

CS FOR HOUSE BILL NO. 368(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered: 3/22/24

Referred: Finance

Sponsor(s): HOUSE SPECIAL COMMITTEE ON ENERGY

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to clean energy standards and a clean energy transferable tax credit;**
2 **and providing for an effective date."**

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

4 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. The purpose of this Act is to establish a clean energy standard that
7 requires certain electric utilities to derive increasing percentages of the utility's net electricity
8 sales from clean energy sources. Nothing in this Act is intended to constitute implementation
9 by the Regulatory Commission of Alaska of the federal Public Utility Regulatory Policies Act
10 of 1978 (16 U.S.C. 2705).

11 *** Sec. 2.** AS 42.05.381 is amended by adding a new subsection to read:

12 (p) The rate for transmission of clean energy generated from capacity
13 constructed on or after July 1, 2024, to comply with a clean energy standard under
14 AS 42.05.900 shall be a uniform transmission services rate, developed by the electric

1 reliability organization for the Railbelt, subject to review and approval by the
 2 commission. A load-serving entity may not charge more than the uniform transmission
 3 services rate for energy transmitted to comply with a clean energy standard under
 4 AS 42.05.900.

5 * **Sec. 3.** AS 42.05.780(a) is amended to read:

6 (a) An electric reliability organization shall file with the commission in a
 7 petition for approval an integrated resource plan for meeting the reliability
 8 requirements of all customers within its interconnected electric energy transmission
 9 network in a manner that provides the greatest value, consistent with the load-serving
 10 entities' obligations. An integrated resource plan must contain an evaluation of the full
 11 range of cost-effective means for load-serving entities to meet the service
 12 requirements of all customers, including additional generation, transmission, battery
 13 storage, and conservation or similar improvements in efficiency. An integrated
 14 resource plan must include options to meet customers' collective needs in a manner
 15 that provides the greatest value, consistent with the public interest, regardless of the
 16 location or ownership of new facilities or conservation activities. **An integrated**
 17 **resource plan must identify the most cost-effective strategies for the**
 18 **interconnected electric energy transmission network to satisfy the clean energy**
 19 **standard under AS 42.05.900.**

20 * **Sec. 4.** AS 42.05.785(a) is amended to read:

21 (a) A public utility, including a public utility that is exempt from other
 22 regulation under AS 42.05.711 or another provision of this chapter, that is
 23 interconnected with an interconnected electric energy transmission network served by
 24 an electric reliability organization certificated by the commission may not construct a
 25 large energy facility unless the commission determines that the facility

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

28 (2) complies with reliability standards; [AND]

29 (3) would, in a cost-effective manner, meet the needs of a load-serving
 30 entity that is substantially served by the facility; **and**

31 **(4) is not detrimental to a load-serving entity's ability to meet the**

clean energy standard under AS 42.05.900.

* **Sec. 5.** AS 42.05 is amended by adding new sections to read:

Article 11A. Clean Energy Standard.

Sec. 42.05.900. Clean energy standard. (a) A load-serving entity that is subject to the standards of an electric reliability organization under AS 42.05.760 shall comply with the clean energy standard established in this section. Under the clean energy standard, a load-serving entity's portfolio shall include clean energy in the following percentages:

(1) 35 percent by December 31, 2036;

(2) 60 percent by December 31, 2051.

(b) A power purchase agreement entered into between a load-serving entity and a clean energy producer may be included when calculating the load-serving entity's compliance with the clean energy standard required under this section if

(1) the effective date of the power purchase agreement is before the end of the compliance period;

(2) the power purchase agreement guarantees that the clean electrical energy producer will deliver the clean energy to the load-serving entity not later than two years after the compliance period; and

(3) the power purchase agreement is approved by the commission in accordance with AS 42.05.381 and 42.05.431(a) and (b) before the end of the compliance period.

(c) A load-serving entity may satisfy the clean energy standard through energy produced by distributed energy systems, regardless of whether the energy is acquired by the load-serving entity or used by the customer.

(d) A load-serving entity's compliance with the clean energy standard shall be based on historical data, collected in a manner consistent with industry standards and commission regulations.

(e) A load-serving entity shall design and implement an accounting system to verify compliance with the clean energy standard, to ensure that clean energy is counted only once for the purpose of meeting the clean energy standard, and to track energy consumption displaced because of energy efficiency investments under (g) of

1 this section. The accounting system must be approved by the commission.

