

CS FOR HOUSE BILL NO. 182(ENE)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ENERGY

Offered: 4/7/10

Referred: Labor and Commerce, Finance

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

A BILL

FOR AN ACT ENTITLED

1 **"An Act authorizing the organization of the Greater Railbelt Energy and Transmission**
2 **Corporation; relating to energy and transmission corporations, and to the Alaska**
3 **Energy Authority's contracting with energy and transmission corporations to operate a**
4 **power project; and providing for an effective date."**

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

6 * **Section 1.** AS 42 is amended by adding a new chapter to read:

7 **Chapter 50. Energy and Transmission Corporations.**

8 **Sec. 42.50.010. Energy and transmission corporations.** (a) Four or more
9 municipal or cooperative public utilities with electrically interconnected service
10 territories may, if first authorized by law, organize an energy and transmission
11 corporation

12 (1) to acquire, operate, or maintain power and transmission projects
13 acquired or constructed as part of the former energy program for the state and owned
14 by the Alaska Energy Authority under AS 44.83.396; and

1 (2) to plan for, recommend, coordinate, and otherwise address power
2 generation and transmission for the electrically interconnected service territories as
3 provided in this chapter.

4 (b) The purposes of the corporation are

5 (1) to ensure adequate, reliable, safe, and stable wholesale electric
6 power to public utility members without undue discrimination, at the lowest
7 reasonable long-term cost; and

8 (2) to be the primary recipient of state financial assistance provided to
9 support the acquisition, construction, or development of generation and transmission
10 assets and ancillary services and assets for the public utility members of the
11 corporation.

12 (c) In furtherance of the purposes of the corporation, the corporation may plan
13 for, recommend, coordinate, and otherwise address

14 (1) the adequacy of fuel supply, fuel storage, and fuel transportation
15 resources required to meet the short-term and long-term electric power needs of the
16 service territory of the corporation;

17 (2) the adequacy of generation and transmission assets to prudently
18 meet local and regional short-term and long-term electric power and reliability needs
19 of the areas electrically interconnected to the service territory of the corporation;

20 (3) generation reserves to meet planning and operational requirements;

21 (4) base load generation in all parts of the service territory of the
22 corporation;

23 (5) generation and transmission power dispatch resources, including
24 the ability to connect dispatch resources of the public utility members;

25 (6) diversity in generation resources;

26 (7) renewable-energy-based generation resources, to the maximum
27 extent possible when doing so is consistent with the goal of providing electric
28 generation and transmission services at the lowest reasonable long-term cost;

29 (8) integration of renewable energy generation resources into areas
30 electrically connected to the service territory of the corporation in a manner that
31 prevents adverse effects on service quality or price.

1 (d) The corporation shall operate on a nonprofit basis, offering its services
2 based on uniform rates for like services under standard tariffs or contractual
3 arrangements.

4 (e) The corporation has a separate and independent existence from the state.
5 The corporation may not be considered the state, a state agency, an administrative unit
6 of the executive branch of state government, a governmental unit of the state, a public
7 corporation of the state, a municipal corporation, or a political subdivision of the state.

8 (f) The exercise by the corporation of the powers granted by this chapter is
9 considered to be for a public purpose.

10 (g) The corporation is authorized to interconnect with and provide services to
11 electric utilities other than public utility members on terms and conditions approved
12 by the Regulatory Commission of Alaska. The corporation may decline to
13 interconnect with an electric utility or any other entity that fails to meet standards for
14 interconnection adopted by the corporation and approved by the Regulatory
15 Commission of Alaska. The corporation shall apply interconnection standards
16 uniformly to public utility members, electric utilities, and other entities seeking to
17 interconnect.

18 **Sec. 42.50.020. Board of directors.** (a) The corporation shall be governed by a
19 board of directors consisting of

20 (1) two directors from each public utility member, one of whom shall
21 be the chief executive officer of the public utility member or the chief executive
22 officer's designee and one of whom shall be an individual appointed by the governing
23 body of the public utility member; and

24 (2) seven public directors appointed by the governor to represent
25 ratepayers and other interested groups within the service area of the corporation.

