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Klein/Fisher
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CS FOR HOUSE BILL NO. 151(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

**Offered:
Referred:**

Sponsor(s): HOUSE SPECIAL COMMITTEE ON ENERGY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the regulation of electric utilities and electric reliability**
2 **organizations; and providing for an effective date."**

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

4 *** Section 1.** AS 42.05 is amended by adding new sections to read:

5 **Sec. 42.05.292. Electric reliability organizations.** (a) An electric utility must
6 participate in an electric reliability organization if the utility operates in an
7 interconnected electric energy transmission network served by an electric reliability
8 organization certified by the commission.

9 (b) A person may submit to the commission an application for certification as
10 an electric reliability organization for an interconnected bulk-power system. The
11 commission may certify one electric reliability organization for each interconnected
12 electric energy transmission network. The commission may certify an electric
13 reliability organization if the commission determines that the electric reliability
14 organization

(1) has the ability to develop reliability standards that provide for an adequate level of reliability of a bulk-power system;

(2) has the ability to develop an integrated resource plan under AS 42.05.293(a);

(3) has established rules to

(A) ensure that the directors of the electric reliability organization and the electric reliability organization act independently from users, owners, and operators of the bulk-power system;

(B) equitably allocate reasonable dues, fees, and other charges among all load-serving entities connected to the bulk-power system for all activities under this section;

(C) provide fair and impartial procedures for the enforcement of reliability standards;

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and exercising its duties; and

(4) is governed by a board that

(A) includes as nonvoting members the chair of the commission or the chair's designee and the attorney general or the attorney general's designee; and

(B) is formed as

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board.

(c) The commission shall form an electric reliability organization for an interconnected bulk-power system if no person has applied for certification as an electric reliability organization for that interconnected bulk-power system under (b) of this section on or before October 1, 2020.

(d) An electric reliability organization shall file each reliability standard or modification to a reliability standard with the commission as a new or revised tariff

provision. All users, owners, and operators of a bulk-power system shall comply with reliability standards contained in a tariff that is approved by the commission. The commission may enforce a reliability standard adopted under this section. A reliability standard adopted under this section

(1) shall provide for the reliable operation of the bulk-power system or of a bulk-power system facility; a reliability standard adopted under this section may provide for

(A) cybersecurity protection;

(B) facility security;

(C) additions or modifications to a bulk-power system facility to the extent necessary to provide for reliable operation of the bulk-power system;

(2) may not require enlargement of bulk-power system facilities or construction of new transmission capacity or generation capacity.

(e) The commission may approve a proposed reliability standard or modification to a reliability standard submitted by an electric reliability organization if the commission determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The commission may reject or amend, in whole or in part, a proposed reliability standard or modification to a reliability standard. A proposed standard or modification takes effect upon approval by the commission. A standard approved under this subsection satisfies the requirements of AS 42.05.291(c).

(f) The commission may, on its own motion or upon complaint, order an electric reliability organization to submit to the commission a proposed reliability standard or modification to a reliability standard that addresses a specific matter.

(g) An electric reliability organization may impose a penalty on a user, owner, or operator of an interconnected bulk-power system for a violation of a reliability standard if, after notice and a hearing, the electric reliability organization

(1) finds that the user, owner, or operator has violated a reliability standard; and

(2) files notice of the proposed penalty and the record of the

proceeding with the commission at least 30 days before imposition of the penalty.

(h) The commission may, on its own motion or upon complaint, order a user, owner, or operator of a bulk-power system to comply with a reliability standard and impose a penalty against the user, owner, or operator of a bulk-power system if the commission finds, after notice and a hearing, that the user, owner, or operator of the bulk-power system has engaged or is about to engage in an act or practice that violates a reliability standard.

(i) A user, owner, or operator may appeal to the commission a penalty imposed under (g) or (h) of this section. The commission may, on its own motion, review a penalty imposed under (g) or (h) of this section. The commission shall, after notice and a hearing, issue an order affirming, modifying, reinstating, or revoking the penalty or remand the penalty to the electric reliability organization for further proceedings. Unless otherwise ordered by the commission, a penalty shall remain in effect during proceedings under this section. The commission shall expedite proceedings under this subsection.

(j) A penalty imposed under (g), (h), or (i) of this section must bear a reasonable relation to the seriousness of the violation and take into consideration the effort of a user, owner, or operator to remedy the violation in a timely manner.

(k) The commission may direct an electric reliability organization to conduct assessments of the reliability and adequacy of the bulk-power system.

