

MEMORANDUM

TO: Alaska Energy Authority - Board of Directors

THRU: Curtis. W. Thayer, Executive Director

FROM: Conner Erickson, AEA Planning Director

DATE: November 8th, 2024

RE: Proposed changes to Power Project Fund (PPF) regulations

Overview

House Bill (HB) 307, signed into law in July 2024, being the same legislation which established the Railbelt Transmission Organization (RTO), also included an amendment to the Alaska Energy Authority's (AEA) Power Project Fund (PPF) statutes AS 42.45.010. In order to align AEA's PPF regulations with the amendment enacted under HB307, AEA now proposes changes to the existing PPF regulations (reference 3 AAC 106.100 – 3 AAC 106.159; 3 AAC 106.900) as provided in Attachment B to this memo. AEA through this memo requests approval from AEA's Board of Directors to proceed with these changes to existing PPF regulations.

HB307 amendment to PPF statutes

Section 15 of HB307, and as provided in Attachment A of this memo, amends PPF statutes AS 42.45.010 by adding new subsections to read:

(m) A loan for a renewable energy resources projects in which the cumulative monetary state involvement, through loans, grants, and bonds, is at least \$5,000,000 may not be granted for a term that exceeds years and may, notwithstanding (f)(2) of this section, be granted at an interest rate that is the lesser of

(1) three percent lower than the rate determined under (f)(2)(A) of this section, but not less than one percent; or

(2) a rate equivalent to the rate determined under (f)(2)(B) of this section.

(n) In (m) of this section, "renewable energy resources" as the meaning given in AS 42.05.045(l).

Alignment with Governor's Alaska Energy Security Task Force (AESTF) Recommendations

This amendment to PPF statutes as incorporated in HB307, and provided in Attachment A to this memo, seeks to support priority recommendation A-2: Diversify Generation as provided by the Railbelt subcommittee of the AESTF. Actions proposed under priority recommendation A-2 include Action A-2.1: Adopt Clean Energy Standard and Incentives to Diversify Generation under which the "Augmentation of the Power Project Fund (PPF)" is stated as a recommended

incentive. This amendment augments the PPF's ability to provide low-cost financing through significantly reduced interest rates and extended loan terms for major power projects generating power via renewable energy resources. Such lower interest rates costs for such major power projects will provide for improved project economics via reduced financing costs, enabling such project cost savings to be passed on to ratepayers in the form of lower-cost energy.

Changes to existing PPF regulations

The proposed changes to existing PPF regulations are provided in attachment B. The changes are minor changes and are applicable only to those regulations which concern the determination of the interest rates and loan terms applied to certain types of loans under the program.

Under the current PPF statutes and regulations, AEA may set interest rates for PPF loans at a rate below that of the statutory rate under AS 42.45.010(f)(2)(B), however, such a reduced rate request must be substantiated, in that it must allow for the project to achieve financial feasibility under 3 AAC 106.125(b) in order for the lower rate to be allowable under statute. This HB307 amendment allows for an applicant to apply at a pre-determined reduced interest rate, or three percent less than the statutory rate, but not less than one percent, without the need to provide justification as to its aid in achieving financial feasibility, with the primary intent of this amendment being the pass-thru of project cost savings, realized from such low-cost financing, to ratepayers for major renewable energy projects.

For loan terms, existing PPF regulations under 3 AAC 106.120 place a ceiling on loan terms at 50 years, however, under 3 AAC 106.120(a)(2)(A), PPF loans which concern certain technologies are not to exceed 20 years. As such, edits are proposed, as stated in Attachment B, which allow for extended loan terms beyond 20 years for loans which meet the criteria stated in AS 42.45.010(m).

To clarify, the reduced interest rate and loan term allowed per this statutory amendment is only applicable to *"renewable energy resources projects in which the cumulative monetary state involvement, through loans, grants, and bonds, is at least \$5,000,000"*.

For reference, the statutory PPF interest rate is calculated on a weekly basis and was reported at 5.36% as of Nov. 4, 2024.

Regulation Change Package

Subject to AEA's Board of Director's approval of these regulation changes, AEA will submit the necessary forms and documentation to the State of Alaska Department of Law to officially effectuate such changes to existing PPF regulations. While changes to regulations require a certain public-comment period, AEA does not anticipate any comments which would alter those changes as provided in Attachment B.

Attachment A: Enrolled Copy of HB307



LAWS OF ALASKA

2024

Source

SCS CSHB 307(FIN)

Chapter No.

