

3 AAC is amended by adding a new chapter to read:

Chapter 46. Electric Reliability Organizations and Integrated Resource Planning

Article 1. Certification and Practice of Electric Reliability Organizations.

3 AAC 46.010. Petitions.

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

(b) Petitions filed under this chapter will be docketed and considered in a formal proceeding in conformance with 3 AAC 48.060(a) – (c), except

(1) petitions filed under 3 AAC 46.220 will be docketed and considered in a formal proceeding in conformance with the process established in AS 42.05.780(b), and

(2) tariff advice letters filed under 3 AAC 46.330 will be docketed and considered in a formal proceeding under the process established in 3 AAC 46.390.

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

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

(e) A petition filed under this chapter will be noticed to the public by the commission in substantially the same manner and format as a tariff filing under 3 AAC 46.370, and responses to such notice must be filed in compliance with 3 AAC 46.380.

(f) A person may petition to intervene in a docket opened under this section.

(1) Petitions to intervene shall be filed in compliance with 3 AAC 48.110(c) and (d).

(2) Answers to petitions to intervene must be filed in compliance with 3 AAC 48.110(e).

(3) The commission will consider petitions to intervene filed under this section in conformance with 3 AAC 48.110(a), (b), and (f).

(4) Intervention granted under this section is subject to the limitation stated in 3 AAC 48.110(g).

(g) The commission will schedule a prehearing conference on petitions filed under this chapter not later than 45-days after the date the petition is filed, to determine if an evidentiary hearing is required and otherwise address a procedural schedule for resolution of the docket, except

(1) the commission will determine if an evidentiary hearing is required for a petition filed under 3 AAC 46.270 through the process established in AS 42.05.780(b).

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

(3) that the procedural schedule set out in 3 AAC 46.030(d) shall apply to a petition filed under AS 42.05.760(d).

(h) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion.

Authority: AS 42.05.141 AS 42.05.271 AS 42.05.770

R-20-001(3)/R-20-002(2)/R-20-003(2)

APPENDIX

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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) Motions filed under this chapter shall be filed in compliance with the requirements of 3 AAC 48.090 - 3 AAC 48.095.

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 from the requirement to establish an electric reliability organization does not stay

(1) consideration of a pending application for an electric reliability organization certificate,

(2) formation of an electric reliability organization if either no application has been submitted, or the commission received an application but did not certificate an electric reliability organization.

(b) A petition for exemption from the requirement to establish an electric reliability organization must be filed not later 10 days after the date that the commission notifies the interconnected load-serving entities within a new or existing interconnected bulk-electric system of the requirements of AS 42.05.760.

(c) Not later than five business days after the date that the petition is filed, a person

- (1) may file comments in support of, or opposition to, the petition for exemption;
- (2) may file a protest setting out the legal and policy reasons why the petition for exemption must be denied, which must be accompanied by a petition for intervention;
- (3) who intends to file an application for a certificate as an electric reliability organization for the interconnected bulk-electric system for which notice has been issued shall file a notice of intent to file an application that
 - (A) summarizes the contents of the intended application;
 - (B) proposes a date, not later than 45 days after the date of the notice of intent, when the person commits to file a complete application; and
 - (C) explains why an application for an electric reliability organization certificate should be considered notwithstanding that all interconnected load-serving entities within the interconnected bulk-electric system have petitioned for exemption from the requirement to form an electric reliability organization.
- (d) Notwithstanding 3 AAC 48.110(e) and 3 AAC 48.130(c), petitioners for exemption may not respond to a comment, protest, or petition to intervene except on order of the commission. If the commission finds good cause to investigate a protest, or a notice of intent to file an application is received, the commission will rule on petitions for intervention, establish a procedural schedule and set a hearing date by order. A person who has filed a credible notice of intent to file an application and otherwise complied with (c)(3) will be granted intervention. The commission will issue a final order on the petition for exemption not later than:

(1) 90 days after notifying the interconnected load-serving entities within a new or existing interconnected bulk-electric system of the requirements of AS 42.05.760, unless a complete application for an electric reliability organization certificate is filed before hearing;

(2) 180 days after the filing of the petition for exemption, or 270 days after notifying the interconnected load-serving entities within a new or existing interconnected bulk-electric system of the requirements of AS 42.05.760, whichever is earlier, if a complete application is filed before hearing.

(e) Issues for hearing include:

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

(2) whether a protestant has demonstrated legal or policy reasons why a petition for exemption must be denied; and

(3) whether an applicant has demonstrated that the intended application should be considered notwithstanding that all load-serving entities within the interconnected bulk-electric system have petitioned for exemption from the requirement to form an electric reliability organization.

Authority: AS 42.05.141 AS 42.05.271 AS 42.05.770
AS 42.05.151 AS 42.05.760

3 AAC 46.040. Petition to find an electric reliability organization should be established.

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

(1) include verification that the load-serving entity filing the petition is interconnected with the interconnected electric energy transmission network and that the petition has been approved by the governing body of the load-serving entity, and

(A) include a statement of the notice and opportunity for members of the public to be heard provided by the governing body of each load-serving entity prior to making its decision to approve filing the petition.

(B) include a copy of all public comments received.

(2) include an application conforming with the requirements of 3 AAC 46.080 as an informational filing.

(b) A petition filed under this section may, in the commission's discretion, be rejected if the petition does not comply with the requirements of this chapter and 3 AAC 48.020 - 3 AAC 48.100.

(c) Unless rejected, the commission will arrange for publication of a public notice not later than five business days after the petition has been filed,

(d) A petition filed under this section will be granted or denied based upon the public interest. In determining if the public interest is better served by granting the petition for establishment of an electric reliability organization, the commission shall consider

(1) the costs that would be incurred and the benefits achieved to the public and ratepayers by granting the petition; and

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

(e) If a petition filed under AS 42.05.760(f) is granted, the commission shall simultaneously accept the informational application attached to the petition for consideration under 3 AAC 46.060 or 3 AAC 46.070. The application will be separately docketed and considered by commission.

(f) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.760(f).

Authority: AS 42.05.141 AS 42.05.271 AS 42.05.770
AS 42.05.151 AS 42.05.760

3 AAC 46.050. Electric reliability organization certificates.

(a) The certificate issued to an electric reliability organization will describe the nature and extent of the authority granted in it under AS 42.05.760 – 42.05.790 for an interconnected electric energy transmission network.

(b) The certificate of an electric reliability organization shall expire after six years. Not less than two years prior to the date of expiration, the electric reliability organization shall notify the commission if it declines to seek certificate renewal. In the absence of such notice the certificate shall be automatically renewed 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 shall issue the certificate to the entity that is able to both best fulfil 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 most recently approved tariffed reliability standards shall continue to satisfy the requirements of AS 42.05.291(c).

(e) A certificate issued to an electric reliability organization may be modified, suspended, or revoked for good cause under the procedures established in AS 42.05.271.

(f) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790.

Authority: AS 42.05.141 AS 42.05.271 AS 42.05.762

AS 42.05.151 AS 42.05.760 AS 42.05.770

3 AAC 46.060. Certification of an electric reliability organization with a balanced stakeholder board.

(a) A certificate may be issued to an applicant formed with a balanced stakeholder board consistent with 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 is ensured through:

(A) membership in and composition of its board, in conjunction with board and subcommittee voting procedures and requirements; and

(B) the sufficiency of resources available to board members to effectively participate in the electric reliability organization;

(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 subcommittee voting procedures, 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, consumer, or hybrid. Stakeholders must be further classified according to relevant factors in (d)(1) of this section such 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 reliability standards, standards set out in AS 42.05.770(1), or integrated resource plans may differentially affect stakeholder interests, including:

(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 are primarily or entirely owned by the state;

(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 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 or how they consume electricity; and

(vi) preferences regarding non-price aspects of how electricity service is provided.

(C) for either provider 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 surety with which provider resources may be dispatched to serve consumer needs;

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

(iv) other factors brought forth by the applicant;

(D) (A), (B), and (C) of this paragraph apply for hybrid stakeholders.

