

ALASKA ADMINISTRATIVE CODE

Title 3

Commerce, Community, and Economic Development

**APRIL 2022 SUPPLEMENT
INCLUDING REGISTERS 234 THROUGH 241**

**REGULATORY COMMISSION OF ALASKA
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Part 7. Regulatory Commission of Alaska.

Chapter

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Chapter 46. Electric Reliability Organizations and Integrated Resource Planning.

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3 AAC 46.010. Petitions. (a) A petition filed under this chapter must be in writing and formatted in compliance with 3 AAC 48.025 and 3 AAC 48.100.

(b) The commission will docket and consider, in a formal proceeding in conformance with 3 AAC 48.060(a) - (c), a petition filed under this chapter, except that

- (1) the commission will docket and consider, in a formal proceed-

ing in conformance with the process established in AS 42.05.780(b), a petition filed under 3 AAC 46.220;

(2) the commission will docket and consider, in a formal proceeding under the process established in 3 AAC 46.390, a tariff letter filed under 3 AAC 46.330; and

(3) the commission will docket and consider, in a formal proceeding under the process established in 3 AAC 46.470(f), an electric reliability organization rule letter filed under 3 AAC 46.470.

(c) A petition filed under this chapter must be accompanied by an entry of appearance by a person representing the petitioner, qualified under 3 AAC 48.080 to appear before the commission.

(d) A petition must be filed electronically in conformance with 3 AAC 48.095, unless accompanied by a petition for waiver under 3 AAC 48.095(l).

(e) In substantially the same manner and format as a tariff filing under 3 AAC 46.370, the commission will notice to the public a petition filed under this chapter. A response to the notice must be filed in compliance with 3 AAC 46.380. The commission will arrange for publication of a public notice not later than five business days after the petition has been filed.

(f) A person may petition to intervene in a docket opened under this section. The person shall file the petition in compliance with 3 AAC 48.110(c) and (d). An answer to the petition must be filed in compliance with 3 AAC 48.110(e). The commission will consider the petition in conformance with 3 AAC 48.110(a), (b), and (f). Intervention granted under this section is subject to the limitation set out in 3 AAC 48.110(g).

(g) Not later than 45 days after the date a petition under this chapter is filed, the commission will schedule a prehearing conference to determine, consistent with the public interest, if an evidentiary hearing is required and otherwise address a procedural schedule for resolution of the docket, except that

(1) the commission will determine if an evidentiary hearing is required for a petition filed under 3 AAC 46.220 through the process established in AS 42.05.780(b);

(2) the commission will determine if an evidentiary hearing is required for a tariff letter through the process established in 3 AAC 46.390;

(3) the procedural schedule set out in 3 AAC 46.030(e) and (f) applies to a petition filed under AS 42.05.760(d); and

(4) the commission will determine if an evidentiary hearing is required for an electric reliability organization rule filing through the process established in 3 AAC 46.470.

(h) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
 AS 42.05.151
 AS 42.05.770

3 AAC 46.020. Motions. (a) A request for commission action under this chapter that is not required to be in the form of a petition or an application must be filed in the form of a motion.

(b) A motion filed under this chapter must be filed in compliance with the requirements of 3 AAC 48.090 - 3 AAC 48.095. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
 AS 42.05.151
 AS 42.05.770

3 AAC 46.030. Petition for exemption from the requirement to form an electric reliability organization. (a) A petition for exemption filed under AS 42.05.760(d) by all load-serving entities within an interconnected bulk-electric system must be filed not later than 90 days after the commission provides notice under AS 42.05.760(c) to the load-serving entities.

(b) If a petition for exemption from the requirement to form an electric reliability organization is filed under AS 42.05.760(d), the requirement in AS 42.05.760(e)(1) that the commission form and certificate an electric reliability organization is stayed pending the commission's decision on the petition for exemption.

(c) An application for certification as an electric reliability organization filed not later than 90 days after the commission provides notice to the load-serving entities under AS 42.05.760(c) will be processed even if the load-serving entities file a petition for exemption under AS 42.05.760(d). However, if the commission grants the petition for exemption, the application will be denied.

(d) If the commission denies a petition for exemption filed under AS 42.05.760(d), the commission will continue to process a filed application for certification as an electric reliability organization or, if no application has been filed, the commission will proceed to form and certificate an electric reliability organization.

(e) Not later than 15 business days after a petition for exemption under AS 42.05.760(d) is filed, a person

(1) may file comments in support of or in opposition to the petition; or

(2) may file a protest setting out the legal and policy reasons why the petition must be denied; a petition for intervention must accompany the protest.

(f) The load-serving entities may respond to a comment, protest, or petition to intervene not later than 10 business days after the comment period ends. If the commission finds good cause to investigate a

protest, the commission will rule on petitions to intervene, establish a procedural schedule, and set a hearing date by order.

(g) Issues for hearing include

(1) whether, as to the interconnected bulk-electric system considered as a whole, the petitioning load-serving entities provide adequate, efficient, and safe service and facilities that are reasonably continuous and without unreasonable interruption or delay;

(2) whether, as to the interconnected bulk-electric system considered as a whole, the petitioning load-serving entities are likely to provide adequate, efficient, and safe service and facilities that are reasonably continuous and without unreasonable interruption or delay without forming an electric reliability organization; and

(3) whether a protester has demonstrated legal or policy reasons why a petition for exemption must be denied. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.760
AS 42.05.770

3 AAC 46.040. Petition to find an electric reliability organization should be established. (a) A petition under AS 42.05.760(f) for an interconnected electric energy transmission network that is not an interconnected bulk-electric system must include

(1) verification, signed by a person authorized to sign on behalf of the petitioner, that the load-serving entity filing the petition is interconnected with the interconnected electric energy transmission network and that the governing body of the load-serving entity has approved the petition, and include a copy of all written public comments received; and

(2) an application conforming with the requirements of 3 AAC 46.090 as an informational filing.

(b) The commission may reject a petition filed under this section if the petition does not comply with the requirements of this chapter and 3 AAC 48.020 - 3 AAC 48.100.

(c) The commission will grant or deny a petition filed under this section based upon a determination of whether granting the petition is in the public interest. The commission will base its determination on

(1) the long- and short-term costs that the public and ratepayers would incur and the long- and short-term benefits achieved to the public and ratepayers if the commission granted the petition; and

(2) whether the applicant to be an electric reliability organization appears capable of fulfilling the duties and obligations set out in AS 42.05.762.

(d) If it grants a petition filed under AS 42.05.762(f), the commission will simultaneously accept the informational application attached to

the petition for consideration under 3 AAC 46.060 or 3 AAC 46.070. The commission will docket and consider the application separately under the procedures set out in 3 AAC 48.645.

(e) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.760(f). (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.760
AS 42.05.770

3 AAC 46.050. Electric reliability organization certificates. (a)

In a certificate issued to an electric reliability organization, the commission will describe the nature and extent of the authority granted to the organization under AS 42.05.760 - 42.05.790 for an interconnected electric energy transmission network.

(b) The certificate of an electric reliability organization expires after six years. Not less than two years before the date of expiration, the electric reliability organization must notify the commission if it declines to seek certificate renewal. Absent that notice, the electric reliability organization's certificate automatically renews, and the organization shall retain it unless the commission finds, after notice and an opportunity to be heard, that the electric reliability organization no longer meets the requirements of this section for the form of board under which it received its certificate.

(c) If the commission receives competing applications from entities seeking certification as the electric reliability organization for an interconnected bulk-electric system, the commission will issue the certificate to the entity that is able both to best fulfill the duties associated with AS 42.05.762 and to most fairly consider stakeholder class interests.

(d) During the period between one certificate's expiration and the issuance of a subsequent certificate, the commission will consider the most recently approved tariffed reliability standards to continue to satisfy the requirements of AS 42.05.291(c).

(e) Upon complaint or upon its own motion the commission, after notice and opportunity for hearing and for good cause shown, may amend, modify, suspend, or revoke a certificate issued to an electric reliability organization, in whole or in part. Good cause for amendment, modification, suspension, or revocation of a certificate includes

- (1) the requirements of the public interest;
- (2) misrepresentation of a material fact in obtaining the certificate;
- (3) unauthorized discontinuance or abandonment of all or part of an electric reliability organization's duties;

(4) willful failure to comply with the provisions of AS 42.05.760 - 42.05.790, this chapter, or the orders of the commission; or

(5) willful failure to comply with a term, condition, or limitation of the certificate.

(f) The commission will grant a certificate only if the commission determines that an applicant has demonstrated the ability to perform the duties of an electric reliability organization. To demonstrate that ability, the applicant must

(1) have established rules that comply with 3 AAC 46.460(a); and

(2) have established procedures that ensure that a reliability standard or integrated resource plan is first approved by the voting members of a committee whose members satisfy the technical qualification requirements of 3 AAC 46.460(a)(1); the voting threshold must ensure that the reliability standard or integrated resource plan is technically sound.

(g) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.760

AS 42.05.762

AS 42.05.765

AS 42.05.770

3 AAC 46.060. Certification of an electric reliability organization with a balanced stakeholder board. (a) The commission may issue a certificate to an applicant formed with a balanced stakeholder board under AS 42.05.762(4)(B)(ii) only after the commission finds that the stakeholder board is balanced.

(b) A stakeholder board is balanced if

(1) the composition of the board is based on a stakeholder classification;

(2) each board member has a single stakeholder class to which it is designated;

(3) each board member is associated with, drawn from, and understands and can articulate the interests of its designated stakeholder class;

(4) consideration and the avoidance of undue attenuation or amplification of relevant stakeholder class interests are ensured through

(A) membership in and composition of the board;

(B) board and committee voting procedures and requirements;

and

(C) the sufficiency of resources available to board members to effectively participate in the electric reliability organization; and
(5) its organization has procedures to ensure that the requirements of (4) of this subsection continue to be satisfied as relevant stakeholder class interests change; these procedures must

(A) allow a person to propose an additional or different stakeholder classification;

(B) enable evaluation of whether the requirements of (4) of this subsection continue to be satisfied; and

(C) allow the organization to timely modify board composition, applicable committee voting procedures, or the resources available to board members or take other actions to satisfy the requirements of (4) of this subsection.

(c) A stakeholder must be classified as a provider stakeholder, consumer stakeholder, or hybrid stakeholder. A stakeholder must be further classified according to relevant factors in (d)(1) of this section so that, with regard to the effects of electric reliability organization reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans, stakeholders within each class have a shared interest that distinguishes them from stakeholders in other classes.

(d) In determining whether an applicant's board is balanced, the commission will consider each of the following factors:

(1) how stakeholder interests in reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans are differently affected by the following characteristics:

(A) for provider stakeholders, whether the stakeholder class members

(i) stand to profit from construction of new facilities used to provide electrical service for compensation;

(ii) have assets that the state primarily or entirely owns;

(iii) own or operate assets involved in two or more functions of electricity distribution, transmission, generation, and storage;

(iv) own or operate assets involved in only one function of electricity distribution, transmission, generation, and storage and, if so, the particular function; and

(v) are assured, by virtue of their ability to modify tariff rates under AS 42.05.411, the opportunity to recover their prudently incurred costs of providing service;

(B) for consumer stakeholders, characteristics regarding the

(i) amount of power they consume;

(ii) amount of energy they consume;

(iii) variability in energy or power that they consume;

(iv) economic or public safety consequences for them of disruptions in electricity service;

(v) ability of members of the stakeholder class to modify when and how they consume electricity; and

(vi) preference regarding non-price aspects of how electricity service is provided;

(C) for provider stakeholders or consumer stakeholders,

(i) the combined effects of geographic location, degree of transmission system redundancy, or relative proximity of consumer loads to interconnected bulk-electric system generating resources;

(ii) the certainty with which provider resources can be dispatched to meet consumer needs;

(iii) the degree to which a load-serving entity has excess resources to meet consumer needs; and

(iv) other factors that the applicant presents; and

(D) for hybrid stakeholders, how the factors in (A) - (C) of this paragraph apply;

(2) how stakeholders of the interconnected bulk-electric system should be classified as being sufficiently similar to, or distinguished from, one another with regard to their interests in electric reliability organization reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans, in light of the characteristics listed in (1) of this subsection;

(3) whether stakeholders, consistent with (2) of this subsection, have designated directors that help enable the board to avoid undue amplification or attenuation of relevant stakeholder class interests;

(4) whether each designated director has sufficient association with, is drawn from, and understands and can articulate the interests of its designated stakeholder class; in its assessment the commission will consider, among other issues, the process by which each director designated to a stakeholder class is selected;

(5) if a stakeholder class does not have a designated director that satisfies the criteria in (b)(3) of this section, the reasonableness of this omission and the means by which the particular and relevant interests of that stakeholder class will be adequately considered;

(6) how voting procedures for the board and committees help to avoid undue amplification or attenuation of relevant stakeholder class interests;

(7) whether all board members have resources sufficient to ensure adequate consideration, and avoid undue amplification or attenuation, of relevant stakeholder class interests;

(8) whether the electric reliability organization has adequate procedures to ensure that the requirements of (b)(4) of this section continue to be satisfied as relevant stakeholder classifications and interests in the electric reliability organization reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans change; and

(9) other factors as determined by the commission.

(e) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of

good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.760
AS 42.05.762
AS 42.05.770

3 AAC 46.070. Certification of an electric reliability organization with an independent board or a combination independent and balanced stakeholder board. (a) The commission may issue a certificate to an applicant formed with an independent board consistent with AS 42.05.762(4)(B)(i) only after the commission finds that the board is, and has rules to ensure that it is likely to remain, independent. A board is independent if no board member

(1) is an employee of the electric reliability organization;

(2) is employed or contracted by a registered entity, within the interconnected bulk-electric system of the applicable electric reliability organization, that generates, transmits, distributes, or stores electricity for direct compensation, or by a person who is expected to become such a registered entity within the reasonably foreseeable future;

(3) has an immediate family member who is employed or contracted by a registered entity, within the interconnected bulk-electric system of the applicable electric reliability organization, that generates, transmits, distributes, or stores electricity for direct compensation, or by a person who is expected to become such a registered entity within the reasonably foreseeable future; or

(4) is reasonably perceived as having, or has an immediate family member who is reasonably perceived as having, a direct and material financial interest in the board's decisions.

(b) The commission may issue a certificate to an applicant formed with a combination independent and balanced stakeholder board consistent with AS 42.05.762(4)(B)(iii) only after the commission finds that the board is a combination of a balanced stakeholder board and independent members.

(c) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.760
AS 42.05.762

AS 42.05.770

3 AAC 46.080. Balanced board safe harbor. (a) An application for a certificate for an electric reliability organization with a balanced stakeholder board consistent with AS 42.05.762(4)(B)(ii) or combination independent and balanced stakeholder board consistent with AS 42.05.762(4)(B)(iii) has a rebuttable presumption that the board meets the requirements of 3 AAC 46.060(b)(1) and (4)(A) and (B), if the application satisfies each of the following conditions:

(1) stakeholders that have designated directors are classified so that

(A) provider stakeholder classes are sub-classified, as distinguished by

(i) whether a class's stakeholders stand to profit from the construction of new facilities used to provide electrical service for compensation;

(ii) whether the assets of a class's stakeholders are primarily or entirely owned by the state;

(iii) whether a class's stakeholders own or operate assets involved in two or more functions of electricity distribution, transmission, generation, and storage, regardless of whether the assets are part of an interconnected electric energy transmission network; and

(iv) whether a class's stakeholders own or operate assets involved in only one function of electricity distribution, transmission, generation, and storage, and if so, the particular function; and

(B) consumer stakeholder classes are sub-classified, as distinguished by

(i) whether a class's stakeholders are primarily residential;

(ii) whether a class's stakeholders are primarily commercial;

(iii) whether a class's stakeholders are primarily industrial;

and

(iv) whether a class's stakeholders have a primary interest in attributes, other than price or reliability, in how electricity service is provided;

(2) voting directors on the board each have one vote on matters before the board, and

(A) are odd in number;

(B) include at least one director designated to a provider stakeholder class and at least one director designated to a consumer stakeholder class;

(C) are constituted so that the number of directors representing a single stakeholder class, as sub-classified, is less than 50 percent of all voting directors; and

(D) are composed in number and type so that total provider interests and total consumer interests are equal; for purposes of

this subparagraph, a director's provider interest and consumer interest are determined as follows:

(i) if the director's designated provider stakeholder class, as subclassified, either does not profit from construction of new facilities or has assets primarily or entirely owned by the state, the director will be assigned fractional provider interests and fractional consumer interests, such that the maximum consumer interest is one-half and the director's fractional provider and consumer interests sum to one;

(ii) if the director's designated provider stakeholder class, as subclassified, profits from construction of new facilities used to provide electrical service for compensation, and does not have assets primarily or entirely owned by the state, the director will be assigned a provider interest of one and a consumer interest of zero;

(iii) if the director is designated to a consumer stakeholder class, the director will be assigned a provider interest of zero and a consumer interest of one;

(iv) if the director is independent, the director will be assigned a provider interest of zero and a consumer interest of zero;

(3) the board has rules to ensure that each member of the board of directors is entitled to designate a qualified representative to serve on a committee.

(b) In considering the application for a certificate as an electric reliability organization and a protest or complaint regarding that application, the commission may determine that good cause exists to investigate whether the rebuttable presumption described in (a) of this section is overcome. After a hearing, and upon a finding by the commission that the rebuttable presumption has been overcome, the commission will determine whether the applicant's board satisfies the requirements of 3 AAC 46.060(b)(1) and (4)(A) and (B). (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.760

AS 42.05.762

AS 42.05.770

3 AAC 46.090. Application requirements. (a) An application for certification as an electric reliability organization must include

(1) the applicant's mailing address, business telephone number, electronic mail address, legal name and name under which it proposes to do business, and if applicable, business address and facsimile number;

(2) the applicant's type of business structure, including

- (A) proof of incorporation, registration, or certification, if applicable;
 - (B) the name, mailing address, telephone number, and electronic mail address of the applicant's registered agent, if applicable;
 - (C) an organization chart detailing the applicant's organizational structure; and
 - (D) a description of the applicant's expected personnel positions, including key management, financial, and technical positions;
- (3) the name, title, telephone number, mailing address, and electronic mail address of the individual who is available to provide the commission with information about the application;
 - (4) a verification signed by a person authorized to sign on behalf of the applicant that information provided in the application is true, accurate, and complete;
 - (5) a list of qualifications of directors, and of employees or committee members, if available, who satisfy the requirements of 3 AAC 46.460(a)(1);
 - (6) a proposed tariff that includes at a minimum the provisions of 3 AAC 46.360(a)(1) - (3), (5), and (6) and a plan for completing the proposed tariff; a plan filed for completing a proposed tariff must include
 - (A) a list of anticipated tariff provisions, including provisions that are in addition to those required by 3 AAC 46.360(a), if applicable;
 - (B) a work plan and budget for developing the items in (A) of this paragraph, including proposed dates of filing; and
 - (C) the applicant's process, consistent with AS 42.05.762(3)(D), for developing reliability standards, including a description of how the applicant will identify and directly notify potentially affected parties so that they can participate in the organization's reliability standards development process;
 - (7) the location in this state where the applicant's books, accounts, papers, and records will be held;
 - (8) a code of conduct or other document establishing expectations for ethical conduct that satisfies the requirements of 3 AAC 46.110;
 - (9) the applicant's rules that comply with the requirements of AS 42.05.762(3)(C);
 - (10) if different from the requirements of 3 AAC 46.160(c), a proposed method of allocating administrative costs to load-serving entities served by the electric reliability organization;
 - (11) proposed rules that ensure that the electric reliability organization is able to comply with the requirements of AS 42.05.762 and the commission's exercise of its authority under AS 42.05.767; the proposed rules must include

(A) processes for amending the rules that implement AS 42.05.762(3);

(B) board and each committee's voting procedures;

(C) rules governing the scheduling, noticing, and conduct of public meetings and executive sessions and that satisfy the requirements of 3 AAC 46.460(a)(4)(K) and (L) and (5); and

(D) rules required by 3 AAC 46.460(a);

(12) a narrative explaining the applicant's proposed rules that, separately and in totality, ensure compliance with the requirements of AS 42.05.762(3);

(13) the applicant's proposed

(A) board member required qualifications; and

(B) criteria for determining a board or committee member's ability to contribute to the technical support required under 3 AAC 46.460(a)(l);

(14) a narrative explaining the applicant's technical ability to satisfy the requirements of AS 42.05.762(1) and (2);

(15) a description of committees and their responsibilities;

(16) a board and executive compensation plan, if applicable; and

(17) a proposed plan for developing and filing the electric reliability organization's initial integrated resource plan; the proposed plan must contain

(A) a work plan and budget for satisfying the requirements of the integrated resource plan, including a proposed date of filing; and

(B) the applicant's process, consistent with AS 42.05.762(3)(D), for developing the integrated resource plan, including a description of how the applicant will identify and directly notify potentially affected parties so that they can participate.

