

**CS FOR HOUSE BILL NO. 301(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/11/22

Referred: Finance

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the establishment of a clean energy standard for regulated electric**  
2 **utilities; relating to the Alaska Energy Authority, clean energy, and clean energy**  
3 **projects; 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 clean energy standard that  
8 requires certain regulated electric utilities to derive increasing percentages of the utility's net  
9 electricity sales from clean energy resources in order to minimize costs to consumers, increase  
10 stability for economic development, maximize grid resiliency, and minimize the state's carbon  
11 emissions. Nothing in this Act is intended to constitute implementation by the Regulatory  
12 Commission of Alaska of the federal Public Utility Regulatory Policies Act of 1978 (16  
13 U.S.C. 2705).

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

1 (p) The rate for transmission of clean energy generated from capacity  
 2 constructed on or after July 1, 2022, to comply with a clean energy standard under  
 3 AS 42.05.900 shall be a uniform transmission services rate, developed by an electric  
 4 reliability organization, subject to review and approval by the commission. A load-  
 5 serving entity may not charge more than the electric reliability organization uniform  
 6 transmission services rate for energy transmitted to comply with a clean energy  
 7 standard under AS 42.05.900.

8 \* **Sec. 3.** AS 42.05.770 is amended to read:

9 **Sec. 42.05.770. Regulations.** The commission shall adopt regulations  
 10 governing electric reliability organizations, reliability standards, and modifications to  
 11 reliability standards consistent with this section. Regulations under AS 42.05.760 -  
 12 42.05.790 must

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

14 (A) standards for nondiscriminatory open access transmission  
 15 and interconnection;

16 (B) **cost-based standards for the purchase and sale of**  
 17 **ancillary services that are priced and administered in a nondiscriminatory**  
 18 **manner and consistent with open access principles; and**

19 (C) standards for transmission system cost recovery;

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

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

25 \* **Sec. 4.** AS 42.05.780(a) is amended to read:

26 (a) An electric reliability organization shall file with the commission in a  
 27 petition for approval an integrated resource plan for meeting the reliability  
 28 requirements of all customers within its interconnected electric energy transmission  
 29 network in a manner that provides the greatest value, consistent with the load-serving  
 30 entities' obligations. An integrated resource plan must contain an evaluation of the full  
 31 range of cost-effective means for load-serving entities to meet the service

1 requirements of all customers, including additional generation, transmission, battery  
 2 storage, and conservation or similar improvements in efficiency. An integrated  
 3 resource plan must include options to meet customers' collective needs in a manner  
 4 that provides the greatest value, consistent with the public interest, regardless of the  
 5 location or ownership of new facilities or conservation activities. **An integrated**  
 6 **resource plan must include options to meet the clean energy standard under**  
 7 **AS 42.05.900 and an evaluation of each option.**

8 \* **Sec. 5.** AS 42.05.785(a) is amended to read:

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

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

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

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

19 **(4) is not detrimental to a load-serving entity's ability to meet the**  
 20 **clean energy standard under AS 42.05.900.**

21 \* **Sec. 6.** AS 42.05 is amended by adding new sections to read:

22 **Article 11A. Clean Energy Standard.**

23 **Sec. 42.05.900. Clean energy standard.** (a) A load-serving entity that is  
 24 subject to the standards of an electric reliability organization under AS 42.05.760 shall  
 25 comply with the clean energy standard established in this subsection. Under the clean  
 26 energy standard, a load-serving entity's net electricity sales shall include sales from  
 27 clean energy resources in the following percentages:

28 (1) 25 percent by December 31, 2027;

29 (2) 55 percent by December 31, 2040.

30 (b) The load-serving entities subject to the standards of an electric reliability  
 31 organization under AS 42.05.760 shall jointly comply with the clean energy standard

1 established in this subsection. Under the clean energy standard, the aggregate net  
2 electricity sales for all load-serving entities on the interconnected electric energy  
3 transmission network shall include 80 percent of sales from clean energy resources by  
4 December 31, 2050.