(2) for the factors listed (1) of this subsection, how stakeholders of the interconnected bulk-electric system should be classified as being 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;

(3) whether stakeholders, classified as required by (c) of this section, have designated directors that enable the board to satisfy the criteria in (b)(4)(A) of this section;

(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. 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 whether consideration of that stakeholder class' relevant interests is likely to be attenuated;

(5) if a stakeholder class does not have a designated director that adequately satisfies the criteria in (b)(3) of this section, 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 its subcommittees 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 attenuation or amplification, of relevant stakeholder class interests;

(8) 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 class interests change; and

(9) other factors as determined by the commission.

(e) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790.

Authority:	AS 42.05.141	AS 42.05.271	AS 42.05.762
	AS 42.05.151	AS 42.05.760	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) A certificate may be issued 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 officer or employee of the electric reliability organization;
- (2) is employed or contracted by a registered entity that generates, transmits, distributes or stores electricity for 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 that generates, transmits, distributes or stores electricity for compensation, or by a person who is expected to become such a registered entity within the reasonably foreseeable future; and

(4) is reasonably perceived as likely to have, or has an immediate family member that is likely to have, a direct and material financial interest in the board’s decisions.

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

(c) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.760 - 42.05.790.

Authority:	AS 42.05.141	AS 42.05.271	AS 42.05.762
	AS 42.05.151	AS 42.05.760	AS 42.05.770

3 AAC 46.075. Balanced board safe harbor. (was 3 AAC 46.070 (a) and (b))

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

- (1) stakeholders that have designated directors are classified so that:
 - (A) provider stakeholder classes are distinguished by:

(i) whether or not its stakeholders stand to profit from construction of new facilities used to provide electrical service for compensation;

(ii) whether or not its stakeholder's assets are primarily or entirely owned by the state;

(iii) whether or not its stakeholders own or operate assets involved in two or more functions of electricity distribution, transmission, generation, and storage, whether or not the assets are part of an interconnected electric energy transmission system; and

(iv) Whether or not its stakeholders own or operate assets involved in only one function of electricity distribution, transmission, generation, and storage and, if so, the particular function.

(B) consumer stakeholder classes are distinguished according to whether they are primarily:

(i) residential;

(ii) commercial;

(iii) industrial; or

(iv) its stakeholder have a primary interest in attributes, other than price or reliability, in how electricity service is provided.

(2) Voting directors on the board shall each have one vote on matters before the board, and shall:

(A) be 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) be constituted so that the number of directors representing a single stakeholder class is less than 50 percent of all voting directors; and

(D) be 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 is determined as follows:

(i) if the director's designated provider stakeholder class either does not profit from construction of new facilities or has assets primarily or entirely owned by the state, then 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 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, then 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 then the director's provider interest will be zero and its consumer interest will be one.

(iv) if the director is independent then both its provider interest and consumer interest will be zero.

(3) has rules to ensure that each member of the board of directors is entitled to designate a qualified representative to serve on a subcommittee or technical advisory committee;

(b) If the application for an electric reliability organization certificate is filed under this section, a protest or complaint of the application must overcome a rebuttable presumption that the board's composition and voting rules, if conforming to this section, meet the requirements of 3 AAC 46.060(b)(1) and 3 AAC 46.060(b)(4)(A). The commission may find that good cause exists to investigate whether the presumed satisfaction of the requirements of 3 AAC 46.060(b)(1) and 3 AAC 46.060(b)(4)(A) has been overcome. After a hearing, and upon a finding by the commission that the presumption of satisfaction of the requirements has been overcome, the commission will determine whether the applicant's board satisfies the requirements of 3 AAC 46.060(b)(1) and 3 AAC 46.060(b)(4)(A).

Authority: AS 42.05.141 AS 42.05.271 AS 42.05.762
 AS 42.05.151 AS 42.05.760 AS 42.05.770

3 AAC 46.080. Application requirements.

(a) An entity interested in serving as the electric reliability organization for an interconnected electric energy transmission network must file an application for certification as the regional electric reliability organization.

(b) An application for certification as an electric reliability organization must demonstrate that the applicant has

(1) the ability to perform the duties of an electric reliability organization stated at AS 42.05.762. The applicant shall provide a list and qualifications of directors, employees, or subcommittee members who satisfy the requirements of 3 AAC 46.460(a)(2);

(2) established rules to ensure the board of directors for the electric reliability organization meets the requirements of 3 AAC 46.050 – 3 AAC 46.080, 3 AAC 46.100, and 3 AAC 46.460(a)(1) and (2);

(3) established voting rules that meet the requirements of 3 AAC 46.100(b);
and

(4) established rules that comply with 3 AAC 46.460(a).

(c) An application for certification as an electric reliability organization must include:

(1) the mailing address, business telephone number, email address, applicant's legal name and the name under which it proposes to do business, and if applicable its 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, address, telephone number, and email address of the applicant's registered agent, if applicable;

(C) an organization chart detailing the applicant's organizational structure; and

(D) the names, titles, responsibilities, qualifications, and relevant work histories of key management the applicant employs or will employ, including the individuals responsible for the oversight of financial and technical staff;

(3) the name, title, telephone number, mailing address, and email 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 proposed tariff that includes at a minimum the provisions of 3 AAC 46.360(a)(1) through (3), (5) and (6) and a plan for completing a proposed tariff. A plan filed instead of 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;

(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;

(6) the location in this state where the applicants' books, accounts, papers, and records will be held;

(7) a code of conduct or other document establishing expectations for ethical conduct that satisfies the requirements of 3 AAC 46.100;

(8) a reliability standards compliance monitoring and enforcement program or, in the alternative:

(A) the applicant's rules ensuring that the compliance monitoring and enforcement program complies with the requirements of AS 42.05.762(3)(C) and avoids conflict or the appearance of conflict in the detection and enforcement of standards;

- (B) a plan for filing the remaining elements of a compliance monitoring and enforcement program. The plan must include:
 - (i) a description of the elements of the future compliance, monitoring and enforcement program;
 - (ii) a work plan and budget that includes a proposed date of filing;
 - (iii) the applicant's process, consistent with AS 42.05.762(3)(D), for developing its compliance monitoring and enforcement program.
- (9) if different from the requirements of 3 AAC 46.170(d), a proposed method of allocating administrative costs to load-serving entities served by the electric reliability organization;
- (10) proposed rules that ensure that the electric reliability organization is able to comply with commission orders under AS 42.05.767 and the requirements of AS 42.05.762, which must include:
 - (A) processes for amending the rules that implement AS 42.05.762(3);
 - (B) processes for adding and removing board members;
 - (C) board, committee, and sub-committee voting procedures;
 - (D) a clearly defined budget development process;
 - (E) rules governing the scheduling, noticing and conduct of public meetings and executive sessions, and that satisfy the requirements of 3 AAC 46.110;
 - (F) a description of subcommittees and advisory committees and their responsibilities;

- (G) board and executive compensation plan; and
- (H) the rules required by 3 AAC 46.460(a).

(11) the applicant's proposed:

- (A) board member required qualifications;
- (B) criteria for determining a board or subcommittee member's ability

to contribute to the technical support required under 3 AAC 46.460(a) (2).

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

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

(14) a proposed plan for developing and filing its initial integrated resource plan. The plan must contain:

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

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

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

(e) In its order approving the application, the commission will require an electric reliability organization to file an initial tariff, as a new tariff advice filing. Not later than 14

calendar days before filing an initial tariff, an electric reliability organization must publish a notice of its intent to file an initial tariff on its website.