(b) In addition to the application information required under this section, the commission may require that the applicant provide supplemental or clarifying information that the commission determines is necessary.

(c) In its order approving the application, the commission will require an electric reliability organization to file an initial tariff as a new tariff filing.

(d) An applicant that seeks certification with an independent board under AS 42.05.762(4)(B)(i) or combination independent and balanced stakeholder board under AS 42.05.762(4)(B)(iii) must describe its processes to remove and replace a director that fails to meet the requirements of 3 AAC 46.070(a).

(e) Except as provided in (f) of this section, an applicant that seeks certification with a balanced stakeholder board under AS 42.05.762(4)(B)(ii) or combination independent and balanced stakeholder board under AS 42.05.762(4)(B)(iii) must provide the following:

(1) a table listing each director's designated stakeholder class;

(2) an explanation why each director listed in (1) of this subsection has sufficient association with, is drawn from, and understands and can articulate the interests of its designated stakeholder class;

(3) an explanation of the process by which each director designated to a stakeholder class was selected;

(4) an explanation of how the applicant's stakeholders are classified;

(5) a description of additional factors identified under 3 AAC 46.060(d)(1)(C)(iv) that the applicant believes importantly and differentially affect stakeholder interests;

(6) a description of whether and, if so, how each factor in 3 AAC 46.060(d)(1) differentially affects stakeholder interests in reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans, and the resultant stakeholder classification described in (4) of this subsection;

(7) an explanation, that considers the distinguishing consequences that the applicant describes in (6) of this subsection, of which stakeholder classes were determined to require designated board members;

(8) an explanation of why some stakeholder classes lack designated directors that satisfy the criteria in 3 AAC 46.060(b)(3), if applicable;

(9) an explanation of mechanisms to ensure that the relevant interests of stakeholder classes without designated directors that satisfy the criteria in 3 AAC 46.060(b)(3) will be adequately considered; these mechanisms may include composition or independence of technical advisory committees, electric reliability organization staffing, programs to recruit qualified directors for future board membership, or other means;

(10) an explanation of how voting procedures for the board and its committees help to avoid undue amplification or attenuation of stakeholder class interests;

(11) an explanation of how the applicant satisfies the requirements of 3 AAC 46.060(b)(4)(B), through committee composition and procedures, levels of director compensation, levels of electric reliability organization staffing, or other electric reliability organization mechanisms and structures;

(12) a description of the electric reliability organization's procedures to meet the requirements of 3 AAC 46.060(b)(5);

(13) if the application is for a combination independent and balanced stakeholder board formed under AS 42.05.762(4)(B)(iii), a description of processes to remove and replace a director that fails to meet the requirements of 3 AAC 46.070(a); and

(14) additional information that makes specific reference to the factors set out in 3 AAC 46.060(d).

(f) If the applicant files its application under 3 AAC 46.080(a),

(1) the commission will waive the filing requirements of (e)(4) - (10) of this section; and

(2) the applicant must submit

(A) an explanation of how its classification of its stakeholders is consistent with 3 AAC 46.080(a)(1); and

(B) a declaration of the numerical value, as calculated under 3 AAC 46.080(a)(2)(D), of each director's provider interest and consumer interest.

(g) If an applicant proposes a classification that includes a hybrid stakeholder class, the applicant must provide an explanation of why the relevant hybrid stakeholder interests cannot be adequately presented or considered if the hybrid stakeholders are exclusively classified as a provider stakeholder or consumer stakeholder.

(h) The commission will consider an application in a docket of investigation under the procedures set out in 3 AAC 48.645. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.760

AS 42.05.762

AS 42.05.770

3 AAC 46.100. Commission formation of an electric reliability organization. (a) The commission will open a docket to form an electric reliability organization for an interconnected bulk-electric system if

(1) required under AS 42.05.760(e);

(2) the certificate of the electric reliability organization serving an interconnected bulk-electric system expires under 3 AAC 46.050(6); or

(3) the commission has revoked, under 3 AAC 46.050(e), the certificate of the electric reliability organization serving an interconnected bulk-electric system.

(b) When it opens a docket under (a) of this section, the commission will

(1) designate all interconnected load-serving entities in the interconnected bulk-electric system as parties to the docket;

(2) permit an interested user, owner, or operator of the interconnected bulk-electric system to become a party to the docket upon the filing of a notice of participation; and

(3) allow other interested persons to petition to intervene in the docket under the procedures set out in 3 AAC 48.110.

(c) After an opportunity for the parties in the docket to be heard, the commission will initiate formation of an electric reliability organization for an interconnected bulk-electric system by developing articles of incorporation under AS 10.20 as a nonprofit corporation exempt from

federal taxation under the United States Internal Revenue Code (26 U.S.C.), as that federal law exists at the time. The corporation's purpose is to become the electric reliability organization of the interconnected bulk-electric system, consistent with (i) of this section. The chair of the commission shall appoint three commissioners to serve as interim directors. Interim directors shall file the articles of incorporation, and serve as voting directors of the nonprofit corporation, until they are replaced with directors who are selected under the process required by (d) - (h) of this section.

(d) The commission will solicit applications from persons interested in serving as directors of the corporation that will become the electric reliability organization for the interconnected bulk-electric system. The commission will notify the general public that applications for three positions as directors of the electric reliability organization are being accepted. In the notice, the commission will describe

- (1) the minimum qualifications for the director positions, including the qualifications set out in 3 AAC 46.460(a)(1);
- (2) the application process and requirements;
- (3) the closing date for applications; and
- (4) the selection process.

(e) Applications must be accompanied by

- (1) a resume of the applicant's education and work experience; and
- (2) a narrative explaining how the applicant's education and work experience qualify the applicant to be an effective director of the electric reliability organization.

(f) The commission will accept applications only from persons who would qualify as independent directors under 3 AAC 46.070. The commission will return an application of a person who does not qualify as an independent director under 3 AAC 46.070 to the applicant, with an explanation of why the applicant does not qualify as an independent director. If the commission determines that the number of qualified applicants is insufficient, the commission will solicit additional applications.

(g) After the final closing date for applications and a commission determination that the number of applications is sufficient, the commission will notify the general public that comments are being accepted on the applications received.

(h) After review of public comments and interviews with applicants the commission will select three directors.

(i) Upon selection of directors by the commission under (h) of this section, the interim directors shall appoint the persons selected by the commission to be directors of the electric reliability organization and resign from their position as interim directors. Upon the resignation of the interim directors and their replacement by directors selected under (h) of this section, the commission will grant the nonprofit corporation

a certificate to be the electric reliability organization of the interconnected bulk-electric system. Any amendments to or restatement of articles of incorporation, or electric reliability organization bylaws or rules, or modifications of those documents, that the electric reliability organization seeks to adopt must be submitted to and approved by the commission before being finalized.

(j) Not later than 21 days after the date of the order announcing the commission's selection, the directors shall meet to develop a proposed budget for organizing the electric reliability organization. In the proposed budget, the directors shall include the costs to develop the materials required for an applicant under 3 AAC 46.090(a), including director compensation, if any. The proposed budget must be filed in the electric reliability organization docket established under (a) of this section. After providing parties an opportunity to be heard on the proposed budget, the commission may approve or modify the proposed budget. The electric reliability organization may file for commission approval of an initial surcharge to recover its budgeted costs. The requirements of 3 AAC 46.420 - 3 AAC 46.430 do not apply to the initial surcharge filing.

(k) Not later than 180 days after its budget is approved, the electric reliability organization shall file the materials required of an applicant under 3 AAC 46.090(a). The commission may open a new docket of investigation to consider a filing made under this subsection.

(l) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion. A waiver granted under this subsection does not limit the burden of an applicant to prove the applicant's ability to comply with the requirements of AS 42.05.762. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.760

AS 42.05.762

AS 42.05.767

AS 42.05.770

3 AAC 46.110. Independence of directors and electric reliability organization action. (a) To ensure that the electric reliability organization and its directors act independently of the users, owners, and operators of the interconnected electric energy transmission network, directors, employees, and members of committees shall abide by rules that must, at a minimum, include

(1) explicit prohibitions of

(A) the use of electric reliability organization equipment or tools for unauthorized projects or activities;

(B) payment or acceptance of bribes, kickbacks, or other im-

proper payments while conducting the business of the electric reliability organization; and

(C) the use of position, title, or employment status at the electric reliability organization to exert inappropriate influence for personal gain or benefit, or the gain or benefit of an individual's employers;

(2) explicit requirements

(A) to faithfully pursue the interests of the electric reliability organization; the requirements must include duties to

(i) provide impartial consideration of, and due weight to, the interests of all stakeholder classes, regardless of whether a given stakeholder class has a designated director on the board;

(ii) exercise first loyalty to the mission of the electric reliability organization, rather than the interest of a particular stakeholder class;

(iii) refrain from promoting the director's own financial or other interests or the interests of a particular person or organization; and

(iv) act in a manner consistent with the electric reliability organization's bylaws, code of conduct, policies, and procedures;

(B) for recusal of a person from voting on an alleged violation of a reliability standard by, or on an associated penalty on, the person's employer; and

(C) to provide a public, written explanation addressing how interests articulated in the development of a rule, reliability standard, or integrated resource plan were considered and balanced, and to which a director may append a dissent;

(3) procedures to ensure adherence to the rules that implement the requirements of AS 42.05.762(3)(A); those procedures must include

(A) a process by which an interested person may initiate a complaint alleging a potential violation of those rules; and

(B) processes for implementing sanctions against violations of those rules;

(4) a requirement that an employee of the electric reliability organization not be a voting member of an electric reliability organization certificated under 3 AAC 46.070(a) or (b); and

(5) if the electric reliability organization is governed by a balanced stakeholder board or combination independent and balanced stakeholder board, a requirement that the board may approve a reliability standard, enforcement of a reliability standard, or an integrated resource plan only if the proposed action receives an affirmative vote from directors designated to at least three different stakeholder classes; for purposes of this paragraph, an independent director is designated as a stakeholder class.

(b) An electric reliability organization's rules may not preclude an

interested member of the public from serving in a non-voting capacity on an advisory committee of the electric reliability organization, subject to reasonable qualification and confidentiality requirements. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.175

AS 42.05.760

AS 42.05.762

AS 42.05.770

3 AAC 46.120. Penalties imposed by the electric reliability organization. (a) An electric reliability organization shall file a notice of penalty and the record of its proceeding with the commission and provide a copy of the notice of penalty to the entity that is the subject of the penalty. A notice of penalty by the electric reliability organization must include

- (1) the name of the entity subject to the penalty;
- (2) identification of each violated reliability standard;
- (3) a statement setting out findings of fact with respect to the act or practice resulting in the violation of each reliability standard;
- (4) a statement describing the monetary or nonmonetary penalty imposed; and
- (5) other matters the electric reliability organization finds relevant to the imposition of the penalty.

(b) The record of the electric reliability organization's penalty proceedings must include

- (1) prepared written findings of fact and the reasons for the penalty decision;
- (2) information and documentation supporting the penalty findings;
- (3) a record of the hearing in accordance with AS 42.05.775(a)(2) held to address the assessment of the penalty; and
- (4) copies of all documents or other evidence presented at the hearing.

(c) A person or entity submitting documentation to the commission for a notice of penalty, for a record of proceeding, or supporting an appeal of a penalty may petition the commission, in accordance with the requirements of 3 AAC 48.045, for confidential status of the information contained within the documentation.

(d) A penalty imposed by an electric reliability organization must take into consideration all mitigating factors. The penalty may be a monetary or nonmonetary penalty and may include a limitation on an activity, function, or operation, or another appropriate sanction. Provisions for the imposition of nonmonetary penalties must be described in the tariff. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.775

3 AAC 46.130. Penalties imposed by the commission. (a) Upon notification of a potential violation of a reliability standard or on its own motion, the commission may direct the electric reliability organization to investigate the potential violation in accordance with the electric reliability organization's tariff.

(b) The commission may, on its own motion, open an investigation into a potential violation of a reliability standard.

(c) For a commission-imposed penalty, the penalty shall be levied consistent with the electric reliability organization's tariff or AS 42.05.571. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.571
AS 42.05.770
AS 42.05.775

3 AAC 46.140. Appeal of penalties. (a) An entity subject to a penalty imposed by the electric reliability organization may appeal the penalty amount or imposition to the commission not later than 10 business days after receiving notice of the penalty.

(b) An appeal under this section is initiated by serving and filing a notice of appeal consistent with the requirements of 3 AAC 48.090. The notice of appeal must be served on the electric reliability organization and explain the basis for appealing the assessment or the amount of the penalty, and may be supplemented by the appellant, electric reliability organization, or commission with information excluded from the record of the proceedings submitted by the electric reliability organization.

(c) The scope of an appeal of a penalty is limited to review and consideration of the evidence and argument presented to determine whether a violation of a reliability standard occurred and, if so, whether the penalty imposed is appropriate.

(d) The commission may, after notice and an opportunity to be heard, stay a penalty.

(e) The commission will issue a remand of the penalty by written order informing the electric reliability organization of

(1) the deficiencies of the penalty assessment process or amount; and

(2) expectations regarding the remanded penalty assessment process and relevant considerations regarding the penalty amount. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.770

AS 42.05.775

3 AAC 46.150. Payment of monetary penalties. (a) Monetary penalties imposed under this chapter by an electric reliability organization must be remitted to the electric reliability organization and must be used to offset the costs of the electric reliability organization.

(b) Monetary penalties imposed by the commission must be remitted to the commission in compliance with 3 AAC 48.030. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.770

AS 42.05.775

3 AAC 46.160. Continuing requirements. (a) On or before October 1 of each year, an electric reliability organization shall electronically file with the commission, in accordance with 3 AAC 48.095, on a form provided by the commission, a report containing

(1) the organizational structure for the electric reliability organization, that includes committee descriptions;

(2) a discussion of the electric reliability organization's major activities, accomplishments, penalties, and events;

(3) a self-assessment describing how the electric reliability organization continues to comply with the requirements of AS 42.05.762;

(4) a narrative describing the electric reliability organization's compliance with 3 AAC 46.060(b)(5)(B) for balanced stakeholder boards, with 3 AAC 46.070(a) for independent stakeholder boards, or with both 3 AAC 46.060(b)(5)(B) and 3 AAC 46.070(a) for combination independent and balanced stakeholder boards, as applicable to the type of board governing the electric reliability organization;

(5) staffing and organization charts; and

(6) a description of the board members or electric reliability organization personnel that establish the technical competency required under AS 42.05.762.

(b) Not later than 45 days before its annual surcharge filing made in compliance with 3 AAC 46.430, a certificated electric reliability organization shall file, in accordance with 3 AAC 48.095, a proposed budget, including anticipated administrative costs for the following calendar year, to the commission as an informational filing described in the commission's records with the prefix "EB." The electric reliability organization must transmit the budget filing to the commission under a consecutively numbered cover letter designated as "EB[number]"

followed by a hyphen and the number of the electric reliability organization's certificate.

(c) The electric reliability organization's budget filing must include

(1) a narrative description and explanation of the proposed budget by account and subaccount;

(2) a schedule and explanation of each account and subaccount that has increased or decreased more than 10 percent from the previous 12-month period; and

(3) if applicable, other information that the board of directors of the electric reliability organization considers appropriate to support the budget.

(d) The electric reliability organization shall make a good faith effort to electronically notify each registered entity of the proposed budget and include the location of the public documents that support the proposed budget filed with the commission. The electric reliability organization shall publish on its website a notice of the proposed budget and the public documents that support the proposed budget.

(e) The electric reliability organization may modify the proposed budget in response to public comments or revised cost estimates before submitting its surcharge filing under 3 AAC 46.430. A modification of the budget under this subsection must be identified and explained in the tariff letter included with the electric reliability organization's surcharge filing.

(f) The annual surcharge factor proposed to recover the proposed budget of the electric reliability organization will be allocated to load-serving entities served by the electric reliability organization on the basis of net energy for load. An electric reliability organization may petition the commission to authorize a different method of allocating the proposed budget of the electric reliability organization. A petition must provide information sufficient to support a finding that good cause exists for the use of a different method.

(g) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.762 or 42.05.772. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.760

AS 42.05.762

AS 42.05.770

AS 42.05.772

Article 2. Integrated Resource Plans and Large Project Preapproval.

Section	Section
3 AAC 46.220. Integrated resource plan petition requirements.	3 AAC 46.250. Timing of integrated resource plans and updates.
3 AAC 46.230. Integrated resource plan requirements.	3 AAC 46.260. Integrated resource plan notification, protest process, and returning orders.
3 AAC 46.240. Approval, rejection, or suspension of an integrated resource plan.	3 AAC 46.270. Large project preapproval.

3 AAC 46.220. Integrated resource plan petition requirements. (a) An electric reliability organization transmitting to the commission a petition for a new or updated integrated resource plan must transmit the petition under a consecutively numbered cover letter designated as “Electric Reliability Organization Petition Letter No. 1, 2, 3, etc.”, identified in the commission’s records with the prefix “EP.” The petition must include

- (1) a description of stakeholder involvement and public process in accordance with the criteria in 3 AAC 46.260(a);
- (2) an explanation of substantial deviations from a previous plan, if applicable, including deviations from previously anticipated demand forecasts;
- (3) the date the copy of the proposed integrated resource plan was provided to the registered entities under 3 AAC 46.260(a)(1); and
- (4) the integrated resource plan, the form of which is described in 3 AAC 46.230.

