

BRADLEY LAKE PROJECT MANAGEMENT COMMITTEE

RESOLUTION NO. 14-10

FINAL DISPOSITION OF THE DISPUTE RESOLUTION COMMITTEE

INTRODUCTION:

The Bradley Lake Project Management Committee (BPMC) appointed a Dispute Resolution Committee at its January 15, 2014, meeting to address matters raised by Resolution No. 2013-02 and the various concerns regarding the transmission of energy generated by the Bradley Lake Project that have been raised by Homer Electric Association, Inc. (HEA) and the Designated Utilities.¹ The BPMC determined that the disputes arise under the Agreement for the Wheeling of Electric Power and for Related Services (Services Agreement) and/or the Amendment to Agreement for Sale of Transmission Capability (Transmission Sharing Agreement). Counsel for the BPMC advised that the BPMC did have authority to use the BPMC procedures for dispute resolution to resolve the matters arising under both the Services Agreement and the Transmission Sharing Agreement. The BPMC determined that both the Services Agreement and the Transmission Sharing Agreement provide the BPMC with the authority to use its procedures for dispute resolution.² This Resolution 14-10 of the Dispute Resolution Committee sets forth the findings, conclusions, and recommendations of the Dispute Resolution Committee.

DISPUTE RESOLUTION COMMITTEE PROCESS AND ACTIVITIES:

At the meeting held on January 15, 2014, the BPMC agreed unanimously to adopt an initial process for examining claims and reaching resolution under which all parties would meet and attempt to resolve the disputes through a negotiated effort up to and including mediation.³ The BPMC appointed a Dispute Resolution Committee to conduct that settlement process. The Dispute Resolution Committee scheduled and held five additional meetings at the offices of the Alaska Energy Authority (AEA) in Anchorage to address the issues identified in BPMC Resolution No. 2103-02.⁴ In addition to discussions concerning the issues, position papers were requested by the Dispute Resolution Committee and subsequently presented by HEA and by the Designated Utilities. AEA participated in all of the scheduled meetings. All of these parties also had counsel present in the scheduled meetings. Seward Electric participated in the Dispute Resolution Committee without counsel. A BPMC “Members-only” meeting was also hosted by ML&P on February 20, 2014. Two members of the Dispute Resolution Committee also met numerous times with representatives of HEA prior to and during the time period which the Dispute Resolution Committee was active. Counsel for the BPMC interviewed two of the individuals that participated in the drafting of the various underlying documents that concern the contractual arrangements and accommodations reached regarding the power generated and wheeled from the Bradley Lake Project (the “Bradley Lake Agreements”). Certain matters were referred by the Dispute Resolution Committee to the BPMC Operations and Dispatch Committee (O&D Committee). The O&D Committee made two separate presentations to the Dispute Resolution Committee. The information provided by the O&D Committee in response was discussed and duly considered by the Dispute Resolution Committee and is incorporated into the findings in this Resolution 14-10.

¹ Chugach Electric Association, Inc. (Chugach), Golden Valley Electric Association, Inc. (GVEA), Matanuska Electric Association, Inc. (MEA), and City of Anchorage, Municipal Light & Power (ML&P).

² See Section 10(b) of the Services Agreement and Section 14 of the Transmission sharing agreement.

³ The Members were clear that the process would not waive any rights that a party may have under any agreements or the law.

⁴ The meetings of the Dispute Resolution Committee were held on the following dates: January 24, 2014; January 27, 2014; February 7, 2014; April 11, 2014; and April 17, 2014.

FINDINGS AND CONCLUSIONS:

After consideration of the information that has come before it, the discussions and presentation held by and between the various parties, and a review of the Bradley Lake Agreements, the BPMC Dispute Resolution Committee makes the following findings and conclusions:

