

2001

**HOUSE
PUBLIC UTILITIES**

MINUTES

**HOUSE PUBLIC UTILITIES COMMITTEE
2001-2002**

REP. RONNIE SMITH, CHAIR

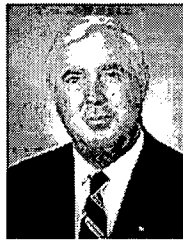
REP. DANNY MCCOMAS, VICE-CHAIR

REP. DREW SAUNDERS, VICE-CHAIR

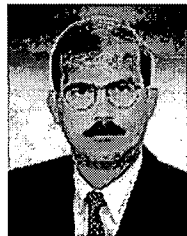
**RESEARCH STAFF;
Steve Rose
Esther Manheimer**

**COMMITTEE ASSISTANT
Ann Jordan**

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE PUBLIC UTILITIES COMMITTEE
2001 – 2002 SESSION



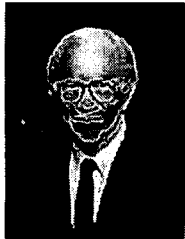
Rep. Smith
Chair



Rep. McComas
Vice-Chair



Rep. Saunders
Vice-Chair



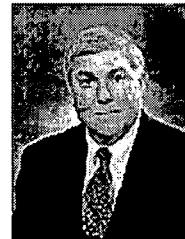
Rep. Allred



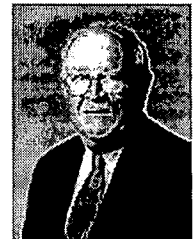
Rep. Brubaker



Rep. Coates



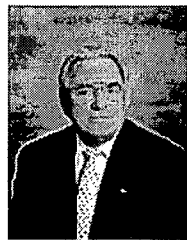
Rep. Culpepper



Rep. Edwards



Rep. Grady



Rep. Holmes



Rep. Hurley



Rep. McCombs



Rep. Rogers

**HOUSE COMMITTEE ON PUBLIC UTILITIES
2001-2002 SESSION**

<u>MEMBER</u>	<u>ASSISTANT</u>	<u>PHONE</u>	<u>OFFICE</u>	<u>SEAT</u>
SMITH, Ronnie, Chair	Ann Jordan	733-5773	2223	2
ALLRED, Cary	Jean Allred	733-5607	609	26
BRUBAKER, Harold	Cindy Coley	715-4946	1229	39
COATES, Lorene	Melissa Lennon	733-5784	633	92
CULPEPPER, Bill	Dot Crocker	715-3028	404	36
EDWARDS, Zeno	Jo Hinton	733-5906	637	3
GRADY, Robert	Peggy Murray	715-9644	616	62
HOLMES, George	Glenda Jacobs	733-5771	2119	41
HURLEY, Bill	Melissa Riddle	733-5601	2215	23
MCCOMAS, Danny	Jayne Walton	733-5786	606	109
MCCOMBS, Gene	Suzanne Erskine	733-5881	514	75
ROGERS, Gene	Sally Gillis	715-3023	416A	35
SAUNDERS, Drew	Ruth Fish	733-5606	2217	48

Committee Council: Room 545
Esther Manheimer - 733-2578
Steve Rose - 733-2578

Minutes
House Committee on Public Utilities
April 3, 2001

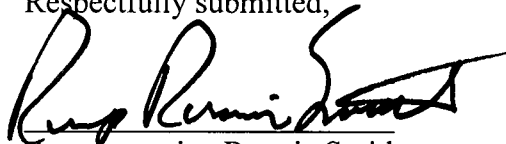
The House Committee on Public Utilities met Tuesday, April 3, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representative Saunders, Vice-Chair; and Representatives Edwards, Grady, Holmes, Hurley and McCombs. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached (Attachment 2) and made part of the minutes.


The Chair called the meeting to order. House Page Monte Tunnel from Perquimans County was introduced. Sergeant-at-Arms Donnell Leathers and Bill Freeman were also introduced.

Chairman recognized Representative Leslie Cox to speak on his bill, HB 824 – AN ACT TO REQUIRE THE INSTALLATION OF AN ACCESSIBLE CLEANOUT AT THE JUNCTION OF THE PUBLIC SEWER LINE AND THE HOUSE OR BUILDING SEWER LINE. After a brief explanation, Chairman Smith recognized Representative Edwards for an amendment (Attachment 1). The amendment passed. Chairman Smith recognized Representative Saunders for a motion on the bill. Rep. Saunders made to motion to pass as amended with a favorable report for the Proposed Committee Substitute. Motion carried.

Meeting adjourned at 10:15 a.m.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**April 3, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**HB 824 – INSTALLATION OF SEWER CLEANOUT REQUIRED.
Representative Leslie Cox, Sponsor**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, April 3, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 824 - INSTALLATION OF SEWER CLEANOUT REQUIRED.

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:00 p.m. on March 28, 2001.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Rep. Leslie Cox

OFFICE: Room 1220

NOTIFICATION DATE: March 27, 2001

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Tuesday, April 3, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

Your Bill (or Bills) will be discussed at this time:

HB 824 - INSTALLATION OF SEWER CLEANOUT REQUIRED.

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

(Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 824

Short Title: Installation of Sewer Cleanout Required.

(Public)

Sponsors: Representative Cox.

Referred to: Public Utilities.

March 27, 2001

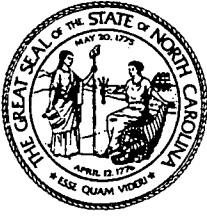
1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE INSTALLATION OF AN ACCESSIBLE CLEANOUT
3 AT THE JUNCTION OF THE PUBLIC SEWER LINE AND THE HOUSE OR
4 BUILDING SEWER LINE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 87-10(b1) reads as rewritten:

7 "(b1) Public utilities contractors constructing house and building sewer lines as
8 provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall,
9 at the junction of the public sewer line and the house or building sewer line, install as an
10 extension of the public sewer line a cleanout at or near the property line that terminates
11 at or above the finished grade. Public utilities contractors constructing water service
12 lines ~~and house and building sewer lines~~ as provided in sub-subdivision a. of
13 subdivision (3) of subsection (b) of this section shall terminate ~~said the water service~~
14 lines at a valve, box, ~~meter, or manhole or cleanout or meter~~ at which the facilities from
15 the building may be connected. Public utilities contractors constructing fire service
16 mains for connection to fire sprinkler systems shall terminate those lines at a flange,
17 cap, plug, or valve inside the building one foot above the finished floor. All fire service
18 mains shall comply with the NFPA standards for fire service mains as incorporated into
19 and made applicable by Volume V of the North Carolina Building Code."

20 SECTION 2. This act becomes effective October 1, 2001, and applies to the
21 installation or major repair of house and building sewer lines that occur on or after that
22 date.



HOUSE BILL 824: Installation of Sewer Cleanout Required.

BILL ANALYSIS

Committee: House Public Utilities
Date: April 2, 2001
Version: Version One

Introduced by: Representative Cox
Summary by: Steven Rose
Committee Counsel

A handwritten signature, likely of Steven Rose, the Committee Counsel.

SUMMARY: *House Bill 824 amends G.S. 87-10(b1) by rewriting the provisions requiring public utilities contractors to terminate the installation of house and building sewer lines at a manhole or cleanout. The revised language requires a public utilities contractor to install, as an extension of the public sewer line, a cleanout at or near the property line. The cleanout must terminate at or above the finished grade. The act becomes effective October 1, 2001 and applies to the installation or major repair of house and building sewer lines that occur on or after that date. The term "major repair" is not defined.*

The new specific requirements are:

1. The cleanout is an extension of the public line.
2. The cleanout must be at or near the property line.
3. The cleanout must be at or above grade.

H824-SMRL-001

§ 87-9. Compliance with Federal Highway Act, etc.; contracts financed by federal road funds; contracts concerning water or waste water systems.

Nothing in this Article shall operate to prevent the Department of Transportation from complying with any act of Congress and any rules and regulations promulgated pursuant thereto for carrying out the provisions of the Federal Highway Act, or shall apply to any person, firm or corporation proposing to submit a bid or enter into contract for any work to be financed in whole or in part with federal aid road funds in such manner as will conflict with any act of Congress or any such rules and regulations promulgated pursuant thereto.

Neither shall anything in this Article prevent the State of North Carolina or any of its political subdivisions or their contractors from complying with any act of Congress and any rules and regulations promulgated pursuant thereto for carrying out the provisions of any federal program to assist in the planning, financing, or construction of drinking water or waste water processing, collection, and disposal systems and facilities. (1939, c. 230; 1971, c. 246, s. 2; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1989, c. 159.)

§ 87-9.1. Ownership of real property; equipment; liability insurance.

(a) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged by the Board for an encumbrance is limited to the assets, income, and revenues of the Board.

(b) The Board may purchase or rent equipment and supplies and purchase liability insurance or other insurance to cover the activities of the Board, its operations, or its employees. (1999-349, s. 1.)

Editor's Note. — Session Laws 1999-349, s. 2, made this section effective July 22, 1999.

§ 87-10. Application for license; examination; certificate; renewal.

(a) Anyone seeking to be licensed as a general contractor in this State shall file an application for an examination on a form provided by the Board, at least 30 days before any regular or special meeting of the Board accompanied by an examination fee of fifty dollars (\$50.00) and by the sum of one hundred dollars (\$100.00) if the application is for an unlimited license, the sum of seventy-five dollars (\$75.00) if the application is for an intermediate license or the sum of fifty dollars (\$50.00) if the application is for a limited license; the fees and sum accompanying any application shall be nonrefundable. The holder of an unlimited license shall be entitled to act as general contractor without restriction as to value of any single project; the holder of an intermediate license shall be entitled to act as general contractor for any single project with a value of up to five hundred thousand dollars (\$500,000); the holder of a limited license shall be entitled to act as general contractor for any single project with a value of up to two hundred fifty thousand dollars (\$250,000); and the license certificate shall be classified in accordance with this section. Before being entitled to an examination an applicant must show to the satisfaction of

the Board from the application and proofs furnished that the applicant is possessed of a good character and is otherwise qualified as to competency, ability, integrity, and financial responsibility, and that the applicant has not committed or done any act, which, if committed or done by any licensed contractor would be grounds under the provisions hereinafter set forth for the suspension or revocation of contractor's license, or that the applicant has not committed or done any act involving dishonesty, fraud, or deceit, or that the applicant has never been refused a license as a general contractor nor had such license revoked, either in this State or in another state, for reasons that should preclude the granting of the license applied for, and that the applicant has never been convicted of a felony involving moral turpitude, relating to building or contracting, or involving embezzlement or misappropriation of funds or property entrusted to the applicant: Provided, no applicant shall be refused the right to an examination, except in accordance with the provisions of Chapter 150B of the General Statutes.

(b) The Board shall conduct an examination, either oral or written, of all applicants for license to ascertain, for the classification of license for which the applicant has applied: (i) the ability of the applicant to make a practical application of the applicant's knowledge of the profession of contracting; (ii) the qualifications of the applicant in reading plans and specifications, knowledge of relevant matters contained in the North Carolina State Building Code, knowledge of estimating costs, construction, ethics, and other similar matters pertaining to the contracting business; (iii) the knowledge of the applicant as to the responsibilities of a contractor to the public and of the requirements of the laws of the State of North Carolina relating to contractors, construction, and liens; and (iv) the applicant's knowledge of requirements of the Sedimentation Pollution Control Act of 1973, Article 4 of Chapter 113A of the General Statutes, and the rules adopted pursuant to that Article. If the results of the examination of the applicant shall be satisfactory to the Board, then the Board shall issue to the applicant a certificate to engage as a general contractor in the State of North Carolina, as provided in said certificate, which may be limited into five classifications as follows:

- (1) Building contractor, which shall include private, public, commercial, industrial and residential buildings of all types.
- (1a) Residential contractor, which shall include any general contractor constructing only residences which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138.
- (2) Highway contractor.
- (3) Public utilities contractors, which shall include those whose operations are the performance of construction work on the following subclassifications of facilities:
 - a. Water and sewer mains, water service lines, and house and building sewer lines as defined in the North Carolina State Building Code, and water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations.
 - b. Water and wastewater treatment facilities and appurtenances thereto.
 - c. Electrical power transmission facilities, and primary and secondary distribution facilities ahead of the point of delivery of electric service to the customer.
 - d. Public communication distribution facilities.
 - e. Natural gas and other petroleum products distribution facilities; provided the General Contractors Licensing Board may issue license to a public utilities contractor limited to any of the above subclassifications for which the general contractor qualifies.

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1937, c. 3
c. 246, s. 3
s. 2; 1981
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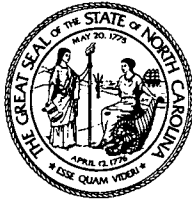
- (4) Specialty contractor, which shall include those whose operations as such are the performance of construction work requiring special skill and involving the use of specialized building trades or crafts, but which shall not include any operations now or hereafter under the jurisdiction, for the issuance of license, by any board or commission pursuant to the laws of the State of North Carolina.

(b1) Public utilities contractors constructing water service lines and house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate said lines at a valve, box, meter, or manhole or cleanout at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code.

(c) If an applicant is an individual, examination may be taken by his personal appearance for examination, or by the appearance for examination of one or more of his responsible managing employees, and if a copartnership or corporation, or any other combination or organization, by the examination of one or more of the responsible managing officers or members of the personnel of the applicant, and if the person so examined shall cease to be connected with the applicant, then in such event the license shall remain in full force and effect for a period of 30 days thereafter, and then be canceled, but the applicant shall then be entitled to a reexamination, all pursuant to the rules to be promulgated by the Board: Provided, that the holder of such license shall not bid on or undertake any additional contracts from the time such examined employee shall cease to be connected with the applicant until said applicant's license is reinstated as provided in this Article.

(d) Anyone failing to pass this examination may be reexamined at any regular meeting of the Board upon payment of an examination fee of fifty dollars (\$50.00). Anyone requesting to take the examination a third or subsequent time shall submit a new application with the appropriate examination and license fees.

(e) A certificate of license shall expire on the thirty-first day of December following its issuance or renewal and shall become invalid 60 days from that date unless renewed, subject to the approval of the Board. Renewals may be effected any time during the month of January without reexamination, by the payment of a fee to the secretary of the Board. The fee shall not exceed one hundred dollars (\$100.00) for an unlimited license, seventy-five dollars (\$75.00) for an intermediate license and fifty dollars (\$50.00) for a limited license. No later than November 30 of each year, the Board shall mail written notice of the amount of the renewal fees for the upcoming year to the last address of record for each general contractor licensed pursuant to this Article. Renewal applications shall be accompanied by evidence of continued financial responsibility satisfactory to the Board. Renewal applications received by the Board after January shall be accompanied by a late payment of ten dollars (\$10.00) for each month or part after January. After a lapse of two years no renewal shall be effected and the applicant shall fulfill all requirements of a new applicant as set forth in this section. (1925, c. 318, s. 9; 1931, c. 62, s. 2; 1937, c. 328; c. 429, s. 3; 1941, c. 257, s. 1; 1953, c. 805, s. 2; c. 1041, s. 3; 1971, c. 246, s. 3; 1973, c. 1036, ss. 1, 2; c. 1331, s. 3; 1975, c. 279, ss. 2, 3; 1979, c. 713, s. 2; 1981, c. 739, ss. 1, 2; 1985, c. 630, ss. 2, 3; 1989, c. 431; 1993, c. 112, ss. 1, 2; c. 553, s. 26; 1999-123, s. 1; 1999-379, s. 7; 1999-427, s. 1.)



Att. # 1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 824

H824-ARL-3 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2001

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative

1 moves to amend the bill on page 1, line 21, by deleting the words "or major repair".
2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 824
PROPOSED COMMITTEE SUBSTITUTE H824-PCS3298-RL-22

Short Title: Installation of Sewer Cleanout Required.

(Public)

Sponsors:

Referred to:

March 27, 2001

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE INSTALLATION OF AN ACCESSIBLE CLEANOUT
AT THE JUNCTION OF THE PUBLIC SEWER LINE AND THE HOUSE OR
BUILDING SEWER LINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-10(b1) reads as rewritten:

"(b1) Public utilities contractors constructing house and building sewer lines as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall, at the junction of the public sewer line and the house or building sewer line, install as an extension of the public sewer line a cleanout at or near the property line that terminates at or above the finished grade. Public utilities contractors constructing water service lines ~~and house and building sewer lines~~ as provided in sub-subdivision a. of subdivision (3) of subsection (b) of this section shall terminate ~~said the water service~~ lines at a valve, box, ~~meter, or manhole or cleanout or meter~~ at which the facilities from the building may be connected. Public utilities contractors constructing fire service mains for connection to fire sprinkler systems shall terminate those lines at a flange, cap, plug, or valve inside the building one foot above the finished floor. All fire service mains shall comply with the NFPA standards for fire service mains as incorporated into and made applicable by Volume V of the North Carolina Building Code."

SECTION 2. This act becomes effective October 1, 2001, and applies to the installation of house and building sewer lines that occur on or after that date.

VISITOR REGISTRATION SHEET

Public Utilities
Name of Committee

4/3/01
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Katherine Joyce	NCS electric cooperatives
Alice Garland	Electricity
Andy Roman	NCLM
Cammy Guss	BPM HL
R. Paul Wilson	NCHBA
Stephanie Mann	NCAH
Henry Jones	Attorney - Raleigh

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Smith** (Chair) for the Committee on **Public Utilities**.

☐ Committee Substitute for

H.B. 824 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE INSTALLATION OF
AN ACCESSIBLE CLEANOUT AT THE JUNCTION OF THE PUBLIC SEWER LINE
AND THE HOUSE OR BUILDING SEWER LINE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to committee substitute bill, unfavorable as to (original bill).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

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Minutes
House Committee on Public Utilities
March 13, 2001

The House Committee on Public Utilities met Tuesday, March 13, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives McComas and Saunders, Vice-Chairs; and Representatives Brubaker, Coates, Edwards, Grady, Holmes and McCombs. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached (Attachment I) and made part of the minutes.

The Chair called the meeting to order. Pages Shannon Stancil from Wake County and Shannon Sexton from Granville County were introduced. Sergeant-at-Arms Donnell Leathers and Maxine Holley were also introduced. Chairman Smith also recognized Representatives Brubaker and Coates as new members of the committee.

Jo Anne Sanford from the Utilities Commission was recognized. She introduced the following staff members from the Utilities Commission: Richard Conder, Bobby Owens, Jimmy Irvin and Lorinzo Joyner.

Chairman Smith said that HB 481 – A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF LORINZO LITTLE JOYNER MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION was the only bill on the agenda.

The Chair recognized Steve Rose, Commission Counsel, to explain the General Statutes for the appointment of a person to the Utilities Commission. He explained that Ms. Joyner would be filling the unexpired term of William Pittman, who resigned from the Commission and was also being appointed to a full eight-year term ending in 2009.

The Chair recognized Ms. Joyner to make brief remarks.

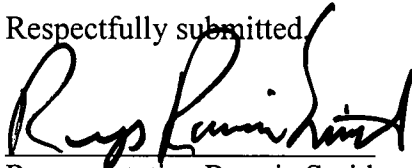
The Chair recognized Representative Dan Blue, former Speaker of the House, to speak on behalf of Ms. Joyner. Jo Anne Sanford, Chair of the Utilities Commission, also spoke on behalf of Ms. Joyner. Committee handouts concerning the confirmation are attached and made part of the record (Attachments II and III).

Rep. McComas was recognized to ask Ms. Joyner a question. He asked her to share her view on deregulation of the electric industry. Ms. Joyner said that she recognized the fact that a Study Commission was studying that issue and as a part of the Utility Commission would be willing to do her part to implement those policies.

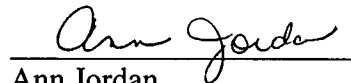
Representative Drew Saunders moved for a favorable report and the motion carried.

The meeting was adjourned at 10:30 a.m.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**March 13, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**HB 481 – CONFIRMATION OF LORINZO LITTLE JOYNER TO
MEMBERSHIP ON THE NORTH CAROLINA UTILITIES
COMMISSION
Representative Ronnie Smith, Sponsor**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, March 13, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 481 - CONFIRMATION OF LORINZO LITTLE JOYNER TO
MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.**

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:00 p.m. on March 7, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

(Committee Assistant)

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

1

HOUSE JOINT RESOLUTION 481*

Sponsors: Representative Smith.

Referred to: Public Utilities.

March 5, 2001

1 A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE
2 APPOINTMENT OF LORINZO LITTLE JOYNER MADE BY THE GOVERNOR
3 TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

4 Whereas, under the provisions of G.S. 62-10, appointments made by the
5 Governor to membership on the North Carolina Utilities Commission are subject to
6 confirmation by the General Assembly by joint resolution; and

7 Whereas, a vacancy has occurred on the North Carolina Utilities Commission
8 because of the resignation of William R. Pittman; and

9 Whereas, the Governor has submitted to the presiding officers of the House
10 of Representatives and the Senate, the name of his appointee Lorinzo Little Joyner to
11 serve the remainder of the unexpired term of William R. Pittman on the North Carolina
12 Utilities Commission, which will expire June 30, 2001, and to serve a full term on the
13 North Carolina Utilities Commission, which will begin July 1, 2001, and expire June
14 30, 2009; Now, therefore,

15 Be it resolved by the Senate, the House of Representatives concurring:

16 **SECTION 1.** The appointment of Lorinzo Little Joyner to the North
17 Carolina Utilities Commission to complete the term of William R. Pittman, to expire
18 June 30, 2001, is confirmed.

19 **SECTION 2.** The appointment of Lorinzo Little Joyner to the North
20 Carolina Utilities Commission for a term to begin July 1, 2001, and expire June 30,
21 2009, is confirmed.

22 **SECTION 3.** This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

3/13/01

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Rob Schofield

NC Justice Center

Bede Hildam

Public Aff - NCUC

RW Kaylor

Kayla Lynn Furr

Bill Waiglo

autel

Mitch Williams

Progress Energy

Len Anthony

1. 1.

Marcel Westbroek

KCLH

436A

Alice Garland

Electricities

Loakies

Capitol Ground

John McAlister

Danke Energi!

Bill McAulay

SCANA / PSNC Energy

Jeff VAN DYKE

BELL SOUTH

Geni L. Hickman

Process Book

Bill Scaggia

KCL 84

Michelle Cook

Werner Kaeuser

Don Hattcock

BEL SOUTH

Lorinzo Little Joyner
1304 Stony Point Lane
Cary, North Carolina 27511

Home: (919) 467-5053
ljoyner@mindspring.com

Work: (919) 733-6050
ljoyner@ncuc.net

EDUCATION

UNC - Chapel Hill School of Law
May, 1981 - Juris Doctor

NC A&T State University, Greensboro
May, 1969 - B. S. in English Education (with high honor)

EMPLOYMENT

2001-Present

North Carolina Utilities Commission, Raleigh
Commissioner (January 24, 2001, appointment subject to confirmation)

1995 - 2001

North Carolina Department of Justice, Raleigh
Special Deputy Attorney General - Supervised and managed the Insurance Section of the Attorney General's Office. Represented client agencies in litigation and responded to requests for legal opinions from agencies and public officials. The Section's 12 attorneys provided a full range of legal services to client agencies, including the Departments of Insurance, the Secretary of State, Commerce, the State Ports Authority, the NC Rural Electrification Authority, and the State Teachers' and Employees' Comprehensive Major Medical Plan.

1986 - 1995

North Carolina Department of Justice, Raleigh
Assistant Attorney General - Utilities Section. Assisted in the formulation of policy and positions on issues related to the regulation of public utilities operating in North Carolina. Advocated the position of the Attorney General before the NC Utilities Commission in matters affecting the users and consumers

of public utility services. Appealed adverse decisions to the North Carolina Court of Appeals and the Supreme Court of North Carolina.

1983-1986

Public Staff, North Carolina Utilities Commission, Raleigh
Staff Attorney - Legal Division. Advocated and represented the interests of the using and consuming public before the NC Utilities Commission. Appealed adverse decisions to the North Carolina Court of Appeals and the Supreme Court of North Carolina.

1981 - 1983

Office of the Appellate Defender, Raleigh
Assistant Appellate Defender - Represented indigent criminal defendants appealing their convictions to the North Carolina Court of Appeals and the Supreme Court of North Carolina. Reviewed trial transcripts, identified and researched legal issues, drafted briefs and argued cases in the appellate courts.

1969 - 1978

Greensboro City and Durham County Public Schools
English Teacher - Taught grammar, composition and literature to senior high school students. Member of a team that developed and implemented a curriculum for at-risk students that was designed to integrate academics, coping and life maintenance skills.

PROFESSIONAL AFFILIATIONS

North Carolina State Bar, licensed 1981 to present
Tenth Judicial District Bar
North Carolina Association of Black Lawyers
Capital City Lawyers Association

COMMUNITY ACTIVITIES

Former member of the Board of Directors for Hopeline, Inc.,
the Salvation Army Advisory Council and Race Study Circles

Member of the Board of Directors of the Ivy Community Service
Foundation of Cary, Inc.

Member of Alpha Kappa Alpha Sorority, Inc., immediate Past
President of the Cary Chapter

Volunteer at the State Senior Games and the Heritage Park
Community Learning Center



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

RECEIVED

FEB 14 2001

RESEARCH DIVISION

MICHAEL F. EASLEY
GOVERNOR

January 23, 2001

The Honorable James B. Black, Speaker of the House
North Carolina House of Representatives
Legislative Office Building
1229 Legislative Building
Raleigh, North Carolina 27601-1096

Dear Jim:

I write to notify you of the resignation of Commissioner William R. Pittman from the North Carolina Utilities Commission, effective January 24, 2001. He has served with distinction, and leaves the Commission without a key member between now and the expiration of his term on June 30 of this year.

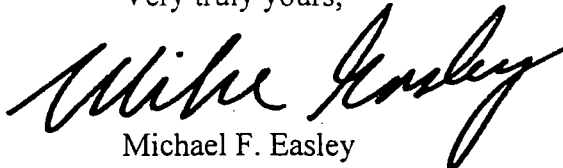
Pursuant to the terms of G.S. 62-10(f) and (g), and in recognition of the urgency of filling this vacancy immediately due to the Commission's workload, I hereby appoint Lorinzo Little Joyner to the vacancy created by Commissioner Pittman's resignation. This allows her to be sworn and to serve on an interim basis, pending confirmation by the General Assembly.

Additionally, pursuant to G.S. 62-10(a), I also appoint Ms. Joyner to serve the eight-year term, beginning July 1, 2001, for the seat currently held by Commissioner Pittman. This appointment is also subject to confirmation by the General Assembly.

Thank you for your continued hard work for the citizens of North Carolina and I look forward to working with you during the 2001 legislative session.

With warmest personal regards, I remain

Very truly yours,



Michael F. Easley

MFE:rj

cc: JoAnne Sanford, Chair of the Utilities Commission
Lorinzo Joyner, Special Deputy Attorney General

Statement of Economic Interest

for Executive Order Number One
Governor Michael F. Easley

1/23/01
217

NORTH CAROLINA BOARD OF ETHICS

1324 Mail Service Center
Raleigh, NC 27699-1324
(919) 733-2780 FAX (919) 733-2785

Mail form to: Board of Ethics, 1324 Mail Service Center, Raleigh, N.C. 27699-1324
If you can use State Government Courier, use Courier 51-01-00
Office location: Administration Building, 116 West Jones Street, Room 2009G, Raleigh

For assistance call Millie Donavant or Christine Miller at (919) 733-2780

e-mail: millie.donavant@ncmail.net or christine.a.miller@ncmail.net

Name of Person Filing: Lorinzo Little Joyner

Name of Spouse: Charles Edward Joyner

Home Address: 1304 Stony Point Lane
Cary, NC 27511

Home Telephone: (919) 467-5053

Name of Employer: North Carolina Department of Justice

Your Title: Special Deputy Attorney General

Business Address: N.C. Attorney General's Office
P.O. Box 629
Raleigh, NC 27602

Business Telephone: (919) 716-6610

Business Fax: (919) 716-6757

Business Activity: Providing legal services (including representation)
to state agencies and public officials.

Spouse's Employer and Business Activity: North Carolina State University
Professor & Head, Department of Art and Design
College of Design

If you are filing because you are serving on or being considered for appointment to a State Board (as defined above), state the **name of the Board**.

North Carolina Utilities Commission

Are you, your employer, your spouse, or spouse's employer licensed or regulated by the Board on which you are/will be serving, or have business relationships with the Board? No X If yes, please explain:

NOTE: Executive Order Number One requires you to list assets and liabilities with a value of \$10,000 or more for yourself and spouse, as set forth below. You are not required to include an estimated value of the assets and liabilities.

1. List all parcels of **real estate** located in North Carolina in which you, or your spouse, have an ownership interest valued \$10,000 or more. Give street address or other description adequate to determine the location of each parcel. State the specific interest held in each identified parcel.

1364 Stony Point Lane, Cary, NC 27511 tenants in the entirety - residence

Identify real estate that is currently leased or rented to a State Government Agency, and identify the Agency. If persons other than your spouse have an ownership interest in the property, state the type of ownership and name of the person having the interest.

NONE

If any parcels are located in an area over which the Board you are serving on has regulatory authority or could otherwise be affected by Board decisions, please explain.

not applicable

2. Identify **personal property** sold to or bought from the State within the preceding two years and personal property currently leased or rented to the State by you or your spouse. Indicate whether the transactions are in accordance with the provisions of the Division of Purchase and Contract. If not, please explain.

NONE

3. List the name of each **publicly-owned company** in which the value of securities held by you or your spouse is \$10,000 or more. You may attach a list from your broker.

NONE

4. List the name and business activity of each **non-publicly-owned company or business entity** in which the value of securities or other equity interests held by you or your spouse is \$10,000 or more, including but not limited to, interests held in partnerships, limited partnerships, joint ventures, limited liability companies or partnerships, and closely held corporations.

NONE

With respect to the entities listed above, should any of the entities own securities or equity interests of \$10,000 or more in other companies or business entities, list the name of the company or business entity and a brief description of the business activity of each.

NOT APPLICABLE

Are you, your spouse, or any of the entities listed above licensed by, regulated by, or have business relationships with the same area of State Government with which you are associated? If so, please explain.

NONE

5. You are required to make a good faith effort to list any individual or business entity with which you or your spouse have a financial or professional relationship provided:

- (1) The nature of the relationship presents a conflict of interest or the appearance of a conflict of interest for you while performing your official duties, or
- (2) Any separate financial or professional interest of such individual or business entity would present a conflict of interest or appearance of a conflict of interest for you while performing your official duties. For each individual or business entity listed, generally describe the financial or professional relationship and provide a brief explanation of why the individual or business entity has been listed.

NONE

6. List all **directorships** on all boards on which you are serving. Please explain any situation that could appear to be a conflict of interest with your official duties.

My Community Service Foundation of Cary, Inc. - a 501(c)(3) organization that raises funds for scholarships and other eligible community service projects. The foundation accepts donations from individuals and businesses to fund its scholarships and eligible projects. Donations are tax deductible.

7. Are you an **elected official** at the local government level? If so, please explain.

NO

8. If you, your spouse, or your dependent children are the **beneficiary of a trust** created, established or controlled by you, list the name and address of the trustee and a description of the trust. To the extent such information is available to you, include a list of businesses in which the trust has an ownership interest of \$10,000 or more.

NONE

9. List each **asset** with a valuation of \$10,000 or more, held by you or your spouse, which have not been listed elsewhere. Some examples are mutual funds, certificates of deposit, bank accounts and retirement accounts. It is not necessary to list furniture, jewelry, automobiles, and other personal effects.

Fidelity Equity Income Fund

Fidelity Equity Index

Fidelity Magellan

10. List each **liability** with a valuation of \$10,000 or more for you and your spouse. Give the name of the creditor, and describe the nature of the liability. It is not necessary to list credit card debts, mortgage for personal residence, and automobile loans.

Home Equity Line of Credit - State Employees' Credit Union

11. List each **source of income** for you and your spouse where \$10,000 or more was received. For each source listed, describe the type of income received, and state the name of the business entity or individual from which the income was received. Some examples of income are salary or wages, professional fees, honoraria, interest, stock dividends, capital gains, and business profits.

Sources for Person Filing: Salary, NC Department of Justice
Capital gain, Sale of real estate

Sources for Spouse: Salary, NC State University

Please explain if any of the sources of income are regulated by, receive permits from, or otherwise are connected with the same area of State Government with which you are connected.

NONE

12. If you are a **practicing attorney**, check each category of legal representation in which you and/or the law firm with which you are associated has, during any single year of the past five years, earned legal fees of \$10,000 or more from any of the following categories of legal representation:

() Admiralty () Taxation () Decedent's estates () Corporation law () Real property
() Negligence (representing plaintiffs) () Negligence (representing defendants)
() Criminal law () Labor law () Insurance law () Administrative law
() Utilities regulation or representation of regulated utilities () Representation of local governments

* *a government attorney; only income was/is salary paid by state of NC.*

13. If the information has not been included in previous questions, list all **non-publicly owned businesses** you have been associated with during the past five years as an employee, officer, director, partner, or owner. For each business listed, state your association, and the time period of your association. To the best of your knowledge, state whether any of the businesses listed does business with the same area of State Government with which you are associated. State the nature of business, and whether you or the business is licensed by, regulated by, receive permits, grants or other funding from the same area of State Government with which you are associated.

NOT APPLICABLE

14. List all **gifts** received with a value exceeding \$200 during the twelve months preceding the date of this statement from sources other than your spouse or relatives.

NONE

List all **gifts** received with a value exceeding \$100 during the twelve months preceding the date of this statement from any source having business with or regulated by the State.

NONE

15. List all **bankruptcies** filed during the preceding five years by you, your spouse, or any entity in which you or your spouse has been associated financially. Provide a brief summary of the facts and circumstances regarding each listed bankruptcy.

NOT APPLICABLE

16. Having read Executive Order Number One, state any problems or conflicts of interest you may have that are not fully covered in previous questions. Include an explanation of how you would propose to resolve the matter.

NONE

VERIFICATION

I hereby do certify that I have read this Statement of Economic Interest, and all attachments; and to the best of my knowledge and belief it is true, correct and complete. I hereby do certify that I have not transferred, and will not transfer, any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein. I acknowledge that I am under a continuing obligation to avoid conflicts of interest and the appearance of conflicts of interest. If I believe a potential for conflict exists, I will inquire of the Board of Ethics as to that potential conflict.

23 January 2001
Date

Levinz Oymer
Signature of Person Filing

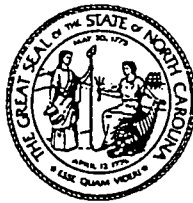
STATE OF NORTH CAROLINA
COUNTY OF Wake

Subscribed and sworn to before me this the 23rd day of January, 2001.

My Commission Expires:

October 11, 2005

Jane Ammons Lichrist
Notary Public



NORTH CAROLINA BOARD OF ETHICS
1324 MAIL SERVICE CENTER
RALEIGH, NC 27699-1324

GEORGE F. BASON
CHAIRMAN

PERRY Y. NEWSON
EXECUTIVE DIRECTOR

January 23, 2001

The Honorable Michael F. Easley
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-20301

Re: Evaluation of Statement of Economic Interest filed by
Lorinzo L. Joyner, Utilities Commissioner

Dear Governor Easley:

In accordance with Section 5(b) of Executive Order Number One, we have completed our evaluation of the statement of economic interest mentioned above.

We did not find an actual conflict of interest or the potential for conflict of interest.

We are sending a copy of this letter to the Chairman of the Commission with the request that our findings be read into the Commission's minutes.

Sincerely,

George F. Bason /md

George F. Bason
Chairman

cc: Ms. Joyner
Chairman of the Commission



BILL ANALYSIS

HOUSE JOINT RESOLUTION 481: Confirmation of Appointment of Lorinzo Little Joyner to Utilities Commission

Committee: House Public Utilities

Date: March 13, 2001

Version: One

Introduced by: Representative Smith

Summary by: Steven Rose

Committee Counsel

SUMMARY: *Ms. Joyner has been appointed by the Governor to fill the vacancy on the Utilities Commission created by the resignation of Commissioner William Pittman. The unexpired term of Commissioner Pittman expires on June 30, 2001. The Governor has also appointed Ms. Joyner to a succeeding full term of eight years beginning July 1, 2001 and ending June 30, 2009. HJR 481 confirms these appointments as required by G.S. 62-10. Ms. Joyner has already taken the seat vacated by Mr. Pittman pending confirmation by the General Assembly. This is permitted under G.S. 62-10(g) since the General Assembly was not in session when the vacancy arose and the Governor deemed it urgent that Ms. Joyner take the seat as soon as possible. HJR 481 is effective upon ratification.*

Ms. Joyner's resume and the Statement of Economic Interest she submitted to the North Carolina Board of Ethics are before this Committee.

BACKGROUND: The North Carolina Utilities Commission consists of seven commissioners who are appointed for eight-year terms. Commissioners are appointed by the Governor and must be confirmed by the General Assembly by Joint Resolution.

A Utilities Commissioner is presently paid a salary of \$104,523. There are fixed salary increases based upon length of service on the Utilities Commission, 4.8% after five years of service and 9.6% after ten years. Members of the Utilities Commission are subject to the same standards of conduct as a judge. They may be removed during their term of office only for cause, by impeachment.

During service on the Commission, a Commissioner may not engage in any other employment, business, profession or vocation. During the term of office the Commissioner may not be associated in any way with any public utility company, including ownership of any interest.

The General Assembly created the Utilities Commission and establishes policies which the Commission carries out, usually with broad discretion. The Commission is both a regulator of public utilities, as well as a judge in all contested matters relating to public utilities. Decisions of the Utilities Commission are appealable directly to the North Carolina Court of Appeals, with the exception of general rate cases, which are appealable directly to the North Carolina Supreme Court.

HOUSE JOINT RESOLUTION 481

Page 2

The North Carolina Utilities Commission regulates the rates and services of the intrastate operations of public utilities supplying electricity, gas, certain telecommunications services, water and sewer services, taxis, and certain aspects of bus, train, trucking, express package and mail services. The extent of this regulation varies among the different types of utilities, and there are limitations imposed by federal law. The Commission hears and decides proceedings relating to the issuance of utility franchises, the construction of electric generating plants, the setting of utility rates, the adjustment of electric utility rates based upon fuel cost changes, the adjustment of natural gas rates based upon changes in the cost of natural gas, use of natural gas expansion funds, the provision of new utility services, and the adjudication of complaints concerning the services of public utilities. Again, the extent of the Commission's jurisdiction depends upon the type of utility service and is affected in some cases by federal law. The Commission also has limited authority over subsidiaries of electric cooperatives.

HJR481-SMRL-001

...est in their
ertain that adequate
rates. State ex rel.
79 N.C. App. 19, 338
d and aff'd, 318 N.C.

and Sewage Service

- By selling water to
ing sewage disposal
the time of hearing,
and sewage disposal
ic," where, since her
istribution and sew-
e had provided ser-
a house connected
services, and where
d no customers and
ilities to any resi-
ed, she had willingly
customers who moved
ted to her facilities.
n v. Mackie, 79 N.C.
1956), modified and
E.2d 289 (1987).

Co. v. Gastonia Tran-
S.E.2d 398 (1947);
mm'n v. Chapel Hill
43, 183 S.E.2d 802
Comm'n v. General
9 S.E.2d 705 (1972);
n v. City of Rocky
S.E.2d 38 (1974);
n v. Carolina Forest
46, 205 S.E.2d 410
Comm'n v. Carolina
251, 204 S.E.2d 181
Comm'n v. National
N.C. 715, 220 S.E.2d
sils. Comm'n v. M.L.
Servs., Inc., 43 N.C.
(1979); State ex rel.
n, 299 N.C. 432, 263
rel. Utils. Comm'n
Delivery Servs., Inc.,
2d 551 (1980); State
ntervenor Residents,
(1982); State ex rel.
Power & Light Co.,
397 (1985); State ex
sten, 314 N.C. 122,
Arthur Water Corp.,
n, 173 F.3d 517 (4th

l. Utils. Comm'n v.
I.C. App. 626, 179
rel. Utils. Comm'n
ers Council, Inc., 18
98 (1973); State ex
sten, 291 N.C. 424,
e ex rel. N.C. Utils.
Utils. Co., 30 N.C.
1976); State ex rel.
her Pickup & Deliv-

ery Servs., Inc., 47 N.C. App. 418, 267 S.E.2d
688 (1980).

Stated in State ex rel. Utils. Comm'n v.
A.C.L.R.R., 268 N.C. 242, 150 S.E.2d 386
(1966); State ex rel. Utils. Comm'n v. MCI Tele-
communications Corp., — N.C. App. —, 514
S.E.2d 276 (1999).

Cited in Duke Power Co. v. City of High
Point, 22 N.C. App. 91, 205 S.E.2d 774 (1974);

State ex rel. Utils. Comm'n v. Southern Bell Tel.
& Tel. Co., 307 N.C. 541, 299 S.E.2d 763 (1983);
In re Lower Cape Fear Water & Sewer Auth.,
329 N.C. 675, 407 S.E.2d 155 (1991); State ex
rel. Utils. Comm'n v. Mountain Elec. Coop., 108
N.C. App. 283, 423 S.E.2d 516 (1992); State ex
rel. Utils. Comm'n v. Empire Power Co., 112
N.C. App. 265, 435 S.E.2d 553 (1993).

OPINIONS OF ATTORNEY GENERAL

"Person" Includes Municipalities and Counties. — Municipalities and counties, bod-
ies politic and corporate, are included in the
definition of "person" under § 62-3(21). See
opinion of Attorney General to Mr. Robert H.
Bennink, Jr., General Counsel and Hearing
Examiner, North Carolina Utilities Commis-
sion, 55 N.C.A.G. 18 (1985).

**The Department of Correction, as a
State agency, is not a public utility and is
not subject to the fee requirements of § 62-302.**
See Opinion of Attorney General to LaVee

Hammer, General Counsel, North Carolina De-
partment of Correction, — N.C.A.G. — (October
17, 1994).

**Western Carolina University (WCU) is
not a public utility subject to supervision
by the Commission, except that, pursuant to
§ 116-35, sales to the public of excess power
must be "at a rate or rates approved by the
Utilities Commission."** See opinion of Attorney
General to Mr. Myron L. Coulter, Chancellor,
Western Carolina University, 55 N.C.A.G. 55
(1985).

§ 62-4. Applicability of Chapter.

This Chapter shall not terminate the preexisting Commission or appoint-
ments thereto, or any certificates, permits, orders, rules or regulations issued
by it or any other action taken by it, unless and until revoked by it, nor affect
in any manner the existing franchises, territories, tariffs, rates, contracts,
service regulations and other obligations and rights of public utilities, unless
and until altered or modified by or in accordance with the provisions of this
Chapter. (1963, c. 1165, s. 1.)

§§ 62-5 through 62-9: Reserved for future codification purposes.

ARTICLE 2.

Organization of Utilities Commission.

§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies; compensation; other em- ployment prohibited.

(a) The North Carolina Utilities Commission shall consist of seven commis-
sioners who shall be appointed by the Governor subject to confirmation by the
General Assembly by joint resolution. The names of commissioners to be
appointed by the Governor shall be submitted by the Governor to the General
Assembly for confirmation by the General Assembly on or before May 1, of the
year in which the terms for which the appointments are to be made are to
expire. Upon failure of the Governor to submit names as herein provided, the
Lieutenant Governor and Speaker of the House jointly shall submit the names
of a like number of commissioners to the General Assembly on or before May
15 of the same year for confirmation by the General Assembly. Regardless of
the way in which names of commissioners are submitted, confirmation of

commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(b) The terms of the commissioners now serving shall expire at the conclusion of the term for which they were appointed which shall remain as before with two regular eight-year terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners thereafter shall be eight years commencing on July 1 of the year in which the predecessor terms expired, and ending on July 1 of the eighth year thereafter.

(c) In order to increase the number of commissioners to seven, the names of two additional commissioners shall be submitted to the General Assembly on or before May 27, 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975, one of which shall be for a period of two years (with the immediate successor serving for a period of six years), and one of which shall be for a period of two years.

Thereafter, the terms of office of the additional commissioners shall be for eight years as provided in G.S. 62-10(b).

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be designated by the Governor to serve as chairman of the Commission for the succeeding four years and until his successor is duly confirmed and qualifies. Upon death or resignation of the commissioner appointed as chairman, the Governor shall designate the chairman from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the Commission.

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall submit the name of a successor to the General Assembly within six weeks after the vacancy arises. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to the adjournment of the then current session of the General Assembly.

(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly.

(h) The salary of each commissioner and that of the commissioner designated as chairman shall be set by the General Assembly in the Current Operations Appropriations Act. In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. "Service" means service as a member of the Utilities Commission.

(h1) In addition to compensation for their services, each member of the Commission who lives at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the member travels to the City of Raleigh from the member's home for business of the Commission. The

allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993.

(i) The standards of judicial conduct provided for judges in Article 30 Chapter 7A of the General Statutes shall apply to members of the Commission. Members of the Commission shall be liable to impeachment for the causes and in the manner provided for judges of the General Court of Justice in Chapter 123 of the General Statutes. Members of the Commission shall not engage in any other employment, business, profession, or vocation while in office.

(j) Except as provided in subsection (h1) of this section, members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a). (1941, c. 97, s. 2; 1949, c. 1009, s. 1; 1959, c. 1319; 1963, c. 1165, s. 1; 1967, c. 1238; 1975, c. 243, s. 3; c. 867, ss. 1, 2; 1977, c. 468, s. 1; c. 913, s. 2; 1983 (Reg. Sess., 1984), c. 1116, s. 91; 1989, c. 781, s. 41.2; 1993 (Reg. Sess., 1994), c. 769, s. 7.4(b); 1996, 2nd Ex. Sess., c. 18, s. 28.2(b); 1997-443, s. 33.5; 1999-237, s. 28.21(a), (b).)

Editor's Note. — Session Laws 1999-237, s. 1.1 provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 1999.'"

Session Laws 1999-237, s. 30.4 contains a severability clause.

Effect of Amendments. — Session Laws 1999-237, s. 28.21(a) and (b), effective July 1,

1999, added subsection (h1); and added "Except as provided in subsection (h1) of this section" to the beginning of subsection (j).

State Government Reorganization. — The Utilities Commission was transferred to the Department of Commerce (now the Department of Economic and Community Development) by former § 143A-174.

CASE NOTES

Applied in State ex rel. Utils. Comm'n v. Carolina Tel. & Tel. Co., 21 N.C. App. 251, 204 S.E.2d 181 (1974).

§ 62-11. Oath of office.

Each utilities commissioner before entering upon the duties of his office shall file with the Secretary of State his oath of office to support the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina, and to well and truly perform the duties of his said office as utilities commissioner, and that he is not the agent or attorney of any public utility, or an employee thereof, and that he has no interest in any public utility. (1933, c. 134, s. 5; 1935, c. 280; 1939, c. 404; 1941, c. 97; 1963, c. 1165, s. 1.)

§ 62-12. Organization of Commission; adoption of rules and regulations therefor.

To facilitate the work of the Commission and for administrative purposes, the chairman of the Commission, with the consent and approval of the Commission, may organize the work of the Commission in several hearing divisions and operating departments and may designate a member of the Commission as the head of any division or divisions and assign to members of the Commission various duties in connection therewith. Subject to the provisions of the State Personnel Act (Article 2 of Chapter 143 of the General Statutes), the Commission shall prepare and adopt rules and regulations governing the personnel, departments or divisions and all internal affairs and business of the Commission. (1941, c. 97, s. 3; 1949, c. 1009, s. 2; 1957, c. 1062, s. 1; 1963, c. 1165, s. 1.)

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **RONNIE SMITH** (Chair) for the Committee on **PUBLIC UTILITIES**.

- ☐ Committee Substitute for
H.J.R. 481 A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE
APPOINTMENT OF LORINZO LITTLE JOYNER MADE BY THE GOVERNOR TO
MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.
- ☒ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

Minutes
House Committee on Public Utilities
April 17, 2001

The House Committee on Public Utilities met Tuesday, April 17, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Allred, Coates, Edwards, Grady, Holmes, Hurley and McCombs. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

Chairman Smith recognized Representative Drew Saunders to explain SB 271- EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES for Sen. David Hoyle. Rep. Saunders explained that this is a bill requested by the chairs of the Utilities Committee and that he did not know of any opposition. Motion was made for a favorable report and passed.

Chairman Smith recognized Sen. John Kerr to explain SB 432 – WATER AND SEWER AUTHORITIES. Sen. Kerr explained that this was a local bill that deals with water problems in eastern North Carolina. Motion was made for a favorable report and passed.

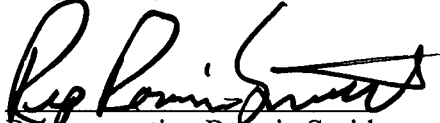
Chairman Smith said that a number of 911 bills are in the Public Utilities Committee. He appointed Rep. Zeno Edwards as Chair of a subcommittee to review and report back to the Committee. Reps. Coates, Grady, McCombs and Saunders were also asked to serve on the subcommittee.

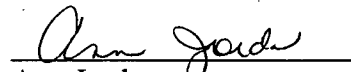
Chairman Smith recognized Rep. Martin Nesbitt and Rep. Phil Haire to explain HB 1015 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES. A proposed committee substitute was offered and passed to open discussion. Chairman Smith explained that a vote would not be taken today and probably not for several more meetings in order to allow individuals that wanted to speak on the bill time to do so. He requested that anyone wishing to speak on this bill check with the Committee Assistant and have their names added to a list of speakers. After Rep. Nesbitt explained the bill members had a number of questions.

Chairman Smith recognized Mr. Bill Ross, Director of DEHNR to speak on the bill. Mr. Ross said he viewed the bill as a step in the right direction toward better health, healthier mountain ecosystems and economy. But, Mr. Ross pointed out, there needs to be a directive to reach an agreement with other states. He commended the utilities companies for their willingness to take action and to the committee members for their willingness to move forward with the bill. However, he said it would be important to look at the cost recovery provisions in the bill.

The meeting adjourned at 10:55.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**April 17, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 217 – EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES
Senator David Hoyle, Sponsor**

**SB 432 – WATER AND SEWER AUTHORITIES
Senator John Kerr, Sponsor**

**HB 1015 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Rep. Nesbitt and Rep. Haire, Sponsors**

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

D

HOUSE BILL 1015*

PROPOSED COMMITTEE SUBSTITUTE H1015*-PCS5196-RT-10

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 9, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING
REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM
CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. Air quality standards and classifications.

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed
and empowered, as rapidly as possible within the limits of funds and facilities available
to it, and subject to the procedural requirements of this Article and Article 21:

- (1) To prepare and develop, after proper study, a comprehensive plan or
plans for the prevention, abatement and control of air pollution in the
State or in any designated area of the State.
- (2) To determine by means of field sampling and other studies, including
the examination of available data collected by any local, State or
federal agency or any person, the degree of air contamination and air
pollution in the State and the several areas of the State.
- (3) To develop and adopt, after proper study, air quality standards
applicable to the State as a whole or to any designated area of the State
as the Commission deems proper in order to promote the policies and
purposes of this Article and Article 21 most effectively.
- (4) To collect information or to require reporting from classes of sources
which, in the judgment of the Environmental Management
Commission, may cause or contribute to air pollution. Any person
operating or responsible for the operation of air contaminant sources of
any class for which the Commission requires reporting shall make
reports containing such information as may be required by the
Commission concerning location, size, and height of contaminant
outlets, processes employed, fuels used, and the nature and time

periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO₂) allowances and nitrogen oxides (NO_x) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(8a) To develop and adopt standards and plans and to implement programs to control emissions of oxides of nitrogen (NO_x) and sulfur dioxide (SO₂) as provided in G.S. 143-215.107D.

(9) To regulate the content of motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing

regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. – In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article.

(d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

(f), (g). Repealed by Session Laws 1995, c. 507, s. 27."

SECTION 2. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) from certain coal-fired electric generating units.

The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107(a)(8a) as provided in this section. For emissions of oxides of nitrogen (NOx), the Commission shall develop and adopt standards and plans and implement programs to control emissions from coal-fired generating units, as those terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and that have

1 the capacity to generate 25 or more megawatts of electricity so that no later than 1
2 January 2007 these units will collectively emit no more than 60,000 tons of oxides of
3 nitrogen (NOx) annually and no later than 1 January 2009 these units will collectively
4 emit no more than 56,000 tons of oxides of nitrogen (NOx) annually. For emissions of
5 sulfur dioxide (SO₂), the Commission shall develop and adopt standards and plans and
6 implement programs to control emissions from coal-fired generating units, as those
7 terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that
8 are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and
9 that have the capacity to generate 25 or more megawatts of electricity so that no later
10 than 1 January 2009 these units will collectively emit no more than 250,000 tons of
11 sulfur dioxide (SO₂) annually and no later than 1 January 2013 these units will
12 collectively emit no more than 130,000 tons of sulfur dioxide (SO₂) annually."

