholder group.

FP stated he is leaning towards SM's suggestion. This language should be for all seats.

SD also agreed. BySub talked about this situation. Essentially, if a director can still represent interests of their stakeholder class, the Board can make that determination and they don't need to accept that director's resignation.

JE asked if SD supports this amendment. SD stated it's not a necessary amendment. Current language accounts for all scenarios.

FP objected.

AMENDMENT FAILS by roll call vote [6-5-2] with CEA, Seward, CIRI, GVEA, and HEA voting against and AEP abstaining.

RB proposed a different motion to address the same issue.

MOTION to AMEND bylaws to strike highlighted language and replace with "If a director ceases to be drawn from, and can no longer represent the interests of a designated stakeholder class, that director is subject to removal by the board." 1PM, 2LF.

[Highlighted language reads: If an appointing entity ceases to exist or is merged with another entity the director appointed by that entity will be deemed to have resigned.]

JE clarified that the motion would replace the highlighted section in the bylaws as displayed on screen share.

HK gave his approval on the amendment, stated it made sense.

FP asked SM or SD to advise whether this amendment conflicts with any other language in the bylaws.

SM stated he is doing that right now, will take him a few minutes.

RB opined there isn't any conflict in his mind.

HK agreed this is a brilliant amendment. This amendment clarifies that a director's priority is to the RRC and not the employer. This amendment effectively states that as long as you can represent those interests you can stay, regardless of whether or not your appointing entity dissolves.

SM advised this amendment does not conflict with other language in the bylaws and agreed with RB's opinion that this amendment is a good addition.

SD agreed, no conflict in bylaws from his perspective.

FP asked if there was still issue of a new organization wanting their own seats?

SM said it would conform, the director would represent those interests. New group would just become new appointing entity. This also allows the board to make the decision.

[DL joined at 8:38 AM, 13 of 13 voting members present.]

VDS asked for clarification on this amendment. SM clarified the director would be removed if they no longer represent the stakeholder interests.

AMENDED with no objections [13-0-0].

PM added he has a second motion to clarify language.

MOTION to AMEND bylaws to amend third paragraph under 3.1.2.3. Replace “QRs may not be paid a meeting fee from any source other than the director’s budgeted allocation” with “The QRs meeting fee shall be paid from the director’s allocation”. 1PM, 2SD

[Intent was to allow QR’s employer to receive compensation.]

SD stated that PM’s motion does bring clarity, he has no objection.

AMENDED with no objections [13-0-0].

MOTION to BRING JWR’s AMENDMENT from 3/2 OFF THE TABLE 1DB, 2FP.

[The motion was tabled on 2/28/2022, and was to amend bylaws at 3.1.2.3, TAC [page 25]: Replace 3rd paragraph to read “Directors may serve on a TAC working group. A director serving on a WG shall do so as a QR for that director’s seat”. Originally moved by JWR and 2nded by FP.]

JWR recalled that ER was supposed to create a legal opinion to inform on this amendment. JE reminded him that first the motion needs to come off the table and asked if there were any objections?

VDS asked for confirmation that ER did have a legal analysis. ER stated she does.

AMENDMENT REMOVED FROM TABLE with no objection.

MOTION to AMEND bylaws to strike 2nd paragraph under 3.1.2.3 and replace with “Directors may serve on a TAC WG. A Director serving on the WG will do so as the QR for that Director’s seat”. 1JWR, 2FP.

ER gave her legal position on this amendment. Short answer is that there is no issue. Regulations state that a director must have the ability to appoint a QR on WG. That provision is satisfied in plain text of the bylaws. There is an issue if a director, due to financial or other constraints, is unable to hire a QR. This may not satisfy the regs under safe harbor.

JE asked if there is risk in front of the RCA? ER clarified that if the issue is raised at the RCA then there may be but in her opinion the language in bylaws satisfies the regs.

JE asked if she had any other opinion? ER explained there are some other organizations that she has worked with that have directors on working groups. Allowing this to happen may not be a major issue based on her experience.

LF stated that he does not want directors on WGs but he understands the objection. He would allow directors on the WG in order to move this forward and if it doesn’t work well, would seek to change it later.

HK stated that he is absolutely opposed to this. He suggested a unanimous vote of the Board to allow directors on WGs, concerned about the undue influence a director may have.

FP opined he is for this and made three points. 1 TAC committee should eliminate undue burden by design, 2 board will make decisions based on TAC recommendation, 3 he thinks it unlikely there will be 13 directors on a WG. Some directors you want on a WG since they have all the technical ability.

JWR continued to voice his support of the motion. His direct concern is that language provided could stifle the ability of a director to perform their duties. RRC should be transparent and allow director to speak their mind.