AN ACT

Relating to the Regulatory Commission of Alaska; relating to regulation of public utilities and pipeline carriers; relating to approval of wholesale power agreements; relating to electric reliability organizations; relating to loans for renewable energy resources projects from the power project fund; relating to the taxation of new electricity generation and storage facilities; relating to the Alaska Energy Authority; relating to the Railbelt Transmission Organization; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the Regulatory Commission of Alaska; relating to regulation of public utilities and
2 pipeline carriers; relating to approval of wholesale power agreements; relating to electric
3 reliability organizations; relating to loans for renewable energy resources projects from the
4 power project fund; relating to the taxation of new electricity generation and storage facilities;
5 relating to the Alaska Energy Authority; relating to the Railbelt Transmission Organization;
6 and providing for an effective date.

7

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

10 LEGISLATIVE INTENT. It is the intent of the legislature that ownership of state-
11 funded new or upgraded backbone transmission assets in the Railbelt be decided when the
12 financing for the new or upgraded transmission assets is approved by the state.

13 * **Sec. 2.** AS 39.25.110(11) is amended to read:

14 (11) the officers and employees of the following boards, commissions,
15 and authorities:

- 1 (A) [REPEALED]
- 2 (B) Alaska Permanent Fund Corporation;
- 3 (C) Alaska Industrial Development and Export Authority;
- 4 (D) Alaska Commercial Fisheries Entry Commission;
- 5 (E) Alaska Commission on Postsecondary Education;
- 6 (F) Alaska Aerospace Corporation;
- 7 (G) [REPEALED]
- 8 (H) Alaska Gasline Development Corporation and subsidiaries
- 9 of the Alaska Gasline Development Corporation;
- 10 **(I) Alaska Energy Authority;**

11 * **Sec. 3.** AS 42.04.020(a) is amended to read:

12 (a) The commission consists of five commissioners appointed by the governor
13 and confirmed by the legislature in joint session. To qualify for appointment as a
14 commissioner, a person must

15 **(1) be a member in good standing of the Alaska Bar Association with**
16 **at least five years of actual experience in the practice of law;**

17 **(2) be a professional engineer registered under AS 08.48;** or

18 **(3) have a degree from an accredited college or university with a major**
19 **in [ENGINEERING,] finance, economics, accounting, business administration, or**
20 **public administration and at least five years of actual experience in the field**
21 **associated with the degree** [ACTUAL EXPERIENCE FOR A PERIOD OF FIVE
22 YEARS IN THE PRACTICE OF LAW OR IN THE FIELD OF ENGINEERING,
23 FINANCE, ECONOMICS, ACCOUNTING, BUSINESS ADMINISTRATION, OR
24 PUBLIC ADMINISTRATION IS EQUIVALENT TO A DEGREE].

25 * **Sec. 4.** AS 42.04.020(f) is amended to read:

26 (f) Members of the commission are in the exempt service and are entitled to a
27 monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in
28 AS 39.27.011(a) for Juneau, Alaska. The chair of the commission is entitled to a
29 monthly salary equal to a step in **Range 29** [RANGE 27] of the salary schedule in
30 AS 39.27.011(a) for Juneau, Alaska.

31 * **Sec. 5.** AS 42.05.141(b) is amended to read:

1 (b) The commission shall perform the duties assigned to it under
2 AS 42.45.100 - 42.45.190 **and AS 44.83.700 - 44.83.720.**

3 * **Sec. 6.** AS 42.05.141 is amended by adding a new subsection to read:

4 (g) Nothing in this chapter limits the authority of the commission under this
5 section or AS 42.05.151 necessary to implement provisions that remain applicable
6 under AS 42.05.321(b) or 42.05.711.

7 * **Sec. 7.** AS 42.05.254(a) is amended to read:

8 (a) A regulated public utility or a certificated utility that provides
9 telecommunications services operating in the state shall pay to the commission an
10 annual regulatory cost charge in an amount not to exceed the maximum percentage of
11 adjusted gross revenue that applies to the utility sector of which the utility is a part.
12 The regulatory cost charges that the commission expects to collect from all regulated
13 utilities and certificated utilities providing telecommunications services may not
14 exceed the sum of the following percentages of the total adjusted gross revenue of all
15 regulated public utilities and certificated utilities providing telecommunications
16 services derived from operations in the state: (1) not more than **.98** [.7] percent to fund
17 the operations of the commission, and (2) not more than **.22** [.17] percent to fund
18 operations of the public advocacy function under AS 42.04.070(c) and
19 AS 44.23.020(e) within the Department of Law. An exempt utility that does not
20 provide telecommunications services shall pay the actual cost of services provided to
21 it by the commission.

22 * **Sec. 8.** AS 42.05.381 is amended by adding a new subsection to read:

23 (p) A determination of whether an electric utility's rate is just and reasonable
24 may consider whether the purpose of the rate is to increase diversity of supply,
25 promote load growth, or enhance energy reliability or energy security.