2 (f) The commission shall, by regulation, develop a proxy for the ratio of net
3 energy acquired by a load-serving entity at metered intervals to total energy produced
4 from distributed energy systems. Using the proxy, the commission shall determine an
5 estimate of total energy produced by distributed energy systems available to satisfy a
6 load-serving entity's clean energy standard. The commission shall update the proxy
7 developed under this subsection not less than once every five years.

8 (g) A load-serving entity may satisfy the clean energy standard with energy
9 consumption displaced because of energy efficiency investments, including
10 investment in consumer efficiency upgrades, if the displaced consumption is
11 documented by the accounting system required under (e) of this section.

12 (h) The commission shall adopt a minimum standard for electric power
13 transmission lines sufficient to ensure seamless end-to-end electrical energy
14 transmission. A load-serving entity may not increase rates paid by ratepayers to fund
15 transmission intertie upgrades required under this subsection, but a load-serving entity
16 may increase rates to fund other required transmission line upgrades. Notwithstanding
17 AS 42.05.900 - 42.05.935, load-serving entities subject to the standards of an electric
18 reliability organization are not subject to the clean energy standard before electric
19 power transmission lines in the interconnected electric energy transmission network
20 served by the electric reliability organization are upgraded to the minimum standard
21 required by this subsection. If the upgrade required under this subsection is not
22 completed before December 31, 2026,

23 (1) 35 percent of sales in the load-serving entity's portfolio must be
24 from clean energy within 10 years after the upgrade is complete; and

25 (2) 60 percent of sales must be from clean energy within 25 years after
26 the upgrade is complete, or when electric power transmission lines connect the
27 interconnected electric energy transmission network in the Railbelt to the service area
28 of the Copper Valley Electric Association, whichever is later.

29 **Sec. 42.05.905. Reporting.** (a) Beginning March 1, 2025, a load-serving entity
30 subject to the clean energy standard shall submit an annual report to the commission
31 that documents the load-serving entity's progress toward satisfying the clean energy

1 standard in the preceding calendar year. The annual report must document the entity's
 2 total production from distributed energy systems and net electricity sales from clean
 3 energy for the applicable calendar year and include the information required by the
 4 commission.

5 (b) The commission shall adopt regulations governing the reporting
 6 requirements to document compliance and minimize the administrative costs and
 7 burden on a load-serving entity.

8 (c) The commission may investigate a load-serving entity's compliance with a
 9 clean energy standard and collect any information reasonably necessary to verify and
 10 audit the information provided to the commission by the load-serving entity.

11 **Sec. 42.05.910. Clean energy transferable tax credits.** (a) A load-serving
 12 entity or independent power producer may apply for the clean energy transferable tax
 13 credit under AS 43.98.080 in the amount of 0.2 cents for each kilowatt-hour of clean
 14 energy that is

15 (1) produced by the load-serving entity or independent power producer
 16 at a facility that meets the qualifications in (b) of this section; and

17 (2) sold by the load-serving entity or independent power producer to
 18 an unrelated person during the taxable year.

19 (b) A facility qualifies for the clean energy transferable tax credit under this
 20 section if the facility

21 (1) is owned by the load-serving entity or independent power producer;

22 (2) is used to generate clean energy;

23 (3) is placed into service after the effective date of this section; and

24 (4) has been in service for 10 years or less.

25 (c) If the owner of a facility places a new generating unit or additional
 26 generating capacity into service that is used to generate clean energy at the facility
 27 after the effective date of this section, the owner may apply for the clean energy
 28 transferable tax credit for 10 years from the date the new unit or additional capacity is
 29 placed into service, but only to the extent of the increased amount of clean energy
 30 produced at the facility because of the new unit or additional capacity.

31 (d) A school district may apply for the clean energy transferable tax credit

under AS 43.98.080 for clean energy produced from a distributed energy system that is located on property owned by the school district and that meets the qualifications in (b)(2) - (4) of this section, regardless of whether the energy is sold to an unrelated person. A school district is entitled to the same amount of credit as a load-serving entity under this section for the number of kilowatt-hours of clean energy produced by the school district's distributed energy system. In this subsection, "school district" means a city or borough school district or regional educational attendance area.

(e) The owner of a facility that qualifies for a clean energy transferable tax credit under (b) of this section and produces clean energy for an electric utility that receives power cost equalization under AS 42.45.100 - 42.45.150 is eligible for an increased clean energy transferable tax credit in the amount of an additional one cent for each kilowatt-hour of clean energy that meets the requirements in (a) of this section and is produced for the electric utility. The owner of the facility may be the electric utility. In this subsection, "electric utility" has the meaning given in AS 42.45.150.

