

CS FOR SENATE BILL NO. 123(RBE) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON THE RAILBELT ELECTRIC SYSTEM

Amended: 3/19/20

Offered: 2/26/20

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

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to electric and telephone cooperatives; relating to telephone service
2 and related telecommunications services; relating to the creation and regulation of
3 electric reliability organizations; relating to participation of electric utilities in electric
4 reliability organizations; relating to duties of electric reliability organizations; providing
5 for integrated resource planning; requiring project preapproval for certain
6 interconnected large energy facilities; and providing for an effective date."

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

8 * **Section 1.** AS 10.15.005 is amended to read:

9 **Sec. 10.15.005. Purposes for which cooperatives may be organized.** A
10 cooperative may be organized under this chapter for any lawful purpose, except for the
11 purpose of banking or insurance or the furnishing of electric or telephone **or a related**
12 **telecommunications** service.

13 * **Sec. 2.** AS 10.15.575(a) is amended to read:

1 (a) A person other than a cooperative association incorporated under this
 2 chapter or a previous law of the state may not use the term "cooperative," or any
 3 variation of the term, as part of its corporate or other business name or title. However,
 4 this section does not apply to cooperatives organized to generate and transmit electric
 5 energy and power or to furnish electric or telephone **or a related telecommunications**
 6 service.

7 * **Sec. 3.** AS 10.15.585 is amended to read:

8 **Sec. 10.15.585. Application of chapter.** This chapter applies to the fullest
 9 extent permitted by the laws and constitution of the United States and of the state to all
 10 existing cooperative associations incorporated under a previously existing law of the
 11 state relating to incorporation of cooperative associations. However, this section does
 12 not apply to cooperatives organized to generate and transmit electric energy and power
 13 or to furnish electric or telephone **or a related telecommunications** service.

14 * **Sec. 4.** AS 10.25.010(a) is amended to read:

15 (a) Except as provided in (b) of this section, an electric or telephone
 16 cooperative may

17 (1) sue and be sued in its corporate name;

18 (2) have perpetual existence;

19 (3) adopt a corporate seal and alter it;

20 (4) construct, buy, lease, or otherwise acquire, and equip, maintain,
 21 and operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of
 22 or encumber lands, buildings, structures, electric or telephone lines or systems, dams,
 23 plants and equipment, and any other real or personal property, tangible or intangible,
 24 that is necessary, convenient, or appropriate to accomplish the purpose for which the
 25 cooperative is organized;

26 (5) buy, lease, or otherwise acquire, and use, and exercise and sell,
 27 assign, convey, mortgage, pledge or otherwise dispose of or encumber franchises,
 28 rights, privileges, licenses, and easements;

29 (6) borrow money and otherwise contract indebtedness, and issue
 30 evidences of indebtedness, and secure the payment of the indebtedness by mortgage,
 31 pledge, or deed of trust of, or any other encumbrance upon its real or personal

1 property, assets, franchises, or revenues;

2 (7) construct, maintain, and operate electric transmission and
3 distribution lines [,] or telephone **or related telecommunications service** lines along,
4 **on** [UPON], under and across publicly owned lands and public thoroughfares,
5 including, without limitation, all roads, highways, streets, alleys, bridges, and
6 causeways;

7 (8) exercise the power of eminent domain;

8 (9) become a member of other cooperatives or corporations or own
9 stock in them;

10 (10) conduct its business and exercise its powers inside or outside the
11 state;

12 (11) adopt, amend, and repeal bylaws;

13 (12) make all contracts necessary, convenient, or appropriate for the
14 full exercise of its powers;

15 (13) make donations for the public welfare or for charitable, scientific,
16 or educational purposes;

17 (14) do and perform any other act and thing, and have and exercise any
18 other power that may be necessary, convenient, or appropriate to accomplish the
19 purpose for which the cooperative is organized.

20 * **Sec. 5.** AS 10.25.030(a) is amended to read:

21 (a) A telephone cooperative may

22 (1) furnish, improve, and expand telephone **or** [SERVICE AND]
23 related telecommunications service to its members [,] and to other users not in excess
24 of 10 percent of the number of its members; however, telephone **or a related**
25 **telecommunications** service may be made available by a cooperative through
26 interconnection of facilities to any number of subscribers of other telephone **or**
27 **related telecommunications** systems, and through pay stations to any number of
28 users, and a cooperative **that** [WHICH] acquires existing telephone facilities **or**
29 **related telecommunications facilities** may continue service to persons, not exceeding
30 40 percent of the number of its members, who are already receiving service from the
31 facilities without requiring them to become members, and these persons may become

1 members on [UPON] terms as may be prescribed in the bylaws;

2 (2) connect and interconnect its telephone or related
3 telecommunications service lines, facilities, or systems with other telephone or
4 related telecommunications service lines, facilities, or systems;

5 (3) make its facilities available to persons furnishing telephone or
6 related telecommunications service inside or outside the state.

