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Klein
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CS FOR SENATE BILL NO. 123(RBE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON THE RAILBELT ELECTRIC SYSTEM

Offered:

Referred:

Sponsor(s): SENATE SPECIAL COMMITTEE ON THE RAILBELT ELECTRIC SYSTEM

A BILL

FOR AN ACT ENTITLED

"An Act relating to the creation and regulation of electric reliability organizations; relating to participation of electric utilities in electric reliability organizations; relating to duties of electric reliability organizations; providing for integrated resource planning; requiring project preapproval for public utilities interconnected with interconnected bulk-electric systems; and providing for an effective date."

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

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

Sec. 42.05.292. Electric reliability organizations. (a) An electric utility must participate in an electric reliability organization if the utility operates in an interconnected electric energy transmission network served by an electric reliability organization certificated by the commission. If an electric utility operates in an interconnected electric energy transmission network in which each utility is exempt under AS 42.05.711(b), the electric utility is not required to participate in an electric

1 reliability organization.

2 (b) A person may submit to the commission an application for certification as
3 an electric reliability organization for an interconnected bulk-electric system. The
4 commission may certificate one electric reliability organization for each
5 interconnected electric energy transmission network. The commission may certificate
6 an electric reliability organization if the commission determines that the electric
7 reliability organization has the ability to comply with (c) of this section.

8 (c) An electric reliability organization shall

9 (1) develop reliability standards that provide for an adequate level of
10 reliability of an interconnected bulk-electric system;

11 (2) develop an integrated resource plan under AS 42.05.293(a);

12 (3) establish rules to

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

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

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

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

24 (4) be governed by a board that

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

28 (B) is formed as

29 (i) an independent board;

30 (ii) a balanced stakeholder board; or

31 (iii) a combination independent and balanced

1 stakeholder board.

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

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

7 (1) 90 days after the commission notifies the interconnected load-
8 serving entities under (d) of this section, no person has applied for certification as an
9 electric reliability organization for that interconnected bulk-electric system; or

10 (2) 270 days after the commission notifies the interconnected load-
11 serving entities under (d) of this section, the commission has not certificated an
12 electric reliability organization for that interconnected bulk-electric system.

13 (f) If all load-serving entities within an interconnected bulk-electric system
14 petition the commission for an exemption from the requirement to establish an electric
15 reliability organization for the interconnected electric energy transmission network,
16 the commission may waive the requirement to form an electric reliability organization
17 for that interconnected electric energy transmission network.

18 (g) An electric reliability organization shall file each reliability standard or
19 modification to a reliability standard with the commission as a new or revised tariff
20 provision. All users, owners, and operators of an interconnected bulk-electric system,
21 including a user, owner, or operator that is otherwise exempt from regulation under
22 this chapter, shall comply with reliability standards contained in a tariff that is
23 approved by the commission. The commission may enforce a reliability standard
24 approved under this section. A reliability standard approved under this section

25 (1) shall provide for the reliable operation of the interconnected bulk-
26 electric system or of an interconnected bulk-electric system facility;

27 (2) may provide for

28 (A) cybersecurity protection;

29 (B) facility security;

30 (C) additions or modifications to an interconnected bulk-
31 electric system facility to the extent necessary to provide for reliable operation

1 of the interconnected bulk-electric system;

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

5 (h) The commission may, after public notice and a hearing, approve or reject a
6 proposed reliability standard or modification to a reliability standard submitted by an
7 electric reliability organization. The commission shall determine whether the proposed
8 standard or modification is just, reasonable, not unduly discriminatory or preferential,
9 and in the public interest before approving or rejecting the standard or modification. If,
10 after public notice and a hearing, the commission determines that a proposed
11 reliability standard or modification to a reliability standard submitted by an electric
12 reliability organization should be changed, the commission will return the standard to
13 the electric reliability organization for timely modification and resubmission,
14 consistent with the commission's order. The commission may modify a resubmitted
15 standard if the commission determines that the standard is inconsistent with the
16 commission's order or the public interest. A standard approved under this subsection
17 satisfies the requirements of AS 42.05.291(c).

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

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

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

26 (2) files notice of the proposed penalty and the record of the
27 proceeding with the commission at least 30 days before imposition of the penalty.