(l) If a reliability standard adopted under this section conflicts with a function, rule, tariff, rate schedule, or agreement that has also been accepted, approved, adopted, or ordered by the commission, a user, owner, or operator shall comply with the function, rule, tariff, rate schedule, or agreement until the conflict is resolved by the commission.

(m) An electric reliability organization shall file with the commission each proposed rule or proposed rule change, along with an explanation of the basis and purpose of the proposed rule or proposed rule change. The commission may, on its own motion or upon complaint, propose a change to the rules of an electric reliability organization. A rule change proposed by the commission takes effect upon a finding by the commission, after notice and opportunity for public comment, that the rule

change is just, reasonable, not unduly discriminatory or preferential, and is in the public interest.

(n) The commission shall adopt regulations governing electric reliability organizations, reliability standards, and modifications to reliability standards consistent with this section. Regulations under this section

(1) may include a requirement that an electric reliability organization obtain a certificate of public convenience and necessity;

(2) may provide for the issuance of an open access transmission tariff to the electric reliability organization;

(3) must provide a process to identify and resolve conflicts between a reliability standard and a function, rule, tariff, rate schedule, or agreement that has been accepted, approved, adopted, or ordered by the commission;

(4) must allow the electric reliability organization to recover its costs through surcharges added to the rate for each participating electric utility.

Sec. 42.05.293. Integrated resource planning. (a) An electric reliability organization shall prepare and file with the commission an integrated resource plan for meeting the reliability requirements of customers within its interconnected bulk-power system in the most cost-effective manner, consistent with the load-serving entities' obligations. An integrated resource plan must contain an evaluation of the full range of cost-effective means for load-serving entities to meet the service requirements of customers, including additional generation, transmission, and conservation or similar improvements in efficiency. An integrated resource plan must include options to meet customers' collective needs at the lowest cost, consistent with the public interest, regardless of the location or ownership of new facilities.

(b) The commission shall, after notice and a hearing, approve, reject, or modify an integrated resource plan submitted under (a) of this section, consistent with the public interest.

(c) The commission may include in a public utility's rates

(1) the cost of resources acquired in accordance with an integrated resource plan adopted under this section;

(2) cost-effective expenditures for improving the efficiency with which

the public utility provides and its customers use utility services; and

(3) the cost of a utility to comply with the planning requirements of this section, including planning costs and portfolio development costs.

(d) The commission shall adopt regulations governing the submission of a plan under this section, including the content of a plan, time for filing a plan, criteria for determining cost-effectiveness, and other criteria as determined by the commission.

(e) In this section,

(1) "planning costs" means the costs of evaluating the future demand for services and alternative methods of satisfying future demand;

(2) "portfolio development costs" means the costs of preparing a resource in a portfolio for timely acquisition of the resource.

Sec. 42.05.294. Project preapproval. (a) A public utility that is interconnected with a bulk-power system may not construct a large energy facility unless the commission determines that the facility

(1) is necessary to the bulk-power system with which it would be interconnected;

(2) complies with reliability standards; and

(3) would meet the needs of a load-serving entity that is substantially served by the facility in the most cost-effective manner.

(b) Unless the commission finds otherwise by clear and convincing evidence, a large energy facility that was included in the most recent integrated resource plan approved under AS 42.05.293 is considered to satisfy the requirements of (a) of this section.

(c) In this section, "large energy facility" means

(1) an electric power generating plant or combination of plants at a single site with a combined capacity of 15,000 kilowatts or more with transmission lines that directly interconnect the plant with the transmission system; or

(2) a high-voltage transmission line that

(A) has a capacity of 69 kilovolts or more; and

(B) is greater than 5 miles in length.

* **Sec. 2.** AS 42.05.990 is amended by adding new paragraphs to read:

(14) "bulk-power system" means electrical generation resources, transmission lines, interconnections, and associated equipment operated at voltages of 69 kilovolts or more by two or more interconnected utilities, at least one of which is subject to the provisions of AS 42.05.291;

(15) "cybersecurity incident" means a malicious act or suspicious event that disrupts or attempts to disrupt the security of data or the operation of programmable electronic devices and communication networks, including hardware and software that are essential to the reliable operation of the bulk-power system;

(16) "electric reliability organization" means an organization that is certified by the commission under AS 42.05.292;

(17) "electric utility" means a public utility that provides electricity service;

(18) "interconnected electric energy transmission network" means a network of bulk-power system components operating in a geographic area that are synchronized so that the failure of one or more of the components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within the control of the operators;

(19) "load-serving entity" means an electric utility that has a service obligation to distribute power to end users;

(20) "reliable operation" means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

* **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. On or before July 1, 2020, the Regulatory Commission of Alaska shall adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

- 1 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).
- 2 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2020.