VDS recalled LF's point. This issue is a sticking point for the group. They advocated that directors who work on a WG should be affirmatively voted onto those WGs. But every 2 or 3 years there should be a check in to see if there is undue influence being exerted.

DB understood VDS's point that this language would enter the bylaws and then be revised in 2-3 years to check for any issues. If there are issue it would be changed. He reiterated that SES is opposed to the existing language. Pointed out that no hired QR would truly understand SES's needs and knowledge.

SD made the point that the current language in bylaws is already a compromise developed in BySub. He also replied to FP's point, he is more concerned about their only being 1 or 2 directors on WG rather than all 13. In the former case those two directors would have undue influence.

RB articulated opposite argument of SD. In his opinion directors have less power than ordinary participants.

[JG joined at 8:59 AM, 13 of 13 voting members present.]

PM stated he is opposed to this motion. Also that if you have a small team you can choose the one with the most technical expertise to be a QR and not the director.

FP firmly agreed with PM and SD. However, undue influence exists everywhere and should be taken care of in code of conduct. There are ways around it. FP is still for the amendment.

JE spoke in favor of the amendment. She believes the right controls are in place to allow this amendment.

HK said he doesn't think that people understand the issue. The main issue is that directors exert undue influence just by being in the room. It's unintentional influence.

MC agreed with HK and stated that he is against the motion.

HK, PM objected.

JG requested motion be restated, BO restated it.

AMENDMENT FAILS [7-6-0], with CIRI, AEP, AKPIRG, REAP, Independent, and ANTHC voting against.

VDS asked if influence was addressed in the bylaws? SD confirmed it is. VDS said they would go investigate themselves.

DB raised question at 3.1.2.3, asked what this language means? Is the annual QR budget equal to all directors? What does it mean to say QRs cannot be compensated by other means? What happens when an SME is acting as QR? Do they deduct the meeting fee from the director budget or otherwise?

SD explained intent of language. BySub didn't address SME funding.

DB so SMEs are unclear? SD concurred, didn't go to that level of detail.

DB continued, if SME is paid by a stakeholder, is that different? SD didn't know.

VDS suggested that if you're a SME, paid as SME, then you should not be paid from the director's QR budget. SD agreed. This has the added benefit of encouraging Directors to use SMEs as their QRs to preserve their annual budget and therefore keeping costs down.

JE asked SD how to do that, SD suggested insert a sentence "if a QR is an already retained SME, then they are paid by that prior arrangement and not from the Director's budget" or similar.

HK asked what DB's interest is here?

DB raised two points, 1, how they're paid generally, and 2, if they're paid by a third party.

HK asked DB to explain where he is coming from?

DB replied if all director's budgets are equal, not all directors have the same interest. Willing to bet every utility will have a rep on the standards. Directors who are not RE classes may not care as much about those. Probably won't have 1:1 non-RE reps at standards. So budgets should reflect that.

LF opined that DB raised interesting point. He is thinking differently about this. Agree each LSE has interest in the standards, will have SME in the WGs. Don't think those SMEs are QRs though. Directors don't represent entities, represent stakeholder class. Utility can separately provide a technical representative.

JG agreed that DB raised an interesting point. If Director depletes their budget and QRs can only be paid through that budget, then this process may violate regulations, as Directors are entitled to appoint QRs to committees.

HK prefaced that he doesn't completely understand regs, but he argued, to JGs point, that Directors can lose ability to have QRs. Directors don't lose ability to have QRs, just to pay them.

LF replied to DB comment, as Directors, per bylaws, we do not represent entities, but stakeholder classes. So my QR represents my stakeholder class and not DU per se. Subtle but important point. If DU wants a technical representative, that comes from DU and not from me as a director.

FP asked, so we can only have a QR and an SME and that's it, correct?

SD said JG made a good point that the whole QR budget concept could run afoul of regs. Fix would be to remove allocated budget and allow directors to appoint QRs. Downside would be higher expense.

DB commented he thinks he agrees with SD.

JG commented that HK is correct, if a director depleted their budget, since they could conceivably get QRs to keep going to WGs for free, then this may not violate that provision of regulations. It could still raise concerns about undue attenuation or amplification of interests, which is a different regulation. Depends on particulars, maybe a director mismanaged their budget, maybe their budget was set too low. Also, possibility here that the Board could amend a director's budget mid-year. Up to the board. He continued, confirming that FP is correct, Director is entitled to a QR, and maybe a dedicated SME in the WG. Additional representation would come in as members of the public, as approved by the Manager. LSE technical experts could come in by this route in any fashion as allowed by the Manager.