Sec. 42.05.915. Waiver. (a) The commission may waive the requirement that a load-serving entity comply with the clean energy standard if, after notice and opportunity for a hearing, the commission determines that a load-serving entity is unable to meet the clean energy standard because of reasons outside the reasonable control of the load-serving entity as set out in (b) of this section or the entity establishes a good cause as set out in (c) of this section. The commission may grant a waiver under this section for a period of not longer than five years.

(b) The following events or circumstances are outside of a load-serving entity's reasonable control:

- (1) weather-related damage;
- (2) natural disasters;
- (3) failure of clean energy producers to meet contractual obligations to the load-serving entity;
- (4) transmission network constraint that prevents the load-serving entity from partially or fully using clean energy for net electricity sales;
- (5) global pandemics; and

1 (6) acts of war.

2 (c) The following factors may establish good cause for a waiver:

3 (1) the actions taken by the load-serving entity to procure the clean
4 energy;

5 (2) the extent of good faith efforts by the load-serving entity to
6 comply;

7 (3) the lack of past failures to comply;

8 (4) the likelihood and amount of future clean energy to be procured by
9 the load-serving entity;

10 (5) the effect of the noncompliance fine on the load-serving entity
11 considering the size or ownership of the load-serving entity;

12 (6) the good faith effort by the load-serving entity to meet the clean
13 energy standard after an event or circumstance enumerated in (b) of this section.

14 **Sec. 42.05.920. Exemptions.** (a) A load-serving entity is exempt from
15 compliance with the clean energy standard if the aggregate net electricity sales for all
16 load-serving entities on the interconnected electric energy transmission network meets
17 or exceeds the aggregate clean energy standard for all load-serving entities on the
18 interconnected electric energy transmission network.

19 (b) If an exemption under (a) of this section does not apply, a load-serving
20 entity is exempt from its first noncompliance with a clean energy standard.

21 **Sec. 42.05.925. Net billing.** (a) A load-serving entity subject to the clean
22 energy standard shall credit in a tariff the account of a retail customer for the number
23 of kilowatt-hours, at the export credit rate set by the commission in accordance with
24 (b) of this section, of electric energy supplied by the customer's distributed energy
25 system to the load-serving entity. The tariff may not limit the aggregate capacity that
26 customers may install unless the commission, after a hearing, finds that capacity
27 limitation is necessary to protect system reliability.

28 (b) The commission shall by regulation establish a method to determine
29 annually the amount of a reasonable seasonal and time variant export credit rate for
30 electric energy supplied to a load-serving entity by a customer's distributed energy
31 system. In determining the export credit rate, the commission may consider any

relevant factors, including avoided costs of load-serving entities.

Sec. 42.05.930. Additional clean energy resources. At least once every five years, the Alaska Energy Authority shall submit a report to the legislature identifying whether the authority recommends that the legislature add any available technologies to the definition of "clean energy" in AS 42.05.935 for purposes of complying with the clean energy standard. The authority shall submit a report required under this section to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.

Sec. 42.05.935. Definitions. In AS 42.05.900 - 42.05.935,

(1) "clean energy" means electrical energy that

(A) when generated by a load-serving entity, does not release carbon dioxide or releases carbon dioxide in an amount that is offset by the amount of carbon dioxide the load-serving entity absorbs or removes from the atmosphere;

(B) is generated from coal with a sulfur content of one percent or less by weight;

(C) is generated from renewable energy resources; or

(D) is generated from nuclear energy;

(2) "clean energy standard" means the required percentage of a load-serving entity's net electrical energy sales to customers in the entity's service area that is represented by clean energy as required under AS 42.05.900;

(3) "compliance period" means each period identified in AS 42.05.900(a) or (h);

(4) "distributed energy system" means a renewable energy resource that is located on any property owned or leased by a customer within the service territory of the load-serving entity that is interconnected on the customer's side of the utility meter;

(5) "independent power producer" means a person, other than a load-serving entity, that owns or operates a facility for the generation of electricity for use primarily by the public;

(6) "interconnected electric energy transmission network" has the

1 meaning given in AS 42.05.790;

2 (7) "load-serving entity" has the meaning given in AS 42.05.790;