26 * **Sec. 9.** AS 42.05.431(b) is amended to read:

27 (b) A wholesale power agreement between public utilities, **or between a**
28 **public utility and an independent power producer,** is subject to advance approval
29 of the commission. **A rate set in accordance with a wholesale power agreement**
30 **must disclose a state or local tax exemption provided to a utility or independent**
31 **power producer.** After a wholesale power agreement is in effect, the commission

1 may not invalidate any purchase or sale obligation under the agreement. However, if
2 the commission finds that rates set in accordance with the agreement **violate this**
3 **subsection or** are not just and reasonable, the commission may order the parties to
4 negotiate an amendment to the agreement and if the parties fail to agree, to use the
5 dispute resolution procedures contained in the contract. **In this subsection,**
6 **"independent power producer" means a legal entity, other than a public utility**
7 **or a joint action agency established under AS 42.45.310, that owns or operates a**
8 **facility for the generation of electricity.**

9 * **Sec. 10.** AS 42.05.711(b) is amended to read:

10 (b) Except as otherwise provided in this subsection, [AND IN] (o) of this
11 section, **and AS 44.83.700(d),** public utilities owned and operated by a political
12 subdivision of the state, or electric operating entities established as the instrumentality
13 of two or more public utilities owned and operated by political subdivisions of the
14 state, are exempt from this chapter, other than AS 42.05.221 - 42.05.281 and
15 42.05.385. However,

16 (1) the governing body of a political subdivision may elect to be
17 subject to this chapter; and

18 (2) a utility or electric operating entity that is owned and operated by a
19 political subdivision and that directly competes with another utility or electric
20 operating entity is subject to this chapter and any other utility or electric operating
21 entity owned and operated by the political subdivision is also subject to this chapter;
22 this paragraph does not apply to a utility or electric operating entity owned and
23 operated by a political subdivision that competes with a telecommunications utility.

24 * **Sec. 11.** AS 42.05.760(a) is amended to read:

25 (a) An electric utility must participate in an electric reliability organization if
26 the utility operates in an interconnected electric energy transmission network served
27 by an electric reliability organization certificated by the commission. The commission
28 may not require an electric reliability organization for an interconnected bulk-electric
29 system if

30 **(1)** all of the load-serving entities operating in the interconnected bulk-
31 electric system are exempt under AS 42.05.711(b); **or**

1 **(2) the sum of annual electric energy sales made by load-serving**
2 **entities operating in the interconnected bulk-electric system is less than 3,000,000**
3 **megawatt-hours.**

4 * **Sec. 12.** AS 42.05.762 is amended to read:

5 **Sec. 42.05.762. Duties of an electric reliability organization.** An electric
6 reliability organization shall

7 (1) develop reliability standards that provide for an adequate level of
8 reliability of an interconnected electric energy transmission network;

9 (2) develop integrated resource plans under AS 42.05.780(a);

10 (3) establish rules to

11 (A) ensure that the directors of the electric reliability
12 organization and the electric reliability organization act independently from
13 users, owners, and operators of the interconnected electric energy transmission
14 network;

15 (B) equitably allocate reasonable dues, fees, and other charges
16 among all load-serving entities connected to the interconnected electric energy
17 transmission network for all activities under AS 42.05.760 - 42.05.790;

18 (C) provide fair and impartial procedures for the enforcement
19 of reliability standards;

20 (D) provide for reasonable notice and opportunity for public
21 comment, due process, openness, and balancing of interests in exercising its
22 duties; [AND]

23 (4) be governed by a board that

24 (A) includes as nonvoting members the chair of the
25 commission or the chair's designee and the attorney general or the attorney
26 general's designee; and

27 (B) is formed as

28 (i) an independent board;

29 (ii) a balanced stakeholder board; or

30 (iii) a combination independent and balanced
31 stakeholder board; **and**

1 (5) prioritize the reliability, stability, and cost to consumers of the
2 interconnected bulk-electric system served by the electric reliability organization.

3 * **Sec. 13.** AS 42.05.770 is amended to read:

4 **Sec. 42.05.770. Regulations.** The commission shall adopt regulations
5 governing electric reliability organizations, reliability standards, and modifications to
6 reliability standards consistent with this section. Regulations under AS 42.05.760 -
7 42.05.790 must

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

9 [(A) STANDARDS FOR] nondiscriminatory **standards for**
10 [OPEN ACCESS TRANSMISSION AND] interconnection;

11 [(B) STANDARDS FOR TRANSMISSION SYSTEM COST
12 RECOVERY;]

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

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

18 * **Sec. 14.** AS 42.06.286(a) is amended to read:

19 (a) A pipeline carrier operating in the state shall pay to the commission an
20 annual regulatory cost charge in an amount not to exceed the sum of the following
21 percentages of gross revenue derived from operations in the state: (1) not more than
22 **.98** [.7] percent to fund the operations of the commission, and (2) not more than **.22**
23 [.17] percent to fund operations of the public advocacy function under
24 AS 42.04.070(c) and AS 44.23.020(e) within the Department of Law. A regulatory
25 cost charge may not be assessed on pipeline carrier operations unless the operations
26 are within the jurisdiction of the commission.

