



STATE OF ALASKA
DEPARTMENT OF
COMMERCE
COMMUNITY AND
ECONOMIC DEVELOPMENT

Bill Walker, Governor
Chris Hladick, Commissioner
T. W. Patch, Chairman

Regulatory Commission of Alaska

MEMORANDUM

To: Representative Mike Hawker, Chair
Legislative Budget and Audit Committee

Date: October 21, 2015

From: Ann Wilde *AW*
Commission Section Manager

Phone: 907-263-2163

Email: Ann.Wilde@alaska.gov

cc: T.W. Patch, Chairman
Regulatory Commission of Alaska

Subject: Quarterly report for July 1-September 30, 2015

Under AS 42.05.175(g), the Regulatory Commission of Alaska is required to file quarterly reports with the Legislative Budget and Audit Committee identifying all extensions ordered under AS 42.05.175(f).

Acting in accordance with AS 42.05.175(f) and with the consent of the parties, the Commission extended the statutory timeline in the following dockets:

U-08-028, *Order Extending Statutory Timeline With the Consent of Party*, dated August 7, 2015.

U-15-094, *Order Adopting Stipulated Procedural Schedule and Extending Statutory Timeline With Consent of the Parties*, dated August 27, 2015.

U-15-095, *Order Adopting Procedural Schedule and Extending Statutory Timeline With Consent of the Parties*, dated September 15, 2015.

U-14-111, *Order Accepting Stipulation, Approving Tariff Sheets, and Extending Statutory Timeline*, dated September 29, 2015.

The Commission issued an order under AS 42.05.175(f)(1)-(3) in one docket during this quarter.

R-13-002, *Order Extending Statutory Timeline*, dated August 21, 2015.

1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

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4 Before Commissioners:

T.W. Patch, Chairman
Stephen McAlpine
Robert M. Pickett
Norman Rokeberg
Janis W. Wilson

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8 In the Matter of the Petition Filed by ALASKA)
9 ENVIRONMENTAL POWER, LLC to Amend)
10 3 AAC 50.750 – 3 AAC 50.820 Addressing)
Cogeneration and Small Power Production)

R-13-002
ORDER NO. 3

11 ORDER EXTENDING STATUTORY TIMELINE

12 BY THE COMMISSION:

13 Alaska Environment Power, LLC (AEP) filed a petition for rulemaking
14 requesting revisions to our regulations addressing cogeneration and small power
15 production.¹ In response to AEP's petition we opened this docket to consider changes
16 to our regulations.²

17 We are required to issue a final decision not later than 730 days after a
18 complete petition for adoption, amendment, or repeal of regulations. The statutory
19 timeline for completing this docket is August 23, 2015.³ We may extend a timeline one
20 time for 90 days or less if, before the timeline expires, we find good cause exists to

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22 ¹*Petition for a Rulemaking to Encourage Renewable Energy Development by
Independent Power Producers*, filed August 23, 2013.

23 ²*Order R-13-002(1), Order Opening Docket, Incorporating Documents from
Docket C-13-108 and TA245-13, Seeking Comments, Addressing Statutory Timeline,
and Scheduling Public Hearing*, dated October 2, 2013.

24 ³AS 42.05.175(e).

1 extend the timeline and issue a written order extending the timeline and setting out our
2 findings of good cause.⁴

3 The regulations we are considering in this docket are of great interest to
4 both large and small power producers, as well as the general public. In response to our
5 order asking whether we should revise our cogeneration and small power production
6 regulations as requested in AEP's petition, we received written comments - initial
7 comments from 16 entities,⁵ reply comments from eight.⁶ Additionally, we held two
8 public hearings. Proposed regulations were then drafted and noticed to the public.⁷ In
9 response to the notice of proposed regulations, we received initial comments from ten
10 entities⁸ and reply comments from seven.⁹

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12 ⁴AS 42.05.175(f).

13 ⁵From October 10, 2013, to November 18, 2013, the commission received initial
14 comments from Spenard Builder's Supply; Northern Alaska Environmental Center;
15 Nicholas Van Wyck; Juneau Hydropower, Inc. (Juneau Hydropower); Fishhook
16 Renewable Energy, LLC; Cook Inlet Region, Inc. (CIRI); Northwest and Intermountain
17 Power Producers Coalition; Alaska Power & Telephone Company (AEL&P); Ketchikan
18 Electric Company; AEP; Municipality of Anchorage d/b/a Municipal Light & Power
19 Department (ML&P); Capstone Turbine Corporation, Chugach Electric Association, Inc.
(Chugach); Alaska Independent Power Producers Association (AIPPA); Golden Valley
20 Electric Association, Inc. (GVEA); and the Alaska Power Association (APA).

21 ⁶From December 26, 2013, to December 27, 2013, the commission received
22 reply comments from AIPPA, AEP, Juneau Hydropower, ML&P, CIRI, APA, Chugach,
23 and GVEA.

24 ⁷*Notice of Proposed Changes in the Regulations of the Regulatory Commission*
25 *of Alaska*, dated March 4, 2015.

26 ⁸On April 3, 2015, the commission received comments from CIRI; AIPPA; AEP;
GVEA; MEA; APA; AEL&P; ML&P; Chugach; and Hotel Alyeska LLC, Alyeska Ski
Resort, LLC, Alyeska Resort Management Company and Alyeska Resort Development,
LLC.

⁹On April 24, 2015, the commission received reply comments from CIRI, AIPPA,
AEP, MEA, GVEA, Chugach, and APA.

1 To become effective our regulations, like those of other state agencies,
2 must be filed and endorsed by the lieutenant governor. Under AS 44.62.060(b) the
3 Department of Law reviews the regulations and prepares a written statement of
4 approval or disapproval. According to AS 44.62.060(c) the lieutenant governor may not
5 accept regulations for filing unless they are accompanied by a statement of approval by
6 the Department of Law. In some past Department of Law reviews of our regulations, a
7 statement of approval has only been secured with wording changes to the draft
8 regulations we adopted. In one docket, R-05-005, the regulations we adopted were not
9 approved by the Department of Law and, for that reason, never became effective.

10 In this docket, as is the case in many of our regulation dockets,
11 commissioners and commission staff, as well as members of the public who participated
12 in the docket, have spent a great deal of time and effort on the proposed regulations
13 and have become accustomed to particular wording. If wording changes are made
14 without an opportunity for participants to see or comment on the changes, participants
15 may feel their participation has not been adequately valued and may be less
16 comfortable with the resulting final regulations.

17 For the purpose of reducing the number of post-adoption changes, we
18 consulted our assigned assistant attorney general to determine what wording changes
19 by the Department of Law were likely if we adopted the Staff recommended proposed
20 regulations in this docket. We were informed that extensive wording changes were
21 likely and what those wording changes might be.

22 Rather than adopting the recommended proposed regulations now we
23 believe the prudent course of action is to take time to consider the advice given by our
24 assistant attorney general, decide whether to make suggested wording changes, and
25 decide whether, if we make changes, those changes warrant further public comment.

1 For this reason, we find that good cause exists to extend the statutory timeline.
2 Accordingly, on our own motion, we extend the statutory timeline in this docket 90 days
3 to November 21, 2015.¹⁰

4 **ORDER**

5 THE COMMISSION FURTHER ORDERS that the statutory timeline in this proceeding
6 is extended to November 21, 2015.

7 DATED AND EFFECTIVE at Anchorage, Alaska, this 21st day of August, 2015.

8 BY DIRECTION OF THE COMMISSION



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¹⁰The 90th day falls on Saturday, November 21, 2015; therefore, we will issue a final order no later than Friday, November 20, 2015.