

APPENDIX

Section 1:

** AS 42.05.990 is amended by adding the following subsections:

(9) ‘bulk-power system’ means—

- (A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof);
- (B) electric energy from generation facilities needed to maintain transmission system reliability; and
- (C) which are owned by more than one electric utility.

The term does not include facilities used in the local distribution of electric energy.

(10) ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under AS 42.05.292

(11) ‘Reliability standard’ means a requirement, approved by the Commission under this section, to provide

for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include a requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

(12) ‘Reliable operation’ means operating the elements of the bulk-power system within equipment and electric

system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(13) ‘Interconnected electric energy transmission network’ means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

(14) ‘Cybersecurity incident’ means a malicious act or suspicious event that disrupts, or was an attempt to

disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

(15) ‘Load serving entity’ means an electric utility that has a service obligation to distribute power to end users.

Section 2:

** A new section of AS 42.05 is added as follows:

AS 42.05.292. Electric Reliability Organizations.

(a) The commission shall adopt regulations to require all electric utilities within an interconnected electric energy transmission network for which an electric reliability organization has been established to participate in that electric reliability organization. The regulations may provide for the issuance of a certificate of public convenience and necessity to electric reliability organizations, and must provide for cost recovery through surcharges added to the rate for each participating electric utility's service. The commission shall hold hearings to determine the most cost-effective method of operating electric reliability organizations. All users, owners and operators of a bulk-power system shall comply with reliability standards contained in the tariff of an electric reliability organization.

(b) The Commission shall issue a final rule to implement the requirements of this section not later than 270 days after the effective date of this section.

(c) Following the issuance of a Commission rule under subsection AS 42.05.292(b), any person may submit an application to the Commission for certification as the Electric Reliability Organization for an interconnected bulk power system. The Commission may certify one ERO for an interconnected electric energy transmission network if the Commission determines that the ERO—

(1) has the ability to develop and enforce, subject to subsection AS 42.05.292(f), reliability standards that provide for an adequate level of reliability of a given bulk-power system; and

(2) has the ability to develop plans that meet the requirements of AS 42.05.293; and

(3) has established rules that—

(A) assure its independence from the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decision making in any ERO committee or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among all load serving entities connected to the bulk power section for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection AS 42.05.292(f) (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

(4) is governed by—

- (A) an independent board;
- (B) a balanced stakeholder board; or
- (C) a combination independent and balanced stakeholder board,

Notwithstanding any other provision of law, the Commission and the Regulatory Affairs and Public Advocacy section of the Department of Law shall be ex officio members of the ERO board.

In the event that no person has applied to the Commission to be an ERO within 6 months of the promulgation of regulations under AS 42.05.292(b), the Commission shall produce articles of incorporation and bylaws for an entity that satisfies the criteria of AS 42.05.292(c). The Commission may, after notice and an opportunity for interested parties to be heard, designate as the ERO the entity that its foundational documents and suitably qualified willing participants provide for.

(d) An Electric Reliability Organization shall file each reliability standard or modification to a reliability standard as a new or revised tariff provision.

(e) The Commission may approve as part of the tariff of a certificated electric reliability organization a proposed reliability standard or modification to a reliability standard that applies to the parties in an interconnected electric energy transmission network if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard but shall not defer to that standard. A proposed standard or modification shall take effect upon approval by the Commission. A standard approved pursuant to this subsection satisfies the requirements of AS 42.05.291(c).

(f) The Commission shall remand to an Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

(g) The Commission, upon its own motion or upon complaint, may order an Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

(h) The final rule adopted under subsection AS 42.05.292(b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a public utility. Such public utility shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until—

- (1) the Commission finds a conflict exists between a reliability standard and any such provision;
- (2) the Commission orders a change to such provision pursuant to AS 42.05.431; and
- (3) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order an ERO to develop and file with the Commission a modified reliability standard under paragraph AS 42.05.292(g) or AS 42.05.292(h) of this section.

(i) Regarding standards approved by the Commission under subsection AS 42.05.292(e):

(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of an interconnected bulk power system for a violation of a reliability standard approved by the Commission under AS 42.05.292(e) if the ERO, after notice and an opportunity for a hearing—

- (A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection AS 42.05.292(e); and
- (B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

(4) The Commission may take such action as is necessary or appropriate against the ERO to ensure compliance with a reliability standard or any Commission order affecting the ERO.

(5) Notwithstanding any limitations under this chapter on penalties, a penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

(j) The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection AS 42.05.292(e).

(k) The Commission may direct the ERO to conduct assessments of the reliability and adequacy of the bulk-power system.

(l) An Electric Reliability Organization certified by the Regulatory Commission of Alaska under AS 42.05.292(c) is not a department, agency, or instrumentality of the State.

Section 3

** A new section of AS 42.05 is adding as follows:

AS 42.05.293 – Integrated Least-Cost Planning

- (a) The commission shall adopt rules requiring an ERO to prepare and file a plan for meeting the reliability requirements of customers within its interconnected bulk power system in the most cost-effective manner, consistent with the load serving entities' obligations to serve. The rules shall prescribe the content and the time for filing a plan, and may identify the criteria to be used in determining cost-effectiveness.
- (b) A plan must contain an evaluation of the full range of cost-effective means for load serving entities to meet the service requirements of their customers, including additional generation, transmission, and conservation or similar improvements in the efficiency by which services are used. A plan must include and identify options that could meet customers' collective needs at least cost, regardless of the location or ownership of new facilities contemplated.
- (c) The commission shall approve, reject, or modify the ERO's plan, consistent with the public interest. The commission may not take action on a plan without first conducting a hearing and providing an opportunity for interested parties to be heard.
- (d) The commission may include in a public utility's rates:
 - (1) the cost of resources acquired in accordance with a plan;
 - (2) the cost-effective expenditures for improving the efficiency with which the public utility provides and its customers use utility services; and

(3) a utility's costs of complying with the planning requirements of this part, including planning costs and portfolio development costs.

(e) As used in this part, the following definitions apply:

(1) "Plan" means an integrated least-cost resource plan submitted by an ERO in accordance with this part and the rules adopted under this part.

(2) "Planning costs" means the costs of evaluating the future demand for services and of evaluating alternative methods of satisfying future demand.

(3) "Portfolio development costs" means the costs of preparing a resource in a portfolio for prompt and timely acquisition of the resource.

Section 4

** A new section of AS 42.05 is adding as follows:

- a) No large energy facility shall be constructed by a public utility without advanced Commission determination that the facility is needed within the bulk power system to which it would be interconnected.
- b) Any new large energy facility that was included in the most recent integrated resources plan that has been approved by the Commission under AS 42.05.293(c) shall enjoy a presumption of necessity. Such presumption may be overcome through clear and convincing evidence.
- c) The Commission may refuse to approve construction of a large energy facility if it determines that it fails to comply with reliability standards or that a load-bearing entity that is substantially served by the project might otherwise meet its needs more cost effectively.
- d) For purposes of this section, "Large energy facility" means:
 - (1) any electric power generating plant or combination of plants at a single site with a combined capacity of 15,000 kilowatts or more and transmission lines directly associated with the plant that are necessary to interconnect the plant to the transmission system;
 - (2) any high-voltage transmission line with a capacity of 69 kilovolts or more and greater than 5 miles in length.