27 * **Sec. 15.** AS 42.45.010 is amended by adding new subsections to read:

28 (m) A loan for a renewable energy resources project in which the cumulative
29 state monetary involvement, through loans, grants, and bonds, is at least \$5,000,000
30 may not be granted for a term that exceeds 50 years and may, notwithstanding (f)(2) of
31 this section, be granted at an interest rate that is the lesser of

1 (1) three percent lower than the rate determined under (f)(2)(A) of this
2 section, but not less than one percent; or

3 (2) a rate equivalent to the rate determined under (f)(2)(B) of this
4 section.

5 (n) In (m) of this section, "renewable energy resources" has the meaning given
6 in AS 42.45.045(l).

7 * **Sec. 16.** AS 43.98 is amended by adding a new section to read:

8 **Article 2A. Taxation of New Electricity Generation and Storage Facilities.**

9 **Sec. 43.98.100. Taxation of new electricity generation and storage**
10 **facilities.** (a) An electricity generation facility or electricity storage facility that is
11 constructed and placed into service on or after July 1, 2024, is not subject to state and
12 local ad valorem, income, and excise taxes if the electricity generation facility is

13 (1) operated by a public utility or joint action agency established under
14 AS 42.45.310; or

15 (2) operated by an entity other than a public utility and provides power
16 only to a public utility.

17 (b) In this section, "public utility" has the meaning given in AS 42.05.990.

18 * **Sec. 17.** AS 44.83.030 is amended to read:

19 **Sec. 44.83.030. Membership of the authority.** The **members of the board of**
20 **directors of the authority** [ALASKA ENERGY AUTHORITY] are

21 **(1) the commissioner of revenue;**

22 **(2) the commissioner of commerce, community, and economic**
23 **development; and**

24 **(3) six public members appointed by the governor as follows:**

25 **(A) one member with expertise or experience in managing**
26 **or operating an electric utility that is not connected to an interconnected**
27 **electric energy transmission network as defined in AS 42.05.790;**

28 **(B) one member with expertise or experience in developing**
29 **energy projects in rural communities;**

30 **(C) one member with expertise or experience in managing**
31 **or operating an electric utility connected to an interconnected electric**

1 energy transmission network as defined in AS 42.05.790;

2 (D) one member with expertise or experience in managing a
3 municipally owned utility located off the interconnected road system or
4 joint action agency established under AS 42.45.310 located off the
5 interconnected road system;

6 (E) one member with financial expertise in large power
7 generation project development; and

8 (F) one member with expertise or experience in finance,
9 energy policy, energy technology, engineering, law, or economics [THE
10 MEMBERS OF THE ALASKA INDUSTRIAL DEVELOPMENT AND
11 EXPORT AUTHORITY].

12 * **Sec. 18.** AS 44.83.030 is amended by adding new subsections to read:

13 (b) If the commissioner described in (a)(1) or (a)(2) of this section is unable to
14 attend a meeting of the authority, the commissioner may, by an instrument in writing
15 filed with the authority, designate a deputy or director to act in the commissioner's
16 place as a member of the board at the meeting. For all purposes of this chapter, the
17 designee is a member of the board at the meeting.

18 (c) Public board members described in (a)(3) of this section serve for three-
19 year terms.

20 (d) If a vacancy occurs in the membership of the board, the governor shall
21 immediately appoint a member for the unexpired portion of the term.

22 * **Sec. 19.** AS 44.83.040(a) is amended to read:

23 (a) The board of directors of the authority shall elect a chair and vice-chair
24 every two years from among its members [OF THE ALASKA INDUSTRIAL
25 DEVELOPMENT AND EXPORT AUTHORITY SHALL SERVE AS OFFICERS
26 OF THE ALASKA ENERGY AUTHORITY]. The powers of the authority
27 [ALASKA ENERGY AUTHORITY] are vested in the board of directors, and five
28 board members [FOUR DIRECTORS OF THE AUTHORITY] constitute a quorum.
29 Action may be taken and motions and resolutions adopted by the authority
30 [ALASKA ENERGY AUTHORITY] at a meeting by the affirmative vote of at least
31 five board members [A MAJORITY OF THE DIRECTORS]. The members of the

1 **board of** directors of the **authority** [ALASKA ENERGY AUTHORITY] serve
2 without compensation, but they shall receive the same travel pay and per diem as
3 provided by law for board members under AS 39.20.180.