26 (b) The term of a director representing a public utility member under (a)(1) of
27 this section expires when the public utility member notifies the board that the
28 individual has been removed as a representative of the utility on the board.

29 (c) The term of the director appointed by the governor under (a)(2) of this
30 section is four years, however the governor may remove a director appointed under
31 (a)(2) of this section for cause. If a vacancy occurs, the governor shall appoint a

1 director under (a)(2) of this section to serve the remaining term of the director. The
2 governor may reappoint a director described in this subsection.

3 (d) The board may only remove a director representing a public utility
4 member appointed under (a) (1) of this section for cause on two-thirds majority vote
5 of the full board. The bylaws must provide a mechanism for a public utility member to
6 appoint an alternative member if the chief executive officer of the utility is removed
7 from the board.

8 (e) A majority of the directors on the board constitutes a quorum for the
9 transaction of business and the exercise of the powers and duties of the board.

10 (f) The directors shall annually elect from among the directors on the board a
11 chair and vice-chair and other board officers as may be provided in the bylaws.

12 (g) Directors shall receive no salary, but the corporation may pay directors a
13 reasonable meeting fee, per diem, and travel expenses.

14 **Sec. 42.50.030. Board meetings; exceptions.** (a) A meeting of the board may
15 be attended by members of the corporation, ratepayers, and the public. The bylaws
16 must provide for participation of members and ratepayers at board meetings. Except
17 when a voice vote is authorized, a vote shall be conducted in a manner that the
18 members and ratepayers may know the vote of each director entitled to vote. The
19 board may conduct a meeting by teleconference or similar communications equipment
20 if the board gives reasonable notice of the meeting and if the members, ratepayers, and
21 public are able to attend the meeting and hear the meeting. This subsection applies
22 only to a meeting at which a quorum is present.

23 (b) The board may hold an executive session to discuss matters that come
24 within the exceptions contained in (c) of this section on a majority vote of the board.
25 Before holding an executive session, the board must first be convened as a regular or
26 special meeting. A subject that is not mentioned in the motion calling for the executive
27 session may not be considered at the executive session unless the subject is auxiliary
28 to the main question. Formal action may not be taken during an executive session.

29 (c) The following matters may be discussed in an executive session:

30 (1) matters the knowledge of which would clearly have an adverse
31 effect on the finances of the corporation;

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

3 (3) matters discussed with an attorney for the corporation, the
4 knowledge of which could have an adverse effect on the legal position of the
5 corporation;

6 (4) matters that are required by law to be confidential;

7 (5) matters pertaining to a plan, a program, or procedures for
8 establishing, maintaining, or restoring security, or to a detailed description or
9 evaluation of systems, facilities, or infrastructure of the corporation, but only to the
10 extent that the discussion of the matter in open session

11 (A) could reasonably be expected to interfere with the
12 implementation or enforcement of the security plan, program, or procedures;

13 (B) would disclose confidential guidelines for investigations or
14 enforcement and the disclosure could reasonably be expected to risk
15 circumvention of the law; or

16 (C) could reasonably be expected to endanger the life or
17 physical safety of an individual or to present a real and substantial risk to the
18 public health and welfare.

19 (d) The board shall give notice for all regular or special meetings of the board
20 as provided in the bylaws.

21 **Sec. 42.50.040. Officers and employees.** (a) The board shall appoint a chief
22 executive officer. The chief executive officer may not be a director and serves at the
23 pleasure of the board.

24 (b) The board shall appoint officers as required by the bylaws and as the board
25 determines to be necessary for the effective operation of the corporation.

26 (c) The chief executive officer may hire employees of the corporation as
27 necessary for the efficient performance of the functions of the corporation. The board
28 shall approve the range of compensation for employees. Employees of the corporation
29 are not employees of the state and are not considered to be employees of a public
30 organization for the purposes of AS 39.