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

(g) A person that seeks certification with a balanced stakeholder board or a combination independent and balanced stakeholder board under AS 42.05.762(4)(B)(ii) or (iii), respectively, 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 its stakeholders are classified;
- (5) a description of additional factors, per 3 AAC 46.060(d)(1)(C)(iv), that the applicant believes importantly 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) a description of the stakeholder interest or interests that are being balanced, and an explanation why such interest or interests should be balanced;

(8) an explanation of which stakeholder classes were determined to require designated board members which considers the distinguishing consequences described by the applicant in (6) of this paragraph;

(9) an explanation of stakeholder classes without designated directors that satisfy the criteria in 3 AAC 46.060(b)(3), if applicable;

(10) 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 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;

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

(12) an explanation of how advisory committee composition and procedures, levels of director compensation, organization staffing, or other electric reliability organization structures and mechanisms ensure that all board members have resources sufficient to ensure adequate consideration, and avoid undue attenuation or amplification, of relevant stakeholder class interests;

(13) a description of the electric reliability organization's procedures to meet the requirements of 3 AAC 46.060(b)(5), and an explanation of the ease with which the requirements of 3 AAC 46.060(b)(5)(C) may be implemented;

(14) 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

(15) if the applicant files its application under 3 AAC 46.075(a):

(A) the filing requirements of (4) through (11) of this subsection are waived;

(B) the applicant must submit:

(i) an explanation of how it has classified its stakeholders is consistent with 3 AAC 46.075(a)(1); and

(ii) A declaration of the numerical value of each director’s provider interest and consumer interest.

(16) the applicant may provide additional information that makes specific reference to the factors set out in 3 AAC 46.060(d)

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

Authority:	AS 42.05.141	AS 42.05.175	AS 42.05.762
	AS 42.05.151	AS 42.05.760	AS 42.05.770

3 AAC 46.090. Commission formation of an electric reliability organization.

(a) The commission will open a docket of investigation 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 pursuant to 3 AAC 46.050(b); or

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

(b) If the commission is required to open a docket of investigation under (a) of this section, it will:

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

(2) permit all interested owners, operators, and users of the interconnected bulk-electric system to become parties 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) To initiate formation of an electric reliability organization for an interconnected bulk-electric system, the commission will issue a public notice soliciting applications for the position of incorporator of the electric reliability organization. Incorporators will serve as initial voting directors of the electric reliability organization, although not necessarily the only voting directors under the bylaws adopted by the electric reliability organization. This public notice will require each applicant to state:

(1) how they are qualified to serve as an electric reliability organization director under the criteria established in 3 AAC 46.070 and 3 AAC 46.460(a)(1) and (2),

(2) how they are qualified to serve as an independent director under 3 AAC 46.100, and

(3) how they will finance formation of the electric reliability organization under AS 10.20 as a nonprofit corporation exempt from federal taxation under the United States Internal Revenue Code, as that Code exists at the time the electric reliability organization is being formed.

(4) the commission may request an applicant to supplement their application with additional material.

(d) After providing opportunity for public comment on the applications received, the commission will select incorporators for the electric reliability organization based on applicant qualifications and the requirements of AS 42.05.762(4) and 3 AAC 46.070 and 3 AAC 46.460(a)(1) and (2). The number of incorporators selected shall be:

(1) three if the interconnected bulk-electric system serves 30,000 retail meters or fewer; or

(2) five if the interconnected bulk-electric system serves more than 30,000 retail meters.

(e) The incorporators shall receive \$400 compensation for each day spent on official business of the electric reliability organization. Incorporators will be reimbursed for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180. Load-serving entities in the bulk-electric system will reimburse incorporators for the cost of organizing the electric reliability organization, including incorporator compensation and expenses, proportionally based upon the retail load served by each load-serving entity. Load-serving entities will be authorized to recover the cost of such reimbursements through rates.

(f) Not later than 21 days after the date of the order announcing the commission's selection, the incorporators shall meet to develop a proposed budget for organizing the electric reliability organization.

(1) The proposed budget shall include estimated costs required to incorporate the electric reliability organization under the laws of the state as an entity exempt from taxation under the Internal Revenue Code of the United States, and the costs to develop the bylaws and rules required for an electric reliability organization under 3 AAC 46.080(c).

(2) The proposed budget shall be filed in the electric reliability organization docket established under (a) of this section.

(3) The commission may, after providing parties an opportunity to be heard on the proposed budget, approve or modify the proposed budget and direct the incorporators to proceed with organization of the electric reliability organization in accordance with the budget approved by the commission.

(4) Not later than 90 days after the date they are directed to proceed with organization of the electric reliability organization:

(A) the incorporators of the initial electric reliability organization for an interconnected bulk-electric system shall file proposed initial articles of incorporation, bylaws, and the rules of the electric reliability organization with the commission consistent with the requirements of AS 42.05.767.

(B) the incorporators of a subsequently organized electric reliability organization for an interconnected bulk-electric system shall file proposed initial articles of incorporation or organization, bylaws, and revisions to the previously approved rules

of the electric reliability organization for that interconnected bulk-electric system with the commission consistent with the requirements of AS 42.05.767.

(C) the commission may open a new docket of investigation to consider a filing made under this paragraph.

(5) Upon the approval of the articles of incorporation, bylaws, and rules consistent with AS 42.05.767 of an electric reliability organization formed under this section, the commission will issue a certificate to the electric reliability organization under AS 42.05.760(e).

(6) Not later than 30 days after the date the commission issues a certificate under AS 42.05.760(e) the incorporators shall conclude organization of the electric reliability organization and begin fulfilling the obligations set out in AS 42.05.762 as initial directors of the ERO.

(g) Requirements in this section may be modified or waived, in whole or in part, by order of the commission 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 applicants to prove their ability to comply with the requirements of AS 42.05.762.

Authority:	AS 42.05.141	AS 42.05.760	AS 42.05.767
	AS 42.05.151	AS 42.05.762	AS 42.05.770
	AS 42.05.271		

3 AAC 46.100. 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 network,

directors, employees and members of committees and subcommittees shall abide by rules that must, at minimum, include

(1) explicit prohibitions of the following activities:

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

(B) payment or acceptance of bribes, kickbacks or other improper 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 inappropriately influence for personal gain or benefit, or the gain or benefit of one's employers;

(2) explicit requirements to:

(A) faithfully pursue the interests of the electric reliability organization, which includes duties to:

(i) balance the interests of stakeholder classes, whether or not 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 his or her 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) recuse themselves from voting on their own alleged violation of a reliability standard, or on an associated penalty; and

- (C) provide a public, written explanation addressing how interests articulated in the development of a rule, reliability standard or integrated resources 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), which shall include:
- (A) a process by which an interested person may initiate a complaint alleging a potential violation thereof; and
- (B) processes by which violations of rules may be sanctioned.
- (4) a requirement that an employee of the electric reliability organization not be a voting member of an organization certificated under 3 AAC 46.070(a) or (b).
- (b) The electric reliability organization 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.
- (c) An electric reliability organization's rules may not preclude an interested member of the public from serving in a non-voting capacity on a technical or other advisory committee of the electric reliability organization, subject to reasonable qualification and confidentiality requirements.
- (d) To be considered for an affirmative vote of the board of directors, a reliability standard or integrated resource plan must first be approved by the voting members of a subcommittee or technical committee whose members satisfy the technical qualification requirements of 3 AAC 46.460(a)(2). The voting threshold must ensure that the reliability standard or integrated resource plan is technically sound.

Authority: AS 42.05.141 AS 42.05.175 AS 42.05.762
AS 42.05.151 AS 42.05.760 AS 42.05.770

3 AAC 46.110. Meetings and record retention requirements.

(a) Meetings of the board of directors of the electric reliability organization shall be open to the public, and may be held in person, telephonically, or by utilizing a web-based virtual meeting platform. The board of directors may only use non-public 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.

(b) Except for emergency board of directors meeting, before convening a meeting of the board of directors, the electric reliability organization shall issue a public notice at least 14 calendar days in advance of the meeting that states the time and place for the meeting, includes an agenda listing items up for discussion, and provides instructions for filing public comments with the electric reliability organization. A copy of an agenda of an emergency meeting shall be issued as soon as the agenda is available, and not later than one week after the scheduled date of the emergency meeting.

(c) The electric reliability organization shall make publicly available all documentation regarding the organization's governance and budget, market operations, network reliability statistics, registered entity registration, and requirements for access to the transmission system.