(b) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission’s own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.760(f). (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.780

3 AAC 46.230. Integrated resource plan requirements. (a) Under AS 42.05.780, an electric reliability organization shall submit a proposed integrated resource plan to the commission. The integrated resource plan must address a forecast period of not less than 20 calendar years from the date of filing and must include portfolios, including a preferred portfolio, each of which must comply with the electric reliability organization’s reliability standards and certificate requirements. The integrated resource plan must

- (1) contain an executive summary that provides

- (A) the goals and objectives of the integrated resource plan; and
 - (B) a summary of the integrated resource plan process and approach;
- (2) contain a description and explanation of the planning environment used in preparing the integrated resource plan that includes
- (A) the layout of the interconnected bulk-electric system, including generation, storage, transmission, and system control assets;
 - (B) a discussion of how the integrated resource plan has considered
 - (i) relevant municipal, tribal, state, and federal mandates, directives, and policies governing resources included in the integrated resource plan;
 - (ii) known or reasonably estimated constraints on the availability or price of generation fuel sources; and
 - (iii) the effect of the planning environment on reliability and cost of power;
 - (C) the primary planning assumptions that were incorporated in the plan; and
 - (D) identification of all exemptions from municipal planning decisions under AS 42.05.641 required to implement the integrated resource plan and an explanation of why those exemptions cannot be avoided;
- (3) contain a discussion, including an analysis and technical assessment, of the full range of resource options evaluated in the development of the resource portfolios that meet projected or existing unmet needs in the interconnected bulk-electric system; the discussion
- (A) must consider the resource options specified in AS 42.05.780(a) and projected retirements;
 - (B) may consider resource options that include one or more of the following:
 - (i) customer voluntary interruptible programs;
 - (ii) distributed energy resources;
 - (iii) market purchases;
 - (iv) other resource options identified by the electric reliability organization;
 - (C) as part of the analysis of these resource options, must describe and support the following elements:
 - (i) model input assumptions;
 - (ii) models and techniques used;
 - (iii) model sensitivities and scenarios considered;
 - (iv) the resource option's availability, reliability, and cost; and
 - (v) the applicable time horizon; and
 - (D) may consider a resource option to be cost-effective for purposes of AS 42.05.780(a) in delivering a given quantum of

service only if the resource option meets one or more criteria in (6) of this subsection at minimum expected cost, considering the risks specified in (4)(A)(i) and (ii) of this subsection and other risks proposed by the electric reliability organization;

(4) contain a presentation and analysis of at least two resource portfolios

(A) that each satisfy one or more criteria in (6) of this subsection at lowest reasonable cost, consistent with each load-serving entity's obligations, and with satisfaction being shown through detailed and consistent analysis to minimize the cost of the resource portfolio's mix of resource options, given due consideration of

(i) risks affecting resource option costs;

(ii) risks associated with the ability of applicable resource options, either collectively or individually, to provide service when needed;

(iii) effects on system operation; and

(iv) effects on the environment; and

(B) that, for each portfolio, describe and support the resource portfolio modeling relied upon, including

(i) input assumptions;

(ii) models and techniques; and

(iii) sensitivities and scenarios;

(5) contain an explanation why the preferred portfolio, chosen from the resource portfolios described in (4) of this subsection, provides greatest value;

(6) for purposes of (4)(A) and (5) of the subsection, use one or more criteria for determining greatest value that include

(A) the satisfaction of the needs of the customers of each load-serving entity;

(B) interconnected bulk-electric system reliability;

(C) interconnected bulk-electric system resiliency;

(D) costs or benefits to the environment; and

(E) other considerations proposed by the electric reliability organization;

(7) provide a demand forecast, except as provided in (8) of this subsection, using a uniform demand-forecasting methodology for all load-serving entities in the interconnected bulk-electric system when estimating future demand;

(8) as an alternative to the demand forecast required under (7) of this subsection, provide a demand forecast using multiple demand-forecasting methodologies for the load-serving entities in the interconnected bulk-electric system when estimating future demand if

(A) multiple methods are needed to reasonably estimate future demand;

(B) the integrated resource plan explains why a uniform demand-forecasting methodology cannot most reasonably estimate future demand; and

(C) the integrated resource plan identifies the multiple demand-forecasting methods used and explains the differences in how each method forecasts load;

(9) reflect a planning area that

(A) includes the entirety of the interconnected bulk-electric system;

(B) identifies resource options, resource portfolios, and, as applicable, specific projects or project portfolios without regard to service territory boundaries within the interconnected bulk-electric system, while satisfying each load-serving entity's obligations; and

(C) excepting resources that a load-serving entity must acquire under federal law, includes only those specific and defined large energy projects that have been sized to ensure that available economies of scale have been reasonably maximized in light of projected demand; and

(10) contain, for the electric reliability organization, an action plan that provides a non-binding framework for implementing the preferred resource portfolio and that includes

(A) a process for determining the entities that will be involved in the procurement;

(B) a process for ensuring that the means for satisfying needs are accomplished at the lowest reasonable cost;

(C) a process by which load-serving entities of the interconnected bulk-electric system determine how they will apportion cost responsibility for the measures that satisfy the needs identified in the integrated resource plan; and

(D) a schedule of key activities and timelines.

(b) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.780. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.780

3 AAC 46.240. Approval, rejection, or suspension of an integrated resource plan. (a) Not later than 45 days after receipt, the commission will approve, reject, or suspend an integrated resource plan or plan update filed under a petition letter from an electric reliability organization.

(b) If the commission approves an integrated resource plan, the commission will issue an approval order within the 45-day statutory notice period under AS 42.05.780(b).

(c) If an electric reliability organization submits an integrated resource plan or plan update that does not meet all of the form and filing requirements provided under statute, 3 AAC 46.220, and 3 AAC 46.230, and the commission does not waive requirements under 3 AAC 46.220(b) or 3 AAC 46.230(b),

(1) the commission may reject the filing; unless the electric reliability organization perfects the filing, a rejected filing is void;

(2) for a rejected integrated resource plan or plan update, the statutory notice period under AS 42.05.780(b) begins only after the filing is supplemented, within a period specified by the commission, to comply with all applicable requirements; if an electric reliability organization

(A) fails to supplement a rejected integrated resource plan or plan update in order to comply with all applicable requirements within the period specified by the commission, the commission will close the integrated resource plan or plan update and return it to the electric reliability organization;

(B) refiles an integrated resource plan or plan update that has previously been rejected, the commission will renumber the integrated resource plan or plan update with the next available petition letter number and treat it as a new filing.

(d) The commission may suspend an integrated resource plan filed under 3 AAC 46.220 - 3 AAC 46.260 to investigate

(1) whether the proposed integrated resource plan adequately meets the reliability requirements at the greatest value and has evaluated a full range of cost-effective alternatives and options as required under AS 42.05.780(a); or

(2) the sufficiency and completeness of filings made to meet the requirements of 3 AAC 46.220 and 3 AAC 46.230.

(e) In an order returning an integrated resource plan to the electric reliability organization for modification, the commission will specify the returned plan's statutory, regulatory or other deficiencies. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.770

AS 42.05.780

3 AAC 46.250. Timing of integrated resource plans and updates. (a) Unless a complete integrated resource plan consistent with the requirements of 3 AAC 46.230 is required, an electric reliability organization shall file a plan update within two years after the filing of its previous integrated resource plan. A plan update must include

(1) an updated demand forecast, using the same methodologies as deployed in the most recent integrated resource plan;

(2) a comparison of the updated demand forecast with the demand forecast contained in the most recent integrated resource plan;

(3) an assessment of progress to date on the action plan provided in the most recent integrated resource plan; and

(4) an assessment of materially changed circumstances that have bearing on or affect the planning environment; the assessment must address

(A) technological advancements that may affect a public utility's ability to efficiently meet service requirements to its customers;

(B) actual retirements of and additions to interconnected generation resources, transmission lines, and associated equipment since the previous integrated resource plan was filed;

(C) state or federal policy actions; and

(D) reliability standards approved after the last complete update of an integrated resource plan.

(b) No less than four years from the date of filing of the previous complete integrated resource plan, an electric reliability organization shall file an integrated resource plan consistent with the requirements of 3 AAC 46.230, unless a petition for waiver under (c) of this section is granted.

(c) An electric reliability organization may petition for a waiver from the full filing requirement in (b) of this section. If the waiver is granted, the electric reliability organization shall file a second plan update, consistent with the requirements of (a) of this section, and within two years after the previous plan update. The commission will grant a waiver only if

(1) there have been no material changes in the interconnected electric energy transmission network that require a new integrated resources plan;

(2) no public utility has requested an update

(A) to facilitate a petition for project preapproval of a large energy facility not included in the previous integrated resource plan; and

(B) that may be necessary to address material changes in the interconnected electric energy transmission network or planning environment that occurred since the previous complete integrated resource plan was filed; and

(3) the petitioner will file a complete integrated resource plan within six years from the date of filing of the previous complete integrated resource plan.

(d) A person may petition the commission to direct the electric reliability organization to file a complete integrated resource plan sooner than the deadlines set out in (b) or (c) of this section. (Eff. 3/11/2022, Register 241)

AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.780

3 AAC 46.260. Integrated resource plan notification, protest process, and returning orders. (a) Not later than 20 calendar days before filing an integrated resource plan with the commission, an electric reliability organization shall

(1) make a good faith effort to electronically notify each registered entity of its intent to file an integrated resource plan and make available the integrated resource plan and all non-confidential work papers that support the integrated resource plan; and

(2) publish on its website a notice of its intent to file an integrated resource plan.

(b) Not later than five business days after the filing of a complete integrated resource plan, the commission will arrange for publication of a public notice with a newspaper of general circulation in the geographic area of the interconnected bulk-electric system. The commission will also publish the notice on the commission's website and post it on the Alaska Online Public Notice System (AS 44.62.175). The deadline for the public comment period is 14 calendar days from the date of the public notice.

(c) An interested person may file with the commission comments or a protest of the petition and integrated resource plan in accordance with the requirements of 3 AAC 48.100 before the close of the comment period. A protest must include

(1) specific grounds for the protest;

(2) the steps that the petitioner may take to mitigate the protest;

(3) the conditions that the commission should consider applying to the integrated resource plan; and

(4) a petition to intervene.

(d) A petitioner wishing to file a response to the protest shall file that response with the commission not later than 10 calendar days after the close of the comment period. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.780

3 AAC 46.270. Large project preapproval. (a) Upon certification of an electric reliability organization, any large energy facility that has not yet completed construction is subject to the requirements of AS 42.05.785.

(b) A utility that has undertaken but not completed a large energy facility before commission approval of the first integrated resource

plan satisfies the requirements of AS 42.05.785(a) if the utility undertaking the large energy facility attests that it undertook its project before

(1) commission approval of an electric reliability organization's first filed reliability standards, other than reliability standards that the commission previously adopted; and

(2) certification of an electric reliability organization.

(c) If a large energy facility, undertaken but not completed before commission approval of the first integrated resource plan, is not operationally integrated into the interconnected bulk-electric system, the utility must provide evidence and make an affirmative showing that the large energy facility satisfies the requirements of AS 42.05.785(a) not later than 24 months after the date that a certificate is issued to the electric reliability organization.

(d) A utility making an attestation under (b) of this section must do so not later than 30 days after an electric reliability organization's first filed reliability standards or the certification of an electric reliability organization.

(e) For purposes of AS 42.05.785(b), a large energy facility is included in an integrated resource plan's preferred resource portfolio if the portfolio specifically delineates the large energy facility, or if the large energy facility has been selected under the processes described in the commission-approved action plan.

(f) For a large energy facility that is not subject to (b) of this section and is not included in an integrated resource plan's preferred resource portfolio, the commission will find that the facility satisfies the requirements of AS 42.05.785(a)(3) only if it determines that

(1) the utility's failure to acquire the facility could result in degradation to utility customer service or reliability requirements, is necessary to remedy a critical known deficiency, or would provide energy service at less than current marginal costs; and

(2) the degradation will occur, the critical known deficiency will persist, or energy service total costs will not be reduced if the large energy facility is not undertaken before the next integrated resource plan has been completed.

(g) A load-serving entity seeking approval for a large energy facility under AS 42.05.785(a) shall provide the commission with sufficient evidence to enable the commission to reasonably determine that construction of the proposed large energy facility will provide the greatest value at lowest reasonable cost, after taking into account a range of alternatives, including demand-side management and efficiency strategies, energy conservation, and refurbishment of existing plant.

(h) After commission approval of an integrated resource plan, a large energy facility included in that integrated resource plan's preferred resource portfolio as a defined facility, or a large energy facility

selected under the process set out in the most current action plan, satisfies the requirements of AS 42.05.785(b).

(i) A public utility shall notify the commission of refurbishment or capitalized maintenance of a large energy facility. The commission may require the public utility to provide documentation to show previous operating condition before refurbishments.

(j) Nothing in this chapter

(1) applies to or overrides municipal jurisdiction over local planning; or

(2) prevents a party from seeking exemption from municipal planning decisions under AS 42.05.641.

(k) For purposes of this section, a large energy facility is undertaken upon the beginning of one or more of the following activities as part of a continuous on-site construction program:

(1) the placement, assembly, or installation of its facilities or equipment;

(2) significant site preparation work, including

(A) clearing;

(B) excavation; or

(C) the removal of existing buildings, structures, or facilities if their removal is necessary for the placement, assembly, or installation of new facilities or equipment; or

(3) the making of binding contractual obligations for the purchase of facilities or equipment that are intended to be used in the facility's operation; options to purchase, contracts that may be terminated without a substantial loss, and contracts for feasibility, engineering, or design studies do not constitute the undertaking of a large energy facility.

(l) The commission may waive or modify by order the requirements of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05.785. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.641

AS 42.05.762

AS 42.05.770

AS 42.05.785

Article 3. Electric Reliability Organization Tariffs and Rules.

Section

- 3 AAC 46.320. Tariff filing submission, calculation of regulatory notice period, and effective date.
- 3 AAC 46.330. Tariff letters for electric reliability organizations.
- 3 AAC 46.340. Tariff on file for public inspection.
- 3 AAC 46.350. Controlling effective tariff.
- 3 AAC 46.360. General arrangement and content of tariff.
- 3 AAC 46.370. Public notice.
- 3 AAC 46.380. Response to public notice.
- 3 AAC 46.390. Suspension or rejection of tariff filings.
- 3 AAC 46.400. Waiver of regulatory notice period.

Section

- 3 AAC 46.410. Reliability standard filings.
- 3 AAC 46.420. Electric reliability organization surcharge.
- 3 AAC 46.430. Filing requirements for electric reliability organization surcharge filings.
- 3 AAC 46.440. Open access transmission and interconnection.
- 3 AAC 46.450. Transmission cost recovery.
- 3 AAC 46.460. Electric reliability organization rule content.
- 3 AAC 46.470. Review and approval of electric reliability organization rules.

3 AAC 46.320. Tariff filing submission, calculation of regulatory notice period, and effective date. (a) Unless otherwise provided, the regulatory notice period for a tariff filing does not begin until the filing electric reliability organization has complied with this section. If an electric reliability organization submits a tariff filing that does not meet all of the notice and form and filing requirements provided under statute and 3 AAC 46.320 - 3 AAC 46.430, and the commission does not waive the requirements of 3 AAC 46.320 - 3 AAC 46.430 under (i) of this section, the commission may reject the filing. For a rejected tariff filing, the regulatory notice period under (c) of this section begins only after the electric reliability organization supplements the filing, within a period specified by the commission, to comply with all applicable requirements. If the electric reliability organization fails to supplement a rejected tariff filing in order to comply with all applicable requirements within the period specified by the commission, the commission will close the tariff filing and return it to the electric reliability organization. If a tariff filing is refiled by the electric reliability organization after the commission has rejected and returned the tariff filing as provided in this chapter, the commission will renumber the tariff filing with the next available tariff number and treat the filing as new.

(b) Unless otherwise specified by order or under another applicable provision of this chapter or 3 AAC 48, an electric reliability organization may submit a tariff filing electronically in accordance with 3 AAC 48.095. An electric reliability organization that files by paper shall submit an original and five copies of each tariff filing, unless otherwise specified by the commission.

(c) Each tariff filing submitted to the commission must be transmitted by means of a consecutively numbered tariff letter and must be designated as "TE[number]" followed by a hyphen and the number of

the electric reliability organization's certificate. Each tariff letter must contain the applicable information set out in 3 AAC 46.330(a) and must be submitted to the commission not later than 45 days before the filing may take effect, unless the commission by order authorizes the filing to take effect in less than 45 days after the date of filing.

(d) Whether submitted on paper or electronically, a tariff filing made before 5:00 p.m. on a regular business day will be considered filed with the commission for the purpose of determining the regulatory notice period under (c) of this section. The day after the filing is submitted to the commission will be counted as the first day of the period of notice to the commission and public in accordance with AS 01.10.080. The regulatory notice period under (c) of this section will be determined in the same manner prescribed in 3 AAC 48.090. If a notice period ends on a Saturday, Sunday, or state legal holiday, the notice period will be extended to the end of the commission's next regular business day. In computing the regulatory notice period, consideration will not be given to notice by telephone, electronic mail, or facsimile transmission.

(e) Except as otherwise provided in this chapter, the commission may reject a tariff filing submitted to the commission with insufficient time to accommodate the regulatory notice period under (c) of this section before a proposed effective date.

(f) An electric reliability organization may request a tariff filing take effect, as set out in 3 AAC 46.330(a)(7), before the end of the regulatory notice period under (c) of this section for a tariff filing. If a proposed effective date is not included in a tariff letter, the commission will treat the last day of the regulatory notice period as the proposed effective date, unless the commission suspends the tariff filing in accordance with 3 AAC 46.390(d). The commission may reject a tariff filing if a proposed effective date is more than 90 days after the date the tariff filing is submitted to the commission, except as specifically authorized by the commission on request of the electric reliability organization.

(g) After approval, the commission will validate each effective tariff sheet, form, or other document required by commission order, by placing the commission's date-of-receipt stamp on the upper right corner of each tariff sheet, form, and other document and by entering the appropriate effective date on the bottom right corner of each tariff sheet, form, and other document. The commission will return a copy of each effective tariff sheet, form, and other document required by commission order to the electric reliability organization after the effective date of the filing.

(h) Each effective tariff on file with the commission is lawful until revised in accordance with the procedures established under law and 3 AAC 46.320 - 3 AAC 46.430.

(i) The commission may waive or modify by order the requirements of 3 AAC 46.320 - 3 AAC 46.430, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS

42.05. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.765

AS 42.05.770

3 AAC 46.330. Tariff letters for electric reliability organizations. (a) Every tariff filing required by 3 AAC 46.320 - 3 AAC 46.430, except a filing directly related to an application for a new or amended certificate, must be transmitted to the commission by a consecutively numbered tariff letter, as set out in 3 AAC 46.320(c). A tariff letter may be on either letterhead or plain paper, but must be formatted to print eight and one-half inches by 11 inches in size, must contain the name and return address of the filing electric reliability organization, and must contain the name, return address, and electronic mail address of the filing electric reliability organization's representative authorized to issue tariffs. A tariff letter must

- (1) list the tariff letter number;
- (2) specify the statutes, regulations, or commission order under which the filing is made;
- (3) list the tariff sheets, forms, or other documents required by commission order that are being filed;
- (4) summarize the proposed tariff revision;
- (5) provide a summary of the proceeding or stakeholder process leading to the development of the proposed tariff filing;
- (6) provide a summary of how the proposed tariff filing is just, reasonable, not unduly discriminatory or preferential, and in the public interest;
- (7) include a request, if applicable, for the tariff filing to take effect before the end of the regulatory notice period under 3 AAC 46.320(c), including a proposed effective date and explanation demonstrating good cause showing why the early effective date is necessary; and
- (8) include a request, if applicable, for interim approval of the electric reliability organization surcharge.

(b) If the filing is based upon a study used by the electric reliability organization, a copy of the study must be filed with the tariff letter, if not already on file with the commission. If the electric reliability organization wishes to keep a study confidential, it may petition for confidentiality as provided in 3 AAC 48.045.

(c) A tariff letter filed under this section is an initiating petition for purposes of AS 42.05.175(i). (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.175

AS 42.05.760
AS 42.05.765
AS 42.05.770

3 AAC 46.340. Tariff on file for public inspection. (a) An electric reliability organization shall maintain a current tariff on its website. The electric reliability organization shall also either maintain a paper copy of its current tariff or provide electronic access to that tariff at the electric reliability organization's primary business office, if applicable.

(b) Not later than 10 business days after a change to an electric reliability organization's Internet website address, the electric reliability organization shall file that change with the commission as a tariff filing amending the title page, in compliance with 3 AAC 46.320 - 3 AAC 46.430.