31 (d) A state employee may not be appointed as chief executive officer of the

1 corporation or hired as an employee of the corporation within two years after the state
2 employee's termination date.

3 (e) An employee of the corporation may not be a director.

4 **Sec. 42.50.050. Membership.** (a) The members of the corporation are the
5 public utility members and other entities that purchase services from the corporation
6 that the board of directors approves to become members. The corporation may provide
7 member benefits solely to the members of the corporation.

8 (b) An entity that meets the qualifications of a public utility member under
9 this subsection shall become a public utility member of the corporation if approved by
10 a two-thirds majority vote of the board. A public utility member

11 (1) shall be a municipal or cooperative electric utility with a designated
12 electric distribution service territory, holding a certificate of public convenience and
13 necessity issued by the Regulatory Commission of Alaska;

14 (2) shall be electrically interconnected to the service territory of the
15 corporation; and

16 (3) may not be an affiliated electric utility.

17 (c) An affiliated electric utility may become a member of the corporation if
18 approved by the board of directors.

19 (d) A member, including a public utility member, may withdraw from the
20 corporation if the member

21 (1) pays or provides for the payment of all liabilities owed to the
22 corporation;

23 (2) demonstrates that the withdrawal will not have adverse tax
24 consequences to the corporation; and

25 (3) gives not less than six months' notice to the corporation.

26 (e) Withdrawal from the corporation does not affect a right or obligation in an
27 agreement between a withdrawing public utility member and the corporation. The
28 corporation shall hold equity contributed by a withdrawing public utility member to
29 the corporation for the account of the withdrawing public utility member and refunded
30 only in accordance with a long-range financial management plan adopted by the
31 board.

1 (f) A public utility member may withdraw from being a public utility member
2 of the corporation but remain a member of the corporation if the public utility member

3 (1) demonstrates that the withdrawal will not have adverse tax
4 consequences to the corporation; and

5 (2) gives not less than six months' notice to the corporation.

6 (g) When a public utility member gives a notice of withdrawal, the public
7 utility member loses the right to have a director on the board.

8 **Sec. 42.50.060. Articles of incorporation; change in location of principal**
9 **office.** (a) The articles of incorporation and amended articles of incorporation of a
10 corporation must recite that they are executed under this chapter and must state

11 (1) the name of the corporation;

12 (2) the address of the principal office of the corporation;

13 (3) the names and the addresses of the incorporators;

14 (4) the names and addresses of the directors.

15 (b) The articles may contain any provisions consistent with this chapter that
16 are considered necessary or advisable for the conduct of the business of the
17 corporation. The articles shall be signed and acknowledged on behalf of each initial
18 public utility member of the corporation. It is not necessary to recite in the articles of
19 incorporation the purpose for which the corporation is organized or the corporate
20 powers of the corporation.

21 (c) Articles of incorporation, and amended articles of incorporation, shall be
22 submitted to the commissioner for filing. Upon a finding that the articles conform to
23 the requirements of this chapter, and upon payment of the fees provided in
24 AS 10.25.530, the commissioner shall file the articles in the records of the
25 commissioner's office.

26 (d) A corporation may, upon authorization of its board of directors, change the
27 location of its principal office by filing a certificate reciting the change of principal
28 office, executed and acknowledged by its presiding officer under its seal, attested by
29 the officer designated by the board, in the office of the commissioner.

30 **Sec. 42.50.070. Bylaws.** (a) The board shall adopt bylaws for the corporation
31 for the governance and management of the affairs of the corporation. The board may

1 alter, amend, or repeal the bylaws.

2 (b) The bylaws must be consistent with this chapter and the articles of
3 incorporation.

4 (c) The bylaws must set out conditions that require the corporation to offer
5 public utility members an opportunity to serve an industrial customer before the
6 corporation may serve an industrial customer.

7 (d) The bylaws must include provisions governing financing arrangements
8 under AS 42.50.150 that include obligations exceeding 12 months.

