

1 AN ACT relating to energy policy and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) The General Assembly finds and declares that:*

6 *(a) The long-term economic health and well-being of the citizens of the*  
7 *Commonwealth and the United States depends upon the availability of*  
8 *reliable sources of energy;*

9 *(b) The Commonwealth has abundant reserves of coal, natural gas, and other*  
10 *natural resources;*

11 *(c) The energy needs of the Commonwealth are best met by continuing to*  
12 *engage in an all-of-the-above approach to electric generation resources,*  
13 *including but not limited to coal, oil, natural gas, wind, solar, hydropower,*  
14 *nuclear, and any future or emerging technologies like hydrogen power;*

15 *(d) The current economy and future economic development of the*  
16 *Commonwealth requires reliable, resilient, dependable, and abundant*  
17 *supplies of electrical power;*

18 *(e) The demand for reliable, resilient, dispatchable electrical power is*  
19 *anticipated to significantly increase in the coming decades as the*  
20 *Commonwealth becomes home to additional manufacturing and other*  
21 *economic development projects which increase demand for electrical power;*

22 *(f) It is in the interest of the Commonwealth that it be able to generate*  
23 *sufficient electricity within its borders to serve its own industrial,*  
24 *residential, and commercial demand and to power its own economy;*

25 *(g) The electrification of the United States' economy combined with*  
26 *unprecedented federal regulatory pressures have created an electric*  
27 *generation resource crisis in the Commonwealth;*

1 (h) Existing state and federal policies with respect to energy do not adequately  
2 address the concerns of the General Assembly or citizens of the  
3 Commonwealth such that a comprehensive Kentucky energy policy is  
4 required;

5 (i) Current policies at the state and federal level do not adequately assess  
6 capacity, availability, reliability, or resilience attributes of existing and new  
7 fossil fuel-fired, nuclear, or other emerging dispatchable electric generating  
8 resources;

9 (j) It is the policy of the Commonwealth to maintain adequate capacity of  
10 available, reliable, dispatchable, and resilient electric generation to provide  
11 for the existing and reasonably projected future energy consumption needs  
12 of all wholesale, retail, and other consumers of electricity in the  
13 Commonwealth;

14 (k) Further retirement, decommissioning, or demolition of fossil fuel-fired  
15 electric generating resources is not necessary for the protection of the  
16 environment or the health, safety, and welfare of the citizens of the  
17 Commonwealth;

18 (l) The health, happiness, safety, economic opportunity, and general welfare of  
19 the citizens of the Commonwealth will be promoted and protected by the  
20 operation of fossil fuel-fired electric generating resources and, conversely,  
21 those interests would be harmed by the premature retirement,  
22 decommissioning, or demolition of those generating resources;

23 (m) The Commonwealth can support a multitude of potential electric generating  
24 resources and energy fuel supply sources so as to be the national leader in  
25 the production of energy in all forms;

26 (n) Local economic development is essential to the health, happiness, safety,  
27 and general welfare of the citizens of the Commonwealth;

1 (o) Local economic development requires an adequate supply of electricity to  
2 support new and expanding industries and is enhanced by robust  
3 employment in coal mining and coal transportation and at electric  
4 generating facilities, the local job multiplier effect of employment in the  
5 coal, natural gas, and electric generating industries, and state and local  
6 taxes and other forms of economic value creation for the Commonwealth;  
7 and

8 (p) The numerous energy policy challenges facing the Commonwealth require  
9 a comprehensive energy policy informed by the input, judgment, experience,  
10 and expertise of diverse stakeholders representing a variety of interests and  
11 energy resources, including but not limited to coal, oil, natural gas, wind,  
12 solar, hydropower, nuclear, and any future or emerging resources to  
13 achieve the best results for the citizens of the Commonwealth.

