SENATE BILL No. 170

By Committee on Utilities

AN ACT concerning electric utilities; relating to the regulation of carbon dioxide emissions; concerning development of a state implementation plan, legislative approval; state corporation commission; department of health and environment.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The state corporation commission and the secretary of health and environment may examine the implications of preparing and implementing any rule proposed under docket EPA-HQ-OAR-2013-0602 or pursuant to 42 U.S.C. § 7411(d), but shall not prepare, draft, submit or implement an implementation plan or expend any funds to develop an implementation plan pursuant to any such rule until the completion of judicial review, in the determination of the commission and the secretary, as to the legality of federal regulation for existing electric generating units pursuant to such rule has been fully resolved.

(b) The secretary, prior to submission to the environmental protection agency of any state implementation plan developed by the secretary, shall submit the plan to the:

(1) Senate committee on utilities and the house of representatives committee on energy and environment or, if the legislature is not in session, any special committee created by the legislative coordinating council to address electricity or utilities issues, for such committees to:

(A) Review the impact of the plan and implementation of the rule proposed by the environmental protection agency on the affordability and reliability of the electric system for Kansas ratepayers; and

(B) submit a report including the committee's findings and approval of the plan to the legislature; and

(2) state corporation commission and the federal energy regulatory commission to certify that implementation of the proposed rule will still permit electric utilities in Kansas to meet the reliability standards established by the federal energy regulatory commission.

(c) In performing a review of any state implementation plan developed in response to docket EPA-HQ-OAR-2013-0602 or 42 U.S.C. § 7411(d), the state corporation commission and the department of health and environment shall:

(1) Condition any decision related to electricity generation and
distribution on least-cost proposals that comply with any rules proposed pursuant to 42 U.S.C. § 7401 et seq. and the state implementation plan for which air quality criteria have been established pursuant to 42 U.S.C. § 7412;

(2) require that all existing electric generating units be operated in accordance with such units’ design parameters and in such a manner as to ensure operation consistent with the initial design life of a unit at the time of such unit’s construction;

(3) cap non-fuel rate increases associated with greenhouse gas regulations at 1.5%; and

(4) not allow electric generating units to be retired prior to a unit’s engineering lifetime:

(A) If the unit is necessary to maintain the grid reliability specified by the federal energy regulatory commission reliability standards; or

(B) unless the owners of the unit have fully recouped the cost of construction and financing, the replacement generation results in lower electric costs to ratepayers and there is sufficient replacement capacity to meet dispatchable capacity of the unit to be retired.

(d) Notwithstanding approval by the legislature, or by any legislative committee pursuant to subsection (b), of the submission of a state implementation plan to the environmental protection agency, further action by the secretary to implement or enforce the final approved state implementation plan is dependent upon the final adoption of the federal emission guidelines implemented under docket EPA-HQ-OAR-2103-0602 or pursuant to 42 U.S.C. § 7411(d). If such federal emission guidelines are not adopted or are adopted and subsequently suspended, vacated, in whole or in part, or held to not be in accordance with the law, the secretary shall suspend or terminate, as appropriate, further action to implement or enforce the state implementation plan.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.