28 (k) The commission may, on its own motion or upon complaint, order a user,
29 owner, or operator of an interconnected bulk-electric system to comply with a
30 reliability standard and impose a penalty against the user, owner, or operator of an
31 interconnected bulk-electric system if the commission finds, after notice and a hearing,

1 that the user, owner, or operator of the interconnected bulk-electric system has
2 engaged or is about to engage in an act or practice that violates a reliability standard.

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

11 (m) A penalty imposed under (j), (k), or (l) of this section must bear a
12 reasonable relation to the seriousness of the violation and take into consideration the
13 effort of a user, owner, or operator to remedy the violation in a timely manner.

14 (n) The commission may direct an electric reliability organization to conduct
15 assessments of the reliability and adequacy of the interconnected bulk-electric system.

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

21 (p) An electric reliability organization shall file with the commission each
22 proposed rule or proposed rule change, along with an explanation of the basis and
23 purpose of the proposed rule or proposed rule change. The commission may, on its
24 own motion or upon complaint, propose a change to the rules of an electric reliability
25 organization. A rule change proposed by the commission takes effect upon a finding
26 by the commission, after notice and opportunity for public comment, that the rule
27 change is just, reasonable, not unduly discriminatory or preferential, and is in the
28 public interest.

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

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

(2) 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;

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

Sec. 42.05.293. Integrated resource planning. (a) An electric reliability organization shall file with the commission in a petition for approval an integrated resource plan for meeting the reliability requirements of customers within its interconnected bulk-electric system in a manner that provides the greatest value, 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, battery storage, and conservation or similar improvements in efficiency. An integrated resource plan must include options to meet customers' collective needs in a manner that provides the greatest value, consistent with the public interest, regardless of the location or ownership of new facilities or conservation activities.

(b) The commission shall, after public notice and a hearing, approve, reject, or modify an integrated resource plan filed under (a) of this section, consistent with the public interest. The commission shall determine whether the petition is complete, has been publicly noticed, and is consistent with the commission's regulations and orders. Within 45 days after receipt, the commission shall approve the petition or suspend the petition to an investigation docket. If a petition is not suspended to an investigation docket within 45 days, the petition is considered approved. If, after public notice, a hearing, and review of the process used to develop the integrated resource plan, the commission concludes that the plan requires modification, the commission shall return the plan to the electric reliability organization for timely modification and refiling, consistent with the commission's order. The commission may modify a refiled integrated resource plan if the commission determines that the plan is inconsistent with the commission's order or 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 greatest value, 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 an interconnected bulk-electric system may not construct a large energy facility unless the commission determines that the facility

(1) is necessary to the interconnected bulk-electric 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 a 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) The commission may not require a project for refurbishment or capitalized maintenance to be preapproved.

(d) The commission shall adopt regulations

- (1) governing project preapproval;
- (2) defining refurbishment and capitalized maintenance;
- (3) maintaining municipal jurisdiction over local planning decisions; and
- (4) addressing projects undertaken before integrated resource plan approval for an interconnected bulk-electric system.

(e) 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;
- (2) a high-voltage, above-ground transmission line that
 - (A) has a capacity of 69 kilovolts or more; and
 - (B) is longer than 10 miles;
- (3) a high-voltage submarine or underground cable that
 - (A) has a capacity of 69 kilovolts or more; and
 - (B) is longer than three miles;
- (4) an energy storage device or combination of devices at a single site with a combined capacity of 15,000 kilowatts and one hour or more of energy storage that directly connects with the interconnected bulk-electric system; or
- (5) a reactive compensation device or combination of devices at a single site with a combined reactive capability of 15,000 kilovars or more with a step-up device to regulate interconnected bulk-electric system voltage.

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

- (14) "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 bulk-electric system;
- (15) "electric reliability organization" means an organization that is certificated by the commission under AS 42.05.292;
- (16) "electric utility" means a public utility that provides electricity

1 service;

2 (17) "interconnected bulk-electric system" means electrical generation
3 resources, transmission lines, interconnections, and associated equipment operated at
4 voltages of 69 kilovolts or more by two or more interconnected load-serving entities,
5 at least one of which is subject to the provisions of AS 42.05.291;

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

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

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

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

20 TRANSITION: REGULATIONS. On or before July 1, 2021, the Regulatory
21 Commission of Alaska shall adopt regulations necessary to implement the changes made by
22 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
23 before the effective date of the law implemented by the regulation.

24 * **Sec. 4.** Section 3 of this Act takes effect immediately under AS 01.10.070(c).

25 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect July 1, 2021.