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By the Regulatory Commission of Alaska on Feb 11, 2016

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**OFFICE OF THE LIEUTENANT GOVERNOR
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MEMORANDUM

TO: JP Wood, AAC Contact
 Regulatory Commission of Alaska

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: February 11, 2016

RE: Filed Permanent Regulations: Regulatory Commission of Alaska

Regulations update re: cogeneration and small power production (3 AAC 50.750(a),(b); 3 AAC 50.760(b)(2),(d)-(f); 3 AAC 50.765; 3 AAC 50.770; 3 AAC 50.790; 3 AAC 50.795; 3 AAC 50.810; 3 AAC 50.820; 3 AAC 50.949(20)))

Attorney General File:	JU2015200190
Regulation Filed:	February 10, 2016
Effective Date:	March 11, 2016
Print:	217, April 2016

cc with enclosures:

Linda Miller, Department of Law
 Micaela Fowler, Department of Commerce, Community & Economic
 Development
 Dianne Blumer, Administrative Regulation Review Committee
 Judy Herndon, LexisNexis

ORDER CERTIFYING THE CHANGES TO
REGULATIONS OF [name of board/commission]

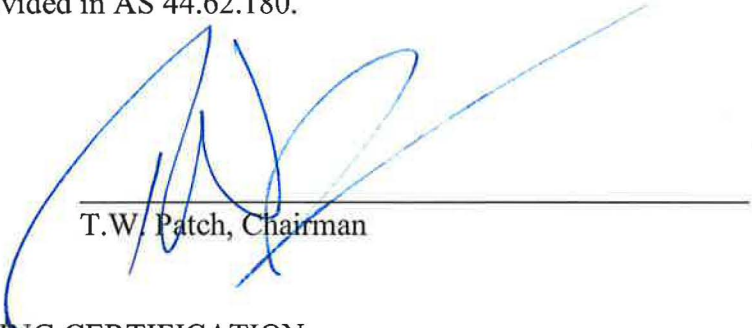
The attached 14 pages of regulations, dealing with Cogeneration and Small Power Production (3 AAC 50), are certified to be a correct copy of the regulation changes that Regulatory Commission of Alaska adopted at its November 18, 2015, meeting, under the authority of AS 42.05.141 and AS 42.05.151 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Regulatory Commission of Alaska paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 21 December 2015
Anchorage, Alaska



T.W. Patch, Chairman

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on 21st December 10, 2015 at 131 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Byron Mallott, Lieutenant Governor

Effective: March 11, 2016

Register: 217, April 2016

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3 AAC 50.750(a) is amended to read:

(a) 3 AAC 50.750 — 3 AAC 50.820 apply to all electric utilities subject to the regulatory jurisdiction of the commission under AS 42.05.361 — 42.05.441. These sections govern interconnection, integration, and purchases and sales of electric power between an electric utility and a qualifying facility.

3 AAC 50.750(b) is amended to read:

(b) The purpose of 3 AAC 50.750 — 3 AAC 50.820 is to encourage cogeneration and small power production by setting out guidelines for the establishment of reasonable, nondiscriminatory charges, rates, terms, and conditions under which interconnection, integration, and purchases and sales of electric power will occur between an electric utility and a qualifying facility.

(Eff. 11/20/82, Register 84; am 4/24/2004, Register 170; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.711

3 AAC 50.760(b)(2) is amended to read:

(2) a qualifying facility does not comply with the safety and reliability standards prescribed for interconnection in 3 AAC 52.485.

3 AAC 50.760(d) is amended to read:

(d) Interconnection charges may include the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions, administration, and other costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent these costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of energy or capacity from other sources. Interconnection charges may not include any costs included in the calculation of avoided cost rates or integration fees or payments.

3 AAC 50.760(e) is amended to read:

(e) An electric utility shall offer a qualifying facility the option of reimbursing the electric utility for interconnection charges over a reasonable period of time. The electric utility may charge reasonable interest, to be prescribed in its tariff or special contract, for the financing of the interconnection charges.

3 AAC 50.760(f) is repealed:

(f) Repealed 3/11/2016.

(Eff. 11/20/82, Register 84; am 3/11/2016, Register 217)

AUTHORITY: AS 42.05.141 AS 42.05.291 AS 42.05.361
AS 42.05.151 AS 42.05.301 AS 42.05.381

3 AAC 50 is amended by adding a new section to read:

3 AAC 50.765. Integration. (a) An electric utility shall identify the costs of integrating the qualifying facility into the electric utility's system and shall quantify the benefits derived from integrating the qualifying facility into the electric utility's system. If the identified costs of integration exceed the quantified benefits of integration, the electric utility may assess integration fees to the qualifying facility. If the quantified benefits exceed the identified costs, the electric utility shall make integration payments to the qualifying facility.

(b) Costs used to calculate integration fees or integration payments include only costs that are reasonably necessary under accepted industry standards for maintaining the safety, integrity, and reliability of the electric utility's system. However, the costs must be

(1) directly related to and necessary for the operation of the qualifying facility within the electric utility's system;

(2) comprised of the net increase or decrease to the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations with a qualifying facility, but

instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources; and

(3) not duplicative of the costs associated with facilities or measures used by the utility for reasons other than the integration of the qualifying facility.