7 * **Sec. 6.** AS 10.25.040(a) is amended to read:

8 (a) The name of a cooperative must include the words "electric," [OR]
9 "telephone," "telecommunications," or "telecom," as appropriate to its purpose, and
10 "cooperative" or "association," and the abbreviation "Inc." ["INC."]

11 * **Sec. 7.** AS 10.25.080(a) is amended to read:

12 (a) Each incorporator of a cooperative shall be a member of the cooperative or
13 of another cooperative that is a member of it. A person may not become a member
14 unless that person agrees to use electric energy, [OR] telephone or a related
15 telecommunications service, or other services furnished by the cooperative when they
16 are made available through its facilities.

17 * **Sec. 8.** AS 10.25.090(a) is amended to read:

18 (a) An annual meeting of the members of a cooperative shall be conducted as
19 [HELD AT THE TIME AND PLACE] provided in the bylaws of the cooperative. An
20 annual meeting of the members of a cooperative that has been divided into districts as
21 provided for in AS 10.25.190 may consist of separate annual meetings of the members
22 of each district. Unless prohibited by the articles or bylaws of the cooperative, the
23 members of a cooperative may conduct an annual meeting by teleconference or
24 another means of communication that ensures all members participating can
25 hear each other during the meeting.

26 * **Sec. 9.** AS 10.25.090(c) is amended to read:

27 (c) An annual meeting of district delegates of a cooperative shall be
28 conducted as [HELD AT THE TIME AND PLACE] provided in the bylaws of the
29 cooperative.

30 * **Sec. 10.** AS 10.25.100 is amended to read:

31 **Sec. 10.25.100. Notice of meetings.** Except as otherwise provided in this

1 chapter, **or the articles or bylaws of a cooperative**, written notice stating the time
 2 and place of each meeting of the members or district delegates shall be given to each
 3 member or district delegate, **in person** [EITHER PERSONALLY] or by mail,
 4 **electronic mail, or text message**, not less than 15 days **nor** [OR] more than 60 days
 5 before the date of the meeting. Notice of a special meeting of the members, together
 6 with notice of the purpose for which the meeting is called, shall be given to each
 7 member or district delegate [, EITHER] personally or by mail, **electronic mail, or**
 8 **text message**, not less than 90 days **nor** [OR] more than 120 days before the date of
 9 the meeting. If mailed, notice is considered given when **the notice** [IT] is deposited in
 10 the United States mail with postage prepaid addressed to the member or district
 11 delegate at the address of the member or delegate as **the address** [IT] appears on the
 12 records of the cooperative. **When sent by text or electronic mail, notice is**
 13 **considered given when the notice is sent to the member's telephone number, if the**
 14 **telephone is capable of receiving text messages, or the electronic mailing address**
 15 **on record with the cooperative.**

16 * **Sec. 11.** AS 10.25.110(a) is amended to read:

17 (a) Unless the bylaws prescribe the presence of a greater percentage or number
 18 of the members for a quorum, a quorum for the transaction of business at all meetings
 19 of the members of a cooperative or the members of a district of a cooperative having
 20 not more than 1,000 members is five percent of all members [, PRESENT IN
 21 PERSON], and a quorum for the transaction of business of the members of a
 22 cooperative or the members of a district of a cooperative having more than 1,000
 23 members is 50 members [, PRESENT IN PERSON]. If less than a quorum is present,
 24 **or is considered present under (c) of this section**, at a meeting, a majority of those
 25 present, **or considered present under (c) of this section** [IN PERSON] may adjourn
 26 the meeting from time to time without further notice.

27 * **Sec. 12.** AS 10.25.110 is amended by adding a new subsection to read:

28 (c) Unless prohibited by the articles or bylaws, a member or delegate who
 29 votes on a matter by electronic communication received or mail postmarked before a
 30 meeting begins is considered to have attended the meeting for the matter on which the
 31 member or delegate voted.

