

SENATE BILL NO. 101

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATORS TOBIN, Gray-Jackson, Kawasaki

Introduced: 3/15/23

Referred: Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a renewable portfolio standard; relating to electrical energy**
2 **transmission; relating to distributed energy systems; relating to power cost equalization;**
3 **relating to the Alaska Energy Authority; and providing for an effective date."**

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

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

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

12 * **Sec. 2.** AS 42.05.391(a) is amended to read:

13 (a) Except as provided in AS 42.05.306, a public utility may not, as to rates,
14 grant an unreasonable preference or advantage to any of its customers or subject a

customer to an unreasonable prejudice or disadvantage. A public utility may not establish or maintain an unreasonable difference as to rates, either as between localities or between classes of service. **A public utility offering net metering for customers who install distributed energy systems is not engaging in rate discrimination solely because some customers receive net metering.** A municipally owned utility may offer uniform or identical rates for a public utility service to customers located in different areas within its certificated service area who receive the same class of service. Any uniform or identical rate shall, upon complaint, be subject to review by the commission and may be set aside if shown to be unreasonable. **In this subsection, "distributed energy system" has the meaning given in AS 42.05.930.**

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

(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 all customers within its interconnected electric energy transmission network 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 all 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. **An integrated resource plan must include options by which each load-serving entity may satisfy the renewable portfolio standard under AS 42.05.900.**

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

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

(1) is necessary to the interconnected electric energy transmission

1 network with which it would be interconnected;

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

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

5 (4) is not detrimental to a load-serving entity's ability to meet the
6 renewable portfolio standard under AS 42.05.900.

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

8 **Article 11A. Renewable Portfolio Standard.**

9 **Sec. 42.05.900. Renewable portfolio standard.** (a) A load-serving entity that
10 is subject to the standards of an electric reliability organization under AS 42.05.760
11 shall comply with the renewable portfolio standard established in this section. Under
12 the renewable portfolio standard, a load-serving entity's portfolio shall include sales
13 from renewable energy resources in the following percentages:

14 (1) 25 percent by December 31, 2027;

15 (2) 55 percent by December 31, 2035;

16 (3) 80 percent by December 31, 2040.

17 (b) A purchase power agreement entered into between a load-serving entity
18 and a renewable electrical energy producer will be considered to satisfy all or part of
19 the percentages required under (a) of this section if

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

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

25 (3) the purchase power agreement is approved by the commission in
26 accordance with AS 42.05.381 and 42.05.431(a) and (b) before the end of the
27 compliance period; if the purchase power agreement is not approved by the
28 commission, the load-serving entity may be subject to a noncompliance fine under
29 AS 42.05.915.

30 (c) To qualify as part of a load-serving entity's portfolio, renewable energy
31 resources used by a load-serving entity must be located within the load-serving entity's

1 service area, connected to the same interconnected electric energy transmission
2 network that serves the load-serving entity's customers, or located within the service
3 area of an electric utility whose customers receive power cost equalization under
4 AS 42.45.100 - 42.45.150.

5 (d) A load-serving entity may satisfy the renewable portfolio standard through
6 energy produced by distributed energy systems, regardless of whether the energy is
7 acquired by the load-serving entity or used by the customer.

8 (e) A load-serving entity's compliance with the renewable portfolio standard
9 shall be based on historical data, collected in a manner consistent with industry
10 standards and commission regulations.

11 (f) A load-serving entity shall design and implement an accounting system to
12 verify compliance with the renewable portfolio standard to ensure that renewable
13 electrical energy is counted only once for the purpose of meeting the renewable
14 portfolio standard.

15 (g) The commission shall, by regulation, develop a proxy for the ratio of net
16 energy acquired by a load-serving entity at metered intervals to total energy produced
17 from distributed energy systems. Using the proxy, the commission shall determine an
18 estimate of total energy produced by distributed energy systems available to satisfy a
19 load-serving entity's renewable portfolio standard. The commission shall update the
20 proxy developed under this subsection not less than once every five years.

21 (h) A load-serving entity may also satisfy the renewable portfolio standard
22 through renewable energy credits that qualify as part of the load-serving entity's
23 portfolio under AS 42.05.910.