1. The Bradley Lake Agreements were negotiated and written to achieve a series of mutual beneficial arrangements which would provide benefits to the Railbelt Utilities and assure the success of the Bradley Lake Project and repayment of the bonds issued by the State to develop the Bradley Lake Project.
2. The Parties that entered into the Services Agreement and the Transmission Sharing Agreement, along with the Alaska Energy Authority (AEA),⁵ constitute the membership of the BPMC.
3. The Bradley Lake Agreements formalize the arrangements by and between the Railbelt Utilities and AEA regarding all aspects of the power generated and transmitted from the Bradley Lake Project.
4. The Services Agreement provides Chugach, as Dispatcher of power generated by the Bradley Lake Project, considerable flexibility to operate and maintain its generation and transmission system and to schedule and use its resources in the manner that Chugach deems necessary or prudent.⁶
5. The legislative history concerning the Bradley Lake Project and the exemption from regulatory oversight granted by the State evidences that all signatories to the Bradley Lake Agreements considered and agreed that there would be benefits flowing to all parties from the contractual arrangements and that all matters associated with the power generated by and transmitted from Bradley Lake Hydroelectric Project would be under the purview of the BPMC and its members.
6. The Services Agreement entered into on December 8, 1987, and the Transmission Sharing Agreement entered into on March 7, 1989, each provide the BPMC with the contractual authority to use the procedures for dispute resolution that were negotiated and adopted by the BPMC to address disputes under the respective agreements.
7. The BPMC unanimously adopted procedures for dispute resolution as part of the BPMC's Bylaws on December 1, 1993.
8. All procedures for dispute resolution to be used by the BPMC must adhere to the negotiated and adopted procedures for dispute resolution set forth in Article 12 of the BPMC Bylaws.
9. The BPMC unanimously agreed to adopt an initial settlement process for examining claims and reaching resolution under which all parties would meet and attempt to resolve the disputes up to and including mediation.
10. The BPMC appointed the Dispute Resolution Committee to conduct that settlement process.
11. HEA provided the Dispute Resolution Committee with a Statement Regarding Dispute Resolution Procedures which outlined its concerns with the extent of the BPMC's authority and presented HEA's Statement of Disputes. HEA was willing to participate in the dispute resolution process but reserved

⁵ AEA was formerly known as the Alaska Power Authority.

⁶ See, e.g., Section 7(c) of the Services Agreement.

all of its rights “...to have any dispute that may arise in the context of the BPMC dispute process resolved by the appropriate judicial or regulatory authority.”

12. The Designated Utilities stated that both the BPMC and its Dispute Resolution Committee clearly have the requisite authority to address issues at dispute between the parties.
13. Both HEA and the Designated Utilities presented a Position Statement to the Dispute Resolution Committee.⁷
14. HEA identified specific disputes regarding the activities of the Dispatcher of power generated by the Bradley Lake Project and the insufficiency of its compensation for line losses resulting from the flow of the power generated from Bradley Lake Project flowing over HEA’s transmission system.
15. The Designated Utilities consider HEA in violation of the Bradley Lake Project Agreements because HEA has taken unilateral actions to inappropriately gain operational control of the electric facilities used to wheel power generated by the Bradley Lake Project northward which is contrary to the Services Agreement.
16. The Dispute Resolution Committee met both formally and informally in an effort to reach resolution of the disputed issues.
17. The Dispute Resolution Committee has made every reasonable attempt to meet and discuss all relevant issues with HEA, the Designated Utilities, and the other BPMC members.
18. All Members of the BPMC have representatives that actively participate on the O&D Committee.
19. The O&D Committee provided the Dispute Resolution Committee with the technical and operational expertise pertaining to the analyses of the various issues raised by HEA and the Designated Utilities.
20. The O&D Committee issued two written reports responding to specific questions from the Dispute Resolution Committee.⁸
21. The O&D committee has reported to the Dispute Resolution Committee that the O&D Committee has a general consensus on the following issues:
 - a. Dual control with coordination of a transmission segment is technically possible, but not practical because dual load balancing authorities (LBA) would not be balanced.
 - b. Line Losses can be calculated for any transmission line segment without regard to the LBA that controls the line;
 - c. While it is technically possible the O&D Committee considers it operationally impractical to have a LBA established just for Soldotna to Quartz Creek line segment (SQ line);
 - d. While it is technically possible the O&D Committee considers it operationally impractical to establish an LBA for just the SQ line operation and assign it to HEA or Chugach for dispatch purposes;
 - e. HEA has one distribution load connected to the SQ line made up of 3 MW of peak load requirements for the Sterling Substation;

⁷ See Minutes of BPMC Special Meeting dated February 7, 2014.

⁸ The O&D Committee issued a report titled “Bradley Lake O&D Committee Response to BPMC Chairman’s Questions” dated February 27, 2014, and a report titled “Bradley O&D Committee Responses To The BPMC Investigation and Discussion Questions” dated March 21, 2014. See Minutes of the BPMC Special Meeting dated April 11, 2014.

