

## Article 03. POWER COST EQUALIZATION AND RURAL ELECTRIC CAPITALIZATION

### Sec. 42.45.100. Power cost equalization and rural electric capitalization fund.

(a) The power cost equalization and rural electric capitalization fund is established as a separate fund for the purpose of

(1) equalizing power cost per kilowatt-hour statewide at a cost close to or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and Juneau by paying money from the fund to eligible electric utilities in the state; and

(2) making grants to eligible utilities under AS 42.45.180 to improve the performance of the utility.

(b) The fund shall be administered by the authority as a fund distinct from the other funds of the authority. The fund is composed of

(1) money appropriated to provide power cost equalization to eligible electric utilities and to provide grants for utility improvements;

(2) money appropriated from the National Petroleum Reserve - Alaska special revenue fund under AS 37.05.530(g);

(3) money appropriated from the power cost equalization endowment fund (AS 42.45.070) under AS 42.45.085(a);

(4) gifts, bequests, contributions from other sources, and federal money; and

(5) interest earned on the fund balance.

(c) The fund is not a dedicated fund.

### Sec. 42.45.110. Entitlement to power cost equalization.

(a) The costs used to calculate the amount of power cost equalization for all electric utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs, except return on equity, used by the Regulatory Commission of Alaska to determine the revenue requirement for electric utilities subject to rate regulation under AS 42.05. The costs used in determining the power cost equalization per kilowatt-hour shall exclude any other type of assistance that reduces the customer's costs of power on a kilowatt-hour basis and that is provided to the electric utility within 60 days before the commission determines the power cost equalization per kilowatt-hour of the electric utility. In calculating power cost equalization, the commission may not consider validated costs or kilowatt-hour sales associated with a United States Department of Defense facility.

(b) An eligible electric utility is entitled to receive power cost equalization

(1) for sales of power to local community facilities, calculated in the aggregate for each community served by the electric utility, for actual consumption of not more than 70 kilowatt-hours a month for each resident of the community; the number of community residents shall be determined annually by the latest figures of the United States Bureau of the Census or other population data that the Department of Commerce, Community, and Economic Development determines is reliable; and

(2) for actual consumption of not more than 500 kilowatt-hours a month sold to each residential customer.

(c) The amount of power cost equalization provided for each kilowatt-hour under (b) of this section may not exceed 95 percent of the power costs, or the average rate for each eligible kilowatt-hour sold, whichever is less, as determined by the commission. However,

(1) the power costs for which power cost equalization are paid to an electric utility are limited to minimum power costs of more than 12 cents a kilowatt-hour and less than \$1 a kilowatt-hour;

(2) each year, the commission shall adjust the power costs for which power cost equalization may be paid to an electric utility based on the weighted average retail residential rate in Anchorage, Fairbanks, and Juneau; however, the commission may not adjust the power costs under this paragraph to reduce the amount below the lower limit set out in (1) of this subsection; and

(3) the power cost equalization for each kilowatt-hour may be determined for a utility without historical kilowatt-hour sales data by using kilowatt-hours generated.

(d) An electric utility whose customers receive power cost equalization under AS 42.45.100 - 42.45.150 shall set out in its tariff the rates without the power cost equalization and the amount of power cost equalization per kilowatt-hour sold. The rate charged to the customer shall be the difference between the two amounts. Power cost equalization paid under AS 42.45.100 - 42.45.150 shall be used to reduce the cost of all power sold to local community facilities, in the aggregate, to the extent of 70 kilowatt-hours per month per resident of the community, and to reduce the cost of the first 500 kilowatt-hours per residential customer per month.

(e) The power cost equalization program shall be administered by the authority based on a determination by the commission under (a) and (c) of this section of power cost equalization per kilowatt-hour for each eligible electric utility.