13 **SECTION 3.** Article 7 of Chapter 62 of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 62-133.6. Environmental compliance expenditure-recovery.**

16 (a) As used in this section, the term 'environmental compliance expenditures'
17 means only those expenditures incurred after 1 July 2001 by an electric utility to comply
18 with standards adopted pursuant to G.S. 143-215. 107D that exceed the expenditures
19 required to comply with the revisions to the State Implementation Plan (SIP) to reduce
20 emissions of oxides of nitrogen (NOx) pursuant to the final notice published by the
21 Administrator of the United States Environmental Protection Agency at 63 Federal
22 Register 57491 (27 October 1998) codified at 40 Code of Federal Regulations § 51.121
23 (1 July 2000 Edition).

24 (b) The Commission shall allow each electric utility to recover all just,
25 reasonable, and prudently incurred environmental compliance expenditures through an
26 environmental compliance expenditure-recovery factor that is separate from the electric
27 utility's base rates.

28 (c) The Commission shall set the environmental compliance expenditure-
29 recovery factor for each utility at least annually. The Commission shall base the
30 environmental compliance expenditure-recovery factor on the electric utility's
31 projections of its environmental compliance expenditures for the next calendar year.
32 The Commission shall incorporate into the environmental compliance expenditure-
33 recovery factor determination the experienced under-recovery or over-recovery of the
34 electric utility's environmental compliance expenditures incurred during the previous
35 calendar year. Any refund or collection made as part of this process shall include
36 interest at a rate to be determined by the Commission."

37 **SECTION 4.** It is the intent of the General Assembly that the State use all
38 available resources and means, including negotiation, participation in interstate
39 compacts and multistate and interagency agreements, and litigation to induce other
40 states and entities, including the Tennessee Valley Authority, to achieve reductions in
41 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) comparable to those
42 required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.

1 143-215.107D, as enacted by Section 2 of this act, on a comparable schedule. The State
2 shall give particular attention to those states and other entities whose emissions
3 negatively impact air quality in North Carolina or whose failure to achieve comparable
4 reductions would place the economy of North Carolina at a competitive disadvantage.

5 **SECTION 5.** The Environmental Management Commission shall study the
6 desirability of requiring and the feasibility of obtaining reductions in emissions of
7 oxides of nitrogen (NOx) and sulfur dioxide (SO₂) beyond those required by G.S.
8 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S. 143-215.107D, as
9 enacted by Section 2 of this act. The Environmental Management Commission shall
10 consider the availability of emissions reduction technologies, increased cost to
11 consumers of electric power, reliability of electric power supply, actions to reduce
12 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) taken by states and
13 other entities whose emissions negatively impact air quality in North Carolina or whose
14 failure to achieve comparable reductions would place the economy of North Carolina at
15 a competitive disadvantage, and the effects that these reductions would have on public
16 health, the environment, and natural resources, including visibility. In its conduct of
17 this study, the Environmental Management Commission may consult with the Utilities
18 Commission and its staff. The Environmental Management Commission shall report its
19 findings and recommendations to the General Assembly and the Environmental Review
20 Commission annually beginning 1 September 2004.

21 **SECTION 6.** The General Assembly anticipates that measures implemented
22 to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide
23 (SO₂) required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
24 143-215.107D, as enacted by Section 2 of this act, will also result in significant
25 reductions in the emissions of mercury from coal-fired generating units. The Division
26 of Air Quality of the Department of Environment and Natural Resources shall study
27 issues related to monitoring emissions of mercury and the development and
28 implementation of standards and plans to implement programs to control emissions of
29 mercury from coal-fired generating units. The Division shall evaluate available control
30 technologies and shall estimate the benefits and costs of alternative strategies to reduce
31 emissions of mercury. The Division shall annually report on its interim findings and
32 recommendations to the Environmental Management Commission and the
33 Environmental Review Commission beginning 1 March 2002. The Division shall report
34 its final findings and recommendations to the Environmental Management Commission
35 and the Environmental Review Commission no later than 1 March 2005.

36 **SECTION 7.** The Division of Air Quality of the Department of Environment
37 and Natural Resources shall study issues related to the development and implementation
38 of standards and plans to implement programs to control emissions of carbon dioxide
39 from coal-fired generating units and other stationary sources of air pollution. The
40 Division shall evaluate available control technologies and shall estimate the benefits and
41 costs of alternative strategies to reduce emissions of carbon dioxide. The Division shall

1 report its findings and recommendations to the Environmental Management
2 Commission and the Environmental Review Commission no later than 1 March 2002.

3 **SECTION 8.** This act is effective when it becomes law.

N.C. Citizens for Business and Industry
Comments Re: Senate Bill 1078 and House Bill 1015
Improve Air Quality / Electric Utilities

The concept of this bill is obviously valid - we all want clean air. It is important for our businesses as well as all the citizens of North Carolina. We have not taken an official position in support or opposition to this bill at this time, however, there are many questions that we think need to be addressed before the bill moves forward.

1. What will be the impact of this bill on industry in our state and our ability to recruit and retain industry?

- How will we measure up with surrounding states -- If the result of this bill will mean cleaner air for the entire state and bringing non-attainment areas into attainment, then it may mean opportunities for additional industry to locate in North Carolina or for industry in the state to expand.
- We do, however, need to look at the costs involved and whether or not the benefits outweigh the costs.

Secretary Ross said in his comments to the Senate Committee last week that industrial customers are taking a careful look at this bill and at the numbers. He is exactly right. We have only recently gotten numbers from the utility companies on the potential costs for implementation of this act. Our members are looking at their current utility bills and what impact this additional cost will have on their businesses over the next 12 years.

That impact will not just be on business and industry, however, but on all consumers -- state and local government, schools, colleges and universities, --- all utility customers. These businesses, government entities and education systems cannot bear another cost driver, especially during these current economic times.

2. We have concerns about the air quality in surrounding states -- particularly Tennessee and the impact that it has on western North Carolina. I understand from the proponents of the bill that they believe enactment of this legislation will give us leverage to get other states to clean up their air. It is not clear to me how this legislation will translate into getting Tennessee and the other surrounding states to do what they need to do to help improve the air quality in the North Carolina mountains. We think we should look at some sort of regional approach to this problem and we are not sure that this bill answers those concerns. I am aware of the letter that Senator Basnight and others delivered to President Bush last week expressing concerns about TVA and encouraging the federal government to get involved with this issue. That course of action needs to be vigorously pursued.
3. This is an important piece of legislation. It is a bill that I believe needs a more thorough review before it is enacted. The Senate bill is pending on the Senate calendar today so it is anticipated that it will make the cross over deadline. I would urge the members of this committee and the members of the House to take some time to be more deliberative in your consideration of this bill so that we can, hopefully, realize the full impact and all the implications of passage of this bill before you take final action.

Leslie H. Bevacqua, Vice President
of Governmental Affairs
April 17, 2001

Ann Jordan (Rep. R. Smith)

From: Ann Jordan (Rep. R. Smith)
Sent: Wednesday, April 11, 2001 9:45
Subject: Meeting Notice.doc

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: Tuesday, April 17, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 217 - EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES - Sen. Hoyle

SB 432 - WATER AND SEWER AUTHORITIES - Sen. Kerr

HB 1015 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES - Rep. Nesbitt and Rep. Haire

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **10:00 p.m.** on **April 11, 2001.**

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Sen. David Hoyle

OFFICE: Room 300A

NOTIFICATION DATE: April 11, 2001

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Tuesday, April 17, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

Your Bill (or Bills) will be discussed at this time:

SB 217 - EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES.

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Sen. John Kerr

OFFICE: Room 526

NOTIFICATION DATE: April 11, 2001

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Tuesday, April 17, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

Your Bill (or Bills) will be discussed at this time:
SB 432 - WATER AND SEWER AUTHORITIES.

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Rep. Martin Nesbitt & Rep. Phil Haire

OFFICE: Room 420 and Room 419B

NOTIFICATION DATE: April 11, 2001

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Tuesday, April 17, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

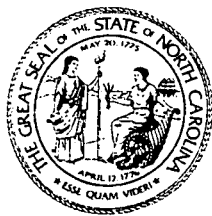
Your Bill (or Bills) will be discussed at this time:

HB 1015 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES.

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

(Committee Assistant)



BILL ANALYSIS

SENATE BILL 217: Extend Time for Universal Service Final Rules

Committee: House Public Utilities Committee
Date: April 17, 2001
Version: One

Introduced by: Senator Hoyle
Summary by: Steven J. Rose
Committee Counsel

SUMMARY: *Senate Bill 217 amends G.S. 62-110(f1) to change the date by which the Utilities Commission must adopt final universal service rules for local phone service from July 1, 2001 to July 1, 2003. The bill is effective when it becomes law.*

ANALYSIS & BACKGROUND: The 1995 General Assembly adopted legislation allowing for competitive local telephone service. That legislation required the Utilities Commission to adopt permanent rules for the provision of universal service in a competitive environment. Universal service has been a policy of the State and of the federal government for approximately the last seventy-five years. Universal service is the concept of having affordable basic "dial tone" telephone service available to all persons at a reasonable cost, even though the cost of serving some areas is higher than others. Traditionally, the cost of basic service has been kept down by subsidies from charges for other telephone services such as long distance service and other optional services. The 1995 legislation provided that temporary universal service rules would be adopted by the Utilities Commission by December 31, 1996 and permanent universal service rules would be adopted by July 1, 1998. The date for permanent rules was changed to July 1, 1999 in 1998, and was changed again to July 1, 2001 in 1999. Temporary universal service rules are in place in accordance with the provisions of G.S. 62-110(f1).

Attached to this summary is a letter, dated February 7, 2001 to the President Pro Tempore of the Senate and the Speaker of the House from the Honorable Jo Anne Sanford, Chair of the North Carolina Utilities Commission. It contains a succinct explanation of the reasons for the delay and expresses the conviction that this temporary delay is necessary and reasonable and that no party will be prejudiced by the delay.

S217-SMRL-002



State of North Carolina
Utilities Commission

Mailing Address
4325 MAIL SERVICE CENTER
RALEIGH, NC 27699-4325

COMMISSIONERS
JO ANNE SANFORD, Chair
RALPH A. HUNT
JUDY HUNT

RECEIVED

FEB 8 2001

RESEARCH DIVISION

COMMISSIONERS
WILLIAM R. PITTMAN
J. RICHARD CONDER
ROBERT V. OWENS, JR.
SAM J. ERVIN, IV

February 7, 2001

The Honorable Marc Basnight
President Pro Tempore of the Senate
Legislative Building, Room 2007
Raleigh, North Carolina 27601-2808

The Honorable James B. Black
Speaker of the House
Legislative Building, Room 2304
Raleigh, North Carolina 27601-1096

Dear Sirs:

By this letter, we are requesting a two-year extension, until July 1, 2003, of the statutory deadline contained in G.S. 62-110(f1) for adoption of final rules concerning the provision of universal telephone service. In 1995, when House Bill 161 was adopted as a transforming change to the regulatory structure in the telecommunications industry, July 1, 1998, appeared to be a reasonable target for adoption of a plan to provide for universal service. However, no one could have anticipated the complexity and magnitude of the path from legislative declarations of intent to final restructuring of this industry. This is particularly true in light of the subsequent passage of the federal Telecommunications Act of 1996, which introduced greater complexity to the area. Despite constant application of industry and regulatory resources to a stream of cases which necessarily precede this universal service decision, this Commission -- like many others nationwide -- is not yet to the point of being able to make a responsible final decision on the provision of universal service. Recognizing this, the General Assembly has, at our request, already twice extended the deadline, which is currently July 1, 2001.

Essentially, what is at issue is replacement of a decades-old mechanism for providing affordable telecommunications service to high-cost areas and to low-income users. The concept of "universal service" was enunciated in the Communications Act of 1934 and it continues to be embodied in law. Historical sources of funding for this national

The Honorable Marc Basnight
The Honorable James B. Black
February 7, 2001
Page 2

and state policy goal have included interconnection charges among carriers and higher rates for some services. Additionally, since divestiture in 1984, the Federal Communications Commission (FCC) has administered a high-cost fund. One of the many mandates of the federal and state acts is that we states must now identify and quantify the necessary level of support for universal service -- i.e., the amount of support needed must be made explicit rather than amorphously included within various rates without any real definition. We must also determine how the support is to be recovered, whether through customer surcharges, carrier fees, or in some other manner. It is important to note, however, that, until final rules are adopted, the Commission has ordered that the interim universal service mechanism should be a continuation of the present system of funding. Thus, there is no pressing need at this time for final rules.

The consequences of this decision are of enormous gravity. For instance, at the time this matter was last set for hearing in early-1999, there were industry proposals before the Commission requesting customer surcharges of up to 12%. Our reasons for asking for this extension fall principally into three categories:

- (1) Time - We continue to be engaged steadily in major telecommunications dockets and, given the high degree of industry interest and the number of parties and issues, fair resolution of each docket inevitably takes a significant amount of time. This is true even though the time-line for our cases is substantially more compressed than comparable civil litigation;
- (2) Appeals - Appeals of state and federal decisions are inevitable consequences of the mix of parties, the polarization of interests, and the stakes; and
- (3) Resources - Industry and regulatory resources continue to be strained to the maximum in attempting to resolve one major docket after another across the region.

We have split the universal service proceeding into several phases and have conducted hearings in two of them. The first phase was decided in Orders of April 20 and July 2, 1998, by which we approved the cost models and inputs which form the framework for determining the costs of universal service in North Carolina. The second phase, heard in June 1998, considered more than 25 issues which are central to our ability to adopt the final rules required by G.S. 62-110(f1). A third phase was scheduled for hearing in January 1999, to consider a Public Staff proposal concerning costing methodology, but

The Honorable Marc Basnight
The Honorable James B. Black
February 7, 2001
Page 3

was continued at the request of the parties. Since then, no party has come forward to request reactivation of this inquiry and we perceive no pressing need to adopt final universal service rules at this time. In order to fully conclude this matter, we are likely to require one or more additional hearings, which are likely to be very complicated and contentious, before we can sort all this out in the form of final rules.

We thank you for considering during this session an extension of the deadline in G.S. 62-110(f1) until July 1, 2003. We are convinced this is a necessary and reasonable request and do not believe that any party will be prejudiced thereby. Nor do we believe there will be any opposition to or controversy surrounding this request. In fact, both the carriers and the customers in this State deserve and will benefit from adequate time for a fair hearing and from careful, deliberative decisions by the Commission. Furthermore, any party who believes that there is a pressing need for adoption of final universal service rules prior to July 1, 2003, certainly has the right to petition the Commission to reopen the rulemaking proceeding at any time before that date.

Thank you very much for your attention to this request, and please call on us if we might answer any questions.

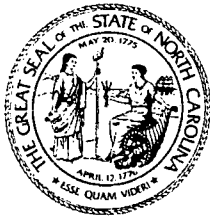
Very truly yours,



Jo Anne Sanford

RHB/pb

c: Members of the North Carolina Utilities Commission
Senator David W. Hoyle
Representative Ronnie Smith
Members of the Joint Legislative Utility Review Committee
Robert P. Gruber, Executive Director, Public Staff-NCUC
Steven Rose, Legislative Counsel



SENATE BILL 432: Water and Sewer Authorities

BILL ANALYSIS

Committee: House Public Utilities
Date: April 17, 2001
Version: Third

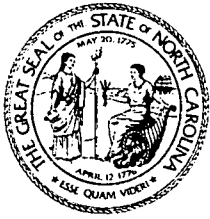
Introduced by: Sen. Kerr
Summary by: Steven Rose
Committee Counsel

SUMMARY: *Senate Bill 432 would allow three or more political subdivisions to partner with up to two nonprofit water companies to form a water and sewer authority. The bill also validates the membership of nonprofit water corporations in an authority if the authority was created after July 1, 2000, and met the requirements of this act. The bill is effective when it becomes law.*

CURRENT LAW: There are several different mechanisms a county and city can use to address water and sewer concerns. One such mechanism is the creation of a water and sewer authority. One or more counties, cities, sanitary districts, and any other political subdivision may create water and sewer authorities. The governing body of each political subdivision must adopt a resolution stating its intent to organize an authority. The resolution must be adopted after a public hearing is held on the issue and notice of the public hearing must be published. A political subdivision can withdraw from an authority at any time prior to the creation of any obligations by the authority. A water and sewer authority may issue revenue bonds; impose rates, fees, and charges; and levy special assessments. Water and sewer authorities may also apply for grants from the Clean Water Revolving Loan and Grant Fund.

BILL ANALYSIS: The statutes authorizing the creation of water and sewer authorities do not provide for a partnership between public and private corporations. **Senate Bill 432** would allow such a partnership if the authority would consist of at least three political subdivisions. The statutes provide two methods for the creation of a water and sewer authority. The bill amends both of these methods to allow the inclusion of nonprofit water companies. Section 2.1 of the bill adds language that prohibits political subdivision subsequently joining a water and sewer authority created under G.S. 162A-3 from having voting members. This is already prohibited for subsequent joiners under G.S. 162A-3.1. However, this prohibition would not apply to those joining under new G.S. 162A-3(a1). Section 3 of the bill validates the creation of a water and sewer authority that consists of nonprofit water companies if the authority was created on or after July 1, 2000, and meets the requirements of this legislation.

BACKGROUND: The Lenoir County Commissioners appointed a task force several years ago to study the issues facing the area as it related to water and sewer services. The task force membership consisted of a broad cross section of Lenoir County with each supplier of these services in the area included. The task force recommended the formation of a water and sewer authority. The governing boards of three municipalities and the county adopted resolutions in October of 2000 forming the Neuse Regional Water and Sewer Authority. The authority consists of 10 members representing the following entities: the City of Kinston, the Town of LaGrange, and the Town of Pink Hill. Representatives of North Lenoir Water Corporation and Deep Run Water Corporation are represented on the authority.



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BILL ANALYSIS

Committee: House Public Utilities
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Introduced by: Sen. Kerr
Summary by: Steven Rose
Committee Counsel

A handwritten signature, likely of Steven Rose, in dark ink.

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S432-SMRL-001 Cindy Avrette, Senate Finance Committee Counsel, substantially contributed to this summary.

2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Smith** (Chair) for the Committee on **Public Utilities**.

☐ Committee Substitute for

S.B. 217 A BILL TO BE ENTITLED AN ACT TO EXTEND THE TIME FOR THE
NORTH CAROLINA UTILITIES COMMISSION TO ADOPT FINAL RULES
REGARDING UNIVERSAL SERVICE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:
By Representative **Smith** (Chair) for the Committee on **Public Utilities**.

☒ Committee Substitute for

S.B. 432 A BILL TO BE ENTITLED AN ACT TO ALLOW NONPROFIT WATER CORPORATIONS TO JOIN CERTAIN WATER AND SEWER AUTHORITIES AND CONCERNING THE RIGHT OF SUBSEQUENTLY JOINING MUNICIPALITIES TO HAVE VOTING MEMBERSHIP.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

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☐ With recommendation that the House concur. .

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☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

4/17/01

VISITOR REGISTRATION SHEET

Public Utilities
Name of Committee

April 17, 2001
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Ken McHow	Alley Associates
Pam Meyer	NACC
Lorinzo L Joyner	NC Utilities Commission
Len Anthony	Progress Energy - CP&C
Carm Cook	BPM H L
Katherine Joyce	NC Assoc. of Electric Cooperatives
DENNIS NIGHTINGALE	PUBLIC STAFF - NCUC
Bob Gilliam	Public Staff - NCUC
Tom Lam	Public Staff - NCUC
Benjamin R. Turner	Public Staff - NCUC
Army Fullbright	Huntton Williams
Tam Wescott	Sprint
Sam Kivley	NCUC
Kim Hubbard	NCLM
Eatherine Davis	Electricities
TOM LAPOMZINA	Electricities
Laura DeVivo	DENR
Brock Nicholson	DBNR - DAQ
Bill Ross	Sec - DBNR
MICHAEL SHORE	ENVIRONMENTAL DEFENSE
Brody McCallie	N.C. Conservation Network
Patrice Reeler	NACC
Nolly Duggins	Sierra Club
Mark Smith	Capitol Group
PRESTON HOWARD	NCIC
Steve Lenters	Burke, Pierce
Sharon Miller	CUCA
Robin Smith	DENR

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

DENR

CWA

NC Surra

CcNL

Weyerhaeuser

MCPC

NCP12C

Progress & Energy

Progress Energy

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

PLEASE NOTE ROOM & TIME CHANGE – AGAIN!!!!

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Thursday, April 19, 2001**

TIME: **11.00 a.m.**

LOCATION: **Room 1425 – Legislative Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

**HB 1015 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES - Rep. Nesbitt and
Rep. Haire - continued discussion.**

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
3:30 p.m. on April 17, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Rep. Martin Nesbitt & Rep. Phil Haire

OFFICE:

NOTIFICATION DATE: April 17, 2001

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Thursday, April 19th

TIME: 11:00 a.m.

LOCATION: Room 544

Your Bill (or Bills) will be discussed at this time:

HB 1015 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES.

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

X (Committee Assistant)

2001

**HOUSE
PUBLIC UTILITIES**

MINUTES

Minutes
House Committee on Public Utilities
April 19, 2001

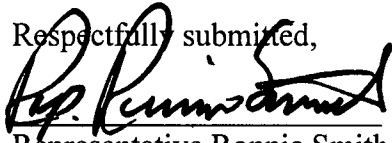
The House Committee on Public Utilities met Thursday, April 19, 2001 in Room 1425 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Brubaker, Coates, Edwards, Holmes and Hurley. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.


Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

Chairman Smith recognized Representative Martin Nesbitt was recognized to explain HB1015 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES. Rep. Zeno Edwards was recognized to express his concerns regarding how coops would be affected. Rep. Drew Saunders questioned how Section 4 could be enforced, particularly in light of the Pigeon River lawsuit that the state lost last year. Sharon Miller with the Carolina Utility Consumers Assoc. was concerned that 70% of the cost would be bore by manufacturing and commercial customers. Rep. Saunders asked what she thought the committee should do. Ms. Miller's response was that these people need to be part of the planning phase. Rep. Hurley seconded those thoughts. Elizabeth Outzs from NC PIRG testified in favor of the bill. Preston Howard from MCIC said they applaud the bill sponsor and do support emissions reduction but MCIC does not feel it can support the cost recovery portion as written. When questioned by Rep. Saunders as to the % of costs by manufacturing would bare, Mr. Howard thought it would be about 30%. Leslie Bevacqua from NCCBI said that they felt further study needed to be done on the bill. Robert Gruber from the Public Utilities staff said they have no opposition and will be willing to work with bill sponsors to make technical amendments as needed. JoAnne Sanford, Chairwoman of the NCUC said they would be looking at the levelization issue. Rep. Nesbitt said he felt like there was more concern than there needed to be regarding the cost. He said this would be a 3% to 5% increase for consumers and possibly a 5% TO 7% increase for industry. He said he saw no advantage in trying to put this in the normal rate process because he felt that NCUC could lose sight in a fair rate case.

Chairman Smith adjourned the meeting at 11:15 a.m.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**April 19, 2001
Room 1425 – LOB
11:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**HB 1015 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Rep. Nesbitt and Rep. Haire, Sponsors
Continued Discussion**

ADJOURNMENT

VISITOR REGISTRATION SHEET

Public Utilities
Name of Committee

4-19-01
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Jessie Brown	WCCBI
Georgie S. Ch...	Am. Lung Assoc.
Delores Brown	Am. Lung Assoc. NC
Dore Anniston	RJ Reynolds
Alan Briggs	Save Our State
Michael Thompson	Dominion
Len Anthony	CPL
Ilw Kaylin	Kaylin Law Firm
Steve Hoffman	NCSBA
David Kaylin	NC Sierra
Lucius Pullen	Attorney NCHA
Mitch Williams	Progress Energy
Judy Hunt	NCUC
George Reed	NC Council of Churches
Arla Wathen	DENR
Wanda Thompson	MCIC
Michelle Cook	Weyerhaeuser
Joyce...	DD Associates
Tom Laporzina	Electricities of NC
Alie Parlane	Electricities
Estherina Davis	"
Gisele Rankin	Public Staff - NCUC
Tony Wike	Public Staff
DENNIS NIGHTINGALE	PUBLIC STAFF - NCUC
Sharon Miller	CECA
JoAnne Sanford	N.C. Utilities Commission
Ken Melton	Alley Associates
Katherine Joyce	NC Assn. of Electric Cooperatives

VISITOR REGISTRATION SHEET

4/19/01

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Jay Brown	NCAEC
Joe Upchurch	Progress Energy
Russell Hagan	DENR, Div. of Air Quality
PRESTON LEWIS	MCIC
Kelli Culum	DuPont
Brock Nicholson	DENR
Chuck Wakild	Progress Energy

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

D

HOUSE BILL 1015*
PROPOSED COMMITTEE SUBSTITUTE H1015*-PCS5196-RT-10

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 9, 2001

A BILL TO BE ENTITLED
AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING
REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM
CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. **Air quality standards and classifications.**

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed
and empowered, as rapidly as possible within the limits of funds and facilities available
to it, and subject to the procedural requirements of this Article and Article 21:

- (1) To prepare and develop, after proper study, a comprehensive plan or
plans for the prevention, abatement and control of air pollution in the
State or in any designated area of the State.
- (2) To determine by means of field sampling and other studies, including
the examination of available data collected by any local, State or
federal agency or any person, the degree of air contamination and air
pollution in the State and the several areas of the State.
- (3) To develop and adopt, after proper study, air quality standards
applicable to the State as a whole or to any designated area of the State
as the Commission deems proper in order to promote the policies and
purposes of this Article and Article 21 most effectively.
- (4) To collect information or to require reporting from classes of sources
which, in the judgment of the Environmental Management
Commission, may cause or contribute to air pollution. Any person
operating or responsible for the operation of air contaminant sources of
any class for which the Commission requires reporting shall make
reports containing such information as may be required by the
Commission concerning location, size, and height of contaminant
outlets, processes employed, fuels used, and the nature and time

periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO₂) allowances and nitrogen oxides (NO_x) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(8a) To develop and adopt standards and plans and to implement programs to control emissions of oxides of nitrogen (NO_x) and sulfur dioxide (SO₂) as provided in G.S. 143-215.107D.

(9) To regulate the content of motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing

regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. – In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article.

(d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

(f), (g). Repealed by Session Laws 1995, c. 507, s. 27."

SECTION 2. Article 21B of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) from certain coal-fired electric generating units.

The Environmental Management Commission shall adopt rules to implement G.S. 143-215.107(a)(8a) as provided in this section. For emissions of oxides of nitrogen (NOx), the Commission shall develop and adopt standards and plans and implement programs to control emissions from coal-fired generating units, as those terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and that have

1 the capacity to generate 25 or more megawatts of electricity so that no later than 1
2 January 2007 these units will collectively emit no more than 60,000 tons of oxides of
3 nitrogen (NOx) annually and no later than 1 January 2009 these units will collectively
4 emit no more than 56,000 tons of oxides of nitrogen (NOx) annually. For emissions of
5 sulfur dioxide (SO₂), the Commission shall develop and adopt standards and plans and
6 implement programs to control emissions from coal-fired generating units, as those
7 terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that
8 are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and
9 that have the capacity to generate 25 or more megawatts of electricity so that no later
10 than 1 January 2009 these units will collectively emit no more than 250,000 tons of
11 sulfur dioxide (SO₂) annually and no later than 1 January 2013 these units will
12 collectively emit no more than 130,000 tons of sulfur dioxide (SO₂) annually."

13 **SECTION 3.** Article 7 of Chapter 62 of the General Statutes is amended by
14 adding a new section to read:

15 **"§ 62-133.6. Environmental compliance expenditure-recovery.**

16 (a) As used in this section, the term 'environmental compliance expenditures'
17 means only those expenditures incurred after 1 July 2001 by an electric utility to comply
18 with standards adopted pursuant to G.S. 143-215. 107D that exceed the expenditures
19 required to comply with the revisions to the State Implementation Plan (SIP) to reduce
20 emissions of oxides of nitrogen (NOx) pursuant to the final notice published by the
21 Administrator of the United States Environmental Protection Agency at 63 Federal
22 Register 57491 (27 October 1998) codified at 40 Code of Federal Regulations § 51.121
23 (1 July 2000 Edition).

24 (b) The Commission shall allow each electric utility to recover all just,
25 reasonable, and prudently incurred environmental compliance expenditures through an
26 environmental compliance expenditure-recovery factor that is separate from the electric
27 utility's base rates.

28 (c) The Commission shall set the environmental compliance expenditure-
29 recovery factor for each utility at least annually. The Commission shall base the
30 environmental compliance expenditure-recovery factor on the electric utility's
31 projections of its environmental compliance expenditures for the next calendar year.
32 The Commission shall incorporate into the environmental compliance expenditure-
33 recovery factor determination the experienced under-recovery or over-recovery of the
34 electric utility's environmental compliance expenditures incurred during the previous
35 calendar year. Any refund or collection made as part of this process shall include
36 interest at a rate to be determined by the Commission."

37 **SECTION 4.** It is the intent of the General Assembly that the State use all
38 available resources and means, including negotiation, participation in interstate
39 compacts and multistate and interagency agreements, and litigation to induce other
40 states and entities, including the Tennessee Valley Authority, to achieve reductions in
41 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) comparable to those
42 required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.

1 143-215.107D, as enacted by Section 2 of this act, on a comparable schedule. The State
2 shall give particular attention to those states and other entities whose emissions
3 negatively impact air quality in North Carolina or whose failure to achieve comparable
4 reductions would place the economy of North Carolina at a competitive disadvantage.

5 **SECTION 5.** The Environmental Management Commission shall study the
6 desirability of requiring and the feasibility of obtaining reductions in emissions of
7 oxides of nitrogen (NOx) and sulfur dioxide (SO₂) beyond those required by G.S.
8 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S. 143-215.107D, as
9 enacted by Section 2 of this act. The Environmental Management Commission shall
10 consider the availability of emissions reduction technologies, increased cost to
11 consumers of electric power, reliability of electric power supply, actions to reduce
12 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) taken by states and
13 other entities whose emissions negatively impact air quality in North Carolina or whose
14 failure to achieve comparable reductions would place the economy of North Carolina at
15 a competitive disadvantage, and the effects that these reductions would have on public
16 health, the environment, and natural resources, including visibility. In its conduct of
17 this study, the Environmental Management Commission may consult with the Utilities
18 Commission and its staff. The Environmental Management Commission shall report its
19 findings and recommendations to the General Assembly and the Environmental Review
20 Commission annually beginning 1 September 2004.

21 **SECTION 6.** The General Assembly anticipates that measures implemented
22 to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide
23 (SO₂) required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
24 143-215.107D, as enacted by Section 2 of this act, will also result in significant
25 reductions in the emissions of mercury from coal-fired generating units. The Division
26 of Air Quality of the Department of Environment and Natural Resources shall study
27 issues related to monitoring emissions of mercury and the development and
28 implementation of standards and plans to implement programs to control emissions of
29 mercury from coal-fired generating units. The Division shall evaluate available control
30 technologies and shall estimate the benefits and costs of alternative strategies to reduce
31 emissions of mercury. The Division shall annually report on its interim findings and
32 recommendations to the Environmental Management Commission and the
33 Environmental Review Commission beginning 1 March 2002. The Division shall report
34 its final findings and recommendations to the Environmental Management Commission
35 and the Environmental Review Commission no later than 1 March 2005.

36 **SECTION 7.** The Division of Air Quality of the Department of Environment
37 and Natural Resources shall study issues related to the development and implementation
38 of standards and plans to implement programs to control emissions of carbon dioxide
39 from coal-fired generating units and other stationary sources of air pollution. The
40 Division shall evaluate available control technologies and shall estimate the benefits and
41 costs of alternative strategies to reduce emissions of carbon dioxide. The Division shall

1 report its findings and recommendations to the Environmental Management
2 Commission and the Environmental Review Commission no later than 1 March 2002.

3 **SECTION 8.** This act is effective when it becomes law.



HOUSE BILL 1015: Improve Air Quality/Electric Utilities.

BILL ANALYSIS

Committee: House Public Utilities
Date: April 17, 2001
Version: Proposed Committee Substitute
(H1015*-PCS5196-RT-10)

Introduced by: Representatives Haire and
Nesbitt
Summary by: Steve Rose,
Committee Counsel

SUMMARY: *House Bill 1015 would require reductions in the emissions of certain pollutants from large-scale coal-fired generating units owned by investor-owned public utilities. The bill would establish collective emission caps for nitrogen oxides (NOx) and sulfur dioxide, as well as a timetable for meeting these standards. The proposed bill would also:*

- *Direct the Environmental Management Commission (EMC) to develop and adopt standards and plans to implement programs to achieve the collective reductions in the timeframe established.*
- *Direct the Utilities Commission to allow each electric utility to recover the full costs of compliance with this bill.*
- *Direct the State to use its resources to compel other states and entities to make similar reductions, particularly those states whose emissions adversely impact air quality in North Carolina or whose failure to make similar reductions would put the economy of North Carolina at a competitive disadvantage.*
- *Direct the EMC to evaluate the need for further reductions of NOx and sulfur dioxide (SO₂), and report its findings to the General Assembly and the Environmental Review Commission annually beginning September 1, 2004.*
- *Direct the Division of Air Quality to study issues related to the monitoring and control of mercury emissions from coal-fired generating units.*
- *Direct the Division of Air Quality to study issues related to setting standards for carbon dioxide emissions from coal-fired generating units and other stationary sources of air pollution.*

The act would become effective when it becomes law.

CURRENT LAW: Under G.S. 143-215.107, the EMC is directed and empowered to prepare and develop plans for the prevention, abatement, and control of air pollution in the State. This includes regulation of the use of SO₂ allowances and NOx emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency (EPA). In addition, the EMC is directed to develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants.

BILL ANALYSIS:

Sections 1 and 2 would direct the EMC to develop and adopt standards and plans that would require reductions in both SO₂ and NOx emissions over the next 12 years. The bill would apply only to coal-burning power plants with a generating capacity greater than 25 megawatts that are operated by investor-

HOUSE BILL 1015:

Page 2

owned, public utilities. 14 facilities in North Carolina meet this description, and are identified on the attached map.¹ The emissions caps, and the reductions that would be necessary to achieve these caps, are illustrated in the table below:

Table 1: Proposed Maximum Annual Emissions Levels under House Bill 1015.

Pollutant	Quantity Emitted in 1998 (tons)	Proposed Emissions January 1, 2007 (tons)	Proposed Emissions January 1, 2009 (tons)	Proposed Emissions January 1, 2013 (tons)
Nitrogen Oxides (NO _x)	250,000 ²	Not to exceed 60,000	Not to exceed 56,000	Not to exceed 56,000
Sulfur Dioxide (SO ₂)	489,000 ³	Not specified	Not to exceed 250,000	Not to exceed 130,000

Section 3 would create a mechanism for recovery of costs associated with implementation of the bill by the affected utilities. The Utilities Commission would set an environmental compliance expenditure-recovery factor on an annual basis allowing each electric utility to recover all just, reasonable, and prudently incurred environmental compliance expenditures separate from the electric utility's base rates. This recovery factor would include only include expenditures incurred after July 1, 2001, that exceed the expenditures required to comply with the revisions to the State Implementation Plan (SIP) to reduce emissions of NO_x pursuant to the final notice published by the EPA on October 27, 1998⁴.

Section 4 would provide that the State actively seek to induce other states and entities, including the Tennessee Valley Authority (TVA), to achieve NO_x and SO₂ reductions comparable to those proposed in this bill. The State would give particular attention to the states and entities whose emissions negatively affect air quality in North Carolina or whose failure to make similar reductions would put the economy of North Carolina at a competitive disadvantage.

Section 5 would direct the EMC to study the desirability and feasibility of reductions of NO_x and SO₂ beyond those proposed in Sections 1 and 2 of the bill. The study would consider a variety of factors, including available technology, costs to consumers of electric power, reliability of electric power supply, actions taken by other states and entities that affect North Carolina, and the effects that further reductions would have on public health, the environment, and natural resources, including visibility. The EMC would report the findings of the study to the General Assembly and the Environmental Review Commission annually beginning on September 1, 2004.

Sections 6 and 7 would direct the Division of Air Quality (Division) of the Department of Environment and Natural Resources to study issues related to the development and implementation of standards to control mercury and carbon dioxide emissions. The Division is to perform cost benefit analyses of the available control technologies and alternative strategies for reduction of emissions for mercury and carbon dioxide. For mercury, the Division would also study issues related to monitoring. The study of mercury emissions is limited to coal-fired generating units, while the study of carbon dioxide would evaluate all stationary sources of air pollution. Both studies would report to the EMC and the Environmental Review Commission, beginning March 1, 2002.

Section 8 provides that act would become effective when the act becomes law.

HOUSE BILL 1015:

Page 3

BACKGROUND: The Federal Clean Air Act Amendments of 1990 addressed numerous air quality problems in the United States, including smog and acid rain caused by SO₂ and NO_x emissions from fossil-fueled electric power plants. Because of concerns over these problems, the EPA in 1997 adopted a stricter federal ozone standard. At the time, the EPA directed states to develop plans for meeting the new standard by July 18, 2003, with new controls phased in over several years. In September 1997, however, the EPA shortened the timetable and ordered North Carolina and 21 other Eastern and Midwestern states to revise their State Implementation Plans (SIPs) for controlling nitrogen oxide emissions by September 30, 1999. Under the accelerated "SIP Call," all of North Carolina's utilities and some large industries would be required to cut their NO_x emissions by about two-thirds by 2003.

In 1999, The General Assembly took several steps to address air quality problems in North Carolina. The Ambient Air Quality Improvements Act (Act),⁵ set limits on the sulfur content of motor fuels sold in the State and set out a schedule for enhancing and expanding the State's automobile emissions inspection program. These efforts were aimed in part at bringing the State into compliance with new federal air quality requirements for ground level ozone. The Act also directed the EMC to develop and adopt incentives to promote voluntary reductions of emissions of air contaminants from industrial sources. These incentives included emissions banking and trading and credit for voluntary early reductions.

Tim Dodge, Committee Staff to the House Environment and Natural Resources Committee, contributed to the preparation of this summary.

¹ "Mountain Lawmakers Fight Smog." Raleigh News and Observer, April 11, 2001.

² U.S. Environmental Protection Agency, "The Emission and Generation Resources Integrated Database (E-GRID)," Clean Air Markets Programs, 2000. Online: <http://www.epa.gov/airmarkets/emissions/>.

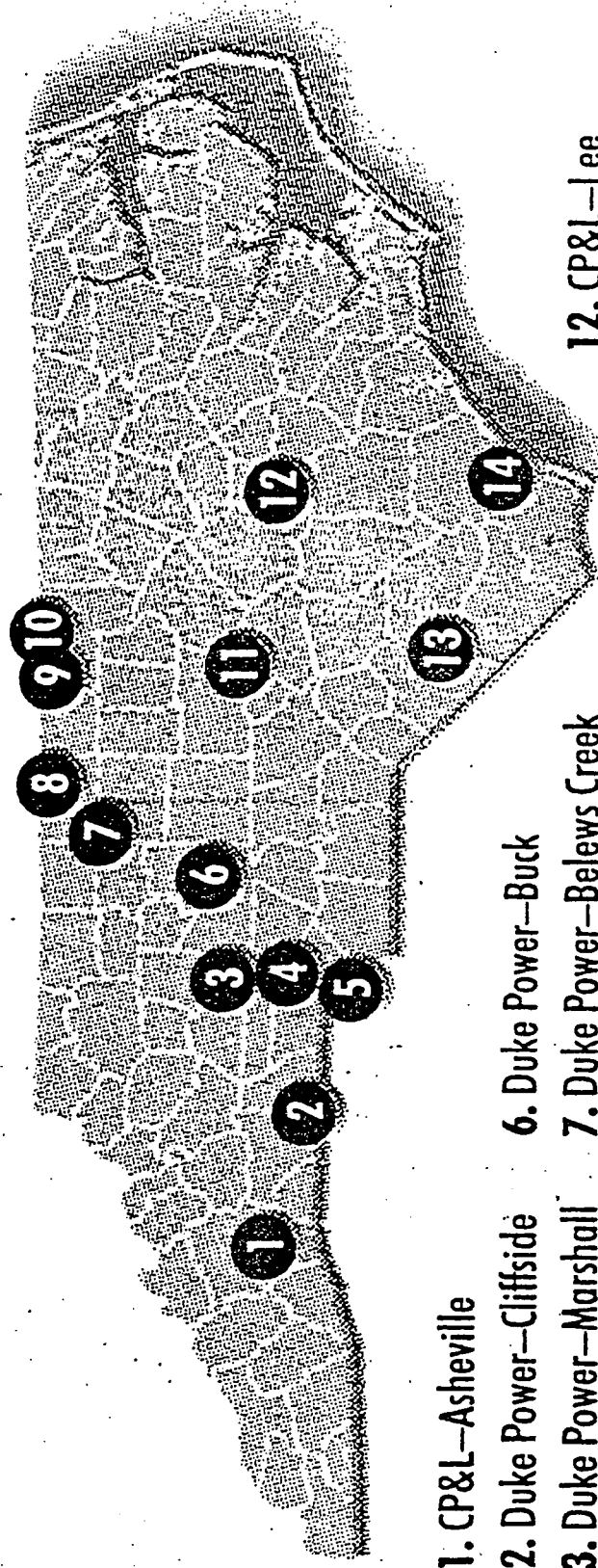
³ U.S. Environmental Protection Agency. "Emission Data for Power Plants, North Carolina, 1999." Online: <http://www.epa.gov/acidrain/emission/index.htm>.

⁴ 40 CFR 51.121, July 1, 2000 Edition.

⁵ SL 1999-328.

Coal-fired power plants

Bills introduced in the House and Senate aim to cut pollution from the state's 14 coal-fired power plants.



1. CP&L—Asheville

2. Duke Power—Cliffside

3. Duke Power—Marshall

4. Duke Power—Riverbend

5. Duke Power—Allen

6. Duke Power—Buck

7. Duke Power—Belews Creek

8. Duke Power—Dan River

9. CP&L—Roxboro

12. CP&L—Lee

13. CP&L—Weatherspoon

14. CP&L—Sutton

10. CP&L—Mayo

11. CP&L—Cape Fear

Source: Staff research

TORI NEWBERN / The News & Observer

Public Utilities Committee April 18, 2001
Representative Smith, Chair
Testimony of Elizabeth Ouzts, NCPIRG, in favor of HB 1015

Thank you Representative Smith and members of the Committee for having me here today. My name is Elizabeth Ouzts. I'm the Environmental Advocate for NCPIRG, the North Carolina Public Interest Research Group. We are a statewide public interest advocacy group.

I want to commend Representative Nesbitt for all his work on this bill and his careful explanation of it. I also want to thank Representatives Smith, Coates, Edwards and Hurley for signing on to HB 1015. I am here today to impress upon you a few key facts about air pollution that demonstrate how critical HB 1015 is to protecting public health and the environment across the entire state.

Nitrogen Oxide Pollution

180,000 children across the state have asthma, according to the American Lung Association. Megan Foster, 11, of Raleigh, is one of them. Ironically, she and her mother Ena moved to Raleigh from California, hoping to escape smog, or ozone pollution. But for the past three summers, North Carolina has ranked in the top 5 states in the country for the number of times the air is considered unhealthy to breathe—not far behind California.¹ Thus, Megan has to stay indoors during most of the summer months—otherwise she may end up in the emergency room.

Children like Megan, the elderly, asthmatics, and even normal healthy adults may all be affected by ozone. All told, ozone is estimated to cause as many as 240,000 asthma attacks each summer in North Carolina.²

Sulfur Dioxide Pollution

But air pollution doesn't just trigger asthma attacks. The most dangerous type of pollution is the small particulate pollution associated with the sulfur dioxides in our air. These particles can become embedded in the lungs, and can cause severe respiratory problems—sometimes even premature death. A recent study by an EPA consulting firm estimates that particulate pollution—from power plants alone—contributes to 1800 premature deaths across the state each year, with over 100 such deaths in both Raleigh and Charlotte, and over 300 in Greensboro.³

Nitrogen Deposition and Mercury Pollution

Air pollution also poisoning the fish we eat and polluting our rivers. Nitrogen oxides from the air are deposited in water bodies across the state. Eastern water bodies, especially, suffer from nutrient overloading as a result. Mercury pollution is also a threat. Emitted into the air, then settling on the beds of rivers and streams, mercury is ingested

¹ The State PIRGs and Clean Air Network, "Danger in the Air: Unhealthy Smog Days," 1998, 2000, 2001.

² Abt Associates for the Clean Air Task Force, "Adverse Health Effects Associated with Ozone in the Eastern United States," October 1999.

³ Clean Air Task Force, "Death, Disease, and Dirty Power," October 2000.

by fish and then concentrates in their fat tissue. When eaten by humans, this poisoning can cause neurological disorder in newborn babies. Already, the NCDHHS has issued 9 fish advisories for mercury poisoning in the state—many in the Eastern counties—and two statewide advisories for bowfin and king mackerel.⁴ Indeed, mercury poisoning is now so pervasive that pregnant women were advised in a recent study to avoid eating tuna altogether—no matter where it is from.⁵

As Representative Nesbitt has told you, power plants are the largest contributors to all these types of pollution—those that trigger asthma attacks (NOx), those that lead to premature death (SO₂), and those that poison the fish we eat (mercury). With modern control technology affordable and available, reducing power plant pollution is the simplest, most cost effective way to reduce air pollution for the entire state of North Carolina.

Costs

Of course, the bill will cost money for North Carolina businesses and consumers, as Representative Nesbitt has also promised. According to EPA calculations, which assume more reductions than this bill calls for, the costs will be roughly 448 million per year, or a little over 4 dollars per month on the average residential consumer bill. I would urge you to weigh these costs against the public health costs North Carolinians pay each year. Estimates are that in public health costs alone, North Carolinians pay over 3.2 billion dollars in health costs each year⁶—spread over 12 months and 8 million people, that's 33 dollars per month. Cleaning up the plants are 1/8 the costs, then, of addressing public health needs. And well worth it for future generations.

The bill before you can restore scenic views and vegetation in the mountains; it can also save lives across the state. The same consulting group that estimated premature deaths in North Carolina also estimated the benefits of cutting sulfur dioxide pollution by 75%. Such reductions, the group found, could save over 1000 lives, from Asheville to Charlotte to Raleigh.⁷

Having been at the table with Representative Nesbitt, Senator Metcalf, and representatives from the utilities and other members of the environmental community, I believe this bill is a significant step forward for public health and the environment, and hope you will support it.

⁴ NC Department of Health and Human Services Website, <http://www.schs.state.nc.us/epi/fish/current.html>

⁵ Environmental Working Group and the State PIRGs, "Brainfood: What Pregnant Women Should Know About Mercury Contamination in Fish," April 2001.

⁶ Appalachian Voices, Environmental Defense, et. al, "The North Carolina Clean Smokestacks Plan."

⁷ Clean Air Task Force, "Death, Disease, and Dirty Power," October 2000.

Carolina
Utility
Customers
Association,
Inc.

CAROLINA UTILITY CUSTOMERS ASSOCIATION, INC.

Telephone: (919) 782-7843

Fax: (919) 782-1044

E-mail: cucainc@bellsouth.net

FACSIMILE TRANSMISSIONDATE: 4-19-01TIME: 2:05 p.m.TO: Ann JordanFROM: Sharon MillerTOTAL PAGES (INCLUDING COVER PAGE): 3COMMENTS

Here are my comments from the HPUC
meeting this morning.

Thanks,

Sharon

NOTE TO FACSIMILE OPERATOR:

If you did not receive all of the pages listed above, please contact: _____
at (919) 782-7843 at your earliest convenience.

Glenwood Corporate Center Suite 204 5811 Glenwood Avenue Raleigh, North Carolina 27612
Phone 919-782-7843 Fax 919-782-1044

COMMENTS TO THE HOUSE PUBLIC UTILITIES COMMITTEE
(April 19, 2001)

Mr. Chairman and members of the Committee, I am Sharon Miller, Executive Director of the Carolina Utility Customers Association, which is an organization that represents 62 member companies in electrical, natural gas, and telecom issues.

We would like to share with this Committee the following key messages regarding HB-1015:

- (1) First, we commend the bill sponsors for their efforts with this legislation;
- (2) Again, let me assure you that the manufacturing community supports clean air and complies with rigid environmental standards for their own operations;
- (3) We believe that HB-1015 shifts the entire environmental compliance costs for the utility companies on the backs of consumers – especially manufacturers. While we still do not have the detailed cost information to determine the true impact for the manufacturing community, based upon the limited numbers we have received, cost estimates for residentially purportedly range from \$3.00-\$5.00 monthly. If HB-1015 is enacted in its current form, the preliminary annual and 12-year cost projections for manufacturers are estimated to be:

<u>Industrial Customer Size</u>	<u>Estimated Consumption</u>	<u>Projected Increased Annual Costs</u>	<u>12 Year Period Projected Costs</u>
Small	12,264,000	\$ 56,414	\$ 679,968
Medium	35,040,000	\$ 161,184	\$1,934,208
Large	78,840,000	\$ 362,664	\$4,351,968

- 2 -

It is estimated that industrial and commercial customers will pay approximately 70% of the \$2.2 billion costs. However, as stated in the bill, the Environmental Management Commission may later request more stringent environmental compliance standards, which could further increase the potential cost exposure for all customers down the road.

- (4) North Carolina leads the nation in loss of jobs in the manufacturing sector and many of the remaining companies are struggling to remain competitively viable. While North Carolina's manufacturing community supports clean air and compliance with the appropriate environmental standards, we urge this Committee to deliberately and cautiously consider all potential ramifications of this legislation before voting for its passage.

Thank you for the opportunity to present our views and concerns.

NEO Committee

Rob Norratt

Preston Howard

THANK YOU CHAIRMAN SMITH AND MEMBERS OF THE COMMITTEE

MY NAME IS PRESTON HOWARD AND I AM PRESIDENT OF THE MANUFACTURERS AND CHEMICAL INDUSTRY COUNCIL OF NORTH CAROLINA

WE COUNT AMONG OUR MEMBERSHIP MANY OF THE LARGEST POWER CUSTOMERS THAT EITHER OF THE 2 UTILITIES HAVE ON THEIR SYSTEM

MCIC APPLAUDS THE BILL SPONSORS FOR CORRECTLY IDENTIFYING THE LARGE COAL-FIRED BOILERS OPERATED BY THE 2 UTILITIES AS THE MAJOR EMISSION SOURCES FOR NOX AND SO2 IN NORTH CAROLINA, AND

FOR CORRECTLY NOTING THAT ADDITION OF EMISSION CONTROLS ON THESE LARGE UTILITY BOILERS IS THE MOST COST EFFECTIVE WAY TO ACHIEVE SIGNIFICANT REDUCTIONS IN NOx AND SO2

MCIC SUPPORTS THE EMISSION REDUCTIONS CALLED FOR IN THIS BILL. WE BELIEVE THAT THESE EMISSION REDUCTIONS WILL HAVE A DEMONSTRABLE IMPACT ON POTENTIAL FOR FUTURE DESIGNATION OF NON-ATTAINMENT AREAS FOR BOTH OZONE AND FOR FINE PARTICULATE (PM 2.5) THROUGHOUT THE PIEDMONT.

HOWEVER, MCIC DOES NOT SUPPORT THE COST RECOVERY PROVISIONS OF THE BILL.

WE FEEL THAT THE EXISTING UTILITIES COMMISSION PROCESSES THAT IDENTIFY AND ALLOW RECOVERY OF APPROPRIATE OPERATING COSTS FOR UTILITIES AND RESULT IN FAIR RATE SETTING HAS SERVED THE STATE WELL.

WE URGE YOU NOT TO ABANDON THAT TIME-PROVEN PROCESS.

MCIC IS ALSO CONCERNED ABOUT THE APPARENTLY INTENDED OPPORTUNITIES OFFERED BY THIS BILL FOR THE 2 UTILITIES TO SEEK COMPLETE COST RECOVERY FOR COMPLIANCE WITH EMISSION LIMITS THAT THEY ARE ALREADY OBLIGATED TO, UNDER PREVIOUSLY MANDATED FEDERAL PROGRAMS.

comply with

WHY WOULD THE GENERAL ASSEMBLY ALLOW THE 2 UTILITIES TO RECOVER THEIR COMPLIANCE COSTS – OUTSIDE THE NORMAL RATE-MAKING PROCESS – FOR EMISSION LIMITS THAT ARE ALREADY FEDERALLY MANDATED AND MUST BE COMPLIED WITH WHETHER THIS BILL PASSES OR NOT.

FINALLY, MR. CHAIRMAN I WOULD LIKE TO LEAVE YOU WITH A FEW STATISTICS FROM LAST YEAR THAT I BELIEVE ARE GERMAINE TO YOUR DELIBERATIONS ON THIS BILL:

APPROXIMATELY 30% OF THE COST RECOVERY BURDEON WILL FALL ON THE BACKS OF THE STATE'S MANUFACTURING COMMUNITY

LAST YEAR NC LED THE NATION IN THE NUMBER OF MANUFACTURING JOB LOSSES

DURING THE SAME YEAR, THE 2 UTILITIES HAD RECORD YEARS

WHILE RECENT 1ST QUARTER EARNINGS REPORTS SHOW MANUFACTURERS IN THE STATE CONTINUE TO SUFFER, UTILITIES ARE PROSPERING.