5 (c) A purchase power agreement entered into between a load-serving entity or  
6 entities and a clean electrical energy producer will satisfy all or part of the percentages  
7 required under (a) or (b) of this section for a compliance period if

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

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

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

19 (d) Construction of clean electrical energy generation capacity that began  
20 before the end of a compliance period will satisfy all or part of the percentages  
21 required under (a) or (b) of this section for the compliance period if the capacity will  
22 begin providing the clean electrical energy to the load-serving entity not later than

23 (1) two years after the end of the compliance period; or

24 (2) the end of a period determined by the commission.

25 (e) A load-serving entity may satisfy the clean energy standard through  
26 electricity derived from the entity's clean electrical energy from distributive energy  
27 systems.

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

31 (g) A load-serving entity shall design and implement an accounting system to

1 verify compliance with the clean energy standard to ensure that clean electrical energy  
2 is counted only once for the purpose of meeting the clean energy standard.

3 (h) A load-serving entity may satisfy the clean energy standard through clean  
4 energy credits obtained under AS 42.05.910.

5 (i) A project located wholly or partially in the state that is constructed to meet  
6 the clean energy standard is exempt from all state lease fees.

7 **Sec. 42.05.905. Reporting.** (a) Beginning March 1, 2025, a load-serving entity  
8 subject to the clean energy standard shall submit an annual report to the commission  
9 that documents the load-serving entity's progress toward satisfying the clean energy  
10 standard under AS 42.05.900 in the preceding calendar year. The annual report must  
11 demonstrate the entity's compliance with the clean energy standard, document the  
12 entity's net electricity sales from clean energy resources for the applicable calendar  
13 year, and include any other information required by the commission.

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

17 (c) The commission may investigate a load-serving entity's compliance with  
18 the clean energy standard and (a) of this section and collect any information necessary  
19 to verify and audit the information provided to the commission by the load-serving  
20 entity.

21 (d) The commission shall monitor the effect of the clean energy standard on  
22 rates and reliability and determine whether the effect is consistent with the public  
23 interest.

24 **Sec. 42.05.910. Clean energy credits.** (a) A load-serving entity may trade,  
25 sell, or otherwise transfer clean energy credits.

26 (b) A clean energy credit may be used only once. A load-serving entity may  
27 use a clean energy credit to comply with the clean energy standard under  
28 AS 42.05.900 without purchasing or using the electrical generation from which the  
29 credit is derived.

30 (c) Each load-serving entity is responsible for tracking and demonstrating that  
31 a clean energy credit used to comply with the clean energy standard under

1 AS 42.05.900 is derived from a clean energy resource in the state and that a load-  
 2 serving entity has not previously used the clean energy credit.

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

6 **Sec. 42.05.915. Noncompliance penalty; waiver.** (a) If the commission  
 7 determines that a load-serving entity failed to meet the clean energy standard under  
 8 AS 42.05.900, after notice and an opportunity for hearing, the entity is subject to a  
 9 penalty of \$20 for every megawatt hour that the entity is below the clean energy  
 10 standard that must be invested by the load-serving entity in clean energy generation.  
 11 The commission may waive the noncompliance penalty in whole or in part upon  
 12 determination that a load-serving entity is unable to meet the clean energy standard  
 13 because of reasons outside the reasonable control of the load-serving entity as set out  
 14 in (b) of this section or the entity establishes a good cause for noncompliance as set  
 15 out in (c) of this section.

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

- 18 (1) weather-related damage;
- 19 (2) natural disasters;
- 20 (3) mechanical or resource failure;
- 21 (4) failure of clean electrical energy producers to meet contractual
- 22 obligations to the load-serving entity;
- 23 (5) labor strikes or lockouts;
- 24 (6) transmission network constraint that prevented the load-serving
- 25 entity from partially or fully using clean electrical energy for net electricity sales; and
- 26 (7) other similar events and circumstances.

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

- 28 (1) the actions taken by the load-serving entity to procure the clean
- 29 electrical energy;
- 30 (2) the extent of good faith efforts by the load-serving entity to
- 31 comply;

- 1 (3) the lack of past failures to comply;
- 2 (4) the likelihood and amount of future clean electrical energy to be
- 3 procured by the load-serving entity;
- 4 (5) the impact of the noncompliance penalty on the load-serving entity
- 5 considering the size or ownership of the load-serving entity;
- 6 (6) other similar information.