(d) The electric reliability organization shall maintain

(1) hard copies of all current governing documentation; and

(2) for at least 25 years, electronic records of meetings and agency documents other than governing documentation.

(e) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.762(3)(D).

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

3 AAC 46.120. Procedures for enforcement of reliability standards.

(a) The compliance monitoring and enforcement program may include rules that address

(1) a process that provides for monitoring or audits or another method of monitoring of compliance of registered entities with commission-approved reliability standards;

(2) the minimum qualification requirements for the person selected to audit the compliance of interconnected entity's compliance with reliability standards approved for the interconnected bulk- electric system;

(3) a procedure for a registered entity to appeal auditor selection to the electric reliability organization;

(4) data submittal by registered entities, as required to verify compliance with approved reliability standards;

(5) scheduled audits, unscheduled audits, and spot checks;

- (6) mitigation plans by which registered entities may come into compliance with reliability standards, as needed;
- (7) self-reporting and complaints of a possible reliability standard violation;
- (8) a program under which a registered entity may self-certify compliance with a reliability standard;
- (9) procedures for investigating a possible reliability standard violation;
- (10) failure of a registered entity to submit information requested by the electric reliability organization regarding possible violation of a reliability standard;
- (11) remedial action directives when such action is immediately necessary to protect the reliability of the interconnected bulk-electric system from an imminent or actual threat;
- (12) procedures for determining appropriate penalties and sanctions that comply with AS 42.05.775;
- (13) compliance exception if the noncompliance does not pose a serious or substantial risk to the reliability of the interconnected bulk-electric system and may be resolved through streamlined processes, when appropriate;
- (14) protecting confidential information obtained through the compliance monitoring and enforcement program;
- (15) rules and procedures for updating the electric reliability organization's compliance monitoring and enforcement program;
- (16) an explanation of the measures that will be taken to ensure that compliance monitoring and enforcement activities will be conducted in a fair, equitable, consistent and transparent manner;

(17) an explanation of how the compliance monitoring and enforcement activities satisfy the public notice and comment requirements of 3 AAC 46.460(a)(5)(H); and

(18) procedures for protections for whistleblowers.

(b) An electric reliability organization shall regularly review its compliance monitoring and enforcement program and update the program if appropriate.

(c) During the interval between the expiration or termination of an electric reliability organization certificate and certification of a subsequent electric reliability organization, the commission may appoint a qualified person or entity as the interim enforcement agent to enforce the provisions of the electric reliability organization tariff then in effect for that interconnected bulk-electric system.

(1) To ensure that electric reliability standards are enforced at all times, the chair of the commission may employ the interim enforcement agent under the authority of AS 42.04.070(a)(1) without providing advance notice or an opportunity to be heard.

(2) All costs incurred by the commission directly related to employment of the interim enforcement agent shall be allocated to the load-serving entities in the interconnected bulk-electric system currently without a certificated electric reliability organization in accordance with the electric reliability organization tariff then in effect for that interconnected bulk-electric system;

(3) Notwithstanding the terms of the electric reliability organization tariff in effect for an interconnected bulk-electric system, an enforcement action, or inaction, by the interim enforcement agent may be appealed to the commission under the procedures established in 3 AAC 48.130. The interim enforcement agent shall answer the appeal as required by 3 AAC 48.130(c).

Authority: AS 42.05.141 AS 42.05.760 AS 42.05.770
AS 42.05.151 AS 42.05.762 AS 42.05.775

3 AAC 46.130. Penalties imposed by the electric reliability organization.

(a) The 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 on 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 forth 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 non-monetary 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 transcript of the hearing 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, record of proceeding, or documentation supporting an appeal of a penalty may petition the commission for confidential status of the information contained within according to the requirements of 3 AAC 48.045.

(d) A penalty imposed by the electric reliability organization must take into consideration all mitigating factors. A penalty imposed by the electric reliability organization may be a monetary or a nonmonetary penalty and may include, but is not limited to, a limitation on an activity, function, operation, or other appropriate sanction. Provisions for the imposition of non-monetary penalties must be described in the tariff.

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

3 AAC 46.140. Penalties imposed by the commission.

(a) Upon notification of a potential violation of a reliability standard or on upon its own motion, the commission may direct the electric reliability organization to investigate the potential violation in accordance with the electric reliability organization’s compliance monitoring and enforcement program.

(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 amount or nonmonetary penalty may be based on the electric reliability organization's compliance monitoring and enforcement program guidelines pursuant to 3 AAC 46.360(a)(7)(A) and (B).

Authority: AS 42.05.141 AS 42.05.770 AS 42.05.775
AS 42.05.151

3 AAC 46.150. 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 proposed penalty.

(b) 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 the 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 standard violation occurred and, if so, whether the penalty imposed is appropriate; and

(d) The commission may affirm, modify, reinstate, or revoke the penalty, or remand the penalty to the electric reliability organization for further consideration.

(e) A remand of the penalty must be 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.

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

3 AAC 46.160. 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.

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

3 AAC 46.170. 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 or sub-committee descriptions and biographies for members of the board of directors;

- (2) an overview of the finances of the electric reliability organization;
- (3) a discussion of major electric reliability organization activities, accomplishments, penalties and significant events;
- (4) a self-assessment describing how the electric reliability organization continues to comply with the requirements of AS 42.05.762;
- (5) a report on the annual implementation of its procedures in 3 AAC 46.060(b)(5)(B), compliance with the requirements of 3 AAC 46.070(a), or both, as applicable;
- (6) information on staffing and organization charts; and
- (7) a description of the board members or electric reliability organization personnel that establish the technical competency required under AS 42.05.762.

(b) The commission will accept the self-assessment as confirming the electric reliability organization's compliance with AS 42.05.762 or open a docket of investigation to review the organization's compliance with AS 42.05.762.

(c) Not later than 45 days prior to 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 identified in the commission's records with the prefix "EB".

(1) The budget filing must be transmitted 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.

(2) The electric reliability organization's annual budget shall include:

- (A) a description and explanation of the electric reliability organization's proposed program activities for the year;
- (B) justification for each budget component, along with a citation to the statutory or other authority authorizing the expenditure and an explanation of how each budgeted activity serves or is required by statutory or other authorities;
- (C) a detailed explanation of how the additional resources provided for in the budget will be sufficient to carry out the electric reliability organization program responsibilities;
- (D) an explanation of the surcharge calculations and budget estimates;
- (E) an identification and explanation of changes in budget components from the previous year's budget; and
- (F) such other information as deemed appropriate by the board of directors of the electric reliability organization.

(3) 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 work papers.

(4) The electric reliability organization shall publish a notice of the proposed budget on its website.

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

(d) 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, providing information sufficient to support a finding that good cause exists for the use of different method.

(e) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.762 or AS 42.05.772.

Authority: AS 42.05.141 AS 42.05.760 AS 42.05.770
AS 42.05.151 AS 42.05.762 AS 42.05.772
AS 42.05.271

Article 2. Integrated resource planning and large project preapproval.

3 AAC 46.220. Integrated resource planning petition requirements.

A petition for a new or updated integrated resource plan must be transmitted to the commission 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, unless modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.760(f). include:

R-20-001(3)/R-20-002(2)/R-20-003(2)

- (1) a summary description of the balance of projected load and available resources expected to meet that load, including planned plant retirements, for each year of the integrated resource plan planning horizon;
- (2) a summary explaining the criteria by which cost-effective means of meeting service requirements were determined;
- (3) a summary of the proposed action plan to implement the integrated resource plan;
- (4) a description of stake holder involvement and public process in accordance with the criteria in 3 AAC 46.260(a);
- (5) a description, and explanation of the integrated resource plan's consistency with 3 AAC 46.230(4) and (5), and the models and associated model inputs used to generate demand forecasts or projections;
- (6) a summary of the electric reliability organization's preferred resource options from the range identified in 3 AAC 46.230(3);
- (7) a summary of substantial deviations from a previous plan, if applicable, including deviations in previously anticipated demand;
- (8) the date the copy of the proposed integrated resource plan was provided to the user, owners, and operators under 3 AAC 46.260(a)(1);
- (9) a description and analysis of the risks to ratepayers, with reference to the criteria and considerations described in 3 AAC 46.230(4) and (6), considered in the integrated resource plan, including a description and justification of other considerations proposed by the electric reliability organization as described in 3 AAC 46.230(6)(D);

(10) an explanation for why the preferred resource portfolio was selected among other identified resource portfolios; and

(11) The integrated resource plan, the form of which is described in 3 AAC 46.230.