9 **Sec. 42.50.080. Indemnification of directors, officers, and employees.** The
10 corporation shall indemnify directors, officers, and employees in a manner consistent
11 with AS 10.06.490.

12 **Sec. 42.50.090. General powers of the corporation.** (a) To fulfill the
13 purposes described in AS 42.50.010, the corporation may

14 (1) sue and be sued in its name;

15 (2) have perpetual existence;

16 (3) adopt and alter a corporate seal;

17 (4) participate with federal, state, and local governmental entities in
18 formulating and implementing policies relating to electric power, and in planning for
19 the development, construction, and operation of adequate electric power generation
20 and transmission facilities for the service territory of the corporation;

21 (5) accept, by grant, sale, contract, operating agreement, or any other
22 arrangement, assets from members of the corporation or other public or private
23 entities, persons, or governments;

24 (6) engage in a program to support the efforts of the public utility
25 members and affiliated electric utilities to enhance the development, efficiency,
26 reliability, safety, and price stability of electric power in the service territory of the
27 corporation;

28 (7) generate, manufacture, purchase, acquire, accumulate, transmit,
29 meter, and dispatch wholesale electric power and ancillary services, and sell at
30 wholesale, supply, and dispose of electric power to public utility members, members,
31 affiliated electric utilities, and other entities;

1 (8) generate, manufacture, purchase, acquire, accumulate, transmit,
2 meter, and dispatch retail electric power and ancillary services to an industrial
3 customer, and sell at retail, supply, and dispose of electric power to an industrial
4 customer

5 (A) not located in the certificated service territory of a public
6 utility providing electric service, under conditions established in the bylaws; or

7 (B) located in the certificated service territory of a public utility
8 providing electric service if the public utility gives its written consent before
9 the corporation enters an agreement to sell power to the industrial customer;

10 (9) procure fuel supplies, fuel storage capacity, and fuel transmission
11 resources, except that fuel supplies, fuel storage capacity, and fuel transmission
12 resources may not be procured with state funds;

13 (10) construct, buy, lease, or otherwise acquire, equip, maintain, and
14 operate, and sell, assign, convey, lease, mortgage, pledge, or otherwise dispose of or
15 encumber land, buildings, structures, electric power lines or systems, dams, plants and
16 equipment, and any other real or personal property, tangible or intangible, that is
17 necessary, convenient, or appropriate to accomplish the corporation's purposes;

18 (11) buy, lease, use, or acquire franchises, rights, privileges, licenses,
19 permits, and easements;

20 (12) sell, assign, convey, mortgage, pledge, exercise, or dispose of or
21 encumber franchises, rights or privileges, licenses, permits, and easements;

22 (13) borrow money, contract indebtedness, issue evidences of
23 indebtedness, and secure payment of indebtedness by mortgage, pledge, deed of trust,
24 or other encumbrance on its real or personal property, assets, franchises, or revenue;

25 (14) construct, maintain, and operate electric transmission lines, along,
26 upon, under, and across publicly owned land and public thoroughfares, including,
27 without limitation, all roads, highways, streets, alleys, bridges, and causeways;

28 (15) exercise the power of eminent domain as a public utility under
29 AS 42.05.631, except the corporation may not exercise the power of eminent domain
30 to take an electric power generation or transmission asset from a public utility;

31 (16) acquire by purchase, lease, bequest, devise, gift, exchange, the

1 satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property,
2 rights, rights-of-way, franchises, easements, and other interests in land, and acquire by
3 appropriation water rights that are located in the state, taking title to the property in the
4 name of the corporation;

5 (17) hold, maintain, use, operate, improve, lease, exchange, donate,
6 convey, alienate, encumber, or otherwise grant a security interest in, or authorize use
7 or dispose of, land or personal property, subject to other provisions of this chapter;

8 (18) contract with and accept transfers, gifts, grants, or loans of funds
9 or property from the United States or from the state or its political subdivisions,
10 subject to other provisions of federal or state law or municipal ordinances;

11 (19) undertake and provide for the management, operation,
12 maintenance, use, repair, renovation, and control of all of the property of the
13 corporation;