4 * **Sec. 20.** AS 44.83.040 is amended by adding a new subsection to read:

5 (e) The authority may, as the authority considers advisable, appoint persons as
6 officers, including an executive director, and employ professional advisors, counsel,
7 technical experts, agents, and other employees. The executive director and employees
8 of the authority are in the exempt service under AS 39.25.

9 * **Sec. 21.** AS 44.83.080 is amended to read:

10 **Sec. 44.83.080. Powers of the authority.** In furtherance of its corporate
11 purposes, the authority has the following powers in addition to its other powers:

12 (1) to sue and be sued;

13 (2) to have a seal and alter it at pleasure;

14 (3) to make and alter bylaws for its organization and internal
15 management;

16 (4) to adopt regulations governing the exercise of its corporate powers;

17 (5) to improve, equip, operate, and maintain power projects and bulk
18 fuel, waste energy, energy conservation, energy efficiency, and alternative energy
19 facilities and equipment;

20 (6) to issue bonds to carry out any of its corporate purposes and
21 powers, including the establishment or increase of reserves to secure or to pay the
22 bonds or interest on them, and the payment of all other costs or expenses of the
23 authority incident to and necessary or convenient to carry out its corporate purposes
24 and powers;

25 (7) to sell, lease as lessor or lessee, exchange, donate, convey, or
26 encumber in any manner by mortgage or by creation of any other security interest, real
27 or personal property owned by it, or in which it has an interest, when, in the judgment
28 of the authority, the action is in furtherance of its corporate purposes;

29 (8) to accept gifts, grants, or loans from, and enter into contracts or
30 other transactions regarding them, with any person;

31 (9) to deposit or invest its funds, subject to agreements with

1 bondholders;

2 (10) to enter into contracts with the United States or any person and,
3 subject to the laws of the United States and subject to concurrence of the legislature,
4 with a foreign country or its agencies, for the construction, financing, operation, and
5 maintenance of all or any part of a power project or bulk fuel, waste energy, energy
6 conservation, energy efficiency, or alternative energy facilities or equipment, either
7 inside or outside the state, and for the sale or transmission of power from a project or
8 any right to the capacity of it or for the security of any bonds of the authority issued or
9 to be issued for the project;

10 (11) to enter into contracts with any person and with the United States
11 and, subject to the laws of the United States and subject to the concurrence of the
12 legislature, with a foreign country or its agencies for the purchase, sale, exchange,
13 transmission, or use of power from a project, or any right to the capacity of it;

14 (12) to apply to the appropriate agencies of the state, the United States,
15 and a foreign country and any other proper agency for the permits, licenses, or
16 approvals as may be necessary, to acquire, construct, maintain, and operate power
17 projects in accordance with the licenses or permits, and to obtain, hold, and use the
18 licenses and permits in the same manner as any other person or operating unit;

19 (13) to enter into contracts or agreements with respect to the exercise
20 of any of its powers, and do all things necessary or convenient to carry out its
21 corporate purposes and exercise the powers granted in this chapter;

22 (14) to recommend to the legislature

23 (A) the pledge of the credit of the state to guarantee repayment
24 of all or any portion of revenue bonds issued to assist in construction of power
25 projects;

26 (B) an appropriation from the general fund

27 (i) for debt service on bonds or other project purposes;

28 or

29 (ii) to reduce the amount of debt financing for the
30 project;

31 (15) to carry out the powers and duties assigned to it under AS 42.45

1 **and AS 44.83.700 - 44.83.720;**

2 (16) to make grants or loans to any person and enter into contracts or
3 other transactions regarding the grants or loans;

4 (17) to promote energy conservation, energy efficiency, and alternative
5 energy through training and public education;

6 (18) to acquire a Susitna River power project, whether by construction,
7 purchase, gift, or lease, including the acquisition of property rights and interests by
8 eminent domain under AS 09;

9 (19) to perform feasibility studies and engineering and design with
10 respect to power projects;

11 **(20) to acquire battery and other energy storage systems, whether**
12 **by direct ownership, purchase, grant, gift, or lease.**

13 * **Sec. 22.** AS 44.83.090(b) is amended to read:

14 (b) The authority is not subject to the jurisdiction of the Regulatory
15 Commission of Alaska, **except as provided in AS 44.83.700(d)**. Nothing in this
16 chapter, **except as provided in AS 44.83.700 - 44.83.720**, grants the authority
17 jurisdiction over the services or rates of a public utility or diminishes or otherwise
18 alters the jurisdiction of the Regulatory Commission of Alaska with respect to a public
19 utility, including any right the commission may have to review and approve or
20 disapprove contracts for the purchase of electricity by a public utility other than
21 wholesale agreements and contracts described in AS 42.05.431(c)(1).

