HOUSE BILL NO. 301

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/4/22
Referred: House Special Committee on Energy, Labor and Commerce. Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the establishment of a renewable portfolio standard for regulated electric utilities; and providing for an effective date."

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

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

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

*** Sec. 2.** 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 open access transmission and interconnection;

(B) **standards for the purchase and sale of the services necessary for the transmission of electric energy over the interconnected electric energy transmission network that prohibit sales of those necessary services for an amount greater than the cost to the load-serving entity providing the services; and**

(C) standards for transmission system cost recovery;

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

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

*** 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 also include options for each load-serving entity to meet the renewable portfolio standard under AS 42.05.900 and an evaluation of each option.**

*** 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 network with which it would be interconnected;

(2) complies with reliability standards; [AND]

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

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

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

Article 11A. Renewable Portfolio Standard.

Sec. 42.05.900. Renewable portfolio 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 renewable portfolio standard established in this section. The renewable portfolio standard requires that the entity's portfolio consist of net electricity sales from renewable energy resources in percentages as follows:

(1) 20 percent by December 31, 2025;

(2) 30 percent by December 31, 2030;

(3) 55 percent by December 31, 2035;

(4) 80 percent by December 31, 2040.

(b) A purchase power agreement entered into between a load-serving entity and a renewable electrical energy producer will be considered to satisfy all or part of the quantities required under (a) of this section by the end of a compliance period if

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

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

(3) the purchase power agreement is approved by the commission in accordance with AS 42.05.381 and 42.05.431(a) and (b). The time period required for the commission to consider approval of the purchase power agreement may not be a factor in determining whether a load-serving entity has complied with (a) of this section, but if the purchase power agreement is not approved by the commission, the load-serving entity may be subject to a noncompliance fine under AS 42.05.915.

(c) To qualify as part of a load-serving entity's portfolio, renewable energy resources utilized by a load-serving entity must be located within the load-serving entity's service area or be connected to the same interconnected electric energy transmission network that serves the load-serving entity's customers in the state.

(d) A load-serving entity may satisfy the renewable portfolio standard through net electricity sales derived from the entity's purchase of excess renewable electrical energy from distributive energy systems.

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

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

Sec. 42.05.905. Reporting. (a) Beginning March 1, 2025, a load-serving entity subject to the renewable portfolio standard shall submit an annual report to the commission that documents the load-serving entity's progress toward satisfying the renewable portfolio standard in the preceding calendar year. The annual report must demonstrate compliance with the renewable portfolio standard, document the entity's net electricity sales from renewable energy resources for the applicable calendar year, and include the information required by the commission.

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

(c) The commission may investigate a load-serving entity's compliance with

(a) of this section and collect any information necessary to verify and audit the information provided to the commission by the load-serving entity.

Sec. 42.05.910. Renewable energy credits. (a) To qualify as part of a load-serving entity's portfolio, renewable energy credits must be bundled renewable energy credits from generation located within a load-serving entity's service area or from generation connected to the interconnected electric energy transmission network that serves a load-serving entity's customers.

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

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

(d) Renewable energy credits may be traded, sold, or otherwise transferred for value.

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

Sec. 42.05.915. Noncompliance fine; waiver. (a) If the commission determines that a load-serving entity failed to meet the renewable portfolio standard, after notice and an opportunity for hearing, the entity is subject to a fine of $20 for every megawatt hour that the entity is below the renewable portfolio standard. The commission may waive the noncompliance fine in whole or in part upon determination that a load-serving entity is unable to meet the renewable portfolio 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 for noncompliance as set out in (c) of this section.

(b) Events or circumstances that are outside of a load-serving entity's reasonable control may include

(1) weather-related damage;

(2) natural disasters;

(3) mechanical or resource failure;

(4) failure of renewable electrical energy producers to meet contractual obligations to the load-serving entity;

(5) labor strikes or lockouts;

(6) transmission network constraint that prevented the load-serving entity from partially or fully utilizing renewable electrical energy for net electricity sales; and

(7) other similar events and circumstances.

(c) Factors for establishing good cause for noncompliance may include

(1) the actions taken by the load-serving entity to procure the renewable electrical energy;

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

(3) the lack of past failures to comply;

(4) the likelihood and amount of future renewable electrical energy to be procured by the load-serving entity;

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

(6) other similar information.

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

(e) A fine paid by a load-serving entity under this section may not be included or recovered in rates paid by the load-serving entity's customers unless the commission determines that

(1) payment of the fine would be at less cost to the customers than the purchase of a renewable energy resource to comply with the renewable portfolio standard; or

(2) there are insufficient renewable energy resources available for the

load-serving entity to comply with the renewable portfolio standard.

Sec. 42.05.920. Exemptions. (a) A load-serving entity is exempt from compliance with the renewable portfolio standard 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. If the aggregate net electricity sales for all load-serving entities on the interconnected electric energy transmission network fails to meet the aggregate renewable portfolio standard, there will not be an exemption for each individual load-serving entity that does not meet the renewable portfolio standard.

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

(c) An exemption under (a) or (b) of this section may not be granted for the compliance period ending December 31, 2040.

Sec. 42.05.925. Definitions. In AS 42.05.900 - 42.05.925,

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

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

(3) "distributive energy system" means a renewable energy resource or renewable energy storage 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 one million 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; 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 the percentage of the total heat input value represented by the heat input value of the renewable fuels;

(9) "renewable energy resource" means a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power; a "renewable energy resource" comes from the sun or from thermal inertia of the earth, minimizes the output of toxic material in the conversion of the energy, and

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

(i) waves, tides, or currents;

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

(iii) conventional hydropower, lake tap hydropower;

(iv) water released through a dam; and

(v) geothermal energy;

(B) includes waste to energy systems, including

(i) wood;

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

(iii) biofuels; and

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

(C) does not include petroleum, nuclear, natural gas, or coal;

(10) "renewable energy storage" means the capture of energy produced at one time for use at a later time;

(11) "renewable portfolio 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 renewable electrical energy as required under AS 42.05.900(a);

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

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

TRANSITION: REGULATIONS. Within two years of the effective date of this Act, the Regulatory Commission of Alaska shall adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

*** Sec. 7.** This Act takes effect July 1, 2022.