14 (20) apply to the state, the United States, foreign countries, or other
15 proper agencies for the permits, licenses, rights-of-way, or approvals necessary to
16 construct, maintain, and operate electric power and related services, and obtain, hold,
17 and reuse the licenses and permits in the same manner as other similar operators;

18 (21) enter into agreements with the state or a state agency or other
19 instrumentality of the state;

20 (22) make all contracts necessary, convenient, or appropriate for the
21 full exercise of its powers;

22 (23) conduct its business and exercise its powers inside or outside the
23 state;

24 (24) develop operating standards approved by the Regulatory
25 Commission of Alaska that are applicable to all public utilities electrically
26 interconnected to the service territory of the corporation; and

27 (25) do or perform any other act and thing and have and exercise any
28 other power that may be necessary, convenient, or appropriate to accomplish the
29 corporation's purposes.

30 (b) The corporation may not require its members to enter into power purchase
31 agreements that restrict the ability of members to enter into bilateral power purchase

1 or wheeling agreements among themselves, except as a condition for participation in
2 specific new generation or transmission projects when the condition is reasonably
3 necessary in order for the corporation to finance the project.

4 **Sec. 42.50.100. Public utility powers and regulation.** The corporation shall
5 have all of the powers and duties of a regulated electric public utility under AS 42.05,
6 except that the corporation

7 (1) may not make retail sales of electric power except to an industrial
8 customer under AS 42.50.090(a)(8);

9 (2) is not required to obtain a certificate under AS 42.05.221.

10 **Sec. 42.50.110. Integrated resource plan.** (a) The corporation shall adopt an
11 integrated resource plan for use with a long-range fuel supply plan under
12 AS 42.50.120 to determine the need for and selection of electric generation and
13 transmission projects to ensure delivery of safe and reliable electric power to public
14 utility members at the lowest reasonable long-term cost. The corporation shall
15 evaluate and consider recommendations made in an applicable state energy plan or
16 state integrated resource plan before in adopting and updating the plan. If the
17 corporation's integrated resource plan deviates from other state energy or resource
18 plans, the corporation's plan must include a report explaining the reasons for the
19 deviation.

20 (b) The board shall establish a schedule for review of the integrated resource
21 plan and update the plan at least once every five years.

22 (c) The corporation shall make the integrated resource plan available on the
23 Internet to members, the governor, the legislature, ratepayers, and the public.

24 **Sec. 42.50.120. Long-range fuel supply plan.** (a) The corporation shall adopt
25 a long-range fuel supply plan to determine the need for and selection of fuel supplies
26 to be used by electric generation projects to ensure delivery of safe, reliable, and
27 sustainable electric power to public utility members at the lowest reasonable long-term
28 cost. The corporation shall evaluate recommendations made in any applicable state
29 energy plan or state integrated resource plan before adopting and updating the long-
30 range fuel supply plan. If the corporation deviates from recommendations in a state
31 plan, the adopted or updated long-range fuel supply plan shall include a report

1 explaining the reasons for the deviation.

2 (b) The board shall establish a schedule for review of the long-range fuel
3 supply plan and update the plan at least once every five years.

4 (c) The corporation shall make the long-range fuel supply plan available on
5 the Internet to members, the governor, the legislature, ratepayers, and the public.

6 **Sec. 42.50.130. Long-range capital improvement plan.** (a) The corporation
7 shall adopt a long-range capital improvement plan. The plan must describe how the
8 corporation intends to accomplish the corporation's purposes and identify anticipated
9 capital improvements planned during each of the following 10 years. The plan must be
10 based on the principle of providing safe, reliable, and sustainable electric power to
11 public utility members at the lowest reasonable long-term cost.

12 (b) The board shall establish a schedule for review of the long-range capital
13 improvement plan and update the plan at least once every five years.

14 (c) The corporation shall make the long-range capital improvement plan
15 available on the Internet to members, the governor, the legislature, ratepayers, and the
16 public.

