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The introductory language of 3 AAC 106.100(a) is amended to read:

(a) An applicant for a loan from the power project fund must submit an application **to the authority**. The application must contain at the time of **submission**, the following information: ...

3 AAC 106.100(a)(6) is amended to read:

(6) **the terms requested for the loan, including** the total **dollar** amount of the loan, **the maximum time allowed for repayment, and whether the applicant requests a reduced interest rate under (c) of this section;**

3 AAC 106.100(a)(7) is amended to read:

(7) a general description of the use to which the loan money will be applied, including

(A) the geographic location of the project;

(B) a comprehensive statement clearly demonstrating public need for the project and the project's eligibility under AS 42.45.010;

(C) the proposed allocation of loan money to each purpose or to each phase of a project; **and**

**(D) a narrative section providing a detailed description of the project, including each purpose of the project, a timeline and description of project phases, and the estimated annual operating costs and revenues of the project once project operations begins;**

3 AAC 106.100(a)(8)(A) is amended to read:

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(A) in the case of a loan to construct, equip, modify, or expand a project, whether the project is technically and economically viable, and **is** financially feasible **under the criteria for financial feasibility in 3 AAC 106.125(a)**; and

3 AAC 106.100(a)(10) is amended to read:

(10) financial statements **for the previous two complete fiscal or calendar years** of the applicant and any other party or parties acting as guarantor of the loan, unless otherwise required by the authority; these financial statements must include balance sheets and profit-and-loss statements and when possible, must be certified by an independent certified public accountant;

3 AAC 106.100(a)(12) is amended to read:

(12) for a leveraged lease financing arrangement, information sufficient for the authority to determine that the provisions of AS 42.45.010(b)(2) have been met; and

3 AAC 106.100(c) is repealed:

(c) Repealed \_\_\_/\_\_\_/\_\_\_.

3 AAC 106.100 is amended by adding a new subsection to read:

(d) An applicant requesting an interest rate less than the rate set out in AS 42.45.010(f)(2)(A) must provide information sufficient for the authority to determine that the reduced rate is necessary to allow the project to meet the criteria for financial feasibility under 3 AAC 106.125(b). (Eff. 2/16/96, Register 137; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106.110(b)(1) is amended to read:

(1) written comments analyzing whether

(A) the money will be used to pay the costs of activities that are eligible under AS 42.45.010 and the applicant is an eligible borrower under AS 42.45.010;

(B) the project will meet the needs of the area to be served by **the** project and will benefit the area;

(C) for a loan to construct, equip, modify, or expand a project, the project is

(i) technically and economically viable and

(ii) financially feasible **under the criteria in 3 AAC 106.125(a), or will become financially feasible with the assistance of a power project loan;**

(D) for a construction project, any alternatives to the project exist that

(i) would result in development of power [OR POTABLE WATER] at a different site, by a different method, or by an entity other than **the** applicant;

(ii) could reasonably be expected to provide, within a time schedule comparable to the project, comparable volumes of power at a lower cost to the consumer and;

(iii) meet the criteria set out in (B) and (C) of this paragraph;

(E) the applicant has applied for, or has been awarded, necessary permits or certificates;

(F) for a **loan to construct, equip, modify, or expand a** project, if enough money is not available in the power project fund to make a loan for the project, or

if a loan cannot be made at a rate of interest low enough to allow the project to be financially feasible **under the criteria in 3 AAC 106.125(b)**, the loan should be approved if assistance is made to the applicant from some other source identified by the authority;

(G) if there is power project fund money that the authority can loan for more than one project, the needs of, and benefits to, the area to be served by the project are greater than the needs of, and benefits offered to, other areas of the state by a project for which sponsors may also seek loan money from the authority, if this determination can be made based on information existing at the time of the authority's review;

(H) the applicant has, or will have, sufficient revenue from all sources to repay the loan; and

3 AAC 106.110(d) is amended to read:

(d) A loan committee comprised of authority staff designated by the executive director of the authority shall make the final decision of the authority on applications for loans up to and including \$2,000,000. For loans in excess of \$2,000,000, the board of directors of the authority, upon recommendation by the loan committee, will make the final decision of the authority on applications for loans, except for loans that require legislative approval under AS 42.45.010(j). The final decision of the authority to approve or **deny** an application for a loan will be in the form of a written determination that contains the findings required by this section, and any other comments the authority considers appropriate. The authority will transmit **a copy** of the **written** determination to the applicant **not later than 30 days after making its final decision**.