MANY OF OUR MEMBER COMPANIES WOULD HAPPILY STAND BEFORE YOU TODAY TO VOLUNTARILY REDUCE THEIR EMISSIONS, IF YOU WOULD OFFER THEM THE SAME DEAL THAT THE 2 UTILITIES ARE GETTING.

I URGE YOU TO ALLOW THE EXISTING, TIME-PROVEN, NORTH CAROLINA UTILITIES COMMISSION PROCESS

**TO WORK – ABANDON THE COST RECOVERY
PROVISIONS IN SECTION 3 OF THE BILL**

*IN PROOF OF THAT TIME –
PROVED PROCESS*

**THANK YOU ONCE AGAIN FOR ALLOWING US AN
OPPORTUNITY TO COMMENT ON THIS IMPORTANT,
AND COSTLY, PIECE OF LEGISLATION.**

Mr. Jackson
Att #3

North Carolina Cooperative Extension Service

NC STATE UNIVERSITY

College of Agriculture and Life Sciences

**ESTIMATED POWER USE BY AGRICULTURE
IN SAMPSON COUNTY**

Sampson County Center
369 Rowan Road
Clinton, NC 28328
(910) 592-7161
(910) 592-9513 (fax)

<i>PRODUCTION AGRICULTURE</i>		
	<u>PRESENT YEARLY USE</u>	<u>6 PERCENT INCREASE</u>
Tobacco - .0223 cents/lb.	281,186.00	16,871.00
Swine - 3 million hogs/70 cents	2,100,000.00	126,000.00
Poultry - 320 farms - \$8,400/farm	2,688,000.00	161,280.00
TOTAL INCREASE: \$304,151.00		

<i>FEED PROCESSING COST</i>		
	<u>PRESENT YEARLY USE</u>	<u>6 PERCENT INCREASE</u>
4 mills	1,023,400.00	61,404.00

<i>OTHER PROCESSING COST</i>		
	<u>PRESENT YEARLY USE</u>	<u>6 PERCENT INCREASE</u>
2 slaughter plants	4,020,000.00	241,200.00
2 canning plants	480,000.00	28,860.00
3 cotton gins	320,000.00	19,200.00
5 sweetpotato facilities	24,000.00	1,440.00
5 vegetable cooling facilities	300,000.00	18,000.00
3 vegetable packing & cooling facilities	270,200.00	16,212.00
1 turkey hatchery	107,000.00	6,420.00
TOTAL INCREASE: \$331,332.00		

INCREASED POWER USE COST PER YEAR: \$696,887.00

Estimation by the Sampson County Cooperative Extension Service

ATT # 4

May 11 01 04:48p

CONOVER PLASTICS INC

8284591859

P. 1



My name is BJ Frye. I am president and general manager of Conover Plastics. We are a family owned injection molding business located in Conover. Our primary product is hosiery hangers. The hosiery manufacturers of North Carolina are our customers. The hosiery industry is under the gun. The Wal Marts and Kmart's of the world are not concerned with the environment. They are concerned with the bottom line. They will not pay our hosiery manufacturers more for the products they produce.

My customers will not allow me to pass this increase on to them. If my company is hit with this increase I will be forced to absorb it. We are struggling every day to remain profitable. We cannot afford this increase. I ask you not to put the obligations of the utility companies on it's customers.



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HICKORY, NC 28601-2114
TEL: (828) 322-2727 - FAX (828) 322-4868
WEBSITE: www.carohose.com

Comments Opposing Senate Bill 1078

Paul Fogleman
Executive Director
Carolina Hosiery Assn.

Thank you, Mr. Chairman and members of the committee:

The Carolina Hosiery Association and its members are opposing these bills because they threaten the survival of manufacturers in 33 North Carolina counties. We support the aims of the bills. But we do not think it is appropriate for businesses to bear the burden of fixing a problem they had no role in creating.

Hosiery is unique to the manufacturing scene as we take a raw product and manufacture products that are ready for consumers. North Carolina mills produce 60 per cent of all hosiery made in the United States and about 70 per cent of that is sold in mass merchandise stores. These retailers, with offshore options, have kept margins razor thin and there will be no pass-through on higher electric rates. Not only do retailers have vendor options in China, Turkey and Pakistan, but they also can turn to mills in Alabama and Tennessee.

A survey of our members indicate that smaller mills--with fewer than 30 employees--have a monthly electric bill of \$6,800. Our larger companies have monthly bills of more than \$70,000. With a 7 per cent surcharge, these companies will be facing additional overhead of \$5,800 to \$74,000. One of our yarn manufacturers will be facing an annual surcharge of \$118,440.

North Carolina hosiery manufacturers are good corporate citizens. They have implemented waste water controls and other environment programs without passing costs to customers. The utility companies are asking for pass-through options that are unique in today's business environment. And from our position...they are unrealistic.

Hosiery manufacturers employ over 30,000 people and generate some \$3.5 billion in sales which are turned over in our communities. This General Assembly has played an important role in protecting those jobs with our Hosiery Technology Center services. We ask that you protect those jobs by looking for options to this bill.

CLAYSON KNITTING COMPANY IS A 70 YEAR OLD FAMILY OWNED BUSINESS THAT IS NOW IN IT'S THIRD GENERATION. WE HAVE TWO PLANTS IN NORTH CAROLINA AND EMPLOYEE APPROXIMATELY 850 PEOPLE WITH AN ANNUAL PAYROLL OF \$13,000,000. WE ARE STRUGGLING AGAINST FOREIGN COMPETITION, EVER ESCALATING INSURANCE COST, RISING FUEL COST, AND RAW MATERIAL PRICE INCREASES. OUR EMPLOYEES ALSO NEED AND WANT A COST OF LIVING RAISE. AS WITHIN THE REST OF THE HOSIERY INDUSTRY OUR PROFIT MARGINS ARE ALMOST NON-EXISTENT. HOSIERY COMPANIES ARE GOING OUT OF BUSINESS AT AN EVER INCREASING RATE. CLAYSON KNITTING COMPANY HAS BEEN VERY FORTUNATE; TO DATE WE ARE STILL IN BUSINESS. OUR ELECTRICITY BILL IS APPROXIMATELY \$900,000 PER YEAR. IF WE HAD A 7% INCREASE, IT WOULD BE AN ADDITIONAL COST OF \$63,000. THIS MAY BE THE STRAW THAT BREAKS THE CAMELS BACK. WE CANNOT STAND THIS ADDITIONAL COST.

SB 1078 / HB 1015
Improve Air Quality/Electric Utilities

PCS Phosphate Company, Inc. opinion:

Good morning. Thank you Chairman Smith and members of the committee. My name is Ross Smith and I am a manager with PCS Phosphate.

PCS Phosphate supports protection of the environment through emissions reductions. In fact, PCS has reduced air emissions at our Beaufort County facility by over 17% in the last 4 years. We spent over \$150 million in environmental operating expenditures during that period. But, PCS can not simply pass-through the costs of these safeguards directly to our customers. We must compete in a very competitive global market.

PCS Phosphate, as well as other customers, are concerned with the cost recovery provisions of this bill. With a direct pass-through provision, we have projected that our cost of electricity will increase at least **\$1 million** and could exceed **\$2 million per year**. These additional costs will increase our unit production costs and adversely affect our competitive position. We are fully aware that significant expenditures will be necessary to achieve the emission reductions required through this bill. We believe that additional evaluation of the cost recovery provisions is necessary. Consideration should include:

- Citizens of the State of North Carolina will carry the entire financial burden of this bill, while the utilities sell a portion of their electricity to other states.
- Provision for an appropriate portion of the costs to be absorbed by the utilities. The utilities are reporting record earnings during a time that a significant number of industries in North Carolina are struggling.

In summary, all citizens of North Carolina, public and private, manufacturers and consumers, should strive to protect the environment while providing for the needs of our families. These efforts should be based on conscious and wise decisions that fairly and equitably distribute benefits and costs. PCS Phosphate supports the reduction of emissions from these power plants, but we do not agree with the cost recovery provisions of this bill. We recommend that this bill be referred to a study committee for further review and consideration.

Thank You.

To: Harvard <harvard@boone.net>
From: Richard & Lonna Harkrader <harkrader@mindspring.com>
Subject: Re: Clean Smokestacks costs
Cc:
Bcc:
X-Attachments:

Costs to Consumers of Clean Smokestacks

>Federal law requires SO2 emissions from the 14 Duke and Progress Energy
>plants to be down to a cap of 266,000 tons/year by 2010. The state bill
>requires further cuts to a cap of 130,000 tons by 2013. Present emissions
>of SO2 are about 455,000 tons. So to get from 455,000 tons presently to
>266,000 tons is federal mandate and must be paid for by the two utilities.
>The further cut to a cap of 130,000 tons will be the responsibility of the
>consumer.

>
>The cost numbers work out like this:

> -Federal cuts in SO2 to be paid by Duke and Progress will cost roughly
>\$135 million/year. This number was derived by EPA Clean Air Markets
>Division (Chad Whitemen) for a scenario to reach 266,349 tons of SO2, the
>2010 requirement. I have the full 14 plant, 51 boiler analysis for this
>scenario as well as the previous ones for 85,000 tons, and 130,000 tons.

> -State bill cuts in SO2 to be paid by the consumer will amount to about
>\$101 million/year.

>For NOx cuts, the utilities have to cut ozone season (May-September) NOx to
>a cap of 28,000 tons. The cost to Duke and Progress will be about \$100
>million/year.

>The NC bill only requires that the same level of emissions of NOx be
>extended for the other 7 months of the year. Since the utilities will have
>already invested in the hardware to accomplish the federal requirement,
>only the operation and maintenance for the additional 7 months will be
>required. Thus, consumers will have to pay about \$22 million/year.

>Thus for the federal requirements to meet SO2 and NOx emissions' caps, Duke
>Energy and Progress Energy will pay about \$235 million/year, whereas the NC
>consumer will pay about \$123 million. This represents about a 2:1 ratio of
>what the NC utilities will pay verses what the NC consumer (residential and
>business/industry) will pay.

By Harvard Ayers, NC Clean Air Coalition

Sen. Metcalf

16 April 2001

*
RVO

On behalf of the Utilities Commission, we ask that you consider making certain changes to Senate Bill 1078. We do not believe that these changes affect the policy or the impact of the bill. Instead, we believe that these changes are procedural in nature and seek only to clarify the role of the Utilities Commission under the bill. The changes are to Section 3 and 5 of the bill.

Section 5 of Senate Bill 1078 provides that the Environmental Management Commission "may consult with the Utilities Commission and its staff" in conducting the study required by that section. (See lines 15-17 on page 5 of the Proposed Committee Substitute.) I believe that the intent of the reference to "its staff" is that the Public Staff be consulted. I would therefore ask that you consider amending this language to read that the Environmental Management Commission "may consult with the Utilities Commission and ~~its staff~~ the Public Staff."

We also ask that you consider certain changes to Section 3 of Senate Bill 1078 (lines 13-35 on page 4 of the Proposed Committee Substitute) in order to clarify the role of the Utilities Commission in setting the environmental compliance expenditure-recovery factor. One of these changes would make clear that the factor will be set following a public hearing at which all interested parties may be heard. Again, we think that this is intended, but there is no reference to a hearing in the bill now. The change from "calendar year" to "12-month period" will allow some flexibility in scheduling this hearing. The test period for the recovery factor may be any 12-month period; it will not have to coincide with a January-to-December calendar year. Finally, the references to the rulemaking authority of the Utilities Commission is consistent with similar language included in other statutes which the Utilities Commission implements, such as G.S. 62-133.4(e), G.S. 62-158(d) and G.S. 62-159(d). These changes to Section 3 are shown as strike-throughs and bold below:

SECTION 3. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

G.S. 62-133.6. Environmental compliance expenditure-recovery.

(a) As used in this section, the term 'environmental compliance expenditures' means only those expenditures, as defined by Commission rule or order, incurred after 1 July 2001 by an electric utility to comply with standards adopted pursuant to G.S. 143-215.107D that exceed the expenditures required to comply with the revisions to the State Implementation Plan (SIP) to reduce emissions of oxides of nitrogen (NOx) pursuant to the final notice published by the Administrator of the United States Environmental Protection Agency on 27 October 1998. *delete **

(b) The Commission shall allow each electric utility to recover all just, reasonable, and prudently incurred environmental compliance expenditures through an environmental compliance expenditure-recovery factor that is separate from the electric utility's base rates.

(c) The Commission shall hold a hearing and shall set the environmental compliance expenditure-recovery factor for each utility at least annually. The Commission shall base the environmental compliance expenditure-recovery factor on ~~the electric utility's~~ projections of its environmental compliance expenditures for ~~the next calendar year~~ a future 12-month period. The Commission shall incorporate into the environmental compliance expenditure-recovery factor determination the experienced under-recovery or over-recovery of the electric utility's environmental compliance expenditures incurred during the previous ~~calendar year~~ 12-month period. Any refund or collection made as a part of this process shall include interest at a rate to be determined by the Commission.

(d) The Commission shall adopt rules to implement this section.

The Utilities Commission would appreciate your considering these changes. If we can answer any questions regarding them or be of any further assistance, please call upon us to do so.

Charlotte Observer

Peter Ridder, CHAIRMAN AND PUBLISHER
 Jennie Buckner, EDITOR John Luby, GENERAL MANAGER
 Ed Williams, EDITOR, EDITORIAL PAGES Frank Barrows, MANAGING EDITOR

www.charlotte.com/observer/opinion/

Opinion

Jack Betts, Fannie Flono, Mary Newsom, Stewart Spencer, ASSOCIATE EDITORS ■ Jane McAlister Pope, DEPUTY EDITORIAL

EDITORIALS

Don't backslide on air quality

Coal-fired power plant rules should be strengthened

Here's the worst idea we've heard in a while: Relax air-quality rules and allow power plants in the Tennessee Valley and Midwest to put out more pollution.

Here are three reasons that's a fundamentally bad idea: North Carolina's economy, its public health and its environment. If air quality rules are weakened, plants upwind of Western North Carolina will put out more pollution, with a demonstrable and adverse effect on this state.

That's why it's so appalling to see that industrial interests are lobbying the Bush administration to lower air quality standards in order to generate more power. Power plant operators have asked Vice President Dick Cheney to ease restrictions on those plants in part to meet a high demand for electricity in many states.

The increased pollution would have a dramatic effect on this state, where air quality in the mountain region and in the urban areas is worsened by tailpipe pollution from automobiles and trucks. But the most important thing for the Bush administration to understand is that air quality problems in our western mountains is caused most directly by pollutants from the Tennessee Valley Authority and by coal-fired industrial plants in the Ohio Valley.

Smog-causing pollutants have sharply cut visibility in the last generation, threatening not just tourism upon which the region is so dependent but also the health of thousands upon thou-

sands of citizens who have respiratory problems. Medical studies show that bad air days in Western North Carolina send those with allergies and other breathing problems to the hospital and shorten their lives. At least one study shows a dramatic impact on mortality.

The great irony in all this is that people once moved to Western North Carolina to take advantage of the clean air and its recuperative qualities. Few people with breathing difficulties would move there now if they could avoid it.

The N.C. Senate recently approved a landmark Clean Smokestacks law designed to reduce pollution from industrial plants. It has the support of both environmentalists and utility companies because it would clean the air while giving power plants a good way to pay for it. If the Bush administration ignores the facts and allows power plants elsewhere to increase their emissions, any potential progress would be doomed - as would many North Carolinians who hope for clearer air to breathe.

State officials and business leaders from the state's western region should invite the president and vice president to come to North Carolina this summer when the air is at its worst so they can see for themselves how bad the problem has become - and how much worst it might get. That visit might set the stage for a different kind of discussion about what to do with coal-fired plants in the Tennessee and Ohio valleys.

GUEST COMMENTARY

Clean Smokestacks Act coming down to the wire

By Sen. Steve Metcalf
and Rep. Martin Nesbitt

By now, most North Carolinians living in the west know that something is terribly wrong with the air we breathe.

We see trees choking on air pollution and layers of haze produced by ozone and other chemicals. At our hospitals more folks are showing up in emergency rooms complaining of asthma and shortness of breath.

During the next few days, lawmakers in the North Carolina House of Representatives will make a decision about these issues, as they debate the Clean Smokestacks Act. This legislation, which we have co-sponsored together, would reduce air pollution produced by the 14 coal-fired power plants in North Carolina by nearly 75 percent during the next decade.

While the debate around this bill will concern the need - and cost - of cleaning up our air, make no mistake: The House's decision will affect much larger issues, including the future of our state, its economy and our environment, and the health of our children.

Should the House approve the legislation, Gov. Easley has indicated he is ready to sign it into law, making North Carolina a national leader in the effort to reduce air pollution.

Should the House kill this proposal, we can expect more of what we have now:



SEN.
METCALF



REP.
NESBITT

dirty air, dead trees, sick children and seniors, and much of the tourism industry in western North Carolina damaged by unhealthy air.

If you think that is hyperbole, think again. Doctors tell us that Western North Carolina now has among the state's highest age-adjusted mortality rates for pneumonia, influenza and chronic obstructive pulmonary disease - as well as increased rates of asthma and acute respiratory disease for children and adults.

And a recent study found that that bad ozone day in North Carolina were responsible for 1,900 respiratory hospital emissions, 630 asthma emergency room visits, and 240,000 asthma attacks for the summer months of 1997.

The National Parks Service reports that the Great Smoky Mountains National Park is now the most polluted national park. No wonder representatives of our travel and tourism industry support the effort to clean our air.

We know where this pollution is coming from. Some of it is generated by out-of-

state sources. That's why our legislation calls on our state to do everything it can to force polluters such as the Tennessee Valley Authority to clean up its power plants. And that's why all 50 members of the North Carolina Senate - Republicans and Democrats - recently signed a letter calling on President Bush and members of the North Carolina's congressional delegation to stop the TVA's pollution of our mountains.

But North Carolina also must take responsibility for its own air pollution. That effort starts with the 14 coal-fired power plants.

These plants are among the dirtiest in the country. And all of them are exempt from the federal Clean Air Act.

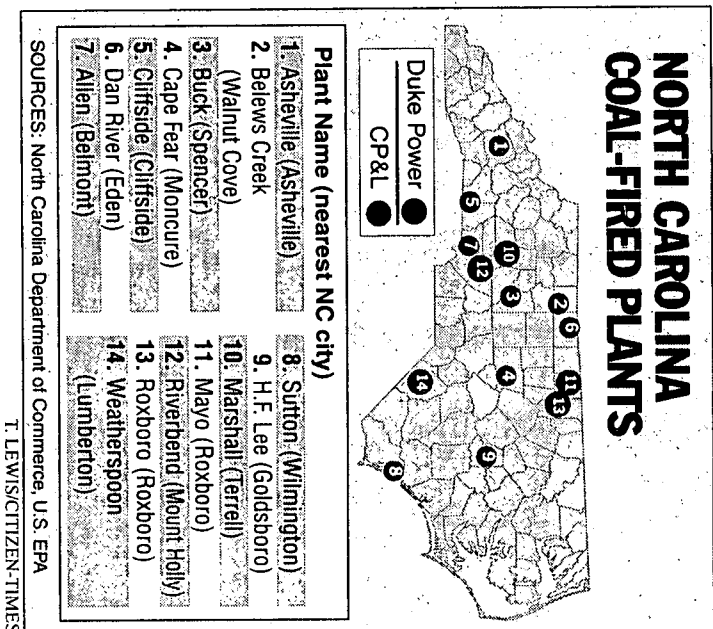
North Carolina's power companies, environmental organizations and legislators spent weeks hammering out a compromise that will clean up these power plants. The North Carolina Senate confirmed the wisdom of the compromise by approving it with overwhelming support from both Republicans and Democrats.

Over the coming weeks, House members are likely to hear a great deal about the cost of cleaning up our air. And there is a cost: Most residential customers will pay somewhere in the range of \$3 to \$5 per month more on their electric bills to keep our air clean.

North Carolina's power companies, Republicans and Democrats in the Senate, and our state's environmental organizations all agree that this is a small price for guaranteeing that our children and their children breathe clean air.

We will be doing all we can to convince our colleagues in the House to support Senate Bill 1078. We invite you to be part of this effort.

If you have not already done so, take a moment in the next day or so to let your representatives know you support this legislation.



The vote on the Clean Smokestacks Act is too close to call, and adding your voice to the effort will help. So call or write soon - because the stakes are too high for western North Carolina, our children and their future to sit on the sidelines.

Steve Metcalf represents Buncombe, Madison, McDowell, Yancey and Burke counties in the North Carolina Senate. He can be reached at (919) 715-8361 or via e-mail at steven@ncleg.net. Rep. Martin Nesbitt represents Buncombe County in the North Carolina House of Representatives. He can be reached at (919) 715-3001 or via mail at martin@ncleg.net.

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

5-15-01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andy Lomont	NCLM
Alice Parlane	Electricities
B. J. Frye	Conover Plastics
Darrell Frye	CHA, Harriss & Covington Hwy
VANCE Richardson	CHA, Clayton Knitting Co. Inc
Nancy Thompson	MCIC
Preston Howard	MCIC
Ross M. Smith	PCS PHOSPHATE
Ang Biddens	Randolph Cloud & Associates
Jennifer Rasher	
Katherine Joyce	NC Assoc. of Electric Cooperatives
Jim Bell	NCMA
Steve Woodson	NCFB
FRAN PRINCE	NCRMA
Leslie Baracca	NCCST
Sam Kirtley	NCUC
Bob Bennett	NCUC
Sam J. Ervin, Jr	NCOC
John Long	Martin Marietta
One-Ann Coe	NC AGRIBUSINESS Council
Tim Mistow	NC Home Builders Assn
PERRI MORGAN	NFIB
Gary McEllin	N.C. Conservation Network
Harvard Ayers	Appalachian Voices
Scott Gallowitz	Appalachian Voices 20 Battery Pk Ave #400 Asheville, NC
Elizabeth Ouzts	NCPIRC
Nat Mad	CCNC
Molly Duggis	NC Sierra Club
Avram Friedman	Canary Coalition

VISITOR REGISTRATION SHEET

Name of Committee

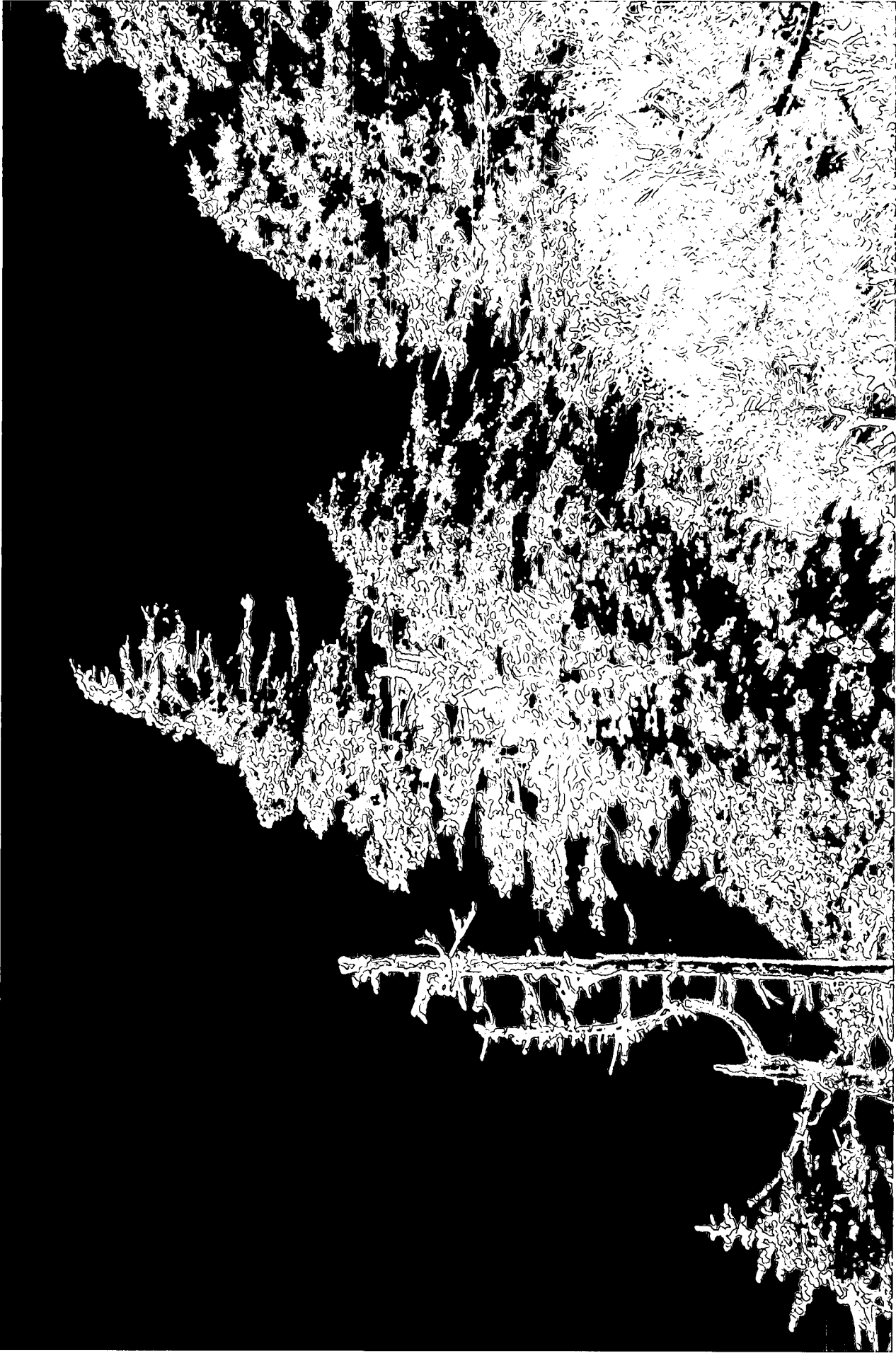
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

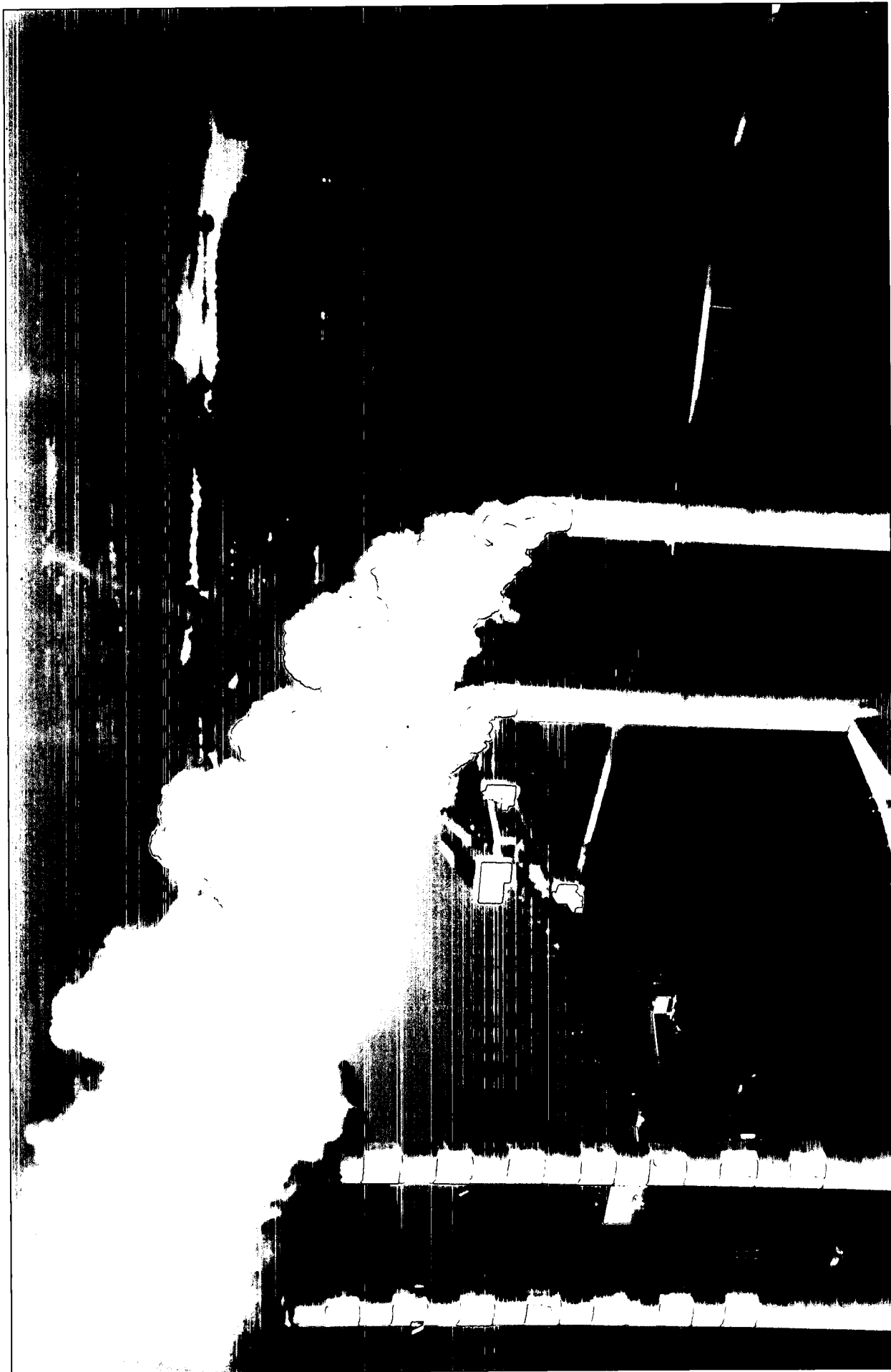
Ronnie Jackson	Sampson County Friends of Ag
Elise Cox	Public Staff - NCUC
Benjamin Gibbs	Sierra Club
Glenn Sappie	DENR
RC Hunt	Andrews Hunt Farms
James Walls	Proterra Farms, Inc.
George Everett	Duke Energy
Alan Klimel	NC DENR - O / DAQ
Russell Hageman	NC DENR - DAQ
Beth Anne Humphreys	NCPC
Natalie English	Charlotte Chamber
Deborah Johnson	Premium Standard Farms
Lois Brith	Ag. Advancement Consortium
Sharon Miller	CICA
Albert Eckel	CORNING
Hal Miller	DICACCT
Chuck Wakild	Progress Energy
Mitch Williams	Progress Energy
Brock Nicholson	DAQ - DENR
DENNIS NIGHTINGALE	PUBLIC STAFF - NCUC
Tom Lam	PUBLIC STAFF - NCUC
Bob Hillam	Public Staff - NCUC
RUTHARD HARKRADER	NC SOLAR ENERGY ASSOC.



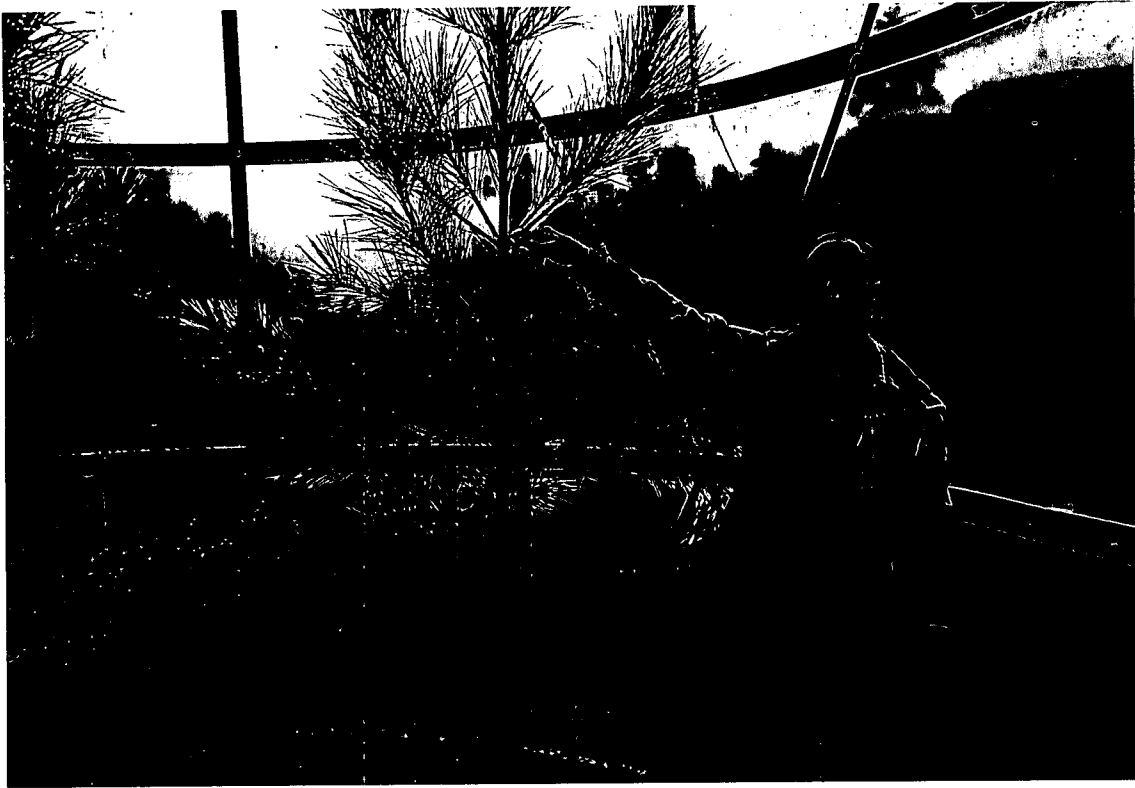
In his several years of research on air pollution at Mount Mitchell, Dr. Robert Bruck of N.C. State University had his most acidic reading of PH 2.1 during rime ice, when clouds froze on the trees. Lemon juice is PH 2.5 and battery acid is PH 1, so on occasion the readings on Mount Mitchell are part way between lemon juice and battery acid.



Bob Blankenship, a member of the Cherokee Tribal Council, runs the Cherokee Trout Farm. Blankenship had a fish kill of 40,000 pounds of trout on one kill and lesser amounts in other fish kills. All of the kills he blames on TVA, the most nearby upwind major air polluter. Trout die when the PH reading drops to 5.5, and for the large 40,000 pounds kill the reading dropped to PH 4.



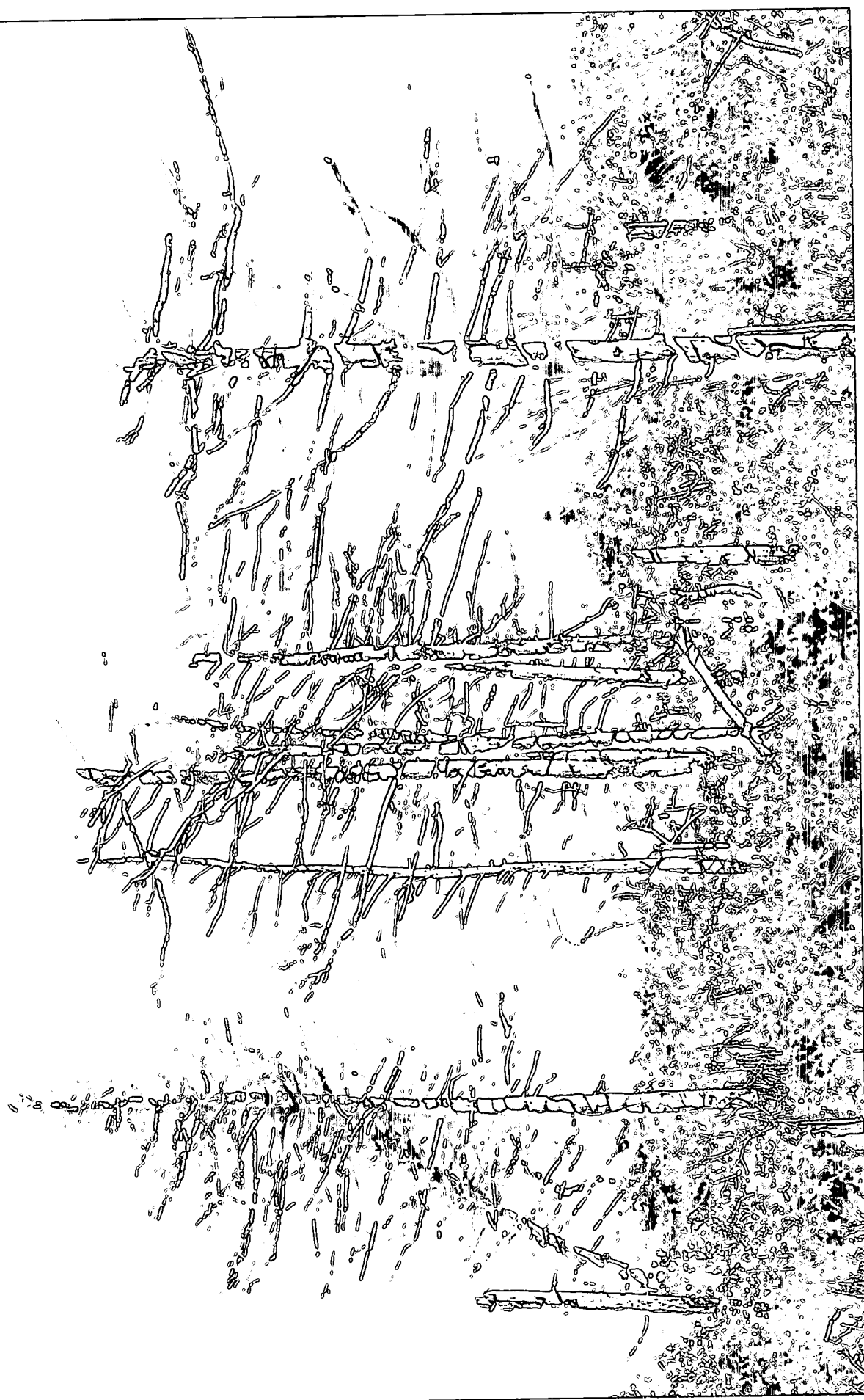
TVA has over a dozen coal fired power plants more than 40 years old that were "grandfathered" by the 1990 Clean Air Act in the belief that by normal depreciation the plants would soon be phased from service, but they are still going strong, prevailing upwind from North Carolina. The largest of the plants, the Cumberland Plant, has Nitrogen harmful emissions comparable to 7,300,000 automobiles. The N.C. Department of Motor Vehicles reported in January 2000 that North Carolina has 6,900,000 automobiles, which create less harmful emissions than the one TVA Cumberland Plant. (Photo by Dr. Stephen Smith).



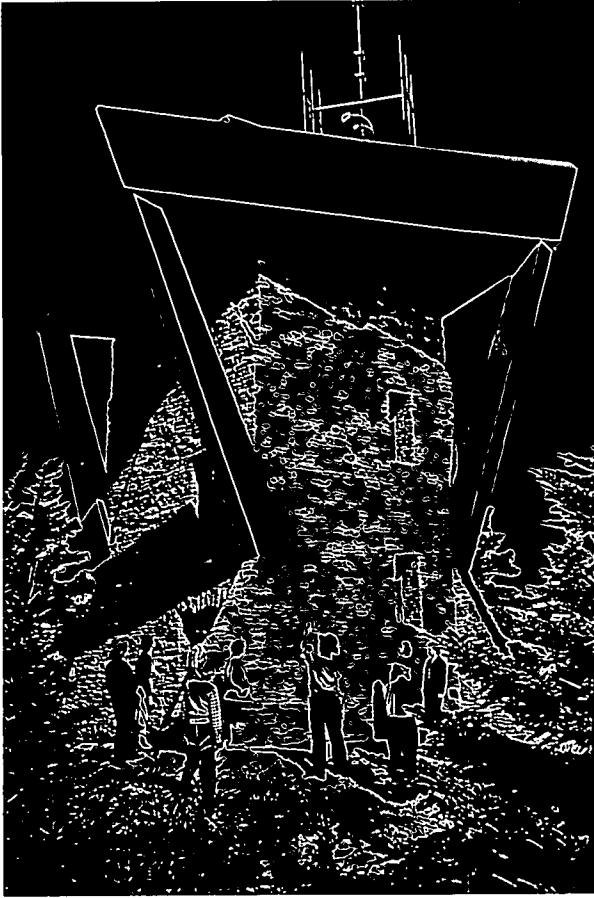
Dr. Lance Kress conducted research at Duke University on Loblolly Pine seedlings in large plastic enclosures. This photo shows Dr. Kress with Loblolly seedlings raised in ambient Duke University and Durham County air at less than 1000 feet in elevation.

Dr. Lance Kress with Loblolly seedling the same age as those in previous photo, but this enclosure was raising the luxuriant young pines in charcoal filtered air. The comparison shows that air pollution is seriously affecting tree growth in North Carolina's Piedmont.

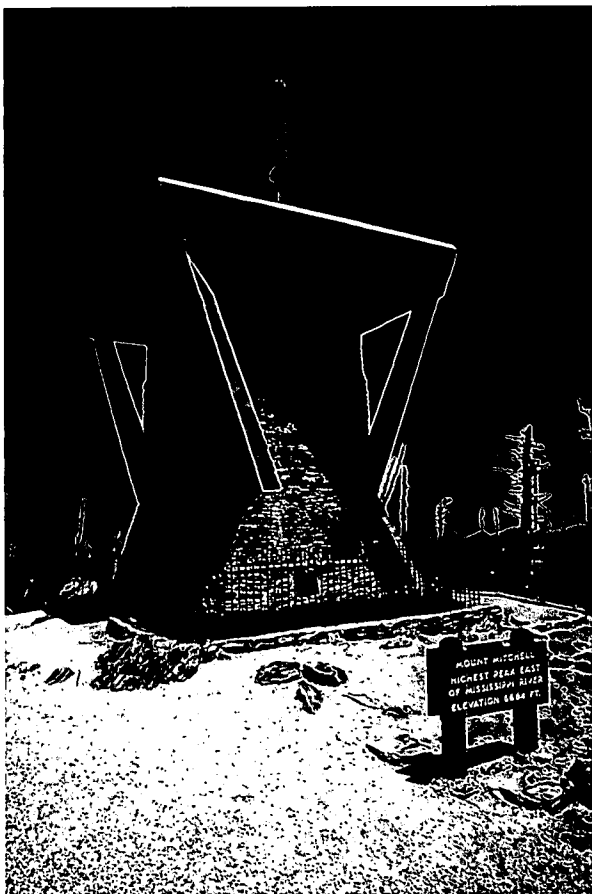




Dead Red Spruce trees, a species immune to the Balsam Woolly Apher, on the crest of Grandfather Mountain.

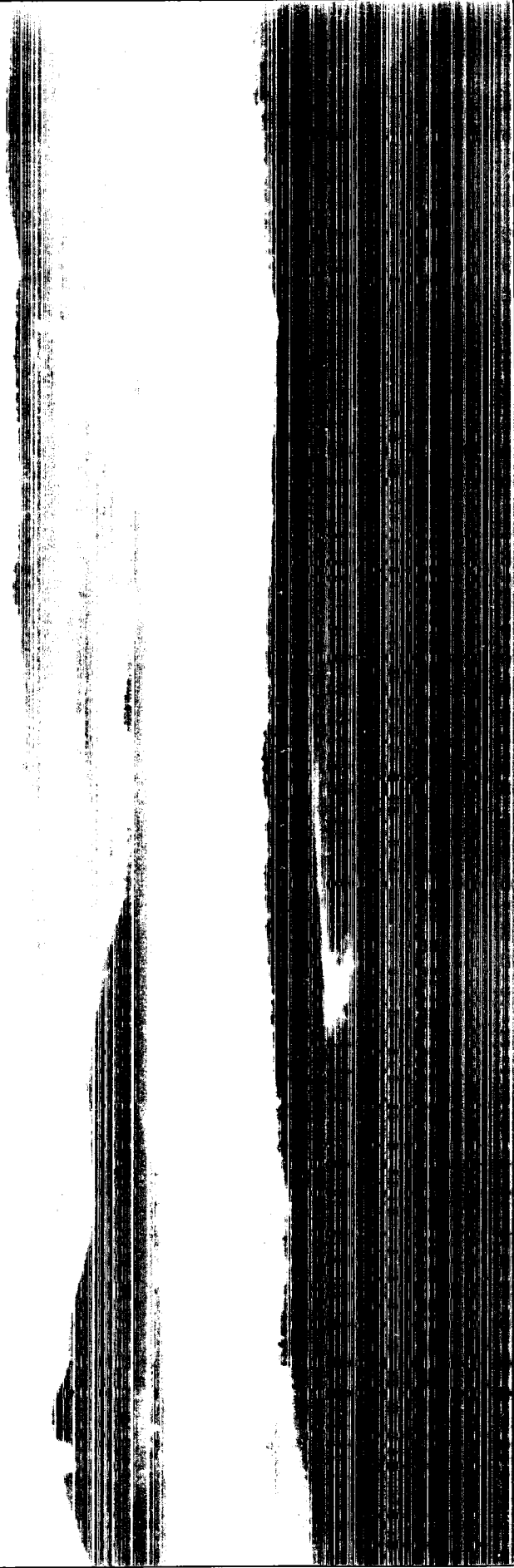


In the 1950's, when a new tower was constructed on top of Mount Mitchell, it was extremely difficult to make a photograph of the tower because the structure was completely surrounded by a Spruce-Fir forest.

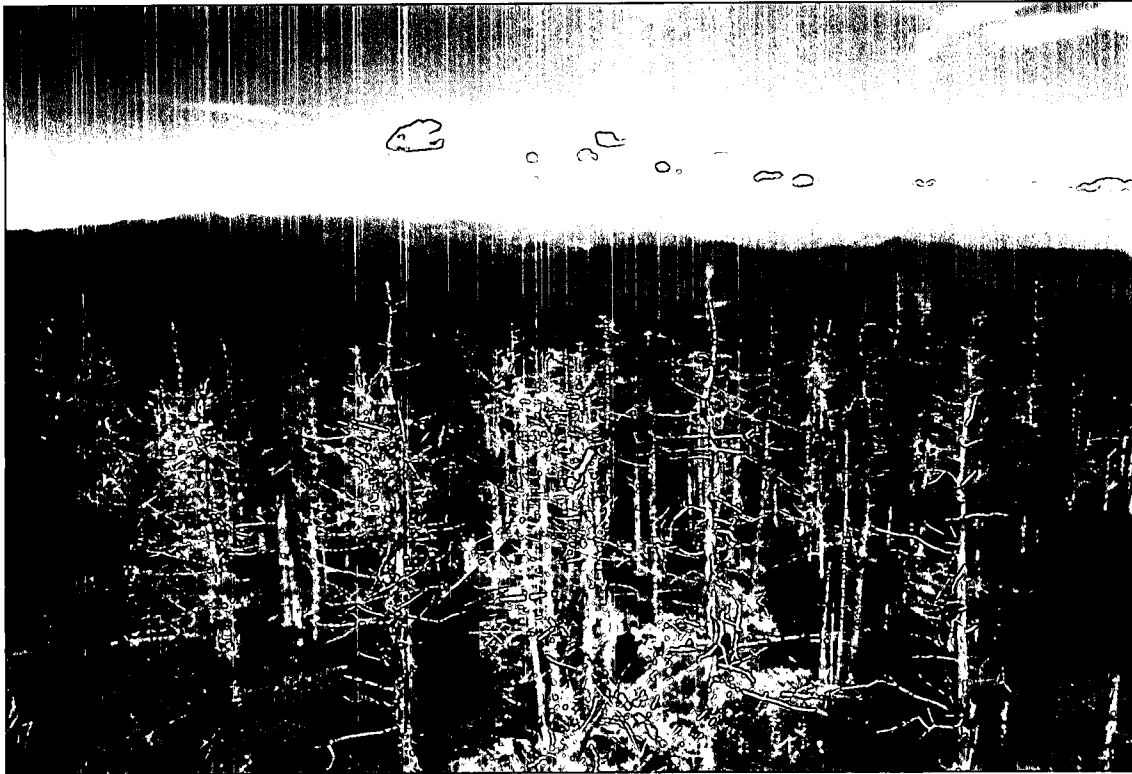


Today there is no problem in photographing the Mount Mitchell tower from any angle, since the trees are dead and gone due to air pollution.

Amn



View of the Charlotte skyline from a camera location near the Mile High Swinging Bridge on Grandfather Mountain. According to FAA charts the distance between Charlotte and Grandfather is 87 miles. Because of air pollution haze, days this clear occur no more than twice a year.



Top of Clingman's Dome, highest peak in the Great Smoky Mountains National Park, shows the effects of air pollution, as seen from the tower at the summit.

Water Rock Knob on the Blue Ridge Parkway west of Waynesville shows the effects of air pollution.





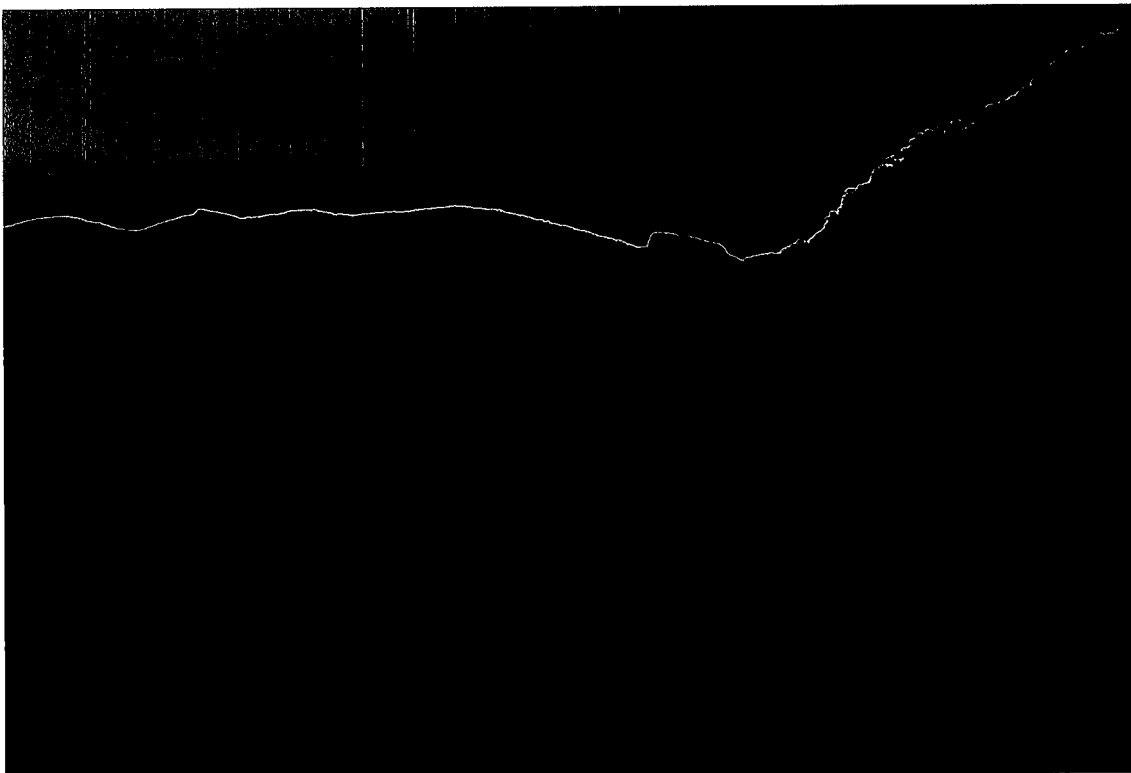
Visibility in the mountains is best during Winter, but unfortunately not many visitors are on hand to enjoy distant views like this one from Grandfather Mountain looking toward Table Rock and Hawk's Bill.

A-4 #1



Air pollution haze on the Blue Ridge Parkway near Linville Falls on a poor visibility day.

Same scene on the Blue Ridge Parkway on a better visibility day. The comparison shows what the National Park Service means when it says that bad visibility from air pollution diminishes the visitors' experience on the Parkway.



**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, May 15, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1078 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES - Sen. Metcalf

**HB 1015 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES - Rep. Nesbitt and
Rep. Haire**

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
11:00 a.m. on May 10, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

(Committee Assistant)

Minutes
House Committee on Public Utilities
May 15, 2001

The House Committee on Public Utilities met Tuesday, May 15, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Allred, Coates, Edwards, Grady, Hurley and McCombs. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

Chairman Smith recognized Senator Metcalf to speak on SB 1078 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES. Senator Metcalf explained the three major points of the bill. They were as follows: 1) Sets standards and timetable, 2) Provides a cost recovery package, and 3) Calls on the state to use every means to have other entities and states to set the same standard. Senator Metcalf then asked Rep. Martin Nesbitt to also speak on the bill. After a period of questions from the members, Rep. Danny McComas was recognized to ask that the staff draw up an amendment. Chairman Smith OK'd the motion and asked that it be ready for the next meeting.

Chairman Smith then recognized Mr. Hugh Morton from Linville, owner of Grandfather Mountain to speak in support of the bill. Mr. Morton showed graphic pictures (Attachment 1) of the effects of pollution in the mountains. He said that on a clear day the skyline of Charlotte that is 87 miles away could be seen. He then showed several comparison slides that depicted the effects of air pollution haze on both visibility and the trees.

