

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 1044*

Short Title: Moratorium on Coal-Fired Power Plants. (Public)

Sponsors: Senator Kinnaird.

Referred to: Commerce.

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ECONOMIC RELIEF TO ELECTRIC UTILITY RATEPAYERS DURING THIS PERIOD OF ECONOMIC RECESSION AND THE COMING RECOVERY PERIOD BY PLACING A MORATORIUM ON THE CONSTRUCTION OF NEW COAL-FIRED POWER PLANTS.

The General Assembly of North Carolina enacts:

SECTION 1. Short Title. – This act shall be known as The Electric Utility Ratepayers Relief Act.

SECTION 2.(a) Findings. – The General Assembly makes the following findings:

- (1) North Carolina, the nation, and the globe are in the midst of an economic recession.
- (2) Plummeting property values, increased prices for goods and services, and rising unemployment rates threaten the economic well-being of North Carolina's citizens.
- (3) Costs of constructing a new facility for the generation of electricity are exorbitant during normal economic times and will continue to rise during the global economic recession and the coming economic recovery period.
- (4) Full recovery from the global recession will take many years.
- (5) A certificate for the construction of a coal-fired unit for the generation of electricity may be granted by the Utilities Commission only if the Commission finds (i) that the construction and operation of the facility is in the public interest and (ii) that energy efficiency measures; demand-side management; renewable energy resource generation; combined heat and power generation; or any combination thereof would not establish or maintain a more cost-effective and reliable generation system.
- (6) Once a certificate is issued by the North Carolina Utilities Commission, construction of a facility for the generation of electricity may be cancelled upon a finding that the construction is no longer in the public interest.
- (7) During the recession and the ensuing economic recovery period, it would not be reasonable and prudent to authorize the construction of a coal-fired generating unit to begin nor to continue since the costs of that construction will be passed on to the already economically distressed ratepayers.
- (8) An additional benefit of prohibiting the construction of a coal-fired generating unit to begin or to continue is it would provide sufficient time to determine whether consumers prefer during a recession and the ensuing economic recovery to use energy efficiency measures; demand-side management; renewable energy resource generation; combined heat and



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1 power generation; or any combination thereof to provide a more
2 cost-effective and reliable generation system.

3 (9) An additional benefit of prohibiting the construction of a coal-fired
4 generating unit to begin or to continue is it would provide sufficient time to
5 determine whether activity at the federal level will result in increasing the
6 projections of costs of producing electricity from coal-fired generating units,
7 including impacts from the federal stimulus funds to promote green energy
8 technologies and federal efforts to adopt a cap and trade program that could
9 result in dramatically increasing the costs of producing electricity generated
10 from coal-fired generating units.

11 (10) An additional benefit of prohibiting the construction of a coal-fired
12 generating unit to begin or to continue is it would provide sufficient time to
13 assess the latest scientific findings regarding the rate at which climate
14 change is occurring due to green house gas emissions and to assess the
15 estimated economic impacts of climate change mitigation measures in North
16 Carolina.

17 (11) The public is becoming increasingly aware of the benefits of energy
18 conservation and becoming increasingly aware of the long-term impacts of
19 global warming.

20 (12) For a certificate that was issued before this recession, that construction of a
21 new coal-fired generating unit is no longer in the public interest.

22 **SECTION 2.(b)** Purpose. – It is the purpose of this act to promote economic relief
23 to electric public utility ratepayers by temporarily prohibiting the issuance of any new
24 certificate authorizing the construction of a coal-fired generating unit by the North Carolina
25 Utilities Commission and requiring the suspension of any certificate issued prior to July 1,
26 2009, for any such generating unit that has not commenced operation by July 1, 2009.

27 **SECTION 3.(a)** Definitions. – As used in this act, the following definitions apply:

28 (1) Certificate. – Defined in G.S. 62-3.

29 (2) Coal-fired generating unit. – Defined in G.S. 62-133.6.

30 (3) Public utility. – Defined in G.S. 62-3.

31 **SECTION 3.(b)** Moratorium. – No certificate shall be issued to operate a
32 coal-fired generating unit pursuant to any application filed with the North Carolina Utilities
33 Commission on or after July 1, 2009.

34 **SECTION 3.(c)** Temporary Suspension. – Any certificate issued pursuant to an
35 application filed with the North Carolina Utilities Commission prior to July 1, 2009, to
36 construct any coal-fired generating unit that has not commenced electrical generating
37 operations as of July 1, 2009, shall be suspended by the North Carolina Utilities Commission,
38 and this suspension shall remain in effect until July 1, 2014.

39 **SECTION 3.(d)** Costs Recovery. – Nothing in this act prohibits an electric public
40 utility from recovering, pursuant to Article 7 of Chapter 62 of the General Statutes, the costs
41 associated with construction work that is in progress.

42 **SECTION 4.** Penalties. – Any electric public utility that has obtained a certificate
43 to construct a coal-fired generating unit issued pursuant to an application filed with the North
44 Carolina Utilities Commission prior to July 1, 2009, that commences or continues construction
45 in violation of this act, shall be prohibited from applying to recover, pursuant to Article 7 of
46 Chapter 62 of the General Statutes, any such construction costs as a fixed rate, and any
47 temporary suspension under subsection (c) of Section 3 of this act shall be made permanent.

48 **SECTION 5.** Effective date. – This act is effective when it becomes law.