

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

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

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

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

- 7 *(1) "Electric generating unit" means one (1) or more fossil fuel-fired combustion or*
8 *steam generating sources used for generating electricity that deliver all or part of*
9 *their power to the electric power grid for sale;*
- 10 *(2) "Independent system operator" or "ISO" means a federally regulated,*
11 *independent entity that performs the same functions as an RTO but within a*
12 *smaller geographically defined area;*
- 13 *(3) "Regional transmission organization" or "RTO" means a federally regulated,*
14 *independent entity that, on a regional basis, is responsible for:*
15 *(a) Managing, providing nondiscriminatory access to, and monitoring*
16 *transmission facilities under its control;*
17 *(b) Maintaining electric grid stability and reliability; and*
18 *(c) Matching electricity demand to supply;*
- 19 *(4) "Reliability" means the ability of the electric power grid to safely deliver electric*
20 *energy in the quantity, with the quality, and at a time that the utility customers*
21 *demand;*
- 22 *(5) "Resilience" means the ability of the grid and all associated resources to*
23 *effectively respond to and recover from events that compromise grid reliability;*
- 24 *(6) "Retirement" or "retired" means the closure or the complete and permanent*
25 *cessation of operations at an electric generating unit; and*
- 26 *(7) "Utility" has the same meaning as in KRS 278.010(3)(a).*

27 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO

1 READ AS FOLLOWS:

- 2 (1) Notwithstanding any provision of law to the contrary, the commission shall have
3 the authority to approve or deny the retirement of an electric generating unit
4 owned by a utility. Prior to retiring an electric generating unit, a utility shall
5 apply to the commission for an order approving the retirement, and shall give the
6 commission thirty (30) days' notice of the application. The commission shall
7 enter an order approving, approving with conditions, or denying the application
8 within one hundred eighty (180) days of receiving an administratively complete
9 application.
- 10 (2) There shall be a rebuttable presumption against the retirement of a fossil fuel-
11 fired electric generating unit. The commission shall not approve the retirement of
12 an electric generating unit, authorize a surcharge for the decommissioning of the
13 unit, or take any other action which authorizes or allows for the recovery of costs
14 for the retirement of an electric generating unit, including any stranded asset
15 recovery, unless the presumption created by this section is rebutted by evidence
16 sufficient for the commission to find that:
- 17 (a) The reliability and resilience of the electric grid serving Kentucky
18 customers, including during peak demand, will not be compromised;
- 19 (b) If the applicable utility is a member of an ISO or RTO, the ISO or RTO
20 responsible for the function and operation of the transmission system that
21 serves the electric generating unit states that the ISO's or RTO's operations
22 will not be negatively affected by the retirement of the electric generating
23 unit, and the retirement will not increase the risk of forced curtailments to
24 retail customers during periods of peak demand;
- 25 (c) The retirement will not adversely impact the dispatchability or reliability of
26 electric service to utility customers; and
- 27 (d) The retirement will not result in the need for short-term capacity additions

1 that will increase the customer's electric rate above what the customer
2 would have paid if the electric generating facility were not retired.

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

7 (4) The utility shall provide the commission with evidence of all known direct and
8 indirect costs of retiring the electric generating unit and demonstrate that cost
9 savings will result to customers as a result of the retirement of the electric
10 generating unit.

11 (5) The commission shall prepare and submit an annual report to the Legislative
12 Research Commission by December 1 of each year detailing:

13 (a) The number of requests by utilities to retire electric generating units in the
14 Commonwealth, the nameplate capacity of each of those units, and whether
15 the request was approved or denied by the commission;

16 (b) The impact of any commission-approved retirement of an electric
17 generating unit on the:

18 1. Commonwealth's generation fuel mix;

19 2. Required capacity reserve margins for the utility;

20 3. Need for capacity additions or expansions at new or existing facilities
21 as a result of the retirement; and

22 4. Need for additional purchase power or capacity arrangements; and

23 (c) Whether the retirement resulted in stranded costs for the utility that will be
24 recovered by the ratepayer through a surcharge or some other separate
25 charge on the customer bill.

26 ➔Section 3. Whereas the United States is retiring coal-fired electric generating
27 units at an unprecedented rate, with retirements potentially affecting employment rates,

1 tax revenues, and utility rates, and compromising the reliability of electric power service
2 and resilience of the electric grid, an emergency is declared to exist, and this Act takes
3 effect upon its passage and approval by the Governor or upon its otherwise becoming a
4 law.