PM commented he thought the purpose of TAC is to quell representation of stakeholders. Point was to address that through the manager.

DB raised different subject. Decision to pay the QRs, if you can't afford a QR what happens?

SD replied he thinks it is the level playing field clause. If you don't pay your QRs then the entities with more resources can populate the WGs, the little fish can't, and you are back to undue attenuation and amplification.

RMR advised that regs state only Directors can appoint QRs.

DB commented he doesn't have a problem with entities' QRs being paid. He has a problem with paying for private-sector firms. Right now there is only have one IPP of any substance, but in the future IPPs could be more financially robust. Think there needs to be a means test.

MOTION to AMEND bylaws at Article 8, 1st paragraph, 2nd line, to add "... ad-hoc...". 1PM, 2LF.

SM commented this is a good change. Likely it would happen at an ad-hoc meeting.

RB commented to respectfully disagree. If you add ad-hoc, could have meeting where subject matter has not been noticed and shortened time frame, and not all directors may be prepared for the amendment. Concerned about that. Should have ample opportunity for notice and consideration for a bylaws change.

VDS commented that the policies call for ad-hoc meetings to be noticed the same way as regular meetings. RB admitted that he hasn't checked if there is a notice requirements in the bylaws.

SM directed members to article 8, can only be adopted by supermajority, with 30 days' notice, at certain meetings. But agree with RB and the notice is baked into that clause directly.

DT argued you can't change the agenda at a special meeting to prevent gamesmanship. If same applied to ad-hoc then he's OK with this.

SM confirmed this is the case. Notice has to include the particulars of the bylaws amendment.

AMENDMENT PASSES with no objections [13-0-0]

MOTION to AMEND bylaws at 2.1.2.1 [page 7] to delete the last sentence of the paragraph: "The Board may establish qualification for persons to serve as voting directors." 1JG, 2SD.

JG spoke to the motion, this sentence doesn't add anything. Bylaws already contain director qualifications at 2.1.2.6, so apparent that the Board can establish them. Superfluous language, get rid of it.

SM agreed that JG is correct, but this sentence allows the Board to put qualifications in rules instead of bylaws.

JG agreed, but rules and policies have the same approval thresholds as bylaws so why not keep qualifications all in one place?

SD flagged there may be director qualifications in governance charter.

[RMR reviewed and advised in chat they do not].

JE commented that this does allow the board to add qualifications without a change to the bylaws.

DB suggested may want to add directors or QRs here.

SD doesn't think this amendment is a big change, but he is reluctant to support this amendment.

FP objected.

AMENDMENT FAILS by roll call vote [2-9-2] with AEP and DU in favor, AKPIRG and Independent abstaining.

MOTION to AMEND bylaws at 2.1.2.5 [page 7] to replace the 5th sentence in its entirety: "Should a director resign or be removed... to serve out the remaining term." With the following: "If a director's seat becomes vacant, the alternate for that seat shall assume the role and responsibility of director for that seat in accordance with section 2.1.2.8." 1JG, 2GS.

SM spoke in favor of the amendment, both sections are necessary and the proposed amendment ties them together better than the current language.

AMENDMENT PASSES with no objections [13-0-0].

MOTION to AMEND bylaws at 3.1.2.3, to add "...based on need, and the recommendation of the governance committee..." 1DB, 2HK.

DB spoke to the motion - LSEs shouldn't have to pay for seats for entities richer than they are.

LF commented this is an elegant solution and support it.

HK replied that this is helpful, however he is not sure wording is elegant. Does help control double dipping.

DB invited any other elegance.

DT commented that DB is correct, right now the IPP pool is small. That will not necessarily endure – could have Enxco/EDF or someone similar moving into our domain. Paying them with ratepayer funds would be inappropriate.

VDS wished SS were here to help think through this. They support this amendment.

AMENDMENT PASSES with no objections [13-0-0].

RMR opined that if the assumption is that the QR might be paid by a Director's budget and not the entity's budget, may want to consider additional amendments.

MOTION to AMEND bylaws at 3.1.2.3 to replace "directors" with "a director other than a director appointed by the stakeholder class represented by seat F" 1RB, 2JWR.

[original motion stated seat 'E', intent is the SES seat which is 'F', clarified in debate]

HK said he is opposed to this. Lots of directors have limited budgets, so SES is not unique. Single director carveout is not appropriate to have in bylaws.

VDS appreciated RB trying to find a compromise. They agree with HK. If this prevents a fight at the RCA then it may be worth considering. Interested to hear from prospectively intervening LSEs on this.

JE asked DB for comment. DB observed this works for SES. SES will not support existing language. This new language may be supported.