Dr. David Peden, Associate Professor of Pediatric at the University of North Carolina School of Medicine was recognized to speak on the bill (Attachment 2). He linked the effects of Ozone to increased hospitalization, ER visits and the need for medications, especially in asthma. He said that air pollutants have a real impact on human health, especially respiratory tract health and specifically in asthma and allergy.

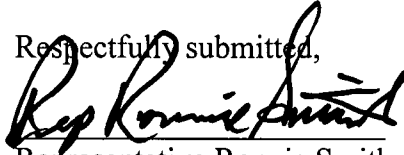
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Mr. R. C. Hunt who has a livestock farming operation in the eastern part of the state was recognized. Mr. Hunt pointed out that their major expense is utilities. His farm spent \$150,000 on electricity alone last year. He expressed concern that the increased costs would be devastating to both his and other farming operations.

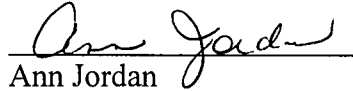
Mr. Vance Richardson from Clayson Knitting Company spoke on the bill. He expressed concern that the rate increase would hurt small business such as his that has already been hit hard by foreign competition.

Chairman Smith said others who have signed up would be permitted to speak at the next meeting. The meeting adjourned at 11:00.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rep Ronnie Smith", written over a horizontal line.

Representative Ronnie Smith
Chair

A handwritten signature in black ink, appearing to read "Ann Jordan", written over a horizontal line.

Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**May 15, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 1078 – IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sponsor – Sen. Steve Metcalf**

**HB 1015 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Rep. Nesbitt and Rep. Haire, Sponsors**

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

1

HOUSE BILL 1015*

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors: Representatives Nesbitt, Haire (Primary Sponsors); Adams, Alexander, Allen, Baddour, Barefoot, Bell, Blue, Bonner, Bowie, Buchanan, Carpenter, Church, Coates, Cole, Cox, Earle, Easterling, Edwards, Fitch, Fox, Gibson, Goodwin, Hackney, Hall, Hensley, Hill, Holliman, Hurley, Jarrell, Jeffus, Lucas, Luebke, McAllister, McLawhorn, Miller, Oldham, Redwine, Saunders, Shubert, Smith, Sutton, Tucker, Underhill, Wainwright, Warner, Weiss, West, Womble, Wright, and Yongue.

Referred to: Public Utilities, if favorable, Environment and Natural Resources.

April 9, 2001

A BILL TO BE ENTITLED
AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING
REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM
CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. Air quality standards and classifications.

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed and empowered, as rapidly as possible within the limits of funds and facilities available to it, and subject to the procedural requirements of this Article and Article 21:

(1) To prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State.

(2) To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State.

(3) To develop and adopt, after proper study, air quality standards applicable to the State as a whole or to any designated area of the State as the Commission deems proper in order to promote the policies and purposes of this Article and Article 21 most effectively.

- (4) To collect information or to require reporting from classes of sources which, in the judgment of the Environmental Management Commission, may cause or contribute to air pollution. Any person operating or responsible for the operation of air contaminant sources of any class for which the Commission requires reporting shall make reports containing such information as may be required by the Commission concerning location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.
- (5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).
- (6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.
- (7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.
- (8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide allowances and nitrogen oxides (NOx) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.
- (8a) To develop and adopt standards and plans and to implement programs to control emissions of oxides of nitrogen (NOx) and sulfur dioxide from coal-fired generating units, as those terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an investor-owned public utility, as defined in G.S. 62-3,

and that have the capacity to generate 25 or more megawatts of electricity.

(9) To regulate the content of motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

(10) To develop and adopt standards and plans necessary to implement requirements of the federal Clean Air Act and implementing regulations adopted by the United States Environmental Protection Agency.

(11) To develop and adopt economically feasible standards and plans necessary to implement programs to control the emission of odors from animal operations, as defined in G.S. 143-215.10B.

(12) To develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants, including, but not limited to, emissions banking and trading and credit for voluntary early reduction of emissions.

(13) To develop and adopt rules governing the certification of persons who inspect vehicle-mounted tanks used to transport motor fuel and to require that inspection of these tanks be performed only by certified personnel.

(14) To develop and adopt rules governing the sale and service of mobile source exhaust emissions analyzers and to require that vendors of these analyzers provide adequate surety to purchasers for the performance of the vendor's contractual or other obligations related to the sale and service of analyzers.

(b) Criteria for Standards. – In developing air quality and emission control standards, motor vehicle emissions standards, motor vehicle emissions inspection and maintenance requirements, rules governing the content of motor fuels or requiring the use of reformulated gasoline, and other standards and plans to improve ambient air quality, the Commission shall consider varying local conditions and requirements and may prescribe uniform standards and plans throughout the State or different standards and plans for different counties or areas as may be necessary and appropriate to improve ambient air quality in the State or within a particular county or area, achieve attainment or preclude violations of state or national ambient air quality standards, meet other federal requirements, or achieve the purposes of this Article and Article 21.

(c) Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article.

(d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

(f), (g). Repealed by Session Laws 1995, c. 507, s. 27."

1 **SECTION 2.** The Environmental Management Commission shall adopt
2 rules to implement G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, as
3 provided in this section. For emissions of oxides of nitrogen (NOx), the Commission
4 shall develop and adopt standards and plans and implement programs to control
5 emissions from coal-fired generating units, as those terms are defined in 40 Code of
6 Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an
7 investor-owned public utility, as defined in G.S. 62-3, and that have the capacity to
8 generate 25 or more megawatts of electricity so that no later than 1 January 2007 these
9 units will collectively emit no more than 60,000 tons of oxides of nitrogen (NOx)
10 annually and no later than 1 January 2009 these units will collectively emit no more
11 than 56,000 tons of oxides of nitrogen (NOx) annually. For emissions of sulfur dioxide,
12 the Commission shall develop and adopt standards and plans and implement programs
13 to control emissions from coal-fired generating units, as those terms are defined in 40
14 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by
15 an investor-owned public utility, as defined in G.S. 62-3, and that have the capacity to
16 generate 25 or more megawatts of electricity so that no later than 1 January 2009 these
17 units will collectively emit no more than 250,000 tons of sulfur dioxide annually and no
18 later than 1 January 2013 these units will collectively emit no more than 130,000 tons of
19 sulfur dioxide annually.

20 **SECTION 3.** Article 7 of Chapter 62 of the General Statutes is amended by
21 adding a new section to read:

22 **"§ 62-133.6. Environmental compliance expenditure-recovery.**

23 (a) As used in this section, the term 'environmental compliance expenditures'
24 means all expenditures incurred by an electric utility to comply with standards adopted
25 pursuant to G.S. 143-215.107(a)(8a) that exceed the expenditures required to comply
26 with federal and State law in effect on 1 April 2001.

27 (b) The Commission shall allow each electric utility to recover all just,
28 reasonable, and prudently incurred environmental compliance expenditures through an
29 environmental compliance expenditure-recovery factor that is separate from the electric
30 utility's base rates.

31 (c) The Commission shall set the environmental compliance expenditure-
32 recovery factor for each utility at least annually. The Commission shall base the
33 environmental compliance expenditure-recovery factor on the electric utility's
34 projections of its environmental compliance expenditures for the next calendar year.
35 The Commission shall incorporate into the environmental compliance expenditure-
36 recovery factor determination the experienced under-recovery or over-recovery of the
37 electric utility's environmental compliance expenditures incurred during the previous
38 calendar year. Any refund or collection made as part of this process shall include
39 interest at a rate to be determined by the Commission."

40 **SECTION 4.** It is the intent of the General Assembly that the State use all
41 available resources and means, including negotiation, participation in interstate
42 compacts and multistate and interagency agreements, and litigation, to induce other
43 states and entities, including the Tennessee Valley Authority, to achieve reductions in
44 emissions of oxides of nitrogen (NOx) and sulfur dioxide comparable to those required

1 by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and Section 2 of this act
2 on a comparable schedule. The State shall give particular attention to those states and
3 other entities whose emissions negatively impact air quality in North Carolina or whose
4 failure to achieve comparable reductions would place the economy of North Carolina at
5 a competitive disadvantage.

6 **SECTION 5.** The Environmental Management Commission shall study the
7 desirability of requiring and the feasibility of obtaining reductions in emissions of
8 oxides of nitrogen (NOx) and sulfur dioxide beyond those required by G.S.
9 143-215.107(a)(8a), as enacted by Section 1 of this act, and Section 2 of this act. The
10 Environmental Management Commission shall consider the availability of emissions
11 reduction technologies, increased cost to consumers of electric power, reliability of
12 electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and
13 sulfur dioxide taken by states and other entities whose emissions negatively impact air
14 quality in North Carolina or whose failure to achieve comparable reductions would
15 place the economy of North Carolina at a competitive disadvantage, and the effects that
16 these reductions would have on public health, the environment, and natural resources,
17 including visibility. In its conduct of this study, the Environmental Management
18 Commission may consult with the Utilities Commission and its staff. The
19 Environmental Management Commission shall report its findings and recommendations
20 to the General Assembly and the Environmental Review Commission annually
21 beginning 1 September 2004.

22 **SECTION 6.** The General Assembly anticipates that measures implemented
23 to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide
24 required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and Section 2
25 of this act will also result in significant reductions in the emissions of mercury from
26 coal-fired generating units. The Division of Air Quality of the Department of
27 Environment and Natural Resources shall study issues related to monitoring emissions
28 of mercury and the development and implementation of standards and plans to
29 implement programs to control emissions of mercury from coal-fired generating units.
30 The Division shall evaluate available control technologies and shall estimate the
31 benefits and costs of alternative strategies to reduce emissions of mercury. The
32 Division shall annually report on its interim findings and recommendations to the
33 Environmental Management Commission and the Environmental Review Commission
34 beginning 1 March 2002. The Division shall report its final findings and
35 recommendations to the Environmental Management Commission and the
36 Environmental Review Commission no later than 1 March 2005.

37 **SECTION 7.** The Division of Air Quality of the Department of Environment
38 and Natural Resources shall study issues related to the development and implementation
39 of standards and plans to implement programs to control emissions of carbon dioxide
40 from coal-fired generating units and other stationary sources of air pollution. The
41 Division shall evaluate available control technologies and shall estimate the benefits and
42 costs of alternative strategies to reduce emissions of carbon dioxide. The Division shall
43 report its findings and recommendations to the Environmental Management
44 Commission and the Environmental Review Commission no later than 1 March 2002.

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SECTION 8. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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2

SENATE BILL 1078*
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/18/01

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 5, 2001

- 1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING
3 REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM
4 CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.
5 The General Assembly of North Carolina enacts:
6 SECTION 1. G.S. 143-215.107 reads as rewritten:
7 "§ 143-215.107. Air quality standards and classifications.
8 (a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed
9 and empowered, as rapidly as possible within the limits of funds and facilities available
10 to it, and subject to the procedural requirements of this Article and Article 21:
11 (1) To prepare and develop, after proper study, a comprehensive plan or
12 plans for the prevention, abatement and control of air pollution in the
13 State or in any designated area of the State.
14 (2) To determine by means of field sampling and other studies, including
15 the examination of available data collected by any local, State or
16 federal agency or any person, the degree of air contamination and air
17 pollution in the State and the several areas of the State.
18 (3) To develop and adopt, after proper study, air quality standards
19 applicable to the State as a whole or to any designated area of the State
20 as the Commission deems proper in order to promote the policies and
21 purposes of this Article and Article 21 most effectively.
22 (4) To collect information or to require reporting from classes of sources
23 which, in the judgment of the Environmental Management
24 Commission, may cause or contribute to air pollution. Any person
25 operating or responsible for the operation of air contaminant sources of
26 any class for which the Commission requires reporting shall make
27 reports containing such information as may be required by the
28 Commission concerning location, size, and height of contaminant

outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO₂) allowances and nitrogen oxides (NO_x) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(8a) To develop and adopt standards and plans and to implement programs to control emissions of oxides of nitrogen (NO_x) and sulfur dioxide (SO₂) as provided in G.S. 143-215.107D.

(9) To regulate the content of motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

- 1 (10) To develop and adopt standards and plans necessary to implement
2 requirements of the federal Clean Air Act and implementing
3 regulations adopted by the United States Environmental Protection
4 Agency.
5 (11) To develop and adopt economically feasible standards and plans
6 necessary to implement programs to control the emission of odors
7 from animal operations, as defined in G.S. 143-215.10B.
8 (12) To develop and adopt a program of incentives to promote voluntary
9 reductions of emissions of air contaminants, including, but not limited
10 to, emissions banking and trading and credit for voluntary early
11 reduction of emissions.
12 (13) To develop and adopt rules governing the certification of persons who
13 inspect vehicle-mounted tanks used to transport motor fuel and to
14 require that inspection of these tanks be performed only by certified
15 personnel.
16 (14) To develop and adopt rules governing the sale and service of mobile
17 source exhaust emissions analyzers and to require that vendors of these
18 analyzers provide adequate surety to purchasers for the performance of
19 the vendor's contractual or other obligations related to the sale and
20 service of analyzers.

21 (b) Criteria for Standards. – In developing air quality and emission control
22 standards, motor vehicle emissions standards, motor vehicle emissions inspection and
23 maintenance requirements, rules governing the content of motor fuels or requiring the
24 use of reformulated gasoline, and other standards and plans to improve ambient air
25 quality, the Commission shall consider varying local conditions and requirements and
26 may prescribe uniform standards and plans throughout the State or different standards
27 and plans for different counties or areas as may be necessary and appropriate to improve
28 ambient air quality in the State or within a particular county or area, achieve attainment
29 or preclude violations of state or national ambient air quality standards, meet other
30 federal requirements, or achieve the purposes of this Article and Article 21.

31 (c) Chapter 150B of the General Statutes governs the adoption and publication of
32 rules under this Article.

33 (d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

34 (f), (g). Repealed by Session Laws 1995, c. 507, s. 27."

35 **SECTION 2.** Article 21B of Chapter 143 of the General Statutes is amended
36 by adding a new section to read:

37 **"§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2)**
38 **from certain coal-fired electric generating units.**

39 The Environmental Management Commission shall adopt rules to implement G.S.
40 143-215.107(a)(8a) as provided in this section. For emissions of oxides of nitrogen
41 (NOx), the Commission shall develop and adopt standards and plans and implement
42 programs to control emissions from coal-fired generating units, as those terms are

defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and that have the capacity to generate 25 or more megawatts of electricity so that no later than 1 January 2007 these units will collectively emit no more than 60,000 tons of oxides of nitrogen (NOx) annually and no later than 1 January 2009 these units will collectively emit no more than 56,000 tons of oxides of nitrogen (NOx) annually. For emissions of sulfur dioxide (SO2), the Commission shall develop and adopt standards and plans and implement programs to control emissions from coal-fired generating units, as those terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and that have the capacity to generate 25 or more megawatts of electricity so that no later than 1 January 2009 these units will collectively emit no more than 250,000 tons of sulfur dioxide (SO2) annually and no later than 1 January 2013 these units will collectively emit no more than 130,000 tons of sulfur dioxide (SO2) annually."

SECTION 3. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.6. Environmental compliance expenditure-recovery.

(a) As used in this section, the term 'environmental compliance expenditures' means only those expenditures incurred after 1 July 2001 by an electric utility to comply with standards adopted pursuant to G.S. 143-215. 107D that exceed the expenditures required to comply with the revisions to the State Implementation Plan (SIP) to reduce emissions of oxides of nitrogen (NOx) pursuant to the final notice published by the Administrator of the United States Environmental Protection Agency at 63 Federal Register 57491 (27 October 1998) codified at 40 Code of Federal Regulations § 51.121 (1 July 2000 Edition).

(b) The Commission shall hold a hearing and shall allow each electric utility to recover all just, reasonable, and prudently incurred environmental compliance expenditures through an environmental compliance expenditure-recovery factor that is separate from the electric utility's base rates.

(c) The Commission shall set the environmental compliance expenditure-recovery factor for each utility at least annually. The Commission shall base the environmental compliance expenditure-recovery factor on projections of environmental compliance expenditures for a future 12-month period. The Commission shall incorporate into the environmental compliance expenditure-recovery factor determination the experienced under-recovery or over-recovery of the electric utility's environmental compliance expenditures incurred during the previous 12-month period. Any refund or collection made as part of this process shall include interest at a rate to be determined by the Commission.

(d) The Commission shall adopt rules to implement this section."

SECTION 4. It is the intent of the General Assembly that the State use all available resources and means, including negotiation, participation in interstate compacts and multistate and interagency agreements, and litigation to induce other

1 states and entities, including the Tennessee Valley Authority, to achieve reductions in
2 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) comparable to those
3 required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
4 143-215.107D, as enacted by Section 2 of this act, on a comparable schedule. The State
5 shall give particular attention to those states and other entities whose emissions
6 negatively impact air quality in North Carolina or whose failure to achieve comparable
7 reductions would place the economy of North Carolina at a competitive disadvantage.

8 **SECTION 5.** The Environmental Management Commission shall study the
9 desirability of requiring and the feasibility of obtaining reductions in emissions of
10 oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S.
11 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S. 143-215.107D, as
12 enacted by Section 2 of this act. The Environmental Management Commission shall
13 consider the availability of emissions reduction technologies, increased cost to
14 consumers of electric power, reliability of electric power supply, actions to reduce
15 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and
16 other entities whose emissions negatively impact air quality in North Carolina or whose
17 failure to achieve comparable reductions would place the economy of North Carolina at
18 a competitive disadvantage, and the effects that these reductions would have on public
19 health, the environment, and natural resources, including visibility. In its conduct of
20 this study, the Environmental Management Commission may consult with the Utilities
21 Commission and the Public Staff. The Environmental Management Commission shall
22 report its findings and recommendations to the General Assembly and the
23 Environmental Review Commission annually beginning 1 September 2004.

24 **SECTION 6.** The General Assembly anticipates that measures implemented
25 to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide
26 (SO2) required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
27 143-215.107D, as enacted by Section 2 of this act, will also result in significant
28 reductions in the emissions of mercury from coal-fired generating units. The Division
29 of Air Quality of the Department of Environment and Natural Resources shall study
30 issues related to monitoring emissions of mercury and the development and
31 implementation of standards and plans to implement programs to control emissions of
32 mercury from coal-fired generating units. The Division shall evaluate available control
33 technologies and shall estimate the benefits and costs of alternative strategies to reduce
34 emissions of mercury. The Division shall annually report on its interim findings and
35 recommendations to the Environmental Management Commission and the
36 Environmental Review Commission beginning 1 March 2002. The Division shall report
37 its final findings and recommendations to the Environmental Management Commission
38 and the Environmental Review Commission no later than 1 March 2005.

39 **SECTION 7.** The Division of Air Quality of the Department of Environment
40 and Natural Resources shall study issues related to the development and implementation
41 of standards and plans to implement programs to control emissions of carbon dioxide
42 from coal-fired generating units and other stationary sources of air pollution. The

1 Division shall evaluate available control technologies and shall estimate the benefits and
2 costs of alternative strategies to reduce emissions of carbon dioxide. The Division shall
3 report its findings and recommendations to the Environmental Management
4 Commission and the Environmental Review Commission no later than 1 March 2002.

5 **SECTION 8.** This act is effective when it becomes law.



SENATE BILL 1078: Improve Air Quality/Electric Utilities.

BILL ANALYSIS

Committee: House Public Utilities
Date: May 14, 2001
Version: Second Edition

Introduced by: Senator Metcalf
Summary by: George Givens,
Committee Counsel, Senate
Agriculture, Environment, &
Natural Resources
Steven Rose, Committee
Counsel, House Public Utilities
Tim Dodge, Research Assistant

SUMMARY: *Senate Bill 1078 would require reductions in the emissions of certain pollutants from large-scale coal-fired generating units owned by investor-owned public utilities. The bill would establish collective emission caps for nitrogen oxides (NOx) and sulfur dioxide, as well as a timetable for meeting these standards. The proposed bill would also:*

- *Direct the Environmental Management Commission (EMC) to develop and adopt standards and plans to implement programs to achieve the collective reductions in the timeframe established.*
- *Direct the Utilities Commission to allow each electric utility to recover the full costs of compliance with this bill.*
- *Direct the State to use its resources to compel other states and entities to make similar reductions, particularly those states whose emissions adversely impact air quality in North Carolina or whose failure to make similar reductions would put the economy of North Carolina at a competitive disadvantage.*
- *Direct the EMC to evaluate the need for further reductions of NOx and sulfur dioxide (SO₂), and report its findings to the General Assembly and the Environmental Review Commission annually beginning September 1, 2004.*
- *Direct the Division of Air Quality to study issues related to the monitoring and control of mercury emissions from coal-fired generating units.*
- *Direct the Division of Air Quality to study issues related to setting standards for carbon dioxide emissions from coal-fired generating units and other stationary sources of air pollution.*

The act would become effective when it becomes law.

CURRENT LAW: Under G.S. 143-215.107, the EMC is directed and empowered to prepare and develop plans for the prevention, abatement, and control of air pollution in the State. This includes regulation of the use of SO₂ allowances and NOx emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency (EPA). In addition, the EMC is directed to develop and adopt a program of incentives to promote voluntary reductions of emissions of air contaminants.

SENATE BILL 1078:

Page 2

BILL ANALYSIS:

Sections 1 and 2 would direct the EMC to develop and adopt standards and plans that would require reductions in both SO₂ and NO_x emissions over the next 12 years. The bill would apply only to coal-burning power plants with a generating capacity greater than 25 megawatts that are operated by investor-owned, public utilities. 14 facilities in North Carolina meet this description, and are identified on the attached map. The emissions caps, and the reductions that would be necessary to achieve these caps, are illustrated in the table below:

Table 1: Proposed Maximum Annual Emissions Levels under Senate Bill 1078.

Pollutant	Quantity Emitted in 1998 (tons)	Proposed Emissions January 1, 2007 (tons)	Proposed Emissions January 1, 2009 (tons)	Proposed Emissions January 1, 2013 (tons)
Nitrogen Oxides (NO _x)	244,862 ¹	Not to exceed 60,000	Not to exceed 56,000	Not to exceed 56,000
Sulfur Dioxide (SO ₂)	475,508 ²	Not specified	Not to exceed 250,000	Not to exceed 130,000

Section 3 would create a mechanism for recovery of costs associated with implementation of the bill by the affected utilities. The Utilities Commission would set an environmental compliance expenditure-recovery factor on an annual basis allowing each electric utility to recover all just, reasonable, and prudently incurred environmental compliance expenditures separate from the electric utility's base rates. This recovery factor would include only include expenditures incurred after July 1, 2001, that exceed the expenditures required to comply with the revisions to the State Implementation Plan (SIP) to reduce emissions of NO_x pursuant to the final notice published by the EPA³.

Section 4 would provide that the State actively seek to induce other states and entities, including the Tennessee Valley Authority (TVA), to achieve NO_x and SO₂ reductions comparable to those proposed in this bill. The State would give particular attention to the states and entities whose emissions negatively affect air quality in North Carolina or whose failure to make similar reductions would put the economy of North Carolina at a competitive disadvantage.

Section 5 would direct the EMC to study the desirability and feasibility of reductions of NO_x and SO₂ beyond those proposed in Sections 1 and 2 of the bill. The study would consider a variety of factors, including available technology, costs to consumers of electric power, reliability of electric power supply, actions taken by other states and entities that affect North Carolina, and the effects that further reductions would have on public health, the environment, and natural resources, including visibility. The EMC would report the findings of the study to the General Assembly and the Environmental Review Commission annually beginning on September 1, 2004.

Sections 6 and 7 would direct the Division of Air Quality (Division) of the Department of Environment and Natural Resources to study issues related to the development and implementation of standards to control mercury and carbon dioxide emissions. The Division is to perform cost benefit analyses of the available control technologies and alternative strategies for reduction of emissions for mercury and carbon dioxide. For mercury, the Division would also study issues related to monitoring. The study of mercury emissions is limited to coal-fired generating units, while the study of carbon dioxide would evaluate all

SENATE BILL 1078:

Page 3

stationary sources of air pollution. Both studies would report to the EMC and the Environmental Review Commission, beginning March 1, 2002.

Section 8 provides that act would become effective when the act becomes law.

BACKGROUND: The Federal Clean Air Act Amendments of 1990 addressed numerous air quality problems in the United States, including smog and acid rain caused by SO₂ and NO_x emissions from fossil-fueled electric power plants. Because of concerns over these problems, the EPA in 1997 adopted a stricter federal ozone standard. At the time, the EPA directed states to develop plans for meeting the new standard by July 18, 2003, with new controls phased in over several years. In September 1997, however, the EPA shortened the timetable and ordered North Carolina and 21 other Eastern and Midwestern states to revise their State Implementation Plans (SIPs) for controlling nitrogen oxide emissions by September 30, 1999. Under the accelerated "SIP Call," all of North Carolina's utilities and some large industries would be required to cut their NO_x emissions by about two-thirds by 2003.

In 1999, The General Assembly took several steps to address air quality problems in North Carolina. The Ambient Air Quality Improvements Act (Act),⁴ set limits on the sulfur content of motor fuels sold in the State and set out a schedule for enhancing and expanding the State's automobile emissions inspection program. These efforts were aimed in part at bringing the State into compliance with new federal air quality requirements for ground level ozone. The Act also directed the EMC to develop and adopt incentives to promote voluntary reductions of emissions of air contaminants from industrial sources. These incentives included emissions banking and trading and credit for voluntary early reductions.

S1078-SMRL-001

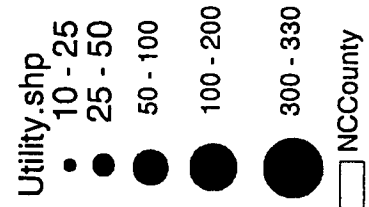
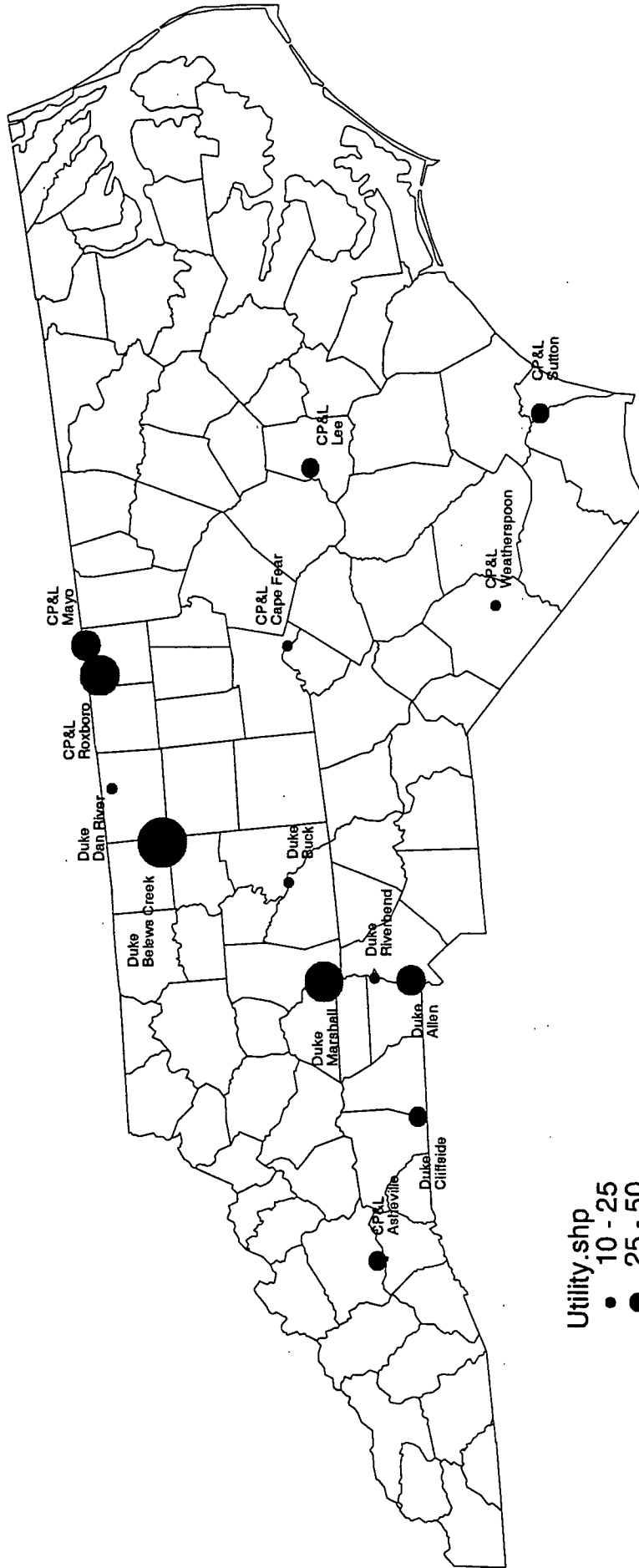
¹ U.S. Environmental Protection Agency, "The Emission and Generation Resources Integrated Database (E-GRID)," Clean Air Markets Programs, 2000. Online: <http://www.epa.gov/airmarkets/emissions/>.

² U.S. Environmental Protection Agency. "Emission Data for Power Plants, North Carolina, 1999." Online: <http://www.epa.gov/acidrain/emission/index.htm>.

³ 40 CFR § 51.121. July 1, 2001, Edition.

⁴ SL 1999-328.

North Carolina Utility Sources - 1995 NOx Emissions



- Utility Emissions were derived from average daily CEM data from the July 10-15, 1995 period

Comments from David B. Peden, MD, MS
Associate Professor of Pediatrics,
Deputy Director, the UNC Center for Environmental Medicine and Lung Biology &
Director, Pediatric Asthma and Allergy Program
The University of North Carolina School of Medicine

General Bullet Points:

1. **Ozone is linked to increased hospitalization, ER visits and need for medications, especially in asthma. This can be true even at levels of ozone BELOW current EPA standards**
2. **Ozone directly irritates and inflames the airway and worsens the allergic process**
3. **Particulate matter is linked to increased hospitalization, ER visits and need for medications, especially in asthma.**
4. **Particulate matter pollution has been associated with increased death in elderly persons, usually with respiratory tract or heart disease.**
5. **Some components of particulate matter have also been shown to cause inflammation, worsen allergy in the lungs and, in the case of diesel exhaust particles, perhaps cause one to become allergic to specific items.**

Summary:

Air pollutants (both ozone and particulate matter) have a real impact on human health, especially respiratory tract health and specifically in asthma and allergy.

Sources of Outdoor Air Pollutants:

Outdoor air pollutants derive from a number of sources . These are generally considered as *point sources* or *mobile sources*. Point sources include facilities that operate from a fixed location that routinely emit gaseous and particulate pollutants into air and can include power plants, chemical plants, steel and other metallurgical processing facilities. Mobile sources include automobiles, trucks and aircraft. Other sources that can be considered as mobile sources include lawn mowers, marine motors, farm vehicles and snowmobiles.

In the United States, it is estimated that point sources account for approximately 93% of SO₂ emissions, 51% of the emissions of nitrogen oxides (NO_x), 9% of CO emissions, 52% of volatile organic compound emissions. While it can be argued that a large fraction of PM₁₀ derive from non-man-made sources, point sources contribute to these as well. Mobile sources account for 2% of SO₂ emissions, 45% of NO_x emissions, 81% of CO emissions, and 37% of VOCs. Mobile sources also contribute to PM production.

Nitrogen dioxide (NO₂), a precursor to photochemical smog, is found in ambient outdoor air in urban and industrial regions and, in conjunction with sunlight and hydrocarbons, results in the production of ozone. Automobile exhaust is the most

significant source for outdoor NO₂, although power plants and other industrial sources that burn fossil fuels also release NO₂ into the environment. However, the most significant exposure to NO₂ may occur indoors in conjunction with the use of gas cooking stoves and kerosene space heaters. Ozone is a by-product of atmospheric reactions that require NO_x, VOCs and ultraviolet light. Thus, ozone will be highest in areas with substantial amounts of sunlight, NO_x, and VOCs as well as weather conditions that allow for production of ozone.

EPIDEMIOLOGICAL STUDIES:

Ozone and Particulate Matter:

Ozone:

Exposure to ambient ozone is related to increased asthma morbidity. Various studies which collectively examined admissions to 79 hospitals in southern Ontario reveal a significant association between O₃ and admissions for respiratory symptoms. Of note is a 24-48 hour time lag between the ozone exposure and occurrence of hospital admission. White et al, also found an association between ER visits for asthma and ozone levels >0.11 ppm (but not <0.11 ppm) in school children. Similar observations have been made in Mexico City. In general, ozone exposure is strongly associated with increased asthma morbidity, and may be a major trigger for asthma exacerbation in summer months. Hospitalization is increased in a linear fashion with increased ozone levels, even at levels below 0.10 ppm

PM10

Respirable particulate matter (that less than 10 µ) is also associated with episodes of increased asthma exacerbation. Increased ambient air particulate levels were linked to need for asthma medication in a cohort of asthmatics in Utah. Hospitalization due to increased asthma severity in Seattle was found to occur in conjunction with increases in airborne particulate matter. Similar observations have been made in Philadelphia, Mexico City, and other locations. These data demonstrate the important role that particulates could play in asthma morbidity. There are also studies that demonstrate that acute increases in ambient air particulates are associated with increased mortality, especially in those with pre-existing cardiopulmonary disease.

However, identification of specific agents that may mediate asthma exacerbation is difficult, as there is a vast array of particles that have been identified and shown to have biological effects in animal and in vitro studies. Active agents in particulate matter include silica, metal ions (such as iron, vanadium, nickel and copper), organic residues (polyaromatic hydrocarbons found on diesel exhaust particles), acid aerosols and biological contaminants such as endotoxin.

EFFECT OF POLLUTANTS IN ASTHMA AND ALLERGIC INFLAMMATION

As outlined above, air pollutants can certainly have an impact on healthy humans. However, several air contaminants have important impacts in asthmatics and on allergic inflammation that appear to be unique to this group. Indeed, asthmatics are perhaps the most commonly cited population who is at increased risk to adverse health effects due to exposure to air contaminants.

Effect of Ozone on allergic inflammation and asthma

There are a number of studies which have examined the effect of ozone on lung function in asthmatics. Silverman found that challenge with 0.25 ppm ozone for 2 hours causes decreased pulmonary function in asthmatics. Furthermore, exposure to 0.4 ppm ozone for 2 hours with rigorous exercise has a greater effect in asthmatics than non asthmatics. Additional studies that demonstrate an ozone-induced bronchospasm in asthmatics. Taken together, most studies suggest that ozone generally appears to worsen airflow in asthmatics to a greater extent than that which occurs in healthy volunteers.

In allergic rhinitis, ozone has been observed to induce allergic irritation (both neutrophil and eosinophil influx). Similar effects are seen in the lung as well. Two studies reported worsened irritation due to ozone in asthmatics than non-asthmatics (increased numbers of neutrophils in bronchoalveolar lavage fluid obtained from asthmatics exposed to ozone than that observed in BAL fluid from normal volunteers). Three other studies report increased allergic type irritation after ozone exposure. These studies indicate that asthmatics have a greater inflammatory response to ozone inhalation, including influx of eosinophils to the airway.

Ozone also has an effect on allergic responses in allergic persons, especially asthmatics. Following an ozone exposure to 0.12 ppm for 1 hour, some investigators have observed increased immediate response to inhaled allergen whereas others have not. However, levels of 0.16 and 0.25 ppm ozone have clearly demonstrated increased response to inhaled allergen. Nasal studies of allergic asthmatics do not demonstrate enhanced immediate phase mast cell responses to allergen following exposure to 0.4 ppm ozone. However, increased late phase response to house dust mite allergen four hours after challenge following 0.4 ppm ozone exposure have been observed. Measures of late phase response, which were enhanced included eosinophil influx, ECP levels and IL-8 levels. Taken together, these studies suggest that the effect of ozone on inhaled allergen challenge is likely dose related, and may be mediated by mechanisms other than increased sensitivity of mast cells to allergen after ozone exposure. Taken together, these studies suggest that ozone can exacerbate allergen-induced inflammation in asthmatics.

Given the strong epidemiological associations between ozone exposure and asthma exacerbation coupled with the observed effect of ozone on response to allergen, it has been suggested that asthmatics with more severe disease may be more sensitive to the effect of ozone. However, a study, which compared ozone response of mild episodic asthmatics to those asthmatics with disease significant enough to require inhaled corticosteroids, revealed increased inflammatory response in the milder group. These data would suggest that more severe asthmatics are less responsive to ozone than milder subjects. However, the mild persistent asthmatics were also using inhaled steroids. It is possible that this study really demonstrates an effect of inhaled corticosteroids on ozone-induced inflammation in asthmatics that is not observed in non-asthmatic volunteers.

Diesel exhaust particles and allergic inflammation

There is substantial evidence in animal studies that DEPs enhance the likelihood that a person may develop an allergy to a specific item. DEPs have been reported to induce B lymphocytes to make IgE (a key agent in allergy).

This has been shown in rats, mice and humans. One group of investigators has demonstrated that DEPs can promote allergic -type inflammation in humans, including

enhancement of IgE. Nasal challenge studies in humans were employed by Diaz-Sanchez et al who reported that challenge of volunteers (4 atopic and 7 non-atopic) to DEP increased nasal IgE production 4 days after DEP challenge without any effect on IgG, IgA or IgM. This effect was very dose specific as only a dose of 0.3 mg DEP caused this result.

This same group has also found that DEP challenge of the nasal mucosa causes increased cytokine production by cells recovered in lavage fluid. Subjects underwent lavage pre and post challenge with 0.3 mg of DEP. Cells recovered in the pre-challenge lavage had detectable mRNA levels for γ -interferon, IL-2 and IL-13, whereas those recovered post-challenge were associated with detectable levels of IL-2, IL-4, IL-5, IL-6, IL-10, IL-13, and γ -interferon in recovered cells. IL-4 protein was also measured in post challenge lavage. While it is unclear which type of cells were present in lavage fluid before or after challenge in this study, a subsequent report suggests that mast cells are the primary source of these cytokines. When coupled with challenge with ragweed allergen in ragweed sensitized atopic subjects, DEP was found to yield an enhanced ragweed specific IgE and IgG response to ragweed allergen when compared to ragweed alone. This effect included increased expression of IL-4, IL-5, IL-6, IL-10, IL-13 and decreased expression of γ -interferon and IL-2 and had no effect on total IgE and IgG. Most recently, this group reported that DEP challenge markedly shifts primary immune responses in the nasal mucosa to keyhole limpet hemocyanin (KLH, a neoantigen rarely encountered by humans) towards a TH2 phenotype, yielding KLH-specific IgE. Without DEPs, immune response to KLH is of the TH1 type characterized by KLH-specific IgE.

Extracts from DEP containing the polyaromatic hydrocarbon (PAH) fraction from these particles, as well as specific PAH compounds phenanthrene and 2,3,7,8 tetrachlorodibenzo-p-dioxin are thought to mediate many of the effects of DEP on immune response. Thus, polyaromatic hydrocarbons, by their action on B cells, appear to be important mediators of allergic inflammation.

Metals

A number of metal cations can be identified in air pollution particles. These include iron, nickel, vanadium, copper and nickel. *In vitro* studies of epithelial cells treated with either metals or particulates rich in metals respond with NF- κ B activation and production of a number of pro-inflammatory cytokines. Animal studies also demonstrate that elements of PM induce airway inflammation. Although human studies are not as numerous as either animal or *in vitro* studies, there is evidence that air pollution particles do induce airway inflammation. In one study, healthy volunteers underwent exposure to clean air or air in which particles from ambient air had been concentrated using a specialized cascade impactor (concentrated air particles or CAPs). Following CAP exposure, modest increases in PMNs were found in bronchoalveolar fluid. A second study examined the effect of iron particles instilled bronchoscopically into the airways of volunteers. These particles were found to induce a neutrophilic inflammation that resolved within 4 days (113). It seems likely that metal cations will prove to be especially important mediators of inflammation in PM.

Minutes
House Committee on Public Utilities
May 29, 2001

The House Committee on Public Utilities met Tuesday, May 29, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Allred, Coates, Culpepper, Edwards, Grady, Holmes, Hurley, McCombs, Rogers and Ex officio member Baddour. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff. He told members that the committee would meet again on Thursday.

Rep. Phil Baddour was recognized to explain S432 – WATER AND SEWER AUTHORITIES. This bill was a technical amendment for a municipality in Lenoir County. Rep. Saunders made a motion for a favorable report. Bill passed.

Chairman Smith said the next item on the agenda was the confirmation of the Governor's Appointments to the Utilities Commission. Resumes and Ethic statements are a part of the minutes.

Mr. James Yancy Kerr, II was recognized for remarks. Rep. Phil Baddour was recognized to speak on his behalf.

Mr. Michael Satterfield Wilkins was recognized for remarks. Rep. Phil Baddour and Rep. Gordon Allen spoke on behalf of Mr. Wilkins.

Mr. Robert Gruber was recognized to speaker on the continuation of his appointment as Executive Director of the Public Staff for the NC Utilities Commission. Former Senator Richard Condor spoke on behalf of Mr. Gruber.

Rep. Culpepper made a motion for a favorable report on S.J.R. 1101. Motion carried.

Rep. Martin Nesbitt was recognized to speak on SB 1078 – IMPROVE AIR QUALITY / ELECTRIC UTILITIES. When questioned by Rep. Grady as to why all the smokestacks are not under consideration, Rep. Nesbitt said that cost and diminished returns prohibited that. The one under discussion are 14 largest smokestacks and will have the greatest impact.

Mr. Bob Blankenship, a farmer/businessman from Cherokee and a member of the Tribal Council for the Eastern Band of Cherokee Indians spoke on SB 1078 (Att. 1). He spoke about the acid rain and the problems that it creates in the mountains, especially with trout farming.

Mr. Terry Pratt from the Albemarle Fisherman's Association spoke about the concerns of fisherman due to the level of mercury contamination. He also spoke of concerns with the nitrogen and sulfur used in power plants (Att. 2).


Mr. Avram Friedman, Director of the Canary Coalition, was recognized to speak (Att. 3).

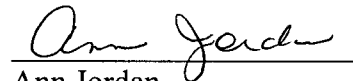
Steve Rose, Counsel to the Committee, was recognized to explain the amendment. He said the amendment only deals with the cost recovery portion (Att. 4).

The meeting adjourned at 11:00a.m.

Chairman Smith said others who have signed up would be permitted to speak at the next meeting. The meeting adjourned at 11:00.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**May 29, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**Confirmation of Governor's Appointments to the Utilities Commission
Mr. James Yancey Kerr, II
Mr. Michael Satterfield Wilkins**

**S432 – WATER AND SEWER AUTHORITIES
Sen. John Kerr**

**SB 1078 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sen. Steve Metcalf
Continued Discussion**

ADJOURNMENT

Ann Jordan (Rep. R. Smith)

From: Ann Jordan (Rep. R. Smith)
Sent: Thursday, May 24, 2001 4:09
Subject: Meeting Notice.doc

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

CORRECTED NOTICE – NOTE ADDITION OF SENATE BILL 432

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: Tuesday, May 29, 2001

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

Confirmation of Governor's Appointments to the Utilities Commission:

Mr. James Yancey Kerr, II

Mr. Michael Satterfield Wilkins

S432 - WATER AND SEWER AUTHORITIES

Sen. John Kerr

SB 1078 - IMPROVE AIR QUALITY / ELECTRIC UTILITIES - continued

Sponsor - Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith

Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at **12:30 p.m.** on **May 23, 2001.**

____ Principal Clerk
____ Reading Clerk - House Chamber

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

S

1

SENATE JOINT RESOLUTION 1101

Sponsors: Senator Soles.

Referred to: Commerce.

May 21, 2001

1 A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE
2 APPOINTMENTS OF JAMES YANCEY KERR, II AND MICHAEL
3 SATTERFIELD WILKINS TO MEMBERSHIP ON THE NORTH CAROLINA
4 UTILITIES COMMISSION AND THE APPOINTMENT OF ROBERT P.
5 GRUBER AS EXECUTIVE DIRECTOR OF THE PUBLIC STAFF OF THE
6 NORTH CAROLINA UTILITIES COMMISSION.

7 Whereas, under the provisions of G.S. 62-10, appointments made by the
8 Governor to membership on the North Carolina Utilities Commission are subject to
9 confirmation by the General Assembly by joint resolution; and

10 Whereas, vacancies will occur on the North Carolina Utilities Commission on
11 June 30, 2001; and

12 Whereas, the Governor has submitted to the presiding officers of the House
13 of Representatives and the Senate, the names of his appointees, James Yancey Kerr, II
14 and Michael Satterfield Wilkins, to serve terms on the North Carolina Utilities
15 Commission, which will begin July 1, 2001, and expire June 30, 2009; and

16 Whereas, under the provisions of G.S. 62-15, the appointment made by the
17 Governor of the Executive Director of the Public Staff of the North Carolina Utilities
18 Commission is subject to confirmation by the General Assembly by joint resolution; and

19 Whereas, a vacancy will occur in the office of Executive Director of the
20 Public Staff of the North Carolina Utilities Commission on June 30, 2001; and

21 Whereas, the Governor has submitted to the presiding officers of the House
22 of Representatives and the Senate, the name of his appointee, Robert P. Gruber, to serve
23 as Executive Director of the Public Staff of the North Carolina Utilities Commission for
24 a term to begin July 1, 2001, and expire June 30, 2007; Now, therefore,
25 Be it resolved by the Senate, the House of Representatives concurring:

26 **SECTION 1.** The appointments of James Yancey Kerr, II and Michael
27 Satterfield Wilkins to the North Carolina Utilities Commission for terms to begin July 1,
28 2001, and expire June 30, 2009, are confirmed.

1 **SECTION 2.** The appointment of Robert P. Gruber as Executive Director of
2 the Public Staff of the North Carolina Utilities Commission for a term to begin July 1,
3 2001, and expire June 30, 2007, is confirmed.

4 **SECTION 3.** This resolution is effective upon ratification.



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

April 30, 2001

The Honorable James Black
Speaker of the House
North Carolina General Assembly
2307 Legislative Building
Raleigh, NC 27603

Dear Speaker Black:

Pursuant to General Statute § 62-10, I hereby appoint James Yancey Kerr, II and Michael Satterfield Wilkins to serve as members of the North Carolina Utilities Commission and submit their names for confirmation by the North Carolina General Assembly. Both terms shall begin July 1, 2001 and will expire June 30, 2009.

Mr. Kerr will fill the seat currently held by Ralph Hunt and Mr. Wilkins will fill the seat currently held by Judy Hunt.

Additionally, I appoint Lorenzo Joyner to continue to serve on the Commission. Ms. Joyner is currently completing the term previously held by William Pittman. Mr. Pittman resigned effective January 24.

Finally, I am reappointing Joanne Sanford as chair of the Commission. Ms. Sanford has served as a member of the Commission since 1995 and as chair since 1997.

Enclosed is biographical information on these appointees. Please feel free to call on them or members of my staff if you need additional information.

With kindest regards, I remain.

Very truly yours,

A handwritten signature in cursive script that reads "Mike Easley".

Michael F. Easley

MFE:ks

Enclosure

c: The Honorable Marc Basnight
The Honorable Beverly Perdue
Ms. Denise Weeks
Ms. Janet Pruitt

Read
APR 30 2001

Referred to Public
Utilities



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

April 30, 2001

Ms. Denise Weeks
Principal Clerk of the House
North Carolina General Assembly
2304 Legislative Building
Raleigh, NC 27601

Dear Ms. Weeks:

Pursuant to General Statute § 62-10, I hereby appoint James Yancey Kerr, II and Michael Satterfield Wilkins to serve as members of the North Carolina Utilities Commission and submit their names for confirmation by the North Carolina General Assembly. Both terms shall begin July 1, 2001 and will expire June 30, 2009.

Mr. Kerr will fill the seat currently held by Ralph Hunt and Mr. Wilkins will fill the seat currently held by Judy Hunt.

Additionally, I appoint Lorenzo Joyner to continue to serve on the Commission. Ms. Joyner is currently completing the term previously held by William Pittman. Mr. Pittman resigned effective January 24.

Finally, I am reappointing Joanne Sanford as chair of the Commission. Ms. Sanford has served as a member of the Commission since 1995 and as chair since 1997.

Enclosed is biographical information on these appointees. Please feel free to call on them or members of my staff if you need additional information.

With kindest regards, I remain,

Very truly yours,

A handwritten signature in black ink, reading "Mike Easley".

Michael F. Easley

MFE:ks

Enclosure

c: The Honorable Marc Basnight
The Honorable James Black
The Honorable Beverly Perdue
Ms. Janet Pruitt

JAMES YANCEY KERR, II

Home:

2816 Manning Place
Raleigh, North Carolina 27608
(919) 782-6264

Office:

P.O. Box 2611
Raleigh, North Carolina 27602-2611
(919) 821-6791
email: jkerr@smithlaw.com

LEGAL EXPERIENCE:

Employment:

Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., *Raleigh, North Carolina*, September 1992 - Present. Partner concentrating in general civil litigation, including medical malpractice defense and administrative law, with significant experience in the Trial Division of both the State and Federal Court systems, the Appellate Division of the State Court system, and the North Carolina Utilities Commission.

Admitted:

State of North Carolina (1992)
United States District Court Eastern District of North Carolina (1992)
United States District Court Middle District of North Carolina (1993)
United States District Court Western District of North Carolina (1996)

Summer Clerkships:

Tharrington, Smith & Hargrove, *Raleigh, North Carolina*, May-June, August 1991

Ward & Smith, *Greenville, North Carolina*, July 1991

Warren, Kerr, Walston & Hollowell, *Goldsboro, North Carolina*, May-August 1990

Bar Memberships & Service:

- ◆ American Bar Association
- ◆ North Carolina Bar Association
- * Young Lawyer's Division
 - Chair - Law Student Activities Committees (1992-1995)
 - Chair - Civic Literacy Committee (1995 - 1997)
- * Constitutional Rights & Responsibilities Section - Public Education Committee
- ◆ Wake County Bar Association

PREVIOUS EXPERIENCE:

First Union Corporation, *Charlotte, North Carolina and Atlanta, Georgia*, August 1986 through August 1989. Various positions including Private Banking Officer, Real Estate Banking Officer and Manager of College Recruiting.

EDUCATION:

University of North Carolina at Chapel Hill School of Law, *Chapel Hill, North Carolina*
Juris Doctor, with Honors (top 20% of class), awarded May 1992

Honors & Activities:

- ◆ Dean's List
- ◆ Holderness Moot Court Invitational Team
- ◆ Best Oralist, Constitutional Moot Court Competition
- ◆ Member, Student/Faculty Building Committee
- ◆ Member, Alumni Board of Directors (1997 - present)
- ◆ Member, Alumni Building Committee (1994 - 1996)

Washington and Lee University, *Lexington, Virginia*

Bachelor of Arts, *cum laude*, in Politics awarded June 1986

Honors & Activities:

- ◆ Omicron Delta Kappa, National Leadership Society
- ◆ Francis P. Gaines Honor Scholar
- ◆ Dean's List
- ◆ Pi Sigma Alpha, National Political Science Honor Society
- ◆ President, Kathekon - Student Alumni Association
- ◆ Co-Chairman, Contact Speaker Symposium
- ◆ Member, Varsity Basketball Team
- ◆ Chairman, University Federation's Big Brother/Big Sister Program
- ◆ Rush Chairman, Phi Kappa Sigma Social Fraternity
- ◆ Alumni Association Board of Directors, Eastern North Carolina Chapter

CIVIC ACTIVITIES:

- ◆ Attends Hayes Barton United Methodist Church
- ◆ March of Dimes - Triangle Division and Eastern North Carolina Board of Directors
- ◆ Chairman of Raleigh WalkAmerica Steering Committee
- ◆ Young Men's Christian Association - Central Branch
- ◆ Wake County Boys & Girls Clubs Campership Drive
- ◆ Eagle Scout

PERSONAL:

Born March 8, 1964, Goldsboro, North Carolina

Married to the former Frances Herndon King

Curriculum Vitae of

Michael Satterfield Wilkins

January 1999 - Present:

Chief of Staff and Liaison to the Speaker of the North Carolina House of Representatives, the Honorable James B. Black. Mr. Wilkins' primary responsibility is to organize all of the information that flows to and from the Speaker. He must make sure that important issues are brought to the Speaker's attention promptly. His major responsibility is to ensure that Members of the House are well served and that the Speaker has their support in the creation and passage of legislation. Mr. Wilkins is the Speaker's point person on the budget and the deregulation of the electrical industry. Mr. Wilkins also briefs the Speaker on policy issues and assists in the process of appointing individuals to boards/commissions and government positions. Mr. Wilkins meets regularly with other members of the Speaker's staff; President Pro Tempore of the Senate's staff; and General Assembly research/fiscal analysts, including the budget team, policy advisors and schedulers. Mr. Wilkins oversees the Speaker's schedule, helping to decide whom the Speaker should see or call and with whom he should correspond. Mr. Wilkins' responsibilities can be summed up by four P's: politics, process, policy and people. It is the task of the chief of staff to assist the Speaker so that his administration can fulfill its ultimate goal: the formulation and implementation of effective policy to improve the lives of North Carolinians.