14 (2) For the purposes of this section:

15 (a) "Commission" means the Energy Planning and Inventory Commission  
16 established in this section;

17 (b) "Dispatchable" means a source of electric power generation that is  
18 available on demand, that is not intermittent, and that can be adjusted to  
19 increase or decrease its power output upon request of a power grid operator  
20 or otherwise upon demand or request, or that can have its power output  
21 adjusted in response to market or system needs;

22 (c) "Generation and transmission cooperative" has the same meaning as in  
23 KRS 278.010;

24 (d) "Intermittent" means:

25 1. A source of electric power generation from a solar photovoltaic, solar  
26 thermal heating, concentrating solar thermal collector, or other solar  
27 energy collection or generation system;

- 1           2. A source of electric power that generates energy by harnessing wind  
2           power or energy, whether through a turbine or other device;
- 3           3. Geothermal energy, biomass energy, anaerobic digestion, or combined  
4           heat and power from solar, wind, geothermal, or anaerobic digestion  
5           sources; or
- 6           4. Any short duration energy storage, which includes any method of  
7           storing generated electricity for later dispatch to the grid, whether  
8           alone or in conjunction with any other intermittent sources described  
9           in this paragraph, that is equivalent to less than forty-eight (48) hours  
10           of the average peak generation of the unit it is used to offset;
- 11       (e) "Public Service Commission" means the Kentucky Public Service  
12       Commission established under KRS Chapter 278, or any successor entity  
13       having the power to regulate rates and services of public utilities pursuant  
14       to the powers enumerated in KRS Chapter 278; and
- 15       (f) "Utility" has the same meaning as in KRS 278.010.
- 16       (3) The Energy Planning and Inventory Commission is hereby established and  
17       administratively attached to the University of Kentucky Center for Applied  
18       Energy Research, but it shall otherwise be independent from the University of  
19       Kentucky and any Kentucky executive branch agency. The affairs of the  
20       commission shall be governed exclusively by the provisions of this section. The  
21       exercise of the commission's powers conferred by this section and the carrying  
22       out of its purposes and duties are essential governmental functions and are  
23       conducted for public purposes.
- 24       (4) (a) The commission shall be composed of an eighteen (18) member board and a  
25       five (5) member executive committee, all of whom shall be residents of the  
26       Commonwealth. Except for the state government officials and the ex officio  
27       nonvoting commission board members appointed by the President of the

1           Senate and the Speaker of the House of Representatives, each member of  
2           the commission board shall be appointed by the Governor and confirmed by  
3           the Senate as set forth in this subsection. The commission board shall be  
4           composed of the following members:

- 5           1. One (1) representative of a Kentucky investor-owned utility;
- 6           2. One (1) representative of a Kentucky generation and transmission  
7           cooperative, nominated by the chief operating officer of the Kentucky  
8           Association of Electric Cooperatives;
- 9           3. One (1) representative of Kentucky coal producers, nominated by the  
10           president of the Kentucky Coal Association;
- 11           4. One (1) representative of Kentucky oil and gas producers, nominated  
12           by the executive director of the Kentucky Oil and Gas Association;
- 13           5. One (1) representative of an industry or business engaged in the  
14           transportation of coal;
- 15           6. One (1) representative of a business engaged in the transportation or  
16           distribution of natural gas, nominated by the president of the  
17           Kentucky Gas Association;
- 18           7. One (1) representative with professional experience in the purchasing  
19           or sale of fossil fuels, nominated by the president of the Kentucky Coal  
20           Association;
- 21           8. One (1) member representing the nuclear electric generation industry,  
22           nominated by the executive director of the United States Nuclear  
23           Industry Council;
- 24           9. One (1) member representing the interests of businesses or entities  
25           engaged in activities related to the mining, milling, conversion,  
26           enrichment, or fabrication of nuclear fuel or involved in the  
27           remediation of past enrichment of nuclear fuels in the

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Commonwealth;

10. One (1) member representing commercial and industrial consumers of electrical power, nominated by Kentucky Industrial Utility

Consumers;

11. One (1) member representing Kentucky economic interests, nominated by the chief executive officer of the Kentucky Chamber of Commerce;

12. One (1) member representing producers of renewable electricity;

13. One (1) member with experience in investment banking or utility finance, nominated by the president of the Kentucky Banker's

