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Klein
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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 creation and regulation of electric reliability organizations;
2 relating to participation of electric utilities in electric reliability organizations; relating
3 to duties of electric reliability organizations; providing for integrated resource planning;
4 requiring project preapproval for certain interconnected large energy facilities; and
5 providing for an effective date."

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

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

8 **Article 9A. Electric Reliability Organizations, Plans, and Standards.**

9 **Sec. 42.05.760. Electric reliability organizations.** (a) An electric utility must
10 participate in an electric reliability organization if the utility operates in an
11 interconnected electric energy transmission network served by an electric reliability
12 organization certificated by the commission. The commission may not require an
13 electric reliability organization for an interconnected bulk-electric system if all of the

load-serving entities operating in the interconnected bulk-electric system are exempt under AS 42.05.711(b).

(b) A person may submit to the commission an application for certification as an electric reliability organization for an interconnected bulk-electric system. The commission may certificate one electric reliability organization for each interconnected electric energy transmission network. The commission may certificate an electric reliability organization if the commission determines that the electric reliability organization has the ability to comply with AS 42.05.762.

(c) The commission shall immediately notify the interconnected load-serving entities within a new or existing interconnected bulk-electric system of the requirements of this section.

(d) Notwithstanding the requirements in (c) of this section, if all load-serving entities within an interconnected bulk-electric system petition the commission for an exemption from the requirement to establish an electric reliability organization for the interconnected electric energy transmission network, the commission may waive the requirement to form an electric reliability organization for that interconnected electric energy transmission network.

(e) The commission shall form and certificate an electric reliability organization for an interconnected bulk-electric system under this section if, within

(1) 90 days after the commission notifies the interconnected load-serving entities under (c) of this section, no person has applied for certification as an electric reliability organization for that interconnected bulk-electric system; or

(2) 270 days after the commission notifies the interconnected load-serving entities under (c) of this section, the commission has not certificated an electric reliability organization for that interconnected bulk-electric system.

(f) The commission may certificate an electric reliability organization for an interconnected electric energy transmission network that is not an interconnected bulk-electric system if

(1) one or more load-serving entities within that network successfully petition the commission to find that an electric reliability organization should be established for the network; and

(2) a person applies for certification as an electric reliability organization for the network.

Sec. 42.05.762. Duties of an electric reliability organization. An electric reliability organization shall

(1) develop reliability standards that provide for an adequate level of reliability of an interconnected electric energy transmission network;

(2) develop integrated resource plans under AS 42.05.780(a);

(3) establish 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 interconnected electric energy transmission network;

(B) equitably allocate reasonable dues, fees, and other charges among all load-serving entities connected to the interconnected electric energy transmission network for all activities under AS 42.05.760 - 42.05.790;

(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 balancing of interests in exercising its duties; and

(4) be 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.

Sec. 42.05.765. Reliability standards. (a) 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 an interconnected electric energy transmission network served by an electric reliability organization, including a user, owner, or operator that is exempt from other regulation under AS 42.05.711 or another provision of this chapter, shall comply with reliability standards contained in a tariff that is approved by the commission. The commission may enforce a reliability standard approved under this section. A reliability standard approved under this section

(1) shall provide for the reliable operation of the interconnected electric energy transmission network or of an interconnected electric energy transmission network facility;

(2) may provide for

(A) protection from a cybersecurity incident;

(B) facility security;

(C) additions or modifications to an interconnected bulk-electric system facility to the extent necessary to provide for reliable operation of the interconnected electric energy transmission network;

(3) may result in, but may not be designed for the purpose of, requiring enlargement of interconnected bulk-electric system facilities or construction of new transmission capacity or generation capacity.

(b) The commission may, after public notice, approve a proposed reliability standard or modification to a reliability standard submitted by an electric reliability organization. The commission shall determine whether the proposed standard or modification is just, reasonable, not unduly discriminatory or preferential, and in the public interest before approving the standard or modification. If, after public notice and a hearing, the commission determines that a proposed reliability standard or modification to a reliability standard submitted by an electric reliability organization should be changed, the commission shall return the standard to the electric reliability organization for timely modification and resubmission, consistent with the commission's order. The commission may modify a resubmitted standard if the commission determines that the standard is inconsistent with the commission's order or the public interest. A standard approved under this subsection satisfies the

requirements of AS 42.05.291(c).

(c) 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.

(d) 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.

(e) If, as a condition of a contract with the United States Department of Defense, a user, owner, or operator is subject to a federal standard, rule, or function that conflicts with a reliability standard adopted under this section, the user, owner, or operator shall comply with the federal standard, rule, or function until the conflict is resolved by the commission. The commission may not resolve the conflict in a manner that prevents the user, owner, or operator from fulfilling the contract with the United States Department of Defense.

(f) The commission may direct an electric reliability organization to conduct assessments of the reliability and adequacy of the interconnected electric energy transmission network.

Sec. 42.05.767. Electric reliability organization rules; approval. 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.

Sec. 42.05.770. Regulations. The commission shall adopt regulations governing electric reliability organizations, reliability standards, and modifications to reliability standards consistent with this section. Regulations under AS 42.05.760 - 42.05.790 must

(1) require that an electric reliability organization's tariff include

(A) standards for nondiscriminatory open access transmission and interconnection;

(B) standards for transmission system cost recovery;

(2) 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;

(3) allow an electric reliability organization to recover its costs through surcharges added to the rate for each participating load-serving entity.