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

3 AAC 46.230. Integrated resource plan requirements.

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 as well as the electric reliability organization’s certificate requirements. The integrated resource plan must, unless modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.780. contain the following:

- (1) An executive summary that provides:
 - (A) the goals and objectives of the integrated resource plan;
 - (B) a summary of the integrated resource plan process and approach;
- (2) 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) all municipal, tribal, state and federal mandates, directives, and policies governing resources included in the integrated resource plan;
 - (ii) practical difficulties the electric reliability organization foresees in conforming to the commission-approved reliability standards;
 - (iii) known or reasonably estimated constraints on the availability or price of generation fuel sources; and
 - (iv) 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 why such exemption cannot be avoided.
- (3) 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 within the interconnected bulk-electric system.
- (A) Resource options that must be considered include those specified in AS 42.05.780(a), projected retirements, and may include:
 - (i) customer voluntary interruptible programs;
 - (ii) distributed energy resources;

(iii) market purchases; and

(iv) other resource options identified by the electric reliability organization.

(B) 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.

(C) A resource option is considered cost-effective in delivering a given quantum of service if it meets a criterion or criteria in (6) of this section at minimum expected cost considering the risks specified in (4)(A)(i) and (ii) of this section, and other risks proposed by the electric reliability organization.

(4) A presentation and analysis of at least two resource portfolios that each satisfy a criterion, or joint criteria, in (6) of this section at lowest reasonable cost, consistent with each load-serving entity's obligations.

(A) A resource portfolio satisfies a criteria or criterion in (6) of this section at lowest reasonable cost if it is shown, through detailed and consistent analysis, to minimize the expected cost of its mix of resource options given due consideration of:

(i) market 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;
 - (iv) public policies regarding resource preference adopted by the state or federal government; and
 - (v) environmental effects.
 - (B) The resource portfolio analysis must describe and support the resource portfolio modeling relied upon, including:
 - (i) input assumptions;
 - (ii) models and techniques; and
 - (iii) sensitivities and scenarios.
- (5) An explanation why the preferred portfolio, chosen from among the resource portfolios described in (4) of this section, provides greatest value.
- (6) Criteria for determining greatest value include:
 - (A) the satisfaction of each load-serving entity's customers' needs;
 - (B) an increase in interconnected bulk-electric system reliability or resiliency;
 - (C) environmental costs or benefits; and
 - (D) other considerations proposed by the electric reliability organization.
- (7) Except as provided in (8) of this section, an integrated resource plan must provide a demand forecast using a uniform demand forecasting methodology for all load-serving entities in the interconnected bulk-electrical system when estimating future demand.

(8) An integrated resource plan may 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 forecasting methodology cannot most reasonably estimate future demand; and

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

(9) An integrated resource plan must 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.

(10) An action plan for the electric reliability organization, which provides a non-binding framework for implementing the preferred resource portfolio and must include:

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

- (B) a process for ensuring the means of satisfying needs are accomplished at 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.

(11) A narrative and quantitative discussion of how the integrated resource plan provides the greatest value, consistent with load-serving entities' obligations and the public interest, including an explanation of how an applicable criterion for greatest value in (6) of this section was assessed and considered.

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

3 AAC 46.240. Approval, rejection, or suspension of an integrated resource plan.

(a) The commission must approve, reject, or suspend an integrated resource plan filed under an electric reliability organization petition letter not later than 45 days after receipt.

(1) If an integrated resource plan is approved, the commission will issue an order to that effect within the 45-day timeline.

(2) If an integrated resource plan is rejected for failure to meet the form and filing requirements of 3 AAC 46.220 and 3 AAC 46.230, the letter returning the filing will identify the specific deficiencies in the initial filing and the timeline in which the integrated resource plan and petition must be refiled. An integrated resource plan that is rejected by the commission is void.

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

(A) 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 by AS 42.05.780(a); or

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

(b) The order returning an integrated resource plan to the electric reliability organization for modification must specify the returned plan’s regulatory, statutory or other deficiencies.

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

3 AAC 46.250. Integrated resource plan update.

(a) Unless a complete update is required under 3 AAC 46.230, an electric reliability organization shall file an abbreviated updated plan within two years after the filing of its initial integrated resource plan and a new demand forecast at least every two years after the filing of its previous integrated resource plan. An abbreviated updated plan 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 implementation plan provided in the most recent integrated resource plan;
- (4) An assessment of materially-changed circumstances that have bearing on affect the planning environment, and must address including:
 - (A) technological advancements that may affect a public utility’s ability to efficiently meet service requirements to its customers; and
 - (B) actual retirements of and additions to interconnected generation resources, transmission lines, and associated equipment since the previous integrated resource plan was filed.
- (b) An electric reliability organization shall file a complete update of all elements of the previous integrated resource plan:
 - (1) Within two years of the date of filing of the previous complete updated integrated resource plan update if a public utility requests an update to facilitate a petition for project preapproval of a large energy facility not included in the previous integrated resource plan that may be necessary to address material changes in the interconnected energy transmission network that occurred since the previous integrated resource plan was filed;
 - (2) Within four years of the date of filing of the previous complete updated integrated resource plan, unless:
 - (A) no public utility has requested an update since the filing of the previous integrated resource plan update; and
 - (B) there have been material changes in the interconnected energy transmission network that require an update;

(3) Within six years of the date of filing of the previous complete updated integrated resource plan.

(c) The commission may, at any time, require an electric reliability organization to file a new integrated resource plan if the commission determines such a filing is in the public interest.

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

3 AAC 46.260. Integrated resource plan notification, protest process, and returning orders.

(a) Not later than 14 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 include the location of the integrated resource plan and public work papers; and

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

(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 interconnected bulk-electric system. The commission will also publish the public notice on the commission's website and the Alaska Online Public Notice website. 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 according to 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 the petitioner may take to mitigate the protest,
- (3) the conditions 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.

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

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 large energy facility that has been undertaken but not completed before commission approval of the first integrated resources plan:

- (1) satisfies the requirements of AS 42.05.785(a)(1), and
 - (A) AS 42.05.785(a)(2), if the utility undertaking the large energy facility attests that its project was undertaken before commission approval of the electric

reliability organization's first filed reliability standards, other than reliability standards previously adopted by the commission; and

(B) AS 42.05.785(a)(3), if the utility undertaking attests that the large energy facility was undertaken before certification of the electric reliability organization.

(2) If the large energy facility is not operationally integrated into the interconnected bulk-electric system not later than 24 months after the date that a certificate is issued to the electric reliability organization, then the utility must provide evidence and make an affirmation showing that it satisfies the requirements of AS 42.05.785(a).

(3) A utility making an attestation under (1)(A) or (1)(B) of this subsection must do so not later than 30 days after the electric reliability organization's first filed reliability standards or the certification of the electric reliability organization, respectively.

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

(d) 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 material degradation to utility customer service or reliability requirements; and

(2) that material degradation will occur if the large energy facility is not undertaken before the next integrated resource plan has been completed.

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

(f) 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 outlined in the most current action plan, satisfies the requirements of AS 42.05.785(b).

(g) Regulations in this chapter do not apply to and do not override municipal jurisdiction over local planning.

(h) Regulations in this chapter do not prohibit any party from seeking exemption from municipal planning decisions under AS 42.05.641.

(i) In this section, a large energy facility is “undertaken” with the beginning of any 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, such as clearing, excavation or 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 which are intended to be used in the facility’s operation. Options to purchase or contracts which 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.