17 **Sec. 42.50.140. Long-range financial management plan.** (a) The corporation
18 shall adopt a long-range financial management plan. The plan must describe the
19 manner in which the corporation intends to accomplish the corporation's purposes and
20 the corporation's plans for acquisition, accumulation, and issuance of equity and debt
21 for the next 10 years. The plan shall be based on the principle of providing safe,
22 reliable, and sustainable electric power to public utility members at the lowest
23 reasonable long-term cost.

24 (b) The board shall establish a schedule for review and update the long-range
25 financial management plan at least once every five years.

26 (c) The corporation shall make the long-range financial management plan
27 available on the Internet to members, the governor, the legislature, ratepayers, and the
28 public.

29 **Sec. 42.50.150. Financing arrangements; state pledge.** (a) The corporation
30 may

31 (1) use any financing arrangements permitted by law in achieving the

1 purposes and objectives of the corporation;

2 (2) develop financing arrangements for individual projects;

3 (3) request that the Alaska Industrial Development and Export
4 Authority issue revenue bonds for the corporation's projects.

5 (b) The state pledges to and agrees with any lender to the corporation that the
6 state will not limit or alter the rights and powers given to the corporation by this
7 chapter that authorize the corporation to fulfill the terms of a contract between the
8 corporation and a lender, or impair the rights and remedies of the lender to the
9 corporation. The pledge

10 (1) may be included in a contract between a lender and the corporation;

11 (2) is not a guarantee, surety, promise, undertaking, or assurance of
12 repayment or performance of an obligation of the corporation.

13 **Sec. 42.50.160. Fuel supplies.** (a) The corporation may acquire long-term fuel
14 supplies as required to ensure electric power generation facilities can operate without
15 fuel-related interruption, including direct ownership of transportation and storage
16 facilities as required to fulfill the purposes of the corporation under AS 42.50.010(b).

17 (b) The corporation may acquire long-term fuel supplies under this section in
18 conjunction with other entities that are acquiring long-term fuel supplies for any
19 lawful purpose in any lawful manner.

20 **Sec. 42.50.170. Tax exemption.** (a) The real and personal property of the
21 corporation and the assets, income, and receipts of the corporation are exempt from all
22 taxes and assessments of the state or a political subdivision of the state, except that
23 electricity sold at retail by the corporation is subject to the electric cooperative tax
24 under AS 10.25.540 – 10.25.570.

25 (b) Nothing in this section exempts

26 (1) the corporation from payment of taxes, royalties, or assessments of
27 the state applicable to natural gas storage, fuel pipelines, or underground fuel or fuel in
28 other natural storage; or

29 (2) a municipal public utility from payment of an applicable municipal
30 utility service assessment.

31 **Sec. 42.50.180. Reports and publications.** The board shall publish an annual

1 report on the Internet. The report must include financial statements audited by
 2 independent auditors, a discussion of the corporation's circumstances and operations
 3 during the period covered by the report, and any other information requested by the
 4 legislature. The board may publish other information or reports it considers
 5 appropriate.

6 **Sec. 42.50.190. Right to examine books and records.** (a) Except as provided
 7 in (c) of this section, members, ratepayers, and the public may, at a reasonable time
 8 and for any proper purpose, examine and make copies of the books and records of the
 9 corporation at the principal office of the corporation.

10 (b) The corporation may charge a requestor an amount equal to the actual cost
 11 of finding and duplicating documents requested under this section.

12 (c) The corporation may withhold books and records concerning the following
 13 subjects:

14 (1) records required to be kept confidential by law;

15 (2) personnel records, to the extent that the records are not required to
 16 be publicly disclosed by a state or federal agency;

17 (3) records that are proprietary, privileged, or a trade secret;

18 (4) records or information pertaining to a plan, a program, or
 19 procedures for establishing, maintaining, or restoring security, or to a detailed
 20 description or evaluation of systems, facilities, or infrastructure of the corporation, but
 21 only to the extent that the production of the records or information

22 (A) could reasonably be expected to interfere with the
 23 implementation or enforcement of the security plan, program, or procedures;

24 (B) would disclose confidential guidelines for investigations or
 25 enforcement and the disclosure could reasonably be expected to risk
 26 circumvention of the law; or

27 (C) could reasonably be expected to endanger the life or
 28 physical safety of an individual or to present a real and substantial risk to the
 29 public health and welfare; or

30 (5) specific matters that were prepared for or during an executive
 31 session of the board, and not subsequently made public by the corporation.