(c) An electric reliability organization may not refuse to permit anyone to inspect its effective tariff during regular business hours. An electric reliability organization may not require anyone to provide a reason for inspecting the tariff as a prerequisite to the inspection. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.350. Controlling effective tariff. (a) An electric reliability organization may not deviate from its effective tariff or refuse to apply it uniformly without prior commission approval.

(b) Errors occurring in an effective tariff that result solely from a typographic or reproduction mistake must, upon discovery, be corrected immediately by the electric reliability organization by filing revised tariff sheets in compliance with 3 AAC 46.320 and 3 AAC 46.330. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.360. General arrangement and content of tariff. (a) The tariff of an electric reliability organization must contain

(1) a title page, including

(A) the name of the electric reliability organization issuing the tariff, as listed on the electric reliability organization's certificate;

(B) a description of the interconnected bulk-electric system to which the tariff applies that is sufficient to allow users, owners, and operators of that system to identify the tariffs applicability to them;

(C) the physical address of the issuing electric reliability organization, if applicable;

- (D) the electric reliability organization's Internet website address;
 - (E) the electric reliability organization's telephone number;
 - (F) the electric reliability organization's general electronic mail address; and
 - (G) the tariff number;
- (2) an index with a complete and accurate list of the contents of the tariff;
- (3) a schedule of all rates and charges;
 - (4) the contents required by AS 42.05.770(1);
 - (5) provisions for the process by which a user, owner, or operator may become a registered entity, if the user, owner, or operator is subject to an approved reliability standard;
 - (6) provisions that load-serving entities notify the electric reliability organization of all persons that are subject to a commission-approved reliability standard, or that may be subject to a reliability standard that the electric reliability organization may develop in the reasonably foreseeable future; and
 - (7) reliability standards, including
 - (A) each penalty matrix associated with a violation of those reliability standards; and
 - (B) nonmonetary penalties that may be assessed for violation of those reliability standards.
- (b) The commission may order additional provisions to be included in an electric reliability organization's tariff, after notice and an opportunity to be heard.
- (c) Each page of the electric reliability organization's tariff must be legible and formatted to print eight and one-half inches by 11 inches in size and must include
- (1) the name of the electric reliability organization;
 - (2) the number of the electric reliability organization's certificate;
 - (3) the tariff filing number;
 - (4) the tariff sheet number; and
 - (5) the tariff revision numbers.
- (d) Each sheet of every tariff, except the title page, must bear a sheet number at the top of the sheet. The first publication of a tariff sheet number must be designated as "Original Sheet" The amendment of any sheet of a tariff shall be made only by reissuing the particular sheet upon which the change, addition, or cancellation is made. Reissuing the sheet means to cancel it by a new tariff sheet that contains the same tariff provisions except whatever additions, changes, or cancellations are made. Each revised tariff sheet must bear the same sheet number. A revised tariff sheet that amends an original sheet must be designated "First Revision ...," "Second Revision ...," etc. Each revised sheet must direct the cancellation of the original or revised sheet that it amends.

(e) The purpose and effect of every tariff revision must be indicated on the tariff by the use of the following symbols to the right of the text to which they apply:

C - To denote a changed condition or regulation;

D - To denote a discontinued rate, regulation, or condition;

I - To denote an increase;

L - To denote that material has been relocated from or to another sheet or place in the tariff with no change in text, rate, provision, or condition;

N - To denote a new rate, regulation, condition, or sheet;

R - To denote a reduction;

S - To denote a reissued matter;

T - To denote a change in text for clarification.

(f) The symbols in (e) of this section may not be carried forward on subsequent revisions of the tariff sheets where they originally are shown or into tariff reissues or supplements, and the filing electric reliability organization is not required to use them in any reproduction of its tariff for public inspection.

(g) If the index is rendered inaccurate due to the submission of a tariff sheet with a proposed revision, the index tariff sheet must be revised concurrently.

(h) In the construction of a tariff, consideration may be given to the fact that it may be necessary, in the future, to file additional standards, rates, provisions, or other items. Reservation of sheet and schedule numbers may therefore be made to provide, in advance, for subsequent filings to be made in proper relation to schedules, or other items filed previously. If, after a tariff has been issued, adding an additional tariff sheet becomes necessary, the added sheet must be designated as an original sheet. When added between existing sheets of the tariff, it must be given the same sheet number as the sheet that it follows. A period suffix, in the numerical sequence, must follow the sheet number: for example, "Original Sheet 4.1". If the added sheet is added after the last sheet, at the end of the tariff, the added sheet shall be given the next consecutive number following the last sheet of the tariff. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.770

3 AAC 46.370. Public notice. The commission may prescribe, on a case-by-case basis, one or more appropriate means by which a tariff filing must be noticed to the public, including

(1) individual notice to all users, owners, or operators directly affected by the tariff filing, by United States mail, electronic mail, or similar delivery service, under conditions prescribed by the commission, or by the commission itself;

- (2) publication on the commission's website; or
- (3) posting on the Alaska Online Public Notice System (AS 44.62.175). (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.380. Response to public notice. (a) Comments must be filed either electronically, including by electronic mail, or on paper. Any person desiring to submit a comment in response to a tariff filing may be asked to do so not later than 20 days after the date the commission issues the public notice. Every notice to the public must specify the deadline date for comments.

(b) Comments must be submitted with a copy to the electric reliability organization, must be signed by the interested person or the person's authorized representative, and must contain at least the following information:

- (1) reference to the applicable docket number, tariff filing number, or file reference specified in the notice;
- (2) the name and the mailing or electronic mail address of the person filing;
- (3) the reason for filing, together with any supporting factual data;
- (4) whether the comment is made on behalf of the interested person or on behalf of another named person, including an organized group, association, or company; and
- (5) the person's comment in the noticed matter with reasonable particularity, and as concisely as possible.

(c) An electric reliability organization wishing to file a response to the comments must file that response with the commission not later than 10 days after the close of the comment period. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.390. Suspension or rejection of tariff filings. (a) The commission may reject a tariff filing that is received by the commission in a form, or is filed by a method, that in whole or in part is not consistent with 3 AAC 46.320 - 3 AAC 46.430.

(b) If the commission rejects a tariff filing, it will return the filing promptly to the electric reliability organization with a letter explaining the reason the filing was rejected.

(c) A tariff filing, or any portion of one, that has been rejected is void.

(d) At any time before the end of the regulatory notice period under 3 AAC 46.320(c), the commission may, by order stating the reason,

suspend a tariff filing either in whole or in part for 180 days from the filing of a complete electric reliability organization tariff filing. In the order suspending a reliability standard, the commission will identify the reliability standard's deficiencies and specify a time line for resubmission, with consideration of the electric reliability organization's reliability standard development process.

(e) With the exception of a tariff filing containing reliability standards, if the commission does not enter a formal order suspending a tariff filing, in whole or in part, the part of the filing that is not suspended takes effect when the regulatory notice period has expired in accordance with 3 AAC 46.320(c), or at a later date designated by the electric reliability organization.

(f) Show cause orders and orders of investigation involving a suspended tariff filing will be issued under the same docket file number as the one under which the original suspension order was entered.

(g) If a suspended tariff filing is withdrawn by an electric reliability organization and later refiled, the commission may suspend the filing again up to the full regulatory notice period under (d) of this section.

(h) An order of the commission suspending a tariff filing, in whole or in part, may later be vacated, in whole or in part, by means of an order in the same formal proceeding.

(i) During the suspension period, an electric reliability organization may supplement or amend its tariff filing or make additional filings. However, if the supplementary or additional filings represent or make a significant or material change in the original filing, the commission may suspend the filing again up to the full regulatory notice period under (d) of this section and renote the supplemented or amended filing to the public. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.400. Waiver of regulatory notice period. (a) When an electric reliability organization includes in its tariff letter a request under 3 AAC 46.330(a)(7) for a tariff filing to take effect before the end of the regulatory notice period under 3 AAC 46.320(c), the burden of showing good cause for waiving the regulatory notice period must be borne by the filing electric reliability organization.

(b) In response to each request under (a) of this section, the commission may take one of the following actions:

- (1) deny the request and require at least the regulatory notice period to expire before allowing the tariff filing to take effect;
- (2) grant the requested effective date as proposed in the tariff letter;
- (3) allow the tariff filing to take effect before the end of the regulatory notice period but later than the requested effective date proposed in the tariff letter; or

(4) pending a public hearing, suspend the operation of the tariff filing for a period not longer than that permitted under AS 42.05.175(i).

(c) The commission, on its own motion or for good cause shown, may waive regulatory notice and specify an effective date before the end of the regulatory notice period for a tariff filing filed to comply with an order of the commission. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.410. Reliability standard filings. (a) Each reliability standard filing must include

(1) a copy of the electric reliability organization board resolution authorizing the proposed reliability standard;

(2) a summary of the proposed reliability standard, including an explanation of how it impacts the interconnected bulk-electric system, and what the proposed reliability standard intends to accomplish;

(3) if a proposed reliability standard or modification is based on a standard adopted by a recognized standard-setting entity,

(A) a copy of the authoritative standard on which the proposed reliability standard is based; and

(B) a summary explaining how and why the proposed reliability standard differs from the standard on which it is based;

(4) a narrative indicating if the electric reliability organization is aware if the proposed reliability standard or modification conflicts with a commission rule or directive, or any federal standard, rule, or function;

(5) a proposed order that includes the following items:

(A) how the proposed reliability standard meets the requirements of AS 42.05.765(a); and

(B) how the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

(6) a statement setting out the users, owners, or operators to which the proposed reliability standard would apply based on their impact on the reliability of the interconnected electric energy transmission network;

(7) the proposed implementation plan, if approved, including a proposed effective date;

(8) a penalty matrix that describes

(A) the violation type and severity level;

(B) a range of penalties that may associated with a violation of the standard; and

(C) if applicable, how a violation could threaten grid stability;

(9) a statement on how the electric reliability organization will monitor, ensure compliance with, and enforce the proposed reliability standard; and

(10) procedures by which a registered entity found in violation of the proposed reliability standard must take action to come back into compliance, as needed.

(b) The commission may, upon petition or on its own motion, open a docket of investigation for the purpose of reviewing approved reliability standards for conflicts with a function, rule, tariff, rate schedule, or agreement that the commission has also accepted, approved, adopted, or ordered.

(c) If a conflict is identified, the commission will issue an order giving notice to the electric reliability organization of the nature of the conflict. The electric reliability organization must resolve the conflict not later than 180 days after the commission's order.

(d) The resubmitted reliability standard must be filed as a compliance filing in the docket of investigation.

(e) Not later than 45 days after receipt of the resubmitted reliability standard, the commission will issue a final order approving the resubmitted reliability standard or return it for further revision. If the reliability standard requires further revision, the commission may close the docket. In that circumstance, a revised reliability standard must be submitted under a new tariff letter.

(f) The commission may extend the timelines in (c) and (e) of this section on its own motion or for good cause shown. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.762

AS 42.05.765

AS 42.05.770

3 AAC 46.420. Electric reliability organization surcharge. (a)

An electric reliability organization shall maintain its books and records in a manner that separately shows its

(1) costs of general administration, developing reliability standards, ensuring compliance with and enforcement of reliability standards, and integrated resource planning; and

(2) costs associated with the standards required by AS 42.05.770(1).

(b) After an electric reliability organization's initial surcharge has been approved, the electric reliability organization shall file surcharge revisions at least annually. An electric reliability organization may file a surcharge revision more often than annually, if necessary, to adequately collect its costs.

(c) For purposes of determining surcharge revisions, an electric reliability organization shall maintain a balancing account, the bal-

ance of which must be entered into the surcharge calculation with the following entries made:

(1) a debit entry equal to the actual costs of budgeted categories that the commission approved for recovery in the previous surcharge filing;

(2) a credit entry equal to the surcharge collected from the load-serving entities;

(3) a credit entry equal to any penalties levied under AS 42.05.775 and collected by the electric reliability organization;

(4) a credit entry equal to dues, fees, and other charges collected by the electric reliability organization under AS 42.05.762(3)(B), if applicable.

(d) If the commission suspends an electric reliability organization's surcharge filing for further investigation, the commission may allow the surcharge to go into effect on an interim and refundable basis.

(e) If a load-serving entity is located within an interconnected bulk-electric system served by an electric reliability organization, and is subject to an electric reliability organization surcharge, the load-serving entity may implement a separate charge on its bills to retail customers to collect the commission-approved electric reliability organization surcharge it is assessed, after the electric reliability organization has been certificated and the commission has approved its initial budget.

(f) A load-serving entity may implement a charge in accordance with (e) of this section, without prior commission approval, after the commission has approved the electric reliability organization's surcharge. Not later than 15 days after implementing a charge under (e) of this section, a regulated utility shall submit a tariff filing under the procedures set out in 3 AAC 48.220 and 3 AAC 48.270. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.762
AS 42.05.770
AS 42.05.775

3 AAC 46.430. Filing requirements for electric reliability organization surcharge filings. (a) An electric reliability organization shall submit each surcharge filing as a tariff filing in compliance with the applicable provisions of 3 AAC 46.320 - 3 AAC 46.430.

(b) An electric reliability organization surcharge revision must be filed at least 45 days before the beginning of the electric reliability organization's fiscal year.

(c) With each surcharge tariff filing, the electric reliability organization must submit the following information to support entries in the balancing account and the proposed budget for the future period:

- (1) an electric reliability organization's board resolution authorizing the proposed budget;
- (2) the proposed budget;
- (3) a schedule showing the proposed dollar amount for each major planned activity, and general administrative expenses, of the electric reliability organization;
- (4) the plan for carrying out each identified major planned activity;
- (5) a narrative explaining the required estimated costs;
- (6) a schedule showing the proposed dollar amount of each line item in the proposed budget, by account number, including any subaccounts;
- (7) a schedule and explanation of each account and subaccount for which the current and prior year's proposed budget amounts differ by more than 10 percent;
- (8) a schedule and explanation of each account and subaccount for which actual costs incurred in the prior year differ by more than five percent from the budgeted amounts contained in that year's proposed budget filing;
- (9) the calculation of the surcharge;
- (10) a calculation of the monthly balances in the balancing account;
- (11) revised tariff sheets; and
- (12) other information that the commission considers necessary to explain entries in the balancing account or surcharge calculation. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.440. Open access transmission and interconnection. (a) Not later than the date specified in the order approving an application to serve as an electric reliability organization, an electric reliability organization's tariff addressing interconnection must include

- (1) a definition of the entities eligible to interconnect with the interconnected bulk-electric system served by the electric reliability organization;
- (2) a requirement that generators and loads capable of interconnecting with the interconnected bulk-electric system served by the electric reliability organization are eligible to apply for interconnection with interconnected load-serving entities in accordance with the standards for interconnection stated in the electric reliability organization's interconnection tariff;
- (3) standard procedures for interconnection by facilities generating no more than 15,000 kilowatts of power; the electric reliability organization may submit standards

(A) based wholly on the *Small Generator Procedures (for Generating Facilities no larger than 20 MW)* adopted by Federal Energy Regulatory Commission Orders 2006 and 2006-A in Docket RM13-2-000;

(B) based in part on the procedures in (A) of this paragraph, and adjusted to reflect the size, stability, and economic resources of the local region; or

(C) based on an alternative interconnection standard more appropriate for local conditions; and

(4) standard procedures for interconnection by facilities generating more than 15,000 kilowatts of power; the electric reliability organization may submit standards

(A) based wholly on the *Standard Large Generator Interconnection Procedures (Applicable to Generating Facilities that exceed 20 MW)* adopted by Federal Energy Regulatory Commission Orders 2003 and 2003-A in Docket RM02-1-001;

(B) based in part on the procedures in (A) of this paragraph, and adjusted to reflect the size, stability, and economic resources of the local region; or

(C) based on an alternative interconnection standard more appropriate for local conditions.

(b) Not later than the date specified in the order approving an application to serve as an electric reliability organization, an electric reliability organization's tariff addressing open access transmission must include

(1) a definition of entities eligible to obtain transmission service;

(2) a requirement that generators interconnected to the interconnected bulk-electric system served by the electric reliability organization are eligible to apply to acquire transmission capacity on the interconnected bulk-electric system; and

(3) standards for open access transmission tariffs; the electric reliability organization may submit standards

(A) based wholly on the *Proforma Open Access Transmission Tariff* attached as Appendix C to Federal Energy Regulatory Commission Order 1000 in Docket RM10-23-000;

(B) based in part on the proforma tariff described in (A) of this paragraph, and adjusted to reflect the size, stability, and economic resources of the local region; or

(C) based on a standard tariff more appropriate for local conditions.

(c) A filing for a standard for interconnection or open access transmission must

(1) demonstrate that the standard is not discriminatory or preferential; a standard for

(A) interconnection is not discriminatory if all generators and loads requesting access to interconnect to the transmission system

are provided nondiscriminatory access to the transmission system through interconnection requests that are evaluated and studied in an equivalent manner and subject to the same criteria, fees, timelines, and processes;

(B) open access transmission is not discriminatory if

(i) transmission service is provided to any eligible transmission customer; and

(ii) the rates, terms, and conditions of providing that transmission service are offered on an equivalent and non-preferential basis;

(2) include a definition of "transmission" for interconnection and open access transmission purposes;

(3) for an interconnection standard adjusted as described in (a)(3) or (4) of this section, explain how and why the filed interconnection standard deviates from the applicable federal standard specified in (a)(3) or (4) of this section; if a standard other than the applicable federal standard specified in (a)(3) or (4) of this section is filed, the filing must explain why the applicable federal standard or a modification of that standard is not appropriate for the local region, and how the proposed standard remedies those defects; and

(4) for a standard open access transmission tariff adjusted as described in (b)(3) of this section, explain how and why the filed standard transmission tariff deviates from the federal standard specified in (b)(3) of this section; if a standard other than the federal standard specified in (b)(3) of this section is filed, the filing must explain why the federal standard or a modification of that standard is not appropriate for the local region, and how the proposed standard remedies those defects. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.770

3 AAC 46.450. Transmission cost recovery. (a) Not later than the date specified in the order approving an application to serve as an electric reliability organization, an electric reliability organization's tariff must include methodologies for addressing transmission costs that ensure that the transmission system costs are allocated to those that derive benefits from the system in a manner that is at least roughly commensurate with estimated benefits.

(b) A filing to implement a standard for transmission system cost recovery must demonstrate that the standard

(1) ensures that only costs of assets that provide transmission benefits are included; and

(2) allocates project costs in a manner that is at least roughly commensurate with the estimated benefits derived from the transmission system.