1 * **Sec. 13.** AS 10.25.175(a) is amended to read:

2 (a) A meeting of the board of directors may be attended by members of the
3 cooperative. Except when voice votes are authorized, a vote shall be conducted in such
4 a manner that the members may know the vote of each person entitled to vote. The
5 board of directors may conduct a meeting by teleconference, **or another means of**
6 **communication that ensures all participating directors can hear each other**
7 **during the meeting.** [OR SIMILAR COMMUNICATIONS EQUIPMENT] if the
8 board gives reasonable notice of the meeting and if members of the cooperative are
9 able to attend the meeting sites and hear the meeting. This section applies only to a
10 meeting at which a quorum of the board participates.

11 * **Sec. 14.** AS 10.25.175(c) is amended to read:

12 (c) The following excepted subjects may be discussed in an executive session:

13 (1) matters the immediate knowledge of which would clearly have an
14 adverse effect on the finances of the cooperative;

15 (2) subjects that tend to prejudice the reputation and character of a
16 person; however, the person may request a public discussion;

17 (3) matters discussed with an attorney for the cooperative, the
18 immediate knowledge of which could have an adverse effect on the legal position of
19 the cooperative;

20 **(4) personnel matters.**

21 * **Sec. 15.** AS 10.25.290(a) is amended to read:

22 (a) A corporation organized under the laws of the state and supplying or
23 having the corporate power to supply electric energy [,] or to furnish telephone **or a**
24 **related telecommunications** service [,] may be converted into a cooperative by
25 complying with the requirements of this section and thereupon becomes subject to this
26 chapter as if originally organized under this chapter.

27 * **Sec. 16.** AS 10.25.430 is amended to read:

28 **Sec. 10.25.430. Validity of mortgage under Rural Electrification Act [OF**
29 **1936].** A mortgage made by a cooperative organized under this chapter to the United
30 States of America, or an agency or instrumentality of it, to secure indebtedness
31 incurred under **7 U.S.C. 901 - 950bb-2** [7 U.S.C. 901 - 950B] (Rural Electrification

1 Act [OF 1936]), as amended, is not void as against creditors of the mortgagor and
 2 subsequent purchasers and encumbrancers of the property in good faith for value
 3 because the mortgage is not accompanied by an affidavit of the parties to it, or an
 4 affidavit of the agent or attorney-in-fact of a party to it, that the mortgage is made in
 5 good faith to secure the amount named, and without a design to hinder, delay or
 6 defraud creditors. A mortgage made by a cooperative organized under this chapter to
 7 the United States of America, or an agency or instrumentality of it to secure
 8 indebtedness incurred under 7 U.S.C. 901 - 950bb-2 [7 U.S.C. 901 - 950B] (Rural
 9 Electrification Act [OF 1936]), as amended, need not set **out** [FORTH] the date upon
 10 which the indebtedness secured by it becomes due.

11 * **Sec. 17.** AS 10.25.460 is amended to read:

12 **Sec. 10.25.460. Registered office and registered agent.** Each cooperative
 13 shall have and continuously maintain in the state a registered

14 (1) office, which may be, but need not be, the same as the location of
 15 the principal office;

16 (2) agent who is **either** an individual resident in the state [AND]
 17 whose business office is identical with the registered office **or a domestic or foreign**
 18 **corporation authorized to transact business in the state whose business office is**
 19 **identical with the registered office.**

20 * **Sec. 18.** AS 10.25.810 is amended to read:

21 **Sec. 10.25.810. Purpose.** Cooperative, nonprofit, membership corporations
 22 may be organized under this chapter for the purpose of supplying electric energy or
 23 telephone **or a related telecommunications** service and promoting and extending the
 24 use of these services.

25 * **Sec. 19.** AS 10.25.820 is amended to read:

26 **Sec. 10.25.820. Chapter extended to existing cooperatives.** This chapter
 27 applies to all nonprofit cooperatives organized under any other law of the state for the
 28 purpose of supplying electric energy and power, or telephone **or a related**
 29 **telecommunications** service, to its members, or for the purpose of promoting and
 30 extending the use of electric energy and power [,] or telephone **or a related**
 31 **telecommunications** service. These cooperatives are subject to this chapter as if

1 originally organized under it.

2 * **Sec. 20.** AS 10.25.840 is amended by adding a new paragraph to read:

3 (6) "related telecommunications service" means

4 (A) the transmission and reception of messages, impressions,
5 pictures, and signals by means of electricity, electromagnetic waves, or any
6 other source of energy, force variations, or impulses, whether conveyed by
7 cable, wire, radiated through space, or transmitted through other media; or

8 (B) a service capable of electronically generating, acquiring,
9 storing, transforming, processing, retrieving, utilizing, or making available
10 information, through the use of broadband Internet access, data center services,
11 information technology, or other technology services.