24 (i) A load-serving entity may also satisfy the renewable portfolio standard
25 with energy consumption displaced because of energy efficiency investments made in
26 whole or part with payments under AS 42.05.915(g), if the displaced consumption is
27 documented under a program established by the state.

28 **Sec. 42.05.905. Reporting.** (a) Beginning March 1, 2025, a load-serving entity
29 subject to the renewable portfolio standard shall submit an annual report to the
30 commission that documents the load-serving entity's progress toward satisfying the
31 renewable portfolio standard under AS 42.05.900 in the preceding calendar year. The

1 annual report must document the entity's total production from distributed energy
 2 systems and net electricity sales from renewable energy resources for the applicable
 3 calendar year, document the entity's satisfaction of penalties imposed under
 4 AS 42.05.915, and include the information required by the commission.

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

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

11 **Sec. 42.05.910. Renewable energy credits.** (a) To qualify as part of a load-
 12 serving entity's portfolio, renewable energy credits must be bundled renewable energy
 13 credits from generation located within a load-serving entity's service area or connected
 14 to the same interconnected electric energy transmission network that serves the load-
 15 serving entity's customers or must be purchased from generation located within the
 16 service area of an electric utility that serves customers who receive power cost
 17 equalization under AS 42.45.100 - 42.45.150.

18 (b) A renewable energy credit may be used only once and then must be
 19 retired.

20 (c) Each load-serving entity is responsible for tracking and demonstrating that
 21 a renewable energy credit used to comply with the renewable portfolio standard is
 22 derived from a renewable energy resource, that the load-serving entity has not
 23 previously used, traded, sold, or otherwise transferred the renewable energy credit, and
 24 that the renewable energy credit is retired upon its use.

25 (d) A renewable energy credit may be traded, sold, or otherwise transferred for
 26 value.

27 (e) Revenue received by a load-serving entity for the trade, sale, or transfer of
 28 a renewable energy credit shall be credited to the load-serving entity's cost of power
 29 adjustment to the benefit of the load-serving entity's customers.

30 **Sec. 42.05.915. Noncompliance fine; waiver.** (a) If the commission
 31 determines that a load-serving entity failed to meet the renewable portfolio standard

1 under AS 42.05.900, after notice and an opportunity for hearing, the entity is, each
 2 year that the entity fails to meet the renewable portfolio standard, subject to a fine of
 3 \$20 for every megawatt hour that the entity is below the renewable portfolio standard.

4 (b) The commission may waive the noncompliance fine in whole or in part
 5 upon determination that a load-serving entity is unable to meet the renewable portfolio
 6 standard because of reasons outside the reasonable control of the load-serving entity as
 7 set out in (c) of this section or the entity establishes a good cause for noncompliance
 8 as set out in (d) of this section.

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

- 11 (1) weather-related damage;
- 12 (2) natural disasters;
- 13 (3) failure of renewable electrical energy producers to meet contractual
- 14 obligations to the load-serving entity;
- 15 (4) transmission network constraint that prevents the load-serving
- 16 entity from partially or fully using renewable electrical energy for net electricity sales;
- 17 (5) global pandemics; and
- 18 (6) acts of war.

19 (d) The following factors may establish good cause for noncompliance:

- 20 (1) the actions taken by the load-serving entity to procure the
- 21 renewable electrical energy;
- 22 (2) the extent of good faith efforts by the load-serving entity to
- 23 comply;
- 24 (3) the lack of past failures to comply;
- 25 (4) the likelihood and amount of future renewable electrical energy to
- 26 be procured by the load-serving entity;
- 27 (5) the effect of the noncompliance fine on the load-serving entity
- 28 considering the size or ownership of the load-serving entity;
- 29 (6) the good faith effort by the load-serving entity to meet the
- 30 renewable portfolio standard after an event or circumstance enumerated in (c) of this
- 31 section.

(e) If the commission waives all or part of a noncompliance fine, the commission may require additional reporting from a load-serving entity to demonstrate the entity is taking all reasonable actions under its control to satisfy the renewable portfolio standard.

(f) A fine paid by a load-serving entity under this section may not be included or recovered in rates, but the load-serving entity may recover a payment made to a customer under (g) of this section.