22 * **Sec. 23.** AS 44.83 is amended by adding new sections to read:

23 **Article 5A. Railbelt Transmission Organization.**

24 **Sec. 44.83.700. Railbelt Transmission Organization.** (a) The Railbelt
25 Transmission Organization is created for the purpose of establishing an open access
26 transmission tariff that

27 (1) provides for recovery of transmission costs and related ancillary
28 services; and

29 (2) replaces wholesale charges assessed by unit by each utility in the
30 Railbelt with a new mechanism that fairly recovers and equitably allocates the costs of
31 operating the backbone transmission system.

1 (b) For administrative purposes, the transmission organization is a division of
2 the Alaska Energy Authority.

3 (c) To assist in administering the open access transmission tariff, the
4 governance structure for the transmission organization must be made up of a
5 representative from the authority, a representative from each Railbelt utility, and, as an
6 ex officio nonvoting representative, the chief executive officer of the applicable
7 electric reliability organization or the chief executive officer's designee.

8 (d) Notwithstanding AS 42.05.711(b) and AS 44.83.090(b), the transmission
9 organization is subject to the jurisdiction of the commission for the purposes of
10 AS 44.83.700 - 44.83.720. The commission shall require the transmission organization
11 to apply for a certificate under AS 42.05.221 and file tariffs to achieve the purposes of
12 AS 44.83.700 - 44.83.720.

13 **Sec. 44.83.710. Revenue mechanism.** (a) The transmission organization shall
14 hold and administer a commission-approved nondiscriminatory open access
15 transmission tariff for the backbone transmission system.

16 (b) The transmission organization shall file with the commission a
17 nondiscriminatory open access transmission tariff consistent with Federal Energy
18 Regulatory Commission standards to remove impediments to competition in the
19 wholesale bulk power marketplace in the state. If the transmission organization does
20 not file a nondiscriminatory open access transmission tariff with the commission on or
21 before July 1, 2025, the commission shall, after notice and opportunity for public
22 comment, establish a nondiscriminatory open access transmission tariff consistent
23 with this section.

24 (c) The nondiscriminatory open access transmission tariff must, as approved
25 by the commission,

26 (1) pool backbone transmission system costs and allocate those costs
27 through certificated load-serving entities on a coincident peak or load ratio share basis,
28 or a combination of both; and

29 (2) account for

30 (A) required backbone transmission system ancillary services;

31 (B) backbone transmission system congestion;

1 (C) disruptions to the backbone transmission system that result
2 in the isolation of one geographical area of the backbone transmission system
3 from another for more than 24 hours; and

4 (D) costs to own and operate the backbone transmission
5 system, as established by the commission or by contract, including
6 transmission costs associated with the Bradley Lake hydroelectric project.

7 (d) A Railbelt utility shall pass the commission-approved transmission costs
8 directly and transparently to the utility's customers.

9 **Sec. 44.83.720. Definitions.** In AS 44.83.700 - 44.83.720,

10 (1) "backbone transmission system" means the transmission assets in
11 the Railbelt that facilitate the transmission of electrical power under the standards
12 established by the Federal Energy Regulatory Commission;

13 (2) "commission" means the Regulatory Commission of Alaska;

14 (3) "Railbelt" means the geographic region from the Kenai Peninsula
15 to Interior Alaska that is connected to a common electric transmission backbone;

16 (4) "Railbelt utility" means a public electric utility certificated to
17 operate in the Railbelt that operates backbone transmission system assets;

18 (5) "transmission organization" means the Railbelt Transmission
19 Organization established by AS 44.83.700.

20 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATORY COMMISSION OF ALASKA MEMBERS. An
23 individual who is a member of the Regulatory Commission of Alaska on the day before the
24 effective date of sec. 3 of this Act continues to serve on the Regulatory Commission of Alaska
25 until the member's term expires and a successor is appointed and qualified. The governor shall
26 make appointments for vacancies that occur on or after the effective date of sec. 3 of this Act
27 in accordance with AS 42.04.020(a), as amended by sec. 3 of this Act.

28 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
29 read:

30 TRANSITION: ALASKA ENERGY AUTHORITY BOARD MEMBERS.
31 Notwithstanding AS 44.83.030(c), added by sec. 18 of this Act, the governor shall appoint

1 two public members of the initial Alaska Energy Authority board of directors to one-year
2 terms, two public members to two-year terms, and two public members to three-year terms.