(c) The showing required under (b)(2) of this section must describe in detail the cost allocation principles used to develop the cost allocation recommendations for a transmission project, including an explanation of

(1) the method by which the benefits derived from and the beneficiaries of the project were determined, including a discussion of the data requirements and analysis for determining benefits and beneficiaries; and

(2) the considerations and conclusions underlying the determination that transmission costs will be allocated in a way that is at least roughly commensurate with estimated benefits. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770

3 AAC 46.460. Electric reliability organization rule content.

(a) To ensure that an electric reliability organization meets the requirements of AS 42.05.762, the rules of the electric reliability organization must

(1) contain standards or procedures by which a director, director's designee, or employee of the electric reliability organization can be determined to possess the technical qualifications sufficient to enable the electric reliability organization to meet the requirements of AS 42.05.762(1) and (2);

(2) establish a procedure to ensure that the standards, plans, and rules adopted by the electric reliability organization do not grant any person an unreasonable preference or advantage or subject any person to an unreasonable prejudice or disadvantage;

(3) establish a procedure to ensure that enforcement investigations, including penalty recommendations, undertaken by the electric reliability organization cannot be carried out by persons employed by, either directly or by contractual arrangement, or affiliated with the person under investigation;

(4) provide for public access to the approved and proposed plans, standards, tariff, and rules of the electric reliability organization; at a minimum, the rules of the electric reliability organization must provide

(A) a website that posts all the approved and proposed plans, standards, tariff, rules, and budgets of the electric reliability organization, and all related comments received from the public that do not include information classified as confidential under 3 AAC 48.040(b) or include language that could subject the electric reliability organization to civil liability if republished; the website must

(i) allow for the posting of documents in a format that prevents unauthorized revision to the documents, that is text-

searchable, and that can be read by any person with Internet access using publicly available free software;

(ii) provide the public with access to each approved or proposed plan, standard, tariff, or rule, and any public document related to development or interpretation of the approved or proposed plan, standard, tariff, or rule, without special expertise or knowledge of the posting protocols of the electric reliability organization; and

(iii) be capable of receiving comments from the public related to a proposed plan, standard, tariff, or rule of the electric reliability organization before filing with the commission for approval;

(B) a presumption that all documents received by the electric reliability organization are public unless the document is classified in whole or in part as confidential

(i) for good cause as defined in 3 AAC 48.045(b) under rules established by the electric reliability organization; or

(ii) under 3 AAC 48.040(b);

(C) a process under which the electric reliability organization will make available to the public those portions of a document that are not confidential if a portion of the document is classified as confidential under (B) of this paragraph;

(D) a record retention schedule that maintains

(i) paper copies of all current governing documentation; and

(ii) for at least 15 years, electronic records of meetings and agency documents other than governing documentation;

(E) a process under which any interested person may petition the electric reliability organization to participate in development of a proposed plan, standard, tariff, or rule of the electric reliability organization; the process may require consideration of the following factors:

(i) the interest of the petitioner;

(ii) the effect on the petitioner's interest in the matter to be developed;

(iii) the availability of other means by which the petitioner's interest may be protected;

(iv) the extent to which the petitioner's interest will be represented by other participating persons;

(v) the extent to which the petitioner's participation may reasonably be expected to assist in the development of a sound record; and

(vi) the extent to which the petitioner's participation will broaden or delay the matter to be developed;

(F) a process by which a successful petitioner may gain access to relevant confidential documents and information in possession of or shared with the electric reliability organization; the electric

reliability organization may develop rules that define the level of participation in the development of the proposed plan, standard, tariff, or rule that entitles a successful petitioner access to confidential information;

(G) a process under which all documentation regarding the organization's governance and budget, network reliability statistics, and registered entity registration are made publicly available;

(H) a process under which notice of a proposed plan, standard, tariff, or rule of the electric reliability organization is provided to the potentially affected public, and comments on the proposed plan, standard, tariff, or rule of the electric reliability organization will be accepted;

(I) a process for developing a report to be filed with the commission as an attachment to any submittal requesting approval of a proposed plan, standard, tariff, or rule of the electric reliability organization; the report must include

(i) the input of all persons participating in development of a proposed plan, standard, tariff, or rule of the electric reliability organization;

(ii) all comments submitted in response to public notice of a proposed plan, standard, tariff, or rule of the electric reliability organization; and

(iii) an explanation of how the interests represented by persons providing input or comments have been given due consideration by the electric reliability organization in developing the proposed plan, standard, tariff, or rule that is submitted to the commission for approval;

(J) a process for providing public notice and an opportunity for public comment on each proposed enforcement action;

(K) a process to ensure that meetings of the board of directors of an electric reliability organization shall be open to the public, and held in person, telephonically, or by utilizing an Internet-based virtual meeting platform; and

(L) a process to ensure that the board of directors may only use nonpublic executive sessions for topics and discussions that could cause harm to the electric reliability organization or a registered entity if the information discussed were made publicly available;

(5) require that, except for an emergency board of directors meeting, an electric reliability organization publish, at least 14 calendar days before convening a meeting of the board of directors, a public notice of the meeting on the electric reliability organization's website and by any other means the board determines to be appropriate; the public notice must

(A) state the time and place for the meeting; and

(B) include an agenda listing items up for discussion, and provide instructions for filing public comments with the electric

reliability organization; if the meeting is an emergency meeting, the electric reliability organization shall issue a copy of the agenda as soon as the agenda is available, and not later than one week after the scheduled date of the emergency meeting; the electric reliability organization shall make every effort to issue a copy of the agenda of an emergency meeting at least six hours before the meeting being held; and

(6) require the electric reliability organization to keep an original set of books, accounts, papers, and records within this state; the electric reliability organization shall timely provide the commission with a certified copy of any books, accounts, papers, or records upon request of the commission; those records are public under AS 42.05.671, unless exempted from public disclosure under AS 42.05.671; the electric reliability organization shall allow the commission to inspect the electric reliability organization's original books, accounts, papers, or records where they are kept at any reasonable time chosen by the commission.

(b) The commission may waive or modify by order the requirements of (a) of this section, in whole or in part, upon application and a showing of good cause or on the commission's own motion, if the waiver does not also require a waiver of the requirements set out in AS 42.05. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.671

AS 42.05.760

AS 42.05.762

AS 42.05.767

AS 42.05.770

3 AAC 46.470. Review and approval of electric reliability organization rules. (a) An electric reliability organization shall file all rules, or revisions to rules, developed in compliance with, or developed with the intent to comply with, AS 42.05.762(3) by means of a consecutively numbered electric reliability organization rule letter. Every rule letter must contain the applicable information set out in (b) of this section, unless waived by the commission on a showing of good cause. All elements of an electric reliability organization's compliance monitoring and enforcement program not specifically identified as part of the electric reliability organization's tariff under 3 AAC 46.360 shall be filed under this subsection, except that filings made under this subsection do not include budget filings made under 3 AAC 46.160(b).

(b) Each electric reliability organization rule filing under this section must be transmitted to the commission by a consecutively numbered letter designated as "ER[number]" followed by a hyphen and the number of the electric reliability organization's certificate. A letter may be on either letterhead or plain paper but must be formatted to print

eight and one-half inches by 11 inches in size, must contain the name and return address of the filing electric reliability organization, and must contain the name, return address, and electronic mail address of the filing electric reliability organization's representative authorized to issue rules.

(c) An electric reliability organization rule letter filed under this section is an initiating petition for purposes of AS 42.05.175(i).

(d) Each rule filing must be submitted to the commission not later than 45 days before the filing may take effect, unless the commission by order authorizes the filing to take effect in less than 45 days after the date of filing. An electric reliability organization rule letter must

- (1) list the electric reliability organization rule letter number;
- (2) clearly articulate the proposed rule or rule revision;
- (3) explain the proposed rule or rule revision's intended effect;
- (4) explain the cause of the proposed rule or rule revision's development;
- (5) provide any additional information that the electric reliability organization believes important to the development of the proposed rule or rule revision;
- (6) provide a dated certificate of service or proof of publication, as appropriate, of a public notice

(A) served or published by means of

(i) individual notice to all registered entities affected by the rule change or rule revision by United States mail, electronic mail, or similar delivery service, under conditions prescribed by the commission;

(ii) publication on the electric reliability organization's website; or

(iii) posting on the Alaska Online Public Notice System (AS 44.62.175); and

(B) containing

(i) a general description of the proposed rule or rule revision that is accurate, written in plain English, and sufficient to alert the public of the proposed rule or rule revision;

(ii) the date when the electric reliability organization made, or will make, its filing with the commission;

(iii) the date when the rule or rule revision is proposed to become effective;

(iv) a statement of where both the proposed rule or rule revision and the electric reliability organization's complete set of rules are available for review; and

(v) a statement similar to the following: "Any person may file written comments on this proposed rule or rule revision with the Regulatory Commission of Alaska, 701 West Eighth Avenue, Suite 300, Anchorage, Alaska 99501. To assure that the Commission has sufficient time to consider the comments before the

rule or rule revision takes effect, (electric reliability organization's name) suggests that your comments be filed with the Commission no later than (a specific date, not a weekend or holiday, approximately 7 - 10 days before the filing takes effect).";

(7) in the case of a proposed rule revision, provide an annotated copy of the existing and proposed rule language identifying the proposed rule changes; and

(8) in the case of a proposed rule or rule revision addressing the electric reliability organization's compliance monitoring and enforcement program, supporting documentation describing how the a proposed rule or rule revision was developed, supporting the proposed rule or rule revision's reasonableness, and providing any additional documentation that the electric reliability organization considers important to the commission's review.

(e) A rule filing may be filed electronically or physically with the commission. A rule filing made before 5:00 p.m. on a regular business day will be considered filed with the commission for the purpose of determining the regulatory notice period. The day after the filing is submitted with the commission will be counted as the first day of the period of notice to the commission and public in accordance with AS 01.10.080. The regulatory notice period set out in (d) of this section shall be determined in the same manner prescribed under 3 AAC 48.090. If a notice period ends on a Saturday, Sunday, or state legal holiday, the notice period will be extended to the end of the commission's next regular business day. In computing the regulatory notice period, consideration will not be given to notice by telephone, electronic mail, or facsimile transmission.

(f) If the commission does not issue a letter rejecting a rule filing or enter an order suspending a rule filing, in whole or in part, the part of the filing that is not rejected or suspended takes effect after the 45-day review period has expired, or at a later date designated by the electric reliability organization in its rule filing. The commission may suspend for investigation any electric reliability organization proposed rule or rule revision. In an order suspending a proposed rule or rule revision, the commission may establish a temporary rule or rule revision identical to the rule or rule revision contained in suspended filing for use by the electric reliability organization until the final disposition of the suspension. During the suspension period, an electric reliability organization may supplement or amend its rule filing or make additional filings. However, if the supplementary or additional filings represent or make a significant or material change in the original filing, the commission may suspend the filing again up to the full regulatory period and renote the supplemented or amended filing to the public. An order of the commission under this subsection suspending a rule filing, in whole or in part, may later be vacated, in whole or in part, by means of an order in the same formal proceeding.

(g) The commission may, upon complaint or on its own motion, open a docket of investigation to propose a rule or rule revision for an electric reliability organization. If the commission finds, after notice and the opportunity for public comment, that a change to the electric reliability organization's rule or rule revision is just, reasonable, not unduly discriminatory or preferential, and in the public interest,

(1) the commission will remand the rule or rule revision to the electric reliability organization for modification;

(2) the electric reliability organization must submit the commission's proposed rule, modified rule, or rule revision as a compliance filing in the formal docket not later than 45 days after the order requiring modification; and

(3) not later than 45 days after receipt of the compliance filing, the commission will either issue a final order approving the rule or rule revision or return it for additional modification.

(h) The commission may extend the timelines in this subsection on its own motion or for good cause shown.

(i) After approval, the commission will validate each effective rule, form, or other document required by commission order, by placing the commission's date-of-receipt stamp on the upper right corner of each rule, form, and other document and by entering the appropriate effective date on the bottom right corner of each rule, form, and other document. The commission will return a copy of each effective rule, form, and other document required by commission order to the electric reliability organization after the effective date of the filing.

(j) Each effective set of an electric reliability organization's rules on file with the commission is lawful until revised in accordance with the procedures established under law and this section. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.080
AS 42.05.141
AS 42.05.151
AS 42.05.175
AS 42.05.762
AS 42.05.767
AS 42.05.770

Article 4. General Provisions.

Section	Section
3 AAC 46.990. Good cause and application for waiver.	3 AAC 46.999. Definitions.

3 AAC 46.990. Good cause and application for waiver. (a) For purposes of a waiver under this chapter, good cause shown or good cause determined on the commission's own motion must be based on a finding by the commission that

(1) waiver of the requirement will not conflict with the provisions

of AS 42.05.760 - AS 42.05.790, and is consistent with the public interest; and

(2) the basis for the waiver does not involve

(A) misrepresentation of a material fact;

(B) unauthorized discontinuance or abandonment of all or part of an electric reliability organization's duties;

(C) willful failure to comply with the provisions of AS 42.05.760 - 42.05.790, this chapter, or the orders of the commission; or

(D) willful failure to comply with a term, condition, or limitation of a certificate.

(b) An application for a waiver under this chapter must be in writing and must set out the pertinent facts in sufficient detail to support a finding by the commission that no legitimate public interest will be served by enforcing the requirement designated in the application. An application under this section may be made to the commission by motion, petition, or, where appropriate, by a tariff letter. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.770

AS 42.05.780

3 AAC 46.999. Definitions. (a) In the definition of "large energy facility" in AS 42.05.785(e),

(1) "capacity" means nameplate capacity within the meaning given in 3 AAC 50.949;

(2) "single site" means facilities owned by the same entity and

(A) within one mile of each other; or

(B) within 10 miles of each other, if circumstances exist under which the facilities should reasonably be considered a single site.

(b) In AS 42.05.762, 42.05.767, and this chapter, "rules" means those articles of incorporation, bylaws, codes of conduct, protocols, and other procedures of an electric reliability organization

(1) that address the subject matter enumerated in AS 42.05.762(3); and

(2) that the organization must establish under AS 42.05.762(3).

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

(1) "balanced stakeholder board" means an electric reliability organization board that meets the requirements of 3 AAC 46.060(b);

(2) "board" means the governing body of an applicant or certificated electric reliability organization appropriate to the business form under which it is organized;

(3) "business day" means a day other than Saturday, Sunday, or a state legal holiday;

(4) "capitalized maintenance" means a significant expense that

(A) a utility incurs to maintain the usefulness and efficiency of an asset, including the cost of an engine overhaul; and

(B) does not occur on an annual basis;

(5) “committee” means a committee, subcommittee, working group, task force, advisory committee, or other topic-specific group that plays a role in electric reliability organization decision making;

(6) “consumer” means a person that purchases electricity that was transmitted on, or generated on or stored on facilities connected to, an interconnected bulk-electric system;

(7) “consumer stakeholder” means a person, other than a provider stakeholder, that receives electricity services from a provider stakeholder furnished through tariff or special contract, including a person that indirectly receives services continuously, such as a landlord or an employer that furnishes housing, that are paid for by a tenant or another consumer;

(8) “electric reliability organization” has the meaning given in AS 42.05.790;

(9) “electric utility” has the meaning given in AS 42.05.790;

(10) “hybrid stakeholder” means a person that has characteristics of both a provider stakeholder and a consumer stakeholder but whose interests might not be adequately presented or considered if exclusively classified as a provider stakeholder or a consumer stakeholder;

(11) “immediate family member” means

(A) a spouse of the person;

(B) another person cohabiting with the person in a conjugal relationship that is not a legal marriage;

(C) a child, including a stepchild and an adopted child, of the person;

(D) a parent, sibling, grandparent, aunt, or uncle of the person; and

(E) a parent or sibling of the person’s spouse;

(12) “implementation plan” means a document setting out the steps necessary to put a reliability standard into practice;

(13) “independent,” with respect to voting members of the board of an electric reliability organization, means a director that may serve on the board of an electric reliability organization formed under AS 42.05.762(4)(B)(i);

(14) “interconnected bulk-electric system” has the meaning given in AS 42.05.790;

(15) “interconnected electric energy transmission network” has the meaning given in AS 42.05.790;

(16) “large energy facility” has the meaning given in AS 42.05.785(e); in that definition, “capacity” and “single site” have the meanings given in (a) of this section;

(17) “load-serving entity” has the meaning given in AS 42.05.790;

(18) “net energy for load”

(A) means the generation energy injected into a specific electri-

cal system, plus energy received from other systems, less energy delivered to other systems through interchange, including losses;

(B) does not include energy required to operate storage facilities or plant use by a generator;

(19) "provider stakeholder" means a person that is a user, owner, or operator that provides electric energy, capacity, transmission, distribution, or storage to the public for direct compensation;

(20) "public notice" means a notice written in a format substantially the same as tariff filings noticed under 3 AAC 48.280;

(21) "refurbishment" means expenses that a load-serving entity incurs to restore an asset to a previous operating condition;

(22) "registered entity" means a user, owner, or operator registered with the electric reliability organization and subject to reliability standards approved by the electric reliability organization and the commission;

(23) "reliability standard" means a standard identified in AS 42.05.765(a)(1) or (2)(A) or (B) or any class of operating standard for the interconnected electric energy transmission network, including balancing, modeling, protective relaying, reserve sharing, transmission planning, and reactive power generation and control;

(24) "reliable operation" has the meaning given in AS 42.05.790;

(25) "resource option" means

(A) a specified asset or asset type that provides generation, transmission, or battery storage; or

(B) a specified conservation or efficiency improvement program or program type to affect customer demand;

(26) "resource portfolio" means a mix of resource options that could meet customers' collective needs, as projected in an integrated resource plan;

(27) "stakeholder" means a provider stakeholder, a consumer stakeholder, or a hybrid stakeholder;

(28) "user, owner, or operator" means a person or entity that

(A) is, or within a reasonable time will be, generating, transmitting, storing, or distributing electricity; and

(B) may, as a result of electric facilities or equipment it owns, leases, operates, or controls, adversely affect the reliable operation of the interconnected bulk-electric system. (Eff. 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.770

AS 42.05.780

AS 42.05.785

Chapter 48. Practice and Procedure.

Article

1. Practice Before the Commission. (3 AAC 48.010 — 3 AAC 48.190).
7. Miscellaneous Provisions. (3 AAC 48.800 — 3 AAC 48.820).

Article 1. Practice Before the Commission.

Section

- 3 AAC 48.020. Communications.
- 3 AAC 48.030. Fees, remittances and charges.
- 3 AAC 48.040. Confidential records.
- 3 AAC 48.050. Inspection of records and facilities.
- 3 AAC 48.060. Formal and informal procedures and files.

Section

- 3 AAC 48.070. Formal proceedings.
- 3 AAC 48.095. Electronic filing requirements.
- 3 AAC 48.130. Formal complaints, protests and investigations.
- 3 AAC 48.154. Evidence and exhibits.
- 3 AAC 48.170. Ethical standards, violations.

3 AAC 48.020. Communications. (a) All correspondence with the commission should be addressed to the commission at its principal office and not to an individual staff member or commissioner unless otherwise specifically authorized or directed by the commission. If a written communication to the commission is in response to correspondence or an order of the commission, the response should make reference to the docket number, informal complaint number or file reference used by the commission.

(b) Repealed 6/29/84.

(c) Each written communication should embrace only one subject and should include the name and return address of the sender, the correct docket number and the commission's file reference, if any, to which the communication relates.

(d) If the writer holds a certificate of public convenience and necessity or an electric reliability organization certificate, the certificate holder shall use the name on the certificate and state the certificate number. The commission may disregard correspondence not complying with this subsection. The commission may consider any correspondence as an initiatory pleading and proceed accordingly.

(e) Written communications are considered to be officially received when delivered to the commission's office or received electronically through the commission's electronic filing systems. A commissioner, or an employee designated by the commission, may also receive written communications under conditions prescribed by the commission.

(f) Correspondence signed by an individual staff member or commissioner does not state an official determination by the commission unless the signature is preceded by the recital "By Direction of the Commission." The presence of this recital constitutes presumptive evidence that the signatory has been delegated specific authority to state the commission's official action in the particular matter. Staff correspondence containing routine interpretations regarding tariffs,

accounting, or any other matter under a general delegation of authority will not contain the above recital but will, instead, state that the staff interpretation is subject to direct appeal to the commission by application, petition, or motion.

(g) A commissioner, presiding officer, or commission staff member may not, except upon reasonable notice and opportunity for all parties to participate, communicate with a party, and other affected persons, about any issue of fact, law, or policy in a pending adjudicatory proceeding.