Association;

14. One (1) member representing residential electricity consumers;

15. One (1) member of the House of Representatives, who shall be an ex officio nonvoting member, nominated by the Speaker of the House of

Representatives;

16. One (1) member of the Senate, who shall be an ex officio nonvoting member, nominated by the President of the Senate;

17. The secretary of the Energy and Environment Cabinet, or designee;

and

18. The secretary of the Cabinet for Economic Development, or designee.

(b) The executive committee of the board shall include the following five (5) members:

1. The director of the University of Kentucky Center of Applied Energy Research;

2. One (1) member appointed by the Governor who has the same level of education, training, and professional experience as would be required to serve in the role of chief executive officer or board member of a company engaged in the production of coal;

1           3. One (1) member appointed by the Governor who has the same level of  
2           education, training, and professional experience as would be required  
3           to serve in the role of chief executive officer or board member of an  
4           investor-owned, cooperative, or municipal electric utility; and

5           4. Two (2) members elected by the commission board from the  
6           commission board membership. Any vacancy in an executive  
7           committee position under this subparagraph shall be filled in the same  
8           manner as the original election.

9           (c) Any appointment made by the Governor to the commission board or the  
10           executive committee shall be subject to confirmation by the Senate. If a  
11           pending appointment to the board or executive committee requiring  
12           confirmation is not confirmed by the Senate upon the conclusion of the  
13           legislative session during or before which the appointment was made, then  
14           the member's position on the board or executive committee shall become  
15           vacant, either upon sine die adjournment of the legislative session or the  
16           date that the Senate votes to decline to confirm appointment, and the  
17           Governor shall appoint a different replacement.

18           (d) After the expiration of their initial terms, nonlegislative or executive branch  
19           members shall serve for terms of four (4) years and until a successor is  
20           appointed and confirmed by the Senate. Legislative members shall serve  
21           during the terms of their elected positions in the General Assembly, and  
22           executive branch members shall serve during the appointed terms of their  
23           state government positions. In the event of a vacancy prior to the expiration  
24           of a term for member appointed by the Governor, the Governor shall  
25           appoint a replacement in the same manner as the original appointment, and  
26           the appointment shall be subject to the same Senate confirmation process.  
27           Members appointed by the Governor shall not be full-time employees of the

- 1           Commonwealth as defined in KRS 18A.005, and shall not be compensated  
2           for their service on the board, but they shall be subject to the requirements  
3           of the executive branch code of ethics established under KRS Chapter 11A.
- 4           (e) A majority of the commission board may select one (1) member of the  
5           commission board to serve as chair of the commission board and one (1)  
6           member of the commission board to serve as vice chair of the commission  
7           board.
- 8           (f) The executive committee may adopt rules of procedure or bylaws governing  
9           the conduct of the commission's business.
- 10          (g) Other than being a customer of retail electric service, no member of the  
11          executive committee shall have any current employment, contractual, or  
12          other direct financial relationship with any utility at the time of their  
13          appointment or during their service on the executive committee.
- 14          (h) No person shall serve as a member of the commission board or executive  
15          committee if the service would cause a conflict with, or result in the  
16          disclosure of confidential information relating to, any research projects  
17          performed by or in partnership with the University of Kentucky Center for  
18          Applied Energy Research.
- 19          (i) If the review of a notice given under subsection (7) of this section would  
20          result in the disclosure of confidential information to an executive  
21          committee member that is prohibited under subsection (7)(c)3. of this  
22          section, the executive committee member shall recuse himself or herself,  
23          and the remaining executive committee members shall name a replacement  
24          from the membership of the commission board solely for the purpose of  
25          reviewing the notice that caused the recusal.
- 26          (j) A majority of the executive committee shall constitute a quorum, and the  
27          affirmative vote of the majority of the members present during a meeting is



1           necessary for any action taken by vote of the executive committee.

2           (k) The Governor shall not have reorganization power over the commission, the  
3           structure of the commission, its board, the executive committee, or the  
4           hiring, compensation, or termination of its executive director. Only the  
5           General Assembly may reorganize or restructure the commission or the  
6           commission board by legislative act.

