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MEMORANDUM

To: Committee on Energy, Utilities and Telecommunications
From: Nick Myers, Office of Revisor of Statutes
Date: March 13, 2024
Subject: Bill Brief – Senate Bill 455 as Amended by Senate Committee

Senate Bill 455 would amend K.S.A. 66-1239 which authorizes a public utility to seek a determination of ratemaking principles and treatment from the state corporation commission prior to undertaking construction of or acquiring a stake in an electric transmission facility or generation facility.

Abandonment, Retirement and Retention of Certain Electric Generation Facilities

If such a ratemaking determination proceeding involves the abandonment or retirement of fossil fuel-fired electric generating unit, SB 455 would prohibit the state corporation commission from approving the abandonment or retirement of the unit, authorizing the decommissioning of the unit or taking any other action that authorizes cost recovery for the retirement of such unit unless the commission determines through evidentiary support that:

- The utility will replace the electric generating unit with new electric generating capacity that: (i) Is sufficient to meet the minimum reserve capacity requirement established by the southwest power pool; (ii) is dispatchable; and (iii) maintains or improves reliability and resilience of the electric grid;
- The abandonment or retirement will not harm the utility’s ratepayers or decrease the utility’s regional rate competitiveness by causing higher costs than would be expected by continuing to operate such electric generating unit unless the commission determines that such higher costs are justified by other factors. The utility shall provide evidence of all known direct and indirect costs and demonstrate that cost savings or avoided or mitigated cost increases will occur; and

- Unless the abandonment or retirement is required to comply with state or federal laws, the abandonment or retirement is for economic purposes and for the benefit of customers and not for achieving environmental, social and governance goals.
SB 455 would expire the above-mentioned provisions on July 1, 2034.

SB 455 would authorize an electric public utility to retain any coal-fired electric generating facility in the utility’s generation mix if the state corporation commission determines that it is just, reasonable and necessary to do so. SB 455 would authorize the public utility to retain any such coal-fired electric generating facility in the utility’s rate base, recover operating expenses for such facility, and recover any portion of rate base and expenses that are necessary for such facilities to operate at a low-capacity factor or to provide additional capacity but remain offline during normal operating conditions.

KCC Report on Electric Generation Retirements

SB 456 would require the state corporation commission to prepare and submit an annual report to the legislature that provides a summary of:

- The number of utility requests to retire electric generating units, the nameplate capacity of such units, and whether the commission approved or denied such request.
- The impact of any commission-approved retirement on the utility’s generation fuel mix, capacity reserve margins and need for additional capacity additions or arrangements.
- Whether the retirement resulted in stranded costs that will be recovered through ratepayers.

Extension of the KCC’s Deadlines for Predetermination Proceedings

SB 455 would increase the amount of time that the commission has to issue an order in any such proceeding for a determination of ratemaking principles and treatment from 180 days to 240 days. As part of such extension, SB 455 would require the commission to issue an order in a shorter period of time if circumstances allow. To expedite such process, SB 455 would require a utility that intends to file a petition to commence such proceeding to provide notice to the commission not less than 30 days before the utility files such petition. Upon receipt of such

notice, the commission would be required to notify each person or entity that was a party to or an intervenor in the public utility's most recent rate case. SB 455 would then require any applications for intervention in such a proceeding to be submitted not later than 10 days after the utility submits its petition and the commission to adopt a procedural schedule within 30 days.

If enacted, SB 455 would take effect on July 1, 2024.