(f) The authority may not deny an eligible electric utility power cost equalization because complete cost information is not available. The commission shall assist an eligible electric utility that is exempt from rate regulation under AS 42.05 to provide the cost information the commission considers necessary to comply with AS 42.45.100 - 42.45.150. Only power costs that are supportable may be considered in calculating power cost equalization. Each electric utility is responsible for keeping records that provide the information necessary to comply with AS 42.45.100 - 42.45.150 including records of

monthly kilowatt-hour sales or generation, monthly fuel balances, fuel purchases, and monthly utility fuel consumption.

(g) The commission shall determine the cost of fuel for each eligible electric utility using the procedure for approving fuel cost rate adjustments of electric utilities subject to rate regulation under AS 42.05.

(h) Each electric utility receiving power cost equalization approved by the commission shall

(1) report monthly to the authority within the time and in the form the authority requires; and

(2) use operational equipment designed to meter individual utility customer power consumption and to determine and record the utility's overall fuel consumption.

(i) The authority shall review the report required under (h) of this section. After review and approval of the report, the authority shall, subject to appropriation, pay to each eligible electric utility an amount equal to the power cost equalization per kilowatt-hour determined under (a) and (c) of this section, multiplied by the number of kilowatt-hours eligible for power cost equalization that were sold during the preceding month to all customers of the utility under (b) of this section. Payment shall be made by the authority within 30 days after receipt from the utility of the report required under (h) of this section. If appropriations that have been made for the purpose by July 1 of a fiscal year are insufficient for payment in full, the amount paid to each electric utility shall be reduced on a pro rata basis. In making the pro rata reductions required by this subsection, the authority may not consider any potential supplemental appropriation until the appropriation has been enacted.

#### Sec. 42.45.115. Exclusion from eligibility.

(a) Notwithstanding the definition of "eligible electric utility" in AS 42.45.150, an electric utility whose primary source of power for sale to customers is one or more of the power projects that were part of the former initial project may not be considered an eligible electric utility.

(b) In this section, "former initial project" includes the Tyee Lake, Swan Lake, Solomon Gulch, and Terror Lake hydroelectric facilities.

#### Sec. 42.45.120. Notice to customers.

If an electric utility receives power cost equalization under AS 42.45.100 - 42.45.150, the utility shall either give to its electric service customers eligible under this program, for each period for which the payment is received,

(1) the following notice:

## NOTICE TO CUSTOMER

For the most recent monthly reporting period under the State of Alaska's power cost equalization program, this utility's actual fuel efficiency for your community was \_\_\_\_\_ kilowatt-hours a gallon. The applicable fuel efficiency standard set out in regulations for the power cost equalization program is \_\_\_\_\_ kilowatt-hours a gallon.

For the current billing period, the utility will be paid under the State of Alaska's power cost equalization program (AS 42.45.100) to assist the utility and its customers in reducing the high cost of generation of electric energy.

Your total electrical service cost                      \$ .....

Less state equalization                                      \$ .....

Your charge                                                      \$ .....; or

(2) a notice approved by the authority that provides electric service customers the same information provided by the notice in (1) of this section.

### Sec. 42.45.130. Cost minimization.

(a) In order to qualify for power cost equalization, each electric utility shall make every reasonable effort to minimize administrative, operating, and overhead costs, including using the best available technology consistent with sound utility management practices. In reviewing applications for power cost equalization, the commission may require the elimination of unnecessary operating expenses. Each eligible electric utility shall cooperate with appropriate state agencies to implement cost-effective energy conservation measures and to plan for and implement feasible alternatives to diesel generation.

(b) In this section, "energy conservation measures" include weatherization and other insulating methods, utilization of waste heat, appropriate sizing of new generating equipment, and other programs of the state or federal government intended and available for energy conservation.

Sec. 42.45.140. Customer petitions.