(j) Requirements in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.785.

Authority: AS 42.05.141 AS 42.05.762 AS 42.05.785
 AS 42.05.151 AS 42.05.770

Article 3. Electric reliability organization tariffs and 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 those requirements under (i) of this section, the commission may reject the filing. The regulatory notice period for a rejected tariff filing begins only after the filing is supplemented, 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 tariff filing will be closed and returned to the electric reliability organization. If

a tariff filing is refiled by the electric reliability organization after having been rejected and returned as provided in this chapter, the tariff filing shall be renumbered with the next available tariff advice number and treated as a new tariff filing.

(b) Unless otherwise specified by order or another applicable provision, tariff filings may be submitted electronically in accordance with 3 AAC 48.095. An electric reliability organization filing on paper shall submit an original and five copies of each tariff filing, unless otherwise specified by the commission.

(c) Each tariff advice letter under this section must be designated as TE[number] followed by a hyphen and the number of the electric reliability organization's certificate. Each tariff advice 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 it 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. 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 (c) 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.

(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 before a proposed effective date.

(f) An electric reliability organization may propose an effective date before the end of the regulatory notice period for a tariff filing as set out in 3 AAC 46.330(a)(7). If a proposed effective date is not included in a tariff advice letter, the commission will treat the last day of the regulatory period of notice to the commission as the proposed effective date, unless the tariff filing is suspended 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 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) Except for those that are also required by AS 42.05, requirements of 3 AAC 46.320 – 3 AAC 46.430 may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion.

Authority: AS 42.05.141 AS 42.05.762 AS 42.05.770
AS 42.05.151

3 AAC 46.330 Tariff advice letters for electric reliability organizations.

(a) Every tariff filing required by 3 AAC 46.320 – 3 AAC 46.430, except filings directly related to application for new certificates, must be transmitted to the commission by a consecutively numbered letter, as set out in 3 AAC 46.320(c). Tariff advice letters 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. Tariff advice letter must:

- (1) list the tariff advice letter number;
- (2) specify the statutes, regulations, or commission order that the filing is made under;
- (3) list the tariff sheets, forms, or other documents required by commission order that are being filed;
- (4) summarize the proposed tariff revision;
- (5) a summary of the proceeding or stakeholder process leading to the development of the proposed tariff filing;
- (6) a summary of how the proposed tariff filing is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

(7) if applicable, a request for the tariff filing to take effect before the end of the regulatory timeline, including a proposed effective date and explanation demonstrating good cause showing why the early effective date is necessary; and

(8) if applicable, include a request for interim approval of the electric reliability organization surcharge.

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

(c) A tariff advice letter filed under this section is an initiating petition for purposes of AS 42.05.175(i).

Authority: AS 42.05.141 AS 42.05.760 AS 42.05.770
AS 42.05.151

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 written copy of its current tariff or provide electronic access to that tariff at the electric reliability organization’s primary business office, if applicable. The electric reliability organization shall notify the commission of the electric reliability organization’s website address including any changes to the address.

(b) An electric reliability organization may not refuse to permit anyone to inspect its effective tariffs 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.

Authority: AS 42.05.141 AS 42.05.760 AS 42.05.770
AS 42.05.151

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.

Authority: AS 42.05.141 AS 42.05.760 AS 42.05.770
AS 42.05.151

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 tariff's applicability to them,
 - (C) the physical address of the issuing electric reliability organization, if applicable;
 - (D) the electric reliability organization's 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 person may become a registered entity, if they are 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 standard that the electric reliability organization may develop in the reasonably foreseeable future; and
 - (7) reliability standards, including:
 - (A) the penalty matrix or matrices associated with a violation of reliability standards in (7) of this subsection; and

(B) non-monetary penalties that may be assessed for violation of reliability standards in (7) of this subsection.

(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 tariff must be legible and formatted to print eight and one-half by eleven 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 advice number;
- (4) the tariff sheet number;
- (5) the tariff revision numbers; and
- (6) 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.

(7) The symbols in (6) of this subsection 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.

(d) 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.

(e) 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.

Authority: AS 42.05.141 AS 42.05.762 AS 42.05.770
AS 42.05.151

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, owner, or operators directly affected by the tariff filing by United States mail, electronic mail, or by similar delivery service, under conditions prescribed by the commission, or by the commission itself;
- (2) publication on the commission's website;
- (3) publication on the Alaska Online Public Notice website.

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 received the tariff filing, unless a longer period, not in excess of 30 days, is granted by public notice, or by notice in writing. Every notice to the public shall 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 advice letter number, or file reference specified in the notice;

(2) The name, mailing address, and if applicable, electronic mail address of the person filing;

(3) The reason for the filing together with any supporting factual data;

(4) Whether or not the comment is made on behalf of the interested person or on behalf of other named persons, including an organized group, association, or company;

(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.

3 AAC 46.390. Suspension and rejection of tariff filings.

(a) A tariff filing that is received by the commission in a form or filed by a method which, in whole or in part, is not consistent with 3 AAC 46.320 – 3 AAC 46.430, may, in the commission's discretion be rejected.

(b) When a tariff filing is rejected, it will be returned 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) The commission will, in its discretion, by order stating the reason, suspend a tariff filing either in whole or in part at any time before the end of the regulatory notice period to the commission for 180 days from the filing of a complete electric reliability organization tariff filing. The order suspending a reliability standard must identify the standard's deficiencies and specify a timeline 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 period.

(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 will, in its discretion, suspend the filing again up to the full regulatory period and renounce the supplemented or amended filing to the public.

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 advice 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, 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 advice 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 advice letter;

(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 tariff filings filed to comply with orders of the commission.

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.770

3 AAC 46.410. Reliability standard filings.

(a) The term reliability standard as used in this section includes physical security and cyber-security standards.

(b) Each reliability standard filing must include:

(1) a copy of the electric reliability organization board resolution authorizing the 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 reliability standard promulgated by an authority, the electric reliability organization shall provide:

(A) a copy of the authoritative standard upon which the proposed reliability standard is based.

- (B) a summary explaining how and why the proposed reliability standard differs from the standard upon which it is based.
 - (4) a narrative indicating if the electric reliability organization is aware if the proposed 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 reliability standard meets the requirements of AS 42.05.765(a).
 - (B) how the proposed reliability standard is just, reasonable, not unduly discriminatory or preferential, and is in the public interest.
 - (6) a statement setting out the users, owners, or operators to which the reliability standard will 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) the range of penalties that are associated with a violation of the standard, including an explanation of how a violation would threaten grid stability;
 - (9) a statement on how the electric reliability will monitor, ensure compliance, and enforce the proposed reliability standard.
 - (10) procedures by which a registered entity found in violation of a reliability standard must take action to come back into compliance, as needed.
- (c) 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

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function, rule, tariff, rate schedule, or agreement that has also been accepted, approved, adopted,
or ordered by the commission.

(d) If a conflict is identified, the commission will issue an order giving notice to the electric reliability organization of the nature of the conflict.

(e) The electric reliability organization must resolve the conflict not later than 180 days after the commission's order.

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

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

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

Authority: AS 42.05.141 AS 42.05.762 AS 42.05.770
AS 42.05.151 AS 42.05.765

3 AAC 46.420. Electric reliability organization surcharge.

(a) The electric reliability organization shall maintain its books and records in a manner that separately shows its costs of general administration, developing reliability standards,

compliance and enforcement of reliability standards, integrated resources planning, and its 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 annually.

(c) An electric reliability organization shall maintain a balancing account that must be entered into the surcharge calculation with the following entries made:

(1) A debit entry equal to the actual budgeted costs approved for recovery by the commission.

(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 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) Should the commission suspend an electric reliability organization's surcharge filing for further investigation, the commission will, in its discretion, allow the surcharge to go into effect on an interim and refundable basis.

(e) A load-serving entity located within an interconnected bulk electric system subject to an electric reliability organization may implement a separate charge on its bills to retail customers to collect the approved electric reliability organization costs 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.

