

CS FOR SENATE BILL NO. 143(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 4/2/10

Referred: Finance

Sponsor(s): SENATE 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.** The uncodified law of the State of Alaska is amended by adding a new section
7 to read:

8 LEGISLATIVE INTENT. It is the intent of the legislature that an energy and
9 transmission corporation authorized under this Act shall be regulated by the Regulatory
10 Commission of Alaska. The legislature intends to review the regulation of energy and
11 transmission corporations by the Regulatory Commission of Alaska five years after the
12 formation of an energy and transmission corporation under this Act to evaluate whether
13 continued regulation by the Regulatory Commission of Alaska is appropriate.

14 * **Sec. 2.** AS 42 is amended by adding a new chapter to read:

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

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

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

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

12 (b) The purposes of the corporation are

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

16 (2) to be the primary recipient of state financial assistance provided to
17 support the acquisition, construction, or development of generation and transmission
18 assets and ancillary services and assets for the public utility members of the
19 corporation.

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

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

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

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

29 (4) base load generation in all parts of the service territory of the
30 corporation;

31 (5) generation and transmission power dispatch resources, including

1 the ability to connect dispatch resources of the public utility members;

2 (6) diversity in generation resources;

3 (7) renewable-energy-based generation resources;

4 (8) integration of renewable energy generation resources.

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

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

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

14 (g) The corporation is authorized to interconnect with and provide services to
15 electric utilities other than public utility members on terms and conditions approved
16 by the corporation's board of directors. The corporation may decline to interconnect
17 with an electric utility or any other entity that fails to meet standards for
18 interconnection adopted by the corporation.

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

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

25 (2) one public director appointed by the governor from a list of at least
26 three persons submitted by the directors appointed under (a)(1) of this section; if the
27 governor rejects an entire list, the directors appointed under (a)(1) of this section shall
28 submit a new list that includes at least three persons who were not included on a
29 previously rejected list.

30 (b) The term of a director representing a public utility member under (a)(1) of
31 this section expires when the public utility member notifies the board that the

1 individual has been removed as a representative of the utility on the board.

2 (c) The term of the director appointed by the governor under (a)(2) of this
3 section is four years. If a vacancy occurs, the governor shall appoint a director under
4 (a)(2) of this section to serve the remaining term of the director. The governor may
5 reappoint the director described in this subsection.

6 (d) The board may only remove a director for cause on two-thirds majority
7 vote of the full board. The bylaws must provide a mechanism for a public utility
8 member to appoint an alternative member if the chief executive officer of the utility is
9 removed from the board.

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

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

14 (g) Directors may not receive a salary, but the corporation may pay directors a
15 meeting fee, per diem, and travel expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 organization for the purposes of AS 39.

2 (d) An employee of the corporation may not be a director.

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

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

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

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

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

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

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

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

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

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

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

31 (f) A public utility member may withdraw from being a public utility member

1 of the corporation but remain a member of the corporation if the public utility member

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

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

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

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

10 (1) the name of the corporation;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (2) have perpetual existence;

15 (3) adopt and alter a corporate seal;

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

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

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

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

31 (8) generate, manufacture, purchase, acquire, accumulate, transmit,

1 meter, and dispatch retail electric power and ancillary services to an industrial
 2 customer, and sell at retail, supply, and dispose of electric power to an industrial
 3 customer

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

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

9 (9) procure fuel supplies, fuel storage capacity, and fuel transmission
 10 resources;

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

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

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

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

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

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

29 (16) acquire by purchase, lease, bequest, devise, gift, exchange, the
 30 satisfaction of debts, the foreclosure of mortgages, or otherwise, personal property,
 31 rights, rights-of-way, franchises, easements, and other interests in land, and acquire by

1 appropriation water rights that are located in the state, taking title to the property in the
2 name of the corporation;

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

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

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

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

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

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

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

22 (24) develop operating standards applicable to all public utilities
23 electrically interconnected to the service territory of the corporation;

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

27 (26) create subsidiary corporations.