If the authority receives a petition requesting power cost equalization, signed by at least 25 percent of the customers of an electric utility that is subject to rate regulation under AS 42.05 and that has not applied for power cost equalization under AS 42.45.100 - 42.45.150, the authority shall require the utility to submit a power cost equalization application. Upon a determination of eligibility for power cost equalization, the utility, as a part of its service, shall receive power cost equalization and pass power cost equalization benefits to its customers under AS 42.45.100 - 42.45.150.

Sec. 42.45.150. Definitions for AS 42.45.100 - 42.45.150.

In AS 42.45.100 - 42.45.150,

(1) "community facility" means a water and sewer facility, public outdoor lighting, charitable educational facility, or community building whose operations are not paid for by the state, the federal government, or private commercial interests;

(2) "eligible electric utility" or "electric utility" means a public, cooperative, or other corporation, company, individual, or association of individuals, and includes the lessees, trustees, or receivers appointed by a court, that

(A) owns, operates, manages, or controls a plant or system for the furnishing, by generation, transmission, or distribution, of electric service to the public for compensation;

(B) during calendar year 1983, had a residential consumption level of power eligible for power cost equalization under former AS 44.83 of less than 7,500 megawatt hours or had a residential consumption level of power eligible for power cost equalization under former AS 44.83 of less than 15,000 megawatt hours if the utility served two or more municipalities or unincorporated communities; and

(C) during calendar year 1984, used diesel fired generators to produce more than 75 percent of the electrical consumption of the utility; an electric utility that is a subsidiary of another electric utility is an "eligible electric utility" if the operations of the subsidiary, considered separately, meet the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility did not receive power cost assistance in 1983 but is otherwise eligible for power cost equalization under AS 42.45.100 - 42.45.150, the utility is an "eligible electric utility";

(3) "power costs" means costs used in determining power cost equalization under AS 42.45.110(a) and (c).

Sec. 42.45.160. Adjustments to power cost equalization.

(a) The commission may adjust the power cost equalization per kilowatt-hour, determined under AS 42.45.100 - 42.45.150, payable to an electric utility that is subject to rate regulation under AS 42.05 if the

(1) commission has approved a fuel cost rate adjustment caused by an increase or decrease in the electric utility's cost of fuel;

(2) commission has approved a permanent or interim rate increase or decrease that establishes a higher or lower power cost;

(3) authority has discovered, in reviewing the monthly data submitted by the electric utility, discrepancies that require adjustment of the power cost equalization; or

(4) authority determines that appropriations are insufficient to finance full payments to eligible electric utilities.

(b) An electric utility that is eligible to receive power cost equalization under this section and that receives power cost equalization per kilowatt-hour approved by the commission shall report monthly to the authority within the time and in the form the authority requires. An electric utility shall report

(1) the power cost equalization per kilowatt-hour approved by the commission;

(2) the total kilowatt-hours sold to each class of customer during the preceding month;

(3) the total kilowatt-hours eligible for power cost equalization under this section sold to each class of customer during the preceding month;

(4) the total kilowatt-hours generated during the preceding month, if available;

(5) any commission approved amendments to the schedule of rates in effect during the preceding month; and

(6) an increase or decrease in the current unit price of fuel from the base price used by the commission in determining power costs if the change is expected to result in a subsequent power cost equalization adjustment.

(c) The provisions of AS 42.45.100 - 42.45.150 relating to the determination of the amount of power cost equalization and payment of the equalization assistance apply to equalization assistance under this section.

Sec. 42.45.170. Equalization assistance to unregulated utilities.