Immediate Past:

Governor Hunt appointed Mr. Wilkins Assistant Commerce Secretary for Economic Development and President of North Carolina's seven economic development partnerships on September 15, 1997. As Assistant Secretary, Mr. Wilkins oversaw national and international business and industry development, international trade and its seven international bureaus, marketing and customer services, Commerce's seven regional offices, tourism, film, sports development and regional operations. Mr. Wilkins worked closely with administration, agency and legislative officials to attract, recruit, retain and expand businesses to North Carolina. In 1998, the State recorded more than eight billion dollars in new investments and expanding investments, which is an all-time record.

Mr. Wilkins resigned his seat from the North Carolina House of Representatives during his third term in office to accept the position in the Department of Commerce.

Personal:

Born May 17, 1945 in Roxboro, North Carolina (Person County)

Education:

- Roxboro High School, 1963
- University of North Carolina at Chapel Hill; BS, Business Administration, 1967

Michael S. Wilkins

Chief of Staff and Liaison

Office of the Speaker of the North Carolina House of Representatives

116 Legend Oaks Court • Cary, North Carolina 27513

919.733.3451, office mikewi@ncleg.net 919.678.1396, home

Military:

US Air Force, Captain, 1967-1971

Business Experience:

Founder and Chief Operating Officer of Convenience Corner Inc. (Roxboro, North Carolina), which operated real estate properties, restaurants, convenience stores and car washes in Roxboro, Durham, Greensboro and Dunn, 1971-1991.

Political Experience:

- Elected to the North Carolina House of Representatives, District 22, in 1992, 1994 and 1996
- Person County Commissioner, 1980-1988 (Chairman 1986-1988)
- Vice Chair, Person County Airport Commission
- Chair, Person County Economic Development Commission
- Chairman, Region K Council of Government
- Chairman, North Carolina Joint Regional Forum

Awards:

- Selected as one of the top thirty people of all-time honored as making a difference in Person County by Piedmont Community College, 2000
- North Carolina Economic Developers Association Outstanding Service Award, 1999
- Franklin County Chamber of Commerce Exemplary Service Award, 1997
- Roxboro Area Chamber of Commerce Community Services Award, 1989
- Awarded the Outstanding County Commissioner of the Year award by the North Carolina County Commissioners Association, 1988
- Jaycees Distinguished Service Award, 1979
- Air Force Commendation Medal, 1971

Civic Activities:

- Member of the successful Steering Committee for the North Carolinians for Educational Opportunities \$3.1 billion dollar bond package
- Roxboro Kiwanis Club
- Roxboro Area Chamber of Commerce, Director and Officer
- Person County Doctor Recruitment Committee
- Youth Football Coach, 5 years
- Youth Basketball Coach, 9 years

Family:

- Married – wife, Jacquelyn
- Children – Jennifer, Brett, Diana and Lesli (step-daughter)
- Grandchildren – Miranda and Gabriel

Michael S. Wilkins
Chief of Staff and Liaison
Office of the Speaker of the North Carolina House of Representatives
116 Legend Oaks Court • Cary, North Carolina 27513
919.733.3451, office mikewi@ncleg.net 919.678.1396, home

Lorinzo Little Joyner
1304 Stony Point Lane
Cary, North Carolina 27511

Home: (919) 467-5053
ljoyner@mindspring.com

Work: (919) 733-6050
ljoyner@ncuc.net

EDUCATION

UNC-Chapel Hill School of Law, Chapel Hill, NC
May 1981 - Juris Doctor

NC A&T State University, Greensboro, NC
May 1969 - B.S. English Education (with high honors)

EMPLOYMENT

2201-Present

North Carolina Utilities Commission, Raleigh, NC
Commissioner (Effective January 24, 2001)

1995-2001

NC Department of Justice, Raleigh, NC
Special Deputy Attorney General - Supervise and manage the Insurance Section of the Attorney General's Office. Also represent various client agencies in litigation and respond to requests for opinions from agencies and public officials. The Section's 12 attorneys and four support staff provide a full range of legal services to client agencies, including the Departments of Insurance, Secretary of State, Commerce, State Ports Authority and the State Teachers' and Employees' Comprehensive Major Medical Plan.

1986-1995

NC Department of Justice, Raleigh, NC
Assistant Attorney General - Utilities Section, Attorney General's Office. Assisted in the formulation of policy and positions on issues related to the regulation of public utilities operating in North Carolina. Advocated and represented the position of the Attorney General before the NC Utilities Commission in matters affecting the users and consumers of public utility services. Appealed adverse decisions to the North Carolina Court of Appeals and the Supreme Court of North Carolina.

1983-1986

Public Staff, North Carolina Utilities Commission, Raleigh, NC
Staff Attorney - Legal Division. Advocated and represented the interests of the using and consuming public before the NC Utilities Commission. Appealed adverse decisions to the North Carolina Court of Appeals and the Supreme Court of North Carolina.

1981-1983

Office of the Appellate Defender, Raleigh, NC
Assistant Appellate Defender - Represented indigent criminal defendants appealing their convictions to the North Carolina Court of Appeals and the Supreme Court of North Carolina. Reviewed trial transcripts, identified and researched legal issues, drafted briefs and argued cases in the appellate courts.

1969-1978

Greensboro City Schools and Durham County Public Schools
English Teacher - Taught grammar, composition and literature to senior high school students. Member of a team that developed and implemented a curriculum for at-risk students that was designed to lower their drop out rates and provide them with coping and life maintenance skills.

**PROFESSIONAL
AFFILIATIONS**

North Carolina State Bar, licensed 1981 to present
Tenth Judicial Bar
North Carolina Association of Black Lawyers
Capital City Lawyers Association

**COMMUNITY
ACTIVITIES**

Former member of the Boards of Directors for Hopeline, Inc. and the Salvation Army Advisory Council
Member of the Board of Directors of the Ivy Community Service Foundation of Cary, Inc.
Member of Alpha Kappa Alpha Sorority, Inc.; immediate Past President of Cary Chapter
State Senior Games Volunteer
Volunteer at the Heritage Park Community Learning Center

JO ANNE SANFORD

Prior to joining the Commission on July 19, 1995, Chairman Sanford spent 20 years with the North Carolina Attorney General's Office. As Special Deputy Attorney General, she was the head of the Utilities and Insurance Section, which represented the Department of Insurance, the State Health Plan, the Secretary of State, the Auditor, the Secretary of Commerce, and consumers and state agencies in utilities matters. Earlier assignments in the Attorney General's Office were in the areas of environmental, energy and Indian law. She chaired the 1994 Department of Justice Combined Campaign and Department of Justice Insurance Committees.

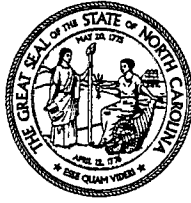
Sanford, a Democrat, was born October 18, 1950, in Laurinburg, North Carolina, and is a 1968 graduate of Randleman High School. She graduated with honors from North Carolina State University in 1972 with a B.A. in Political Science, and from the School of Law at the University of North Carolina, Chapel Hill, in 1975 with a J.D. She was appointed Chair of the Commission by Governor James B. Hunt, Jr. on February 1, 1997, and was reappointed to a four year term July 1, 1997. Her term as Commissioner expires June 30, 2003.

Professional affiliations include the North Carolina Bar Association, the Wake County Bar Association, the 10th Judicial District Bar, the Susie Sharp Inn of Court, and Women Executives in State Government. She chairs a subcommittee of the National Association of Regulatory Utility Commissioners (NARUC) Communications Committee and is a member of the NARUC Executive Committee. She is one of three state appointees to the Federal Communications Commission's North American Numbering Council and she also serves with the five FCC Commissioners on a Joint Conference established to promote the deployment of broadband services to all parts of the country. As a member of the Board of Directors of the National Regulatory Research Institute, she chairs its Funding Subcommittee. As Chair, Sanford is an ex officio member of the North Carolina Tax Review Board, Energy Policy Council and Agency for Public Telecommunications.

Chairman Sanford is a member of the Trinity United Methodist Church Board of Trustees, the Society for the Preservation of Historic Oakwood, Capital Area Preservation, and North Carolina State University's Graduate School Board of Advisors. She is a recipient of the Wake County YWCA 1998 Academy of Women designation and the 1999 Distinguished Women of North Carolina award for government service.

Sanford is married to William E. (Billy) Brewer, Jr. and has a daughter, Charlotte Brewer.

JO ANNE SANFORD
Chairman
1000 North Salisbury Street
Raleigh, NC 27601
919/790-7700



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

May 1, 2001

The Honorable James Black
Speaker of the House
North Carolina General Assembly
2304 Legislative Building
Raleigh, NC 27601

Dear Speaker Black:

Pursuant to General Statute § 62-15, I hereby reappoint Robert P. Gruber to serve as Executive Director of the North Carolina Utilities Commission and submit his name for confirmation by the North Carolina General Assembly. His term shall begin July 1, 2001 and will expire June 30, 2007.

With kindest regards, I remain.

Very truly yours,

A handwritten signature in black ink that reads "Mike Easley".
Michael F. Easley

MFE:ks

c: The Honorable Marc Basnight
The Honorable Beverly Perdue
Ms. Denise Weeks
Ms. Janet Pruitt

Read
MAY 2 2001

*Referred to Public
Utilities*

Denise Weeks

BIOGRAPHY

Robert Phillips Gruber

PERSONAL

Age 58

Married 37 years, wife Glenda, two children

EDUCATION

Raleigh public schools, graduated 1961 from Needham Broughton High School

Undergraduate college: UNC Chapel Hill, graduated 1965 with B.A. in English

Law School: UNC Chapel Hill, graduated 1968

EXPERIENCE

Private practice in Raleigh, North Carolina from 1968 to 1973, Jordan, Morris & Hoke (1968-1970), Barringer, Howard, and Gruber (1970-1973)

North Carolina Department of Justice, Utilities Section 1973-1978, Deputy Attorney General, 1974-1978

Chief Counsel, North Carolina Utilities Commission, 1978-1983

Executive Director, Public Staff - North Carolina Utilities Commission, 1983 to Present

CIVIC ACTIVITIES

Downtown Kiwanis Club; SPCA of Wake County, Past President

Statement of Economic Interest

for Executive Order Number One

Governor Michael F. Easley

NORTH CAROLINA BOARD OF ETHICS

1324 Mail Service Center

Raleigh, NC 27699-1324

(919) 733-2780 FAX (919) 733-2785

Mail form to: Board of Ethics, 1324 Mail Service Center, Raleigh, N.C. 27699-1324

If you can use State Government Courier, use Courier 51-01-00

Office location: Administration Building, 116 West Jones Street, Room 2009G, Raleigh

For assistance call Millie Donavant or Christine Miller at (919) 733-2780

e-mail: millie.donavant@ncmail.net or christine.a.miller@ncmail.net

Name of Person Filing: Robert P. Gruber

Name of Spouse: Glenda B. Gruber

Home Address: 2105 Barfield Court
Raleigh, NC 27612

Home Telephone: (919) 782-2296

Name of Employer: Public Staff - North Carolina Utilities Commission

Your Title: Executive Director

Business Address: 4326 Mail Service Center
Raleigh, NC 27699-4326

Business Telephone: (919) 733-2435

Business Fax: (919) 733-4744

Business Activity: Utility Regulation

Spouse's Employer
and Business Activity: Retired

If you are filing because you are serving on or being considered for appointment to a State Board (as defined above), state the **name of the Board**.

Public Staff - North Carolina Utilities Commission

Are you, your employer, your spouse, or spouse's employer licensed or regulated by the Board on which you are/will be serving, or have business relationships with the Board? No X If yes, please explain:

NOTE: Executive Order Number One requires you to list assets and liabilities with a value of \$10,000 or more for yourself and spouse, as set forth below. You are not required to include an estimated value of the assets and liabilities.

1. List all parcels of real estate located in North Carolina in which you, or your spouse, have an ownership interest valued \$10,000 or more. Give street address or other description adequate to determine the location of each parcel. State the specific interest held in each identified parcel.

Residence:

2105 Barfield Court

Raleigh, NC 27612

Identify real estate that is currently leased or rented to a State Government Agency, and identify the Agency. If persons other than your spouse have an ownership interest in the property, state the type of ownership and name of the person having the interest.

None

If any parcels are located in an area over which the Board you are serving on has regulatory authority or could otherwise be affected by Board decisions, please explain.

None

2. Identify **personal property** sold to or bought from the State within the preceding two years and personal property currently leased or rented to the State by you or your spouse. Indicate whether the transactions are in accordance with the provisions of the Division of Purchase and Contract. If not, please explain.

None

3. List the name of each **publicly-owned company** in which the value of securities held by you or your spouse is \$10,000 or more. You may attach a list from your broker.

Exxon Mobile	Pfizer
Bristol Myers Squibb Co.	S&P Depository Receipts
CVS Corpp	Wells Fargo Co.
American International Group	United Technologies Corp.
Fleet Boston Financial	
Johson & Johnson	
NASDAQ 100 Holders	

4. List the name and business activity of each **non-publicly-owned company or business entity** in which the value of securities or other equity interests held by you or your spouse is \$10,000 or more, including but not limited to, interests held in partnerships, limited partnerships, joint ventures, limited liability companies or partnerships, and closely held corporations.

None

With respect to the entities listed above, should any of the entities own securities or equity interests of \$10,000 or more in other companies or business entities, list the name of the company or business entity and a brief description of the business activity of each.

None

Are you, your spouse, or any of the entities listed above licensed by, regulated by, or have business relationships with the same area of State Government with which you are associated? If so, please explain.

No

5. You are required to make a good faith effort to list any individual or business entity with which you or your spouse have a financial or professional relationship provided:

- (1) The nature of the relationship presents a conflict of interest or the appearance of a conflict of interest for you while performing your official duties, or
- (2) Any separate financial or professional interest of such individual or business entity would present a conflict of interest or appearance of a conflict of interest for you while performing your official duties. For each individual or business entity listed, generally describe the financial or professional relationship and provide a brief explanation of why the individual or business entity has been listed.

None

6. List all **directorships** on all boards on which you are serving. Please explain any situation that could appear to be a conflict of interest with your official duties.

None

7. Are you an **elected official** at the local government level? If so, please explain.

No

8. If you, your spouse, or your dependent children are the **beneficiary of a trust** created, established or controlled by you, list the name and address of the trustee and a description of the trust. To the extent such information is available to you, include a list of businesses in which the trust has an ownership interest of \$10,000 or more.

No

9. List each asset with a valuation of \$10,000 or more, held by you or your spouse, which have not been listed elsewhere. Some examples are mutual funds, certificates of deposit, bank accounts and retirement accounts. It is not necessary to list furniture, jewelry, automobiles, and other personal effects.

US Treasury Notes

10. List each liability with a valuation of \$10,000 or more for you and your spouse. Give the name of the creditor, and describe the nature of the liability. It is not necessary to list credit card debts, mortgage for personal residence, and automobile loans.

First Mortgage to State Employees Credit Union

Home Equity Loan - SECU

2105 Barfield Court

Raleigh, NC

11. List each source of income for you and your spouse where \$10,000 or more was received. For each source listed, describe the type of income received, and state the name of the business entity or individual from which the income was received. Some examples of income are salary or wages, professional fees, honoraria, interest, stock dividends, capital gains, and business profits.

Sources for Person Filing:

Sources for Spouse: Dividends

Interest from Bonds

Interest from Money Market Accounts

Capital gains

Please explain if any of the sources of income are regulated by, receive permits from, or otherwise are connected with the same area of State Government with which you are connected.

None

12. If you are a practicing attorney, check each category of legal representation in which you and/or the law firm with which you are associated has, during any single year of the past five years, earned legal fees of \$10,000 or more from any of the following categories of legal representation:

- ☐ Admiralty ☐ Taxation ☐ Decedent's estates ☐ Corporation law ☐ Real property
☐ Negligence (representing plaintiffs) ☐ Negligence (representing defendants)
☐ Criminal law ☐ Labor law ☐ Insurance law ☐ Administrative law
☐ Utilities regulation or representation of regulated utilities ☐ Representation of local governments

13. If the information has not been included in previous questions, list all **non-publicly owned businesses** you have been associated with during the past five years as an employee, officer, director, partner, or owner. For each business listed, state your association, and the time period of your association. To the best of your knowledge, state whether any of the businesses listed does business with the same area of State Government with which you are associated. State the nature of business, and whether you or the business is licensed by, regulated by, receive permits, grants or other funding from the same area of State Government with which you are associated.

None

14. List all **gifts** received with a value exceeding \$200 during the twelve months preceding the date of this statement from sources other than your spouse or relatives.

None

List all **gifts** received with a value exceeding \$100 during the twelve months preceding the date of this statement from any source having business with or regulated by the State.

None

15. List all **bankruptcies** filed during the preceding five years by you, your spouse, or any entity in which you or your spouse has been associated financially. Provide a brief summary of the facts and circumstances regarding each listed bankruptcy.

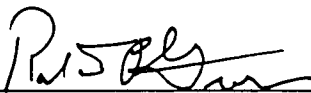
None

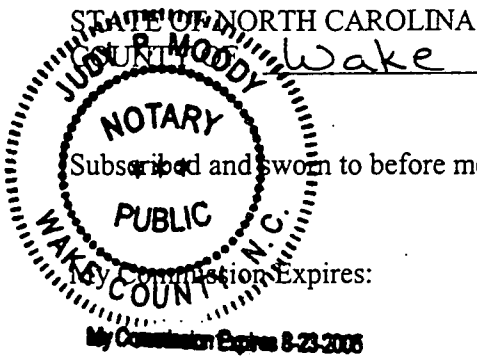
16. Having read Executive Order Number One, state any problems or conflicts of interest you may have that are not fully covered in previous questions. Include an explanation of how you would propose to resolve the matter.

VERIFICATION

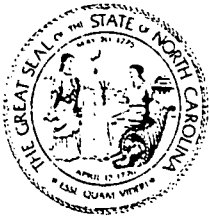
I hereby do certify that I have read this Statement of Economic Interest, and all attachments and to the best of my knowledge and belief it is true, correct and complete. I hereby do certify that I have not transferred, and will not transfer, any asset, interest or property for the purpose of concealing it from disclosure while retaining an equitable interest therein. I acknowledge that I am under a continuing obligation to avoid conflicts of interest and the appearance of conflicts of interest. If I believe a potential for conflict exists, I will inquire of the Board of Ethics as to that potential conflict.

5/18/01
Date


Signature of Person Filing




Notary Public



BILL ANALYSIS

SENATE JOINT RESOLUTION 1101: Confirmation of Appointment of Michael S. Wilkins and James Y. Kerr, II to the Utilities Commission, and Robert P. Gruber as Executive Director of the Public Staff.

Committee: House Public Utilities
Date: May 29, 2001
Version: One

Introduced by: Senator Soles
Summary by: Steven Rose
Committee Counsel

SUMMARY: Mr. Wilkins and Mr. Kerr have been appointed by the Governor to fill the vacancies on the Utilities Commission created by the expiration of the terms of Commissioners Judy Hunt and Ralph Hunt on June 30, 2001. The terms of Mr. Wilkin's and Mr. Kerr are for eight years, beginning July 1, 2001, and ending June 30, 2009. The Governor has reappointed Mr. Gruber to a new six-year term as Executive Director of the Public Staff beginning July 1, 2001 and ending June 30, 2007. SJR 1101 confirms these appointments as required by G.S. 62-10 and G.S. 62-15. The resolution is effective upon ratification.

The resumes of the appointees and the Statements of Economic Interest they submitted to the North Carolina Board of Ethics are before this Committee.

BACKGROUND: The North Carolina Utilities Commission consists of seven commissioners who are appointed for eight-year terms. Commissioners are appointed by the Governor and must be confirmed by the General Assembly by Joint Resolution.

A Utilities Commissioner is presently paid a salary of \$104,523. There are fixed salary increases based upon length of service on the Utilities Commission, 4.8% after five years of service and 9.6% after ten years. Members of the Utilities Commission are subject to the same standards of conduct as a judge. They may be removed during their term of office only for cause, by impeachment.

During service on the Commission, a Commissioner may not engage in any other employment, business, profession or vocation. During the term of office the Commissioner may not be associated in any way with any public utility company, including ownership of any interest.

The General Assembly created the Utilities Commission and establishes policies which the Commission carries out, usually with broad discretion. The Commission is both a regulator of public utilities, as well as a judge in all contested matters relating to public utilities. Decisions of the Utilities Commission are

SENATE JOINT RESOLUTION

Page 2

appealable directly to the North Carolina Court of Appeals, with the exception of general rate cases, which are appealable directly to the North Carolina Supreme Court.

The North Carolina Utilities Commission regulates the rates and services of the intrastate operations of public utilities supplying electricity, gas, certain telecommunications services, water and sewer services, taxis, and certain aspects of bus, train, trucking, express package and mail services. The extent of this regulation varies among the different types of utilities, and there are limitations imposed by federal law. The Commission hears and decides proceedings relating to the issuance of utility franchises, the construction of electric generating plants, the setting of utility rates, the adjustment of electric utility rates based upon fuel cost changes, the adjustment of natural gas rates based upon changes in the cost of natural gas, use of natural gas expansion funds, the provision of new utility services, and the adjudication of complaints concerning the services of public utilities. Again, the extent of the Commission's jurisdiction depends upon the type of utility service and is affected in some cases by federal law. The Commission also has limited authority over subsidiaries of electric cooperatives.

The Executive Director of the Public Staff is responsible for supervising the activities of the Public Staff. The Public Staff represents the utility customer in all proceedings before the Utilities Commission. The Public Staff is not subject to supervision by the Utilities Commission. It does assist the Utilities Commission upon request.

The Executive Director's term is six years. Appointment is by the Governor, with confirmation by the General Assembly. The Executive Director may only be removed from office in the event of incapacity, or upon the recommendation of a majority of the Utilities Commission after consultation with the Joint Legislative Utility Review Committee. Salary and longevity increases are the same as a Utilities Commissioner.

SJR1101-SMRL-001

ery Servs., Inc., 47 N.C. App. 418, 267 S.E.2d 688 (1980).

Stated in *State ex rel. Utils. Comm'n v. A.C.L.R.R.*, 268 N.C. 242, 150 S.E.2d 386 (1966); *State ex rel. Utils. Comm'n v. MCI Telecommunications Corp.*, — N.C. App. —, 514 S.E.2d 276 (1999).

Cited in *Duke Power Co. v. City of High Point*, 22 N.C. App. 91, 205 S.E.2d 774 (1974);

State ex rel. Utils. Comm'n v. Southern Bell Tel. & Tel. Co., 307 N.C. 541, 299 S.E.2d 763 (1983); *In re Lower Cape Fear Water & Sewer Auth.*, 329 N.C. 675, 407 S.E.2d 155 (1991); *State ex rel. Utils. Comm'n v. Mountain Elec. Coop.*, 108 N.C. App. 263, 423 S.E.2d 516 (1992); *State ex rel. Utils. Comm'n v. Empire Power Co.*, 112 N.C. App. 265, 435 S.E.2d 553 (1993).

OPINIONS OF ATTORNEY GENERAL

"Person" Includes Municipalities and Counties. — Municipalities and counties, bodies politic and corporate, are included in the definition of "person" under § 62-3(21). See opinion of Attorney General to Mr. Robert H. Bennink, Jr., General Counsel and Hearing Examiner, North Carolina Utilities Commission, 55 N.C.A.G. 18 (1985).

The Department of Correction, as a State agency, is not a public utility and is not subject to the fee requirements of § 62-302. See Opinion of Attorney General to LaVee

Hamer, General Counsel, North Carolina Department of Correction, — N.C.A.G. — (October 17, 1994).

Western Carolina University (WCU) is not a public utility subject to supervision by the Commission, except that, pursuant to § 116-35, sales to the public of excess power must be "at a rate or rates approved by the Utilities Commission." See opinion of Attorney General to Mr. Myron L. Coulter, Chancellor, Western Carolina University, 55 N.C.A.G. 55 (1985).

§ 62-4. Applicability of Chapter.

This Chapter shall not terminate the preexisting Commission or appointments thereto, or any certificates, permits, orders, rules or regulations issued by it or any other action taken by it, unless and until revoked by it, nor affect in any manner the existing franchises, territories, tariffs, rates, contracts, service regulations and other obligations and rights of public utilities, unless and until altered or modified by or in accordance with the provisions of this Chapter. (1963, c. 1165, s. 1.)

§§ 62-5 through 62-9: Reserved for future codification purposes.

ARTICLE 2.

Organization of Utilities Commission.

§ 62-10. Number; appointment; terms; qualifications; chairman; vacancies; compensation; other employment prohibited.

(a) The North Carolina Utilities Commission shall consist of seven commissioners who shall be appointed by the Governor subject to confirmation by the General Assembly by joint resolution. The names of commissioners to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1, of the year in which the terms for which the appointments are to be made are to expire. Upon failure of the Governor to submit names as herein provided, the Lieutenant Governor and Speaker of the House jointly shall submit the names of a like number of commissioners to the General Assembly on or before May 15 of the same year for confirmation by the General Assembly. Regardless of the way in which names of commissioners are submitted, confirmation of

commissioners must be accomplished prior to adjournment of the then current session of the General Assembly. This subsection shall be subject to the provisions of subsection (c) of this section.

(b) The terms of the commissioners now serving shall expire at the conclusion of the term for which they were appointed which shall remain as before with two regular eight-year terms expiring on July 1 of each fourth year after July 1, 1965, and the fifth term expiring on July 1 of each eighth year after July 1, 1963. The terms of office of utilities commissioners thereafter shall be eight years commencing on July 1 of the year in which the predecessor terms expired, and ending on July 1 of the eighth year thereafter.

(c) In order to increase the number of commissioners to seven, the names of two additional commissioners shall be submitted to the General Assembly on or before May 27, 1975, for confirmation by the General Assembly as provided in G.S. 62-10(a). The commissioners so appointed and confirmed shall serve new terms commencing on July 1, 1975, one of which shall be for a period of two years (with the immediate successor serving for a period of six years), and one of which shall be for a period of two years.

Thereafter, the terms of office of the additional commissioners shall be for eight years as provided in G.S. 62-10(b).

(d) A commissioner in office shall continue to serve until his successor is duly confirmed and qualified but such holdover shall not affect the expiration date of such succeeding term.

(e) On July 1, 1965, and every four years thereafter, one of the commissioners shall be designated by the Governor to serve as chairman of the Commission for the succeeding four years and until his successor is duly confirmed and qualifies. Upon death or resignation of the commissioner appointed as chairman, the Governor shall designate the chairman from the remaining commissioners and appoint a successor as hereinafter provided to fill the vacancy on the Commission.

(f) In case of death, incapacity, resignation or vacancy for any other reason in the office of any commissioner prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor within four weeks after the vacancy arises to the General Assembly for confirmation by the General Assembly. Upon failure of the Governor to submit the name of the successor, the Lieutenant Governor and Speaker of the House jointly shall submit the name of a successor to the General Assembly within six weeks after the vacancy arises. Regardless of the way in which names of commissioners are submitted, confirmation of commissioners must be accomplished prior to the adjournment of the then current session of the General Assembly.

(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section when the General Assembly is not in session, and the appointment is deemed urgent by the Governor, the commissioner may be appointed and serve on an interim basis pending confirmation by the General Assembly.

(h) The salary of each commissioner and that of the commissioner designated as chairman shall be set by the General Assembly in the Current Operations Appropriations Act. In lieu of merit and other increment raises paid to regular State employees, each commissioner, including the commissioner designated as chairman, shall receive as longevity pay an amount equal to four and eight-tenths percent (4.8%) of the annual salary set forth in the Current Operations Appropriations Act payable monthly after five years of service, and nine and six-tenths percent (9.6%) after 10 years of service. "Service" means service as a member of the Utilities Commission.

(h1) In addition to compensation for their services, each member of the Commission who lives at least 50 miles from the City of Raleigh shall be paid a weekly travel allowance for each week the member travels to the City of Raleigh from the member's home for business of the Commission. The

allowance shall be calculated for each member by multiplying the actual round-trip mileage from that member's home to the City of Raleigh by the rate-per-mile which is the business standard mileage rate set by the Internal Revenue Service in Rev. Proc. 93-51, December 27, 1993.

(i) The standards of judicial conduct provided for judges in Article 30 Chapter 7A of the General Statutes shall apply to members of the Commission. Members of the Commission shall be liable to impeachment for the causes and in the manner provided for judges of the General Court of Justice in Chapter 123 of the General Statutes. Members of the Commission shall not engage in any other employment, business, profession, or vocation while in office.

(j) Except as provided in subsection (h1) of this section, members of the Commission shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a). (1941, c. 97, s. 2; 1949, c. 1009, s. 1; 1959, c. 1319; 1963, c. 1165, s. 1; 1967, c. 1238; 1975, c. 243, s. 3; c. 867, ss. 1, 2; 1977, c. 468, s. 1; c. 913, s. 2; 1983 (Reg. Sess., 1984), c. 1116, s. 91; 1989, c. 781, s. 41.2; 1993 (Reg. Sess., 1994), c. 769, s. 7.4(b); 1996, 2nd Ex. Sess., c. 18, s. 28.2(b); 1997-443, s. 33.5; 1999-237, s. 28.21(a), (b).)

Editor's Note. — Session Laws 1999-237, s. 1.1 provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 1999.'"

Session Laws 1999-237, s. 30.4 contains a severability clause.

Effect of Amendments. — Session Laws 1999-237, s. 28.21(a) and (b), effective July 1,

1999, added subsection (h1); and added "Except as provided in subsection (h1) of this section" to the beginning of subsection (j).

State Government Reorganization. —

The Utilities Commission was transferred to the Department of Commerce (now the Department of Economic and Community Development) by former § 143A-174.

CASE NOTES

Applied in *State ex rel. Utils. Comm'n v. Carolina Tel. & Tel. Co.*, 21 N.C. App. 251, 204 S.E.2d 181 (1974).

§ 62-11. Oath of office.

Each utilities commissioner before entering upon the duties of his office shall file with the Secretary of State his oath of office to support the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina, and to well and truly perform the duties of his said office as utilities commissioner, and that he is not the agent or attorney of any public utility, or an employee thereof, and that he has no interest in any public utility. (1933, c. 134, s. 5; 1935, c. 280; 1939, c. 404; 1941, c. 97; 1963, c. 1165, s. 1.)

§ 62-12. Organization of Commission; adoption of rules and regulations therefor.

To facilitate the work of the Commission and for administrative purposes, the chairman of the Commission, with the consent and approval of the Commission, may organize the work of the Commission in several hearing divisions and operating departments and may designate a member of the Commission as the head of any division or divisions and assign to members of the Commission various duties in connection therewith. Subject to the provisions of the State Personnel Act (Article 2 of Chapter 143 of the General Statutes), the Commission shall prepare and adopt rules and regulations governing the personnel, departments or divisions and all internal affairs and business of the Commission. (1941, c. 97, s. 3; 1949, c. 1009, s. 2; 1957, c. 1062, s. 1; 1963, c. 1165, s. 1.)

Editor's Note. — Article 2, Chapter 143, provisions as to State Personnel System, see referred to in this section, was repealed by §§ 126-1 through 126-12. Session Laws 1965, c. 640, s. 1. For present

§ 62-13. Chairman to direct Commission.

(a) The chairman shall be the chief executive and administrative officer of the Commission.

(b) The chairman shall determine whether matters pending before the Commission shall be considered or heard initially by the full Commission, a panel of three commissioners, a hearing commissioner, or a hearing examiner. Subject to the rules of the Commission, the chairman shall assign members of the Commission to proceedings and shall assign members to preside at proceedings before the full Commission or a panel of three commissioners.

(c) The chairman, the presiding commissioner, hearing commissioner, or hearing examiner shall hear and determine procedural motions or petitions not determinative of the merits of the proceedings and made prior to hearing; and at hearing shall make all rulings on motions and objections.

(d) The chairman acting alone, or any three commissioners, may initiate investigations, complaints, or any other proceedings within the jurisdiction of the Commission. (1941, c. 97, s. 4; 1957, c. 1062, s. 2; 1963, c. 1165, s. 1; 1975, c. 243, ss. 9, 10; 1977, c. 468, s. 2; c. 913, s. 2.)

§ 62-14. Commission staff; structure and function.

(a) The Commission is authorized and empowered to employ hearing examiners; court reporters; a chief clerk and deputy clerk; a commission attorney and assistant commission attorney; transportation and pipeline safety inspectors; and such other professional, administrative, technical, and clerical personnel as the Commission may determine to be necessary in the proper discharge of the Commission's duty and responsibility as provided by law. The chairman shall organize and direct the work of the Commission staff.

(b) The salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(c) The chairman, within allowed budgetary limits and as allowed by law, shall authorize and approve travel, subsistence and related expenses of such personnel, incurred while traveling on official business. (1963, c. 1165, s. 1; 1977, c. 468, s. 3.)

§ 62-15. Office of executive director; public staff, structure and function.

(a) There is established in the Commission the office of executive director, whose salary and longevity pay shall be the same as that fixed for members of the Commission. "Service" for purposes of longevity pay means service as executive director of the public staff. The executive director shall be appointed by the Governor subject to confirmation by the General Assembly by joint resolution. The name of the executive director appointed by the Governor shall be submitted to the General Assembly on or before May 1 of the year in which the term of his office begins. The term of office for the executive director shall be six years, and the initial term shall begin July 1, 1977. The executive director may be removed from office by the Governor in the event of his incapacity to serve; and the executive director shall be removed from office by the Governor upon the affirmative recommendation of a majority of the Commission, after consultation with the Joint Legislative Utility Review

Committee of the General Assembly. In case of a vacancy in the office of executive director for any reason prior to the expiration of his term of office, the name of his successor shall be submitted by the Governor to the General Assembly, not later than four weeks after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the executive director shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly.

(b) There is established in the Commission a public staff. The public staff shall consist of the executive director and such other professional, administrative, technical, and clerical personnel as may be necessary in order for the public staff to represent the using and consuming public, as hereinafter provided. All such personnel shall be appointed, supervised, and directed by the executive director. The public staff shall not be subject to the supervision, direction, or control of the Commission, the chairman, or members of the Commission.

(c) Except for the executive director, the salaries and compensation of all such personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies.

(d) It shall be the duty and responsibility of the public staff to:

- (1) Review, investigate, and make appropriate recommendations to the Commission with respect to the reasonableness of rates charged or proposed to be charged by any public utility and with respect to the consistency of such rates with the public policy of assuring an energy supply adequate to protect the public health and safety and to promote the general welfare;
- (2) Review, investigate, and make appropriate recommendations to the Commission with respect to the service furnished, or proposed to be furnished by any public utility;
- (3) Intervene on behalf of the using and consuming public, in all Commission proceedings affecting the rates or service of any public utility;
- (4) When deemed necessary by the executive director in the interest of the using and consuming public, petition the Commission to initiate proceedings to review, investigate, and take appropriate action with respect to the rates or service of public utilities;
- (5) Intervene on behalf of the using and consuming public in all certificate applications filed pursuant to the provisions of G.S. 62-110.1, and provide assistance to the Commission in making the analysis and plans required pursuant to the provisions of G.S. 62-110.1 and 62-155;
- (6) Intervene on behalf of the using and consuming public in all proceedings wherein any public utility proposes to reduce or abandon service to the public;
- (7) Investigate complaints affecting the using and consuming public generally which are directed to the Commission, members of the Commission, or the public staff and where appropriate make recommendations to the Commission with respect to such complaints;
- (8) Make studies and recommendations to the Commission with respect to standards, regulations, practices, or service of any public utility pursuant to the provisions of G.S. 62-43; provided, however, that the public staff shall have no duty, responsibility, or authority with respect to the enforcement of natural gas pipeline safety laws, rules, or regulations;
- (9) When deemed necessary by the executive director, in the interest of the using and consuming public, intervene in Commission proceedings with respect to transfers of franchises, mergers, consolidations, and combinations of public utilities pursuant to the provisions of G.S. 62-111;

- (10) Investigate and make appropriate recommendations to the Commission with respect to applications for certificates by radio common carriers, pursuant to the provisions of Article 6A of this Chapter;
- (11) Review, investigate, and make appropriate recommendations to the Commission with respect to contracts of public utilities with affiliates or subsidiaries, pursuant to the provisions of G.S. 62-153;
- (12) When deemed necessary by the executive director, in the interest of the using and consuming public, advise the Commission with respect to securities, regulations, and transactions, pursuant to the provisions of Article 8 of this Chapter.

(e) The public staff shall have no duty, responsibility, or authority with respect to the laws, rules or regulations pertaining to the physical facilities or equipment of common, contract and exempt carriers, the registration of vehicles or of insurance coverage of vehicles of common, contract and exempt carriers; the licensing, training, or qualifications of drivers or other persons employed by common, contract and exempt carriers, or the operation of motor vehicle equipment by common, contract and exempt carriers in the State.

(f) The executive director representing the public staff shall have the same rights of appeal from Commission orders or decisions as other parties to Commission proceedings.

(g) Upon request, the executive director shall employ the resources of the public staff to furnish to the Commission, its members, or the Attorney General, such information and reports or conduct such investigations and provide such other assistance as may reasonably be required in order to supervise and control the public utilities of the State as may be necessary to carry out the laws providing for their regulation.

(h) The executive director is authorized to employ, subject to approval by the State Budget Officer, expert witnesses and such other professional expertise as the executive director may deem necessary from time to time to assist the public staff in its participation in Commission proceedings, and the compensation and expenses therefor shall be paid by the utility or utilities participating in said proceedings. Such compensation and expenses shall be treated by the Commission, for rate-making purposes, in a manner generally consistent with its treatment of similar expenditures incurred by utilities in the presentation of their cases before the Commission. An accounting of such compensation and expenses shall be reported annually to the Joint Legislative Utility Review Committee and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(i) The executive director, within established budgetary limits, and as allowed by law, shall authorize and approve travel, subsistence, and related necessary expenses of the executive director or members of the public staff, incurred while traveling on official business. (1949, c. 1009, s. 3; 1963, c. 1165, s. 1; 1977, c. 468, s. 4; 1981, c. 475; 1983, c. 717, s. 12.1; 1985, c. 499, s. 4; 1989, c. 781, s. 41.3; 1989 (Reg. Sess., 1990), c. 1024, s. 13; 1999-237, s. 28.21A.)

Editor's Note. — Session Laws 1999-237, s. 1.1 provides: "This act shall be known as the 'Current Operations and Capital Improvements Appropriations Act of 1999.'"

Session Laws 1999-237, s. 30.4 contains a severability clause.

Effect of Amendments. — Session Laws 1999-237, s. 28.21A, effective July 1, 1999, in

subsection (a), inserted "and longevity pay" in the first sentence and inserted the present second sentence.

Legal Periodicals. — For brief comment on this section, see 27 N.C.L. Rev. 489 (1949).

For survey of 1977 law on common carriers, see 56 N.C.L. Rev. 853 (1978).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

3

SENATE BILL 432*
Finance Committee Substitute Adopted 4/2/01
Third Edition Engrossed 4/3/01

Short Title: Water and Sewer Authorities.

(Public)

Sponsors:

Referred to:

March 13, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW NONPROFIT WATER CORPORATIONS TO JOIN CERTAIN
3 WATER AND SEWER AUTHORITIES AND CONCERNING THE RIGHT OF
4 SUBSEQUENTLY JOINING MUNICIPALITIES TO HAVE VOTING
5 MEMBERSHIP.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 162A-3 is amended by adding a new subsection to read:

8 "(a1) If an authority is organized by three or more political subdivisions, it may
9 include in its organization up to two nonprofit water corporations. The board of
10 directors of a nonprofit water corporation must signify the corporation's determination
11 to participate in the organization of the authority by adopting a resolution that meets the
12 requirements of subsection (b) of this section. The nonprofit water corporation is not
13 subject to the notice and public hearing requirements of subsection (a) of this section.
14 For all other purposes of this Article, the nonprofit water corporation shall be
15 considered to be a political subdivision."

16 SECTION 2. G.S. 162A-3.1 is amended by adding a new subsection to read:

17 "(a1) If an authority is organized by three or more political subdivisions, it may
18 include in its organization up to two nonprofit water corporations. The board of
19 directors of a nonprofit water corporation must signify the corporation's determination
20 to participate in the organization of the authority by adopting a resolution that meets the
21 requirements of subsection (b) of this section. The nonprofit water corporation is not
22 subject to the notice and public hearing requirements of subsection (a) of this section.
23 For all other purposes of this Article, the nonprofit water corporation shall be
24 considered to be a political subdivision."

25 SECTION 2.1. G.S. 162A-5(a) reads as rewritten:

26 "(a) Each authority organized under this Article shall consist of the number of
27 members as may be agreed upon by the participating political subdivisions, such
28 members to be selected by the respective political subdivision. A proportionate number

(as nearly as can be) of members of the authority first appointed shall have terms expiring one year, two years and three years respectively from the date on which the creation of the authority becomes effective. Successor members and members appointed by a political subdivision subsequently joining the authority shall each be appointed for a term of three years, but any person appointed to fill the vacancy shall be appointed to serve only for the unexpired term and any member may be reappointed; provided, however, that a political subdivision subsequently joining an authority created under ~~G.S. 162A-3.1~~ G.S. 162A-3.1, or under the provisions of G.S. 162A-3 other than subsection (a1), shall not have the right to appoint any members to such authority. Appointments of successor members shall, in each instance, be made by the governing body of the political subdivision appointing the member whose successor is to be appointed. Any member of the authority may be removed, with or without cause, by the governing body appointing said member. This subsection does not apply in the case of an authority that a city joins under G.S. 162A-5.1"

SECTION 3. The creation of any Water and Sewer Authority under Article 1 of Chapter 162A of the General Statutes on or after July 1, 2000, but before this act became law, that would have been permitted under that Article, as amended by Sections 1 and 2 of this act, is validated and confirmed as to the membership of nonprofit water corporations.

SECTION 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1078*
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/18/01

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY REQUIRING
REDUCTIONS IN THE EMISSIONS OF CERTAIN POLLUTANTS FROM
CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.107 reads as rewritten:

"§ 143-215.107. Air quality standards and classifications.

(a) Duty to Adopt Plans, Standards, etc. – The Commission is hereby directed
and empowered, as rapidly as possible within the limits of funds and facilities available
to it, and subject to the procedural requirements of this Article and Article 21:

- (1) To prepare and develop, after proper study, a comprehensive plan or
plans for the prevention, abatement and control of air pollution in the
State or in any designated area of the State.
- (2) To determine by means of field sampling and other studies, including
the examination of available data collected by any local, State or
federal agency or any person, the degree of air contamination and air
pollution in the State and the several areas of the State.
- (3) To develop and adopt, after proper study, air quality standards
applicable to the State as a whole or to any designated area of the State
as the Commission deems proper in order to promote the policies and
purposes of this Article and Article 21 most effectively.
- (4) To collect information or to require reporting from classes of sources
which, in the judgment of the Environmental Management
Commission, may cause or contribute to air pollution. Any person
operating or responsible for the operation of air contaminant sources of
any class for which the Commission requires reporting shall make
reports containing such information as may be required by the
Commission concerning location, size, and height of contaminant

outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such other information as is relevant to air pollution and available or reasonably capable of being assembled.

(5) To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards. This subdivision does not apply to that portion of the National Emission Standards for Hazardous Air Pollutants for asbestos that governs demolition and renovation as set out in 40 C.F.R. § 61.141, 61.145, 61.150, and 61.154 (1 July 1993 edition).

(6) To adopt motor vehicle emissions standards; to adopt, when necessary and practicable, a motor vehicle emissions inspection and maintenance program to improve ambient air quality; to require manufacturers of motor vehicles to furnish to the Equipment and Tool Institute and, upon request and at a reasonable charge, to any person who maintains or repairs a motor vehicle, all information necessary to fully make use of the on-board diagnostic equipment and the data compiled by that equipment; to certify to the Commissioner of Motor Vehicles that ambient air quality will be improved by the implementation of a motor vehicle emissions inspection and maintenance program in a county. The Commission shall implement this subdivision as provided in G.S. 143-215.107A.

(7) To develop and adopt standards and plans necessary to implement programs for the prevention of significant deterioration and for the attainment of air quality standards in nonattainment areas.

(8) To develop and adopt standards and plans necessary to implement programs to control acid deposition and to regulate the use of sulfur dioxide (SO₂) allowances and nitrogen oxides (NO_x) emissions in accordance with Title IV and implementing regulations adopted by the United States Environmental Protection Agency.

(8a) To develop and adopt standards and plans and to implement programs to control emissions of oxides of nitrogen (NO_x) and sulfur dioxide (SO₂) as provided in G.S. 143-215.107D.

(9) To regulate the content of motor fuels, as defined in G.S. 119-16, to require use of reformulated gasoline as the Commission determines necessary, to implement the requirements of Title II and implementing regulations adopted by the United States Environmental Protection Agency, and to develop standards and plans to implement this subdivision. Rules may authorize the use of marketable oxygen credits for gasoline as provided in federal requirements.

- 1 (10) To develop and adopt standards and plans necessary to implement
2 requirements of the federal Clean Air Act and implementing
3 regulations adopted by the United States Environmental Protection
4 Agency.
5 (11) To develop and adopt economically feasible standards and plans
6 necessary to implement programs to control the emission of odors
7 from animal operations, as defined in G.S. 143-215.10B.
8 (12) To develop and adopt a program of incentives to promote voluntary
9 reductions of emissions of air contaminants, including, but not limited
10 to, emissions banking and trading and credit for voluntary early
11 reduction of emissions.
12 (13) To develop and adopt rules governing the certification of persons who
13 inspect vehicle-mounted tanks used to transport motor fuel and to
14 require that inspection of these tanks be performed only by certified
15 personnel.
16 (14) To develop and adopt rules governing the sale and service of mobile
17 source exhaust emissions analyzers and to require that vendors of these
18 analyzers provide adequate surety to purchasers for the performance of
19 the vendor's contractual or other obligations related to the sale and
20 service of analyzers.

21 (b) Criteria for Standards. – In developing air quality and emission control
22 standards, motor vehicle emissions standards, motor vehicle emissions inspection and
23 maintenance requirements, rules governing the content of motor fuels or requiring the
24 use of reformulated gasoline, and other standards and plans to improve ambient air
25 quality, the Commission shall consider varying local conditions and requirements and
26 may prescribe uniform standards and plans throughout the State or different standards
27 and plans for different counties or areas as may be necessary and appropriate to improve
28 ambient air quality in the State or within a particular county or area, achieve attainment
29 or preclude violations of state or national ambient air quality standards, meet other
30 federal requirements, or achieve the purposes of this Article and Article 21.

31 (c) Chapter 150B of the General Statutes governs the adoption and publication of
32 rules under this Article.

33 (d), (e) Repealed by Session Laws 1987, c. 827, s. 205.

34 (f), (g). Repealed by Session Laws 1995, c. 507, s. 27."

35 **SECTION 2.** Article 21B of Chapter 143 of the General Statutes is amended
36 by adding a new section to read:

37 **"§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2)**
38 **from certain coal-fired electric generating units.**

39 The Environmental Management Commission shall adopt rules to implement G.S.
40 143-215.107(a)(8a) as provided in this section. For emissions of oxides of nitrogen
41 (NOx), the Commission shall develop and adopt standards and plans and implement
42 programs to control emissions from coal-fired generating units, as those terms are

1 defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that are owned
2 or operated by an investor-owned public utility, as defined in G.S. 62-3, and that have
3 the capacity to generate 25 or more megawatts of electricity so that no later than 1
4 January 2007 these units will collectively emit no more than 60,000 tons of oxides of
5 nitrogen (NOx) annually and no later than 1 January 2009 these units will collectively
6 emit no more than 56,000 tons of oxides of nitrogen (NOx) annually. For emissions of
7 sulfur dioxide (SO2), the Commission shall develop and adopt standards and plans and
8 implement programs to control emissions from coal-fired generating units, as those
9 terms are defined in 40 Code of Federal Regulations § 96.2 (1 July 2000 Edition), that
10 are owned or operated by an investor-owned public utility, as defined in G.S. 62-3, and
11 that have the capacity to generate 25 or more megawatts of electricity so that no later
12 than 1 January 2009 these units will collectively emit no more than 250,000 tons of
13 sulfur dioxide (SO2) annually and no later than 1 January 2013 these units will
14 collectively emit no more than 130,000 tons of sulfur dioxide (SO2) annually."

15 **SECTION 3.** Article 7 of Chapter 62 of the General Statutes is amended by
16 adding a new section to read:

17 **"§ 62-133.6. Environmental compliance expenditure-recovery.**

18 (a) As used in this section, the term 'environmental compliance expenditures'
19 means only those expenditures incurred after 1 July 2001 by an electric utility to comply
20 with standards adopted pursuant to G.S. 143-215. 107D that exceed the expenditures
21 required to comply with the revisions to the State Implementation Plan (SIP) to reduce
22 emissions of oxides of nitrogen (NOx) pursuant to the final notice published by the
23 Administrator of the United States Environmental Protection Agency at 63 Federal
24 Register 57491 (27 October 1998) codified at 40 Code of Federal Regulations § 51.121
25 (1 July 2000 Edition).

26 (b) The Commission shall hold a hearing and shall allow each electric utility to
27 recover all just, reasonable, and prudently incurred environmental compliance
28 expenditures through an environmental compliance expenditure-recovery factor that is
29 separate from the electric utility's base rates.

30 (c) The Commission shall set the environmental compliance expenditure-
31 recovery factor for each utility at least annually. The Commission shall base the
32 environmental compliance expenditure-recovery factor on projections of environmental
33 compliance expenditures for a future 12-month period. The Commission shall
34 incorporate into the environmental compliance expenditure-recovery factor
35 determination the experienced under-recovery or over-recovery of the electric utility's
36 environmental compliance expenditures incurred during the previous 12-month period.
37 Any refund or collection made as part of this process shall include interest at a rate to be
38 determined by the Commission.

39 (d) The Commission shall adopt rules to implement this section."

40 **SECTION 4.** It is the intent of the General Assembly that the State use all
41 available resources and means, including negotiation, participation in interstate
42 compacts and multistate and interagency agreements, and litigation to induce other

1 states and entities, including the Tennessee Valley Authority, to achieve reductions in
2 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) comparable to those
3 required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
4 143-215.107D, as enacted by Section 2 of this act, on a comparable schedule. The State
5 shall give particular attention to those states and other entities whose emissions
6 negatively impact air quality in North Carolina or whose failure to achieve comparable
7 reductions would place the economy of North Carolina at a competitive disadvantage.

8 **SECTION 5.** The Environmental Management Commission shall study the
9 desirability of requiring and the feasibility of obtaining reductions in emissions of
10 oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S.
11 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S. 143-215.107D, as
12 enacted by Section 2 of this act. The Environmental Management Commission shall
13 consider the availability of emissions reduction technologies, increased cost to
14 consumers of electric power, reliability of electric power supply, actions to reduce
15 emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and
16 other entities whose emissions negatively impact air quality in North Carolina or whose
17 failure to achieve comparable reductions would place the economy of North Carolina at
18 a competitive disadvantage, and the effects that these reductions would have on public
19 health, the environment, and natural resources, including visibility. In its conduct of
20 this study, the Environmental Management Commission may consult with the Utilities
21 Commission and the Public Staff. The Environmental Management Commission shall
22 report its findings and recommendations to the General Assembly and the
23 Environmental Review Commission annually beginning 1 September 2004.

24 **SECTION 6.** The General Assembly anticipates that measures implemented
25 to achieve the reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide
26 (SO2) required by G.S. 143-215.107(a)(8a), as enacted by Section 1 of this act, and G.S.
27 143-215.107D, as enacted by Section 2 of this act, will also result in significant
28 reductions in the emissions of mercury from coal-fired generating units. The Division
29 of Air Quality of the Department of Environment and Natural Resources shall study
30 issues related to monitoring emissions of mercury and the development and
31 implementation of standards and plans to implement programs to control emissions of
32 mercury from coal-fired generating units. The Division shall evaluate available control
33 technologies and shall estimate the benefits and costs of alternative strategies to reduce
34 emissions of mercury. The Division shall annually report on its interim findings and
35 recommendations to the Environmental Management Commission and the
36 Environmental Review Commission beginning 1 March 2002. The Division shall report
37 its final findings and recommendations to the Environmental Management Commission
38 and the Environmental Review Commission no later than 1 March 2005.

39 **SECTION 7.** The Division of Air Quality of the Department of Environment
40 and Natural Resources shall study issues related to the development and implementation
41 of standards and plans to implement programs to control emissions of carbon dioxide
42 from coal-fired generating units and other stationary sources of air pollution. The

- 1 Division shall evaluate available control technologies and shall estimate the benefits and
2 costs of alternative strategies to reduce emissions of carbon dioxide. The Division shall
3 report its findings and recommendations to the Environmental Management
4 Commission and the Environmental Review Commission no later than 1 March 2002.

5 **SECTION 8.** This act is effective when it becomes law.

