

CS FOR SENATE BILL NO. 250()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTY-FOURTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): SENATOR TOBIN

A BILL

FOR AN ACT ENTITLED

"An Act relating to data centers; and relating to utility service for data centers."

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

*** Section 1.** AS 42.05.381 is amended by adding a new subsection to read:

(r) Costs incurred by an electric utility or gas utility that would not have been incurred but for the utility furnishing service to a data center may not be included in any rates or charges of the utility unless the rates or charges are designed to recover those costs solely from the data center. During a rate proceeding, the portion of the utility's revenue requirement associated with the costs to serve the data center shall be assigned to the data center. In this subsection, "data center," "electric utility," and "gas utility" have the meanings given in AS 42.05.435.

*** Sec. 2.** AS 42.05 is amended by adding a new section to read:

Sec. 42.05.435. Contracts for data centers. (a) An electric utility or gas utility that furnishes service to a data center shall enter into a contract with the customer for that service. The utility shall submit the proposed contract to the commission. The commission shall review the contract terms and approve the contract

1 if the commission determines that the contract meets the requirements of this section.
2 Notwithstanding AS 42.05.371, the terms of an approved contract govern the terms
3 and conditions under which the utility offers its services and facilities to the data
4 center.

5 (b) A contract may not increase the risk of inadequate fuel supplies for any
6 public utility in the state, including utilities not party to the contract.

7 (c) The terms of a contract must include an accounting of all costs for
8 infrastructure primarily used by an electric utility or gas utility to furnish service to a
9 data center and directly assign those costs to the customer with the data center for the
10 duration of the contract. If an infrastructure component is primarily used to furnish
11 service to both the data center and other customers, the contract must specify the
12 portion of infrastructure costs to serve the data center and assign that portion to the
13 data center. If, during the contract period, an infrastructure component is no longer
14 primarily used to furnish service to the data center, the utility may submit a proposed
15 contract modification to the commission that includes evidence to support the
16 modification. The contract may provide for the utility to recover infrastructure costs
17 from the customer with a data center by the customer constructing the data center's
18 infrastructure, making contributions in aid of construction, or paying utility rates for
19 the data center with the costs included.

20 (d) Transmission infrastructure built specifically to serve a data center may
21 not initially be considered part of a backbone transmission system for the purpose of
22 allocating backbone transmission system costs under a nondiscriminatory open access
23 transmission tariff. If a review at the end of the contract term finds that the
24 transmission infrastructure is also used for other customers, the infrastructure may be
25 evaluated for consideration as part of a backbone transmission system. In this
26 subsection, "backbone transmission system" has the meaning given in AS 44.83.720.

27 (e) A contract must include a detailed analysis of all variable costs that will
28 change when an electric utility or gas utility furnishes service to a data center and
29 assign those costs directly to the data center using a separate customer-specific cost of
30 power adjustment or gas cost adjustment methodology. A contract must ensure that
31 furnishing service to a data center does not increase the cost of power adjustment or

1 gas cost adjustment for other customers.

2 (f) A contract must include a backup power and reliability plan that prioritizes
3 renewable generation, storage, and demand response, limits fossil fuel backup
4 generation to emergencies and testing, and ensures backup operations do not increase
5 emissions or effects to other customers. A contract must specify that a data center may
6 use diesel or other fossil fuel backup power only for a limited duration, which must be
7 reported annually to the commission, and may not shift fuel or reliability risk to other
8 customers when using backup power.

9 (g) If furnishing service to a data center will require an electric utility or gas
10 utility to incur capital investment costs in excess of \$1,000,000, a contract must
11 require the data center to provide financial security to the utility. In the event the data
12 center fails to perform under the contract, the utility may immediately enforce the
13 financial security to recover outstanding costs. The financial security must

14 (1) be in a form acceptable to the utility;

15 (2) remain in effect for a term specified by the utility; and

16 (3) be in an amount that is sufficient, as determined by the utility, to
17 ensure full recovery of all of the utility's costs associated with furnishing service to the
18 data center.

19 (h) If geographically dispersed buildings, equipment, structures, and other
20 stationary infrastructure are used for the same purpose and owned or operated by the
21 same person, or by any person who controls, is controlled by, or is under common
22 control with the person, the commission may determine that the infrastructure is a
23 single facility for the purposes of this section.