3 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITION: RAILBELT TRANSMISSION ORGANIZATION. To facilitate the
6 development and management of the Railbelt backbone transmission system open access
7 transmission tariff, the Alaska Energy Authority and the Railbelt utilities, as defined in
8 AS 44.83.720, added by sec. 23 of this Act, shall form the Railbelt Transmission Organization
9 under AS 44.83.700, added by sec. 23 of this Act, on or before January 1, 2025, modeled after
10 the governance structure of the Bradley Lake Hydroelectric Project, as outlined in the Bradley
11 Lake Power Sales Agreement, including the creation, duties, and methods of the Bradley Lake
12 Project Management Committee, with any adjustments the parties to the agreement determine
13 are necessary. On or before January 1, 2025, the Railbelt Transmission Organization shall
14 apply to the Regulatory Commission of Alaska for a certificate under AS 42.05.221 to
15 achieve the purposes of AS 44.83.700 - 44.83.720, added by sec. 23 of this Act.

16 * **Sec. 27.** Section 8 of this Act takes effect immediately under AS 01.10.070(c).

17 * **Sec. 28.** Except as provided in sec. 27 of this Act, this Act takes effect July 1, 2024.

Attachment B: Proposed changes to existing PPF regulations for alignment with HB307

3 AAC 106.100. Power project fund loan application.

(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:

- (1) the legal name of the applicant and the legal authority under which it was created and other information that will demonstrate that the applicant is an eligible borrower under [AS 42.45.010](#);
- (2) a certified copy of the resolution or other official action taken by the applicant's governing body authorizing the application for a loan;
- (3) the name, title, and address of the applicant's official correspondent or representative for purposes of the application;
- (4) the names and titles of the applicant's principal officers, including the chief executive officer or general manager;
- (5) the names and addresses of the engineer, legal counsel, financial advisor or consultant, and any management, engineering, design, economic, or other advisors or consultants that the applicant has for the project;
- (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;
- (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 begin;
- (8) information from which the authority can determine (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 (B) whether the applicant has the financial ability including, if necessary, the authority to charge and collect rates, fees, or rentals or in the case of a municipality, to levy taxes to generate sufficient revenue to repay the loan;
- (9) the status of any proceedings undertaken by the applicant to obtain permits, certificates or other authorizations from any federal, state, or local agency necessary to begin, complete, and operate the project;
- (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;
- (11) for an investor-owned electric utility, a business history of any person or entity owning or controlling 10 percent or more of the applicant's stock or business;
- (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
- (13) if the applicant is a Native village council, a resolution waiving sovereign immunity on a form provided by the authority.

(b) An applicant shall, in addition to the application, timely provide other information requested by the authority.

(c) Repealed 4/8/2015.

(d) An applicant requesting an interest rate less than the rate set out in [AS 42.45.010\(f\)\(2\)\(A\)](#) or AS 42.45.010(m), as applicable, 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\(b\)](#).

3 AAC 106.110. Review by authority.

(a) Upon receipt of a completed application and other information requested or required, the authority will review the application.

(b) The authority after reviewing an application, other than an application for a loan for reconnaissance studies, feasibility studies, license and permit applications, or engineering and design, will make a determination that includes the following:

(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 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

(2) a list of subjects to be analyzed in any studies to be made by the applicant.

(c) The authority will consider each application for a loan for reconnaissance studies, feasibility studies, license and permit applications, engineering and design that has been transmitted to it for action and will determine whether the applicant is an eligible borrower under [AS 42.45.010](#), whether the loan will be used to pay the costs of activities that are eligible under [AS 42.45.010](#), and whether the applicant can reasonably be expected to have sufficient revenue from all sources to timely repay the loan.

(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.

(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.

(f) If the authority approves an application, and after approval of the loan by the legislature to the extent required under [AS 42.45.010\(j\)](#), the authority will enter into a loan agreement with the applicant under conditions complying with [3 AAC 106.120](#), but only after receiving a certified copy of the resolution or other official action taken by the applicant's governing body agreeing to the terms of the loan.

(g) It is the responsibility of the applicant and not of the authority to obtain the approval by the legislature if approval of the applicant's loan is required under [AS 42.45.010\(j\)](#).

(h) If the authority denies an application, the written determination will also include a statement explaining the reasons for the denial.