Sec. 42.05.772. Duties of load-serving entities. All load-serving entities, including load-serving entities otherwise exempt from regulation under this chapter, in an interconnected bulk-electric system served by an electric reliability organization are subject to the electric reliability organization's tariff on file with the commission.

Sec. 42.05.775. Penalties. (a) An electric reliability organization may impose a penalty on a user, owner, or operator of an interconnected electric energy transmission network 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.

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

(c) A user, owner, or operator may appeal to the commission a penalty imposed under (a) of this section. The commission may, on its own motion, review a penalty imposed under (a) of this section. The commission shall, after notice and a hearing, issue an order affirming, modifying, reinstating, or revoking the penalty or

1 remand the penalty to the electric reliability organization for further proceedings.
2 Unless otherwise ordered by the commission, a penalty shall remain in effect during
3 proceedings under this subsection. The commission shall expedite proceedings under
4 this subsection.

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

8 **Sec. 42.05.780. Integrated resource planning.** (a) An electric reliability
9 organization shall file with the commission in a petition for approval an integrated
10 resource plan for meeting the reliability requirements of all customers within its
11 interconnected electric energy transmission network in a manner that provides the
12 greatest value, consistent with the load-serving entities' obligations. An integrated
13 resource plan must contain an evaluation of the full range of cost-effective means for
14 load-serving entities to meet the service requirements of all customers, including
15 additional generation, transmission, battery storage, and conservation or similar
16 improvements in efficiency. An integrated resource plan must include options to meet
17 customers' collective needs in a manner that provides the greatest value, consistent
18 with the public interest, regardless of the location or ownership of new facilities or
19 conservation activities.

20 (b) The commission shall, after public notice and review of the process used to
21 develop an integrated resource plan, approve or modify an integrated resource plan
22 filed under (a) of this section, consistent with the public interest. The commission shall
23 determine whether the petition is complete, has been publicly noticed, and is
24 consistent with the commission's regulations and orders. The commission may reject
25 all or part of a petition that does not comply with the commission's form or filing
26 regulations. Within 45 days after receipt, the commission shall approve the petition or
27 suspend the petition to an investigation docket. If a petition is not suspended to an
28 investigation docket within 45 days, the petition is considered approved. If, after
29 public notice and a hearing, the commission concludes that the plan requires
30 modification, the commission shall return the plan to the electric reliability
31 organization for timely modification and refiling, consistent with the commission's

1 order. The commission may modify a refiled integrated resource plan if the
2 commission determines that the plan is inconsistent with the commission's order or the
3 public interest.

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

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

7 (2) cost-effective expenditures for improving the efficiency with which
8 a public utility provides and its customers use utility services; and

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

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

15 (e) In this section,

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

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

20 **Sec. 42.05.785. Project preapproval for large energy facilities.** (a) A public
21 utility, including a public utility that is exempt from other regulation under
22 AS 42.05.711 or another provision of this chapter, that is interconnected with an
23 interconnected electric energy transmission network served by an electric reliability
24 organization certificated by the commission may not construct a large energy facility
25 unless the commission determines that the facility

26 (1) is necessary to the interconnected electric energy transmission
27 network with which it would be interconnected;

28 (2) complies with reliability standards; and

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

31 (b) Unless the commission finds otherwise by clear and convincing evidence,

1 a large energy facility that was included in the most recent integrated resource plan
2 approved under AS 42.05.780 is considered to satisfy the requirements of (a) of this
3 section.

4 (c) The commission may not require preapproval for a

5 (1) project for refurbishment or capitalized maintenance;

6 (2) hydropower project licensed by the Federal Energy Regulatory
7 Commission before September 30, 2016.

8 (d) The commission shall adopt regulations

9 (1) governing project preapproval;

10 (2) defining refurbishment and capitalized maintenance;

11 (3) maintaining municipal jurisdiction over local planning decisions;

12 and

13 (4) addressing projects undertaken before integrated resource plan
14 approval for an interconnected electric energy transmission network.

15 (e) In this section, "large energy facility" means

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

19 (2) a high-voltage, above-ground transmission line that

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

21 (B) is longer than 10 miles;

22 (3) a high-voltage submarine or underground cable that

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

24 (B) is longer than three miles;

25 (4) an energy storage device or combination of devices at a single site
26 with a combined capacity of 15,000 kilowatts and one hour or more of energy storage
27 that directly connects with the interconnected bulk-electric system; and

28 (5) a reactive compensation device or combination of devices at a
29 single site with a combined reactive capability of 15,000 kilovars or more with a step-
30 up device to regulate interconnected bulk-electric system voltage.

31 **Sec. 42.05.790. Definitions.** In AS 42.05.760 - 42.05.790,

(1) "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 interconnected electric energy transmission network;

(2) "electric reliability organization" means an organization that is certificated by the commission under AS 42.05.760;

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

(4) "interconnected bulk-electric system" means an interconnected electric energy transmission network that includes two or more load-serving entities, at least one of which is subject to the provisions of AS 42.05.291;

(5) "interconnected electric energy transmission network" means a network of interconnected electrical generation resources, transmission lines, interconnections, and associated equipment operated at voltages of 69 kilovolts or more, 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;

(6) "load-serving entity" means an electric utility that has a service obligation to distribute power to more than 10 customers that receive invoices directly from the entity;

(7) "reliable operation" means operating the elements of the interconnected electric energy transmission network 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. 2.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. On or before July 1, 2021, the Regulatory Commission of Alaska shall adopt regulations necessary to implement the changes made by

1 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
2 before the effective date of the law implemented by the regulation.

3 * **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).

4 * **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect July 1, 2021.