1 **Sec. 42.50.200. Audits and examinations of corporation.** The corporation
2 shall be audited annually by an independent auditor. The board shall engage the
3 auditor, who shall be responsible to the board. The corporation shall submit copies of
4 each report of the auditor to the legislature and governor within 30 days after receipt
5 of the report by the corporation.

6 **Sec. 42.50.210. Dissolution, merger, consolidation, and disposition of**
7 **assets.** Without prior legislative approval, the corporation may not

8 (1) dissolve;
9 (2) merge or consolidate; or
10 (3) dispose of corporate assets other than in the ordinary course of
11 business.

12 **Sec. 42.50.220. Procedures for dispute resolution.** The corporation shall
13 establish a dispute resolution process in its bylaws. The dispute resolution process
14 must include, at a minimum,

15 (1) a requirement that disputes be initially brought before the board for
16 resolution;

17 (2) a requirement that the parties shall attempt to resolve a dispute that
18 is not resolved by the board through mediation;

19 (3) a requirement that the corporation and the disputing party shall
20 attempt to resolve a dispute that is not resolved by the board and is not resolved
21 through mediation through binding arbitration if allowed by the bylaws of the
22 corporation; and

23 (4) if not resolved by the board, through mediation, or through binding
24 arbitration, if allowed, a provision for resolution of the dispute through litigation in a
25 court of competent jurisdiction.

26 **Sec. 42.50.900. Definitions.** In this chapter, unless the context otherwise
27 requires,

28 (1) "affiliated electric utility" means an electric utility that is wholly
29 owned by one or more public utility members and by or through which one or more
30 public utility members obtain electric power or electric generation or transmission
31 services;

- 1 (2) "board" means the board of directors of the corporation;
- 2 (3) "commissioner" means the commissioner of commerce,
3 community, and economic development;
- 4 (4) "cooperative" means an entity organized under AS 10.25;
- 5 (5) "corporation" means an energy and transmission corporation
6 organized under this chapter;
- 7 (6) "electrically interconnected" means interconnected at a minimum
8 transmission level of 69 kilovolts;
- 9 (7) "electric power" means electric energy and capacity;
- 10 (8) "electric utility" means a public utility, as defined in AS 42.05.990
11 that furnishes electrical generation, transmission, or distribution service;
- 12 (9) "member" means a member of the corporation under AS 42.50.050,
13 including public utility members;
- 14 (10) "public utility member" means a municipal or cooperative electric
15 utility that has an electric distribution service territory, that holds a certificate of public
16 convenience and necessity issued by the Regulatory Commission of Alaska, that is one
17 of the electric utilities that organizes an energy and transmission corporation or that
18 becomes a public utility member of the corporation under AS 42.50.050(b), and that
19 does not withdraw from being a member or public utility member under
20 AS 42.50.050(d) or (e);
- 21 (11) "ratepayers" means the ratepayers of the public utility members of
22 the corporation;
- 23 (12) "service territory of the corporation" means the combined service
24 territories identified in the certificates of public convenience and necessity issued by
25 the Regulatory Commission of Alaska for each of the public utility members of the
26 corporation.