VDS asked if JWR can speak to this, as CEA has indicated intent to petition the RCA. JWR replied he can't speak to CEA's position on this.

SD replied he opposes this for the same reasons as before, but additionally, this creates inequality between directors, and that may raise issues at the RCA.

VDS would like to support amendment that would eliminate petitions, if this doesn't then AKPIRG will vote no on merits of language.

HK and others objected.

AMENDMENT FAILS by roll call vote [7-6-0] with CIRI, AEP, AKPIRG, REAP, Independent and ANTHC voting against.

MOTION to AMEND bylaws at Article 8 to read at end of 2nd paragraph "This will include a review of independence of the TAC and any potential undue influence of Board members serving on working groups." 1VDS, 2HK.

HK commented that this is a good proposal.

MOTION to AMEND PROPOSED AMENDMENT to add, after "...potential undue influence...", "...or lack of influence..." 1DB, 2HK.

DB commented that SES may not be on WGs. So not undue influence, but lack of influence as well.

AMENDMENT AMENDED with no objections [13-0-0].

AMENDMENT PASSED with no objections [13-0-0].

MOTION TO ADJOURN 1LF, 2VDS.

DT and others objected.

MOTION TO ADJOURN FAILS by roll call vote [6-6-1] with CEA, GVEA, MEA, AEA, AEP and ANTHC voting against and Independent abstaining.

FP commented we need to plan out next steps with the bylaws. Can't just walk away from this.

[DT and VDS left at 10:00 AM, 12 of 13 voting members present.]

BO and JE navigated schedule options, suggested 3 PM today.

DB called the question on the open motion to approve the bylaws.

[DT rejoined at 10:10 AM, 12 of 13 members present.]

DT and SM advised on process. Motion is not debatable, 2/3rd approval to pass.

FP and others objected.

MOTION TO CALL THE QUESTION FAILED by roll call vote [6-6-1] with HEA, DU, AEA, AEP, REAP, and Independent voting against and AKPIRG absent.

JE set next meeting time to complete bylaws discussion for 3 PM today (Wednesday 3/3).

JG advised that he will not be available to attend or facilitate this afternoon, but fine to have his motions advanced by MC and have body do with them what it will. JE advised she will find a facilitator before 3.

MOTION TO ADJOURN 1FP, 2HK.

ADJOURNED AT 10:14 AM.

DEFINITION OF ABBREVIATIONS AND ACRONYMS

All committee members and consultants are identified by their initials, as defined at the roll call table.

1JE, 2JG: Shorthand designating which committee members proposed and seconded motions.

[~]: Secretary's commentary provided for clarity / context as appropriate.

Vote tally shorthand is Y-N-A, yea – nay – absent or abstain.

AAA: American Arbitration Association

AOI: articles of incorporation

AppCom:	ERO application subcommittee
BudCom:	budget subcommittee
BySub:	bylaws subcommittee
CEA:	Chugach Electric Association, Inc.
CEO:	chief executive officer
CIP:	critical infrastructure protection
CGC:	corporate governance committee
CME:	compliance / monitoring / enforcement (of reliability standards)
COA:	chart of accounts
CPA:	certified public accountant
CPCN:	certificate of public convenience and necessity
DaveCom:	See IRPcom
DOL:	Department of Law
DU:	Doyon Utilities
ERO:	Electric Reliability Organization
ExCom:	executive committee
FAC:	finance and audit committee
IC:	Implementation Committee
IPP:	independent power producer
IRP:	integrated resource plan
IRPcom:	IRP process subcommittee
LSE:	load-serving entity
MEA:	Matanuska Electric Association, Inc.
NDA:	non-disclosure agreement
NTE:	not to exceed
PC:	Perkins Coie Law Firm
PAC:	public affairs committee
PM:	project management
PMP:	project management professional
Precious:	(1) A spreadsheet listing clauses in the implementing regulations for SB 123's ERO provisions, identifying associated ERO application deliverables, and assigning deliverable preparation responsibility to IC subcommittees. (2) A fancy gold ring.
RAPA:	Regulatory Affairs and Public Advocacy

RCA:	Regulatory Commission of Alaska
RCC:	regulatory cost charge
RE:	registered entity
RRC:	Railbelt Reliability Council
SB:	Senate bill
SES:	Seward Electric System
SOW:	scope of work
SRF:	simplified rate filing
StanCom:	standards subcommittee
TA:	tentatively approve, tentative approval
TAC:	technical advisory committee
TAQ:	technical advisory quango
TAT:	technical advisory team
TarCom:	tariff subcommittee
TIER:	times interest earned ratio
UOO:	user owner operator
USOA:	uniform system of accounts
WG:	working group