(h) Communications not prohibited by (g) of this section include communications

(1) to discuss scheduling or procedural matters;

(2) between the presiding officer and parties, designed to produce a settlement; with the consent of all parties, the presiding officer may continue to preside in the same proceeding;

(3) between a regulated entity and the commission staff in a preliminary investigation of a tariff filing before

(A) suspension under AS 42.05.421; or

(B) suspension of a tariff filing under AS 42.05.765 and regulations that implement tariff requirements under AS 42.05.770;

(4) between a regulated entity and the commission staff in a preliminary investigation of an electric reliability organization rule filing before suspension under AS 42.05.767;

(5) between a regulated entity and the commission staff in review of an electric reliability organization budget filing;

(6) between the commission staff and an applicant for certification, registration, or another ruling by the commission, if the applicant is the only party to a proceeding; or

(7) during a scheduled meeting between commissioners or commission staff members and a regulated entity to discuss utility and pipeline projects, industry trends, technology, and developments, if those persons do not discuss an issue in a pending adjudicatory proceeding; within two business days after that meeting, a commissioner or commission staff member involved in the communication shall submit, by electronic mail or in writing to the commission staff member who supervises the commission's records and filings section, a statement that includes the following information:

(A) to the extent known, the names and addresses of the persons involved in the scheduled meeting;

(B) the date and time of the scheduled meeting, its duration, and the means and circumstances under which it was made;

(C) a summary of matters discussed.

(i) If a person makes or attempts to make an ex parte communication prohibited by (g) of this section, the commissioner, presiding officer, or commission staff member shall advise the person that the communication is prohibited and shall immediately terminate the prohibited communication.

(j) If an ex parte communication prohibited by (g) of this section occurs, the commissioner, presiding officer, or commission staff member involved in the communication shall submit, within two business days after the prohibited ex parte communication occurs, and either by electronic mail or in writing to the commission staff member who supervises the commission's records and filings section and to all commissioners, a statement that includes the following information:

- (1) the name and docket number of the proceeding;
- (2) to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to the proceeding;
- (3) the date and time of the communication, its duration, and the means by and circumstances under which it was made;
- (4) a summary of the matters discussed;
- (5) whether and how the person making the prohibited communication was advised that the communication was prohibited.

(k) Within two business days after receiving a statement under (j) of this section, the commission staff member who supervises the commission's records and filings section shall

- (1) place the statement in the commission's public file; and
- (2) serve a copy of the statement on the parties on the commission's official service list, within each relevant docket.

(l) The commission staff member who supervises the commission's records and filings section shall maintain a permanent file of any statement filed under (h), (j), and (k) of this section. That statement shall be noticed in the commission's incoming mail report, and the file of statements shall be made available for public inspection at the commission's office during regular business hours.

(m) In this section, "business day" means a day other than Saturday, Sunday, or a state holiday. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 4/24/2004, Register 170; am 4/20/2006, Register 178; am 2/16/2012, Register 201; am 11/6/2016, Register 220; am 3/11/2022, Register 241)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.770
AS 42.06.140

3 AAC 48.030. Fees, remittances and charges. (a) Every charge payable to the commission shall be transmitted by letter indicating the amount and purpose thereof.

(b) Every remittance shall be by money order, bank draft, or check payable to the Regulatory Commission of Alaska. Remittances in coin or currency are tendered at the risk of the loss of money sent in that manner.

(c) Postage stamps shall not be sent as a remittance unless the remitter is so directed.

(d) Every fee required by statute in connection with applications relating to certificates of public convenience and necessity, electric reliability organization certificates, or any other matter which by statute requires formal action by the commission must be paid in full before the matter will be docketed for consideration. Every charge for copying; printing; reproducing; furnishing copies of reports, orders, pleadings, tariff sheets, regulations, or other items; and all costs allocated under AS 42.05.221(e), 42.05.401(b), 42.05.651; or AS 42.06.610 must be paid promptly upon receipt of the commission's invoice or order designating the amount owed. Failure to remit the amount due will, as appropriate, and at the commission's discretion, result in

- (1) discontinuance of the service for which payment is due;
- (2) denial of standing to participate in a proceeding in which costs may be allocated, until the amount due is paid;
- (3) refusal of the commission to accept or act upon any application or tariff filing of the person who is in arrears, until the amount due is paid; and
- (4) referral of the problem to the attorney general for appropriate action pursuant to AS 42.05.561 — 42.05.611 or AS 42.06.530 — 42.06.570.

(e) The commission may, by general order, prescribe appropriate charges to recover, in whole or in part, the costs it incurs in furnishing copies of notices, reports, orders or any printed or typed material in its possession, except privileged information or records. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 4/24/2004, Register 170; am 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151
 AS 42.05.201
 AS 42.05.221
 AS 42.05.401
 AS 42.05.561
 AS 42.05.571
 AS 42.05.581
 AS 42.05.601
 AS 42.05.611
 AS 42.05.651
 AS 42.05.770
 AS 42.06.140
 AS 42.06.210
 AS 42.06.607
 AS 42.06.610.

3 AAC 48.040. Confidential records. (a) Except as provided in (b) of this section, the records in the possession of the commission or its advisory staff are open to inspection by the public during regular office hours.

(b) The following records are confidential and are not open to inspection by the public unless they are released under 3 AAC 48.049

or court order or their release is authorized by the person with confidentiality interests:

(1) bids for contracted services received in response to an invitation to bid issued by the commission until after the notice of intent to award a contract is given by the commission;

(2) communications relating to personnel matters and medical or other personal information that, under governing personnel practices and the laws of the state, are not public information;

(3) records filed with the commission that are confidential under AS 42.06.445(c);

(4) records classified as confidential under a protective order of the commission or the court;

(5) records designated as confidential by written agreement among the parties to adjudicatory matters before the commission for the purpose of conducting discovery;

(6) communications, regarding confidential legal advice or assistance, between legal counsel for the commission and the commission, its advisory staff, or its consultants, and documents prepared by or at the direction of legal counsel that contain investigative conclusions or are created for litigation or adjudicatory matters involving the commission;

(7) preliminary records relating to an investigation by the commission until the investigation is complete or formal proceedings have been initiated by the commission;

(8) records of deliberations on adjudicatory matters before the commission;

(9) notes, drafts, and analyses used to aid the commission in the preparation of any order or finding on adjudicatory matters;

(10) records of a regulated public utility, electric reliability organization, pipeline carrier, or pipeline submitted to or copied by the commission's advisory staff during any audit, review, or investigation in connection with any formal or informal proceeding;

(11) records classified as confidential in accordance with 3 AAC 48.045;

(12) financial records filed in support of an application for a certificate of public convenience and necessity to provide local exchange telecommunication services in a competitive local exchange market;

(13) critical electric infrastructure information within the meaning given in 18 C.F.R. 388.113(c); and;

(14) cybersecurity incident information, including any information related to, describing, or that could be used to plan or cause any malicious or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communications networks, including hardware, software, and data, that are essential to the reliable operation of the interconnected bulk-electric system; in this paragraph,

(A) "cybersecurity incident" has the meaning given in AS 42.05.790;

(B) "interconnected bulk-electric system" has the meaning given in AS 42.05.790. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 7/12/92, Register 123; am 3/21/2003, Register 165; am 4/20/2006, Register 178; am 3/25/2017, Register 221; am 3/11/2022, Register 241)

Authority: AS 40.25.110

AS 40.25.120

AS 42.05.141

AS 42.05.151

AS 42.05.671

AS 42.05.762

AS 42.05.765

AS 42.05.770

AS 42.06.140

AS 42.06.445

3 AAC 48.050. Inspection of records and facilities. (a) The facilities and records of a public utility, electric reliability organization, or pipeline carrier are not available to the public for inspection, copying or any purpose, other than to furnish a service or commodity, except

(1) as otherwise provided by statute or by an applicable rule, regulation, or general order of the commission;

(2) by specific order of the commission;

(3) with the prior voluntary consent of the utility, electric reliability organization, or pipeline carrier; and

(4) upon enforcement of a subpoena duces tecum or other legal process.

(b) A member of the commission advisory staff and any agent, consultant, or other authorized representative of the commission must, upon presentation of authentic credentials issued by the commission, be allowed access to the premises of any utility, electric reliability organization, or pipeline carrier during its regular business hours to investigate, inspect, examine, evaluate, or analyze its rates, services, facilities, accounts, books, records, contracts, and operating practices, to make copies of any record, account, contract, or other document or paper of the utility, electric reliability organization, or pipeline carrier, or to implement, in any other way, any jurisdictional function of the commission.

(c) If office and desk space is required to perform any function listed in (b) of this section, the utility, electric reliability organization, or pipeline carrier shall provide it at a conveniently located place that is reasonably comfortable, adequately lighted, and otherwise suitable. If the utility, electric reliability organization, or pipeline carrier does not have satisfactory office and desk space in its own quarters, it shall

make other suitable arrangements, including, if ordered by the commission, direct payment by the utility, electric reliability organization, or pipeline carrier of rental or lease charges for office and desk space selected by the commission.

(d) Public utilities, electric reliability organizations, and pipeline carriers shall, in every way possible within reason, assist the commission's advisory staff, and its agents, consultants, and representatives in the performance of any function listed in (b) of this section.

(e) An action or responsibility applicable to public utilities, electric reliability organizations, and pipeline carriers under (b), (c), or (d) of this section is also applicable to the affiliated interests of public utilities, electric reliability organizations, and pipeline carriers, but only to the extent required to obtain, copy, examine, and analyze any contract, record, account, document, income tax return, report, or paper directly or indirectly relating to a written or unwritten contract or arrangement between a utility, electric reliability organization, or pipeline carrier and its affiliated interests.

(f) Each jurisdictional utility, electric reliability organization, or pipeline carrier that does not keep, in one or more offices located in this state, all of its books, accounts, records, and papers relating to its utility, electric reliability organization, or pipeline operations in this state shall make application to the commission for an order authorizing it to keep all or part of them elsewhere. That application must

(1) with reasonable particularity, list and describe the records of its utility, electric reliability organization, or pipeline operations in this state that are kept at each specifically described location in this state;

(2) with reasonable particularity, list and describe the records of its utility, electric reliability organization, or pipeline operations in this state that are kept at each specifically described location in places other than within this state;

(3) specifically request permission to continue keeping either all or part of the records described in (2) of this subsection at the places where they are located, or at other specifically described places, outside this state; and

(4) set out, in complete detail, the grounds for a request made under (3) of this subsection.

(g) The commission will docket each application submitted under (f) of this section, will notice it to the public, may hold a hearing on it, and will enter an appropriate order based upon the facts of record.

(h) If a utility, electric reliability organization, or pipeline carrier has a contract or arrangement with an affiliated interest that keeps accounts, records, or other supporting information pertaining to those documents outside of this state, the utility, electric reliability organization, or pipeline carrier shall notify the commission of the identity, content, and location of the documents. If a change occurs in the

identity, content, or location of the documents, the utility, electric reliability organization, or pipeline carrier shall notify the commission within 30 days after the date of the change.

(i) If the commission authorizes, or requires, a utility, electric reliability organization, or pipeline carrier to keep any of its accounts, records, and supporting information outside this state, the utility, electric reliability organization, or pipeline carrier may not deviate from the terms of the commission's order

(1) with respect to the places where its records and accounts are kept without first notifying the commission as to the change; or

(2) with respect to the kinds of accounts and records that are kept at each location without first applying for, and obtaining, authority to do so.

(j) If a utility, electric reliability organization, or pipeline carrier or its affiliated interest elects to pay the expenses of sending commission personnel to any out-of-state place where its records are kept, the utility, electric reliability organization, or pipeline carrier shall provide transportation and, within 30 days after billing, reimburse the commission for the expenses incurred by the commission in sending personnel to examine the utility's, electric reliability organization's, or pipeline carrier's or its affiliated interest's books and records at the place where they are kept. The expenses subject to reimbursement will be documented and will fully comply with applicable state regulations. The chair of the commission will approve the expenses before submitting the bill to the utility, electric reliability organization, or pipeline carrier for payment.

(k) — (n) Repealed 6/29/84.

(o) Repealed 4/20/2006. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; 7/12/92, Register 123; am 3/21/2003, Register 165; am 4/20/2006, Register 178; am 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.491

AS 42.05.501

AS 42.05.770

AS 42.06.140

AS 42.06.430

AS 42.06.440

3 AAC 48.060. Formal and informal procedures and files. (a)

The commission shall maintain separate files for all formal proceedings, assign a docket number and an appropriate caption to each formal proceeding and maintain a docket book. The docket pages for each proceeding shall contain

(1) the assigned docket number and caption of the proceeding;

(2) the date the proceeding was instituted;

(3) the general nature, filing party and date of each order, filing and submittal;

(4) the name of the court, and number assigned by the court to any order that is appealed;

(5) a cross-reference showing the order book and page where the original copy of each order is filed.

(b) A separate series of docket numbers will be used for each calendar year. Each series will begin with a capital letter "U" for utility proceedings, "P" for pipeline proceedings, "R" for rulemaking proceedings, "I" for informational proceedings, or "E" for electric reliability organization proceedings, followed by a dash, the year designated by the last two numbers of the year, another dash, and then a number starting with the number "001" for the first formal proceeding and ending with the sequential number for the last proceeding docketed in a calendar year. For the year 2012, for example, the first proceeding that is docketed will be assigned Docket No. U-12-001 if it is a utility proceeding, or P-12-001 if it is a pipeline proceeding and the last one, if there is a total of 75, would be in Docket No. U-12-075 if it is a utility proceeding or P-12-075 if it is a pipeline proceeding.

(c) The caption originally assigned to a proceeding by the commission shall not be changed in any way except by formal order and shall be used by the commission and all parties to the proceeding unless and until it is revised by order of the commission. All pleadings shall contain the officially assigned caption and the docket number shall be placed to the right of the caption, the same as in commission orders.

(d) The commission shall maintain a separate and complete file for each formal proceeding containing the original copy of each filing together with the hearing transcript, if any, and all other material relating to the proceeding.

(e) Whether issued by the commission or by an administrative law judge, and whether issued electronically or on paper, orders in each proceeding will be designated numerically in the sequence in which they are issued. An errata to an order will be designated by the associated order number and the suffix letter "E."

(f) Informal complaints will be kept in a separate file and will be numbered in the same general manner described in (b) of this section, except that the capital letter "C" will be used for utilities, electric reliability organizations, and pipeline carriers instead of the capital letters "U," "E," and "P."

(g) If an informal complaint is not resolved by informal action, the complainant may request the commission to take formal action. If the commission institutes a formal proceeding, the entire informal file shall be transferred to the file of the formal proceeding and become a part of the correspondence pertaining to the formal proceeding. The informal file shall not become a part of the record of the formal proceeding, however, unless and until the informal file is admitted into evidence in a hearing in the formal proceeding.

(h) The commission will establish and maintain a separate set of files containing a copy of every special contract and the complete

effective tariff of every utility, electric liability organization, and pipeline carrier together with

- (1) every tariff advice letter and tariff letter; and
- (2) all associated correspondence.

(i) If a tariff filing is suspended, in whole or in part, during the statutory period of notice to the commission and the public, one copy of the filing will be transferred to the formal proceeding file in which the commission's suspension order was entered, together with a copy of the advice letter and all unprivileged material relating to the filing. Pending hearing on a suspended filing, the commission may issue an order instituting an investigation, naming parties, or establishing schedules, or may issue other orders it considers appropriate. Each order relating to a suspended tariff filing will be entered in the same proceeding as the one in which the suspension order was entered.

(j) Applications for water and wastewater provisional certifications will be kept in a separate set of files and will be numbered in the same general manner described in (b) of this section, except that the capital letter "W" will be used instead of the capital letter "U," "E," or "P."

(k) Intrastate interexchange registrations will be kept in a separate set of files and will be numbered in the same general manner described in (b) of this section, except that the capital letters "RX" will be used instead of the capital letter "U," "E," or "P."

(l) The commission will maintain a separate and complete file for each water and wastewater provisional certification proceeding and each intrastate interexchange registration proceeding, containing the original copy of each filing and all other material related to the proceeding.

(m) The commission will establish and maintain a separate set of files containing a copy of every rule and petition for a new or revised integrated resource plan of every electric reliability organization, filed under AS 42.05.780, together with all associated correspondence. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 3/21/2003, Register 165; am 2/16/2012, Register 201; am 11/6/2016, Register 220; am 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.201

AS 42.05.361

AS 42.05.770

AS 42.06.140

AS 42.06.400

3 AAC 48.070. Formal proceedings. (a) Except as otherwise provided by 3 AAC 48.030 and 3 AAC 48.650, an application for a certificate of public convenience and necessity or electric reliability organization certificate or for the revision, sale, lease, rental, or inheritance of a certificate; or for the authority to acquire a controlling

interest in a certificated public utility, electric reliability organization, or pipeline carrier; or any other application required by AS 42.05 or AS 42.06, will be docketed and considered in a formal proceeding.

(b) A tariff filing will not be docketed or considered in a formal proceeding unless it is suspended by order of the commission within the statutory notice period, or within the regulatory notice period set under 3 AAC 46.320 for an electric reliability organization.

(c) The commission may institute a formal proceeding in regard to any jurisdictional matter, either on its own motion or on complaint.

(d) An electric reliability organization rule or petition for a new or revised integrated resource plan under AS 42.05.780 will not be docketed or considered in a formal proceeding unless it is suspended by order of the commission within the regulatory notice period set under 3 AAC 46.260 for a new or revised integrated resource plan or 3 AAC 46.470 for an electric reliability organization rule. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.171

AS 42.05.241

AS 42.05.261

AS 42.05.271

AS 42.05.281

AS 42.05.770

AS 42.06.140

AS 42.06.260

AS 42.06.290

AS 42.06.300

AS 42.06.340

AS 42.06.400

3 AAC 48.095. Electronic filing requirements. (a) Unless otherwise specified by order or another applicable provision of this chapter, all filings submitted to the commission, with the exception of regulatory cost charge reports, may be filed electronically or on paper. Reports submitted in accordance with 3 AAC 47.050(b) or 3 AAC 47.060 shall be filed electronically, unless waived in accordance with (l) of this section or otherwise specified by order. Parties and their representatives participating in docket proceedings before the commission shall serve and accept service electronically in accordance with 3 AAC 48.090(b). An electronic filing with the commission must be made through the commission's electronic filing systems using the commission's website. Public comments may be filed either electronically, including by electronic mail, or on paper. Additional copies of an electronic filing, in any form, are not required, and may be deleted or destroyed by the commission. Electronic mail may be submitted to facilitate the commission staff's work, if requested by the staff or the commission.

(b) Upon request, the commission may issue a user name and password to a person that seeks to file and accept service electronically through the commission's electronic filing systems using the commission's website. Use of the commission's electronic filing systems is subject to the following:

(1) the filer's use of a commission-issued user name and password constitutes the filer's verification that the filer has the requisite authority to make the filing on the filer's own behalf or on behalf of the entity that the filer purports to represent;

(2) if a filer believes that the security of an existing user name or password has been compromised, the filer shall notify the commission and, if possible, change the password immediately;

(3) the commission may revoke a filer's participation in electronic filing and cancel the filer's user name and password if the commission determines that the filer or whoever is using the user name and password is abusing electronic filing privileges;

(4) for purposes of (3) of this subsection, abuse of electronic filing privileges includes knowingly permitting unauthorized use of a user name or password or knowingly engaging in actions that interfere, or attempt to interfere, with the security of the commission's electronic filing systems, including the introduction of a virus or destructive programming into the electronic filing systems;

(5) the commission may authorize additional users associated with a utility, electric reliability organization, pipeline carrier, or other entity.

