

CHAPTER 138**(HB 665)**

AN ACT relating to coal-based production of hydrogen and electricity with minimum emissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.700 is amended to read as follows:

As used in KRS 278.700 to 278.716, unless the context requires otherwise:

- (1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting created in KRS 278.702;
- (2) "Merchant electric generating facility" means, except for a qualifying~~[-cogeneration]~~ facility as defined in subsection (7) of this section, an electricity generating plant, together with associated facilities, that:
 - (a) Is capable of operating at a capacity of ten megawatts (10MW) or more; and
 - (b) Sells the electricity it produces in the wholesale market, at rates and charges not regulated by the Public Service Commission;
- (3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity, and no portion of KRS 224.10-280, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 shall apply to a utility owned by a municipality unless the utility is a merchant plant as defined in this section;
- (4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;
- (5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts;
- (6) "Residential neighborhood" means a populated area of five (5) or more acres containing at least one (1) residential structure per acre; and
- (7) "Qualifying~~[-cogeneration]~~ facility" means a ***cogeneration*** facility as defined in 16 U.S.C. sec. 796(18)(b)~~[-]~~ which does not exceed a capacity of one hundred fifty megawatts (150MW)~~[-]~~ that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process, ***or a facility designed to achieve minimum emissions, built for demonstrating the feasibility of producing electricity and hydrogen from coal, whose site has been determined acceptable from an environmental impact perspective in a record of decision published by the United States Department of Energy after January 1, 2006, and that has received all applicable local planning and zoning approvals.***

Approved April 4, 2006.