

CS FOR HOUSE BILL NO. 307(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/7/24

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Regulatory Commission of Alaska; relating to regulation of**
2 **public utilities and pipeline carriers; relating to approval of wholesale power**
3 **agreements; relating to preapproval for construction of energy facilities; relating to**
4 **electric reliability organizations; relating to the taxation of new electricity generation**
5 **facilities; relating to the Alaska Energy Authority; relating to the Railbelt Transmission**
6 **Organization; and providing for an effective date."**

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

8 * **Section 1.** AS 39.25.110(11) is amended to read:

9 (11) the officers and employees of the following boards, commissions,
10 and authorities:

11 (A) [REPEALED]

12 (B) Alaska Permanent Fund Corporation;

13 (C) Alaska Industrial Development and Export Authority;

(D) Alaska Commercial Fisheries Entry Commission;

(E) Alaska Commission on Postsecondary Education;

(F) Alaska Aerospace Corporation;

(G) [REPEALED]

(H) Alaska Gasline Development Corporation and subsidiaries
of the Alaska Gasline Development Corporation;

(I) Alaska Energy Authority;

* **Sec. 2.** AS 42.04.020(f) is amended to read:

(f) Members of the commission are in the exempt service and are entitled to a monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. The chair of the commission is entitled to a monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in AS 39.27.011(a) for Juneau, Alaska.

* **Sec. 3.** AS 42.05.254(a) is amended to read:

(a) A regulated public utility or a certificated utility that provides telecommunications services operating in the state shall pay to the commission an annual regulatory cost charge in an amount not to exceed the maximum percentage of adjusted gross revenue that applies to the utility sector of which the utility is a part. The regulatory cost charges that the commission expects to collect from all regulated utilities and certificated utilities providing telecommunications services may not exceed the sum of the following percentages of the total adjusted gross revenue of all regulated public utilities and certificated utilities providing telecommunications services derived from operations in the state: (1) not more than **.98** [.7] percent to fund the operations of the commission, and (2) not more than **.22** [.17] percent to fund operations of the public advocacy function under AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. An exempt utility that does not provide telecommunications services shall pay the actual cost of services provided to it by the commission.

* **Sec. 4.** AS 42.05.381(e) is amended to read:

(e) The commission shall adopt regulations for electric cooperatives, **AND** [AND FOR] local exchange telephone utilities, **and refuse utilities,** setting a range for

adjustment of rates by a simplified rate filing procedure. A cooperative, [OR] telephone utility, or refuse utility may apply for permission to adjust its rates over a period of time under the simplified rate filing procedure regulations. The commission shall grant the application if the cooperative, [OR] telephone utility, or refuse utility satisfies the requirements of the regulations. The commission shall adopt regulations specific to refuse utilities that provide for sufficient public notice and an opportunity for ratepayers to meaningfully comment on rate filings. The commission may review implementation of the simplified rate filing procedure at reasonable intervals and may revoke permission to use the procedure or require modification of the rates to correct an error. In this subsection, "refuse utility" means a utility furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation.

* Sec. 5. AS 42.05.381 is amended by adding a new subsection to read:

(p) A determination of whether an electric utility's rate is just and reasonable may consider whether the purpose of the rate is to increase diversity of supply, promote load growth, or enhance energy reliability or energy security.

* Sec. 6. AS 42.05.431(b) is amended to read:

(b) A wholesale power agreement between public utilities, or between a public utility and an independent power producer, is subject to advance approval of the commission. A rate set in accordance with a wholesale power agreement must reflect a tax exemption or government subsidy provided to a utility or independent power producer. After a wholesale power agreement is in effect, the commission may not invalidate any purchase or sale obligation under the agreement. However, if the commission finds that rates set in accordance with the agreement violate this subsection or are not just and reasonable, the commission may order the parties to negotiate an amendment to the agreement and if the parties fail to agree, to use the dispute resolution procedures contained in the contract. In this subsection, "independent power producer" means a person, other than a public utility, that owns or operates a facility for the generation of electricity; "independent power producer" does not include a joint action agency established under AS 42.45.310.

* Sec. 7. AS 42.05.431 is amended by adding a new subsection to read:

(i) Costs incurred by an electric cooperative utility organized under AS 10.25 that participates in an electric reliability organization certificated by the commission under AS 42.05.760 must be allowed in the rates charged by the utility if the costs are approved by the utility's board of directors in connection with a new or purchased renewable energy facility with a nameplate capacity of less than 15,000 kilowatts or power purchased from a renewable energy facility with a nameplate capacity of less than 15,000 kilowatts. In this subsection, "renewable energy facility" means a facility that generates electricity from renewable and alternative energy resources, including geothermal, wind, solar, hydroelectric, hydrokinetic, tidal, and biomass energy.