- f. The O&D Committee does not believe the line losses attributable to the line that serves the Sterling Substation load are significant;
 - g. All parties support dynamic scheduling of Bradley Lake Project power;
 - h. Since the beginning of 2014, Chugach is dispatching Bradley Lake Project power in a manner that provides load following and frequency matching of HEA's customer loads;
 - i. There remains a dispute between the parties regarding LBA boundaries;
 - j. All parties developed and agreed upon a PSS/E model which defines the losses for each transmission line segment;
 - k. All parties agreed that the PSS/E model accurately represents the losses for each line segment;
 - l. All Parties agreed that HEA is adequately compensated for line losses by over generation of the Bradley Lake Project; and
 - m. Current operating procedures need to be updated to properly address spill mitigation procedures and ponding needed to accommodate dynamic scheduling.
22. The Services Agreement and the Transmission Sharing Agreement provide for parties to continue to perform their obligations pending resolution of any dispute.⁹
23. The lease between HEA and Chugach of certain transmission facilities has expired since the execution of the Service Agreement and the Transmission Sharing Agreement.
24. HEA has unilaterally changed some of the long standing arrangements for accommodating the flow of power from the Bradley Lake Project.
25. The Dispute Resolution Committee has discussed and considered the issues related to transmission of power generated by the Bradley Lake Project from Bradley Junction to Quartz Creek as raised by both HEA and the Designated Utilities under the Bradley Lake Agreements generally, and more specifically the Services Agreement and the Transmission Sharing Agreement.¹⁰
26. Not all issues in dispute are capable of resolution through the Dispute Resolution Committee's settlement process.
27. A poll of the BPMC members regarding their respective views on whether the mediation efforts on these issues are at an impasse was taken by the Chair of the Dispute Resolution Committee the results of which has caused the Chair of said committee to acknowledge there is an impasse in the mediation efforts.
28. The examination process which the BPMC authorized the Dispute Resolution Committee to execute has run its course and the ability to achieve further resolution through the Dispute Resolution Committee's settlement process is not viable.

WHEREFORE, THE BPMC DISPUTE RESOLUTION COMMITTEE RESOLVES THAT:

BE IT RESOLVED: The BPMC should require all parties to conform and conduct their actions to ensure that power generated by the Bradley Lake Project retains its contractually-agreed-to priority along the designated transmission line segments necessary to deliver that power to all purchasers.

BE IT FURTHER RESOLVED: All parties to the Services Agreement and the Transmission sharing agreement should act to keep the status quo and continue to perform their obligations under the respective

⁹ See Section 12(c) of the Services Agreement and Section 16(c) of the Transmission sharing agreement.

¹⁰ The Dispute Resolution Committee's specific findings regarding the disputed issues are described in Resolution 14-09.

agreements in a manner which they have performed such obligations over the past twenty plus years until all disputes are resolved.

BE IT FURTHER RESOLVED: The BPMC should adopt a resolution effectuating the agreement reached by and between the parties that HEA and Chugach are to be compensated for line losses resulting from Bradley Lake Project power transmission by over generation of the Bradley Lake Project.

BE IT FURTHER RESOLVED: The BPMC should effect a resolution requiring the Bradley participants to resolve the remaining LBA technical issues between HEA and Chugach, the transmission service provider, in accordance with the Operating and Reliability Standards previously adopted by the BPMC.

BE IT FURTHER RESOLVED: The BPMC should, as part of its resolving the outstanding disputes, allow HEA to receive compensation for the costs associated with the transmission of Project power beyond Soldotna Substation. Any such amount should be equitably distributed by and between the Project Participants in accordance with their respective share of participation.

BE IT FURTHER RESOLVED: The BPMC should, as part of its resolving the outstanding disputes, act in a timely manner on any compensation request by HEA and find that any adjustment to compensation paid to HEA is effective with service beginning January 1, 2014.

BE IT FURTHER RESOLVED: Given that the mediation efforts are at an impasse, the Dispute Resolution Committee recommends that the BPMC, as a whole, move forward and:

- A. Declare further settlement efforts of the BPMC authorized Dispute Resolution Committee to resolve the remaining issues of Soldotna to Quartz Creek transmission compensation and the Bradley Lake power delivery point are at impasse and that the dispute Resolution Committee's continued effort to reach a negotiated resolution of these issues is no longer viable; and
- B. Determine whether the BPMC desires to move the dispute resolution process from the Dispute Resolution Committee's settlement process to one of the more formal dispute resolution procedures provided for under Article 12 of the BPMC's Bylaws including either arbitration under Section 12.4 of the BPMC Bylaws, or BPMC consideration and resolution of the disputed issues in accordance with the procedural rules for decision-making responsibilities under the BPMC procedures for dispute resolution referenced in Section 12.2 and accordingly, Section 5.10.2 of the BPMC Bylaws.

Dated at Anchorage, Alaska, this 17th day of April, 2014.


Evan J. Griffith
Dispute Resolution Committee Chairman


Sara Fisher-Goad, Secretary