

Responsible Grid Management Act

(Based primarily on Kentucky Revised Statutes §§ 278.262, 278.264)

Section 1. Definitions

When used in this act, the below terms are defined as follows.

- A. “Commission” means the state [Public Utility Commission/Corporation Commission].
- B. “Dispatchable” means a source of electric power generation that is available on demand, that is not intermittent, and that can be adjusted to increase or decrease its power output upon request of a power grid operator or otherwise upon demand or request, or that can have its power output adjusted in response to market or system needs.
- C. “Electric generating unit” means one 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.
- D. “Intermittent” means:
 - 1. A source of electric power generation from a solar photovoltaic, solar thermal heating, concentrating solar thermal collector, or other solar energy collection or generation system;
 - 2. A source of electric power that generates energy by harnessing wind power or energy, whether through a turbine or other device;
 - 3. Geothermal energy, biomass energy, anaerobic digestion, or combined heat and power from solar, wind, geothermal, or anaerobic digestion sources;
 - 4. Any short duration energy storage, which includes any method of storing generated electricity for later dispatch to the grid, whether alone or in conjunction with any other intermittent sources described in this paragraph, that is equivalent to less than forty-eight (48) hours of the average peak generation of the unit it is used to offset; or
 - 5. Conventional hydropower and pumped storage hydropower, unless they are capable of providing energy on demand, in which case they shall be deemed to be dispatchable.
- E. “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.
- F. “Resilience” means having the ability to quickly and effectively respond to and recover from events that compromise grid reliability.
- G. “Retirement” and “retire” mean the cessation of operations at an electric generating unit without a concrete plan to resume such operations within 30 days. “Retirement” and “retire”

also mean the transfer of ownership in an electric generating unit to a person that is not subject to the jurisdiction of the commission.

- H. “Utility” means any person, including a corporation, company, individual, association of persons, their trustees, lessees or receivers, or political subdivision of this state, who owns, controls, operates, or manages any facility used or to be used in connection with the generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses, and is or may be made subject to the jurisdiction of the commission.

Section 2. Responsible Grid Management

- A. The commission shall have the authority to approve or deny the retirement of any electric generating unit in this state owned by a utility or an affiliate of a utility. Prior to retiring an electric generating unit, a utility or affiliate shall apply to the commission for an order approving the retirement by providing the information required by this section. The commission shall enter an order approving, approving with conditions, or denying the application within one hundred eighty days of receiving an administratively complete application. If the commission approves or approves with conditions a utility or affiliate’s request to retire an electric generating unit, it will include in the order requirements corresponding to paragraphs (B)(1) and (B)(4) of this section.
- B. There shall be a rebuttable presumption against the retirement of an electric generating unit covered by subsection A of this section. 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 commission finds by a preponderance of the evidence that:
1. The utility will replace the retired electric generating unit with new electric generating capacity that:
 - a. 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;
 - b. Maintains or improves the reliability and resilience of the electric transmission grid;
 - c. Maintains the minimum reserve capacity requirement established by the utility’s reliability coordinator; and
 - d. Has the same or higher capacity value and net capability, unless the utility can demonstrate that such capacity value and net capability is not necessary to provide reliable service in the utility’s service area;

2. 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 in compliance with applicable law;
 3. The decision to retire the electric generating unit is not the result of any financial incentives or benefits offered by any federal agency; and
 4. The utility will not commence retirement or decommissioning of the electric generating unit until the replacement generating capacity meeting the requirements of paragraph 1 is fully in operation, unless the utility demonstrates, and the commission finds, that it is necessary under the circumstances to commence retirement or decommissioning of the existing unit earlier.
- C. In its application pursuant to subsection A, the utility shall provide information sufficient for the commission to evaluate the requirements of this section, evidence of all known direct and indirect costs of retiring the electric generating unit, and information demonstrating that cost savings will result to customers and reliability will be maintained or improved as a result of the retirement of the electric generating unit.
- D. The commission and the [Attorney General] shall have concurrent authority to investigate the accuracy and completeness of applications and other information provided to the commission pursuant to this section using the same investigative powers as provided under the [Consumer Fraud Act]. The commission and the [Attorney General] may each file an action seeking to enjoin any action that is contrary to the requirements of this Section. A utility or affiliate of a utility may appeal an adverse final decision by the commission by filing an action in a court of competent jurisdiction within 30 days of such decision.
- E. The [Attorney General] has standing and authority to sue on behalf of the state related to any increased costs or other injury resulting from federal regulations applicable to any electric generating unit in this state.
- F. On or before September 30 of each year, the commission shall submit a report to the legislature detailing:
1. The number of requests by utilities to retire electric generating units pursuant to this section, the nameplate capacity of each of those units, and what action the commission took on the request;
 2. The impact of any commission-approved retirement of an electric generating unit on the state's generation fuel mix; the required capacity reserve margins for the utility; the need for capacity additions or expansions at new or existing facilities as a result of the retirement; the need for additional purchase power or capacity reserve arrangements; and

3. 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.