* **Sec. 8.** AS 42.05.760(a) is amended to read:

(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. The commission may not require an electric reliability organization for an interconnected bulk-electric system if

(1) all of the load-serving entities operating in the interconnected bulk-electric system are exempt under AS 42.05.711(b); or

(2) the sum of annual electric energy sales made by load-serving entities operating in the interconnected bulk-electric system is less than 1,500,000 megawatt-hours.

* **Sec. 9.** AS 42.05.762 is amended to read:

Sec. 42.05.762. Duties of an electric reliability organization. An electric reliability organization shall

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

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

(3) establish rules to

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

(B) equitably allocate reasonable dues, fees, and other charges among all load-serving entities connected to the interconnected electric energy transmission network for all activities under AS 42.05.760 - 42.05.790;

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

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balancing of interests in exercising its duties; [AND]

(4) be governed by a board that

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

(B) is formed as

(i) an independent board;

(ii) a balanced stakeholder board; or

(iii) a combination independent and balanced stakeholder board; and

(5) prioritize the reliability and stability of the interconnected bulk-electric system served by the electric reliability organization while considering cost to the consumer.

* **Sec. 10.** AS 42.05.770 is amended to read:

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

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

[(A) STANDARDS FOR] nondiscriminatory standards for [OPEN ACCESS TRANSMISSION AND] interconnection;

[(B) STANDARDS FOR TRANSMISSION SYSTEM COST RECOVERY;]

(2) provide a process to identify and resolve conflicts between a

1 reliability standard and a function, rule, tariff, rate schedule, or agreement that has
2 been accepted, approved, adopted, or ordered by the commission;

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

5 * **Sec. 11.** AS 42.06.286(a) is amended to read:

6 (a) A pipeline carrier operating in the state shall pay to the commission an
7 annual regulatory cost charge in an amount not to exceed the sum of the following
8 percentages of gross revenue derived from operations in the state: (1) not more than
9 .98 [.7] percent to fund the operations of the commission, and (2) not more than .22
10 [.17] percent to fund operations of the public advocacy function under
11 AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. A regulatory
12 cost charge may not be assessed on pipeline carrier operations unless the operations
13 are within the jurisdiction of the commission.

14 * **Sec. 12.** AS 43.98 is amended by adding a new section to read:

15 **Article 2A. Taxation of New Electricity Generation Facilities.**

16 **Sec. 43.98.100. Taxation of new electricity generation facilities.** An
17 electricity generation facility that is constructed and placed into service on or after
18 July 1, 2024, is not subject to state and local ad valorem, income, and excise taxes if
19 the electricity generation facility provides power only to a public utility. In this
20 section, "public utility" has the meaning given in AS 42.05.990.

21 * **Sec. 13.** AS 44.83.030 is amended to read:

22 **Sec. 44.83.030. Membership of the authority.** The members of the board of
23 directors of the authority [ALASKA ENERGY AUTHORITY] are

24 (1) the commissioner of revenue;

25 (2) the commissioner of commerce, community, and economic
26 development; and

27 (3) six public members appointed by the governor as follows:

28 (A) one member with expertise or experience in managing
29 or operating an electric utility that is not connected to an interconnected
30 electric energy transmission network as defined in AS 42.05.790;

31 (B) one member with expertise or experience in developing

energy projects in rural communities;

(C) one member with expertise or experience in managing or operating an electric utility connected to an interconnected electric energy transmission network as defined in AS 42.05.790;

(D) one member with financial expertise in large power generation project development; and

(E) two members with expertise or experience in finance, energy policy, energy technology, engineering, law, or economics [THE MEMBERS OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY].

* **Sec. 14.** AS 44.83.030 is amended by adding new subsections to read:

(b) If the commissioner described in (a)(1) or (2) of this section is unable to attend a meeting of the authority, the commissioner may, by an instrument in writing filed with the authority, designate a deputy or director to act in the commissioner's place as a member of the board at the meeting. For all purposes of this chapter, the designee is a member of the board at the meeting.

(c) Public board members described in (a)(3) of this section serve for three-year terms.

(d) If a vacancy occurs in the membership of the board, the governor shall immediately appoint a member for the unexpired portion of the term.