3 AAC 106.110(e) is amended to read:

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(e) If the authority approves **an** application, **the written determination will also include**

(1) **any** conditions that the applicant must satisfy before the authority will make the loan to the applicant; and

(2) proposed loan terms.

3 AAC 106.110 is amended by adding a new subsection to read:

(h) If the authority denies an application, the written determination will also include a statement explaining the reasons for the denial. (Eff. 2/16/96, Register 137; am 3/25/2005, Register 173; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106.120(a)(1) is amended to read:

(1) the loan must bear interest **at the** rate determined **under AS 42.45.010(f)(2)(A), unless the authority determines, based on information the applicant provides under 3 AAC 106.100(d), that a lower interest rate will allow a project to meet the criteria for financial feasibility under 3 AAC 106.125(b)**

3 AAC 106.120(a)(2) is amended to read:

(2) the loan must mature on the date and pay interest on the dates and in the amounts determined by the authority, but the final maturity date may not extend beyond 50 years or the expected and specified productive life of the project being financed, whichever is less; the authority will use the following standards to determine the **length of the loan, taking into**

**consideration the** expected productive life of a project unless the authority determines that a different expected productive life is indicated:

(A) the term of loans will be up to 20 years for reconnaissance studies and for feasibility studies, preconstruction engineering and project design, **or** constructing, equipping, modifying, improving, and expanding of

(i) diesel generation facilities;

(ii) wind, geothermal, **and waste heat recovery** facilities;

(iii) wood gasification;

(iv) wood-fired steam-generation facilities;

(v) bulk fuel storage facilities;

**(vi) energy efficiency and conservation projects;**

**(vii) solar thermal, solar photovoltaic, hydrokinetic, energy storage, and transmission facilities; and**

**(viii) alternative energy facilities;**

(B) the term of loans will be up to 50 years for feasibility studies, preconstruction engineering and project design, **or** constructing, equipping, modifying, improving, and expanding of

(i) coal-fired steam-generation facilities; **and**

(ii) hydroelectric generation facilities; and

(Eff. 2/16/96, Register 137; am 10/16/2009, Register 192; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106 is amended by adding a new section to read:

**3 AAC 106.125. Criteria to establish financial feasibility.** (a) When making a written determination under 3 AAC 106.110 regarding the financial feasibility of a project, the authority will consider

(1) the revenue-generating capability of the project, including the local need for power from the project within any interconnected transmission grid;

(2) whether the applicant has, or will have, sufficient revenue from all sources to

(A) repay the loan;

(B) complete the project; and

(C) operate and maintain the project;

(3) whether the collateral provided is sufficient to secure repayment of the loan, including whether the loan is secured by a means other than by a pledge or revenues of the project;

(4) whether the applicant has obtained regulatory approval for any proposed power sales agreement;

(5) the relationship between the estimated user fees or charges upon completion of the project and the estimated user fees or charges if consumers of services provided by the project would have continued to receive services from existing sources; and

(6) the relationship between the estimated user fees or charges upon completion of the project and the present or estimated user fees or charges for similar services in the state.