3 AAC 106.120. Terms of loans.

(a) The terms of a loan made by the authority from the power project fund will be determined by the authority and will comply with the following conditions:

(1) the loan must bear interest at the rate determined under [AS 42.45.010\(f\)\(2\)\(A\)](#) or AS 42.45.010(m), as applicable, 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\(b\)](#);

(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 for a renewable energy resources project, where "renewable energy resources" has the meaning given in AS 42.45.045(l), and in which the cumulative state monetary involvement, through loans, grants, and bonds, is at least \$5,000,000;

(3) for all projects not covered by paragraph (a)(2) of this regulation, 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

(34) the loan must be supported by appropriate documentation that may include a loan agreement, bonds, notes, or other documentation, evidencing to the authority's satisfaction that the loan is secured by one or more of the following:

(A) a pledge of the revenues of the borrower or the project that may be subordinate to operating and maintenance expenses and certain other expenses of the borrower or the project as specified by the authority;

(B) a lien, mortgage, security interest, collateral agreements, or other encumbrance on the project or other assets, rights, or interests of the borrower; or

(C) a pledge of the taxing power of the borrower.

(b) The requirements of (a)(34) of this section do not apply to a loan to an applicant regulated by the Regulatory Commission of Alaska under [AS 42.05](#) if the applicant has a history of repaying long-term loans and demonstrates to the authority that it has the capacity to repay the loan obtained from the authority.

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\(f\)\(2\)\(A\)](#) or AS 42.45.010(m), as applicable, 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 nonindustrial 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.

3 AAC 106.130. Inspection of records and facilities.

(a) An applicant for a loan and a borrower who has an outstanding loan with the authority shall make its books and records, facilities, and its real and personal property of any kind, available for inspection at any reasonable time by the authority, or its agents, after receipt by the applicant or borrower of the authority's written request to inspect.

(b) The authority or its agents will, in the discretion of the authority, inspect, after giving reasonable notice, the construction of any project that is financed, in whole or in part, with a loan under this chapter. The inspection does not relieve the borrower from its obligation to comply with applicable codes and ordinances.

(c) A borrower that has obtained a loan from the authority shall permit the authority or its agents to inspect its books, records, facilities, and real and personal property for as long as any portion of the loan, including interest, remains outstanding.

(d) The authority will, in its discretion, by written request require a borrower who has obtained a loan from the authority to submit

(1) at reasonable times to audits or examinations of its books and records by an independent firm of certified public accountants selected by the authority to determine whether the provisions of the loan agreement have been complied with and to pay the cost of those audits or examinations;

(2) a sworn statement by a responsible officer of the borrower describing the purposes to which the proceeds of the loan have been applied.

3 AAC 106.140. Loans from other appropriations.

The provisions of [3 AAC 106.100](#) - [3 AAC 106.130](#) relating to loans from the power project fund apply also to all other loans made by the authority affected by ch. 58, SLA 1999 and made from money appropriated for that purpose by the legislature, except loans from the rural electrification revolving loan fund, which are subject to the provisions of [3 AAC 106.200](#) - [3 AAC 106.260](#) and loans from the bulk fuel revolving loan fund, which are subject to the provisions of [3 AAC 106.300](#) - [3 AAC 106.365](#).

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 not more than \$500,000;

(3) \$2,000 for applications requesting loan amounts of more than \$500,000 and not 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 nonrefundable 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.

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](#).

3 AAC 106.900. Definitions.

(a) In this chapter, unless the context requires otherwise,

- (1) deleted;
- (2) Repealed 4/8/2015;
- (3) deleted;
- (4) "regional corporation" means an Alaska Native regional corporation established under the laws of this state in accordance with the provisions of 43 U.S.C. 1601 - 1629(e) (Alaska Native Claims Settlement Act).

(b) In [AS 42.45](#), unless the context requires otherwise, "nonprofit marketing cooperative" means a cooperative organized under [AS 10.15](#) (Alaska Cooperative Corporation Act), which is operated on a nonprofit basis for the mutual benefit of its members and which has bylaws containing provisions relating to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit and cooperative character, or a cooperative organized under [AS 10.25](#) (Electric and Telephone Cooperative Act) that exercises the powers granted to an electric cooperative by [AS 10.25.020](#).

(c) In [AS 42.45](#) and this chapter, unless the context requires otherwise,

- (1) "economically viable" means
 - (A) a project for which the long term benefits exceed the long term costs; or
 - (B) the project is financially feasible in the absence of a government grant for the project;
- (2) "extension of electric service" means the point when at least three new customers begin receiving electric service through an extension made in connection with a loan from the rural electrification revolving loan fund;
- (3) "immediate service" means electric service provided within 30 days after completion of the extension of electric service made in connection with a loan from the rural electrification revolving loan fund;
- (4) "village corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage, and distribute land, property, money, and other rights and assets for and on behalf of a native village in accordance with the terms of the Alaska Native Claims Settlement Act (PL 920-203);
- (5) "village council" means the duly elected governing body of an unincorporated community which has between 25 and 600 people residing within a two-mile radius;
- (6) "authority" means the Alaska Energy Authority created in [AS 44.83.020](#).

(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](#).

(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\(6\)\(A\)](#).