7           (5) The commission may employ an executive director who shall be selected and  
8           hired by the executive committee, subject to confirmation by the Senate. If a  
9           pending selection for an executive director is not confirmed by the Senate upon  
10           the conclusion of the legislative session during or before which the selection was  
11           made, then the executive director's position shall become vacant, either upon sine  
12           die adjournment of the legislative session or the date that the Senate votes to  
13           decline to confirm appointment, and the executive committee shall select a  
14           different replacement. Until an executive director is selected and hired, or in the  
15           event of a vacancy in the role of executive director, the director of the University  
16           of Kentucky Center for Applied Energy Research shall serve in the role of  
17           executive director of the commission.

18           (6) The commission shall be authorized to:

19           (a) Take all necessary measures to effectuate the public purposes described in  
20           subsection (1) of this section;

21           (b) Assist in fulfilling the executive committee's mandatory duties regarding  
22           review of planned decommissioning, demolition, or retirement decisions  
23           described in subsection (7) of this section;

24           (c) Engage in the examination and study of:

25           1. The adequacy of the Commonwealth's existing and anticipated future  
26           electric generation and transmission resources and the existing and  
27           anticipated future electric demand;

- 1            2. The continued operation, retirement, divestiture, or other major action  
2            impacting any electric power generating unit, or any pollution control  
3            equipment associated with any such unit, located in the  
4            Commonwealth;
- 5            3. Issues concerning the adequacy of the Commonwealth's energy  
6            supply, including but not limited to the economic impact of energy  
7            production and consumption in the Commonwealth, the Kentucky  
8            energy grid's response to severe weather events, projected power  
9            demand and growth in demand, land use impacts from power  
10           generation, local economic impacts resulting from the closure of  
11           electric generating resources, and whether alternatives to  
12           decommissioning electric generating resources exist;
- 13           4. The effect of any federal policy which may impact the availability of  
14           dispatchable power or the adequacy of energy supplies in the  
15           Commonwealth;
- 16           5. The Commonwealth's ability to participate in energy markets or in the  
17           production, transmission, or distribution of energy;
- 18           6. The Commonwealth's ability to finance or provide financing  
19           assistance to energy producers to encourage additional energy  
20           production in the Commonwealth;
- 21           7. New and emerging electric generating technologies that could supply  
22           future electric demand in the Commonwealth; and
- 23           8. Whether the Commonwealth's energy resources are sufficiently  
24           dispatchable to ensure against loss of electrical power supply in the  
25           event of extreme weather or other unexpected or catastrophic events  
26           that may challenge the ability of the Commonwealth's electrical grid  
27           to meet demand; and

1        (d) On or before December 1, 2024, and each December 1 thereafter, submit a  
2        report with recommendations, including but not limited to recommendations  
3        for statutory changes or budgetary proposals, to the Legislative Research  
4        Commission, the Governor, and the Public Service Commission concerning  
5        any of the issues examined or studied by the commission pursuant to  
6        paragraph (c) of this subsection.

7        (7) (a) Notwithstanding any provision of law to the contrary, no utility shall  
8        undertake any decommissioning, demolition, or retirement activity at any  
9        existing coal, oil, or natural gas-fired electric generating plant, or any unit  
10       within the plant, prior to submitting notice to the commission and receiving  
11       the findings from the executive committee, as described in this subsection.

12       (b) A utility proposing to undertake any decommissioning, demolition, or  
13       retirement activity at any existing coal, oil, or natural gas-fired power plant,  
14       or unit within such plant, shall give notice to the commission's executive  
15       committee, in the form and manner as the executive committee may require,  
16       at least three hundred sixty-five (365) days prior to submitting the  
17       retirement application to the Public Service Commission required by  
18       subsection (1) of Section 4 of this Act. The utility may include with its notice  
19       any information the utility believes will assist in the executive committee's  
20       review of the proposed activity.