(c) Identified costs and quantified benefits may not include any costs or benefits used to calculate avoided cost rates or interconnection charges.

(d) Integration fees and payments must be just and reasonable and in the public interest and must not discriminate against the qualifying facility.

(e) If an electric utility uses facilities or measures to support the integration of more than one qualifying facility or other generation facility, the electric utility must fairly allocate the costs among the qualifying facilities and generation facilities. (Eff. 3/11/2016, Register 217)

Authority:	AS 42.05.141	AS 42.05.301	AS 42.05.361
	AS 42.05.151	AS 42.05.311	AS 42.05.381
	AS 42.05.241	AS 42.05.321	

3 AAC 50.770(a) is amended to read:

(a) Unless otherwise provided by law, an electric utility shall purchase, in accordance with (c)–(k) of this section, any electric power which is made available from a qualifying facility.

3 AAC 50.770(c) is amended to read:

(c) Rates for purchases of electric power must be just and reasonable and in the public interest and must not discriminate against qualifying facilities or adversely affect the consumers of the electric utility.

3 AAC 50.770(d) is amended to read:

(d) For purchases from a qualifying facility, rates shall be based on the cost of energy and capacity which the electric utility avoids by virtue of its interconnection with the qualifying facility. The following factors must, to the extent practicable, be taken into account:

(1) the data provided under 3 AAC 50.790(e);

(2) the availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including

(A) the ability of the utility to dispatch the qualifying facility;

(B) the expected or demonstrated reliability of the qualifying facility;

(C) the terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination, termination notice requirements, and sanctions for non-compliance;

(D) the extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(E) the usefulness of energy and capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

(F) the individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

(G) the smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities;

(3) the relationship of the availability of energy or capacity from the qualifying facility as derived in (2) of this subsection, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(4) the cost or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent

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amount of energy itself or purchased an equivalent amount of electric energy or capacity.

3 AAC 50.770(e) is repealed:

(e) Repealed 3/11/2016.

3 AAC 50.770(f) is repealed:

(f) Repealed 3/11/2016.

3 AAC 50.770 is amended by adding new subsections to read:

(i) For purchases of energy from a qualifying facility with a design capacity of 100 kilowatts or less, the rates must be calculated, supported, and filed as follows:

(1) unless otherwise ordered by the commission, the avoided energy costs must be expressed in cents-per-kilowatt-hour and determined from the sum of fuel and variable operation and maintenance expenses and the energy portion of purchased-power expense for the same period used by the utility to project costs and sales in its adjustment clause methodology, approved by the commission, updated by subsequent fuel costs, and divided by the number of kilowatt-hours sold for the same time period; expenses and kilowatt-hours sold associated with generation that is not avoided by virtue of purchases from qualifying facilities with a design

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capacity of 100 kilowatts or less must be specifically excluded from the computation of avoided costs;

(2) an electric utility shall submit to the commission the following information for the same period used in support of the utility's adjustment clause filing, to support rates for purchases of energy:

(A) the data and computation of avoided energy costs specified in (1) of this subsection; and

(B) at its option, in addition to the information required in (A) of this paragraph, the data and computation of avoided energy costs based on any other methodology deemed appropriate and justifiable by the electric utility;

(3) the utility's request to use an alternate methodology in (2)(B) of this subsection is subject to review and advance approval of the commission.

(j) An electric utility shall submit to the commission the information necessary to support the methodology and calculations used in developing rates for purchased power based on avoided energy and capacity costs.

(k) Each qualifying facility shall have the option either

(1) to provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such

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purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

(2) to provide energy or capacity under a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for such purchases shall, at the option of the qualifying facility exercised before the beginning of the specified term, be based on either

(A) the avoided costs calculated at the time of delivery; or

(B) the avoided costs calculated at the time the obligation

is incurred. (Eff. 11/20/82, Register 84; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.301 AS 42.05.381
AS 42.05.151 AS 42.05.361 AS 42.05.391
AS 42.05.291

3 AAC 50.790 is repealed and readopted to read:

3 AAC 50.790. Implementation. (a) Not later than 60 days after receipt of a written request for interconnection from a qualifying facility, an electric utility shall file with the commission for its consideration a tariff for interconnection, integration, purchases, and sales with the requesting qualifying facility in accordance with applicable provisions of AS 42.05.361

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- 42.05.441, 3 AAC 48.200 – 3 AAC 48.390, and 3 AAC 50.750 – 3 AAC 50.820.

(b) The proposed tariff filing of an electric utility filed in accordance with (a) of this section must delineate and authorize interconnection, integration, purchases, and sales between an electric utility and a qualifying facility, including provisions for

(1) the charges, terms, and conditions for interconnection to a qualifying facility, including the method and timing of payment of interconnection charges by a qualifying facility;

(2) the fees or payments for integration of the qualifying facility into the electric utility's system;

(3) the rates, terms, and conditions for purchases of energy and capacity from a qualifying facility; and

(4) the rates, terms, and conditions for sales of power to a qualifying facility.