28 (b) The corporation may not require its members to enter into power purchase
29 agreements that restrict the ability of members to enter into bilateral power purchase
30 or wheeling agreements among themselves, except as a condition for participation in
31 specific new generation or transmission projects when the condition is reasonably

1 necessary in order for the corporation to finance the project.

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

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

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

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

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

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

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

31 (b) The board shall establish a schedule for review of the long-range fuel

1 supply plan and update the plan at least once every five years.

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

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

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

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

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

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

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

25 **Sec. 42.50.150. Financing arrangements.** (a) The corporation may
26 (1) use any financing arrangements permitted by law in achieving the
27 purposes and objectives of the corporation; and
28 (2) develop financing arrangements for individual projects.

29 (b) The corporation may obtain assistance from state agencies with financing
30 projects through direct grants, debt guarantees, granting of a moral obligation of the
31 state to ensure payment of debt instruments, purchase of issued debt instruments, or

1 other financial methods appropriate to the projects or tasks.

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

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

9 **Sec. 42.50.170. Tax exemption.** The real and personal property of the
10 corporation and the assets, income, and receipts of the corporation are exempt from all
11 taxes and assessments of the state or a political subdivision of the state, except that
12 electricity sold at retail by the corporation is subject to the electric cooperative tax
13 under AS 10.25.540 – 10.25.570.

14 **Sec. 42.50.180. Reports and publications.** The board shall publish an annual
15 report on the Internet. The report must include financial statements audited by
16 independent auditors, a discussion of the corporation's circumstances and operations
17 during the period covered by the report, and any other information requested by the
18 legislature. The board may publish other information or reports it considers
19 appropriate.

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

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

26 (c) The corporation may withhold books and records concerning the following
27 subjects:

- 28 (1) records required to be kept confidential by law;
- 29 (2) personnel records, to the extent that the records are not required to
30 be publicly disclosed by a state or federal agency;
- 31 (3) records that are proprietary, privileged, or a trade secret;

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

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

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

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

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

15 **Sec. 42.50.200. Audits and examinations of corporation.** The corporation
 16 shall be audited annually by an independent auditor. The board shall engage the
 17 auditor, who shall be responsible to the board. The corporation shall submit copies of
 18 each report of the auditor to the legislature and governor within 30 days after receipt
 19 of the report by the corporation.

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

22 (1) dissolve;

23 (2) merge or consolidate; or

24 (3) dispose of corporate assets other than in the ordinary course of
 25 business.

26 **Sec. 42.50.220. Procedures for dispute resolution.** The corporation shall
 27 establish a dispute resolution process in its bylaws. The dispute resolution process
 28 must include, at a minimum,

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

31 (2) a requirement that the parties shall attempt to resolve a dispute that

1 is not resolved by the board through mediation;

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

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

9 **Sec. 42.50.900. Definitions.** In this chapter, unless the context otherwise
10 requires,

11 (1) "affiliated electric utility" means an electric utility that is wholly
12 owned by one or more public utility members and by or through which one or more
13 public utility members obtain electric power or electric generation or transmission
14 services;

15 (2) "board" means the board of directors of the corporation;

16 (3) "commissioner" means the commissioner of commerce,
17 community, and economic development;

18 (4) "cooperative" means an entity organized under AS 10.25;

19 (5) "corporation" means an energy and transmission corporation
20 organized under this chapter;

21 (6) "electrically interconnected" means interconnected at a minimum
22 transmission level of 69 kilovolts;

23 (7) "electric power" means electric energy and capacity;

24 (8) "electric utility" means a public utility, as defined in AS 42.05.990
25 that furnishes electrical generation, transmission, or distribution service;

26 (9) "member" means a member of the corporation under AS 42.50.050,
27 including public utility members;

28 (10) "public utility member" means a municipal or cooperative electric
29 utility that has an electric distribution service territory, that holds a certificate of public
30 convenience and necessity issued by the Regulatory Commission of Alaska, that is one
31 of the electric utilities that organizes an energy and transmission corporation or that

1 becomes a public utility member of the corporation under AS 42.50.050(b), and that
 2 does not withdraw from being a member or public utility member under
 3 AS 42.50.050(d) or (e);

4 (11) "ratepayers" means the ratepayers of the public utility members of
 5 the corporation;

6 (12) "service territory of the corporation" means the combined service
 7 territories identified in the certificates of public convenience and necessity issued by
 8 the Regulatory Commission of Alaska for each of the public utility members of the
 9 corporation.