3 (8) "Railbelt" means the geographic region from the Kenai Peninsula
4 to Interior Alaska that is connected to a common electric transmission backbone;

5 (9) "renewable energy resource" means a resource, other than
6 petroleum, natural gas, or coal, that naturally replenishes over a human, not a
7 geological, time frame, is ultimately derived from solar power, water power, or wind
8 power, comes from the sun or from thermal inertia of the earth, and minimizes the
9 output of toxic material in the conversion of the energy; in this paragraph, "resource"
10 includes

11 (A) solar and solar thermal energy, wind energy, and kinetic
12 energy of moving water, including

13 (i) waves, tides, or currents;

14 (ii) run-of-river hydropower, in-river hydrokinetic;

15 (iii) conventional hydropower, lake tap hydropower;

16 (iv) water released through a dam; and

17 (v) geothermal energy;

18 (B) waste to energy systems, including

19 (i) wood;

20 (ii) landfill gas produced by municipal solid waste or
21 fuel that has been manufactured in whole or significant part from
22 waste;

23 (iii) biofuels produced in the state; and

24 (iv) thermal energy produced from a geothermal heat
25 pump using municipal solid waste, including biogenic and
26 anthropogenic fractions;

27 (10) "transmission network constraint" means a lack of transmission
28 line capacity to deliver electricity without exceeding thermal, voltage, and stability
29 limits designed to ensure reliability of the interconnected electric energy transmission
30 network.

31 * **Sec. 6.** AS 42.45.110(a) is amended to read:

(a) The costs used to calculate the amount of power cost equalization for all electric utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs, except return on equity, used by the commission to determine the revenue requirement for electric utilities subject to rate regulation under AS 42.05. The costs used in determining the power cost equalization per kilowatt-hour shall exclude any other type of assistance that reduces the customer's costs of power on a kilowatt-hour basis and that is provided to the electric utility within 60 days before the commission determines the power cost equalization per kilowatt-hour of the electric utility. In calculating power cost equalization, the commission may not consider validated costs or kilowatt-hour sales associated with a United States Department of Defense facility or revenue from the sale of recovered heat.

* **Sec. 7.** AS 43.98 is amended by adding a new section to read:

Article 5. Clean Energy Transferable Tax Credit.

Sec. 43.98.080. Clean energy transferable tax credit. (a) The department shall provide a clean energy transferable tax credit certificate for qualified clean energy production under AS 42.05.910. The department shall publish the name and contact information for each person provided a clean energy transferable tax credit certificate under this subsection.

(b) A clean energy transferable tax credit certificate may be sold, assigned, exchanged, conveyed, or otherwise transferred in whole or in part.

(c) A taxpayer acquiring a clean energy transferable tax credit certificate may use the credit or a portion of the credit to offset taxes imposed under AS 10.25 and this title. Except as provided in (e) of this section, any portion of the credit not used may be used at a later period or transferred under (b) of this section.

(d) The department shall adopt regulations necessary for the administration of this section.

(e) A clean energy transferable tax credit certificate, whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in part, must be used within five years after being provided by the department.

(f) A clean energy transferable tax credit certificate may not be applied to reduce a person's tax liability to below zero.

(g) A person acquiring two or more clean energy transferable tax credit certificates may combine the unused amounts of the credits for sale, assignment, exchange, conveyance, or other transfer. At the request of a person holding a clean energy transferable tax credit, the department shall replace a certificate that represents the full amount of tax credits available with multiple certificates that each represent a portion of the total tax credits available for the purpose of sale, assignment, exchange, conveyance, or other transfer under this subsection or, upon request, shall provide one tax credit certificate that represents the combined value of multiple tax credit certificates. A tax credit certificate replaced or provided by the department under this subsection must state the expiration date and the amount of each credit that is included in the certificate. Combining or splitting unused amounts of credits under this subsection does not change or extend the period in which each credit that is included in the combination or split must be used.

* **Sec. 8.** AS 44.83.940 is amended by adding a new subsection to read:

(b) Not later than the first day of the first regular session of each legislature, the authority shall submit a report to the senate secretary and chief clerk of the house of representatives and notify the legislature that the report is available. The report must identify the authority's progress in developing clean energy in rural regions of the state, evaluate clean energy development in rural regions, identify infrastructure necessary for rural clean energy projects, and evaluate the feasibility and cost of rural clean energy projects.

* **Sec. 9.** This Act takes effect July 1, 2024.