(c) Notwithstanding (a) and (b) of this section, an electric utility may enter into a special contract with a qualifying facility specifying the charges, rates, terms, and conditions of interconnection, integration, purchases, and sales between an electric utility and a qualifying facility, provided use of a

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special contract otherwise conforms to applicable commission regulations, including 3 AAC 50.770(h).

(d) By April 1, 2016, each electric utility shall submit to the commission a proposed tariff filing that includes a standard rate for the purchase of energy from qualifying facilities with a design capacity of 100 kilowatts or less in accordance with 3 AAC 50.770(i).

(e) By April 1, 2016, each electric utility shall compile and maintain for public inspection and file with the commission all current purchase rates with qualifying facilities under 3 AAC 50.770 and the data and information specified in (1) – (3) of this subsection as follows, which must be updated every two years:

(1) the estimated avoided energy costs stated on a cents per kilowatt-hour basis for the current calendar or fiscal year and each of the next five years; for utilities with retail sales in excess of 500 million kilowatt-hours during the previous calendar year, the avoided energy costs shall be stated in blocks of not more than 10 percent of the system peak demand and reflect daily and seasonal peak and off-peak periods by year;

(2) the electric utility's plan for the addition of capacity by amount and type, for purchases of firm energy and capacity, and for capacity retirements for each year during the next 10 years;

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(3) the estimated capacity costs at completion of the planned capacity additions and planned-capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, on the basis of cents per kilowatt-hour; these costs must be expressed in terms of individual generating units and of individual planned firm purchases. (Eff. 11/20/82, Register 84; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.291 AS 42.05.361
AS 42.05.151

[Editor's Note: As of Register 208 (January 2014), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical change to 3 AAC 50.790(d).]

3 AAC 50 is amended by adding a new section to read:

3 AAC 50.795. Reporting. (a) Within seven calendar days, an electric utility shall file with the commission in writing

(1) notification of a period in which purchases of power from a qualifying facility are curtailed under 3 AAC 50.770(b)(1);

(2) notification of a system emergency in which purchases of power from a qualifying facility are curtailed under 3 AAC 50.770(b)(2);

(3) notification of an agreement in which an electric utility transmits power from a qualifying facility under 3 AAC 50.770(b)(3);

(4) notification of a request for interconnection with an entity claiming qualifying facility rights under 3 AAC 50.750 – 3 AAC 50.820;

(5) notification of denial of interconnection with an entity claiming qualifying facility rights under 3 AAC 50.750 – 3 AAC 50.820.

(b) A qualifying facility shall comply with the state commission service requirement of 18 C.F.R. 292.207(c)(1) by concurrently filing with the commission an explanatory cover letter accompanied by a copy of all forms and documents filed with the Federal Energy Regulatory Commission under either 18 C.F.R. 292.207(a) or 18 C.F.R. 292.207(b)(1) and (2). (Eff. 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.151

((Publisher: Existing 3 AAC 50.810 is unchanged, but please insert a subsection “(a)” tag at the beginning to reflect the addition of new 3 AAC 50.810(b) and (c).)))

3 AAC 50.810 is amended by adding new subsections to read:

(b) If a dispute arises under this section, an electric utility shall submit to the commission the cost justification necessary to support the methodology and calculations used in developing interconnection charges under 3 AAC 50.760, integration fees and payments under 3 AAC 50.765, purchase rates under 3 AAC 50.770, and sale rates under 3 AAC 50.780,

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to the extent relevant to resolving the complaint. The commission may review the data submitted by an electric utility under this subsection. The electric utility has the burden of providing justification for its data.

(c) A claim by an electric utility that a period under 3 AAC 50.770(b)(1) has occurred or will occur is subject to verification by the commission either before or after the occurrence, upon the commission's own motion or upon complaint by a qualifying facility. (Eff. 11/20/82, Register 84; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 50.820(1) is amended to read:

(1) "avoided costs" means the incremental costs to an electric utility of electric energy or capacity or both, which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate or purchase from another source;

3 AAC 50.820(6) is amended to read:

(6) "firm power" means electric power supplied to the electric utility in predetermined and reliable quantities at specific times and intervals;

3 AAC 50.820(9) is repealed:

(9) repealed 3/11/2016.

3 AAC 50.820(11) is amended to read:

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(11) “qualifying facility” has the meaning given in 18 C.F.R.

292.101(b)(1), revised as of April 1, 2015, and adopted by reference;

((Publisher: At the end of 3 AAC 50.820(13), change the period to a semicolon, to reflect the addition of new 3 AAC 50.820(14).)))

3 AAC 50.820 is amended by adding a new paragraph to read:

(14) “design capacity” means the generator’s nameplate rating measured in kilowatts. (Eff. 11/20/82, Register 84; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.151

3 AAC 50.949(20) is amended to read:

(20) “non-firm power rate” means the energy rate updated quarterly in an electric utility’s tariff in accordance with 3 AAC 50.770(i), or established in a commission-approved contract as described in 3 AAC 50.930(a)(2); (Eff. 6/16/2010, Register 194; am 10/3/2011, Register 200; am 3/11/2016, Register 217)

Authority: AS 42.05.141 AS 42.05.151