

CHAPTER 118

(SB 4)

AN ACT relating to the retirement of fossil fuel-fired electric generating units and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 2 of this Act:

- (1) *"Electric generating unit" means one (1) or more fossil fuel-fired combustion or steam generating sources used for generating electricity that deliver all or part of their power to the electric power grid for sale;*
- (2) *"Reliability" means having adequate electric generation capacity to safely deliver electric energy in the quantity, with the quality, and at a time that the utility customers demand;*
- (3) *"Resilience" means having the ability to quickly and effectively respond to and recover from events that compromise grid reliability;*
- (4) *"Retirement" or "retired" means the closure or the complete and permanent cessation of operations at an electric generating unit; and*
- (5) *"Utility" has the same meaning as in KRS 278.010(3)(a).*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, the commission shall have the authority to approve or deny the retirement of an electric generating unit owned by a utility. Prior to retiring an electric generating unit, a utility shall apply to the commission for an order approving the retirement, and shall give the commission thirty (30) days' notice of the application. The commission shall enter an order approving, approving with conditions, or denying the application within one hundred eighty (180) days of receiving an administratively complete application.*
- (2) *There shall be a rebuttable presumption against the retirement of a fossil fuel-fired electric generating unit. The commission shall not approve the retirement of an electric generating unit, authorize a surcharge for the decommissioning of the unit, or take any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit, including any stranded asset recovery, unless the presumption created by this section is rebutted by evidence sufficient for the commission to find that:*
 - (a) *The utility will replace the retired electric generating unit with new electric generating capacity that:*
 1. *Is dispatchable by either the utility or the regional transmission organization or independent system operator responsible for balancing load within the utility's service area;*
 2. *Maintains or improves the reliability and resilience of the electric transmission grid; and*
 3. *Maintains the minimum reserve capacity requirement established by the utility's reliability coordinator;*
 - (b) *The retirement will not harm the utility's ratepayers by causing the utility to incur any net incremental costs to be recovered from ratepayers that could be avoided by continuing to operate the electric generating unit proposed for retirement in compliance with applicable law; and*
 - (c) *The decision to retire the fossil fuel-fired electric generating unit is not the result of any financial incentives or benefits offered by any federal agency.*
- (3) *The utility shall at a minimum provide the commission with evidence of all known direct and indirect costs of retiring the electric generating unit and demonstrate that cost savings will result to customers as a result of the retirement of the electric generating unit.*
- (4) *The commission shall prepare and submit an annual report to the Legislative Research Commission by December 1 of each year detailing:*

- (a) *The number of requests by utilities to retire electric generating units in the Commonwealth, the nameplate capacity of each of those units, and whether the request was approved or denied by the commission;*
- (b) *The impact of any commission-approved retirement of an electric generating unit on the:*
 - 1. *Commonwealth's generation fuel mix;*
 - 2. *Required capacity reserve margins for the utility;*
 - 3. *Need for capacity additions or expansions at new or existing facilities as a result of the retirement; and*
 - 4. *Need for additional purchase power or capacity reserve arrangements; and*
- (c) *Whether the retirement resulted in stranded costs for the ratepayer that will be recovered by the utility through a surcharge or some other separate charge on the customer bill.*

➔Section 3. Whereas the United States is retiring coal-fired electric generating units at an unprecedented rate, with retirements potentially affecting employment rates, tax revenues, and utility rates, and compromising the reliability of electric power service and resilience of the electric grid, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 29, 2023.