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Smith** (Chair) for the Committee on **Public Utilities**.

☐ Committee Substitute for

S.J.R. 1101 A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENTS OF JAMES YANCEY KERR, II AND MICHAEL SATTERFIELD WILKINS TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION AND THE APPOINTMENT OF ROBERT P. GRUBER AS EXECUTIVE DIRECTOR OF THE PUBLIC STAFF OF THE NORTH CAROLINA UTILITIES COMMISSION.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Smith** (Chair) for the Committee on **Public Utilities**.

- ☒ Committee Substitute for
S.B. 432 A BILL TO BE ENTITLED AN ACT TO ALLOW ^{Not profit} WATER CORPORATIONS
TO JOIN CERTAIN WATER AND SEWER AUTHORITIES AND CONCERNING THE
RIGHT OF SUBSEQUENTLY JOINING MUNICIPALITIES TO HAVE VOTING
MEMBERSHIP.
- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill), ☒ which changes the title,
unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

May 28, 2001

North Carolina House
Public Utilities Committee

Reference: Clean Smokestacks Bill #1015

Statement for Committee Consideration: By Bob Blankenship
PO Box 525, Cherokee, NC 28719. Phone: 828-497-9709

Mr. Chairman:

My name is Bob Blankenship. I grew up and continue to reside on the Cherokee Indian Reservation in Western North Carolina. My education consists of High School, Cherokee Indian School; BS Industrial Arts, NC State University; MBA, Western Carolina University. I am a retired Colonel from the United States Army Reserve. My occupation for the past many years has been as a farmer/ businessman. My farming activities were devoted to Christmas trees and Trout farming. My commercial developments include a large restaurant complex in downtown Cherokee, a restored log home rental complex, and a recreation vehicle park for annual renters. I have published five books on Cherokee genealogy which are sold nationwide and operate a genealogy research service. I am serving my fourth two year elected term on the Tribal Council, Eastern Band of Cherokee Indians.

My childhood was spent in the most remote section of our Reservation, in a Township called Big Cove. Big Cove is at the extreme northern portion of the Reservation, and abuts the Great Smoky Mountains National Park on the Raven Fork River.

Big Cove is important to my story as that is where it started and where it will end. In the 1950's, life was not easy in Big Cove. No one even had electricity in their homes. One was lucky to find a job making \$2.00 per day. I did the best I could and made a little money selling spring lizards to a fishing bait shop, duck eggs to my neighbors, and even set up a candy store in my Mother's living room.

In the early 50's my Mom and Dad had displayed a farm exhibit for a couple years at the State Fair. It was quite the talk of the Reservation the year they won first place. It was here that they became aware of NC State College. Even though I had gotten married in the 12th grade, they thought I should attend NC State. In 1956, with my wife and no money I came to Raleigh. We lived in the low rent housing project down here at Halifax Court and I worked a full time night job as an orderly over at Dix Hill. In 1960, I graduated from NC State, left there with a commission as a Second Lieutenant in the US Army and with my wife and by now, four kids, one for each year that I had been in college.

The subject before this committee today is of extreme importance to the people of North Carolina. The decisions you make will have a direct bearing on the health of the people,

the health of our forests, the health of our wildlife, and the health of our economic well being.

I know that by now you have heard from people a lot more knowledgeable than I in the scientific reasons for all these problems we are having as a result of sulfur dioxide and nitrogen oxide emissions, as well as ground level ozone. I hope that you have heard from Dr. Bruck over at NC State. He certainly ought to be heard by this committee. He is also featured in the documentary of Walter Cronkite "The Search for Clean Air". I would also refer you to the report of "The Year of the Mountains Commission", chaired by Hugh Morton at the request of Governor Jim Hunt.

I can tell you of my personal experience with these deadly toxins, that I simply call "Acid Rain". Our country has been in self denial for a long time. Our federal and state agencies along with private industry have just refused to accept the fact that we have a big problem on our hands. I often wondered what some of these people would say, if they could spend one rainy night with me at my trout farm, watching my fish die. I probably have more experience than anyone in this country watching Rainbow Trout die in river water swollen with Acid Rainwater.

The first time I ever heard the word Acid Rain was in the early 70's. I was working as the Tribal Planner for the Eastern Band of Cherokee Indians. Carl Lambert an elder Tribal Member and Tribal Historian came into my office and was very concerned about an article that he had read stating that there was some sort of acid in our rain-water. He said it can harm your health and it will even eat the paint off your car. He was concerned that this could be a real problem for us.

In 1980, I decided to go into Rainbow Trout farming in my home community of Big Cove. I obtained financing through the Farmers Home Administration and constructed a large trout farm and processing plant, with the capability of growing and processing 500,000 lbs of trout per year. While still under construction, in April of 1981, I had my second warning about this thing called Acid Rain. John Boaze, a US Fish and Wildlife Official assigned as an advisor to the Tribe's fishing program, came to me and said that, the night before, the Tribe had lost a substantial amount of fish in their holding ponds, as a result of Acid Rain. This facility was only ½ mile below the farm I was constructing and received its water from the same Raven Fork River. I told Boaze there was not any such thing as Acid Rain, and I remembered being skeptical of Mr. Lambert's story several years before.

About three weeks after the Tribe's so called Acid Rain kill, I moved my first batch of fish into a completed section of our new farm. We were so happy to see the fish doing so well and thriving in the clean, clear water from the Raven Fork river.

In late May 1981, my wife and I where having dinner at a restaurant in Cherokee with another old time trout farmer, Willard Woody and his wife. It had been raining rather heavily during the day on that Friday. During the course of our meal, I received a call

from my resident manager. He informed me that the fish were acting very strange. Mr. Woody went with me to the farm and we witnessed the fish hugging the side of the concrete raceways, riding high in the water, and gathering at the tail screens. Mr. Woody informed me that he had seen his fish act that way after rains falling while there was snow on the ground on his watershed.

Latter during the night the fish started to die. I got Mr. Boaze to come out. He checked the PH and told me to go get some lime and start throwing it in the water. We threw lime all night long and still lost 8,000 lb. of the very first batch of fish to be brought to Cherokee Trout Farms.

This was the start of a long education process for me that lasted 18 years. Since that kill, we have had many other kills. The largest kill being 40,000 lb. During this kill, we were using a very labor intensive liming system that I had built. It included a concrete tank and pump. Every 45 minutes we had to put in three bags of lime and stir it by hand. It was tiring to say the least. My manager thought the acid problem was over and called me stating that he was turning the pump off at 3 am and was going to bed. When I arrived the next morning, it was obvious the acid problem was not over. The whole farms was on the verge of being wiped out. The water was so acid that the fish in the fee fishing ponds were jumping out of the water on to the banks of the dirt ponds.

I wrote ever congressman, senator, and agency I knew to write. I wrote the National Park Service because the raven fork river flowed out of the Park. I wrote the Dept. of Interior, EPA, and TVA. EPA wrote back and said that my fish kills were probably associated with something in the soil and not Acid Rain. They also stated that, according to their fish expert, I was too far south to successfully grow Rainbow Trout. North Carolina, at the time, was in the record books as being the second largest producer of Rainbow Trout. Only Idaho grew more trout.

The Tennessee Valley Authority decided that they were going to study the situation. I had been pointing some fingers in the direction of their tall smoke stacks over the mountains to the west in Kinston, TN. So they set up headquarters just to the north of my farm and spent several months of the fox guarding the hen house type of studies. They concluded that the small fingerlings from my trout farm did not die when they artificially lowered the pH of their water. If they had been watching closely, they would have noted that that same size fish also was able to survive in my farm during acid events. Somehow they all crowded together on the bottom of the raceway at the point the walls met the floor. They never performed the same test on the size of fish that died during acid events. 10 to the LB fish and up where always the hardest hit.

During their investigation, TVA recorded the river on one occasion running at a PH of 3.8. Because the rainfall recorded during that event averaged 4.0 they reasoned that my problems were associated with the soils on the water shed and not Acid Rain. It was found that what little soil is left on this water shed, it is mostly granite rock, registers a

PH of 4.0. So when the rain comes down at 4.0, there is nothing up in the water shed to buffer it. Most other trout farmers have higher PH soils on their water shed.

After the TVA study was over, Bob Scott of the Asheville Citizen interviewed the manager of the project. His article was head lined "Acid Rain No Problem for Rainbow Trout". He went on to say that according to TVA that the fish kills at Cherokee Trout Farms were caused by normal, natural rainfall leaching through the decaying leaves and soils on our water shed. I was most upset at this conclusion of TVA and gave the manager a call. I asked him what was the PH of the rain fall they found in their study. He said oh from 4.0-4.2. I asked, "is that acid or not"? He replied, oh that is very acid. I said, "the next time a reporter interviews you about this study, how about telling them that you discovered that the rainfall was acid and don't report it as normal or natural rain fall". "They misquoted me", he said. I don't think so. TVA has been misquoting Acid Rain problems for a long time.

The only thing that permitted me to keep operating my trout farm was that, after many different innovations, I finally hit on a system to maintain the PH during heavy rains. This was a monitoring and pump system using sodium hydroxide instead of lime. Not labor intensive, but it had to be properly calibrated and watched for any malfunctions. This was a life saver for us.

About two years ago, I leased my trout farm to another trout farmer. This past January, I received a call from the on site manager stating that the owner was out of town, and that he was having a heck of a time trying to control the PH. The equipment didn't appear to be working right and the fish were all stressed out. I went to the farm and saw immediately that the equipment had malfunctioned and he had no way of telling whether the PH was low or whether he had pumped too much sodium hydroxide and got it too high.

I went to my cabin in Big Cove and got my swimming pool chemical test kit. By setting a continuous small flow of sodium hydroxide and checking every 30 minutes with the pool kit, we were able to keep the water in some sort of balance until the river recovered from its very acid condition. Luckily, the farm got away with only a 11,000 lb loss.

Mr. Chairman, I would say that over the 18 year period that I personally operated Cherokee Trout Farms, I lost over 500,000 lbs of Rainbow Trout with a value of over \$800,000.00. But, that is not all one on a trout farm loses during an acid kill. During an acid event, feeding of the fish must stop for an average of 3 days. So we lose three days of growth at the rate of 1500 lbs per day. This 4500 lbs of lost production is valued at \$5600.00 per event. At the rate of 8 acid events per year, we have an annual loss of \$45,000.00 just from lack of production. In the event of a kill we have extreme wear and tear on our personnel. They have to work day and night to clean up the mess and at the same time process orders for our customers. It is a tremendous interruption of our normal operations and is not a pleasant time to be around the farm.

The losses at my trout farms from acid rain amounted to around \$90,000.00 per year over the 18 year period. This is a heavy loss for a firm that was only generating \$800,000.00-\$1,000,000.00 per year in sales. My annual electric bill at the farm was somewhere around \$9,000.00 per year. I would have rather paid a much higher electric bill in order not to deal with acid rain. In addition to not having the economic loss, the stress on my employees, my family, and myself would have been greatly reduced. We had to worry about every weather front that came through and how much rain we were going to get out of it. My family and I could not even be out of town without watching the weather forecasts. If an acid event happened while we were out of town, it caused us great concern not knowing exactly what was going on with the fish and the acid control system.

A few years ago, Mr. Hugh Morton of Grandfather Mountain spoke to us at the annual meeting of the Cherokee Historical Association. For the first time, I saw someone publicly pointing out the damages from Acid Rain, other than myself. Mr. Morton showed us all the trees dying up on Mt. Mitchell. I am sure that you have by now seen the same presentation. After the meeting, I introduced myself to Mr. Morton and related to him all the problems I had been having with my fish due to Acid Rain. Now, as I drive along the Blue Ridge Parkway from Cherokee to Soco Gap I see the White Pine trees right along the road dead. I understand that all the White Pine trees will die in the mountains due to some insect or disease, just like the Chestnut tree did. What a mess and loss to our people this is going to be. When I see these dead trees, I think back to Hugh Morton being confronted with opposition saying that the dying trees on Mt. Mitchell were the result of the Balsam Woolly Aphid and not Acid Rain or ground level ozone. It makes me wonder how much the White Pine trees have been weakened, damaged, or killed by Acid Rain. How many other trees and plants are being killed by acid rain. Can you imagine what would happen to our wild life if the acorn bearing Oak tree were to be wiped out. It disturbs me that I see other variety of trees dying in rapid order along the Raven Fork river in Big Cove. In my RV park, it appears that the water loving Sycamore will all be dead within a couple years. I wonder if they just don't like the acid water anymore. I see Hemlock dying along the river but not on the mountains. I wonder is this acid water related.

Mr. Chairman, the question is, "Can we afford the cost it is going to take to clean up this mess"? My answer, Mr. Chairman, is that we can not afford not to clean up this mess. We can wait no longer. We must invest whatever it takes. Our plant life, our wildlife, and our people's health are counting on us to do what is right.

Mr. Chairman, we can not afford to lose anymore of our trees. We must stop the damage from Acid Rain before the Great Smoky Mountains turn into the Great Eastern Rocky Mountains. Please recommend approval of this Bill. The people will thank you.

My name is TERRY PRATT
 PRESIDENT ALBEMARLE FISHERMEN'S ASSOC.
 Bertie County

I'm a full time commercial fisherman. I reside in I spend X days on the water each
 180
 year. In the last decade, I've seen a growing concern over mercury pollution in our
 coastal waters.

Today, I'd like to talk about how S 1078 can help benefit the fisheries industry....

There are a few things experts tell us about mercury contamination:

- Power plants contribute 65% of the mercury emissions in the state; they are the largest industrial source of mercury emissions in the state and the nation, according the NC DENR and EPA.
- Mercury is dangerous in very small quantities: Less than a teaspoon of mercury can poison a 25-acre lake to the point where the fish are considered unsafe to eat by the FDA. The National Academy of Sciences and others say mercury poisoning can lead to neurological disorder in newborns.
- NCDHHS has issued advisories in 13 different counties in Eastern North Carolina waters that advise women, children, and sometimes even normal healthy adults AGAINST eating certain fish like largemouth bass and bowfin. The NCDHHS

and FDA also recommends that certain populations avoid eating any king

mackerel that's caught off the Atlantic Coast.

Also NOX and SOX contribute to acid rain that can drastically affect juvenile fish in the nursery areas of Eastern N.C.

These facts concern me greatly. They also don't bode well for the long-term health of commercial fishing in North Carolina.

fishing

Commercial fishing is an important part of Eastern North Carolina's economy. In 2000, we

7000 COMMERCIAL FISHERMEN provided ~~X~~ jobs and contributed over ¹⁰⁸~~100~~ million dollars to the region's economy. *in 19 coastal counties*

27,500
The total dollar ~~fig~~ impact to N.C. from commercial + recreational fishing is 1 billion.

Even more, fishing is an important part of life in Eastern NC. [Personalize this section,

40 yrs no increasing difficulty
talk about what it means to be a fisherman, how it is perceived in the community, etc].

If people are going continue to buy fish, they have to have the confidence that the fish for sale is safe for them to eat in the short term. Furthermore, we in the business need to have the confidence that we're going to have a supply of healthy fish to sell to folks for years down the road.

So, if NCDHHS is telling folks that fish isn't safe to eat in Eastern North Carolina, that obviously affects my business in the short term. For example, the real and perceived threat from flooding from Hurricane Floyd, Dennis, and Irene in 1999 played a roll in causing commercial fishing sales to dip below the 100 million dollar mark that year—the first time in 5 years.

In the long term, we need to figure out how to limit mercury emissions so folks won't be worried about the health of the fish they're eating. AND we need to limit mercury emissions so that we in the fisheries business will have the confidence that we can be around for a long time. There's no reason why fishing can't continue to be a mainstay of Eastern NC's economy.

I've been told that S 1078 could reduce mercury emissions from power plants by as much as 66%. Clearly, these reductions will be critical for long-term well-being of commercial fishing in North Carolina and the long-term health of the fish we depend on for our livelihood.

For the protection of public health, the environment, and the commercial fishing industry, we need to start reducing mercury pollution now. Please support S 1078....

TERRY PRATT
1435 NC 45N
MERRY HILL, N.C. 27857

252-356-2267

Avram Friedman, Statement Before The Public Utilities Committee 5/29/01

Chairman Smith and members of the committee, thank you for giving me this opportunity to speak to you on behalf of the Canary Coalition.

You may not know anything about the Canary Coalition, so I'd like to explain who we are what we're doing. The organization derives its name from the canaries that were used in coal mines to warn miners when a pocket of lethal gas was uncovered and the air became dangerous to breath. When the canary died, they knew it was time to evacuate the mine. The Canary Coalition organizes public educational forums and advocates for governmental policies that would improve air quality. People join the Canary Coalition because they feel as if, by breathing the dense air pollution, they are as a canaries in a coal mine, and they want to join in a concerted effort by the community to bring clean air back to intensely polluted areas of our state.

You may believe that an organization like the Canary Coalition would have little support in the mainstream community. I can dispel that misconception quickly. Our membership consists of businesses, doctors, religious leaders, local government officials, and many other individuals.

This is a copy of the minutes of the March 20th meeting of the Jackson County Board of Commissioners in which they voted unanimously to support the efforts of the Canary Coalition.

This is a copy of a letter of gratitude to the Canary Coalition for its activities from the Jackson County Economic Development Commission.


These are copies of resolutions initially offered by the Canary Coalition and passed unanimously by the Commissioners in Haywood, Swain and Jackson counties, and the town of Sylva, urging all state legislators to vote for HB 1015, and SB 1078, or the Clean Smokestacks Bill now before you.

This is the editorial of the March 1st issue of the Sylva Herald, the conservative local Jackson County newspaper that has been published since 1926. The headline reads, The Canary Coalition Deserves Our Support. It begins, "With the advent of the Canary Coalition, Jackson County and Western North Carolina have a local advocate for cleaner air, a concern mentioned at every Smart Growth meeting held so far. Our region is experiencing serious problems that can be traced directly to air quality. WNC has soaring incidences of child asthma attacks and other pulmonary diseases that can be linked to ground level ozone and particulate matter inhalation. We'd like to add our own written endorsement to those the Canary Coalition has already received. Groups like the Chamber of Commerce, Travel and Tourism Authority and Sylva Partners in Renewal have all lined up behind the grassroots clean air movement, and they are right to do so. People in other regions don't realize the gravity of the problem in WNC."

Chairman Smith and members of the committee, we have a real problem. The lungs and respiratory systems of our children and our elders are being damaged. And ozone and particulate sulfur dioxide are not so good for the rest of us either. Those aren't vitamins coming out of the smokestacks of the fourteen coal-fired power plants in North Carolina. Our trees are dying. Our economy is harmed by air pollution. When someone who owns his or her own business, or an employee, has to stay home from work because a child couldn't go to school due to an asthma attack, that hurts. It's bad for business. And this is not an uncommon occurrence in western North Carolina.

There is no reasonable excuse for continuing to treat people as canaries are treated in coal mines. People's health cannot be knowingly sacrificed for the sake of saving money for certain industries.

We who feel as if we are being treated as canaries in a coal mine want and expect our state government to do what is necessary to begin solving this problem. To protect the people who are suffering from the affects of the air quality crisis in this state. You know, sometimes canaries wear suits and ties. Sometimes they even get elected to public office. They have vulnerable children and elders to protect. We want you Chairman Smith and members of this committee to vote the Clean Smokestacks Bill out of this committee intact, in this session, where it can be voted on by the full House and signed by the Governor. We can't wait for another session. Thank you.

Posted: 3/21/01
Time Posted: 4:00 p.m.
Posted By: Glenda Moody
Witnessed By: 

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
MARCH 20, 2001**

The Jackson County Board of Commissioners met in a Regular Session on Tuesday, March 20, 2001 at 7:00 p.m. in the Boardroom, Justice & Administration Building, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Jay A. Denton, Chairman
Stacy Buchanan, Commissioner
Conrad Burrell, Commissioner
Roberta Crawford, Commissioner
Diane Sherrill, Alternate Attorney
Darlene Fox, Clerk to the Board

Absent: Franz Whitmire, Commissioner
Raymond Large, County Attorney

Chairman Denton recommended adding item 17-Fire Department Radio Committee and item 18-Audit Report FY 1999-2000 and Closed Session pursuant to G.S. 143-318.11(a)(5) Real Property. Chairman Denton moved to approve the amended Agenda. Motion carried by unanimous vote.

MINUTES: Commissioner Buchanan moved to approve the Minutes of the Bid Opening of March 1, 2001, the Regular Meeting of March 1, 2001, the Special Meeting of March 2, 2001, the Bid Opening of March 6, 2001, the Bid Openings of March 8, 2001, and the Bid Opening of March 15, 2001. Motion carried by unanimous vote.

INFORMAL COMMENTS BY THE PUBLIC: None

ADMINISTRATIVE REPORTS

(1) CHAIRMAN'S REPORT: Chairman Denton reported that on April 2, 2001 the Webster Postmaster will hold a ceremony on Diabetes Awareness. Denton will be proclaiming the week of April 2-7 as Diabetes Awareness Week.

Areas have been identified to make cuts for the budget shortfall. Departments will be notified of the reductions.

Details are being worked out on the C&D transfer station.

Denton reported bids were received and rejected for the Scotts Creek School furniture. The bids did not contain bid deposits. Only two bids were received for the Library furniture. Both will be re-bid on April 2, 2001 at 2:00 p.m.

Kevin Jamison has reported to work as the GIS Technician. Denton encouraged the Board members to go by the Land Records Office to view the touch screen for GIS.

(2) FEBRUARY TAX COLLECTION REPORT: Commissioner Burrell moved to approve the February Tax Collection Report. Motion carried by unanimous vote.

(3) FEBRUARY FINANCIAL REPORT: Commissioner Burrell moved to approve the February Financial Report. Motion carried by unanimous vote.

(4) TELEWORKING UPDATE: Bob Cochran presented on update on the Teleworking Pilot Project. The program was initiated on December 18, 2000. Cochran is pleased with the progress and amount of work being done. It has improved productivity and is working for both participants. He expressed appreciation to the Board for their support of the pilot project.

UNFINISHED BUSINESS

(5) APPOINTMENTS: (a) Board of Equalization and Review - Commissioner Buchanan moved to appoint Tom Crites, Arlie Moss, Richard Wilson, Gail Cooper and Rogers Shelton for a one year term to the Board of Equalization and Review. Motion carried by unanimous vote.

(b) Region A Aging Advisory Council - Chairman Denton moved to table the appointment for the Region A Aging Advisory Council. Motion carried by unanimous vote.

(6) CANARY COALITION: Chairman Denton moved to make a motion in support of the Canary Coalition's efforts to bring clean air to the Smoky Mountain region. Motion carried by unanimous vote.

(7) SMH GYM BLEACHERS AND STEAM PIPES: Commissioner Buchanan moved to award the bid for new motorized bleachers to Quality Floor Service, Inc. at \$95,850 and to Brevard Electric at \$5,620, for a total of \$101,470. Motion carried with Chairman Denton voting nay.

Clarence Hubbell presented an overview of the steam piping replacement project. He went over the scope and recommended that Cort work up bid specifications to replace all piping in the boiler room, gymnasium, locker rooms, the main pipe tunnel from the boiler room to the Chemistry/Art room addition, the Band Room, and the shop classrooms at the end of A building.

NEW BUSINESS

(8) JAIL PROJECT ORDINANCE AMENDMENT: Commissioner Buchanan moved to approve the jail project ordinance amendment and the budget ordinance amendment. Motion carried by unanimous vote.

(9) CRIMINAL JUSTICE PARTNERSHIP PROGRAM GRANT:

Commissioner Burrell moved to approve the Criminal Justice Partnership Program Grant in the amount of \$54,968. Motion carried by unanimous vote.

(10) HOOPER HOUSE FOUNDATION GRANT:

Commissioner Buchanan moved to adopt the resolution and accept the enhancement grant for the Hooper House in the amount of \$113,054 contingent upon an agreement to collaterally contract with the Hooper House Foundation to indemnify and protect the County and to authorize Chairman Denton to sign said agreement. Motion carried by unanimous vote.

(11) VOTING MACHINE LEASE:

Chairman Denton moved to suspend the rules and delete item 11. Motion carried by unanimous vote.

(12) AWARD OF BID-JAIL PROJECT:

Commissioner Buchanan moved to award the following contracts for the jail project:

General Construction	H&M Constructors	\$3,278,000
Plumbing	Price & Price	348,000
HVAC	Interstate Mechanical	423,264
Electrical	M.B. Haynes	913,000

Motion carried by unanimous vote.

Chairman Denton moved to suspend the rules and moved item 17 forward. Motion carried by unanimous vote.

(17) FIRE DEPARTMENT RADIO COMMITTEE:

Darrell Woodard requested the contract for the fire radio system be awarded to Western Carolina Communication. The radio committee felt the service provided by Western Carolina Communication should be considered. They also felt Whitley's bid did not meet the specifications and was vague. Woodard asked the references be checked on each company. He questioned the legality of the letter presented by Whitley's Communication.

(13) AWARD OF BID-RADIO SYSTEM:

Commissioner Buchanan moved to table the award of bids to allow legal counsel to review and make a recommendation at the next meeting. Motion carried with Commissioner Buchanan voting nay.

(14) AWARD OF BID-TOWER:

Upon the recommendation of Mike Ensley, Commissioner Buchanan moved to award the bid for a Rohn 55G tower to Whitley's Communication at \$3,795. Motion carried with Commissioner Crawford voting nay.

(15) AWARD OF BID-JAIL FURNITURE:

Upon the recommendation of Andy Evans of Barge, Waggoner Sumner & Cannon, Inc., Commissioner Burrell moved to award the bid to Klingman Williams at \$78,322.27. Motion carried by unanimous vote.

706

(16) AWARD OF BID-GROUNDS BUILDING: Commissioner Buchanan moved to reject all bids for the grounds maintenance building and to allow the grounds department to occupy the Western Builders building. Motion carried by unanimous vote.

(18) AUDIT REPORT-FY ENDING JUNE 30, 2000: Commissioner Burrell moved to accept the audit report for the fiscal year ending June 30, 2000. Motion carried by unanimous vote.

Chairman Denton moved that the Board go into Closed Session pursuant to G.S. 143-318.11(a)(6) Personnel-and G.S. 143-318.11(a)(5) Property. Motion carried by unanimous vote.

Chairman Denton called the Open Session back to order and stated that the closed session for personnel was for the evaluation of the County Manager at the request of the County Manager. No action was taken during the Closed Session.

There being no further business, Commissioner Burrell moved the meeting be adjourned. Motion carried by unanimous vote.

Attested by:

Approved:

Darlene Fox, Clerk

Jay A. Denton, Chairman

OFFICE OF
COMMISSIONERS OF JACKSON COUNTY



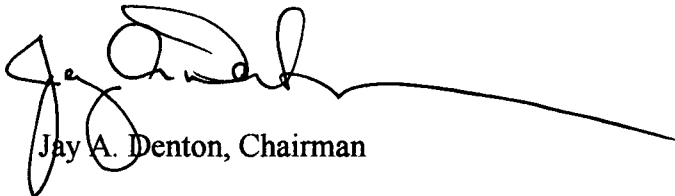
BOARD OF COMMISSIONERS

JAY DENTON, Chairman and County Manager
STACY BUCHANAN, Vice Chairman
CONRAD BURRELL
ROBERTA CRAWFORD
FRANZ WHITMIRE

401 GRINDSTAFF COVE ROAD
SYLVA, NORTH CAROLINA 28779
(828) 586-7580
FAX (828) 586-7528
E-Mail: JacksonCoMgr@southwest.cc.nc.us

May 25, 2001

On May 20, 2001, the Jackson County Board of Commissioners, in a regular scheduled meeting, voted unanimously to support the Canary Coalition's efforts to bring clean air back to the Smoky Mountains region.



Jay A. Denton, Chairman

**ECONOMIC DEVELOPMENT
COMMISSION of JACKSON COUNTY**

**P. O. Box 761
Sylva, NC 28779
Tel: (828) 227-7059
Fax: (828) 227-7422
mcclure@wcu.edu**

**Officers
Thomas McClure, Chairman
Mark Leonard, Vice Chairman
Wendy Cagle, Treasurer**

CONFIDENTIAL

May 24, 2001

**Avram Friedman
Canary Coalition
PO Box 653
Dillsboro, NC 28725**

Dear Avram,

The Economic Development Commission of Jackson County appreciates the Canary Coalition's efforts to improve air quality in Jackson County and Western North Carolina. The commission shares your concerns and interest in improving the air quality that is essential for the health and welfare of our citizens.

We encourage your good work in getting the word out on this important issue.

Sincerely,

Tom McClure
Tom McClure

Representing

***A Resolution Concerning the
North Carolina Clean Smokestack Act By
The Board of Commissioners of Jackson County, North Carolina***

Whereas coal will be an important source of energy for North Carolina for years to come;
and

Whereas North Carolina power plants burn 32 million tons of coal every year and are the state's single largest point sources of air pollution; and

Whereas particulate matter, a smokestack pollutant, is responsible for 1800 premature deaths in North Carolina annually; and

Whereas power plants are primarily responsible for haze that has degraded visibility by 80% during the summer in the North Carolina mountains; and

Whereas the Great Smoky Mountains National Park is now considered the most polluted national park in America because of air pollution, and

Whereas ozone, a power plant pollutant, is responsible for crop damages well over \$175 million dollars annually; and

Whereas North Carolina's fresh and saltwater fisheries are being seriously contaminated by mercury, making several species of fish too poisonous to eat; and

Whereas technologies are available which can reduce nitrogen oxide, sulfur dioxide, and mercury pollution from power plants by more than 80% while increasing utility costs 5% or less; and

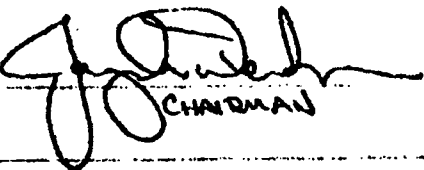
Whereas adoption of strong clean air legislation would allow North Carolina to take legal action against other states whose pollution impacts North Carolina,

Therefore Be It Resolved That

in order to protect public health, promote a vibrant economy, and conserve our natural environment, the Jackson County Board of Commissioners supports the standards recommended by the North Carolina Clean Air Coalition in the passage and implementation of a North Carolina Clean Smokestacks Act. We urge all legislators from the mountains and across the state to actively support and vote in favor of this critical legislation.

Adopted this 1st day of March, 2001

Signed


CHAIRMAN

Address 401 Grindstaff Cove Road, Sylva, NC

Phone 828-586-4055, e-mail jaydenton@jacksonnc.org

***A Resolution Concerning the
North Carolina Clean Smokestack Act By
The Town of Sylva, North Carolina***

Whereas coal will be an important source of energy for North Carolina for years to come;
and

Whereas North Carolina power plants burn 32 million tons of coal every year and are the
state's single largest point sources of air pollution; and

Whereas particulate matter, a smokestack pollutant, is responsible for 1800 premature
deaths in North Carolina annually; and

Whereas power plants are primarily responsible for haze that has degraded visibility by
80% during the summer in the North Carolina mountains; and

Whereas the Great Smoky Mountains National Park is now considered the most polluted
national park in America because of air pollution, and

Whereas ozone, a power plant pollutant, is responsible for crop damages well over \$175
million dollars annually; and

Whereas North Carolina's fresh and saltwater fisheries are being seriously contaminated by
mercury, making several species of fish too poisonous to eat; and

Whereas technologies are available which can reduce nitrogen oxide, sulfur dioxide, and
mercury pollution from power plants by more than 80% while increasing utility
costs 5% or less; and

Whereas adoption of strong clean air legislation would allow North Carolina to take legal
action against other states whose pollution impacts North Carolina,

Therefore Be It Resolved That

in order to protect public health, promote a vibrant economy, and conserve our natural
environment, the TOWN OF SYLVA supports the standards
recommended by the North Carolina Clean Air Coalition in the passage and
implementation of a North Carolina Clean Smokestacks Act. We urge all legislators
from the mountains and across the state to actively support and vote in favor of this
critical legislation.

Adopted this 5th day of APRIL, 2001

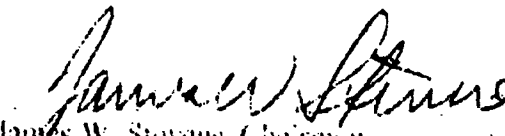
Signed Brenda A. Oliveri

Address 83 ALLEN ST. SYLVA, NC 28779
Phone 586-2719 e-mail _____

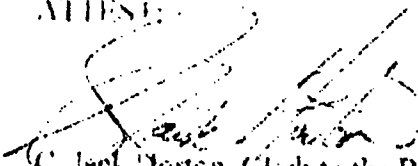
**RESOLUTION
HAYWOOD COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
APRIL 16, 2001**

- WHEREAS,** many of our local citizens are concerned about the deterioration of air quality in the mountains both from a health and aesthetic standpoint; and
- WHEREAS,** various environmental groups have requested the imposition of standards recommended by the North Carolina Clean Air Coalition; and
- WHEREAS,** all fifty (50) members of the North Carolina Senate signed a letter to President George W. Bush, a copy of which is attached hereto as Exhibit A, urging that strong measures be put in place to reduce nitrogen oxide and sulfur dioxide emissions from coal-fired TVA power plants, such sources being the primary culprit involved with the deterioration of mountain air quality; and
- WHEREAS,** although the TVA plants are the primary culprit and North Carolina coal-fired power plants have little impact on the quality of mountain air, all interested parties agree that North Carolina should adopt strong clean air standard as a prerequisite to requiring similar standards from neighboring states; and
- WHEREAS,** Senate Bill 1078 sponsored by Senator Steve Metcalf of Buncombe County is supported by the Haywood delegation to the Senate and is not opposed by the investor-owned utilities, will require reductions in SO₂ and NO_x emissions that will be the most stringent in the country; and
- WHEREAS,** House Bill 1015 co-sponsored by Representative Martin Nesbitt of Buncombe County and Representative Phil Haire of Jackson County, is identical to Senate Bill 1078, and is also supported by the entire Haywood County delegation; and
- WHEREAS,** the North Carolina General Assembly has adopted the Ambient Air Quality Act, imposing strict standards on motor vehicle emissions; and
- WHEREAS,** Senator Dan Robinson of Jackson County was co-chair of a study commission on improving mountain air quality and strongly favors pursuing remedies against TVA and the Federal government.
- NOW, THEREFORE, BE IT UNANIMOUSLY RESOLVED,** upon motion of Commissioner Er Loe that the Haywood County Board of Commissioners endorses the letter to President Bush together with requested action against TVA, and also supports Senate Bill 1078 and House Bill 1015.

Adopted this 16th day of April 2001.


James W. Stevens, Chairman
Hollywood County Board of Commissioners

ATTEST:


C. Jack Horton, Clerk to the Board

A Resolution Concerning

North Carolina Clean Smokestack Act By The Board of Commissioners of Swain County, North Carolina

1. *Whereas* electricity and other energy is essential for the people of Swain County and coal will continue to be a primary source of energy for North Carolina for years to come; and
2. *Whereas* North Carolina power plants burn 52 million tons of coal every year and are the state's single largest point sources of air pollution; and
3. *Whereas* the various air quality combinations of natural and man-made emissions in the atmosphere are believed to be harmful to the public health; and
4. *Whereas* tourism, created largely by the scenic beauty of our region, is the largest single engine in the economy of southwestern North Carolina. Here that has degraded visibility during the summer in these mountains is the result of air pollution from power plants, manufacturing plants and other sources in the southeastern United States; and
5. *Whereas* the health of people in this county is threatened by the high levels of air pollution in the region, which is a national problem, and the high pollution levels are a quality burden on the people of this county; and the health of people in this county is considered to be a public health problem; and
6. *Whereas* air pollution from mobile sources, power plants, and other industry is known to be a major cause of ozone formation and concentrations that may at times be harmful to public health and that may contribute to vegetation damage or reduced crop yields; and
7. *Whereas* the use of catalytic converters can reduce nitrogen dioxide emissions from cars from present levels of more than 80%; and
8. *Whereas* the use of catalytic converters will not only reduce nitrogen dioxide emissions but also reduce other pollutants from cars, which are a major source of air pollution in North Carolina.

Therefore, *Resolved*, That:

It is the policy of the Board of Commissioners to preserve our natural environment. The Board of Commissioners supports legislation that requires substantial reductions in emissions of pollutants and encourages all legislators from all counties and across the state to support legislation in favor of this critical legislation.

Adopted this _____ day of _____, 1991.



Att. 4

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

S1078-ARL-11 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 2

Date _____, 2001

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Representative *Smith*

1 moves to amend the bill on page 4, lines 17 through 39 by rewriting those lines to read:

2

3 "§ 62-133.6. Environmental compliance costs-recovery.

4 (a) As used in this section, the term "environmental compliance costs" means
5 only those costs prudently incurred between July 1, 2001 and June 30, 2014 by an
6 electric utility to comply with oxides of nitrogen (NO_x) and sulfur dioxide (SO₂)
7 standards adopted pursuant to G.S. 143-215.107D that exceed the costs required to
8 comply with the revisions to the State Implementation Plan (SIP) to reduce emissions
9 of oxides of nitrogen (NO_x) pursuant to the final notice published by the Administrator
10 of the United States Environmental Protection Agency at 63 Federal Register 57491
11 (October 27, 1998) and codified at 40 Code of Federal Regulations § 51.121 (July 1,
12 2000 Edition).

13 (b) The Commission shall allow each electric utility to recover its just,
14 reasonable, and prudently incurred environmental compliance costs through an
15 environmental compliance costs-recovery factor that is separate from the electric
16 utility's base rates, and that is fair to ratepayers and the electric utility, and in the public
17 interest.

18 (c) The Commission shall hold a hearing and set the environmental compliance
19 costs-recovery factor for each electric utility in a manner that allows the electric utility



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1078-ARL-11 [v.2]

Page 2 of 2

1 to recover its projected environmental compliance costs through a levelized rate over a
2 period of time not to exceed 13 years beginning July 1, 2002. Every two years after the
3 Commission first sets the environmental compliance costs-recovery factor, the
4 Commission shall hold a hearing and adjust such levelized rate to incorporate the
5 experienced under-recovery or over-recovery of the electric utility's environmental
6 compliance costs incurred during the previous two years and any revisions to the
7 electric utility's projected environmental compliance costs. If either of the last two
8 adjustment proceedings, or both of them, results in an increase in the environmental
9 compliance costs-recovery factor that the Commission determines to be so high that
10 recovering it within the time allowed in this subsection would be against the public
11 interest, the Commission may extend the recovery period for a time not to exceed three
12 additional years.

13 (d) The Commission shall adopt rules to implement this section."
14

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

05/29/01

Public Utilities

Lana Blankenship

Tavis Blankenship

Cory Blankenship

Auram Friedman

Zev Friedman

Candice Carr

Ralph B. Montee

Bob Blankenship

Heather Doherty

MICHAEL S. HUBBARD

Mike Kiltie

Sally Hunter

Tom Newsome

Sharon Miller

Terry Pratt

Ken Melton

Katherine Joyce

Shirley Kesterson

Liz McKellen

Maria Smith SKB

Gary Scharis GSK

James Bell NCMA

Chad Comer

John Cyrus - n.e. change

Alice Parlane Electricities

KEN KASOR ELECTRICIANS

Drew Nelson Rep. Hackney

Steve Woodson NCFB

Harvard Ayres App Voices

Elizabeth Ouzts NCPIRG

Ross of Smith PCS PHOSPHATE

David Knight Smoke Club

Nat Muel CCMF

MICHAEL SHORE

Brock M Nichols

Laura Peltus

Alan Klinek DENR-DNR

Kim Hibbard NCLM

Bill Wilson NCATL

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**May 29, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**Confirmation of Governor's Appointments to the Utilities Commission
Mr. James Yancey Kerr, II
Mr. Michael Satterfield Wilkins**

**S432 – WATER AND SEWER AUTHORITIES
Sen. John Kerr**

**SB 1078 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sen. Steve Metcalf
Continued Discussion**

ADJOURNMENT

Kelli Wilkins
Ann Ann Cee
Bob Stoyan
Susan Harrison
Joyce Peters

PEERI MORGAN

Estherine Davis

Chas M. Cule

Michael Thompson

Bryan Boush

Nancy Thompson

Delvick Bryan

Becki Dray

R Rogers

Alan Bygg

Michelle Cook

DuPont

NCAABC

NC Forestry Assoc.

WCPS

JPASS/afus

NFIB

Electricities

Glen Roren

Dominion NCPower

CP&L

MCIC

Arner Lutzgasson, DMC

House Minority Leaders
office

DEIR

Sac on State

Weyerhaeuser

**Minutes
House Committee on Public Utilities**

May 29, 2001

31

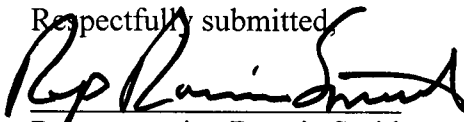
The House Committee on Public Utilities met Thursday, May 31, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Allred, Brubaker, Coates, Culpepper, Edwards, Grady, McCombs and Rogers. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

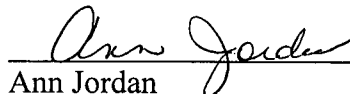
Chairman Smith recognized Mr. William Johnson, Executive V.P. for Progress Energy to speak on SB 1078. All of his remarks are included in Attachment 1. A brief period of questions and answers followed his presentation.

The meeting adjourned at 11:00.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**May 31, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 1078 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sen. Steve Metcalf
Continued Discussion**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Thursday, May 31, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1078 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES
Sponsor Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith

Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m., May 29, 2001.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

Comments on SB1078/HB1015
William D. Johnson

Thank you for the opportunity to speak on Senate Bill 1078. The policy question facing the General Assembly is whether it should mandate substantial reductions in power plant No_x and SO_2 over the next decade or so. This is a difficult question, and I'm sorry that I can't be of much help on the issue of whether you should mandate those reductions.

As regulated power plant operators, our obligation is to meet the standards imposed by law or regulation in the most cost-effective manner. The EPA, various environmental groups, and even some states are suing utilities and others over the issue of emissions. I don't think it would serve any useful purpose for us to take a position on whether current emission levels are adequate or not. It would probably lead to more litigation, regardless of the position we took.

But I am here to tell you that if you do decide that lower emissions is a priority for the state, the mechanisms in the current bill are the best way to achieve this goal. The current bill provides the cheapest and fastest way of reducing those emissions while having the least impact on reliability of the electric system.

I am also here to tell you that the Amendment distributed on Tuesday would make it impossible for us to undertake the program. Under that Amendment, we would be unable to raise capital to make the changes to the plants and it has the potential to bring significant adverse financial consequences. I'll talk more about the Amendment in a minute.

First, though, let me acknowledge that the proposal is a costly one and would have an impact on electric customers. We are concerned about this – we recognize that the health of our business is directly related to the economic health of our customers.

But if you want new emission standards, this will require utilities to expend a lot of capital and this will lead to cost increases. This bill will have the least cost impact because the utilities are foregoing any opportunity to earn any money – foregoing any profit – on the investment of this capital.

Under state law, our electric rates are set in a general rate case, where two basic things happen:

First, the O&M expenses of the utility are identified. Utilities are allowed to recover their prudent O&M expenses at cost – there is no markup on profit on these.

Second, to pay back investors and attract capital, utilities are allowed the opportunity to earn a return – to make a profit – on the capital they invest. This is the one and only source of profit for the utilities, and the second part of the rate case determines what level of profit the utility should have the opportunity to earn.

And we earn a return – or profit – on the capital we invest over the life of the asset – typically 30 to 40 years.

A big exception to this rule is how utilities recover fuel cost. Fuel expense is recovered every year in a fuel proceeding before the NCUC. Fuel is our biggest expense of operation, and this General Assembly saw the wisdom years ago of treating fuel differently from other utility expenditures. It is treated differently precisely because of the large cost impact it has on rates.

Under traditional ratemaking, the capital invested in lowering the emissions under this bill would be treated in the second part of the rate proceeding. The main issue would be how much profit to allow the utility. SB 1078 changes this by treating that capital generally the same way we treat fuel expense – recovered at no profit in annual proceedings

before the NCUC, which scrutinize costs to make sure nothing wasteful or imprudent was done.

Why are we willing to give up the right to earn a return on the capital required by this proposal? Two basic reasons:

1. We were asked if we could do so, as sort of our contribution to lessening the cost impact – it will certainly be cheaper if we don't earn a profit on it.

2. We believe the only way to achieve the emission reductions on the proposed schedule without affecting reliability is for us to be able to pay for the program on an annual basis. We need to be able to turn capital over on a yearly basis, not invest it for 30-40 years, if we are to meet this schedule.

A general rate proceeding typically takes the better part of a year to complete, excluding appeals on other events, so we will always be at least a year in arrears in beginning to recover our costs.

Also, as I noted earlier, in a rate case we do not get our capital back all at once – rather, we get it back over 30 to 40 years. So we would have to raise large amounts of additional capital ever year for both this program and in order to build the new plants and other facilities we need to keep the lights on.

Frankly, we question whether we can raise large incremental amounts of capital on reasonable terms to do both these things at the same time. If we fall behind either in pushing successful rate cases through to completion or in raising capital, our ability to reduce emissions and keep the lights on simultaneously would be jeopardized.

Some people have said that we should only seek to lower emissions if the costs are recovered through general rate cases. I do not think we can accomplish the task in that manner. In addition, there is

simply no need for a rate case. The NCUC will identify the costs and scrutinize their recovery -- step 1 of a rate case; and there is no request for a profit -- so there is no need for part 2 of a rate case.

I think perhaps what the rate case proponents really hope is that, if there is a rate case, the NCUC would reduce existing rates or shift costs enough so that the new expenditures would not increase rates.

The underlying assumption of course, is that the utilities are earning too much money and we can just make them eat the costs of the emissions. I have 2 responses to that:

(1) We are not over earning -- we file monthly reports with the NCUC on our earnings, the reports are public, and anyone who reviews them will see that we are not overearning.

(2) If there is a concern of overearning, don't mix it up with this emissions bill. The NCUC already has the power to revise rates if there is any evidence of overearning. Any customer can file a complaint if there is evidence of overearning. So if this is a problem, it can and should be dealt with separately from the air bill. If we combine the two, I believe the combination will be a nightmare for the state. And it certainly will cost more for everybody in both the short and long run.

Another statement I have heard is that the utilities should have to share in the costs of the program. This appears to me to be simply another argument designed to derail the bill, but the argument has no merit at all. The facts are that: (1) We have to spend about \$400 million on emission reductions before this bill would kick in -- we will have to find a way to deal with that \$400 million. (2) We are already foregoing the opportunity to earn any profit at all on these expenditures. (3) There is more than 100 years of U.S. Supreme Court law that says it's unconstitutional to refuse to allow utilities to recover costs imposed by a governmental body. There simply is no justification for the "cost sharing" exception to the bill.

This brings me to the Amendment that was handed out on Tuesday. As Mr. Rose explained, the Amendment has 2 essential parts. First, it levelizes or smoothes out the recovery of costs over the 13-year period, instead of the varying actual cost levels of each year. We have no problem with this concept.

We have a substantial problem with the second part, however; that part allows the NCUC to “allocate” costs to customers other than the retail customers of the North Carolina utilities. Mr. Rose stated that only 60 percent of the output of the plants in North Carolina is used by N.C. customers. We have gone back and looked at this, and our figures show that 97% of CP&L’s energy produced in N.C. is used by N.C. customers. Seventy-five percent of our power in N.C. is used by retail customers over whom the NCUC has jurisdiction.

About 25% of our energy is used either by coop or muni customers or by retail customers in S.C. And what is meant by “allocation” is that the NCUC could “shift” that 25%, and perhaps whatever percent it wanted, to customers in S.C. and elsewhere.

The problem with this is that our ability to recover the costs from those customers is questionable. For example, some of the wholesale customers we serve (coops and munis) have long-term contracts that don’t permit us to pass on these costs. And whether we can pass on costs to retail customers in South Carolina is questionable; certainly, if S.C. passed this bill and the NCUC didn’t want to pass on the costs to N.C. customers, the N.C. Supreme Court has said that the NCUC can do so. See state ex rel. Utilities Commission v. North Carolina Power, 338 N.C. 412, 450 S.E. 2d 896 (1994).

The bottom line on allocation is that it gives the NCUC the ability to “allocate” costs to sources from which we can’t recover – it is, indeed, a form of sharing by the utility. But the problem is this: We can’t get anyone to lend us the money to make the necessary changes if the law requiring the changes (1) provides no opportunity to earn a profit and

(2) guarantees that hundreds of millions of dollars could be lost. Our business is capital intensive and we would have to go to the capital markets to fund these changes. We could not finance the program given this economic impact.

The equation here is straightforward. If we want lower emissions from power plants, that objective will cost money. If you decide that cleaner air is a priority for this state, the proposed bill is the best mechanism for achieving that end. It is the cheapest, fastest, and most reliable way of getting lower emissions.

There are two final points I want to leave with you. I recognize there are questions about the impact of the bill and the priority of lower emissions versus other issues in the state. But another point you should consider is that this state needs these coal-fired plants to continue in operation for the foreseeable future. More than 50 percent of the power in this state -- and across the country -- comes from coal-burning power plants. The utility sector is having a difficult time simply building new plants to meet new load; there is no thought at all about displacing these existing coal plants that serve existing load. Given this, we need to make sure that we can continue to operate these plants to meet the existing demand of customers in this state. If lower emissions are required in order to keep these plants operating, then that should be a very high priority for North Carolina. We have all seen the impact in California of not having adequate generation to serve customer demand. We need to avoid that situation here.

The second point is this: The opponents of this bill seem to believe that whether we have lower emissions standards or not is simply up to the General Assembly or various customers. I don't think this is the case. There are many other means through which we can have these thrust upon us -- EPA rulemaking, citizens' lawsuits, congressional action, lawsuits by surrounding states.

I believe that lower emissions levels will occur, either by our own hands or by those of others.

If we want to control our destiny, and do it in the cheapest way possible, this bill is a good method to do that.

We have consistently said that we can achieve the reductions and the timetable in the bill if the recovery method in the bill is maintained. If the recover provisions are weakened, we can't achieve the reductions. It really is as simple as that.

Thank you.

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Scott Gollwitzer	Appalachian Voices 20 Battery Park Ave #400 Asheville, NC 28801
DAVID BARNES	Poyner & Spruill LLP
Steve Woodson	NCFB
Katherine Joyce	NCAEC
Ken Melton	Allen Associates, Inc
Lucius PULLEN	ATTORNEY, N.C. MINING Assoc.
Shirley Kestry	Cap. Adv.
Martina H. Keating	Keating Environmental, Etland NC
Jim Bell	NCMA
Natalie English	Charlotte Chambers
Sharon Miller	CUCA
Matt Curran	NCECC
Ross M. Smith	PCS PHOSPHATE
Lou-Ann Coe	NCABC
Jay Rouse	NCAEC
Tom Chapman	Enron

VISITOR REGISTRATION SHEET

Name of Committee _____

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Chris Caldwell	International Paper
Bob Sporeen	NC Forestry Assoc.
John Long	Martin Marietta
Carolyn Ward Bill Watson	NC EMCs.
George Reed	NC Council of Churches
Benjamin Laddis	Sierra Club
Matt Brody	CCNC
John McHarg	GOV OFFICE
Brian Cole	Sabbath Project/WNCA
Bob Gale	WNC Alliance
Pauline Katsunis	WNC Alliance & Evangelical Youth Assoc. America
John O'Hale	Intern
Russell Hageman	DENR, Div. of Air Quality
Andrew Hainsworth	UNSC at Asheville (Intern)
David S. Cho	Recreation Club & Associates
Andrew Nelson	Rep. Hekner's Office

VISITOR REGISTRATION SHEET

Name of Committee _____

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Op Anne Sanford	NCUC
Annun Williams	NCCEB
L. Woods	DENR
C. M. Zuber	NCCEB
Deborah Buzyn	Arm. Long Arm. DMC
AB Schwenker	NEAEC
Kelli Kukuna	Do Pont
Alan Briggs	S.O.S
GMT Rogers	Moore & Van Allen
Alie Garland	Electricities
Ethelene Davis	"
Clarence Wells	Electricities
R. W. Kynan	Kynan & Co.
John McAlister	Duke Energy
George Everett	Duke Energy

[illegible]

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

FIRM OR AGENCY AND ADDRESS

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Speakers for May 31st Meeting

Tues

Dr. Neill McIntyre – Chief of Pulmonary Medicine – Duke ✓

✓ Bill Johnson – Executive VP – Progress Energy ✓

John McAlister – Regional Director - Duke Power

Tues

✓ Scott Gollwitzer – Appalachian Voices

~~Bob Smith~~ Bill Ross – DENR

Bob Slocum – NC Forestry Association

Margaret Keating - will not speak - submitted comments

Bart Nicholson – Air Quality

Paul Fogleman – Exec. Director – Carolina Hosiery Association

Charles McKeller – VP - Glen Raven Mills - handout

Darrell Frye – Harrison & Cubington

Mike Hubbard – American Yarn Spinners Association

Preston Howard – MCIC

→ Leslie Bevacqua – NCCBI

Ross Smith – PCS Phosphates

John Long – Martin Marietta

Sharon Miller – Carolina Utility Customers Association

Perri Morgan – NFIB

Steve Woodson - NC Farm Bureau

Minutes
House Committee on Public Utilities
June 5, 2001

The House Committee on Public Utilities met Tuesday, June 5, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representative Saunders, Vice-Chair; and Representatives Coates, Edwards, Grady. Steve Rose, Committee Council was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

Chairman Smith recognized Mr. Scott Gollwitzer, Air Pollution Task Force Coordinator from Appalachian Voice to comment on SB 1078. Attachment # 1 has Mr. Gollwitzer comments.