(b) When making a determination under 3 AAC 106.120(a)(1) regarding whether to reduce the interest rate for a loan below the interest rate set out in AS 42.45.010(f)(2)(A) the authority will consider

(1) the criteria identified in (a) of this section;

(2) for electric power projects, whether and the amount by which the local cost of energy exceeds the weighted average retail residential rate in Anchorage, Fairbanks, and Juneau under AS 42.45.110(c)(2);

(3) the financial impact on non industrial ratepayers expected to use energy or heat produced by the project;

(4) whether the project will provide immediate benefits to support the stability and sustainability of local energy or heat systems, including replacement of failing generation systems; and

(5) whether the project will help meet new load demands or diversify the local energy system's energy resource portfolio. (Eff. \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106 is amended by adding a new section to read:

**3 AAC 106.150. Loan fees and reimbursement of costs.** (a) An applicant for a loan from the power project fund must pay an application fee of

(1) \$200 for applications requesting loan amounts up to and including \$100,000;

(2) \$1,000 for applications requesting loan amounts of more than \$100,000 and no more than \$500,000;

(3) \$2,000 for applications requesting loan amounts of more than \$500,000 and no more than \$1,000,000; or

(4) \$5,000 for applications requesting loan amounts of more than \$1,000,000.

(b) The application fees in (a) of this section are non refundable and due at the time an application is filed with the authority.

(c) The authority may require the applicant to enter into an agreement obligating the applicant to reimburse the authority for the authority's costs to conduct a feasibility analysis of the loan application or proposed project.

(d) If the authority approves an application, the borrower shall pay a closing fee of one percent of the total loan amount at the time of closing. The application fee will be credited toward the closing fee. The authority may add the closing fee to the balance of the loan at loan closing. If the authority entered into an agreement with the applicant for reimbursement of the authority's costs for conducting a feasibility analysis under (c) of this section, the authority may add the cost of the authority's feasibility analysis to the balance of the loan at closing. (Eff. \_\_\_ / \_\_\_ / \_\_\_ , Register \_\_\_ )

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106.159. Definition. In 3 AAC 106.100 – 3 AAC 106.159, "financially feasible" means that the authority has determined that enough money is available from all sources to complete the project, and that enough money is estimated to be available in the future to repay any debt incurred in connection with the project, taking into consideration the criteria in 3 AAC 106.125. (Eff. \_\_\_ / \_\_\_ / \_\_\_ , Register \_\_\_ )

**Authority:** AS 42.45.010 AS 44.83.080

3 AAC 106 is amended by adding a new section to Article 2 to read:

3 AAC 106.269. Definition. In 3 AAC 106.200 – 3 AAC 106.269 "financially feasible" means that the authority has determined that enough money is available from all sources to complete the project, and that enough money is estimated to be available in the future to repay any debt incurred in connection with the project, taking into consideration [the relationship

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between the estimated user fees or charges upon completion of the project and the estimated user fees or charges if consumers of services provided by the project would have continued to receive services from existing sources, the relationship between the estimated user fees or charges upon completion of the project and the present or estimated user fees or charges for similar services in the state, and whether the loan is secured by a means other than by a pledge or revenues of the project.] (Eff. \_\_\_ / \_\_\_ / \_\_\_ , Register \_\_\_ )

**Authority:** AS 42.45.020 AS 44.83.080

3 AAC 106.900(a)(2) is repealed

(2) repealed. \_\_\_ / \_\_\_ / \_\_\_;

3 AAC 106.900(d) is amended to read:

(d) In AS 42.45.010, "independent power producer" means a corporation, person, agency, authority, or other legal entity or instrumentality, that is not a utility and that owns or operates a facility for the generation or production of **electric or thermal** energy for use by the residents, **local government, or businesses** of one or more municipalities or unincorporated communities recognized by the Department of Commerce, Community, and Economic Development for community revenue sharing under AS 29.60.850 - 29.60.879 and 3 AAC 180.

3 AAC 106.900(e) is amended to read:

(e) In AS 42.45.010 and this chapter,

(1) "alternative energy"

(A) means energy or fuel that is used for production of electricity, heat, or mechanical power, and that is derived from renewable or local sources other than liquid petroleum;

(B) includes

(i) wind, solar, geothermal, hydroelectric, and biomass power sources; and

(ii) local sources of coal and natural gas;

(2) “alternative energy facility” means a facility that generates or produces “alternative energy”

(3) "electric utility" has the meaning given the term "public utility" in AS 42.05.990(6)(A). (Eff. 2/16/96, Register 137; am 10/16/2009, Register 192; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** AS 42.45.010 AS 44.83.080