

## Dirk Craft

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**From:** Timothy Lash  
**Sent:** Thursday, February 4, 2021 3:17 PM  
**To:** Dirk Craft  
**Subject:** Legislative Research: Independent Power Producers

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Dirk:

Among states, Alaska's regulatory oversight of independent power producers (IPPs) appears to be unique, according to research by our office in 2010 and again in 2021.

In LRS 10-189, "[Regulation of Wholesale Transactions by Independent Power Producers](#)," a publicly available report prepared by our office in 2010, we provided state-by-state analysis to a requesting legislator as follows:

*You asked if other states regulate wholesale electric power transactions by IPPs in the same way as does Alaska. Specifically, you wanted to know if other states regulate power producers who sell to one or more customers and generate more than \$50,000 in income from the sale of electricity, as provided in Alaska law. Briefly, we could identify no [other] states that regulate independent power producers in this way.*

*For our review, we queried all state utility commissions, conducted a search of the Westlaw database of state statutes, and contacted national experts on the topic. None of the 24 states that responded to our query report having any regulatory language similar to that in Alaska. A frequent response that we received from states was that IPPs are subject to Federal Energy Regulatory Commission (FERC) regulations but not to state regulation.*

*A number of experts we contacted point out that utilities that purchase electricity from IPPs are subject to their respective state's public utilities commission regulations. We also communicated with lead staff from the National Association of Regulatory Utility Commissioners (NARUC), the Independent Power Producers Coalition of the West (IPPC), the National Conference of State Legislatures (NCSL), and the Colorado Independent Energy Association. None of the experts from these entities with whom we spoke were aware of regulations in other states similar to those in Alaska. A common thread of the feedback we received was that regulating wholesale transactions of independent power producers would be a duplicative procedure as the utilities to which IPPs sell their electricity are already regulated by states. Such regulations would likely act as a disincentive for IPPs—including alternative or smaller energy producers—effectively discouraging such entities from engaging in business.*

More recently in 2021, we consulted an array of sources regarding regulation of IPPs by state, including NCSL, the U.S. Department of Energy, industry publications, and various policy and research institutes.

Currently, we remain unaware of another state that has enacted (or restructured) its own regulations in a manner similar to the regulation of IPPs by the Regulatory Commission of Alaska. If any state has done so, that state would join Alaska in what would be an extremely small minority of states with respect to their IPP regulatory oversight.

In 2015, [House Bill 78](#) was introduced in the Alaska State Legislature. This measure, which died in committee, sought to amend the Regulatory Commission of Alaska's statutory duties with respect to IPPs and to foster greater competition for IPPs in Alaska's local and regional energy markets. A number of documents speaking for and against the bill are accessible [here](#).

In 2016, the U.S. Department of Energy published a comprehensive, 79-page report titled, "[Sustainable Energy Solutions for Rural Alaska](#)." This report identifies unique characteristics of the state's energy markets and offers a series of recommendations—including encouraging more IPPs in Alaska. According to the report (pp. 54, 55):

*Rural utilities can encourage IPP entry by establishing an open-door policy and creating a common framework for interconnection and compensation that encourages engagement. One of the concerns raised by the IPP community is the potential for regulatory overreach. Federal requirements for qualifying facilities under the Federal Power Act exempt IPPs from state oversight in order to reduce barriers to participation. However, IPPs that do not qualify or come under the Act may be subject to greater state regulation.*

*IPP power has been slow to materialize in Alaska, which is one of only four US states where less than five percent of electricity is generated by IPPs. Nationally, independent power accounts for 39 percent of generation and the vast majority of power from non-hydro renewables.*

I hope this is helpful. If you have further questions, or if you need this information presented in a more formal document, please let us know.

Thanks,  
Tim

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