

SENATE BILL NO. 152

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS WIELECHOWSKI, Dunbar

Introduced: 5/15/23

Referred: Labor & Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to community energy facilities."**

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

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

Article 8A. Community Energy Facilities.

Sec. 42.05.725. Applicability. (a) AS 42.05.725 - 42.05.735 apply to an electric utility that is subject to exercise of the jurisdiction of the commission that extends to matters concerning rates and charges for public utility services.

(b) AS 42.05.725 - 42.05.735 do not apply to the following systems of an electric utility that is otherwise subject to exercise of the jurisdiction of the commission described in (a) of this section:

(1) an independent electric system owned and operated by an electric utility if

(A) except for fossil fuel generation for standby and emergency power, 100 percent of the power of the independent electric system is supplied by a facility described in AS 42 05 733(f); or

(B) the independent system had total retail sales of less than 5,000,000 kilowatt-hours during the previous calendar year; or

(2) any portion of the distribution system of an electric utility if and to the extent the electric utility demonstrates to the commission that limiting net metering installations in that portion of its distribution system is reasonably necessary to address system stability constraints or other operational issues.

Sec. 42.05.727. Community energy programs. An electric utility subject to AS 42.05.725 - 42.05.735 shall make a community energy program available to a subscriber organization that requests interconnection. The electric utility shall develop and submit to the commission for approval a community energy plan with subscriptions available only to the retail consumers or member owners of the utility. The electric utility shall allow eligible community energy facilities to interconnect to the facilities of the electric utility in accordance with interconnection standards approved by the commission. An electric utility may apply to provide a community energy plan for an independent system or portion of the utility's distribution system that is exempt from AS 42.05.725 - 42.05.735. All community energy facilities under an electric utility's community energy program combined may not generate more than 50 megawatts alternating current unless the commission permits additional community energy capacity. The electric utility shall notify the commission if the utility refuses to interconnect with a potential community energy facility under this section.

Sec. 42.05.729. Charges and rates. (a) Except as otherwise provided in AS 42.05.733(b) regarding kilowatt-hour charges, the electric utility may bill a community energy facility subscriber for all applicable charges authorized by the utility's approved tariff.

(b) An electric utility administering a community energy program may not charge a community energy facility subscriber participating in the community energy program an additional fee for standby, capacity, interconnection, or other net metering expense unless approved by the commission.

(c) An electric utility may petition the commission to change electric rate designs, consistent with regulations adopted by the commission, including appropriate rate classes for community energy facility subscribers. The commission shall allow the

1 charge if the electric utility can demonstrate an adverse material rate effect on utility
2 consumers that do not participate in the community energy program.

3 (d) A public electric utility subject to economic regulation may respond to a
4 member owner's interest in developing community energy and other renewable energy
5 resources. If member owners express approval of a renewable energy project, through
6 a combination of board elections, referendums, or other democratic activities, the
7 commission may not deny a reasonable cost recovery of the project, even if the costs
8 may constitute a cross-subsidization.

9 **Sec. 42.05.731. Authority of the commission.** (a) The commission may
10 modify or waive a requirement in AS 42.05.725 - 42.05.735, in whole or in part, by
11 order. The commission may act on the commission's own motion or on an application
12 for modification or waiver and a showing of good cause. An application for
13 modification or waiver under this section must be in writing and must set out the
14 pertinent facts in sufficient detail to support a finding by the commission that no
15 legitimate public interest will be served by enforcing the requirement designated in the
16 application. Under the authority set out in this subsection, the commission may not
17 modify or waive a requirement in another provision of this chapter.

18 (b) The commission may adopt by regulation additional requirements
19 pertaining to safety, power quality, and interconnection standards for community
20 energy facilities participating in the community energy program if the commission
21 considers the requirements to be necessary to protect public safety and system
22 reliability.

23 **Sec. 42.05.733. Community energy facilities.** (a) An electric utility, or an
24 entity contracting to sell output to the utility, may own a community energy facility.
25 Community energy facilities owned by an electric utility subject to AS 42.05.725 -
26 42.05.735 may not generate more than 30 percent of total nameplate capacity of
27 community energy facilities in the utility's service area. The percentage shall be
28 calculated annually on March 1. The commission shall take measures to bring an
29 electric utility that is not in compliance with this subsection into compliance.

