

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 455

As Amended by Senate Committee on Utilities

Brief*

SB 455, as amended, would add and amend law regarding electric public utilities, coal-fired electric generating facilities, and the Kansas Corporation Commission (Commission).

Requirements for Coal-fired Electric Generating Facilities

The bill would include coal-fired electric generating facilities, if determined by the Commission to be just, reasonable, and necessary for the provision of sufficient and efficient service.

Additionally, the bill would require coal-fired electric generating facilities to do the following:

- Retain rate base appropriate to the facility;
- Recover expenses associated with operational costs to provide greater certainty that generating capacity will be available to all customers, including during extreme weather events; and
- Recover any portion of the rate base and expenses that are necessary for generation facilities to operate at a low-capacity factor or to provide additional capacity while remaining offline during normal operating conditions.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Abandonment or Retirement of Fossil Fuel Electric Generating Units

The bill would prohibit the Commission from approving the retirement of a unit, authorizing surcharges or issuance of bonds for the decommissioning of a unit, or taking any other action which would authorize or allow for the recovery of costs related to the retirement of a unit, including stranded asset recovery, unless the Commission finds the following through sufficient evidence:

- The utility will replace the retired or abandoned unit with new electric generating capacity that:
 - The electric generating capacity is equal to or greater than necessary to meet the minimum reserve capacity requirements set forth by the utility's reliability coordinator;
 - Is dispatchable by the utility, regional transmission organization, or independent system operator;
 - Maintains or improves the reliability and resilience of the electric transmission grid; and
- The abandonment or retirement of the unit will not harm the utility's ratepayers or decrease the utility's regional rate competitiveness, unless the Commission determines higher costs are justified in specified factors and are consistent with the integrated resource planning framework. The utility would be required to provide the Commission with evidence of all known direct and indirect costs related to the retirement or abandonment of the unit and demonstrate such cost savings or avoided or mitigated cost increases to customers will occur as a result; and
- The abandonment or retirement of the unit is for economic purposes and for the benefit of the

customers and not principally based on achieving environmental, social, or governmental goals which are not mandated by federal or state laws, unless otherwise required.

Petition for Determination of Ratemaking Principles and Treatment

The bill would amend current law by extending the timelines from 180 days to 240 days for the Commission to make a determination of rate-making principles and treatment proposed by a petitioning public utility.

The bill would also establish guidelines for the Commission upon the instance a public utility files a petition for a determination of ratemaking principles and treatment, requiring the following:

- The issuance of a determination in an expeditious manner; and
- When circumstances allow, issue a determination in a time frame shorter than the 240 day deadline.

The bill would also require a public utility to provide the Commission a notice no less than 30 days before the filing of a petition. The bill would require the Commission, upon receipt of the notice, to provide a notice of the public utility's intent to file a petition to each person or entity involved in the public utility's most recently concluded base rate case.

The bill would also establish proceedings guidelines:

- The application for intervention in any proceedings must be submitted no later than 10 days after the public utility's filing of a petition for determination of ratemaking principles and treatments; and

- The Commission must adopt a procedural schedule for the proceedings no later than 30 days after a petition files for a determination of ratemaking principles and treatments.

Annual Reports

The bill would require the Commission to prepare and submit an annual report to the Legislature by December 1 each year, detailing:

- The number of unit retirement requests in the state;
- The nameplate capacity of each of the requested units;
- Whether the request was approved or denied by the Commission;
- The impact of any Commission-approved retirement of a unit on the:
 - Utility's and state's generation fuel mix;
 - Required capacity reserve margins for the utility;
 - Need for capacity additions or expansions at new or existing facilities as a result of a unit retirement; and
 - Need for additional power or capacity reserve arrangements, and
- Whether the retirement resulted in stranded costs for ratepayers that will be recovered by the utility through securitization or through some other charge on the customer bill.

The provisions of this section of the bill would expire on July 1, 2034.

Background

The bill was introduced by the Senate Committee on Utilities at the request of a representative from Evergy.

[*Note:* The bill was amended by the Senate Committee on Utilities to include amended provisions of SB 456, the background of which is listed below.]

SB 455

Senate Committee on Utilities

In the Senate Committee hearing on the bill, **proponent** testimony was provided by a representative from Evergy. The proponent indicated the bill would be a tool that would provide flexibility for how Evergy manages its generation fleet. The proponent stated the language in the bill would allow a coal plant to run less but still be available for winter and summer peaks when needed for reliability. The proponent expressed that this legislation would prevent outside entities from forcing a coal plant to shut down due to inactivity.

Opponent testimony was provided by a representative from the Kansas Sierra Club. The representative indicated the Kansas Sierra Club is uncomfortable with policy proposals that would prolong coal plant use when more ecofriendly resources are available. Additionally, the representative indicated this legislation does not make a significant change to the current status quo of energy regulation, nor does it give Kansans or their leaders a comprehensive vision of Kansas' energy future.

Neutral testimony was provided by a representative from the Kansas Industrial Consumers Group and Kansans for Lower Energy Rates and a representative from the Commission. Both representatives expressed concern over the necessity of the bill at this time.

The Senate Committee amended the bill to:

- Require the Commission to issue a determination of ratemaking principles and treatment within 240 days of the date of the petition filing;
- Establish guidelines for the Commission regarding the retirement or abandonment of a fossil-fuel fired electric generating unit;
- Add language describing legislative intent in regards to the filing of a petition for a determination of ratemaking principles and treatment; and
- Establish an annual report to be submitted by the Commission to the Legislature by December 1 of each year until July 1, 2034.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Commission and Citizen's Utility Ratepayer Board indicated the enactment of the bill would have no fiscal effect.

SB 456

The bill was introduced by the Senate Committee on Utilities at the request of a representative of the Kansas Chamber.

Senate Committee on Utilities

In the Senate Committee hearing, **proponent** testimony was provided by representatives from the Kansas Chamber, Kansas Electric Cooperatives, Kansas Industrial Consumers Group, and Kansans for Lower Electric Rates. The proponents indicated the bill is a straightforward approach to establish criteria to ensure that fossil fuel generation that

customers have paid for will not be prematurely retired or abandoned without thorough consideration by the Commission. The proponents explained the bill provides certainty to all stakeholders, including customers, that Kansas will have sufficient generating resources for the future.

Written-only proponent testimony was provided by a representative from the Citizens' Utility Ratepayers Board.

Opponent testimony was provided by representatives from Kansas Interfaith Action and Kansas Sierra Club. The opponents indicated the enactment of the bill is unnecessary as utilities and regulators already consider a robust set of criteria and considerations in their evaluations of utility plans and proposals. The opponents further expressed without provisions distinguishing the evaluation of power generation in near-term or long-term components, the bill would create a disposition against beneficial investments with payoffs over time.

Neutral testimony was provided by representatives from the Commission, the Energy Policy Network, and Evergy.

Written-only neutral testimony was provided by a representative from The Nature Conservancy.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Commission and Citizen's Utility Ratepayer Board indicated the enactment of the bill would have no fiscal effect.

Kansas Corporation Commission; electric generating facilities; fossil fuels; generation; rate base; coal-fired electric generating facilities; public utilities; rates; transmission; fossil-fuel fired electric generation units; retirement; abandonment; annual retirement request report