27 * **Sec. 2.** AS 44.83.396(c) is amended to read:

28 (c) The authority shall enter into a contract or lease under reasonable terms
29 and conditions to permit the applicant utility to operate the power project when the
30 applicant utility is the only wholesale power customer to be served directly by the
31 power project, **or is a corporation organized under AS 42.50.010 and one or more**

1 **public utility members of the corporation is a wholesale power customer to be**
 2 **served directly by the power project,** unless the authority determines **the** [A] utility
 3 **or corporation** making application for a contract or lease to operate a power project is
 4 not a qualified utility or is not capable of operating that power project efficiently and
 5 in a manner that is consistent with national standards for the industry and with
 6 agreements with bondholders.

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

9 AUTHORIZATION TO FORM GREATER RAILBELT ENERGY AND
 10 TRANSMISSION CORPORATION. (a) Any combination of four or more of the following
 11 public utilities may organize the Greater Railbelt Energy and Transmission Corporation, as an
 12 energy and transmission corporation under AS 42.50:

- 13 (1) Homer Electric Association, Inc.;
- 14 (2) the City of Seward, Electric Utility Department;
- 15 (3) Chugach Electric Association, Inc.;
- 16 (4) the Municipality of Anchorage d/b/a Municipal Light and Power;
- 17 (5) Matanuska Electric Association, Inc.; and
- 18 (6) Golden Valley Electric Association, Inc.

19 (b) The corporation described in (a) of this section, if formed, shall conduct, under the
 20 direction of the Legislative Budget and Audit Committee, a management audit of the
 21 corporation to be commenced on June 30, 2013, 2016, and 2020. The management audit shall
 22 be conducted under methodologies and principles set out in volumes I (1988 ed.), II (1992
 23 ed.) and III (1995 ed.) of the Management Audit Manual published by the National
 24 Association of Regulatory Utility Commissioners, Washington, D.C. The results of the
 25 management audit shall be transmitted to the Legislative Budget and Audit Committee 180
 26 days after the commencement of the audit. This obligation to conduct a management audit
 27 shall be in addition to any audit obligation that may be required under an appropriation to the
 28 corporation.

29 (c) This section authorizes the organization of the Greater Railbelt Energy and
 30 Transmission Corporation, as required under AS 42.50.010(a), enacted by sec. 1 of this Act, if
 31 the conditions in sec. 4 of this Act are met.

1 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 CONDITIONAL EFFECT. (a) Sections 1 and 2 of this Act take effect only if four or
4 more of the listed public utilities deliver to the Alaska Energy Authority before 4:30 p.m. on
5 December 31, 2010, a letter of intent in the form and substance established by regulations
6 adopted by the Alaska Energy Authority, under which the listed public utility agrees to
7 become a public utility member of the Greater Railbelt Energy and Transmission Corporation.
8 Each listed public utility that meets the conditions described in this subsection shall, effective
9 January 31, 2011, be a public utility member of the Greater Railbelt Energy and Transmission
10 Corporation. The listed public utilities are as follows:

- 11 (1) Homer Electric Association, Inc.;
- 12 (2) the City of Seward, Electric Utility Department;
- 13 (3) Chugach Electric Association, Inc.;
- 14 (4) the Municipality of Anchorage d/b/a Municipal Light and Power;
- 15 (5) Matanuska Electric Association, Inc.;
- 16 (6) Golden Valley Electric Association, Inc.

17 (b) The executive director of the Alaska Energy Authority shall notify the lieutenant
18 governor and the revisor of statutes when any of the conditions described in (a) of this section
19 are met.

20 (c) In this section, unless the context otherwise requires,

- 21 (1) "Alaska Energy Authority" means the authority created in AS 44.83.020;
- 22 (2) "Greater Railbelt Energy and Transmission Corporation" means the
23 corporation organized as an energy and transmission corporation under AS 42.50, enacted by
24 sec. 1 of this Act, as authorized by sec. 3 of this Act;
- 25 (3) "public utility member" has the meaning given in AS 42.50.900, enacted
26 by sec. 1 of this Act.

27 * **Sec. 5.** If secs. 1 and 2 of this Act take effect under sec. 4(a) of this Act, they take effect
28 January 31, 2011.

29 * **Sec. 6.** Sections 3 and 4 of this Act take effect immediately under AS 01.10.070(c).