30 (b) An electric utility with an approved community energy plan shall
31 (1) not later than 180 days after the commission approves the utility's

1 plan, credit the accounts of subscribers of each community energy facility in the
2 utility's service area and submit a description of the crediting system to the
3 commission;

4 (2) purchase the total electrical energy generated by a community
5 energy facility;

6 (3) measure each subscriber's proportional share of net electric energy
7 generated by a community energy facility during each monthly billing period, and,

8 (A) if the utility supplied more electric energy to the subscriber
9 than the subscriber's proportional share of electric energy supplied to the utility
10 during the monthly billing period, the utility shall bill the subscriber for the
11 number of kilowatt-hours of net electric energy supplied by the utility to the
12 subscriber at the applicable rates contained in the utility's currently effective
13 tariff; or

14 (B) if the subscriber's proportional share of electric energy
15 supplied to the utility is more than the electric energy the utility supplied to the
16 subscriber during the monthly billing period, the utility shall credit the
17 subscriber's account with an amount derived by multiplying the kilowatt-hours
18 of net electric energy supplied by the community energy bill credit rate
19 mechanism; the electric utility shall provide a community energy bill credit
20 rate mechanism for subscribers derived from the utility's total aggregate retail
21 rate on a per-customer-class basis, less the distribution cost component
22 approved by the commission;

23 (4) provide a community energy facility subscriber a single
24 consolidated monthly bill that reflects the subscriber's electric energy use and the
25 amount of the subscriber's credit;

26 (5) apply a credit to a subscriber's bill not later than one billing cycle
27 after the cycle in which the credited energy was generated;

28 (6) provide to a subscriber organization each month, in a standardized
29 electronic format, a report providing the total value of bill credits generated by the
30 subscriber organization's community energy facilities in the preceding month and
31 identifying the bill credit amount applied to each of the subscriber organization's

1 subscriber accounts.

2 (c) The commission shall approve an electric utility's community energy plan
3 if it determines that the plan meets the requirements of this subsection. If the
4 commission determines that a plan does not meet the requirements of this subsection,
5 it may disapprove or modify the plan. A community energy plan must

6 (1) reasonably allow for the creation, financing, and accessibility of
7 community energy facilities;

8 (2) establish uniform standards, fees, and processes for the
9 interconnection of community energy facilities, allowing the utility to recover
10 reasonable interconnection costs for each community energy facility;

11 (3) apply uniform requirements to utility-owned and other community
12 energy facilities;

13 (4) allow the utility to recover reasonable administrative costs for a
14 community energy plan;

15 (5) protect consumers in accordance with existing consumer protection
16 laws;

17 (6) reasonably allow for the transferability and portability of
18 subscriptions, including allowing a subscriber to retain a subscription to a community
19 energy facility if the subscriber moves to another location served by the utility;

20 (7) identify the information that must be provided to a potential
21 subscriber to ensure fair disclosure of future costs and benefits of a subscription;

22 (8) include a plan implementation schedule;

23 (9) identify all proposed rules, fees, and charges;

24 (10) identify how the plan will be promoted;

25 (11) ensure nondiscriminatory and efficient requirements and utility
26 procedures for interconnecting projects;

27 (12) include mechanisms to ensure that not less than 30 percent of
28 subscribers are low- to moderate-income households;

29 (13) require the construction of a community energy facility to be
30 performed

31 (A) by employees of contractors and subcontractors who

1 receive a prevailing wage under AS 36.05;

2 (B) in accordance with the electrical licensing requirements of
3 the state;

4 (C) by contracting with, for not less than 15 percent of the total
5 contract labor hours for each applicable craft, apprentices registered in an
6 apprenticeship program approved by the United States Department of Labor.

7 (d) The commission shall ensure that the mechanisms in an electric utility's
8 community energy plan targeted toward low- to moderate-income households are
9 crafted to achieve tangible economic benefits for low- to moderate-income households
10 and integrate with existing complementary programs, including energy efficiency,
11 energy assistance, or workforce development programs.