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

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) Electric reliability organization surcharge revisions must be filed at least 45 days prior to the beginning of an 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) the electric reliability organization 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 work plan for each identified 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 (6) of this subsection filed 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 (6) of this subsection filing;
- (9) the calculation of the surcharge;
- (10) a calculation of the monthly balances in the balancing account;
- (11) revised tariff sheets;
- (12) other information that the commission considers necessary to explain entries in the balancing account or surcharge calculation.

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.770

3 AAC 46.440. Open Access Transmission and Interconnection.

- (a) By 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 based 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; and

(4) standard procedures for interconnection by facilities generating more than 15,000 kilowatts of power based on the *Standard Large Generator Interconnection Procedures (Applicable to Generating Facilities that exceed 20 MW)* approved by Federal Energy Regulatory Commission Orders 2003 and 2003-A in Docket RM02-1-001.

(b) By 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 based on the *Proforma Open Access Transmission Tariff* attached as Appendix C to Federal Energy Regulatory Commission Order 1000 in Docket RM 10-23-000.

(c) A filing for a standard for open access transmission and interconnection must demonstrate the standard is not discriminatory or preferential.

(1) Nondiscriminatory for an open access transmission standard means transmission service is provided to any eligible transmission customer and the rates, terms, and conditions of granting and providing such transmission service are offered on an equivalent and non-preferential basis.

(2) Nondiscriminatory for an interconnection standard means all generators and loads requesting access to interconnect to the transmission system are provided non-discriminatory access to the transmission system through interconnection requests which are evaluated and studied in an equivalent matter and subject to the same criteria, fees, timelines, and processes.

(d) For the purposes of subsection (c), the term “transmission” means a transmission system operating at 69 kilovolts or more.

Authority: AS 42.05.141 AS 42.05.151 AS 42.05.770

3 AAC 46.450. Transmission Cost Recovery.

(a) By 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 the costs of transmission facilities are allocated to those that derive benefits from the facilities 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 the standard

(1) ensures only costs associated with the transmission assets are included, with a detailed list of cost documentation required for each transmission project; and

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

(c) The required showing under subsection (b)(2) must describe in detail the cost allocation principles used to develop the cost allocation recommendations for the 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.

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 it meets the requirements of AS 42.05.762, the rules of an electric reliability organization must

(1) contain a requirement that board members have experience in the areas of electric power generation or transmission or storage, law, mediation, finance, or another business-related field;

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

(3) 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.

(4) 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.

(5) 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 an electric reliability organization must provide for;

(A) a website on which all the approved and proposed plans, standards, tariff, rules and budgets of the electric reliability organization are posted for public review and which is capable of receiving comments from the public before filing with the commission for approval.

(i) Documents posted on the electric reliability organization's website must be in a format that prevents unauthorized revision to the documents, is text-searchable, and can be read by any person with internet access using publicly available free software.

(ii) The electric reliability organization's website must 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.

(iii) Comments received from the public related to a proposed plan, standard, tariff, or rule of the electric reliability organization must be posted on the website as a document related to development of the proposed plan, standard, tariff, or rule, unless a comment includes information classified as confidential under rules of the electric reliability organization, includes information confidential under 3 AAC 48.040(b), or includes language that could subject the electric reliability organization to civil liability if republished.

(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 subpart (B) above.

(D) 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 participation of the petitioner will broaden or delay the matter to be developed.

(E) 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.

(F) 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.

(G) 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, which includes

(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.

(H) a process for providing public notice and an opportunity for public comment on each proposed enforcement action under the program developed in accordance with 3 AAC 46.120.

(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 by the commission, and such records shall be public under AS 42.05.671, unless exempted from public disclosure under the terms of that statute. 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) Any requirement in this section may be modified or waived, in whole or in part, by order of the commission upon application and a showing of good cause or on the commission's own motion, so long as the waiver does not also require a waiver of the requirements set out in AS 42.05.

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

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.

(1) 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.

(2) Filings made under this subsection do not include budget filings made pursuant to 3 AAC 46.170(c).

(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. Each rule filing must be submitted to the commission at least 45 days before it may take effect unless

the commission, by order, authorizes the filing to take effect in less than 45 days after the date of filing. Electric reliability organization rule letters must

- (1) list the electric reliability organization rule letter number;
- (2) clearly articulate the proposed rule or rule revision;
- (3) provide an explanation of the proposed rule or rule revision's intended effect;
- (4) provide an explanation of the cause of the proposed rule or rule revision's development;
- (5) provide any additional information the electric reliability organization believes important to the development of the proposed rule or rule revision; and
- (6) provide a dated certificate of service or proof of publication of a public notice, as appropriate, of
 - (A) Individual notice to all registered entities affected by the rule change or rule revision by United States mail, electronic mail, or by similar delivery service, under conditions prescribed by the commission;
 - (B) Publication on the electric reliability organization's website; or
 - (C) Publication on the Alaska Online Public Notice website.
- (7) The public notice must contain
 - (A) a general description of the proposed rule or rule revision that is accurate, written in plain English, and sufficient to alert the public of proposed rule or rule revisions. The notice should also contain sentences providing the following information: the date the electric reliability organization made (or will make) its filing with the commission; the date the revisions are proposed to become effective; and a

statement of where the both the proposed rule or rule revision and the electric reliability organization's complete set of rules are available for review. The notice should also contain sentences similar to the following:

(B) Any person may file comments on this proposed rule or rule revision with the Regulatory Commission of Alaska, 701 West Eighth Ave., Suite 300, Anchorage, AK 99501. To assure that the Commission has sufficient time to consider the comments before the revisions take effect, (electric reliability organization name) suggests that your comments be filed no later than (a specific date, not a weekend or holiday, approximately 7-10 days prior to the filing's taking effect).

(8) In the case of a proposed rule revision, the electric reliability rule letter must also provide an annotated copy of the existing and proposed rule language identifying the proposed changes.

(9) Proposed rules or rule revisions addressing the electric reliability organization's compliance monitoring and enforcement program must also include supporting documentation describing how the proposed rule or rule revision was developed, supporting the proposed rule or rule revision's reasonableness, and providing any additional information the electric reliability organization considers important to the commission's review.

(c) 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.

(d) 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.

(1) 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 not just, reasonable, not unduly discriminatory or preferential, and in the public interest, the commission shall remand the rule to the electric reliability organization for modification.

(2) The electric reliability organization must submit the modified rule or rule revision as a compliance filing in the formal docket within 45 days of the order requiring the modification.

(3) The commission must either issue a final order approving the resubmitted rule or rule revision or return it for further modification within 45 days of receipt of the compliance filing.

(4) An order of the commission 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.

(5) 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 will, in its discretion, suspend the filing again up to the full regulatory period and renotice the supplemented or amended filing to the public.

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

(7) 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.

(e) 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.

(f) 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.

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

3 AAC 46.999. Definitions.

In this chapter, unless the context indicates otherwise,

(1) “Balanced stakeholder board” means a board of an electric reliability organization 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) “Capitalized maintenance” means significant maintenance expenses, for example an engine overhauls, that a utility incurs to maintain the usefulness and efficiency of the asset, and that does not occur on an annual basis.

(4) “Compliance exception program” means a program that delineates the ERO process for the determination of what types of reasons and for how long a registered entity is allowed to be out of compliance with a reliability standard as well as the approval process for such a request.;

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

(6) “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 that are paid for by another consumer, such as a landlord or in employer-furnished housing;

(7) “Cybersecurity incident” has the meaning given in AS 42.05.790(1);

(8) “Electric reliability organization” has the meaning given in AS 42.05.790(2);

(9) “Electric utility” has the meaning given in AS 42.05.790(3);

(10) “Interconnected bulk-electric system” has the meaning given in AS 42.05.790(4);

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

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

(13) “Independent”, as applied to voting board members of an electric reliability organization, means a director that may serve on an electric reliability organization formed under AS 42.05.762(4)(B)(i).