(g) A load-serving entity may, within one year after the commission imposes a noncompliance fine, satisfy the fine by paying a customer all or a portion of the customer's costs of installing a distributed energy system or energy efficiency technologies. When paying customer costs of installing a distributed energy system, the load-serving entity shall, if total requests for costs exceed the amount of the noncompliance fine, prioritize customers with mean household annual incomes at or below 80 percent of the median census district income where the load-serving entity of the customer is located.

Sec. 42.05.920. Exemptions. (a) A load-serving entity is exempt from compliance with the renewable portfolio standard under AS 42.05.900 if the aggregate net electricity sales for all load-serving entities on the interconnected electric energy transmission network meets or exceeds the aggregate renewable portfolio standard for all load-serving entities on the interconnected electric energy transmission network.

(b) If an exemption under (a) of this section does not apply, a load-serving entity is exempt from its first noncompliance with a renewable portfolio standard. An exemption under this subsection does not apply for the compliance period ending December 31, 2040.

Sec. 42.05.925. Net metering. (a) A load-serving entity subject to the renewable portfolio standard under AS 42.05.900 shall monthly credit in a tariff the account of a retail customer for the number of kilowatt-hours, at the full retail rate per kilowatt-hour, of electric energy supplied by the customer's distributed energy system to the load-serving entity. The tariff may not limit the aggregate capacity that customers may install unless the commission, after a hearing, finds that capacity limitation is necessary to protect system reliability.

(b) For up to seven years after a customer's distributed energy system is connected to the load-serving entity and generates power, a credit under (a) of this section that exceeds the customer's monthly bill for service will roll over to the following month and continue to roll over until used. Unused credits expire on March 31 of each year.

(c) The credits under (b) of this section are not available for a distributed energy system installed before July 1, 2023.

Sec. 42.05.930. Definitions. In AS 42.05.900 - 42.05.930,

(1) "bundled renewable energy credits" means renewable energy credits that are sold or used together with their associated energy;

(2) "compliance period" means each period identified in AS 42.05.900(a);

(3) "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;

(4) "interconnected electric energy transmission network" has the meaning given in AS 42.05.790;

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

(6) "megawatt hour" means 1,000,000 watts of electricity being used in one hour and includes the steam equivalent of a megawatt hour;

(7) "renewable electrical energy" means electricity or energy generated from renewable energy resources;

(8) "renewable energy credit" means one credit equal to the generation attributes of one megawatt hour that is derived from a renewable energy resource located within the load-serving entity's service area or within the interconnected electric energy transmission network where a load-serving entity's service area is located, or purchased from generation located within the service area of an electric utility that serves customers who receive power cost equalization under AS 42.45.100 - 42.45.150; where fossil and renewable fuels are co-fired in the same generating unit, the unit is considered to generate renewable electrical energy in direct proportion to

1 the percentage of the total heat input value represented by the heat input value of the
2 renewable fuels;

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

9 (A) solar and solar thermal energy, wind energy, and kinetic
10 energy of moving water, including

11 (i) waves, tides, or currents;

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

13 (iii) conventional hydropower, lake tap hydropower;

14 (iv) water released through a dam; and

15 (v) geothermal energy;

16 (B) waste to energy systems, including

17 (i) wood;

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

21 (iii) biofuels produced in the state; and

22 (iv) thermal energy produced from a geothermal heat
23 pump using municipal solid waste, including biogenic and
24 anthropogenic factions;

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

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

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

2 (a) The costs used to calculate the amount of power cost equalization for all
3 electric utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs,
4 except return on equity, used by the commission to determine the revenue requirement
5 for electric utilities subject to rate regulation under AS 42.05. The costs used in
6 determining the power cost equalization per kilowatt-hour shall exclude any other type
7 of assistance that reduces the customer's costs of power on a kilowatt-hour basis and
8 that is provided to the electric utility within 60 days before the commission determines
9 the power cost equalization per kilowatt-hour of the electric utility. In calculating
10 power cost equalization, the commission may not consider validated costs or kilowatt-
11 hour sales associated with a United States Department of Defense facility, **revenue**
12 **from the sale of recovered heat, or revenue from the sale of renewable energy**
13 **credits acquired under AS 42.05.910.**

14 * **Sec. 7.** AS 44.83.940 is amended by adding a new subsection to read:

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

22 * **Sec. 8.** This Act takes effect July 1, 2023.