Mr. John McAlister of Duke Energy Corp. was recognized to make comments. See Attachment # 2.

Mr. Bill Ross, Secretary of DENR was recognized for comments on the bill. See Attachments # 3 and # 4 for his comments. A question and answer period followed his comments. Chairman Smith said he realized that a regional approach would work best and asked about neighboring states. Mr. Ross said that Georgia and Tennessee are both working on some of the same measures and are on a faster schedule than ours. Illinois is also considering similar legislation.

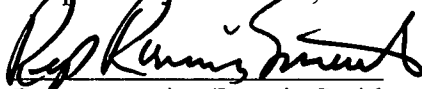
Discussion followed Mr. Ross's presentation about the feasibility of having TVA officials talk to the Public Utilities Committee. Chairman Smith requested Counsel Rose to arrange for someone from TVA address the committee.

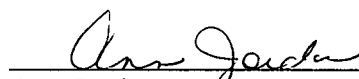
Senator Metcalf spoke briefly of attending the conference that Mr. Ross attended. Senator Metcalf said he had spoken with officials from TVA and he was very impressed by the attitude of their officials.

Attachments #5 - # 9 were given to the chair at the close of the meeting.

The meeting adjourned at 11:00.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**June 5, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 1078 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sen. Steve Metcalf
Continued Discussion**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, June 5, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1078 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES
Sponsor Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith

Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
2:30 p.m., May 29, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

(Committee Assistant)

APPALACHIAN VOICES

Scott Gollwitzer, Air Pollution Task Force Coordinator
Phone: (828) 225-9685

20 Battery Park Avenue, Suite 400, Asheville, NC 28801
E-mail: AppVoice@earthlink.net

House of Representatives
North Carolina General Assembly
Public Utilities Committee
Raleigh, NC 27601-1096

31 May 2001

RE: Written Comments on HB 1015

Dear Mr. Chairman and Members of the Public Utilities Committee:

As the Air Pollution Task Force Coordinator with Appalachian Voices (a non-profit organization dedicated to preserving and maintaining the native forest ecosystems of the southern and central Appalachian Mountain region and a member of the North Carolina Clean Air Coalition) I thank you for the opportunity to submit these comments on HB 1015.

In March 2001, the North Carolina Clean Air Coalition (NCCAC), inspired by nearly 11,000 North Carolinians who expressed, at public hearings on air quality during the summer of 2000, a deep commitment to clean air and strict reductions in smokestack emissions from coal-fired power plants in North Carolina, released a report entitled "The North Carolina Clean Smokestacks Plan: The People's Plan for Clean Air" (The Smokestacks Plan). This report, included with these comments, details the negative impacts of air pollution belched from coal-fired power plants in North Carolina on: human health, the environment and the economy. These effects are caused by the release of nitrogen oxides (NO_x), sulfur dioxide (SO₂), mercury and carbon dioxide (CO₂). A summary of the Smokestacks Plan reveals the following about emissions from coal-fired power plants in North Carolina:

Sources of Air Pollution in North Carolina

- Power plants emit **82% of all SO₂**. In 1998, **980 million pounds of SO₂** were released in North Carolina equaling 122 pounds per person;
- Power plants emit **45% of all NO_x** (while other mobile sources, including automobiles, emit 48%). In 1998, **500 million pounds of NO_x** were released in North Carolina equaling 62 pounds per person;
- Power plants emit **65% of all mercury**. In 1998, **7,096 pounds of mercury** were released into North Carolina's air. However, do not be fooled by the seeming insignificance of mercury emissions by comparing them to the millions of pounds of NO_x and SO₂, because one teaspoon of mercury released in a twenty-five acre lake can make its fish unsafe for human consumption; and
- These facts indicate that coal-fired power plants are the principle bulwark between the residents of North Carolina and the clean air which they are entitled to.

Human Health and Environmental Impacts of Air Pollution from Coal-Fired Power Plants

- NO_x pollution from power plants triggers **more than 200,000 asthma attacks** annually across the state;
- SO₂ pollution from power plants causes **more than 1,800 premature deaths** in NC—making North Carolina the fourth worst state in the nation for such deaths;
- In 1999, North Carolina had the **fifth highest number of unhealthy air days** in the nation;
- The Charlotte metropolitan area and Raleigh-Durham have the unenviable distinction of being ranked by the American Lung Association as the **eighth and seventeenth smoggiest cities** in the nation;
- Mercury from power plants accumulates in the food chain, making king mackerel, bass and bowfin unfit for consumption by children and woman of childbearing years. When ingested by pregnant or nursing women, mercury can cause neurological damage in the fetus and young children. Based on studies conducted by the National Academy of Sciences, roughly **1,800 children in North Carolina are born annually with neurological damage because their mothers were exposed to mercury during pregnancy**;
- In the Great Smoky Mountains, and the southeast, airborne pollutants have caused **visibility to decline by 75%**;
- The release of NO_x and SO₂ causes acid rain. Deposition of these lethal rains makes vegetation in North Carolina more susceptible to disease and pests--**contributing to stunted growth and significant declines in the populations of flowering dogwood, red spruce, Fraser fir, yellow birch, American beech, sugar maple and other tree species**;
- Rainfall in the Great Smoky Mountains National Park is **five to ten times more acidic** than normal rainfall;
- Airborne NO_x contributes to unnecessary **algal blooms which deplete oxygen levels thereby killing fish**;
- CO₂ is a primary pollutant contributing to global warming which is expected to raise the sea levels off the coast of North Carolina by **7.5 inches—a rise that could completely inundate, or change, the coastline at Wrightsville Beach, Topsail Beach and the Outer Banks**.

Economic Impacts of Air Pollution from Coal-Fired Power Plants

- Air pollution costs North Carolina **more than \$3.0 billion annually** in morbidity and mortality expenditures;
- Reduced crop yields from air pollution cost North Carolina farmers **more than \$175 million annually**;
- Economic losses in the vicinity of Great Smoky Mountains National Park is about **\$200 million annually**; and
- Decreased visibility undermines North Carolina's tourism and recreation industry.

Technologies to Clean-up North Carolina's Power Plants

■Technologies that can easily control the emissions of NO_x and SO₂ are now widely available and have been on the commercial market for years. These technologies include:

- Selective Catalytic Reducers (SCRs):** SCRs can reduce NO_x emissions by more than 80% from uncontrolled levels;
- Flue Gas Desulfurization (Scrubbers):** Scrubbers are able to reduce SO₂ emissions by more than 90% from uncontrolled levels;
- Collateral Benefits of these Control Technologies:** Combined with SCRs, the installation of scrubbers can reduce mercury emissions by up to 95% from uncontrolled levels.

■Sadly, only three of the fourteen power plants in North Carolina have committed to invest in **summertime** controls of NO_x by installing SCRs.

Benefits of HB 1015

■By 2013, HB 1015 will reduce SO₂ emissions to 260 million pounds annually—representing, at current population levels, 33 pounds per person;

■By 2009, HB 1015 will reduce NO_x emissions to 112 million pounds annually—representing, at current population levels, 14 pounds per person;

■HB 1015 will annually generate \$3.4 billion in human health, economic and environmental benefits.

■Dr. Harvard Ayers, Department of Anthropology, Appalachian State University, has recently “fine-tuned” these figures and provides the following analysis:

•**Human Health-** Some 1,830 people per year die prematurely from power plant emissions of small particles in North Carolina. The proposed emissions reductions of NO_x and SO₂ in HB 1015 and would reduce these deaths by 1,190 per year. The total annual benefit for North Carolina would be \$3,108 million.

•**Visibility-** A recent study indicates that the general public bears a \$17 per person cost as a result of visibility impairment. Power plants produce about 70% of visibility impairing chemicals (mainly SO₂). Thus the total state benefit would be \$96 million.

•**Agricultural Crop Damage-** Well-established data indicate a 15% loss in yield of soy beans and a serious losses for tobacco and peanuts from air pollution. Power plants produce about 50% of the air pollution affecting crops, which causes a loss of \$25 per person annually. Thus the total annual state benefit would be \$101 million.

•**Forest Losses-** Direct forest losses due to air pollution, 50% of which comes from power plants, amount to \$19 per person annually. The total state loss for forests is thus \$79 million.

•**Fish and Other Water Life Damage-** Air pollution from power plants deposits both mercury and nitrogen in mountain streams as well as coastal estuaries. Mercury, power plants being the main source, gets in the food chain of fish, rendering many coastal species inedible for sensitive segments of the human population. Roughly 25-30% of nitrogen in estuaries comes from the air, about half of which comes from power plants. Mountain trout streams are rendered uninhabitable by air pollution damage, most of which comes from power plants. To date, no quantification of the cost of these damages is available.

Human Health \$3,108 million + Visibility \$96 million + Agricultural Crops \$101 million + Forests \$79 million = \$3.4 billion annually.

*For brevity's sake, I have omitted research cited by Dr. Ayers in calculating the economic benefits of HB 1015. If this information would be helpful to the committee in considering this bill, I will gladly provide it.

Costs of HB 1015

- The annual cost to coal-fired power plants of complying with HB 1015 is \$450 million.
- When subtracted from the benefits of HB 1015, North Carolina will realize a windfall of nearly \$3.0 billion per year.

Conclusion

The health of our citizens, our economy and our environment is inextricably tied to lethal emissions knowingly dumped into our lungs, air, water and onto our forests and fields by coal-fired power plants. By allowing these deadly discharges to go unabated, each of you will, albeit indirectly, sicken or worse, kill many North Carolinians (perhaps someone near and dear to you), will weaken North Carolina's economic viability and will destroy North Carolina's luxuriant, diverse and unrivaled environment from the eastern seaboard through the piedmont to the mountains of western North Carolina (perhaps your favorite vacation spot).

In your thoughtful deliberations of the costs of air pollution from coal-fired power plants on human health, the economy and the environment, coupled with the substantial economic, health and environmental benefits associated with HB 1015, I ask you to reflect on the words of Aldo Leopold, who aptly remarked that "[a] thing is right when it tends to preserve the integrity, stability, and beauty of the biotic community. It is wrong when it tends otherwise."

I urge each of you to do the **right** thing and preserve the integrity, stability and beauty of North Carolina by giving your favorable consideration to HB 1015.

**Comments By John McAlister of Duke Energy Corp.
To House Public Utilities Committee on SB1078**

We agree with the comments made to the committee last Thursday by Bill Johnson of Progress Energy and in the interest of time Mr. Chairman I will not restate all of the points that he made. However, I would like to reiterate that we are opposed to part of the possible amendment that was handed out last Tuesday. We do not have a problem with the part of the amendment that levelizes the cost recovery over the 13-year period. We are opposed to the second part which suggests that the NCUC would allocate some portion of these costs to customers other than our retail customers in NC. Mr. Johnson pointed out that our ability to recover these costs from our SC customers is questionable. This creates great uncertainty for us and changes dramatically the conditions under which we agreed that the targeted reductions and the schedule for those reductions were in fact achievable.

One additional comment - there seemed to be some confusion last week concerning what the projected costs of complying with this bill are. For Duke, the projection was and is \$1.5 billion. That has not changed and the estimated impact to Duke customers is based on that projection.

We will be glad to try and answer any questions from the committee.

Southern Air Principles

Protecting and improving air quality is essential to safeguard public health, protect our natural resources and promote the long-term economic vitality of the South. Air quality is a shared resource, and all sectors of society bear a responsibility for improving air quality and protecting our natural resources.

Scientific research and evaluation show that air pollution is not confined to state boundaries, as evidenced by the adverse impacts of air pollution on the Southern Appalachian Mountains and other sensitive areas. Air pollution affects us all regardless of where we live. The southern states are experiencing unprecedented population and economic growth, as well as associated increases in energy and vehicle use. To ensure clean air and a reliable, affordable energy supply, we must develop new strategies to address issues such as regional haze and pollutants that threaten public health and the environment.

Air pollution sources, including power plants, emit multiple pollutants that traditionally are regulated independently. It is recognized that multi-pollution control strategies may significantly reduce environmental impacts; provide more efficient control of environmental pollutants; and support economic competitiveness and cost effectiveness. It is in the public interest to protect and preserve public health and the environment while providing more efficient and cost-effective regulation of pollution sources.

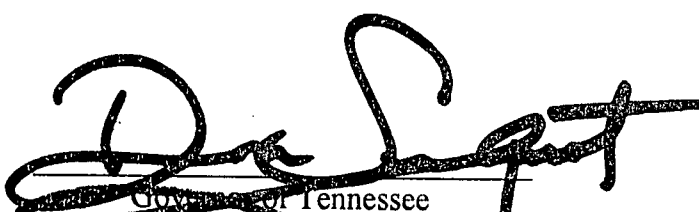
It is critical that the states continue to cooperate through regional partnerships that recognize the unique qualities of each state and offer flexibility to address each state's needs. Therefore, we, the undersigned members of the Southern Governors' Association, hereby agree to the following **Southern Air Principles** that will enhance local, state, and regional efforts to protect and improve air quality; ensure the protection of public health and welfare of the southern states; and promote the attainment of a high quality of life.

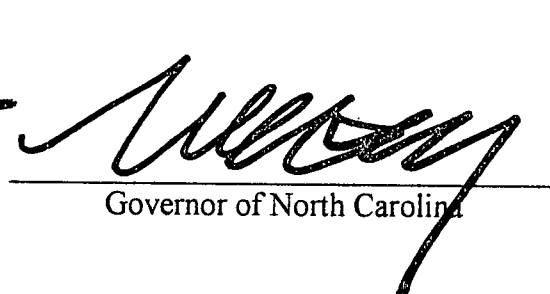
PRINCIPLES


- Each state must do its part to protect and improve air quality.
- Regional air quality problems must be addressed through regional approaches that address each state's unique qualities and needs.
- The southern states must continue to work together to develop and implement new strategies that will improve regional air quality, such as multi-pollutant regulatory strategies for reducing nitrogen oxides, sulfur dioxide and mercury and innovative transportation and energy policies.

Therefore, to fulfill these principles, the chief environmental officers of the signatory states are directed to consult, consider and formulate a proposed joint multi-pollutant strategy; to address the problems of ozone pollution, acid deposition and reduced visibility; to take into account in developing the strategy the information and recommendations provided by the final Southern Appalachian Mountains Initiative (SAMI) report; to provide a progress report to the Governors by December 31, 2001; and to make recommendations on the joint multi-pollutant strategy to the Governors by March 15, 2002.

Signed this 1st day of June, 2001.


Governor of Tennessee


Governor of North Carolina


Governor of Georgia

North Carolina
Department of Environment and Natural Resources

Michael F. Easley, Governor
William G. Ross Jr., Secretary



Why is The "Improve Air Quality/Electric Utilities" Bill Good for North Carolina?

- The Improve Air Quality/Electric Utilities Bill would result in significant actual emissions reductions from coal-fired power plants in our state. The bill differs from the federal rules, which allow utilities to buy pollution credits from other states instead of cutting air pollution from power plants in North Carolina. Under the bill, North Carolina's utilities would reduce actual emissions of NOx from 162,000 tons/year to 56,000 tons by 2009 (65% reduction), and also would reduce actual SO₂ emissions from 471,000 tons/year in 2000 to 130,000 tons by 2013 (72% reduction). This represents about a one third reduction of the total NOx emissions and a reduction of over one half of all of the total SO₂ emissions from all sources in North Carolina.
- The emission reductions will have health benefits for citizens of North Carolina and other states by significantly reducing asthma-triggering pollution events.
- The reductions in both SO₂ and NOx emissions will reduce acid rain and serve as a significant first step toward meeting the new fine particle and ozone standards throughout North Carolina.
- Air pollution has reduced visibility in the Smoky Mountains from 93 miles to between 24 and 36 miles (National Park Service report, "Clearing the Air at Great Smoky Mountains National Park", September 1999). The bill will help North Carolina reach its goal of improving visibility in the mountains and from other scenic vistas in North Carolina by reducing pollution from North Carolina sources that contribute to the problem. Because air pollution from sources in other states significantly contribute to our mountain air quality problem, the bill states an intention of using all means available to achieve air quality improvements in those states as well.
- Reducing SO₂ and NOx has the additional benefit of reducing mercury emissions. Air-borne mercury is believed to contribute to deposition of mercury in waterbodies where it then bioaccumulates in fish. Eleven mercury advisories, affecting 355 stream miles, now warn against consumption of fish from North Carolina streams because of high mercury levels.
- The bill requires DENR to evaluate issues related to the control of mercury and carbon dioxide emissions and make recommendations on the development of standards and plans to control these emissions.

- This important step, along with the plan to expand and strengthen our motor vehicle inspection and maintenance program to 48 counties, may be sufficient for North Carolina to meet the ozone and fine particle standards over broad areas of the State, and thereby may eliminate the need for any additional local controls in these areas.

Comments of Martha H. Keating Addressing North Carolina

Proposed Rule S1078 Improve Air Quality/Electric Utilities

Good morning. Thank you for the opportunity to talk with you this morning concerning the proposed mercury provisions of Senate Bill 1078. For the record, my name is Martha Keating and I have been a resident of Orange County, North Carolina for 19 years. I am employed as an environmental consultant to the Clean Air Task Force, a national coalition of clean air advocates in 26 states. I have been working on mercury issues since 1993. For 10 years I was a staff scientist at the U.S. EPA and was the project director for and a principal author of the EPA's 1997 Mercury Report to Congress.

Over the past six months I have provided testimony about mercury power plant issues to regulators and members of state legislatures in Wisconsin, New Hampshire and Massachusetts. As a resident of NC, I am delighted that the NC legislature is also tackling this difficult issue. And it is difficult. Across the country, legislators such as yourselves are asking the same questions: how are power plants related to mercury issues, are our citizens at risk, what can we do about it, how much will controls cost?

First, why power plants? Mercury occurs naturally in coal and other fossil fuels and is released to the atmosphere during combustion. Unlike other metal pollutants, mercury is emitted as a gas and is typically not captured very well by control devices designed to capture particulate emissions (such as those installed on NC coal-fired power plants). Even though there isn't much mercury in coal on a per weight basis, the enormous quantities of coal burned results in significant emissions of mercury to the atmosphere.

Coal-fired power plants are the top emitters of mercury not only in NC but nationally. In NC, according to state data, they account for 65% of mercury emissions. Nationally, they account for about 30 percent. The key issue is that power plants are the largest unregulated source in the country. Other major sources like municipal and medical waste incinerators are already subject to federal standards. EPA only recently announced (in December 2000) that they will begin developing mercury limits for power plants, but even this decision (to develop rules) has already been challenged in court by the electric power industry. Intense lobbying of Congress by this industry has slowed mercury rules down for years. This is why numerous states like NC are faced with developing their own rules.

We are used to thinking about pollutants like SO₂ and NO_x in terms of hundreds of tons of emissions per year. So, why are we concerned about a couple of hundred pounds of mercury from each power plant? First, mercury is a metal and never degrades or breaks down in the environment to a less toxic form. In fact, mercury is often converted in the aquatic environment to a much more toxic form, methylmercury. This is the form of mercury that is incorporated into the food chain so efficiently that fish at the top of the aquatic food chain can have concentrations of mercury in their muscle tissue that can be one million times higher than the mercury concentration of the water they live in. Thus, under the right environmental conditions, even small amounts of mercury depositing to lakes or rivers or their surrounding watersheds, can affect mercury concentrations in fish.

And that is the public health issue we are faced with: the steady and increasing contamination of our fresh and saltwater fisheries from mercury deposited from the atmosphere. Fish consumption is the primary way that both humans and wildlife are exposed to mercury.

Because of widespread mercury contamination, principally from atmospheric emissions, forty states, including NC, have issued fish consumption advisories that warn consumers about how much fish to eat from inland waters. About 11 states have advisories on every inland water in the state – as does NC for bowfin. NC also has a number of water bodies under mercury advisories for the popular sportfish, largemouth bass and is also one of 10 southeastern states that has had to issue consumption advisories for large king mackerel. The number of advisories in NC is likely to increase on account of recent guidance from the EPA that recommends that women of childbearing age, pregnant women and children eat only one freshwater fish meal per week. However, because mercury levels in some of our sportfish are far higher than the average values used by EPA, one meal a week may be too many for our most vulnerable populations.

This is a serious public health issue in our state. The primary target for ingested mercury is the fetus. Mercury interferes with development of the brain and nervous system causing health effects that may not show up until the child is in grade school. The mother rarely shows any symptoms. The child may have problems with fine motor skills, memory, tests of attention and language and will probably require remedial help in school. The National Academy of Science, in a review of mercury health effects published in June 2000 estimated that about 60,000 children born each year in the US are at risk from mercury exposure in utero.

In March 2001, the Centers for Disease Control (CDC) issued new findings that one in ten women of child bearing age have mercury levels above what EPA and the National Academy of Sciences consider safe for fetal development. (This translates to about 6 million women.) In addition, the CDC study reflects only the average consumer, not other populations that may have even higher exposures. Populations with higher mercury exposure, and thus higher mercury risk, include those who fish frequently for free food and ethnic groups like Asian Americans or those of Caribbean nationalities who typically eat more fish in their diet. In NC we know we have populations who have far higher mercury exposure than the general U.S. population. In a study done in 1993, the average level of mercury in hair samples of Waccamaw River residents was more than three times higher than EPA's safe level.

This is an issue not only for public health but for NC's economy as well. In 1996, NC licensed over 1.5 million anglers who spent over 800 million dollars on fishing and fishing trips. When revenues such as federal and state sales tax, jobs and other related equipment are factored in, this industry is worth over \$1.5 billion to our state. King mackerel fishing alone accounts for millions of this total. Mercury contamination not only damages our natural resources but hurts one of our important industries.

Since fish is a beneficial food, the short-term strategy is to eat fish known to have low mercury levels and avoid, or eat in moderation, fish with high levels (such as shark, swordfish, king mackerel, tile fish, and certainly freshwater fish that are covered by fish advisories).

However, the long-term strategy for reducing mercury exposures is to limit mercury releases into the environment.

In terms of reducing mercury emissions to the atmosphere, the multi-pollutant approach of the proposed bill is a good one because it will maximize the benefits of co-controlling NO_x, SO₂ and mercury. However, I am disappointed that the proposed bill calls for additional study of the feasibility of mercury controls instead of a firm emissions cap and reduction requirement. (New Hampshire is considering a 75 % reduction in mercury emissions, Wisconsin hopes to achieve a 90% reduction from all source categories, and Massachusetts has committed to a 50% cut by 2003 followed by "virtual elimination" of mercury emissions from power plants by 2010.)

On the other hand, I agree with section 6 of the proposed bill which states that controls put in place to reduce emissions of NO_x and SO₂ will also significantly reduce mercury emissions. Emissions tests in Europe on combinations of NO_x/SO₂ controls achieved mercury reductions ranging from 50 to > 90 percent. In recent emissions tests in the U.S., NO_x controls in combination with particulate controls achieved mercury reductions > 90 percent and according to recent EPA analyses, the retrofit of power plants to control fine particulate and SO₂ will also enhance mercury capture. The Department of Energy and a number of private firms are currently investing nearly \$9 million in research aimed at optimizing mercury capture by conventional control devices.

The end result is that mercury control will largely, if not entirely be a co-benefit of controlling NO_x and SO₂ and will potentially pose no additional cost. EPA states that "the costs of mercury control will dramatically diminish if retrofit hardware and sorbents are employed for control of other pollutants such as NO_x, SO₂, and fine particulate matter.

In summary, I feel that if this bill aggressively cuts NO_x and SO₂ emissions, and has a high likelihood of significant mercury reductions as well, then as a citizen of North Carolina, a Duke Energy shareholder and customer – I can buy that.

EPA Studies on the Control of Toxic Air Pollution Emissions from Electric Utility Boilers

by James D. Kilgroe and Ravi K. Srivastava

Is the regulation of HAP emissions from electric utility plants necessary? EPA shares its determination studies on the matter.

The U.S. Environmental Protection Agency (EPA) Office of Research and Development's National Risk Management Research Laboratory (NRMRL) in Research Triangle Park, NC, is conducting research to develop and evaluate mercury and multipollutant emission control technologies for stationary combustion sources. A primary objective of this research is to support EPA's Office of Air Quality Planning and Standards (OAQPS) in the development of mercury emission control technologies for coal-fired utility boilers. On December 14, 2000, after extensive study, EPA determined the regulation of hazardous air pollution (HAP) emissions from electric utility generating plants is necessary. This determination focuses primarily on the need to control mercury emissions for coal-fired

power plants. EPA found that mercury emissions from power plants pose significant hazards to public health and must be reduced.

This article summarizes studies that were conducted by NRMRL and OAQPS to support EPA's decision on the need to regulate toxic air pollution emissions from electric utility boilers. The studies included the evaluation of data collected in 1999 to characterize mercury emissions from coal-fired electric utility generating units; performance and cost estimates of technologies that can be used to control mercury emissions from existing plants; and an assessment of information on the stability of mercury contained in the coal-combustion residues (CCR) and by-products from coal-fired power plants.

BACKGROUND

The 1990 Clean Air Act Amendments (CAAA) required EPA to study the potential public health impacts of HAP emissions from electric utilities that burn fossil fuels. The resulting study was conducted over several years with extensive input and peer review from outside scientific experts and major stakeholders, including industry representatives, state and local agencies, and other federal agencies. *Study of Hazardous Air Pollutant Emissions from Electric Utility Steam Generating Units—Final Report to Congress*, commonly called the "Utility Air Toxics

Report," was published on February 24, 1998.¹

The 1990 CAAA also required EPA to assess the magnitude of mercury (Hg) emissions by source, estimate the health and environmental implications of these emissions, and determine the availability and costs of potential control technologies. This study, *Mercury Study Report to Congress*, was published in December 1997.²

The Utility Air Toxics Report evaluated toxic air pollutant emissions from coal-, oil-, and gas-fired utility boilers larger than 25 megawatts (MW). The study considered the risks from direct and indirect exposure to 67 toxic air pollutants, the most notable being arsenic (As), nickel (Ni), radionuclides, Hg, and dioxins, and identified the emission of Hg from coal-fired utilities as the greatest public health risk. The study concluded that

- coal-fired utility boilers emit one-third [47 Mg (52 tons)] of the total annual U.S. anthropogenic emissions of Hg;
- ingestion of contaminated fish is the most important route of Hg exposure in humans; and
- modeling results, in conjunction with other scientific evidence, provide a plausible link between utility emissions of Hg and the Hg in air, soil, water, sediments, fish, and humans.

EPA did not make a decision on the need to control HAP emissions from electric utility boilers when the Utility Air Toxics Report was published. At that time, there was considerable uncertainty about the availability and costs of Hg emission control technologies. In addition, Congress requested EPA to delay any decision until the agency had funded and reviewed a National Academy of Sciences study on the health effects of mercury.

The eight-volume Mercury Study Report to Congress included an assessment of the magnitude of Hg emissions from sources in the United States, the health and environmental implication of those emissions, and the availability and costs of control technologies. The report described the manner in which Hg cycles in the environment as a result of natural processes and human (anthropogenic) activities. The report also provided an extensive analysis of the public health and environmental impacts resulting from direct and indirect exposure to Hg emitted to the atmosphere.

Methylmercury, a potent neurotoxin, is believed to pose the greatest health risk to humans. In the Hg cycle, inorganic mercury is emitted to the atmosphere from natural and anthropogenic sources. It is eventually cycled back to terrestrial and aquatic ecosystems by either dry or wet deposition. It can be reemitted to the atmosphere, sequestered for long periods of time, or converted to other forms of mercury. A portion of the inorganic mercury is converted by microbial action to methylmercury. Methylmercury bioaccumulates up the food chain to fish, marine mammals, and fish-eating animals. The greatest risk to humans is the exposure of developing fetuses

in pregnant women who consume large amounts of fish contaminated with methylmercury.³

The Mercury Report to Congress included a nationwide inventory of annual Hg emissions from anthropogenic sources in the United States. This inventory was based on the period 1994–1995 and estimated total annual nationwide emissions to be 144 Mg (158 tons). Most of these emissions (approximately 87%) were produced when waste or fuels containing Hg were burned. Four specific combustion source categories account for approximately 80% of the total nationwide anthropogenic emissions: electric utility coal-fired boilers (33%), municipal waste combustors (19%), industrial and commercial boilers (18%), and medical waste incinerators (10%). The remaining 20% were estimated to emanate from other combustion sources, manufacturing sources, area sources, and miscellaneous sources.

In 1994, the Natural Resources Defense Council and the Sierra Club separately sued EPA claiming that the agency failed to comply with congressionally mandated dates for certain actions under the 1990 CAAA. One action cited by the plaintiffs was the failure to make a determination on the regulation of HAP emissions from electric utility steam-generating units. In 1998, EPA and the plaintiffs reached a settlement under which EPA agreed to make a determination on the regulation of utility HAP emissions by December 15, 2000. If EPA finds that regulation of electric utility steam-generating units is necessary, then the agency is to propose regulations for this source category by December 15, 2003, and take final action on the proposed rules by December 15, 2004.

EPA's decision on the regulation of HAP emissions from electric utility power plants has been primarily driven by the risks associated with Hg emissions from coal-fired utility boilers. Accordingly, EPA's decision on the need to control Hg emissions has been informed by three Hg studies: a National Academy of Sciences study on the health effects of methylmercury; a 1999 EPA study of coal mercury and utility emission data collected by the utility industry; and an EPA study of technologies that can be used to control Hg emissions from coal-fired utility boilers.

THE CONTROL OF MERCURY EMISSIONS

The utility industry does not currently use flue gas cleaning technologies to specifically control Hg emissions. The capture of Hg by flue gas cleaning devices is dependent on the chemical and physical forms of mercury. There are three basic forms of mercury in the flue gas from the combustion of coal: elemental mercury (Hg^0), ionic mercury [$\text{Hg}(\text{II})$], and particulate-bound mercury [$\text{Hg}(\text{p})$]. Both Hg^0 and $\text{Hg}(\text{II})$ are in a vapor phase at flue gas cleaning temperatures. Hg^0 is insoluble in water and cannot be captured in wet scrubbers. The predominant $\text{Hg}(\text{II})$ compounds in coal flue gas are weakly-to-strongly soluble and can be generally captured in wet flue

gas desulfurization (FGD) scrubbers. Both Hg^0 and $Hg(II)$ can be adsorbed onto porous solids such as fly ash, powdered activated carbon (PAC), or calcium-based sorbents for subsequent collection in a particulate matter (PM) control device. $Hg(II)$ is easier to adsorb than Hg^0 . $Hg(p)$ is attached to solids that can be readily captured in electrostatic precipitators (ESPs) and fabric filters (FFs). "Speciation" is a term used to denote the amounts of Hg^0 , $Hg(II)$, and $Hg(p)$ in flue gas. The modified Ontario-Hydro (OH) method is the only method that is currently recognized for the measurement of mercury speciation in flue gas from the combustion of coal.

Flue gas cleaning technologies that are used on combustion sources use three basic methods to capture mercury: the capture of $Hg(p)$ in PM control devices; the adsorption of Hg^0 and $Hg(II)$ onto entrained sorbents for subsequent capture in PM control devices; and the solvation of $Hg(II)$ in wet scrubbers. Factors that affect the speciation and capture of mercury in coal-fired combustion systems include the type and properties of coal, the combustion conditions, the type of flue gas cleaning technologies employed, and the temperatures at which the flue gas cleaning systems operate.

The ability to capture mercury increases with decreasing flue gas temperature. Flue gas from combustion of bituminous coals tends to contain higher amounts of $Hg(II)$ than Hg^0 , and $Hg(II)$ is easier to adsorb than Hg^0 . A substantial amount of this $Hg(II)$ is often adsorbed onto fly ash and subsequently collected as $Hg(p)$. There are indications that adsorption of mercury onto fly ash is related to the fly ash carbon content. Conditions that lead to increased amounts of carbon in the fly ash tend to increase the amount and subsequent capture of $Hg(p)$. Flue gas from combustion of subbituminous or lignite coals tends to have relatively high levels of Hg^0 , low

levels of $Hg(II)$, and low amounts of fly ash carbon. Accordingly, lower amounts of mercury are captured by the PM control devices used on units fired with subbituminous coal or lignite. The use of sorbent injection or wet FGD technologies to control mercury emissions at coal-fired power plants results in residues, which may be used as by-products or disposed of in lagoons, landfills, or mining areas. Limited data suggest that leaching of mercury at disposal sites may not be an issue. However, no information is currently available on volatilization of mercury from by-products or disposed wastes. Near-term research is needed to address these issues and, if needed, improved waste management methods must be developed to prevent the release of mercury back into the environment.

COLLECTION AND EVALUATION OF ICR DATA

In 1998, EPA issued an Information Collection Request (ICR) to the electric utility industry. The purpose of this request was to provide data needed to evaluate the emission of mercury from coal-fired utility boilers. The ICR data collection effort was conducted in three phases. In Phase I, information was collected on the fuels, boiler types, and air pollution control devices used at all coal-fired utility boilers in the United States. In Phase II, coal data were collected and analyzed by the utility industry for 1140 coal-fired units. A minimum of six coal samples were collected and analyzed for each of these units every month in 1999. Each sample was analyzed for Hg , chlorine (Cl), sulfur, moisture and ash content, and calorific value. In Phase III, mercury measurements were made using the modified OH method for total and speciated mercury. Additionally, Phase III coal samples were collected and analyzed in conjunction with the OH method sampling tests. Additional information and a summary of data collected under the ICR are available from the Unified Air Toxics Web site at <http://www.epa.gov/ttn/uatw/combust/utitox/uttoxpg.html>.

The evaluation of Phase I data indicated that U.S. utility boilers burned 712 million Mg (786 million tons) of coal and waste fuels in 1999. Approximately 52% of these fuels consisted of bituminous coal and 37% was subbituminous coal. Other fuels included lignite, anthracite, reclaimed waste coal, mixtures of coal and petroleum coke (pet-coke), and mixtures of coal and tire-derived fuel (TDF). Pulverized-coal (PC)-fired boilers represent approximately 86% of the total number and 90% of total utility boiler capacity. Based on capacity, other types of boilers include cyclone-fired boilers (7.6%), fluidized-bed combustors (1.3%), and stoker-fired boilers (1.0%).

The 1999 ICR responses indicate that a variety of emission control technologies are employed to meet requirements for sulfur dioxide (SO_2), nitrogen oxides (NO_x), and PM. Most utilities control NO_x by combustion modification techniques and SO_2 by the use of compliance coal. For post-combustion controls, 78.1% of units have PM controls only; 18.6% have both

Table 1: Mean mercury emission reductions for PC-fired boilers^a

Add-on Controls	Type of Coal (%)		
	Bituminous	Subbituminous	Lignite
PM Only			
CS-ESP	46	14	0
HS-ESP	12	13	NT
CS-FF	83	72	NT
PM Scrubber	14	0	33
Dry FGD Scrubbers			
SDA + ESP	NT	38	NT
SDA + FF	98	25	17
SCR + SDA + FF	98	NT	NT
Wet FGD Scrubbers			
CS-ESP + Wet FGD	81	35	44
HS-ESP + Wet FGD	55	33	NT
CS-FF + Wet FGD	96	NT	NT

^a Based on OH train data. Mean reduction from three test averages for each unit. CS-ESP = cold-side ESP; HS-ESP = hot-side ESP; NT = not tested

PM and SO₂ controls; 2.1% have PM and NO_x controls; and 1.2% have three post-combustion control devices.

All coal-fired utilities use PM controls. ESPs are found on 84% of units and FFs on 14%. The remaining units use either mechanical collectors or wet PM scrubbers. Post-combustion SO₂ controls are less common than PM controls. Wet FGD systems are used on 15.1% of the units, and spray dryer absorbers (SDA) are used on 4.6% of the units surveyed. While the application of post-combustion NO_x controls is becoming more prevalent, only 3.8% of the units used either selective noncatalytic reduction (SNCR) or selective catalytic reduction (SCR) systems in 1999.

The methods used to evaluate the ICR data were based on two interrelated objectives. The first was to estimate the amount, speciation, and geographical distribution of national mercury emissions from coal-fired power plants in 1999. The second was to characterize the effects of coal properties, combustion conditions, and flue gas cleaning methods on the speciation and capture of mercury.

The method selected to estimate national Hg emissions used (1) the mean Hg content of coal burned in each unit during 1999; (2) the amount of coal burned in the unit during 1999; and (3) a unit-specific, coal-boiler control device emission factor developed from the ICR emission tests.

The results of the national emission estimates indicated that in 1999

- coal and related fuels burned in coal-fired utility boilers contained 68 Mg (75 tons) of mercury;
- the air pollution control devices currently installed on these units captured 43% of the mercury in the as-burned fuels; and
- 39 Mg (43 tons) of mercury were emitted to the atmosphere from coal-fired utility power plants.

The air pollution control technologies now used on coal-fired utility boilers exhibit levels of mercury control that range from 0 to 99% (see Table 1). The best levels of control are generally obtained by emission control systems that use FFs. The amount of mercury captured by a given control technology is better for bituminous coal than for either subbituminous coal or lignite.

The lower levels of mercury capture in plants firing subbituminous coal and lignite are attributed to low fly ash carbon contents and a higher fraction of Hg⁰ in the flue gas from fuel combustion. For example, the average capture of mercury in PC-fired units equipped with a cold-side ESP (CS-ESP) was 46% for six units burning bituminous coal, 14% for six units burning subbituminous coal, and near zero for one unit burning lignite.

Plants that employ only post-combustion PM controls exhibit average mercury emission reductions ranging from 0 to 83%. The highest levels of control were observed for units with FFs. Decreasing levels of control were shown for units with ESPs, PM scrubbers, and mechanical collectors. Units equipped

with dry scrubbers (SDA + ESP or SDA + FF systems) exhibited average mercury captures, ranging from 98% for two units burning bituminous coals to 25% for three units burning subbituminous coal. The predominance of Hg⁰ in stack gases of units fired with subbituminous coal and lignite is a result of low levels of Hg⁰ oxidation.

The capture of mercury in units equipped with wet FGD scrubbers is primarily dependent on the relative amount of Hg (II) in the inlet flue gas. The average mercury capture in wet FGD scrubbers ranged from 36% for one PC-fired CS-ESP + FGD unit burning subbituminous coal to 96% in a PC-fired CS-FF + FGD unit burning bituminous coal. The high mercury capture in the FF + FGD unit is attributed to increased oxidation and capture of mercury in the FF.

Mercury captures in PC-fired units equipped with spray dry scrubbers and wet scrubbers appear to provide similar levels of control on a percentage reduction basis. However, this observation is based on a small number of short-term tests at a limited number of facilities. Additional testing will be required to fully characterize the effects of fuel, combustion conditions, and current air pollution control devices on the speciation and capture of mercury.

CO-CONTROLS

Preliminary evaluations of the ICR data indicate that technologies currently in place for control of criteria pollutants achieve reductions in mercury emissions that range from 0 to >90%. Current levels of mercury control can be increased by the application of mercury retrofit technologies or methods designed to increase capture of more than one pollutant. Bench- and pilot-scale tests have shown that the capture of Hg in PM control devices generally increases as the carbon content of fly ash increases. Increased use of combustion modification techniques that increase ash carbon content will generally increase the amount and capture of Hg (p).

Tests on bituminous-coal-fired units equipped with SNCR + CS-ESP and SCR + SDA + FF systems exhibited average mercury emission reductions of 91 and 97%, respectively. By comparison, average mercury reductions in similar units without post-combustion NO_x controls were 48 and 98%, respectively. Recent tests on a pilot-scale combustion system equipped with an ESP have also indicated that SNCR and SCR systems may enhance mercury capture in PM control devices. However, the level of capture appears to be highly dependent on the type of coal burned. It is believed that the use of combustion modification techniques and post-combustion NO_x control technologies that are applied on NO_x State Implementation Plan (SIP) units will also increase the capture of mercury in these units.

The retrofit of utility units to control emission of primary fine PM and SO₂ (precursors to secondary fine PM in the form of sulfates) will also provide co-benefits in the control of mercury. This is apparent from the increased control of mercury

on units equipped with FFs, dry FGD scrubbers, and wet FGD scrubbers. The use of multipollutant sorbents or the modification of equipment to control fine PM would enhance the ability to control mercury emissions, and the costs of mercury control would be modest. Technologies developed for use on existing wet FGD units could also be used for new scrubber retrofits intended to control the emission of secondary fine PM precursors. Generally, the control of mercury emissions via multipollutant control technologies can provide a cost-effective method for collectively controlling pollutants.

RETROFIT TECHNOLOGIES

The evaluation of technologies that can be used to increase the control of mercury emissions was based primarily on the results of research sponsored by the U.S. Department of Energy (DOE), EPA, the Electric Power Research Institute (EPRI), and the utility industry. Research completed prior to 1999 is summarized in the "1999 Critical Review, Mercury Measurement and Its Control," published in the *Journal of the Air & Waste Management Association* in June 1999.⁴

A practical approach to controlling mercury emissions at existing utility plants is to minimize capital costs by adapting or retrofitting the existing equipment to capture mercury. Potential retrofit options for the control of mercury were investigated for units that currently use the following post-combustion emission control technologies: ESPs or FFs for control of PM; dry FGD scrubbers for control of PM and SO₂; and wet FGD scrubbers for control of PM and SO₂.

ESPs and FFs are either cold- or hot-side devices. Hot-side devices are installed upstream of the air preheater, while cold-side devices are installed downstream. Flue gas temperatures in hot-side devices typically range from 370 to 450 °C (700 to 840 °F), while cold-side devices typically operate at temperatures ranging from 120 to 160 °C (250 to 320 °F). Based on current information, it appears that little mercury can be captured in hot-side ESPs or FFs.

Least-cost retrofit options for the control of mercury emissions from units with ESPs or FFs are believed to include

1. Injection of a sorbent upstream of the ESP or FF. Cooling of the stack gas or modifications to the ducting may be needed to keep sorbent requirements at acceptable levels.
2. Injection of a sorbent between the ESP and a pulsejet FF retrofitted downstream of the ESP. This approach will increase capital costs but reduce sorbent costs.

3. Installation of a semi-dry circulating fluidized-bed absorber (CFA) upstream of an existing ESP used in conjunction with sorbent injection. The CFA recirculates both fly ash and sorbent to create an entrained bed with a high number of reaction sites. This leads to higher sorbent use and enhanced fly ash capture of mercury and other pollutants.

Units equipped with an FF require less sorbent than units equipped with an ESP. ESP systems depend on in-flight adsorption of mercury by entrained fly ash or sorbent particles. FFs obtain in-flight capture and capture as the flue gas passes through the FF.

In general, the successful application of cost-effective sorbent injection technologies for ESP and FF units will depend on the development of lower cost and/or higher performing sor-

bents and appropriate modifications to the operating conditions or equipment being currently used to control PM, NO_x, and SO₂ emissions.

SDA systems that use calcium-based sorbents are the most common dry FGD systems used in the utility industry. Aqueous slurry containing the sorbent is sprayed into an absorber vessel where the flue gas reacts with the drying slurry droplets. The resulting, particle-laden, dry flue gas then flows to an ESP or FF where fly ash and SO₂ reaction products are collected.

CFAs are "vertical duct absorbers" that allow simultaneous gas cooling, sorbent injection and recycle, and gas absorption by flash drying of wet lime reagents. It is believed that CFAs can potentially control mercury emissions at costs lower than those associated with spray dryers.

Dry FGD systems are already equipped to control emissions of SO₂ and PM. The modification of these units for the capture of mercury and other air toxics is considered to be the easiest retrofit problem to solve.

Wet FGD systems are typically installed downstream of an ESP or FF. Wet limestone FGD scrubbers are the most commonly used scrubbers on coal-fired utility boilers. These FGD units generally capture more than 90% of the Hg (II) in the flue gas entering the scrubber. Consequently, existing wet FGD scrubbers may lower mercury emissions by about 20% to more than 80%, depending on the speciation of mercury in the inlet flue gas.

Improvements in wet scrubber performance in capturing mercury depend primarily on the oxidation of Hg⁰ to Hg (II). This may be accomplished by either the injection of appropriate oxidizing agents or the installation of fixed oxidizing

Generally, the control of mercury emissions via multipollutant control technologies can provide a cost-effective method for collectively controlling pollutants.

catalysts upstream of the scrubber to promote oxidization of Hg^0 to soluble species.

An alternative strategy for controlling Hg emissions from wet FGD scrubbing systems is to inject sorbents upstream of the PM control device. In wet FGD systems equipped with ESPs, performance gains are limited by the in-flight oxidization of Hg^0 , and the in-flight capture of $Hg(II)$ and Hg^0 . In systems equipped with FFs, increased oxidization and capture of mercury can be achieved as the flue gas flows through the FF. Increased oxidization of Hg^0 in the FF will result in increased mercury removal in the downstream scrubber.

MERCURY CONTROL RETROFIT COSTS

Annualized costs of mercury controls using PAC injection have been estimated based on recent pilot-scale evaluations with commercially available adsorbents (see Table 2). These estimates were based on the results of a cooperative study between DOE and EPA on the costs of potential mercury emission control technologies.⁵ The estimated control costs range from 0.31 to 3.78 mills/kWh, with the highest costs associated with plants having hot-side electrostatic precipitators (HS-ESPs). For plants representing 89% of current capacity and using controls other than HS-ESPs, the costs range from 0.31 to 1.92 mills/kWh. Assuming a 40% reduction in sorbent costs by use of a composite lime-PAC sorbent for mercury removal, cost projections range from 0.18 to 2.27 mills/kWh with higher costs again being associated with plants using HS-ESPs.

In comparison, the estimated annual costs of mercury controls, as a function of plant size, lie mostly between the costs for low- NO_x burners (LNBs) and SCR systems.⁶ The costs of mercury control will dramatically diminish if retrofit hardware and sorbents are employed for control of other pollutants such as NO_x , SO_2 , or fine PM.⁷

The performance and cost estimates of PAC injection-based mercury control technologies presented here are based on relatively few data points from pilot-scale tests and are considered to be preliminary. However, based on pilot-scale tests and the results of ICR data evaluations, EPA is confident that the sorbents and technologies now being developed will reduce the costs of mercury controls beyond current estimates.

MERCURY BEHAVIOR IN COAL COMBUSTION BY-PRODUCTS

The operation of electric utility power plants results in solid discharges including fly ash, bottom ash, boiler slag, and FGD residues. These residues already contain mercury, presumably

Table 2. Estimates of current and projected annualized operating costs for mercury emission control technologies

Coal		Existing Controls ^a	Retrofit Controls ^c	Current Cost (mills/kWh)	Projected Cost (mills/kWh)
Type ^a	%				
Bit	3	CS-ESP + FGD	PAC	0.727 – 1.197	0.436 – 0.718
Bit	3	FF + FGD	PAC	0.305 – 0.502	0.183 – 0.301
Bit	3	HS-ESP + FGD	PAC + PFF	1.501 – NA ^d	0.901 – NA ^d
Bit	0.6	CS-ESP	SC + PAC	1.017 – 1.793	0.610 – 1.076
Bit	0.6	FF	SC + PAC	0.427 – 0.753	0.256 – 0.452
Bit	0.6	HS-ESP	SC + PAC + PFF	1.817 – 3.783	1.090 – 2.270
Subbit	0.5	CS-ESP	SC + PAC	1.150 – 1.915	0.69 – 1.149
Subbit	0.5	FF	SC + PAC	0.423 – 1.120	0.254 – 0.672
Subbit	0.5	HS-ESP	SC + PAC + PFF	1.419 – 2.723	0.851 – 1.634

^aBit = bituminous coal; Subbit = subbituminous coal

^bCS-ESP = cold-side ESP; HS-ESP = hot-side ESP; FF = fabric filter; FGD = flue gas desulfurization

^cPAC = powdered activated carbon; SC = spray cooling; PFF = polishing fabric filter

^dNA = not available

as bound mercury that is relatively insoluble and nonleachable. In 1998, approximately 98 million Mg (108 million tons) of CCRs were generated. Of this amount, approximately 70 million Mg (77 million tons) were landfilled and approximately 28 million Mg (31 million tons) were used for the manufacture of by-products.

Increased control of mercury emissions from coal-fired power plants may change the amount and composition of CCRs. Such changes may increase the potential for release of mercury to the environment from either landfilling or uses of CCRs. Available data have been collected to help characterize this potential and to identify data gaps that may exist to understand the potential life-cycle environmental burdens associated with current and future management practices of CCRs.

Mercury volatilization or leaching is possible during any phase of CCR life cycle (production, usage, or disposal). Available CCR data report a range of values for mercury concentration based on varying mercury contents in the input coal, varying mercury capture rates for PM and SO_2 control devices, and differences in analytical and sampling protocols in use. Fly ash and FGD residues typically have higher mercury concentrations than bottom ash and boiler slag. The mercury concentrations in the residues are typically in the subparts-per-million (ppm) range (i.e., <1.0 ppm).

More than 70% of the total mass of CCRs produced in 1998 went to land disposal (mostly landfilling, although some went to surface impoundments) and the remainder was managed in beneficial uses. Mercury volatilization of CCRs in

landfills and/or surface impoundments is expected to be low due to the low temperatures involved and the existence of a relatively small surface area per unit volume of residue. Since the residues are typically alkaline and the mercury is adsorbed on alkaline particles, acid leaching potential is expected to be minimal. Limited available data indicate nondetectable mercury levels in the leachate. However, due to the large volumes of residues being land-disposed and the increase in mercury content, some limited work would help provide direct measurements to ensure that mercury would not be released into the environment.

There are several commercial uses of CCRs where available data on which to characterize the mercury emission potential are lacking. These include

- Cement production—Mercury volatilization is a concern if fly ash is input to cement kilns in which temperatures reach 1500 °C (2700 °F).
- Structural fill—Mercury volatilization is not a concern, but leaching is possible, although the alkaline nature of fly ash reduces this concern.
- Mining applications—There is concern that leaching may occur due to the acidic conditions occurring during mining applications.
- Wallboard—The substitution of FGD residues for natural gypsum has been growing rapidly. Volatilization of mercury in the FGD by-products during manufacturing (during the drying process) is a concern.
- Mineral filler—Mercury volatilization during the production and application of asphalt using fly ash fillers is of concern since the production and application of asphalt occurs at temperatures above 175 °C (350 °F).
- Agriculture—Fly ash, bottom ash, and FGD sludge are used as soil amendments, generally replacing lime. The potential for mercury leaching or uptake in plants needs to be evaluated to determine the potential fate of mercury. This has been a concern of environmental interest groups, and data are needed to be able to determine the ultimate fate of mercury.

FUTURE EFFORTS

EPA plans to work closely with DOE, EPRI, and the utility industry to continue the development of mercury and multipollutant control technologies. Only a collaborative effort will provide all of the scientific knowledge, engineering skills, and financial resources needed to develop effective control technologies and regulatory requirements.

Additional efforts are planned to characterize the behavior of mercury in coal-combustion systems. These efforts will include further research on the speciation and capture of mercury, and the stability of mercury in CCRs and residue by-products. The control capabilities and costs of potential mercury retrofit technologies currently under pilot-scale

development will be continued and appropriate control technologies should be evaluated on full-scale units. Additionally, an evaluation of the co-control of mercury with available PM, SO₂, and NO_x controls is needed.

A team approach would ensure that appropriate regulatory and scientific guidance is available in the development of mercury and multipollutant control technologies. Mercury measurement and monitoring capabilities must be consistent with the regulatory approaches that may be considered. Field activities need to be coordinated to (1) improve the emissions database; (2) develop the technologies most appropriate for EPA goals (e.g., mercury-specific vs. multipollutant controls); and (3) refine cost data and models based on actual field experience. ☐

ACKNOWLEDGMENTS

The contributions of the following individuals are gratefully acknowledged: Bill Maxwell of EPA's Office of Air Quality Planning and Standards; Charles Sedman and Susan Thorneloe of EPA's National Risk Management Research Laboratory; and Scott Renninger and Dennis Smith of DOE's National Energy Technology Laboratory.