12 (e) Notwithstanding another provision of this chapter, the commission may
13 not consider a subscriber organization or an individual subscriber to be an electric
14 utility solely because of the subscriber's participation in a community energy facility.

15 (f) A community energy facility that applies to an electric utility for
16 interconnection is eligible for interconnection under the utility's community energy
17 plan if the community energy facility

18 (1) is located within the utility's service area;
19 (2) has a nameplate capacity of not more than five megawatts;
20 (3) produces electric energy derived from one or more of the following
21 sources:

22 (A) solar photovoltaic and solar thermal energy;
23 (B) wind energy;
24 (C) biomass energy;
25 (D) hydroelectric energy;
26 (E) geothermal energy;
27 (F) hydrokinetic energy;
28 (G) ocean thermal energy;
29 (H) landfill gas or biogas produced from organic matter,
30 wastewater, anaerobic digesters, or municipal solid waste;
31 (I) other sources, as approved by the commission, that have

1 similar environmental effects as the sources in this paragraph;

2 (4) is used primarily to offset part or all of the subscribers'
3 requirements for electric energy;

4 (5) has a device that converts direct current power into alternating
5 current power to ensure the generated power is compatible with power generated by an
6 electric utility; and

7 (6) has an electric generator and the accompanying components that
8 connect the electric generator to a utility's electric distribution system, including
9 interface equipment and interface equipment controls, a switchgear, an inverter, and
10 other interface devices;

11 (7) is owned by a subscriber organization;

12 (8) issues subscriptions for percentages of its generating capacity;

13 (9) will offset the electrical energy use of at least five subscribers;

14 (10) does not have a single subscriber owning subscriptions for more
15 than 40 percent of its output; and

16 (11) satisfies the requirements of the utility's community energy plan.

17 (g) A subscriber organization

18 (1) shall provide to the electric utility each month, in a standardized
19 electronic format, a list of its subscribers and the share of energy that is attributable to
20 each subscriber in the community energy facility;

21 (2) owns, and may sell, accumulate, or retire, the environmental
22 attributes associated with a community energy facility, including renewable energy
23 certificates.

24 (h) In this section, "low- to moderate-income household" means a household
25 with income that is not more than 80 percent of the area median income based on
26 guidelines from the United States Department of Housing and Urban Development.

27 **Sec. 42.05.735. Definitions.** In AS 42.05.725 - 42.05.735,

28 (1) "community energy facility" is a net metering facility allowing a
29 consumer to receive compensation for net-metered electricity from a renewable energy
30 facility not connected to the consumer's electricity meter;

31 (2) "consumer" means a customer of an electric utility described in

1 AS 42.05.725 that consumes the electricity purchased from the utility;

2 (3) "electric system" means an integrated electrical system that
3 includes, at a minimum, generation and distribution of electric energy;

4 (4) "independent electric system" means an electric system that is not
5 interconnected with another electric system;

6 (5) "nameplate capacity" means the maximum rated output of a
7 generator, prime mover, or other electric power production equipment under specific
8 conditions designated by the manufacturer;

9 (6) "net electric energy" means, as metered by the electric utility for a
10 specified period and expressed in kilowatt-hours, the amount by which the quantity of
11 electric energy supplied by the

12 (A) utility to the consumer or subscriber exceeds the quantity
13 of electric energy supplied by the consumer or subscriber to the utility; or

14 (B) consumer or subscriber to the utility exceeds the quantity of
15 electric energy supplied by the utility to the consumer or subscriber;

16 (7) "retail sales" means sales of electricity to the end-use consumer,
17 exclusive of any wholesale sales;

18 (8) "subscriber" means a retail electric consumer of an electric utility
19 who owns one or more community energy facility subscriptions interconnected with
20 the utility;

21 (9) "subscriber organization" means a for-profit or nonprofit entity that
22 owns or operates one or more community energy facilities;

23 (10) "subscription" means a contract between a subscriber and a
24 subscriber organization that owns a community energy facility.

25 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITION: REGULATIONS. Within one year after the effective date of this Act,
28 the Regulatory Commission of Alaska shall adopt regulations necessary to implement the
29 changes made by this Act.