(a) An electric utility that is not subject to rate regulation by the Regulatory Commission of Alaska under AS 42.05 may receive power cost equalization if the utility is otherwise eligible for equalization assistance under AS 42.45.100 - 42.45.150 and if the utility

(1) files with the commission financial data necessary to determine the power cost equalization per kilowatt-hour as prescribed by the commission and that is in compliance with AS 42.45.100 - 42.45.150;

(2) reports monthly to the authority, within the time and in the form required, the information required in (b) of this section;

(3) sets rates

(A) that consider the power cost equalization provided under AS 42.45.100 - 42.45.150 by subtracting from its revenue requirements for electric services the power cost equalization per kilowatt-hour that it is eligible to receive; and

(B) under which the power cost equalization provided in AS 42.45.070 - 42.45.110 is applied as a credit only against the cost of kilowatt-hours eligible for equalization assistance under AS 42.45.100 - 42.45.150 that are consumed by each customer in any month;

(4) allows audits that the commission determines are necessary to ensure compliance with this section; and

(5) furnishes its electric service customers eligible under this program a notice as specified in AS 42.45.120.

(b) An electric utility that is eligible to receive power cost equalization under this section shall report in accordance with (a)(2) of this section

(1) the power cost equalization per kilowatt-hour approved by the commission;

(2) the total kilowatt-hours sold to each class of customer during the preceding month;

(3) the total kilowatt-hours eligible for power cost equalization under this section sold to each class of customer during the preceding month;

(4) the total kilowatt-hours generated during the preceding month, if available;

(5) any amendments to the schedule of rates in effect during the preceding month; and

(6) an increase or decrease in the current unit price of fuel from the base price used by the commission in determining power costs if the change is expected to result in a subsequent equalization assistance level adjustment.

(c) An electric utility that is eligible to receive power cost equalization under this section may have its power cost equalization per kilowatt-hour determination changed by the commission if the

(1) commission has verified an increase or decrease in the electric utility's cost of fuel;

(2) commission has verified an increase in rates based on an increase in costs;

(3) authority has discovered, in reviewing the monthly data submitted by the electric utility, discrepancies that require adjustment of the power cost equalization; or

(4) authority determines that appropriations are insufficient to finance full payments to eligible electric utilities.

(d) The provisions of AS 42.45.100 - 42.45.150 relating to the determination of the amount of power cost equalization and payment of the equalization assistance apply to equalization assistance under this section.

(e) An application for power cost equalization by an electric utility that is eligible to receive power cost under this section does not extend the jurisdiction of the Regulatory Commission of Alaska beyond that established by AS 42.05.

#### Sec. 42.45.180. Grants for utility improvements.

(a) The authority may make a grant from the fund for an eligible utility for a small power project that will reduce the cost of generating or transmitting power to the customers of the utility. The amount of the grant may not exceed 75 percent of the cost of the project. The authority may not make a grant under this section unless the eligible utility has secured financing for 25 percent of the cost of the project from a source other than the power cost equalization and rural electric capitalization fund, as provided under (c) of this section.

(b) The authority may not allocate more than three percent of the balance in the fund to grants under this section in a fiscal year.

(c) In determining whether an eligible utility has secured financing for 25 percent of the cost of the project from a source other than the power cost equalization and rural electric capitalization fund, the authority shall accept solicited and unsolicited proposals for third party financing or for a joint venture between the utility and an entity from the private sector provided that the private sector participant has

(1) a valid state business license;

(2) a resolution or letter of agreement executed by the eligible utility agreeing to participation by the private sector participant;

(3) a business plan that illustrates how the proposed project will reduce the cost of generating or transmitting power to the customers of the utility.

(d) In this section,

(1) "eligible utility" has the meaning given in AS 42.45.150;

(2) "project" includes

(A) power generation systems;

(B) transmission systems;

(C) distribution systems;

(D) metering systems;

(E) energy store systems;

(F) energy conservation programs; and

(G) bulk fuel storage facilities;

(3) "small power project" means a new or modified project that will either generate, store, or conserve no more than 1.5 megawatts of power or provide a metering system, transmission system, distribution system, or bulk fuel storage facility that has an estimated cost of less than \$3,000,000.

Sec. 42.45.190. Definition for AS 42.45.100 - 42.45.190.

In AS 42.45.100 - 42.45.190, "fund" means the power cost equalization and rural electric capitalization fund established under AS 42.45.100.