* **Sec. 15.** AS 44.83.040(a) is amended to read:

(a) The board of directors of the authority shall elect a chair and vice-chair every two years from among its members [OF THE ALASKA INDUSTRIAL DEVELOPMENT AND EXPORT AUTHORITY SHALL SERVE AS OFFICERS OF THE ALASKA ENERGY AUTHORITY]. The powers of the authority [ALASKA ENERGY AUTHORITY] are vested in the board of directors, and five board members [FOUR DIRECTORS OF THE AUTHORITY] constitute a quorum. Action may be taken and motions and resolutions adopted by the authority [ALASKA ENERGY AUTHORITY] at a meeting by the affirmative vote of at least five board members [A MAJORITY OF THE DIRECTORS]. The members of the board of directors of the authority [ALASKA ENERGY AUTHORITY] serve

1 without compensation, but they shall receive the same travel pay and per diem as
 2 provided by law for board members under AS 39.20.180.

3 * **Sec. 16.** AS 44.83.040 is amended by adding a new subsection to read:

4 (e) The authority may, as the authority considers advisable, appoint persons as
 5 officers, including an executive director, and employ professional advisors, counsel,
 6 technical experts, agents, and other employees. The executive director and employees
 7 of the authority are in the exempt service under AS 39.25.

8 * **Sec. 17.** AS 44.83.080 is amended to read:

9 **Sec. 44.83.080. Powers of the authority.** In furtherance of its corporate
 10 purposes, the authority has the following powers in addition to its other powers:

- 11 (1) to sue and be sued;
- 12 (2) to have a seal and alter it at pleasure;
- 13 (3) to make and alter bylaws for its organization and internal
 14 management;
- 15 (4) to adopt regulations governing the exercise of its corporate powers;
- 16 (5) to improve, equip, operate, and maintain power projects and bulk
 17 fuel, waste energy, energy conservation, energy efficiency, and alternative energy
 18 facilities and equipment;
- 19 (6) to issue bonds to carry out any of its corporate purposes and
 20 powers, including the establishment or increase of reserves to secure or to pay the
 21 bonds or interest on them, and the payment of all other costs or expenses of the
 22 authority incident to and necessary or convenient to carry out its corporate purposes
 23 and powers;
- 24 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
 25 encumber in any manner by mortgage or by creation of any other security interest, real
 26 or personal property owned by it, or in which it has an interest, when, in the judgment
 27 of the authority, the action is in furtherance of its corporate purposes;
- 28 (8) to accept gifts, grants, or loans from, and enter into contracts or
 29 other transactions regarding them, with any person;
- 30 (9) to deposit or invest its funds, subject to agreements with
 31 bondholders;

(10) to enter into contracts with the United States or any person and, subject to the laws of the United States and subject to concurrence of the legislature, with a foreign country or its agencies, for the construction, financing, operation, and maintenance of all or any part of a power project or bulk fuel, waste energy, energy conservation, energy efficiency, or alternative energy facilities or equipment, either inside or outside the state, and for the sale or transmission of power from a project or any right to the capacity of it or for the security of any bonds of the authority issued or to be issued for the project;

(11) to enter into contracts with any person and with the United States and, subject to the laws of the United States and subject to the concurrence of the legislature, with a foreign country or its agencies for the purchase, sale, exchange, transmission, or use of power from a project, or any right to the capacity of it;

(12) to apply to the appropriate agencies of the state, the United States, and a foreign country and any other proper agency for the permits, licenses, or approvals as may be necessary, to acquire, construct, maintain, and operate power projects in accordance with the licenses or permits, and to obtain, hold, and use the licenses and permits in the same manner as any other person or operating unit;

(13) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;

(14) to recommend to the legislature

(A) the pledge of the credit of the state to guarantee repayment of all or any portion of revenue bonds issued to assist in construction of power projects;

(B) an appropriation from the general fund

(i) for debt service on bonds or other project purposes;

or

(ii) to reduce the amount of debt financing for the

project;

(15) to carry out the powers and duties assigned to it under AS 42.45 and AS 44.83.700 - 44.83.720;

(16) to make grants or loans to any person and enter into contracts or other transactions regarding the grants or loans;

(17) to promote energy conservation, energy efficiency, and alternative energy through training and public education;

(18) to acquire a Susitna River power project, whether by construction, purchase, gift, or lease, including the acquisition of property rights and interests by eminent domain under AS 09;

(19) to perform feasibility studies and engineering and design with respect to power projects;

(20) to acquire battery and other energy storage systems, whether by direct ownership, purchase, grant, gift, or lease.