(c) An electronic filing may be rejected if it is not in compliance with this chapter or for other good cause. The commission may combine or separate files within a filing, or documents within a file, if necessary for administrative efficiency or organizational clarity. Multi-topic electronic filings may be rejected. An electronic filing will be rejected by letter or electronically, if the filing

(1) contains an excessive number of files;

(2) is excessively large;

(3) does not have an appropriate extension indicating the file type;

(4) is corrupt or otherwise cannot be successfully read or processed by the commission; or

(5) contains, in violation of 3 AAC 48.045(a), confidential information.

(d) When submitting an electronic filing containing supporting documents, the filer shall make one submission containing an individual file for each document. Each individual file must be named consistent with (g) of this section.

(e) An electronic filing submitted to the commission must be filed in portable document format (pdf), and must be text-searchable. A filer shall provide an electronic filing in its native format, if requested to do so by the commission after filing. If possible, a filer shall convert a

document from its native format into portable document format, rather than scan a paper copy. If a document is scanned into portable document format, the filer shall use the highest quality resolution available, and shall employ an optical character recognition (OCR) program so that copy and paste and keyword search functions may be used. A document may not be scanned in color, unless color is essential to understanding of the information, such as in certain kinds of graphs.

(f) An electronic filing may not be submitted with security settings that prevent printing, copying, and pasting of text from the files. The security settings on an electronic filing must allow the commission to apply its electronic date-received stamp to the files. A filing not meeting the requirements of this subsection will be rejected.

(g) An electronic file description and name must be as descriptive and concise as possible. The commission staff may change a file description or name if the change will assist staff processing of the file. The commission staff shall notify a filing entity, in writing, of any file description or file name changes.

(h) To verify an electronic filing by signature, a filer shall do the following:

(1) an electronic filing must include at least one signature block within the filing; the cover letter, application form, motion, or similar document within a filing must include, in the following format, a signature block or letterhead that includes the typewritten name, mailing address, telephone number, and electronic mail address of the signatory authorized to sign under 3 AAC 48.100(g) and 3 AAC 48.270(a):

Contact Name
 Mailing Address
 City, State, Zip Code
 Phone: (xxx) xxx-xxxx
 Fax: (xxx) xxx-xxxx
 Electronic Mail Address: xxx@xxx.xxx;

(2) if the electronic filing is not based on a signed, scanned paper document, the filer shall apply an electronic signature to the electronic filing; if a filer does not have the requisite software to apply an electronic signature, the filer shall sign the signature line in the following manner: “/s/ (contact name)”; upon filing through the commission’s website in accordance with an approved user identification and password, the electronic or typed signature is presumptively valid;

(3) a scanned filing must contain an original signature in ink, not an electronic signature or “/s/ (contact name).”

(i) A joint filing submitted on behalf of more than one party will be accepted electronically if

(1) the filing clearly indicates the parties on behalf of whom the filing is made; and

(2) each indicated party has applied the party's electronic or original signature, the filing party represents in the filing that the filing party is authorized to sign on behalf of the parties not signing on their own behalf, or any party not signing separately files a certificate of concurrence in accordance with (j) of this section; if a single person is authorized to file on behalf of more than one party, as indicated in a properly filed entry of appearance, a certificate of concurrence is not required from the represented parties.

(j) If a joint filing under (i) of this section is not signed by or on behalf of a party, that party shall file a certificate of concurrence no later than three business days after the commission has assigned a tracking number to the filing. The certificate must be filed in accordance with 3 AAC 48.090(b) and contain the following elements:

[Docket caption and number]

Certificate of Concurrence

[Party name] concurs with the filing [tracking number] made [date received by the commission] entitled [filing title/description].

/s/ [Contact Name]

Mailing Address

City, State, Zip Code

Phone: (xxx) xxx-xxxx

Fax: (xxx) xxx-xxxx

Electronic Mail Address: xxx@xxx.xxx;

(k) Service of filings in formal proceedings, as described in 3 AAC 48.070, must comply with 3 AAC 48.090(b).

(l) The following procedures and requirements apply to a waiver from the electronic filing requirements of this section:

(1) a person requesting a waiver from the requirements of this section must file an original and two copies of a pleading entitled "Request for Waiver of Electronic Filing Requirements"; the provisions of 3 AAC 48.091 do not apply to a request for waiver submitted under this section; the administrative law judge assigned to a docket or commission staff member assigned to review a report filed under 3 AAC 47.050(b) or 3 AAC 47.060 may reject a paper filing made without a pending waiver request, or proof of an existing waiver, if the filing was required to be submitted electronically;

(2) a request for a waiver of the electronic filing requirements for the duration of a docket or for a report filed under 3 AAC 47.050(b) or 3 AAC 47.060 may be granted if the requesting person

(A) does not own or have reasonable access to the electronic equipment and software necessary to make the electronic filing;

(B) does not have a broadband Internet access connection to make the electronic filing;

(C) would incur interexchange per-minute charges to make the electronic filing;

(D) lacks a scanner, and the scanner is necessary for the person to make the electronic filing; or

(E) provides an affidavit setting out the factual basis for why compliance is not reasonably possible or would lead to undue hardship;

(3) the requesting person must file with the commission and serve on all other parties the request for a waiver concurrently with the person's first filing in the docket proceeding; while the request for a waiver is pending, all other parties to the proceeding shall complete service in person upon the requesting person, or by United States mail or a similar delivery service;

(4) a party may not file an opposition to a request for a waiver;

(5) the commission or an administrative law judge may deny a request for a waiver for good cause; if no action is taken on a request for a waiver five business days or earlier after filing, the request for a waiver is granted;

(6) if, after receiving a waiver under this subsection, a person becomes able to send and receive electronic filings, the person shall notify the commission immediately; the waiver of the electronic filing requirements automatically terminates upon receipt by the commission of that notice;

(7) a waiver of electronic filing requirements applies to a party's participation in a specific docket proceeding or a specific report filed under 3 AAC 47.050(b) or 3 AAC 47.060 and continues for the duration of that docket or the specific report unless terminated under (6) of this subsection, or otherwise stated in a commission order.

(m) A certificate of service may not be filed as a separate filing, but may be either a separate file within the filing or contained within and at the end of the primary file. A certificate of service that includes service on a party by electronic means must be worded substantially as follows:

I hereby certify that on [date], a copy of [name of document] was served electronically on [names of parties served electronically, including electronic mail address used] by electronic means authorized by the commission, and on [name(s) and address(es) of parties served a paper version] by [method]. /s/ [person responsible for service].

(n) Material that is not available in electronic format and that cannot be converted to an electronic format acceptable to the commission must be filed on paper under 3 AAC 48.090(b). If material is filed on paper, the filer shall include a placeholder page at the appropriate place sequentially in the electronically filed document to which the material applies, with a conspicuous notation in the middle of the page in at least 14 point font: "(insert brief description) filed on paper only." An electronic filing with a placeholder page is not complete until the paper version of the omitted material is officially received under 3 AAC 48.090(a) by the commission.

(o) If a failure of the commission's electronic filing systems prevents a timely electronic filing, the filing shall be submitted by electronic

mail to the commission's records and filings department, or submitted on paper. If a filer cannot timely file due to a failure of the commission's electronic filing systems, the commission will accept the filing as timely filed, without the need for the filer to submit a motion to accept late filing. If a filer's system failure causes a late electronic filing, the filer shall include with that filing a motion to accept late filing. That motion may not exceed three pages.

(p) If a filer does not receive an electronic mail acknowledgement that the commission has received an electronic filing, the filer shall contact the commission to verify that the electronic filing has been received.

(q) Notwithstanding (c)(1) and (2) of this section, a filing made in compliance with 3 AAC 46.220 and 3 AAC 46.230 that is too large to be filed online through the commission's electronic filing systems portal may be provided on a portable digital storage device with broad operating system compatibility. If the entity making the filing wishes to obtain a date-stamped receipt indicating that the commission has received the filing, the entity must provide a physical cover letter with the portable digital storage device. The commission will treat a filing made under this subsection as if it had been electronically filed under this section. (Eff. 2/16/2012, Register 201; am 11/6/2016, Register 220; am 3/11/2020, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.770

AS 42.06.140

3 AAC 48.130. Formal complaints, protests and investigations. (a) A formal complaint or protest shall be in writing and should

(1) be so drawn as to fully inform the respondent or respondents and the commission as to how applicable provisions of the utility's, electricity reliability organization's, or pipeline carrier's effective tariff or of the governing law, rules, regulations, or order of the commission have been, are being, or will be violated by the acts or omissions in question;

(2) set forth concisely, and in plain language, the facts and circumstances on which the complaint or protest is predicated;

(3) state the relief sought by the complainant;

(4) comply with 3 AAC 48.090 — 3 AAC 48.100.

(b) The commission may allow a formal complaint or protest to be supplemented because of facts arising subsequent to the original filing.

(c) Unless the commission orders otherwise, the answer to a complaint or protest shall be filed 20 days from the filing date of the complaint. Formal complaints or protests will be set for hearing at the earliest convenience of the commission, unless notice of satisfaction of

the complaint, by answer or otherwise, is received by the commission within 20 days after the complaint or protest is filed. If satisfaction of the complaint has been made, the commission will notify the complainant or protestant thereof and take appropriate action thereon.

(d) Two or more grounds of complaint or protest concerning the same subject matter may be included in one pleading, but should be stated and numbered separately. Two or more complainants or protestants may join in one pleading if their respective causes of action are against the same person, and deal with substantially the same alleged tariff infraction or violation of a law, rule, regulation or order of the commission.

(e) If a complaint or protest is made concerning a utility, electric reliability organization, or pipeline carrier operated by a receiver or trustee, both the utility and its receiver or trustee must be named as respondents in cases involving the utility, electric reliability organization, or pipeline carrier.

(f) A formal investigation will not be instituted on complaint, except for good cause shown to the commission's satisfaction by the complainant. The commission will rule on whether good cause exists to institute an investigation within 30 days after an answer to the complaint has been filed with the commission as provided for under (c) of this section. The commission will extend that deadline if amended or supplemental pleadings are filed. In that event, the deadline for commission ruling is 30 days after the final amended or supplemental pleading is filed.

(g) If a formal investigation or "show cause" proceeding is instituted by the commission on its own motion, the order instituting the investigation or proceeding shall clearly state the facts, circumstances, and allegations on which it is predicated.

(h) If a formal investigation is instituted under (f) or (g) of this section, the commission will rule on the matter within 60 days after the hearing is concluded or the evidentiary record is closed, whichever occurs later.

(i) The commission will extend the period for action set out in (h) of this section for good cause. The commission will set out its findings on good cause in an order extending that period. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 5/5/2000, Register 154; am 3/11/2022, Register 241)

Authority: AS 42.04.080

AS 42.05.141

AS 42.05.151

AS 42.05.271

AS 42.05.770

AS 42.06.055

AS 42.06.140

3 AAC 48.154. Evidence and exhibits. (a) All relevant evidence which, in the opinion of the presiding officer, is the best evidence

reasonably obtainable, with due regard to its necessity, availability, and trustworthiness, is admissible. In passing upon the admissibility of evidence, the presiding officer may consider, but is not bound to follow, the rules of evidence governing general civil proceedings, in matters not involving trial by jury, in the courts of the State of Alaska. When objection is made to the admissibility of evidence, the evidence may be received subject to later ruling by the commission. The presiding officer may, either with or without objection, exclude inadmissible evidence or order repetitive evidence discontinued. A party objecting to the introduction of evidence shall state the grounds for the objection at the time the evidence is offered but need not reaffirm the objection repeatedly after that. The presiding officer may, either orally or in writing, issue procedural orders and rulings pertaining to the conduct of a hearing. If in writing, an order or ruling must be in substantially the same format as a regular commission order in the same proceeding in regard to placement of the heading, the correct docket number, caption, etc., except that they shall be designated as "HEARING ORDER NO. 1, 2, 3," etc., in the space to the right of the caption. Every hearing order is a part of the evidentiary record of the proceeding.

(b) In addition to matters of which courts of the State of Alaska take judicial notice, the commission will take official notice of

(1) all rules, regulations, administrative rulings, and orders, exclusive of findings of fact, of the commission or another comparable federal or state regulatory body or agency;

(2) the contents of certificates of public convenience and necessity or electric reliability organization certificates granted by the commission;

(3) the tariffs and special contracts regularly established by or filed with the commission as required or authorized by law;

(4) any annual or other report on file with the commission except those that are privileged; or

(5) the results of its own inspection of the physical conditions involved; however, the commission will state on the record a summary of its observations.

(c) An official rule, report, order, record, resolution, or other document prepared and issued by any governmental authority, when admissible for any purpose, may be evidenced by an official publication of it, by a publication of a nationally recognized reporting service considered by the presiding officer to constitute a sufficient guarantee of its trustworthiness, by a copy attested by the officer having legal custody of it, or by a person who can testify to its authenticity based on his or her firsthand knowledge. When an official record, otherwise admissible, is contained in official publications or publications by nationally recognized reporting services which are in general circulation and readily accessible to all parties, it may be introduced by

specific reference by the party offering it. Papers and documents on file with the commission, if otherwise admissible, may be introduced by any method of identification satisfactory to the presiding officer. If only a portion of a paper or document is offered in evidence, the part offered must be clearly designated. Intra-office commission memoranda and reports, when designated as privileged by the commission, are not public records subject to inspection and will not be introduced in evidence. If a portion of the record in any other proceeding is admissible for any purpose, and if it is offered in evidence, a true copy of the portion must be presented for the record in the form of an exhibit unless

(1) the offering party agrees to supply copies later at the party's own expense, if and when required by the commission;

(2) the portion is specified with sufficient particularity to readily identify it;

(3) the parties represented at the hearing stipulate upon the record that the portion may be incorporated by reference, and that any portion of the same record offered by any other party may be incorporated by like reference; and

(4) the presiding officer directs that the portion be incorporated.

(d) Documentary evidence offered, whether in the form of an exhibit or introduced by reference, is subject to appropriate and timely objection. When specifically prepared exhibits of a documentary nature are offered in evidence, copies must be furnished by the parties, their attorneys, or authorized representatives to

(1) the other parties, their attorneys, or authorized representatives;

(2) the presiding officer;

(3) the reporter;

(4) each commissioner; and

(5) repealed 4/20/2006;

(6) anyone else designated by the presiding officer.

(e) Prefiled testimony will be identified by the letter "T" followed by sequential Arabic numerals in the order in which witnesses appear to testify, e.g., "T-1, T-2," etc. Schedules, appendices, and other documents attached to prefiled testimony will be identified by the witness' initials, followed by sequential Arabic numerals, e.g., "ABC-1." Any other exhibits referred to at a hearing will be marked with sequential Arabic numerals, without regard to the party introducing the exhibit. Unless otherwise prescribed by the commission by order, or by the presiding officer, the same series of testimony and exhibit numbers will continue for an entire proceeding even if a hearing is recessed, continued, or otherwise bifurcated. (Eff. 6/29/84, Register 90; am 3/21/2003, Register 165; am 4/20/2006, Register 178; am 3/11/2022, Register 241)

Authority: AS 42.05.141.

AS 42.05.151

AS 42.05.770

AS 42.06.140

3 AAC 48.170. Ethical standards, violations. (a) Any person transacting business with the commission shall maintain at all times the respect due the commission, its presiding officers, legal counsel and its staff and shall never knowingly, by artifice, misstatement or silence, lead or allow them to believe in a false factual or legal proposition relevant to the discharge of their responsibilities. Members of the legal, accounting, financial and engineering professions shall also comply with the ethical standards of their respective professions.

(b) Depending upon the gravity of the violation and the source of responsibility for it, a violation of ethical standards may result in

(1) preclusion from further participation of the party or the party's authorized representative in the proceeding in which the infraction occurs or in any other proceeding before the commission;

(2) referral of the violation to the appropriate professional body or public authority for disciplinary action;

(3) a finding of unfitness of an applicant or utility, electric reliability organization, or pipeline carrier with consequent revocation, suspension, or denial of operating authority; or

(4) the imposition of any sanction appropriate to the offense and consistent with law. (Eff. 1/13/73, Register 44; am 6/29/84, Register 90; am 3/11/2022, Register 241)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.770

AS 42.06.140

Article 7. Miscellaneous Provisions.

Section

3 AAC 48.820. Definitions.

3 AAC 48.820. Definitions. Unless the context indicates otherwise, in this chapter

(1) "answer" means a document filed by a respondent or other party against whom a petition is directed or who is affected by the filing of a petition or application;

(2) "applicant" means a person requesting authorization the commission has authority to grant;

(3) "application" means a written document, signed by an applicant or the applicant's authorized representative, in which an authorization is requested which the commission has the jurisdictional authority to grant;

(4) "base rate area" or "primary rate area" means a developed area, specifically delineated in a local exchange telephone utility's

certificate of public convenience and necessity and in the maps filed as part of its tariff, within which station service is furnished to subscribers without requiring them to pay mileage charges or to make any contribution in aid of construction;

(5) "central office" means a switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting the lines of subscribers or farmer lines and toll lines or interoffice trunks;

(6) "commission" means the Regulatory Commission of Alaska;

(7) "commissioner" means a member of the commission;

(8) "complainant" means a person who complains to the commission of anything done or not done in contravention or violation of the provisions of any statute or other delegated authority administered by the commission, or of any requirement of the commission or any other alleged wrong;

(9) repealed 6/29/84;

(10) "effective tariff" means a tariff that has been filed, noticed and placed in effect in full compliance with all the procedural requirements established by law and by this chapter;

(11) "exchange" or "local exchange" means an operating unit established by a utility for communication service within a specific geographic area; the unit usually embraces a city, town, village or community and its environs, and usually consists of one or more central offices together with the associated plant used in furnishing telephone communication service to the general public within that area;

(12) "exchange area" means a specific area in which a developed local exchange telephone service is furnished by a utility;

(13) "filing or submittal" means applications, declarations, complaints, petitions, and other papers seeking commission action; financial, statistical, and other reports to the commission; original cost and reclassification studies, proposed accounting entries, tariff filings, and other submittals to the commission in compliance with a statute, regulation, or other commission requirement; answers, replies, responses, objections, protests, motions, stipulations, exceptions, and other pleadings; exhibits, attachments and appendices; amendments to, corrections of, supplements to, or transmittals or withdrawals of, any of these documents, and any other document filed or submitted under AS 42.05 or AS 42.06 or the applicable provisions of 3 AAC 48, 3 AAC 49, 3 AAC 50, or 3 AAC 52;

(14) "hearing examiner" means any of the following individuals, if authorized and designated by the commission to preside at hearings and perform other duties associated with a formal proceeding:

(A) a member of the commission's staff;

(B) an individual whom the commission employs on a contractual basis;

(C) an employee or officer of an agency of this state, other than the commission;

(15) "informal complaint" means a complaint against a utility involving a jurisdictional matter by a person who, at least initially, prefers to invoke the commission's assistance by means other than a formal proceeding;

(16) "intervenor" means a person who is a party to a proceeding other than an applicant, complainant, petitioner, protestant, or respondent, and who is permitted by the commission, or a commissioner, by law or by order to intervene and become a party to a formal proceeding before the commission in accordance with the criteria set out in 3 AAC 48.110;

(17) "jurisdictional" means any matter which falls within the regulatory jurisdiction of the commission by virtue of a statute or any provision of 3 AAC 48, 3 AAC 49, 3 AAC 50, or 3 AAC 52;

(18) "line extension" means an extension of the lines, cables or radio link facilities of a utility's outside plant facilities which must be installed to provide service to customers so located that they cannot be served from plant facilities already installed and in service;

(19) "local exchange telephone utility" means a utility engaged in the business of furnishing communications service to the public for compensation through one or more local telephone exchanges which may be operated separately or in conjunction with one or more other local telephone exchanges through directly interconnected circuitry whereby extended area service is provided without requiring the payment of a toll charge;