12 * **Sec. 21.** AS 42.05 is amended by adding new sections to read:

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

14 **Sec. 42.05.760. Electric reliability organizations.** (a) An electric utility must
15 participate in an electric reliability organization if the utility operates in an
16 interconnected electric energy transmission network served by an electric reliability
17 organization certificated by the commission. The commission may not require an
18 electric reliability organization for an interconnected bulk-electric system if all of the
19 load-serving entities operating in the interconnected bulk-electric system are exempt
20 under AS 42.05.711(b).

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

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

30 (d) Notwithstanding the requirements in (e) of this section, if all load-serving
31 entities within an interconnected bulk-electric system petition the commission for an

1 exemption from the requirement to establish an electric reliability organization for the
 2 interconnected electric energy transmission network, the commission may waive the
 3 requirement to form an electric reliability organization for that interconnected electric
 4 energy transmission network.

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 (c) 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 (c) of this section, the commission has not certificated an
 12 electric reliability organization for that interconnected bulk-electric system.

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

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

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

21 **Sec. 42.05.762. Duties of an electric reliability organization.** An electric
 22 reliability organization shall

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

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

26 (3) establish rules to

27 (A) ensure that the directors of the electric reliability
 28 organization and the electric reliability organization act independently from
 29 users, owners, and operators of the interconnected electric energy transmission
 30 network;

31 (B) equitably allocate reasonable dues, fees, and other charges

1 among all load-serving entities connected to the interconnected electric energy
2 transmission network for all activities under AS 42.05.760 - 42.05.790;

3 (C) provide fair and impartial procedures for the enforcement
4 of reliability standards;

5 (D) provide for reasonable notice and opportunity for public
6 comment, due process, openness, and balancing of interests in exercising its
7 duties; and

8 (4) be governed by a board that

9 (A) includes as nonvoting members the chair of the
10 commission or the chair's designee and the attorney general or the attorney
11 general's designee; and

12 (B) is formed as

13 (i) an independent board;

14 (ii) a balanced stakeholder board; or

15 (iii) a combination independent and balanced
16 stakeholder board.

17 **Sec. 42.05.765. Reliability standards.** (a) An electric reliability organization
18 shall file each reliability standard or modification to a reliability standard with the
19 commission as a new or revised tariff provision. All users, owners, and operators of an
20 interconnected electric energy transmission network served by an electric reliability
21 organization, including a user, owner, or operator that is exempt from other regulation
22 under AS 42.05.711 or another provision of this chapter, shall comply with reliability
23 standards contained in a tariff that is approved by the commission. The commission
24 may enforce a reliability standard approved under this section. A reliability standard
25 approved under this section

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

29 (2) may provide for

30 (A) protection from a cybersecurity incident;

31 (B) facility security;

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

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

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

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

23 (d) If a reliability standard adopted under this section conflicts with a function,
24 rule, tariff, rate schedule, or agreement that has also been accepted, approved, adopted,
25 or ordered by the commission, a user, owner, or operator shall comply with the
26 function, rule, tariff, rate schedule, or agreement until the conflict is resolved by the
27 commission.

28 (e) If, as a condition of a contract with the United States Department of
29 Defense, a user, owner, or operator is subject to a federal standard, rule, or function
30 that conflicts with a reliability standard adopted under this section, the user, owner, or
31 operator shall comply with the federal standard, rule, or function until the conflict is

1 resolved by the commission. The commission may not resolve the conflict in a manner
 2 that prevents the user, owner, or operator from fulfilling the contract with the United
 3 States Department of Defense.

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

7 **Sec. 42.05.767. Electric reliability organization rules; approval.** An electric
 8 reliability organization shall file with the commission each proposed rule or proposed
 9 rule change, along with an explanation of the basis and purpose of the proposed rule or
 10 proposed rule change. The commission may, on its own motion or upon complaint,
 11 propose a change to the rules of an electric reliability organization. A rule change
 12 proposed by the commission takes effect upon a finding by the commission, after
 13 notice and opportunity for public comment, that the rule change is just, reasonable, not
 14 unduly discriminatory or preferential, and is in the public interest.