21       (c) 1. The executive committee or executive director may require a utility  
22       filing notice under this subsection to provide any information, records,  
23       or data that the executive committee or executive director deems  
24       reasonably necessary to make its findings under this subsection, and  
25       the utility shall respond to all such requests within a reasonable  
26       timeframe as established by the executive committee or executive  
27       director.

- 1           2. A utility responding to an information request may designate  
2           information, records, or data provided in the response as confidential  
3           business information, and the information, records, or data shall be  
4           exempt from disclosure under the requirements of KRS 61.870 to  
5           61.884.
- 6           3. A utility responding to an information request may indicate in its  
7           response that the information, records, or data provided should not be  
8           shared with specific members of the commission board or executive  
9           committee to avoid an unfair competitive or market advantage, in  
10           which case the confidential information, records, or data shall not be  
11           shared with or made available to that member or members.
- 12           (d) Other than being a customer of retail electric service, any member of the  
13           commission board who has an employment or contractual relationship with  
14           the utility filing the notice required by this subsection shall have no contact  
15           with the executive director or any member of the executive committee  
16           concerning the proposed activities described in the notice.
- 17           (e) Within one hundred eighty (180) days of its receipt of the notice required by  
18           this section, the commission shall hold a public hearing in the county in  
19           which the decommissioning, demolition, or retirement activity is proposed to  
20           occur in order to receive public comments on the proposed activity.
- 21           (f) Within two hundred seventy (270) days of receiving a utility's notice of a  
22           proposed decommissioning, demolition, or retirement activity, but following  
23           the public hearing described in paragraph (e) of this subsection, the  
24           executive committee shall issue a final report containing written findings  
25           and recommendations concerning the proposed decommissioning,  
26           demolition, or retirement activity. The executive committee's written  
27           findings and recommendations shall include:

- 1            1. The impact of the proposed activity on the available supply of  
2            dispatchable and reliable power within the Commonwealth, including  
3            the ability of the Commonwealth to meet future demand growth or  
4            respond to extreme weather events;
  - 5            2. Whether alternatives to the proposed activity exist, and whether those  
6            alternatives should be further evaluated prior to proceeding with the  
7            proposed activity;
  - 8            3. Whether the replacement of the generating unit or units subject to the  
9            proposed activity with other generating resources will result in any  
10           adverse land use impacts in the Commonwealth;
  - 11           4. Whether the proposed activity will result in loss of revenue to the  
12           Commonwealth or any local government unit;
  - 13           5. The positive or negative economic impact of the proposed activity on  
14           the local economy of the area in which the proposed activity will take  
15           place;
  - 16           6. The economic impact of the proposed activity on the Commonwealth  
17           as a whole; and
  - 18           7. The impact of the proposed activity on the Commonwealth's ability to  
19           increase the available supply of electrical power for current or future  
20           economic development purposes.
- 21           (g) The findings of the executive committee that are approved by a majority of  
22           the members of the executive committee shall be designated as findings of  
23           the commission and shall be submitted to the Public Service Commission. If  
24           no majority decision of the executive committee is reached with respect to  
25           the findings, the report shall so indicate, and each member of the executive  
26           committee may make a written statement of position concerning the  
27           proposed activity by the deadline provided for in the report. Each written

1 statement shall be included in the report and transmitted along with the  
2 report to the Public Service Commission. Any executive committee member  
3 dissenting from the report, any portion of the report, or any specific  
4 findings in the report may, within three hundred sixty-five (365) days of the  
5 utility filing notice of the proposed activity, transmit separate dissenting  
6 findings to the Public Service Commission.

7 (h) The executive committee's written report, and any dissenting statements  
8 provided to the Public Service Commission, shall be included in any  
9 retirement application made to the Public Service Commission under  
10 Section 4 of this Act, and the Public Service Commission shall not approve  
11 any retirement application without considering all information received  
12 from the executive committee or any member of the executive committee.  
13 Any order of the Public Service Commission in a proceeding under Section  
14 4 of this Act shall contain specific written findings of fact or conclusions of  
15 law addressing whether the executive committee's findings and  
16 recommendations were considered by the Public Service Commission.