7 (d) If the commission waives all or part of a noncompliance penalty, the

8 commission shall require additional reporting from the load-serving entity to

9 demonstrate the entity is taking all reasonable actions under the entity's control to

10 satisfy the clean energy standard.

11 (e) A penalty incurred by a load-serving entity under this section may not be

12 included or recovered in rates paid by the load-serving entity's customers unless the

13 commission determines that

14 (1) imposition of the penalty would be at less cost to the customers

15 than the purchase of a clean energy resource to comply with the clean energy standard;

16 or

17 (2) there are insufficient clean energy resources available for the load-

18 serving entity to comply with the clean energy standard.

19 (f) To satisfy a penalty imposed under this section, a load-serving entity shall

20 invest an amount equal to the penalty in clean energy generation for the benefit of the

21 entity's customers.

22 **Sec. 42.05.920. Exemptions.** Load-serving entities are exempt from

23 compliance with the clean energy standard under AS 42.05.900(a) if the aggregate net

24 electricity sales for all load-serving entities on the interconnected electric energy

25 transmission network meets or exceeds the aggregate clean energy standard for all

26 load-serving entities on the interconnected electric energy transmission network.

27 **Sec. 42.05.925. Additional renewable energy resources.** At least once every

28 five years, the Alaska Energy Authority shall submit a report to the legislature

29 identifying whether the authority recommends that the legislature add any available

30 technologies to the definition of "clean energy resources" in AS 42.05.930 for

31 purposes of complying with the clean energy standard. The authority shall submit a

1 report required under this section to the senate secretary and the chief clerk of the  
2 house of representatives and notify the legislature that the report is available.

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

4 (1) "clean electrical energy" means electricity or energy generated  
5 from clean energy resources;

6 (2) "clean energy credit" means one credit equal to the generation  
7 attributes of one megawatt hour that is generated from capacity built on or after July 1,  
8 2022, that generates electrical energy derived from a clean energy resource; where  
9 fossil and clean fuels are co-fired in the same generating unit, the unit is considered to  
10 generate clean electrical energy in direct proportion to the percentage of the total heat  
11 input value represented by the heat input value of the clean fuels;

12 (3) "clean energy resource" means

13 (A) wind, solar, geothermal, wasteheat recovery, hydrothermal,  
14 wave, tidal, river in-stream, or hydropower;

15 (B) low-emission nontoxic biomass based on solid or liquid  
16 organic fuels from wood, forest and field residues, or animal or fish products;

17 (C) dedicated energy crops available on a renewable basis;

18 (D) landfill gas and digester gas; or

19 (E) nuclear;

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

23 (5) "clean energy storage" means the capture of energy produced at  
24 one time for use at a later time;

25 (6) "compliance period" means the period before December 31, 2027,  
26 the period between December 31, 2027, and December 31, 2040, or the period  
27 between December 31, 2040 and December 31, 2050, as identified in AS 42.05.900(a)  
28 or (b);

29 (7) "distributive energy system" means a clean energy resource or  
30 clean energy storage that is located on any property owned or leased by a customer  
31 within the service territory of the load-serving entity that is interconnected on the



1 customer's side of the utility meter;

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

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

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

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

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

12 (b) The authority shall biennially, not later than the first day of the first regular  
13 session of each legislature, prepare a report identifying progress developing renewable  
14 and clean energy resources in rural parts of the state. The report shall include a  
15 description of the authority's regional planning efforts in rural areas for renewable and  
16 clean energy resource development, identify infrastructure necessary for rural  
17 renewable and clean energy projects, and evaluate the feasibility and cost of the rural  
18 renewable and clean energy projects.

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

21 **REGULATIONS.** Within two years after the effective date of this Act, the Regulatory  
22 Commission of Alaska shall adopt regulations necessary to implement the changes made by  
23 this Act.

24 \* **Sec. 9.** This Act takes effect July 1, 2022.