* **Sec. 18.** AS 44.83.090(b) is amended to read:

(b) The authority is not subject to the jurisdiction of the Regulatory Commission of Alaska, **except as provided in AS 44.83.700(d).** Nothing in this chapter, **except as provided in AS 44.83.700 - 44.83.720,** grants the authority jurisdiction over the services or rates of a public utility or diminishes or otherwise alters the jurisdiction of the Regulatory Commission of Alaska with respect to a public utility, including any right the commission may have to review and approve or disapprove contracts for the purchase of electricity by a public utility other than wholesale agreements and contracts described in AS 42.05.431(c)(1).

* **Sec. 19.** AS 44.83 is amended by adding new sections to read:

Article 5A. Railbelt Transmission Organization.

Sec. 44.83.700. Railbelt Transmission Organization. (a) The Railbelt Transmission Organization is created for the purpose of establishing a transmission cost recovery mechanism that ensures the actual, reasonable costs of owning and operating the backbone transmission system are recovered in a manner that

(1) eliminates per-unit wholesale transmission charges to increase the efficiency by which electricity service is provided;

(2) eliminates multiple pancaked rates; and

(3) equitably allocates costs among the load-serving entities connected to the backbone transmission system.

1 (b) For administrative purposes, the transmission organization is in the Alaska
2 Energy Authority.

3 (c) The governance structure for the transmission organization must be made
4 up of representatives from each of the Railbelt utilities to assist in administering the
5 system of transmission cost recovery.

6 (d) Notwithstanding AS 44.83.090(b), the transmission organization is subject
7 to the jurisdiction of the commission for the purposes of AS 44.83.700 - 44.83.720.
8 The commission shall require the transmission organization to file tariffs to achieve
9 the purposes of AS 44.83.700 - 44.83.720.

10 **Sec. 44.83.710. Revenue mechanism.** (a) The transmission organization shall
11 hold and administer a commission-approved open access transmission tariff that
12 ensures nondiscriminatory access to the backbone transmission system.

13 (b) The transmission organization shall file with the commission a
14 transmission cost recovery methodology that ensures the reliability and sufficient
15 capacity of the backbone transmission system to support and promote state and
16 regional energy policies and a rigorous, dynamic economy. If the transmission
17 organization does not file a transmission cost recovery methodology with the
18 commission on or before July 1, 2025, the commission shall, after notice and
19 opportunity for public comment, establish a transmission cost recovery methodology
20 consistent with this section.

21 (c) The cost recovery methodology for the transmission organization must, as
22 approved by the commission,

23 (1) pool backbone transmission system costs and allocate those costs
24 through certificated load-serving entities on a coincident peak or load ratio share basis,
25 or a combination of both; and

26 (2) account for

27 (A) required backbone transmission system ancillary services;

28 (B) backbone transmission system congestion;

29 (C) disruptions to the backbone transmission system that result
30 in the isolation of one geographical area of the backbone transmission system
31 from another for more than 24 hours; and

(D) costs to own and operate the backbone transmission system, as established by the commission or by contract, including transmission costs associated with the Bradley Lake hydroelectric project.

(d) A Railbelt utility shall pass the commission-approved transmission costs directly and transparently to the utility's customers.

Sec. 44.83.720. Definitions. In AS 44.83.700 - 44.83.720,

(1) "backbone transmission system" means the transmission assets in the Railbelt that facilitate the transfer of large-scale electrical power between or across separate geographical areas; "backbone transmission system" does not include assets that would be considered distribution facilities or radial facilities under the standards established by the Federal Energy Regulatory Commission;

(2) "commission" means the Regulatory Commission of Alaska;

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

(4) "Railbelt utility" means a public electric utility certificated to operate in the Railbelt;

(5) "transmission organization" means the Railbelt Transmission Organization established by AS 44.83.700.

* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: ALASKA ENERGY AUTHORITY BOARD MEMBERS. Notwithstanding AS 44.83.030(c), added by sec. 14 of this Act, the governor shall appoint two public members of the initial Alaska Energy Authority board of directors to one-year terms, two public members to two-year terms, and two public members to three-year terms.

* **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: RAILBELT TRANSMISSION ORGANIZATION. The Railbelt utilities, as defined in AS 44.83.720, added by sec. 19 of this Act, shall form the Railbelt Transmission Organization under AS 44.83.700, added by sec. 19 of this Act, on or before January 1, 2025.

* **Sec. 22.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

1 * **Sec. 23.** Except as provided in sec. 22 of this Act, this Act takes effect July 1, 2024.