

1 AN ACT relating to the retirement of fossil fuel-fired electric generating units.

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

3 ➔Section 1. KRS 278.264 is amended to read as follows:

4 (1) Notwithstanding any provision of law to the contrary, the commission shall have
5 the authority to approve or deny the retirement of an electric generating unit owned
6 by a utility. Prior to retiring an electric generating unit, a utility shall apply to the
7 commission for an order approving the retirement, and shall give the commission
8 thirty (30) days' notice of the application. The commission shall enter an order
9 approving, approving with conditions, or denying the application within one
10 hundred eighty (180) days of receiving an administratively complete application.

11 (2) There shall be a rebuttable presumption against the retirement of a fossil fuel-fired
12 electric generating unit. The commission shall not approve the retirement of an
13 electric generating unit, authorize a surcharge for the decommissioning of the unit,
14 or take any other action which authorizes or allows for the recovery of costs for the
15 retirement of an electric generating unit, including any stranded asset recovery,
16 unless:

17 **(a) The commission finds that the utility has no undepreciated investment in**
18 **the fossil fuel-fired electric generating unit or any of its ancillary units;**

19 **(b) The commission finds that the costs to operate the fossil fuel-fired electric**
20 **generating unit and its ancillary units are greater than the revenues it and**
21 **its ancillary units generate; and**

22 **(c)** The presumption created by this section is rebutted by evidence sufficient for
23 the commission to find that:

24 **1.[(a)]** The utility will replace the retired electric generating unit with new
25 electric generating capacity that:

26 **a.[-]Is** dispatchable by either the utility or the regional transmission
27 organization or independent system operator responsible for

- 1 balancing load within the utility's service area;
- 2 ~~b.[2-]~~ Maintains or improves the reliability and resilience of the electric
- 3 transmission grid; and
- 4 ~~c.[3]~~. Maintains the minimum reserve capacity requirement established
- 5 by the utility's reliability coordinator;
- 6 ~~2.[(b)]~~ The retirement will not harm the utility's ratepayers by causing the
- 7 utility to incur any net incremental costs to be recovered from ratepayers
- 8 that could be avoided by continuing to operate the electric generating
- 9 unit proposed for retirement in compliance with applicable law; and
- 10 ~~3.[(e)]~~ The decision to retire the fossil fuel-fired electric generating unit is
- 11 not the result of any financial incentives or benefits offered by any
- 12 federal agency.
- 13 (3) The utility shall at a minimum provide the commission with evidence of all known
- 14 direct and indirect costs of retiring the electric generating unit and demonstrate that
- 15 cost savings will result to customers as a result of the retirement of the electric
- 16 generating unit.
- 17 (4) The commission shall prepare and submit an annual report to the Legislative
- 18 Research Commission by December 1 of each year detailing:
- 19 (a) The number of requests by utilities to retire electric generating units in the
- 20 Commonwealth, the nameplate capacity of each of those units, and whether
- 21 the request was approved or denied by the commission;
- 22 (b) The impact of any commission-approved retirement of an electric generating
- 23 unit on the:
- 24 1. Commonwealth's generation fuel mix;
- 25 2. Required capacity reserve margins for the utility;
- 26 3. Need for capacity additions or expansions at new or existing facilities as
- 27 a result of the retirement; and

- 1 4. Need for additional purchase power or capacity reserve arrangements;
- 2 and
- 3 (c) Whether the retirement resulted in stranded costs for the ratepayer that will be
- 4 recovered by the utility through a surcharge or some other separate charge on
- 5 the customer bill.