24 (i) A municipality shall enter into a community benefit agreement with a
25 customer with a data center within the municipality before the commission approves
26 the contract between an electric utility or gas utility and the data center and before
27 construction of the data center begins. The municipality may address any community
28 benefits related to the data center in the agreement based on the municipality's unique
29 needs, including emergency response, local hire, and any other concerns and priorities
30 of the municipality. If the customer with a data center has not entered into a
31 community benefit agreement with the municipality before construction of the data

1 center begins, a municipality may file a civil lawsuit to obtain

2 (1) an injunction to stop construction of the data center or to prevent
3 the data center from operating; and

4 (2) any other appropriate relief.

5 (j) The community benefit agreement required under (i) of this section must

6 (1) require the customer with a data center to

7 (A) submit a waste heat recovery assessment to the
8 municipality that quantifies the potential recoverable heat when the data center
9 is fully built, identifies nearby potential users for waste heat, and describes the
10 practicability of implementing waste heat recovery, including technical
11 practicability and potential costs; and

12 (B) if the assessment determines that waste heat recovery is
13 practicable, implement the waste heat recovery in the assessment or
14 alternatively pay to the municipality an agreed-on amount that the municipality
15 shall use to fund local thermal projects;

16 (2) require the customer with a data center to submit a water usage
17 plan to the municipality that quantifies the data center's monthly water usage and
18 wastewater discharge and describes how the data center complies with all applicable
19 water quality requirements;

20 (3) address broadband interconnection costs necessary to serve the data
21 center; and

22 (4) require a digital equity contribution that must be used by the
23 customer with a data center to make digital infrastructure investments in or near the
24 municipality, with priority given to investing in infrastructure that reduces digital
25 divides in or near the municipality; digital infrastructure investments include building
26 conduit, dark fiber, and last-mile broadband in unserved or underserved areas and
27 supporting rural or low-income connectivity programs.

28 (k) A customer with a data center must file with the Department of
29 Environmental Conservation the end-of-life decommissioning and recycling plan
30 required under AS 46.03.125 before the commission may approve the contract.

31 (l) This section does not apply to a data center that consumes less than

- 1 (1) 15 megawatts of peak power demand from an electric utility; and
- 2 (2) 1,500,000,000 standard cubic feet of gas annually from a gas
- 3 utility.

4 (m) In this section,

5 (1) "contract" means a contract between an electric utility or gas utility
6 and a customer with a data center for the utility to furnish service to the data center;

7 (2) "data center" means a facility used to house computer systems and
8 associated components at which the primary function is the storage, management, and
9 dissemination of data;

10 (3) "electric utility" means a public utility that furnishes electrical
11 service;

12 (4) "facility" means all buildings, equipment, structures, and other
13 stationary infrastructure that are owned or operated by the same person, or by any
14 person who controls, is controlled by, or is under common control with the person, and
15 that are

16 (A) located on a single site or on contiguous or adjacent sites,
17 including sites with multiple metering points; or

18 (B) geographically dispersed, if the commission determines the
19 sites should be considered a single facility under (g) of this section;

20 (5) "gas utility" means a public utility that furnishes natural or
21 manufactured gas by transmission or distribution;

22 (6) "municipality" has the meaning given in AS 29.71.800.

23 * **Sec. 3.** AS 46.03 is amended by adding a new section to article 3 to read:

24 **Sec. 46.03.125. Data center end-of-life decommissioning and recycling.** (a)

25 A person who constructs a data center in the state shall file with the department an
26 end-of-life decommissioning and recycling plan. The plan must specify the actions the
27 person will take to

28 (1) systematically dismantle and remove equipment and infrastructure
29 from the data center when the data center is no longer in use;

30 (2) perform secure data destruction, equipment removal, asset
31 recovery, and site restoration related to the data center; and

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(3) ensure regulatory compliance and environmental responsibility when decommissioning the data center.

(b) The department may accept an end-of-life decommissioning and recycling plan as filed or, if the department determines that the filed plan does not satisfy the requirements of this section, may require the person to file a revised plan.

(c) This section does not apply to a data center that consumes less than

(1) 15 megawatts of peak power demand from an electric utility; and

(2) 1,500,000,000 standard cubic feet of gas annually from a gas utility.

(d) In this section, "data center" has the meaning given in AS 42.05.435.