(14) “Interconnected electric energy transmission network” has the meaning given in AS 42.05.790(5);

(15) “Large energy facility” has the meaning given in AS 42.05.785(e).
Capacity of a large energy facility is measured by nameplate capacity.

(A) “Nameplate capacity” has the meaning given in 3 AAC
50.949(16).

(B) “Single site” means facilities owned by the same entity and within one mile of each other or facilities owned by the same entity and located within ten miles of each other, if circumstance exist under which the facilities should reasonably be considered as a single site.

(16) “Load-serving entity” has the meaning given in AS 42.05.790(6);

(17) “Net energy for load” means the generation energy injected into a specific electrical system, plus energy received from other systems less energy delivered to other systems through interchange, including losses, but excluding energy required to operate storage facilities or plant use by a generator;

(18) “Provider stakeholder” means a person who is a user, owner or operator who provides electric energy, capacity, transmission, distribution, or storage to the public for direct compensation.

(19) “Public notice” means a notice written in a format substantially the same as tariff filings noticed under 3 AAC 48.280.

(20) “Refurbishment” means expenses a load-serving entity incurs to restore an asset to a previous operating condition. The load-serving entity shall provide documentation to show previous operating condition before refurbishments upon request of the commission.

(21) “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.

(22) “Registered entity mitigation plan” means a plan approved by the electric reliability organization for a registered entity that is found in violation of a reliability standard to follow to return to compliance with the reliability standards;

(23) “Reliable operation” has the meaning given in AS 42.05.790(7);

(24) “Remedial action directive” means an action (other than a penalty or sanction) required by an electric reliability organization that

(A) is to bring a registered entity into compliance with a reliability standard or to avoid a reliability standard violation; and

(B) is immediately necessary to protect the reliability of the Interconnected bulk-electric system from an imminent or actual threat;

(25) “Resource option” means a specified asset or asset type that provides generation, transmission, or battery storage, or a specified conservation, 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) “Rules”, for purposes of AS 42.05.762 and AS 42.05.767, means the articles of incorporation, bylaws, codes of conduct, protocols, or other non-tariffed procedures of an electric reliability organization to comply with AS 42.05.762(3).

(28) “Stakeholder” means a provider stakeholder or a consumer stakeholder;

(29) “User, owner or operator” means a person that is, or within a reasonable time may be, generating, transmitting, storing, or distributing electricity, and who 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.

Authority:	AS 42.05.141	AS 42.05.151	AS 42.05.770
	AS 42.05.785	AS 42.05.780	

Chapter 48

3 AAC 48.020 is amended to read:

3 AAC 48.020. Communications.

...

(d) If the writer holds a certificate of public convenience and necessity, **or an electric reliability organization certificate**, the certificate holder should use the name on the certificate and state the certificate number. Correspondence not complying with this subsection may be disregarded at the commission's discretion. The commission will, in its discretion, consider any correspondence as an initiatory pleading and proceed accordingly.

...

(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 suspension under AS 42.05.421 **or suspension of tariff**

filings 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.

...

Authority: AS 42.05.141 **AS 42.05.770** AS 42.06.140
AS 42.05.151

3 AAC 48.030 is amended to read:

3 AAC 48.030. Fees, remittances and charges.

...

(d) Every fee required by statute in connection with applications relating to certificates of public convenience and necessity, **electric reliability organization certificate**, 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, etc.; and all costs allocated under AS 42.05.221(e), 42.05.401(b), 42.05.651, or 42.06.610 must be paid

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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

...

Authority:	AS 42.05.141	AS 42.05.571	<u>AS 42.05.770</u>
	AS 42.05.151	AS 42.05.581	AS 42.06.140
	AS 42.05.201	AS 42.05.601	AS 42.06.210
	AS 42.05.221	AS 42.05.611	AS 42.06.607
	AS 42.05.401	AS 42.05.651	AS 42.06.610
	AS 42.05.561		

3 AAC 48.040 is amended to read:

3 AAC 48.040. Confidential records.

...

(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:

...

(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 energy infrastructure information, as that term is defined in 18 C.F.R. §388.113(c) (as adopted April 1, 2018); and**

(14) **cyber security incident information, including any information related to, describing, or which 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.**

Authority:	AS 40.25.110	AS 42.05.671	<u>AS 42.05.770</u>
	AS 40.25.120	<u>AS 42.05.762</u>	AS 42.06.140
	AS 42.05.141	<u>AS 42.05.765</u>	AS 42.06.445
	AS 42.05.151		

3 AAC 48.050 is amended to read:

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

...

(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 which does not keep, in one or more offices located in Alaska, all of its books, accounts, records, and papers relating to its utility or pipeline operations in Alaska 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 Alaskan utility, **electric reliability organization**, or pipeline operations that are kept at each specifically described location in Alaska;

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

...

(h) If a utility, **electric reliability organization**, or pipeline carrier has a contract or arrangement with an affiliated interest which keeps accounts, records, or other supporting information pertaining to those documents outside of Alaska, 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 the State of Alaska, the utility, **electric reliability organization**, or pipeline carrier may not deviate from the terms of the commission's order

...

(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

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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 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 chairman of the commission will approve the expenses before submitting the bill to the utility, **electric reliability organization**, or pipeline carrier for payment.

...

Authority:	AS 42.05.141	AS 42.05.251	AS 42.06.430
	AS 42.05.151	<u>AS 42.05.770</u>	AS 42.06.440
	AS 42.05.491	AS 42.06.140	

3 AAC 48.060 is amended it read

3 AAC 48.060. Formal and informal procedures and files.

(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, [OR] "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

R-20-001(3)/R-20-002(2)/R-20-003(2)

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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.

...

(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",
[or] **"E" or "P."**

...

(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 reliability
organization**, and pipeline carrier together with every advice letter and all associated
correspondence.

...

3 AAC 48.060 is amended by adding a new subsection to read:

(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 together with all associated correspondence.

<u>Authority:</u>	AS 42.05.141	AS 42.05.361	AS 42.06.140
	AS 42.05.151	AS 42.05.361	AS 42.06.400
	AS 42.05.201	<u>AS 42.05.770</u>	

3 AAC 48.070 is amended to read:

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, **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 **or regulatory** notice period.

...

3 AAC 48.070 is amended by adding a new subsection to read:

(d) An electric reliability organization rule or petition for a new or revised integrated resource plan will not be docketed or considered in a formal proceeding unless it is suspended by order of the commission within the statutory or regulatory notice period.

Authority:	AS 42.05.141	AS 42.05.271	AS 42.06.290
	AS 42.05.151	AS 42.05.281	AS 42.06.300
	AS 42.05.171	<u>AS 42.05.770</u>	AS 42.06.340
	AS 42.05.241	AS 42.06.140(a)	AS 42.06.400
	AS 42.05.261	AS 42.06.260	

3 AAC 48.095 is amended to read:

3 AAC 48.095. Electronic filing requirements.

...

(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:

...

(5) the commission may authorize additional users associated with a utility,

electric reliability organization, pipeline carrier, or other entity.

...

3 AAC 48.095 is amended by adding a new subsection to read:

(q) 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 the commission has received the filing, they must provide a physical cover letter with their portable digital storage device.

...

Authority: AS 42.05.141 **AS 42.05.770** AS 42.06.140
AS 42.05.151

3 AAC 48.130 is amended to read:

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, **electric 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;

...

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

...

Authority:	AS 42.04.080	AS 42.05.271	AS 42.06.055
	AS 42.05.141	<u>AS 42.05.770</u>	AS 42.06.140
	AS 42.05.151		

3 AAC 48.154 is amended to read:

3 AAC 48.154. Evidence and exhibits.

...

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

...

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

...

Authority: AS 42.05.141 **AS 42.05.770** AS 42.06.140
AS 42.05.151

3 AAC 48.170 is amended to read;

3 AAC 48.170. Ethical standards, violations.

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

...

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

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...

Authority: AS 42.05.141 **AS 42.05.770** AS 42.06.140(a)
AS 42.05.151