(20) "motion" means a document filed, incidental to an action before the commission, for the purpose of obtaining a ruling or order directing that some action designated by the movant be taken;

(21) "movant" means the moving party in any pleading;

(22) "participant" means an interested member of the public who comments or advocates a position, orally or in writing, on an application, tariff filing, complaint, investigation, or other matter or proceeding before the commission;

(23) "party" means a person who is designated as a party by statute or by the commission by order in a proceeding; "party" includes an applicant, a complainant, a petitioner, a respondent, an intervenor, a protestant, and the attorney general;

(24) "person" includes a corporation (whether public, private, cooperative, or otherwise), body politic, political subdivision or governmental instrumentality, proprietorship, company, partnership, firm, incorporated or unincorporated association, group of persons, organization, business trust, society, trustee or receiver appointed by a court, a natural person, and the commission's entire staff or any member of the commission's staff;

(25) "petition" means a document filed to initiate a proceeding involving the jurisdiction of the commission;

(26) "petitioner" means a person who files a petition or an application for an affirmative act by the commission;

(27) "presiding officer" means a member of the commission who presides at a hearing or conference or an individual designated by the commission to preside at a hearing or conference;

(28) "procedural order" means an order fixing the time and place of a hearing, or the date, or dates, when pleadings must be filed, or any matter associated with the conduct of an investigation, prehearing conference, or proceeding prior to a final order of the commission containing its conclusions, findings and final decision in a proceeding;

(29) "proceeding" or "formal proceeding" means a jurisdictional formal action instituted by the commission under an assigned caption and docket number, either on complaint, on the commission's own motion, or pursuant to an application, or pleading which requires one or more orders and, in some cases, a hearing that culminates in a decision of the commission which is subject to appeal to a court having jurisdiction over the subject matter of the action;

(30) "proof of service" means a certificate or affidavit of service signed by a party, the party's attorney, or other authorized representative, specifying the time and manner of service and the parties served;

(31) "protestant" means a person who opposes a tariff filing or the granting of an application or petition involving a jurisdictional matter, and who complies with 3 AAC 48.130;

(32) "formal record" or "the record" means every

(A) application, complaint, petition and other papers seeking commission action;

(B) answer, reply, response, objection, protest, motion, stipulation, exception or other pleading, notice, deposition, certificate, proof of service, transcript or brief in a matter or proceeding;

(C) exhibit, attachment to an exhibit, every appendix to exhibit, amendment to an exhibit, correction to an exhibit, supplement to an exhibit, and every letter of transmittal or withdrawal of any matter;

(D) notice or commission order initiating a proceeding;

(E) commission order designating a presiding commissioner or designating a hearing officer, examiner, attorney or other individual for any purpose;

(F) transcript of a hearing;

(G) exhibit received in evidence;

(H) exhibit offered but not received in evidence;

(I) offer or proof; and

(J) motion, stipulation, subpoena, proof of service, and anything else upon which action of the presiding officer may be based, but not any proposed testimony or proposed exhibit which was not offered or was not received in evidence;

(33) "reply" means a document filed by a petitioner, or others, in response to an answer;

(34) "respondent" means a person against whom a complaint, motion, application for declaratory judgment, or a petition is filed or an investigation is initiated;

(35) "service" or "served," when used in connection with pleadings, notices, decisions, orders, and other papers, means the delivery of one or more copies of a document to the commission, a party, or the party's attorney of record or other authorized representative,

(A) either in person, by hand, by electronic means in accordance with this chapter, by depositing it in the United States mail, first class with postage prepaid, with or without certification, or registration and return receipt required, or by a similar delivery service; and

(B) addressed to the party, the party's attorney, or other authorized representative at the mailing address of record;

(36) "special contract" includes

(A) a written agreement between a utility and a customer which contains rates, tolls, rentals or charges, or terms and conditions that deviate substantially from those contained in the same utility's effective tariff for like service offered to the general public under comparable conditions, but excludes contracts that deviate from the serving utility's effective tariff only in respect to incidental matters such as access to the premises, points of delivery, measuring devices, etc., and do not have the effect of granting the contracting customer an unreasonable preference or advantage or of subjecting the customer to an unreasonable prejudice or disadvantage as to rates, service or facilities; or

(B) a written agreement between a utility and a customer entered into with express commission approval and providing for interim, retroactively reviewable and revisable rates for service or equipment for which the utility has filed a tariff the operation of which has been suspended by the commission;

(37) repealed 3/21/2003;

(38) repealed 7/12/92;

(39) "radio common carrier" means a radio paging, mobile radio-telephone, or improved mobile telephone public utility service;

(40) "cost-of-service study" means a study of the costs incurred by a utility or pipeline carrier in furnishing service to its customers or shippers, by customer or shipper class, in conformance with generally accepted allocation principles;

(41) "test year" means any 12 consecutive months of operating data selected to evaluate revenue requirements or cost of service; the period selected must be at least as recent as the utility's or pipeline carrier's latest calendar or fiscal year;

(42) "normalized test-year" means a historical test-year adjusted to reflect the effect of known and measurable changes and to delete

or average the effect of unusual or nonrecurring events, for the purpose of determining a test year which is representative of normal operations in the immediate future;

(43) “economic regulation” means that the commission’s jurisdiction extends to matters concerning rates and charges for public utility or pipeline carrier services, quality of service provided by the utility or pipeline carrier to its customers or shippers, management practices of the utility or pipeline carrier, and customer or shipper complaints concerning the services furnished by a utility or pipeline carrier;

(44) “shipper” means a person or entity which tenders oil or petroleum products to a pipeline carrier for transportation in intrastate commerce in accordance with the pipeline carrier’s effective tariff;

(45) “adjudicatory matters” include commission proceedings that determine disputes between parties or involve rights, privileges, or duties of a party;

(46) repealed 4/24/2004;

(47) “nonpooling company” means a company that is not a participant in the access charge pool established by the Alaska Intrastate Interexchange Access Charge Manual adopted by reference in 3 AAC 48.440;

(48) “pooling company” means a company that is a participant in the access charge pool established by the Alaska Intrastate Interexchange Access Charge Manual adopted by reference in 3 AAC 48.440;

(49) “complete application” means an application that

(A) contains all the information and supporting documents required

(i) in the forms adopted by the commission under 3 AAC 48.620, 3 AAC 48.630, and 3 AAC 48.640; or

(ii) under AS 42.05.325, 3 AAC 48.625, 3 AAC 52.360, 3 AAC 53.210, or 3 AAC 53.810; and

(B) complies with the filing and general requirements of 3 AAC 48.090 and 3 AAC 48.100;

(50) repealed 4/20/2006;

(51) “bundled service” means an offering combining two or more services, one of which is a local or intrastate interexchange service, for a package price that may include a discount or some other benefit; “bundled service” does not include a combination of local service offerings at a package price, or a combination of intrastate interexchange service offerings at a package price;

(52) “local exchange carrier” means a local exchange telephone utility certificated to provide local exchange telephone service;

(53) “business day” means a day other than Saturday, Sunday, or a state legal holiday;

(54) “written communication,” “writing,” “written,” or submissions by a “writer,” as applied to documents filed with the commis-

sion by persons, includes documents filed on paper and documents filed electronically when electronic filing is authorized by the commission;

(55) "electric reliability organization" has the meaning given in AS 42.05.790. (Eff. 1/13/73, Register 44; am 1/19/80, Register 73; am 6/29/84, Register 90; am 6/27/92, Register 122; am 7/12/92, Register 123; am 1/10/99, Register 149; am 5/5/2000, Register 154; am 3/21/2003, Register 165; am 4/24/2004, Register 170; am 11/24/2004, Register 172; am 9/16/2005, Register 175; am 4/20/2006, Register 178; am 2/16/2012, Register 201; am 3/11/2022, Register 241)

Authority: AS 42.04.070

AS 42.04.080

AS 42.05.141

AS 42.05.151

AS 42.05.361

AS 42.05.391

AS 42.05.411

AS 42.05.431

AS 42.05.441

AS 42.05.770

AS 42.06.055

AS 42.06.140

AS 42.06.350

AS 42.06.370

AS 42.06.390

Chapter 51. Telecommunications Relay Services.

Article

1. Criteria for the Provision of Telecommunications Relay Service for the Deaf, Hard of Hearing, and Speech Impaired. (3 AAC 51.010 — 3 AAC 51.199).

Article 1. Criteria for the Provision of Telecommunications Relay Service for the Deaf, Hard of Hearing, and Speech Impaired.

Section

3 AAC 51.010. Applicability, necessity, purpose, and waiver.

3 AAC 51.020. Selection of telecommunications relay service provider.

3 AAC 51.030. Requirements of telecommunications relay service provider.

Section

3 AAC 51.040. Funding of telecommunications relay service.

3 AAC 51.199. Definitions.

3 AAC 51.010. Applicability, necessity, purpose, and waiver.

(a) The provisions of 3 AAC 51.010 — 3 AAC 51.199 apply to all providers of any local intrastate telecommunication services. The provisions of 3 AAC 51.010 — 3 AAC 51.199 do not apply to intrastate interexchange carriers.

(b) The provision of telecommunications relay service (TRS) in accordance with 3 AAC 51.010 — 3 AAC 51.199 is required by the public convenience and necessity to meet the needs of persons who are deaf, hard-of-hearing, or speech disabled.

(c) The purpose of 3 AAC 51.010 — 3 AAC 51.199 is to implement the directives of AS 42.05.296 and the Americans with Disabilities Act of 1990 (47 U.S.C. 225) requiring the provision of telecommunications service to allow persons who are deaf, hard-of-hearing, or speech disabled to communicate with all other persons and each other.

(d) Except for requirements established under AS 42.05.296 and 47 U.S.C. 225 (1990), the commission will, in its discretion, waive the application of all or any part of 3 AAC 51.010 — 3 AAC 51.199 upon a showing of good cause under procedures set out in 3 AAC 48.805. (Eff. 12/2/92, Register 124; am 2/23/2001, Register 157; am 5/16/2020, Register 234)

Authority: AS 42.05.141

AS 42.05.151

AS 42.05.296

AS 42.05.311

AS 42.05.321

AS 42.05.711

3 AAC 51.020. Selection of telecommunications relay service provider. (a) In accordance with the provisions of this section, the commission will issue an order requesting applications for the provi-

sion of TRS in this state and specifying the general, business, technical, and financial information to be provided by an applicant.

(b) If more than one entity applies to provide TRS in this state, the commission will hold a public hearing to examine the applications on a comparative basis. In accordance with (e) — (g) of this section, the commission will determine whether one or more applicants are qualified and which applicant is most fit, willing, and able to provide TRS in this state and can provide quality service at just and reasonable rates.

(c) If no applications are received, or if the commission determines that none of the applicants are fit, willing, and able to provide TRS, the existing certificated provider shall continue to provide service under the terms and conditions of its effective tariff. If no applications are received, the commission will issue an order requesting applications every 12 months, unless good cause indicates otherwise. A TRS provider required to serve beyond its initial term of service, as provided in this section, is exempt from the requirements of 3 AAC 48.275(a), but shall provide reasonable justification for any proposed change to its monthly revenue requirement.

(d) The commission will issue a certificate of public convenience and necessity to a TRS provider selected under this section for a period of at least five years.

(e) In addition to the application information required under (a) of this section, a TRS applicant shall provide documentation that verifies the applicant has

(1) the ability to meet or exceed federal requirements concerning all operational, technical, and functional minimum standards for TRS specified in 47 C.F.R. 64.604; and

(2) procedures to

(A) solicit input from users of the service and carriers whose customers use TRS;

(B) fairly and expeditiously resolve customer complaints;

(C) develop and implement community outreach and education services and programs; and

(D) provide distribution of one or more devices that permit persons who are deaf, hard-of-hearing, or speech disabled to communicate with each other and with persons of normal hearing.

(f) In reviewing applications, the commission will rank applicants using the following weighting criteria:

(1) price for basic TRS expressed in dollars and cents per billable minute — 40 percent;

(2) quality of service, which includes the requirements set out in (e) of this section — 40 percent;

(3) availability of, and price for, optional services and ability to meet or exceed any other criteria specified in the request for applications — 20 percent.

(g) In its order requesting applications issued under (a) and (c) of this section, the commission will establish the terms and amount of an

escrow or bond that it determines an applicant must provide to demonstrate an ability to ensure the provision of TRS in this state.

(h) The commission will reject all applications and renote the application process if it determines that none of the applicants can provide quality service at just and reasonable rates. (Eff. 12/2/92, Register 124; am 2/23/2001, Register 157; am 5/16/2020, Register 234)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.221
AS 42.05.296

3 AAC 51.030. Requirements of telecommunications relay service provider. (a) Following the issuance of a certificate of public convenience and necessity to provide TRS in this state, the provider shall file a tariff that incorporates the terms and conditions specified in its application. The TRS provider shall serve in conformance with its tariff until service expires under the terms of the certificate or until the commission decides otherwise. The TRS provider shall file with the commission, in accordance with 3 AAC 48.095, a monthly report that includes the following information:

(1) the TRS surcharges assessed and the total amount of TRS revenue collected based on the number of voice lines reported by telecommunications carriers under 3 AAC 51.040(k)(1); the report must specify the surplus revenue account balance;

(2) the number of calls processed; the report must specify TRS traffic by number of calls and minutes of use and each category must be further disaggregated by jurisdiction and type of call; for the purpose of this paragraph, "jurisdiction" includes local, intrastate toll, and interstate toll;

(3) the quality of service offered to customers; the report must show conformance with federal speed-of-answer and call-blocking standards specified in 47 C.F.R. 64.604(b)(2).

(b) On or before March 1 of each year, the TRS provider shall file a new proposed outreach and education program budget for the following fiscal year along with a report of its actual expenses for the preceding fiscal year.

(c) The TRS provider shall enter into an escrow arrangement or post a bond with the commission in accordance with the terms and amount specified by the commission in its order issued under 3 AAC 51.020. (Eff. 12/2/92, Register 124; am 2/23/2001, Register 157; am 11/6/2016, Register 220; am 11/22/2017, Register 224; am 5/16/2020, Register 234)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.296

3 AAC 51.040. Funding of telecommunications relay service.

(a) The commission will establish a TRS surcharge by order and will consider the following criteria:

- (1) the monthly revenue requirement of the TRS provider;
- (2) the estimated number of voice lines of providers of local wireline and wireless telecommunications service;
- (3) any amounts held by the TRS provider in the surplus revenue account.

(b) The commission will modify the surcharge whenever necessary to avoid insufficient or excessive money in the surplus revenue account.

(c) After the commission determines the surcharge, each local exchange carrier shall submit to the commission a compliance tariff filing that includes the surcharge using the procedures set out in 3 AAC 48.220 and 3 AAC 48.270.

(d) repealed 5/16/2020.

(e) Each telecommunications carrier shall list the surcharge as a separate line item on bills for service and entitle it "Universal Access Surcharge."

(f) Each telecommunications carrier shall collect the surcharge for each voice line from subscribers of telecommunications service.

(g) The TRS provider shall retain as compensation for services an amount equal to its authorized monthly revenue requirement.

(h) If the TRS provider collects an amount in excess of its monthly revenue requirement, the TRS provider shall hold that excess amount in a low-risk interest bearing account and entitle it the "surplus revenue account".

(i) The TRS provider may draw from the surplus revenue account in any month in which an underrecovery of surcharge revenue occurs. An underrecovery means that the total surcharge collections from local exchange carriers for a given month is less than the TRS provider's revenue requirement for that month. The amount drawn from the surplus revenue account may not exceed the amount of the underrecovery. The amount of the underrecovery is calculated as follows:

UNDERRECOVERY = MONTHLY REVENUE REQUIREMENT -
MONTHLY SURCHARGE COLLECTION

(j) If sufficient money is not available in the surplus revenue account to cover the underrecovery in a given month, the TRS provider may assess an interest charge on the unrecovered amount. The interest charge is assessable at the rate of 0.0287 percent per day and collectible by the TRS provider in the next month in which sufficient money is available.

(k) Each telecommunications carrier shall disburse surcharge collections on a monthly basis to the TRS provider in the following manner:

- (1) by the 10th calendar day of each month, or the next working day if the 10th falls on a Saturday, Sunday, or bank holiday, each

telecommunications carrier shall pay to the TRS provider surcharge revenues collected from subscribers; each telecommunications carrier shall send a report, with the payment, showing the number of wireless and wireline voice lines to which a surcharge was assessed; the report must also include the number of uncollectible surcharges and the amount collected from previous months' uncollectible surcharges, separated by each month;

(2) payment is delinquent if it is not made by the 10th calendar day of each month or the next working day if the 10th falls on a Saturday, Sunday, or bank holiday; payment must be made by wire transfer or electronic funds transfer directly to the TRS provider's bank account;

(3) if electronic funds transfer is not technically feasible, payment must be made by check with immediately available money and mailed before the due date;

(4) if payment is not received in immediately available money on or before the due date, the TRS provider may assess a finance charge; the tariffed interest rate may not exceed the rate set by AS 45.45.010(a); a single late charge may be imposed when the account first becomes past due; charges for late payment must be deposited directly to the surplus revenue account unless sufficient money to cover the TRS provider's monthly revenue requirement is not available.

(l) An amount remaining in the surplus revenue account at the termination of a TRS provider's contract must be transferred within 30 days to the succeeding TRS provider. (Eff. 12/2/92, Register 124; am 2/23/2001, Register 157; am 11/6/2016, Register 220; am 10/27/2017, Register 224; am 5/16/2020, Register 234)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.296
AS 42.05.311
AS 42.05.321

3 AAC 51.199. Definitions. (a) In this chapter, unless the context requires otherwise,

(1) "basic TRS" means the minimum operational, technical, and functional standards, and the services and programs required by 3 AAC 51.020(e);

(2) "billable minute" or "billable minute of use" means the time period measured in minutes beginning from the point when a communication assistant connects to an incoming relay call until the moment the communication assistant disconnects from the last party to the call; "billable minute"

(A) includes incomplete calls that do not reach the intended party, such as a busy signal, no answer, or wrong number; and

(B) does not include the time in queue, such as the incoming call is ringing or the time waiting for the call to connect to the communication assistant;

(3) “immediately available money” means a corporate or personal check drawn on a bank account for which money is available for use by the receiving party on the same day that the check is received and includes United States Federal Reserve Bank wire transfers, United States currency, and United States Postal Money Orders;

(4) “monthly revenue requirement” means the product of the number of billable minutes of use for a given month times the TRS provider’s billable minute-of-use rate as specified in its application to provide TRS;

(5) “multi-line business subscriber” means a business subscriber that maintains more than one business telephone line from a local exchange carrier within the subscriber’s serving area;

(6) “optional services” means a TRS that is not included in basic TRS;

(7) “single-line business subscriber” means a business subscriber that maintains only one business telephone line from a local exchange carrier within the subscriber’s serving area;

(8) “surcharge” means the rate set by the commission to recover an estimated monthly revenue requirement of the TRS provider;

(9) “telecommunications relay service” or “TRS” means a telephone transmission service that provides the ability for an individual who is deaf, hard-of-hearing, or speech disabled to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who is not deaf, hard-of-hearing, or speech disabled to communicate using voice communication services by wire or radio; “TRS” includes services that enable two-way communication between an individual who uses a relay device and an individual who does not use such a device;

(10) repealed 5/16/2020.

(b) Definitions contained in 3 AAC 48.820, 3 AAC 52.340, and 3 AAC 52.399 also apply to the defined words as they are used in 3 AAC 51.010 — 3 AAC 51.199 (Eff. 12/2/92, Register 124; am 2/23/2001, Register 157; am 5/16/2020, Register 234)

Authority: AS 42.05.141
AS 42.05.151
AS 42.05.296