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) "Independent system operator" or "ISO" means a federally regulated, independent entity that performs the same functions as an RTO but within a smaller geographically defined area;

(3) "Regional transmission organization" or "RTO" means a federally regulated, independent entity that, on a regional basis, is responsible for:

(a) Managing, providing nondiscriminatory access to, and monitoring transmission facilities under its control;

(b) Maintaining electric grid stability and reliability; and

(c) Matching electricity demand to supply;

(4) "Reliability" means the ability of the electric power grid to safely deliver electric energy in the quantity, with the quality, and at a time that the utility customers demand;

(5) "Resilience" means the ability of the grid and all associated resources to effectively respond to and recover from events that compromise grid reliability;

(6) "Retirement" or "retired" means the closure or the complete and permanent cessation of operations at an electric generating unit; and

(7) "Utility" has the same meaning as in KRS 278.010(3)(a).
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 reliability and resilience of the electric grid serving Kentucky customers, including during peak demand, will not be compromised;

(b) If the applicable utility is a member of an ISO or RTO, the ISO or RTO responsible for the function and operation of the transmission system that serves the electric generating unit states that the ISO's or RTO's operations will not be negatively affected by the retirement of the electric generating unit, and the retirement will not increase the risk of forced curtailments to retail customers during periods of peak demand;

(c) The retirement will not adversely impact the dispatchability or reliability of electric service to utility customers; and

(d) The retirement will not result in the need for short-term capacity additions
that will increase the customer's electric rate above what the customer
would have paid if the electric generating facility were not retired.

(3) If the commission authorizes a retirement in accordance with this section, the
commission may impose any other conditions in an order as may be deemed
necessary to promote or maintain a reliable and resilient utility service to the
utility's customers.

(4) The utility shall 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.

(5) 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 arrangements; and

(c) Whether the retirement resulted in stranded costs for the utility that will be
recovered by the ratepayer 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.