17 (i) No retirement application to the Public Service Commission under Section  
18 4 of this Act shall be deemed administratively complete unless it includes  
19 either the executive committee's report submitted pursuant to this section or  
20 evidence that more than three hundred sixty-five (365) days have passed  
21 since notice was submitted to the commission as required in paragraph (b)  
22 of this subsection and no executive committee report or determination has  
23 been provided to the utility.

24 (8) Notwithstanding any provision of law to the contrary, the executive committee, or  
25 the executive director if authorized by the executive committee, shall have  
26 standing to participate as an intervening party in any case or other proceeding  
27 before the Public Service Commission.

1 **(9) Subject to available funding, the executive committee may employ administrative**  
2 **staff or third-party consultants with expertise in the subject matter of any study,**  
3 **examination, or review undertaken by the commission to assist in carrying out**  
4 **the commission's functions under this section.**

5 **(10) The Commission shall cease to exist on December 31, 2035.**

6 ➔SECTION 2. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED  
7 TO READ AS FOLLOWS:

8 **(1) Except as otherwise provided in KRS 278.010 to KRS 278.450, if the commission**  
9 **fails to issue a final order on any application submitted to it by a utility pursuant**  
10 **to KRS 278.018, 278.020, 278.216, 278.218, 278.271, and 278.300 within six (6)**  
11 **months of the acceptance of the filing of the application, then the application**  
12 **shall be deemed approved by the commission and the relief requested shall be**  
13 **deemed to be granted.**

14 **(2) The commission shall complete and issue a final order on all six (6) month and**  
15 **two (2) year reviews of the operation of a utility's environmental surcharge and**  
16 **fuel adjustment clause within six (6) months of commencing the review.**

17 ➔Section 3. KRS 278.110 is amended to read as follows:

18 **(1)** The commission acting through the executive director may employ such clerks,  
19 stenographers, rate experts, agents, special agents, engineers, accountants, auditors,  
20 inspectors, lawyers, hearing examiners, experts and other classified service  
21 employees and the commission may contract for services of persons in a  
22 professional or scientific capacity to make or conduct a hearing or a temporary or  
23 special inquiry, investigation or examination as it deems necessary to carry out the  
24 provisions of this chapter, or to perform the duties and exercise the powers  
25 conferred by law upon the commission.

26 **(2) (a) When the commission contracts for the services of a person in a**  
27 **professional or scientific capacity to conduct a hearing, temporary special**

1 *inquiry, investigation, or examination, any nonprivileged final report or*  
 2 *recommendation prepared in fulfillment of the contract shall be filed within*  
 3 *the record for the case for which the final report or recommendation was*  
 4 *prepared at the same time it is provided to the commission.*

5 *(b) A contracted person who has prepared and submitted a final report or*  
 6 *recommendation pursuant to this subsection shall be required to respond to*  
 7 *any written information requests regarding the final report or*  
 8 *recommendation. Additionally, the contracted person shall be available for*  
 9 *cross-examination as a witness in the case for which the final report or*  
 10 *recommendation was prepared and filed at any public hearing held by the*  
 11 *commission pursuant to the rules it has adopted.*

12 ➔Section 4. KRS 278.264 is amended to read as follows:

- 13 (1) Notwithstanding any provision of law to the contrary, the commission shall have  
 14 the authority to approve or deny the retirement of an electric generating unit owned  
 15 by a utility. Prior to retiring an electric generating unit, a utility shall apply to the  
 16 commission for an order approving the retirement, and shall give the commission  
 17 thirty (30) days' notice of the application. *The application shall include a*  
 18 *statement certifying the applicant's compliance with the requirements of Section*  
 19 *1 of this Act.* The commission shall enter an order approving, approving with  
 20 conditions, or denying the application within one hundred eighty (180) days of  
 21 receiving an administratively complete application.
- 22 (2) There shall be a rebuttable presumption against the retirement of a fossil fuel-fired  
 23 electric generating unit. The commission shall not approve the retirement of an  
 24 electric generating unit, authorize a surcharge for the decommissioning of the unit,  
 25 or take any other action which authorizes or allows for the recovery of costs for the  
 26 retirement of an electric generating unit, including any stranded asset recovery,  
 27 unless the presumption created by this section is rebutted by evidence sufficient for