15 **Sec. 42.05.770. Regulations.** The commission shall adopt regulations
 16 governing electric reliability organizations, reliability standards, and modifications to
 17 reliability standards consistent with this section. Regulations under AS 42.05.760 -
 18 42.05.790 must

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

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

22 (B) standards for transmission system cost recovery;

23 (2) provide a process to identify and resolve conflicts between a
 24 reliability standard and a function, rule, tariff, rate schedule, or agreement that has
 25 been accepted, approved, adopted, or ordered by the commission;

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

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

1 **Sec. 42.05.775. Penalties.** (a) An electric reliability organization may impose
2 a penalty on a user, owner, or operator of an interconnected electric energy
3 transmission network for a violation of a reliability standard if, after notice and a
4 hearing, the electric reliability organization

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

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

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

15 (c) A user, owner, or operator may appeal to the commission a penalty
16 imposed under (a) of this section. The commission may, on its own motion, review a
17 penalty imposed under (a) of this section. The commission shall, after notice and a
18 hearing, issue an order affirming, modifying, reinstating, or revoking the penalty or
19 remand the penalty to the electric reliability organization for further proceedings.
20 Unless otherwise ordered by the commission, a penalty shall remain in effect during
21 proceedings under this subsection. The commission shall expedite proceedings under
22 this subsection.

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

26 **Sec. 42.05.780. Integrated resource planning.** (a) An electric reliability
27 organization shall file with the commission in a petition for approval an integrated
28 resource plan for meeting the reliability requirements of all customers within its
29 interconnected electric energy transmission network in a manner that provides the
30 greatest value, consistent with the load-serving entities' obligations. An integrated
31 resource plan must contain an evaluation of the full range of cost-effective means for

1 load-serving entities to meet the service requirements of all customers, including
2 additional generation, transmission, battery storage, and conservation or similar
3 improvements in efficiency. An integrated resource plan must include options to meet
4 customers' collective needs in a manner that provides the greatest value, consistent
5 with the public interest, regardless of the location or ownership of new facilities or
6 conservation activities.

7 (b) The commission shall, after public notice and review of the process used to
8 develop an integrated resource plan, approve or modify an integrated resource plan
9 filed under (a) of this section, consistent with the public interest. The commission shall
10 determine whether the petition is complete, has been publicly noticed, and is
11 consistent with the commission's regulations and orders. The commission may reject
12 all or part of a petition that does not comply with the commission's form or filing
13 regulations. Within 45 days after receipt, the commission shall approve the petition or
14 suspend the petition to an investigation docket. If a petition is not suspended to an
15 investigation docket within 45 days, the petition is considered approved. If, after
16 public notice and a hearing, the commission concludes that the plan requires
17 modification, the commission shall return the plan to the electric reliability
18 organization for timely modification and refile, consistent with the commission's
19 order. The commission may modify a refiled integrated resource plan if the
20 commission determines that the plan is inconsistent with the commission's order or the
21 public interest.

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

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

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

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

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

1 the commission.

2 (e) In this section,

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

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

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

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

15 (2) complies with reliability standards; and

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

18 (b) Unless the commission finds otherwise by clear and convincing evidence,
19 a large energy facility that was included in the most recent integrated resource plan
20 approved under AS 42.05.780 is considered to satisfy the requirements of (a) of this
21 section.

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

23 (1) project for refurbishment or capitalized maintenance;

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

26 (d) The commission shall adopt regulations

27 (1) governing project preapproval;

28 (2) defining refurbishment and capitalized maintenance;

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

30 and

31 (4) addressing projects undertaken before integrated resource plan

1 approval for an interconnected electric energy transmission network.

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

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

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

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

8 (B) is longer than 10 miles;

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

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

11 (B) is longer than three miles;

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

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

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

19 (1) "cybersecurity incident" means a malicious act or suspicious event
20 that disrupts or attempts to disrupt the security of data or the operation of
21 programmable electronic devices and communication networks, including hardware
22 and software that are essential to the reliable operation of the interconnected electric
23 energy transmission network;

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

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

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

31 (5) "interconnected electric energy transmission network" means a

1 network of interconnected electrical generation resources, transmission lines,
2 interconnections, and associated equipment operated at voltages of 69 kilovolts or
3 more, operating in a geographic area that are synchronized so that the failure of one or
4 more of the components may adversely affect the ability of the operators of other
5 components within the system to maintain reliable operation of the facilities within the
6 control of the operators;

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

10 (7) "reliable operation" means operating the elements of the
11 interconnected electric energy transmission network within equipment and electric
12 system thermal, voltage, and stability limits so that instability, uncontrolled separation,
13 or cascading failures of the system will not occur as a result of a sudden disturbance,
14 including a cybersecurity incident, or unanticipated failure of system elements.

15 * **Sec. 22.** AS 10.25.030(b) and 10.25.400(e) are repealed.

16 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

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

22 * **Sec. 24.** Sections 1 - 20, 22, and 23 of this Act takes effect immediately under
23 AS 01.10.070(c).

24 * **Sec. 25.** Except as provided in sec. 24 of this Act, this Act takes effect July 1, 2021.