10 * **Sec. 3.** AS 44.83.396(c) is amended to read:

11 (c) The authority shall enter into a contract or lease under reasonable terms
 12 and conditions to permit the applicant utility to operate the power project when the
 13 applicant utility is the only wholesale power customer to be served directly by the
 14 power project, **or is a corporation organized under AS 42.50.010 and one or more**
 15 **public utility members of the corporation is a wholesale power customer to be**
 16 **served directly by the power project,** unless the authority determines **the** [A] utility
 17 **or corporation** making application for a contract or lease to operate a power project is
 18 not a qualified utility or is not capable of operating that power project efficiently and
 19 in a manner that is consistent with national standards for the industry and with
 20 agreements with bondholders.

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

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

- 27 (1) Homer Electric Association, Inc.;
- 28 (2) the City of Seward, Electric Utility Department;
- 29 (3) Chugach Electric Association, Inc.;
- 30 (4) the Municipality of Anchorage d/b/a Municipal Light and Power;
- 31 (5) Matanuska Electric Association, Inc.; and

1 (6) Golden Valley Electric Association, Inc.

2 (b) The corporation described in (a) of this section, if formed, shall conduct, under the
3 direction of the Legislative Budget and Audit Committee, a management audit of the
4 corporation to be commenced on June 30, 2013, 2016, and 2020. The management audit shall
5 be conducted under methodologies and principles set out in volumes I (1988 ed.), II (1992
6 ed.) and III (1995 ed.) of the Management Audit Manual published by the National
7 Association of Regulatory Utility Commissioners, Washington, D.C. The results of the
8 management audit shall be transmitted to the Legislative Budget and Audit Committee 180
9 days after the commencement of the audit. This obligation to conduct a management audit
10 shall be in addition to any audit obligation that may be required under an appropriation to the
11 corporation.

12 (c) This section authorizes the organization of the Greater Railbelt Energy and
13 Transmission Corporation, as required under AS 42.50.010(a), enacted by sec. 2 of this Act, if
14 the conditions in sec. 5 of this Act are met.

15 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **CONDITIONAL EFFECT.** (a) Sections 2 and 3 of this Act take effect only if four or
18 more of the listed public utilities deliver to the Alaska Energy Authority before 4:30 p.m. on
19 July 30, 2010, a letter of intent in the form and substance acceptable to the Alaska Energy
20 Authority, under which the listed public utility agrees to become a public utility member of
21 the Greater Railbelt Energy and Transmission Corporation. Each listed public utility that
22 meets the conditions described in this subsection shall, effective August 16, 2010, be a public
23 utility member of the Greater Railbelt Energy and Transmission Corporation. The listed
24 public utilities are as follows:

- 25 (1) Homer Electric Association, Inc.;
- 26 (2) the City of Seward, Electric Utility Department;
- 27 (3) Chugach Electric Association, Inc.;
- 28 (4) the Municipality of Anchorage d/b/a Municipal Light and Power;
- 29 (5) Matanuska Electric Association, Inc.;
- 30 (6) Golden Valley Electric Association, Inc.

31 (b) The executive director of the Alaska Energy Authority shall notify the lieutenant

1 governor and the revisor of statutes when any of the conditions described in (a) of this section
2 are met.

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

4 (1) "Alaska Energy Authority" means the authority created in AS 44.83.020;

5 (2) "Greater Railbelt Energy and Transmission Corporation" means the
6 corporation organized as an energy and transmission corporation under AS 42.50, enacted by
7 sec. 2 of this Act, as authorized by sec. 4 of this Act;

8 (3) "public utility member" has the meaning given in AS 42.50.900, enacted
9 by sec. 2 of this Act.

10 * **Sec. 6.** If secs. 2 and 3 of this Act take effect under sec. 5(a) of this Act, they take effect
11 August 16, 2010.

12 * **Sec. 7.** Sections 1, 4, and 5 of this Act take effect immediately under AS 01.10.070(c).