1 the commission to find that:

2 (a) The utility will replace the retired electric generating unit with new electric  
3 generating capacity that:

4 1. Is dispatchable by either the utility or the regional transmission  
5 organization or independent system operator responsible for balancing  
6 load within the utility's service area;

7 2. Maintains or improves the reliability and resilience of the electric  
8 transmission grid;~~and~~

9 3. Maintains the minimum reserve capacity requirement established by the  
10 utility's reliability coordinator; and

11 4. Has the same or higher capacity value and net capability, unless the  
12 utility can demonstrate that such capacity value and net capability is  
13 not necessary to provide reliable service;

14 (b) The retirement will not harm the utility's ratepayers by causing the utility to  
15 incur any net incremental costs to be recovered from ratepayers that could be  
16 avoided by continuing to operate the electric generating unit proposed for  
17 retirement in compliance with applicable law;~~and~~

18 (c) The decision to retire the fossil fuel-fired electric generating unit is not the  
19 result of any financial incentives or benefits offered by any federal agency;  
20 and

21 (d) The utility shall not commence retirement or decommissioning of the  
22 electric generating unit until the replacement generating capacity meeting  
23 the requirements of paragraph (a) of this subsection is fully constructed,  
24 permitted, and in operation.

25 (3) The utility shall at a minimum provide the commission with evidence of all known  
26 direct and indirect costs of retiring the electric generating unit and demonstrate that  
27 cost savings will result to customers as a result of the retirement of the electric

1 generating unit.

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

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

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

9 1. Commonwealth's generation fuel mix;

10 2. Required capacity reserve margins for the utility;

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

13 4. Need for additional purchase power or capacity reserve arrangements;  
14 and

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

18 **(5) As used in this section:**

19 **(a) "Dispatchable" means a source of electric power generation that is**  
20 **available on demand, that is not intermittent, and that can be adjusted to**  
21 **increase or decrease its power output upon request of a power grid operator**  
22 **or otherwise upon demand or request, or that can have its power output**  
23 **adjusted in response to market or system needs; and**

24 **(b) "Intermittent" means:**

25 **1. A source of electric power generation from a solar photovoltaic, solar**  
26 **thermal heating, concentrating solar thermal collector, or other solar**  
27 **energy collection or generation system;**

- 1            2. A source of electric power that generates energy by harnessing wind  
2            power or energy, whether through a turbine or other device;  
3            3. Geothermal energy, biomass energy, anaerobic digestion, or combined  
4            heat and power from solar, wind, geothermal, or anaerobic digestion  
5            sources; or  
6            4. Any short duration energy storage, which includes any method of  
7            storing generated electricity for later dispatch to the grid, whether  
8            alone or in conjunction with any other intermittent sources described  
9            in this paragraph, that is equivalent to less than forty-eight (48) hours  
10           of the average peak generation of the unit it is used to offset.

11           ➔Section 5. All initial appointments to the Energy Planning and Inventory  
12 Commission board and executive committee shall be made on or before July 1, 2024. The  
13 initial terms of appointments made by the Governor who are not executive branch  
14 officials shall be staggered as follows: seven members shall serve until the July 1, 2025,  
15 seven members shall serve until July 1, 2026, and the two gubernatorial appointments to  
16 the executive committee shall serve until July 1, 2027.

17           ➔Section 6. Whereas the continued unabated retirement of needed generating  
18 resources threatens to harm employment, tax revenue, and utility rates, and is creating a  
19 crisis with respect to the Commonwealth's ability to meet current and projected future  
20 energy demands, an emergency is declared to exist, and this Act takes effect upon its  
21 passage and approval by the Governor or upon its otherwise becoming a law.