REFERENCES

1. French, C.L.; Maxwell, W.H. *Study of Hazardous Air Pollutant Emissions from Electric Utility Steam Generating Units—Final Report to Congress*; EPA-453/R-98-004; U.S. Environmental Protection Agency; Office of Air Quality Planning and Standards: Research Triangle Park, NC, 1998; <http://www.epa.gov/ttn/oarpg/t3/reports/eurtc1.pdf>.
2. Keating, M.H.; Mahaffey, K.R. *Mercury Study Report to Congress*; EPA-452/R-97-003; U.S. Environmental Protection Agency; Office of Air Quality Planning and Standards and Office of Research and Development: Research Triangle Park, NC, 1997; <http://www.epa.gov/ttn/oarpg/t3rc.html>.
3. Mishima, A. *Bitter Sea: The Human Cost of Minamata Disease*; ISBN: 4-333-01479-4; Kosei Publishing Co.: Tokyo, Japan, 1992.
4. Brown, T.D.; Smith, D.N.; Hargis, R.A.; O'Dowd, W.J. 1999 Critical Review, Mercury Measurement and Its Control: What We Know, Have Learned, and Need to Further Investigate; *J. Air & Waste Manage. Assoc.* 1999, 49, 628-640.
5. Letter with attachments from Schmidt, C.E., U.S. Department of Energy; National Energy Technology Laboratory, Pittsburgh, PA, to Kilgroe, J.D., U.S. Environmental Protection Agency; Office of Research and Development, National Risk Management Research Laboratory, Research Triangle Park, NC, August 11, 2000.

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James D. Kilgroe and Ravi K. Srivastava, Ph.D., work at the U.S. Environmental Protection Agency's (EPA) National Risk Management Research Laboratory (NRMRL) in Research Triangle Park, NC.

James D. Kilgroe (Kilgroe.Jim@epa.gov) manages the combustion source Emission Control Technology Program at NRMRL. He is responsible for EPA studies on the costs/performance of mercury emission control technologies for coal-fired utility boilers. While at EPA, he has managed programs on waste-to-energy, coal cleaning, and municipal waste combustion. He is a member of A&WMA.

Dr. Srivastava (Srivastava.Ravi@epa.gov) manages projects related to controlling NO_x, SO₂, Hg, and PM emissions from stationary combustion sources. He has more than 18 years of experience in air pollution control and has numerous publications in this area. He is also a member of A&WMA.

*To: Gene Upchurch
ATTN*

**CP&L North Carolina Baseload Generation
Used to Serve North Carolina Customers**

	Year 2000 Generation (MWh)
Coal-Fired Plants	
Cape Fear	1,834,170
Weatherspoon	828,341
Lee	1,908,758
Sutton	2,596,831
Asheville	2,560,842
Roxboro	14,755,063
Mayo	<u>4,017,295</u>
Total North Carolina Coal-Fired Generation	28,501,300
Nuclear Plants	
Brunswick	11,271,711
Harris	<u>5,765,794</u>
Total North Carolina Nuclear Generation	17,037,505
Total North Carolina Baseload Generation	45,538,805
North Carolina Retail Sales	34,244,699 ✓
North Carolina Wholesale Sales (Munis & Coops)	<u>10,090,292</u>
Total North Carolina Sales in Year 2000*	44,334,991

* Includes all sales to ultimate consumers in NC, both CP&L direct retail sales as well as CP&L sales to wholesale customers (municipals and cooperatives) for resale to retail consumers.

**Percent of North Carolina Baseload Generation
Used to Serve North Carolina Customers**

97.4%

CP&L
05/30/2001

75%



AH7

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1078-ARL-11 [v.2]

Page 1 of 2

Date _____, 2001

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Representative *Smith*

1 moves to amend the bill on page 4, lines 17 through 39 by rewriting those lines to read:

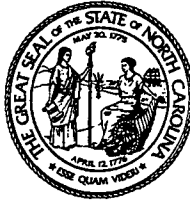
2

3 "§ 62-133.6. Environmental compliance costs-recovery.

4 (a) As used in this section, the term "environmental compliance costs" means
5 only those costs prudently incurred between July 1, 2001 and June 30, 2014 by an
6 electric utility to comply with oxides of nitrogen (NO_x) and sulfur dioxide (SO₂)
7 standards adopted pursuant to G.S. 143-215.107D that exceed the costs required to
8 comply with the revisions to the State Implementation Plan (SIP) to reduce emissions
9 of oxides of nitrogen (NO_x) pursuant to the final notice published by the Administrator
10 of the United States Environmental Protection Agency at 63 Federal Register 57491
11 (October 27, 1998) and codified at 40 Code of Federal Regulations § 51.121 (July 1,
12 2000 Edition).

13 (b) The Commission shall allow each electric utility to recover its just,
14 reasonable, and prudently incurred environmental compliance costs through an
15 environmental compliance costs-recovery factor that is separate from the electric
16 utility's base rates, and that is fair to ratepayers and the electric utility, and in the public
17 interest.

18 (c) The Commission shall hold a hearing and set the environmental compliance
19 costs-recovery factor for each electric utility in a manner that allows the electric utility



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1078-ARL-11 [v.2]

Page 2 of 2

1 to recover its projected environmental compliance costs through a levelized rate over a
2 period of time not to exceed 13 years beginning July 1, 2002. Every two years after the
3 Commission first sets the environmental compliance costs-recovery factor, the
4 Commission shall hold a hearing and adjust such levelized rate to incorporate the
5 experienced under-recovery or over-recovery of the electric utility's environmental
6 compliance costs incurred during the previous two years and any revisions to the
7 electric utility's projected environmental compliance costs. If either of the last two
8 adjustment proceedings, or both of them, results in an increase in the environmental
9 compliance costs-recovery factor that the Commission determines to be so high that
10 recovering it within the time allowed in this subsection would be against the public
11 interest, the Commission may extend the recovery period for a time not to exceed three
12 additional years.

13 (d) The Commission shall adopt rules to implement this section."
14

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



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To: House Public Utilities Committee
From: Kristen Crosson, Research Assistant
Steve Rose, Principal Attorney
Date: June 6, 2001
Re: Committee inquiry as to % increase in fuel costs

Percentage Increases in Price of Residential Retail Fuel from 2000 to 2001

Auto Gasoline

From May 2000 to May 2001:

Raleigh 7.45% average

Asheville 7.45% average

Charlotte 6.11% average

Wilmington 7.45% average

(North Carolina figures from Triple A)

Fuel oil (home heating oil)

From January 2000 to January 2001:

Increase of 21%

From March 2000 to March 2001:

Increase of 3.5%

(North Carolina figures from Energy Information Administration)

Natural gas

From June 2000 to June 2001:

Public Service Company of NC (PSNC) 30.30% average

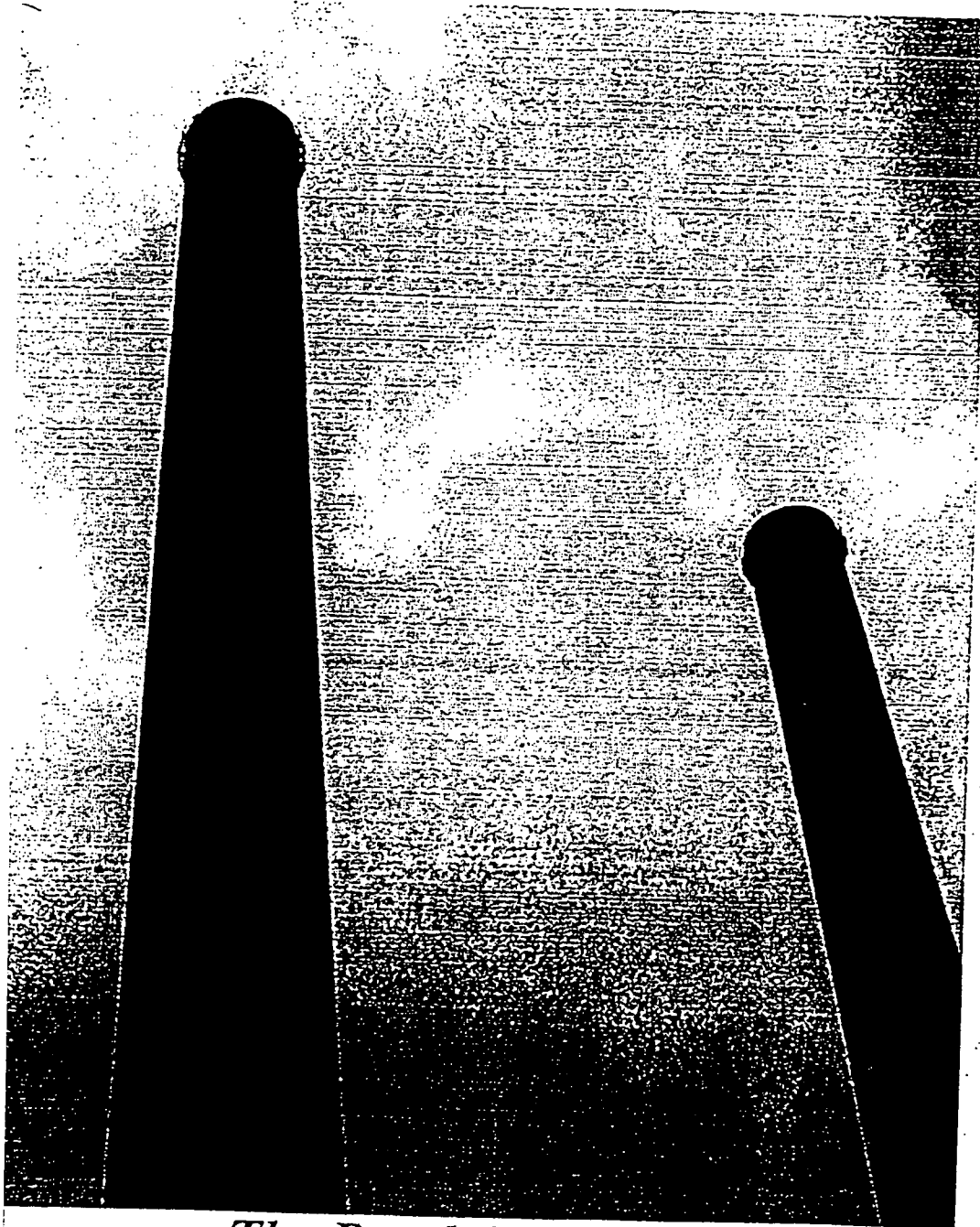
Piedmont Natural Gas Co. (Piedmont) 25.73% average

North Carolina Natural Gas Corp. (NCNG) 22.19% average

(North Carolina figures from the Public Staff of NC Utilities Commission)

Please call Steve Rose or Kristen Crosson in the Research Division at 919-733-2578 if you have further questions.

North Carolina Clean Smokestacks Plan



The People's Plan for Clean Air

March 2001

The North Carolina Clean Smokestacks Plan was developed by a coalition of environmental, public health, and citizen groups. It was inspired by the 11,000 North Carolina citizens who expressed their desire for clean air and strict reductions in smokestack emissions during public hearings on air quality held during the summer of 2000. The state and local organizations that participated in developing the Clean Smokestacks Plan were the following:

- Environmental Defense
- Appalachian Voices
- Blue Ridge Environmental Defense League
- Canary Coalition
- Clean Water Fund of North Carolina
- Conservation Council of North Carolina
- North Carolina Conservation Network
- North Carolina Public Interest Research Group
- North Carolina Solar Energy Association
- Sierra Club
- Southern Environmental Law Center
- Western North Carolina Alliance

March 2001

North Carolina Clean Smokestacks Plan

Executive Summary

From the mountains to the sea, North Carolina has long been recognized for its natural beauty and high quality of life, a reputation that makes it difficult to accept that the state's air quality is now on the decline.

The North Carolina Clean Smokestacks Plan documents the serious public health and environmental problems resulting from coal-fired power plants and other sources of air pollution. It then offers a policy framework for executive and legislative action to reduce emissions from coal-fired power plants and clean up North Carolina's air.

Consequences of Dirty Air

Emissions of nitrogen oxides (NO_x), sulfur dioxide (SO_2), mercury, and carbon dioxide (CO_2) undermine public health, the environment, and the economy of North Carolina in the following ways:

- **Public Health.** North Carolina's air quality consistently ranks among the least healthy in the nation; for example, in 1999, the state had the fifth highest number of unhealthy air days. The American Lung Association found the Charlotte metropolitan area to have the eighth smoggiest air in the nation, and the Raleigh-Durham area ranked seventeenth. It is estimated that NO_x pollution from power plants triggers more than 200,000 asthma attacks across the state each year and SO_2 pollution causes more than 1,800 premature deaths, ranking North Carolina as the fourth worst state in the nation for power-plant related deaths. Airborne mercury falls into the state's rivers and estuaries, contaminating freshwater and saltwater fish populations. Mercury compounds bioaccumulate in the food chain, making king mackerel, bass (in some areas), and bowfin unfit for human consumption by children and women of childbearing age.
- **Visibility.** Visibility in the southeast has declined by 75% from natural levels. One should be able to see out 93 miles on an average day in the Smoky Mountains, but now air pollution has reduced this to an average of 22 miles. On any given summer day in the mountains, there is a good chance that views may be entirely obscured by pollution.
- **Ecosystems.** Air pollution causes acid rain and nitrogen deposition, which make vegetation more susceptible to disease and pests, contributing to stunted growth and significant declines in populations of dogwood, spruce, fir, beech, and other tree species. Rainfall in the Great Smoky Mountains National Park is five to ten times more acidic than normal rainfall. In the east, airborne nitrogen adds to nutrient pollution in sensitive coastal watersheds, contributing to algal blooms and fish kills.

- **Economic Consequences.** North Carolina's dirty air threatens the vitality of the state's economy. Dirty air is estimated to cost the state over \$3.0 billion annually in morbidity and mortality costs. Air pollution also reduces crop yields, which causes North Carolina farmers to lose more than \$175 million each year. Frequent smog alerts atop the Great Smoky Mountains discourage hiking and other outdoor activities. The impairment of visibility undermines North Carolina's \$12 billion tourism industry. The loss in economic activity in the area around the Great Smoky Mountains National Park is estimated to cost more than \$200 million each year.
- **Global Climate Change.** Carbon dioxide pollution from power plants and other sources is one of the primary pollutants that contributes to global warming, which over the next thirty years is expected to raise sea levels off the North Carolina coast by 7.5 inches, a rise that could completely inundate or change the coastline at Wrightsville Beach, Topsail Beach, and the Outer Banks.

Sources of Air Pollution

The sources of air pollution of greatest concern in North Carolina are coal-fired power plants, followed by mobile sources. Power plants emit 82% of all sulfur dioxide air emissions, 45% of nitrogen oxides, and 65% of mercury. Automobiles and other mobile sources emit 48% of the nitrogen oxides.

Technologies and Clean Energy

Technologies to control both NO_x and SO₂ emissions from old, coal-fired power plants are both affordable and available:

- **Selective Catalytic Reduction (SCR).** SCRs can reduce NO_x emissions by more than 80% from uncontrolled levels.
- **Flue Gas Desulfurization (Scrubbers).** Scrubbers are able to reduce sulfur dioxide emissions by more than 90% from uncontrolled levels.
- **Clean Energy Sources.** Renewable energy sources such as wind power essentially eliminate all air pollution from power generation. Efficiency, conservation, and switching to cleaner fuels also substantially reduce air pollution.

Currently, only three of the fourteen major power plants in the state have committed to installing SCR systems, and no facilities use scrubbers. Installation of scrubbers combined with SCR systems can reduce mercury emissions by up to 95% from uncontrolled levels. Carbon injection and other cutting-edge technologies also are being used to control mercury from other combustion sources, such as municipal waste and medical waste incinerators. These technologies show promise in substantially reducing mercury emissions from power plants, although the widespread implementation of such technologies at coal-fired power plants may require further work. Switching fuels to natural gas or using other cleaner sources of energy such as wind power achieve even higher NO_x, SO₂, and mercury reduction levels and reduce carbon dioxide as well.

Solutions

North Carolina could easily make dramatic strides toward cleaner air. We know the consequences of dirty air and its principal sources, and we have technologies to reduce emissions from coal-fired power plants.

North Carolina's power plants must meet modern standards for NO_x and SO₂ and drastically lower their emissions of mercury and CO₂ in order to protect the public health, the environment, and the economy. Table A outline the kinds of specific reduction targets that are both feasible and vital to public health and environmental protection. It is important that new laws and regulations be phased in over a reasonable length of time to enable the utility companies to plan and retrofit their power plants as cost effectively as possible. The large size of the reductions needed is a testament to the amount of pollution spewing forth from the so-called grandfathered power sector, whose plants are largely uncontrolled.

Federal and state strategies to reduce emissions from cars and other "mobile sources" also are needed to clean our air. Emissions from the power plants, however, remain the chief obstacle to clean, healthy air for all North Carolinians.

Table A. Achievable Reduction Targets from the Power Plant Sector

- ✓ **Summertime Nitrogen Oxides.** Cap summertime NO_x emissions at 23,000 tons, an 80% reduction over 1998 levels. These reductions should be phased in by 2007.
- ✓ **Year-Round Nitrogen Oxides.** Cap year-round NO_x emissions at 50,000 tons, an 80% reduction over 1998 levels. The reductions should be phased in by 2007.
- ✓ **Sulfur Dioxide.** Cap emissions of SO₂ at 85,000 tons annually, an 82% reduction over 1998 levels. The reductions should be phased in by 2007.
- ✓ **Mercury.** Reduce year-round emissions of mercury by 90% from 1998 levels. The reductions should be phased in by 2007.
- ✓ **Carbon Dioxide.** Cap new CO₂ emissions at 1990 levels, as called for by the United Nations Framework Convention on Climate Change, which has been ratified by the United States.

Costs and Benefits

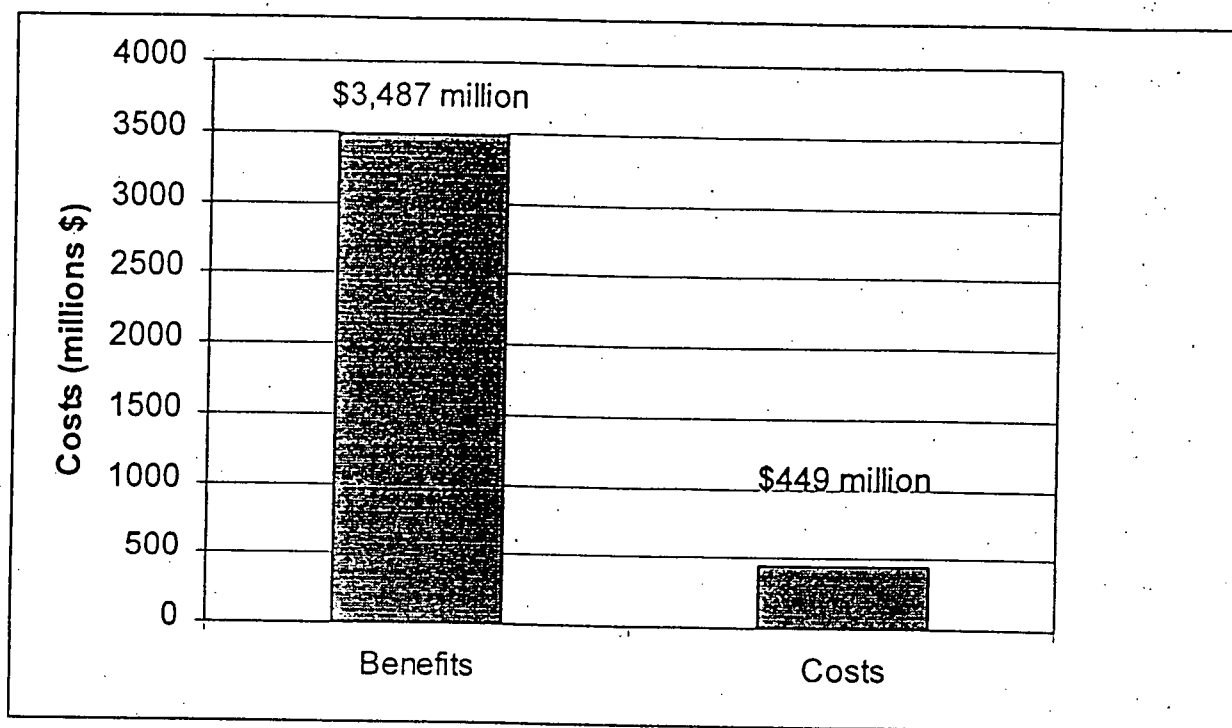
If the compliance costs for NO_x, SO₂, and mercury were passed on to consumers, the total cost to reduce emissions to the levels recommended in the North Carolina Clean Smokestacks Plan would raise an average household's power bill by \$4.09 per month. However, power companies must request a rate review from the North Carolina Utility Commission before they can pass on the costs of these controls to consumers, which means that in the end rates may not be increased at all.

Overall, the benefits of improved air quality far outweigh the costs (see Table B and Figure A). That is, the cost savings resulting from reducing the coal-fired power plant emissions by the amounts called for in the North Carolina Clean Smokestacks Plan would be \$3.5 billion annually, compared with the utilities' cost of compliance, which is \$450 million. The difference is a net economic benefit of more than \$3.0 billion each year. Note that benefits and costs of CO₂ are not included in this analysis, as climate change issues will be dealt with more fully in a later report.

Table B. Benefits and Costs of Reducing Smokestack Pollution

Benefits or Cost Savings (million \$)		Cost of Compliance (million \$)	
Ozone reduction (health, forests, and agriculture)	\$292	Summertime NO _x	\$112
Particulate matter (health)	\$3,108	Year-round NO _x	\$22
Visibility (tourism)	\$87	SO ₂	\$315
Benefits not quantified (e.g., cancer, ecosystem damage)	—	Mercury	<i>No marginal cost beyond NO_x and SO₂ controls</i>
Total	\$3,487 million or \$3.5 billion	Total	\$449 million

Figure A. Benefits versus Costs of Controlling Smokestack Pollution



Primary Recommendation

The General Assembly should pass -- and Governor Mike Easley should sign into law -- a comprehensive clean smokestacks bill requiring the state's power plants to meet aggressive clean emission standards for NO_x and SO₂ and also to drastically lower mercury emissions. The bill should be based on achievable reduction targets -- 80% for NO_x, 82% for SO₂, and 90% for mercury. Controlling air emissions from power plants is the single most important action that North Carolina can take to clean its dirty air and thereby ensure the health of its citizens, environment, and economy for future generations.

Summary of Recommendations

Reducing the amount of pollution emitted by power plants will require strong leadership by Governor Easley, legislators, members of the Environmental Management Commission, and other state officials. The North Carolina Clean Smokestacks Plan calls for the following:

Governor Easley

- Persuade the General Assembly to adopt a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Upon cleaning up North Carolina's power plants, take advantage of federal laws (such as Section 126 of the Clean Air Act) to encourage upwind states such as Tennessee, Georgia, Kentucky, and Ohio to reduce the air pollution they contribute to North Carolina.
- Direct the North Carolina Department of Environment and Natural Resources to finalize Phase III of the Governor's Clean Air Plan to ensure that the state sufficiently reduces NO_x emissions year-round from both point and mobile sources to meet health standards. Phase III should also map out strategies to reduce SO₂ and mercury emissions.
- Direct the North Carolina Energy Office to develop a plan by December 2001 for increasing the use of renewable sources of energy to 10% of all power generation by 2010 and 20% by 2020. This plan should also outline strategies to improve energy efficiency and increase conservation.
- Urge the U.S. Environmental Protection Agency to adopt strong particulate matter and NO_x emission standards for non-road heavy-duty diesel engines.

General Assembly

- Pass a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Require utilities to disclose publicly through quarterly inserts in their electricity bills the sources of energy, emissions, and wastes generated from energy production.
- Create a greenhouse gas registry program so that power companies can receive credit for early reductions in carbon dioxide and other greenhouse gases.
- Create tax incentives for residents to buy low- and zero-emission vehicles.

Environmental Management Commission

- Pass rules to cap utility summertime NO_x emissions at 23,000 tons and to reduce NO_x emissions to 50,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to cap SO₂ emissions at 85,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to reduce year-round emissions of mercury by 90% from 1998 levels, complementing any actions that the General Assembly may take.

North Carolina Utilities (Duke Energy and Progress Energy)

- Develop and implement plans for reducing emissions of NO_x, SO₂, mercury, and CO₂ to meet North Carolina's public health, environmental, and economic needs.
- Commit to phasing out outdated power plants and increasing the use of less polluting sources of energy such as natural gas and renewable sources.

Governor Easley

- Persuade the General Assembly to adopt a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Upon cleaning up North Carolina's power plants, take advantage of federal laws (such as Section 126 of the Clean Air Act) to encourage upwind states such as Tennessee, Georgia, Kentucky, and Ohio to reduce the air pollution they contribute to North Carolina.
- Direct the North Carolina Department of Environment and Natural Resources to finalize Phase III of the Governor's Clean Air Plan to ensure that the state sufficiently reduces NO_x emissions year-round from both point and mobile sources to meet health standards. Phase III should also map out strategies to reduce SO₂ and mercury emissions.
- Direct the North Carolina Energy Office to develop a plan by December 2001 for increasing the use of renewable sources of energy to 10% of all power generation by 2010 and 20% by 2020. This plan should also outline strategies to improve energy efficiency and increase conservation.
- Urge the U.S. Environmental Protection Agency to adopt strong particulate matter and NO_x emission standards for non-road heavy-duty diesel engines.

General Assembly

- Pass a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Require utilities to disclose publicly through quarterly inserts in their electricity bills the sources of energy, emissions, and wastes generated from energy production.
- Create a greenhouse gas registry program so that power companies can receive credit for early reductions in carbon dioxide and other greenhouse gases.
- Create tax incentives for residents to buy low- and zero-emission vehicles.

Environmental Management Commission

- Pass rules to cap utility summertime NO_x emissions at 23,000 tons and to reduce NO_x emissions to 50,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to cap SO₂ emissions at 85,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to reduce year-round emissions of mercury by 90% from 1998 levels, complementing any actions that the General Assembly may take.

North Carolina Utilities (Duke Energy and Progress Energy)

- Develop and implement plans for reducing emissions of NO_x, SO₂, mercury, and CO₂ to meet North Carolina's public health, environmental, and economic needs.
- Commit to phasing out outdated power plants and increasing the use of less polluting sources of energy such as natural gas and renewable sources.

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North Carolina

Clean Smokestacks Plan

1 Introduction

Each year, the air pollution from North Carolina's coal-fired power plants causes thousands of premature deaths, hundreds of thousands of asthma attacks, critical damage to ecosystems statewide, and severe reductions in visibility in the mountains. This smokestack pollution not only harms North Carolina's public health and environment, but also undermines its economic health and quality of life. Although technologies, clean fuels, and other innovative strategies and practices are now available to control the pollution from power plants, North Carolina's utilities have so far made only modest commitments to reduce their emissions of nitrogen oxides (NO_x), and no plants in North Carolina have installed equipment to control their emissions of sulfur dioxide (SO₂) or mercury. In sum, North Carolina will not be able to clean its air unless power plant smokestack emissions are reduced dramatically.

Governor Mike Easley has stated his commitment to bringing back cleaner, healthier air to North Carolina. The North Carolina Clean Smokestacks Plan outlines the health, environmental, and economic consequences air pollution, and it presents economically feasible solutions to reduce emissions of NO_x, SO₂, CO₂, and mercury. Clean energy, efficiency, conservation, and fewer emissions from automobiles also are critical to improving the state's air quality., so these issues are discussed as well. It then offers a policy framework for executive and legislative action to reduce emissions from coal-fired power plants and clean up North Carolina's air.

2 Consequences of Dirty Smokestacks

The smokestack pollutants of greatest immediate concern to North Carolina are NO_x, SO₂, mercury, and carbon dioxide (CO₂). Their effects are summarized in Table 1.

Table 1. Smokestack Pollutants of Greatest Immediate Concern		
Smokestack Pollutant	Product of Conversion	Major Effects
Nitrogen oxides (NO _x)	<ul style="list-style-type: none"> • Ozone • Acid deposition • Particulate matter 	<ul style="list-style-type: none"> • Public health • Acidification of terrestrial and aquatic ecosystems • Eutrophication of coastal waters • Haze (reduced visibility) • Economy
Sulfur dioxide (SO ₂)	<ul style="list-style-type: none"> • Particulate matter • Acid deposition 	<ul style="list-style-type: none"> • Public health • Acidification of terrestrial and aquatic ecosystems • Haze (reduced visibility) • Economy
Mercury	Methylmercury	<ul style="list-style-type: none"> • Public health • Toxic contamination of fish species
Carbon dioxide (CO ₂)		<ul style="list-style-type: none"> • Climate change

2.1 Public Health

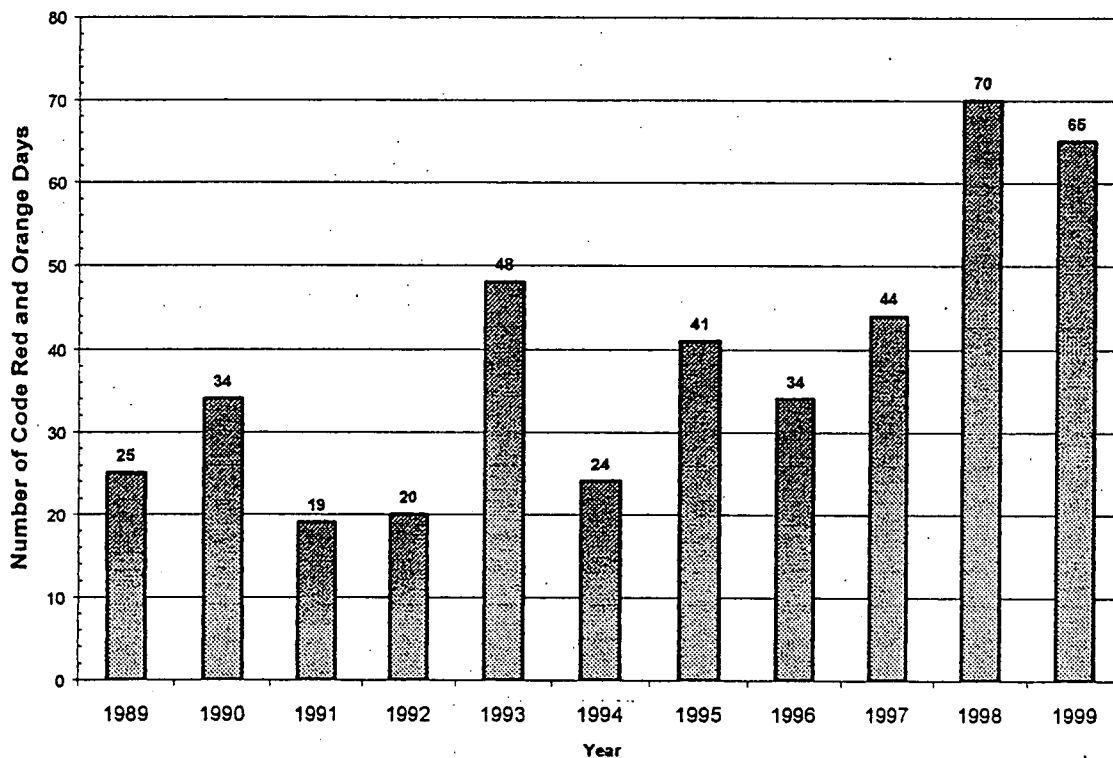
- **Smog or Ozone.** NO_x pollution is emitted from power plants, cars, and other sources. It reacts with chemicals in the atmosphere in the presence of sunlight, creating ground-level ozone, the major constituent of smog. North Carolina citizens have become familiar with Code Red and Code Orange air quality alerts on smoggy days (Table 2); indeed, the number of unhealthy air days

Table 2. Air Quality Color Code Guide	
Code	Health Impacts
Purple	Very unhealthy; everyone, especially children, should limit outdoor activities.
Red	Generally unhealthy; everyone, especially children, should limit outdoor activities.
Orange	Unhealthy for sensitive groups
Yellow	Moderate air quality
Green	Healthy air

has nearly doubled over the last ten years (Figure 1). In 2000 Charlotte even experienced a code purple day. In 1999, North Carolina ranked fifth in the United States in number of unhealthy air days.¹ On such days, many people experience the symptoms of a dry throat and a burning sensation in the lungs. As smog levels rise, more segments of the population are warned to avoid the outdoor air.

Smog is not confined to urban areas of the state. Because air pollution is transported through the atmosphere, the air quality in some rural counties is among the least healthy. Even the Great Smoky Mountains National Park is not immune to bad air days. In the summer of 1999, the park experienced fifty-two unhealthy air days, even more than Raleigh.²

Figure 1. Unhealthy Air Days in North Carolina
(based on an eight-hour standard)



Source: North Carolina Department of Environment and Natural Resources, Air Quality Planning Section, October 2000.

¹ Clean Air Network, "Danger in the Air: Unhealthy Smog Days in 1999," January 2000.

² Personal Communication, Jim Renfroe, Air Quality Specialist, Great Smoky Mountains National Park, February 2000.

Ozone causes chest pain, coughing, throat irritation, and congestion, in addition to the following health problems:

- Smog in North Carolina is estimated to have caused 1,900 respiratory hospital admissions, 630 asthma emergency room visits, and 240,000 asthma attacks during the summer months of 1997.³
 - Smog exacerbates the severity and frequency of asthma cases. Nationally, asthma rates jumped by 75% between 1980 and 1994, and among children under four years old, asthma rates mushroomed by 160%.⁴
 - Exposure to ozone hurts children the most, because they breathe more air per pound of body weight than adults do and their respiratory systems are still developing.
 - Ozone has negative health effects even at "safe" levels. One study reported 28% more emergency room visits for asthma when ozone levels were above 60 parts per billion (ppb), a value well below the current health standard.⁵
 - Smog harms everyone who breathes, not just children and the elderly. For example, in the summer, the lung function of even healthy people who exercise or work outdoors, like construction workers, may be reduced by 15% when exposed to low levels of ozone over several hours.
- **Particulate Matter (PM).** NO_x and SO₂ pollutants react in the atmosphere to form tiny particles called *fine particulate matter*. This matter is breathed deeply into the lungs where it clogs the body's air intakes or is absorbed into the bloodstream. Major epidemiological studies have associated even moderate concentrations of fine particles with a variety of serious health effects, including hospitalization and death. Particulate matter is estimated to be responsible for 1,800 premature deaths each year in North Carolina, earning the state the dubious ranking of fourth worst in the nation for PM-related mortality.⁶ On a per capita basis, Asheville is rated sixth in the nation among cities for premature deaths

The Need for Year-Round NO_x Reductions

The adverse impacts of NO_x are not confined to summertime ozone. Other serious consequences of NO_x pollution (as presented in Table 1) threaten public health and the environment year-round. Year-round NO_x produces:

- Fine particulate matter formation which is breathed deeply into the lungs, causing hospitalization and premature deaths
- Acid rain in forests, lakes, and streams
- Nutrient overloading of sensitive coastal waters
- Haze and reduced visibility

Resources for the Future found that the marginal costs of compliance for controlling NO_x emissions year-round is 20%, while the health benefits of such controls are at least twofold compared to a summertime only program.

³ Abt Associates for the Clean Air Task Force, "Adverse Health Effects Associated with Ozone in the Eastern United States," October 1999.

⁴ Pew Environmental Health Commission, "Attack Asthma: Why America Needs a Public Health Defense System to Battle Environmental Threats," June 200, p. 4.

⁵ Weisel, "Relationship between Summertime Ambient Ozone Levels and Emergency Department Visits for Asthma in Central New Jersey," *Environmental Health Perspectives* 103, suppl. 2 (1995): 97-102.

due to power plant particulate matter, with an estimated 69 such deaths each year.⁷

- **Toxics and Mercury.** The average power plant in North Carolina releases more than 2 million pounds of toxic pollutants into the air.⁸ Most of these toxic emissions consist of hydrochloric and sulfuric acids which cause lung irritation in the short term and bronchitis and emphysema in the long term. Although it is emitted in much smaller quantities than the other toxics, mercury is one of the most poisonous pollutants coming out of power plant smokestacks. Less than a teaspoon of mercury deposited into a 25-acre lake can make the fish unsafe to eat. Moreover, once released into the environment, mercury does not break down, and it cannot be destroyed. Mercury emissions settle into water bodies across North Carolina, where mercury compounds are absorbed by aquatic life.⁹ Mercury accumulates in fish tissue at concentrations as much as one million times greater than that in the surrounding water. As a result, each year, hundreds or even thousands of North Carolinians are exposed to unsafe mercury levels in the fish they eat. Currently, advisories have been issued in North Carolina to limit the consumption of king mackerel, bowfin, and bass. When ingested by pregnant or nursing women, methylmercury can cause neurological damage, including delayed development, in the fetus and young children. The National Academy of Sciences estimates that nationally 60,000 children (roughly 1,800 in North Carolina) are born each year with neurological damage because their mothers were exposed to mercury during pregnancy.¹⁰

2.2 Visibility/Haze

Fine particulate matter not only harms health but also creates haze that impairs visibility, especially in the mountains. Haze reduces visibility in the Southern Appalachians by more than 75% over natural levels (Figure 2). The average annual visibility in the southeastern United States declined by 60% between 1948 and 1983, with an 80% decline during the summer months.¹¹ North Carolinians have long been used to beautiful outdoor scenery and vistas. The drop in visibility undermines North Carolinians' aesthetics and sense of heritage. On any given day, there is now a good chance that mountain views will be obscured, especially in the summer, which discourages tourists, thereby creating a direct economic consequence of dirty air.

⁶ The Clean Air Task Force, "Death, Disease, and Dirty Power," October 2000.

⁷ Ibid.

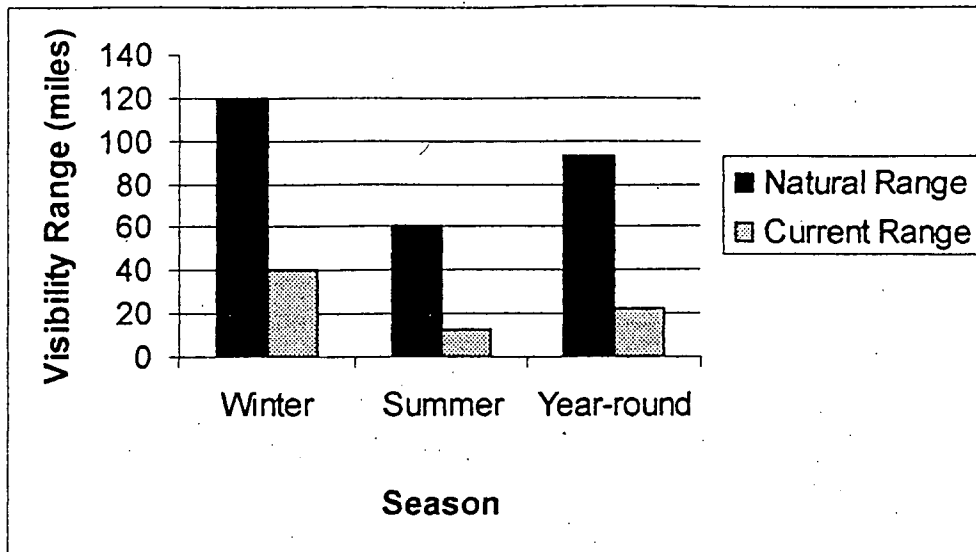
⁸ National Environmental Trust and Clear the Air, "Toxic Power," August 2000.

⁹ Rodney Foushee, "Mercury Rising," *Wildlife in North Carolina*, November 2000, pp. 5-11.

¹⁰ National Academy of Sciences, *Toxicological Effects of Methylmercury* (Washington, DC: National Academy Press, 2000).

¹¹ The National Park Service, "Clearing the Air at Great Smoky Mountains National Park, September 1999. See <http://www2.nature.nps.gov/ARD/parks/grsm/litctamr.htm>

Figure 2. Average Decline in Visibility in the Southern Appalachians



Source: Southern Appalachians Mountains Initiative, "Visibility in the Southern Appalachian Mountains" (fact sheet).

2.3 Ecosystem Health

- **Acid Rain/Deposition.** Because of the atmospheric pollution of sulfur and nitrogen compounds, rain, snow, and fog can become unnaturally acidic. Acidic compounds can also be deposited as dry particles, changing the soil chemistry and creating an unhealthy environment for native plant species. This acidification makes plant life more susceptible to disease, pests, and extreme weather conditions. Acid deposition also contributes to significant declines in populations of flowering dogwood, red spruce, Fraser fir, yellow birch, sugar maple, and American beech,¹² turning the once lush peaks of many mountaintops into wastelands. The average acidity of rainfall in the Great Smoky Mountains National Park is five to ten times more acidic than normal rainfall.¹³ Furthermore, the acidity of clouds can be even higher than that of rain, shrouding the mountaintops for hours or days in an acid mist.
- **Ozone.** Ground-level ozone hampers the ability of plants to produce and store food, thus compromising their growth, reproduction, and overall health. Most visibly, ozone causes leaves to brown, spot, or fall off.¹⁴ Such damage has been identified in dozens of plant species in the Great Smoky Mountains National Park alone.¹⁵

¹² Ayers, Harvard, "Polluted Parks in Peril," *Appalachian Voices*, October 2000, pp. 5.

¹³ Southern Appalachian Mountains Initiative, "Air Quality," *Great Smoky Mountains National Park Management Folia*, no. 2

¹⁴ U.S. Environmental Protection Agency, "Fact Sheet: Health and Environmental Effects of Ground-Level Ozone."

¹⁵ Southern Appalachian Man and the Biosphere, *Southern Appalachian Assessment: Atmosphere*, July 1996.

- **Nitrogen Deposition.** Nitrogen deposition is a problem statewide. In the eastern watersheds of North Carolina, NO_x pollution, ammonia from hog farms, and other sources are responsible for overloading nutrient-sensitive watersheds such as the Neuse and Tar-Pamlico. The nitrogen overstimulates algae growth, which depletes aquatic oxygen levels, and causes fish kills. In the mountains, many soil and stream ecosystems have become artificially saturated with nitrogen, which in high concentrations locks up critical nutrients (e.g., calcium and magnesium), making them unavailable to vegetation and aquatic organisms.¹⁶

2.4 Climate Change

North Carolina's climate has risen by 1.2 degrees Fahrenheit over the last century,¹⁷ and there is strong scientific evidence that the temperature in North Carolina will rise 4.5 to 9.5 degrees over the next 100 years.¹⁸ A warming planet is expected to raise the sea level by 7.5 inches on the North Carolina coast by 2030, which could completely inundate or change the coastline at Wrightsville Beach, Topsail Beach, and the Outer Banks. In addition, global warming is expected to increase coastal flooding, increase ground-level ozone and the number of unhealthy air days, add to the incidence of mosquito-borne diseases, lower crop yields, damage ecosystems, and possibly lead to stronger and more frequent hurricanes. One of the main pollutants contributing to global warming is carbon dioxide (CO₂) which is emitted predominantly from power plants and automobiles. A document from Appalachian State University, "North Carolina's Sensible Greenhouse Gas Reduction Strategies," provides a starting point for considering the environmental and economic risks of a warming planet to North Carolina and the state's role in reducing the emissions of greenhouse gases.¹⁹

2.5 Economic Consequences

The economic consequences of dirty air in North Carolina include the following:

- **Health Costs.** The North Carolina Department of Health and Human Services estimated that summertime respiratory-related hospital admissions due to elevated ozone levels in 1997 cost the state more than \$19 million.²⁰ It is estimated that total summertime ozone costs North Carolina about \$296 million a year in health costs or \$37 per citizen,²¹ and reducing particulate matter to meet federal standards would

¹⁶ Ayers, Harvard, "Polluted Parks in Peril," *Appalachian Voices*, October 2000, pp. 4-5.

¹⁷ U.S. Environmental Protection Agency, "Climate Change and North Carolina," EPA 236-F-98-007q, September 1998.

¹⁸ Mid Atlantic Regional Assessment, "Preparing for a Changing Climate: The Potential Consequences of Climate Variability and Change," January 2001, p. 179. See <http://www.essc.psu.edu/mara/index.html>.

¹⁹ See www.geo.appstate.edu.

²⁰ Luanne Williams, North Carolina Department of Health and Human Services, "Estimated Number of Respiratory-Related Hospital Admissions," memorandum, January 11, 2000.

²¹ Orie L. Loucks, "Background Paper on Nitrogen Oxide Sources As a Cause of Ozone and Smog in North Carolina and Surrounding States," Miami University of Ohio, February 1999. The documents estimate of national ozone health costs of \$37 per person was multiplied 8.04 million, the population of North Carolina according to the 200 U.S. Census.

save the state 3.2 billion annually in morbidity and mortality costs.²²

- **Agriculture.** Ozone's effect on plants (Section 2.3) is "a significant stress factor in agricultural production."²³ Losses in yields are estimated to average 15% for soybeans and are serious for other signature North Carolina crops such as tobacco and peanuts. The damage to crops caused by ozone is calculated to cost North Carolina well over \$175 million annually, equivalent to \$25 per person per year.²⁴ Southeastern pine forests may also lose \$110 million each year from lower yields due to ozone exposure.²⁵
- **Tourism.** Loss of visibility directly threatens tourism, a \$12 billion industry and vital sector of North Carolina's economy. Tourism supports 190,000 jobs²⁶ in the state, and it depends on clean air, beautiful scenery, and healthy forests. Frequent smog alerts atop the Great Smoky Mountains discourage hikers. Improving visibility would increase visitation to the Great Smoky Mountains National Park, bringing in more than \$200 million in additional sales and more than \$20 million in additional tax revenues.²⁷
- **Quality of Life.** A loss of air quality clearly diminishes the quality of life for all North Carolinians, but putting a price tag on it is difficult. Nonetheless, some indirect measures are possible. For example, the Keenan Institute found that quality of life is a major factor in locating new businesses in the state,²⁸ which implies that as air quality declines, it will be harder for the state to attract new investment and jobs.

The preceding numbers are not comprehensive, as the economic effects of acid rain, eutrophication, mercury exposure, and other environmental problems are not included. Thus, the actual costs of dirty air are much higher than those reflected by the dollar amounts just cited. Finally, no economic calculation can truly quantify the pain experienced by a child who suffers from asthma or a grandparent with cardiopulmonary disease who is hospitalized or dies from exposure to high levels of fine particulate matter.

²² Abt Associates, "The Particulate-Related Health Benefits of Reducing Power Plant Emissions," October 2000. This document sites the benefits of cleaning up power plants to modern emission standards would be \$111 billion per year nationwide. This figure is apportioned to North Carolina based on its population compared with that of the entire United States. The calculation is as follows: (\$111 billion benefit) x (.028% NC population compared to total US population) = \$ 3,108 million

²³ National Acid Precipitation Assessment Program, "NAPAP Biennial Report to Congress: An Integrated Assessment," May 1998, p. 63.

²⁴ Orie L. Loucks, "Background Paper on Nitrogen Oxide Sources As a Cause of Ozone and Smog in North Carolina and Surrounding States," Miami University of Ohio, February 1999.

²⁵ U.S. Environmental Protection Agency, "Benefits and Costs of the Clean Air Act," November 1999.

²⁶ North Carolina Office of Tourism, Department of Commerce. See

<http://www.commerce.state.nc.us/tourism/econ/>.

²⁷ Abt Associates, "Out of Sight: The Science and Economics of Visibility Impairment," August 2000.

²⁸ James Johnson, J. Kasarda, and D. Rondenelli, "The Changing Forces of Urban Economic Development," Chapel Hill, NC: Keenan Institute, 2000).

3 Focus on Clean Smokestacks

3.1 Emission Levels

Air pollution comes from many sources: power plants, cars, off-road construction equipment, factories, agriculture, boats, planes, and trains. So why does the North Carolina Clean Smokestacks Plan focus on the smokestacks of coal-fired power plants? The reason is that power plants emit most of the sulfur dioxide and mercury and almost half the NO_x pollution (Figures 3, 4, 5).²⁹ For example, fourteen of the top twenty emitters of mercury in North Carolina are power plants.³⁰ Automobiles and other mobile sources also are a significant and growing source of nitrogen oxides. In order to solve the ozone/smog problems, emissions from these sources must be reduced as well, to complement reductions by the utilities.

Figure 3. SO_2 Emission Sources

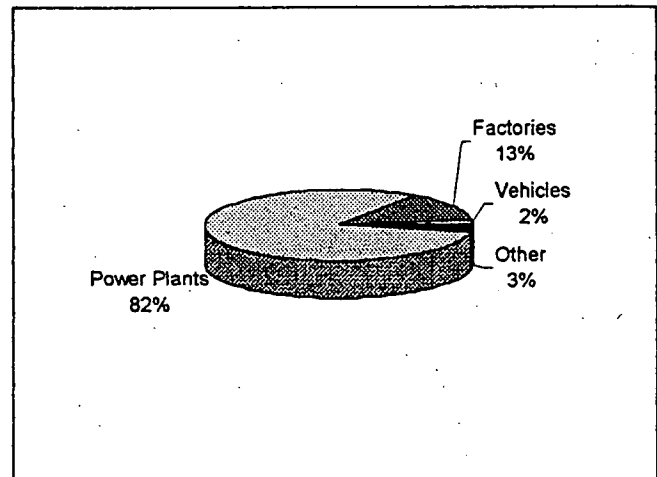


Figure 4. NO_x Emission Sources

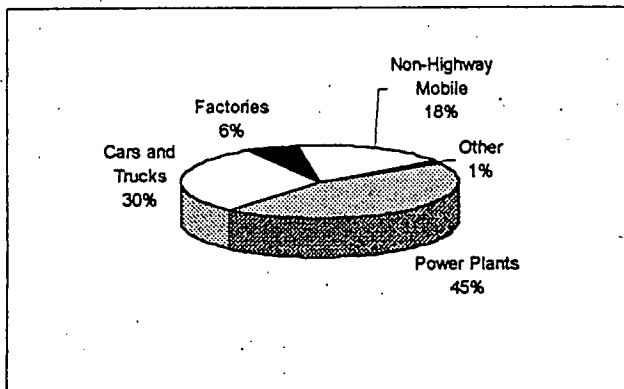
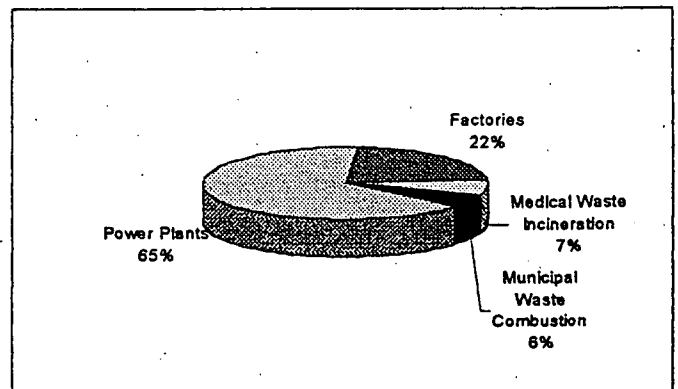


Figure 5. Mercury Emission Sources



²⁹ The sources for the three pie charts are as follows: SO_2 : Southern Appalachian Mountains Initiative, "Air Quality." Figures represent sources in the southeast. NO_x : Governor Jim Hunt's Clean Air Plan, 2000. See <http://www.enr.state.nc.us/files/cleanair.htm>. Data are based on 1995 estimates. Mercury: Jeff Haywood, North Carolina Department of Environment and Natural Resources, "Atmospheric Mercury Emission Sources in North Carolina," memorandum, June 7, 2000. Data are based on 1997 estimates.

³⁰ Ibid.

3.2 Grandfathering Loophole

The federal Clean Air Act and implementing regulations require major new industrial sources of air pollution such as coal-fired power plants to install state-of-the-art control technologies to reduce NO_x and SO₂ pollution. At the same time, the long-standing Clean Air Act programs that apply to new sources exempted, or "grandfathered," existing power plants from meeting modern pollution control requirements. The proponents of this exemption argued that these older plants would soon be retired and replaced with modern facilities which would, in turn, have to meet the strict new pollution control requirements. In fact, however, the older, "grandfathered" facilities are still operating years later. Indeed, their exemption has led to a perverse state of affairs in which electric utilities continue operating their old, inefficient, and high-polluting facilities as long as possible to avoid having to meet the strict air quality standards for new facilities. All of North Carolina's fourteen major power plants are more than 25 years old, and some have been in operation for 60 years. The high levels of pollution from the grandfathered plants creates an opportunity to make significant emission reductions at affordable rates. Furthermore, requiring these facilities to bear the true clean-up costs of the amount of pollution they generate would help remedy the inequitable barriers to new, cleaner sources of generation.

3.3 Technologies

Selective catalytic reduction (SCR) technology can reduce NO_x emissions by more than 80% over uncontrolled levels. Flue gas desulfurization systems, more commonly known as *scrubbers*, can reduce sulfur dioxide emissions by more than 90% over uncontrolled levels.

Just three of the fourteen power plants in North Carolina have committed to invest in the best available technology (SCR systems) for summertime controls of NO_x, only a modest step forward to reduce summertime smog. Equally alarming, not one of these plants has invested in scrubbers or other control equipment for SO₂ or mercury.³¹ Yet the technologies that could easily control the emissions of NO_x and SO₂ from these power plants are widely available and have been on the commercial market for years. Moreover, power plants that invest in controls for NO_x and SO₂ (SCR and scrubber systems, respectively) can expect collateral reductions of mercury from 50 to 95% below uncontrolled levels.³² In addition, carbon injection systems can be used to control mercury emissions from municipal waste incinerators, and this technology is close to coming on the commercial market for coal-fired power plants. These systems are estimated to be able to reduce mercury emissions by between 80 and 98%.³³ Table 3

³¹ U.S. Environmental Protection Agency, "Emission Data for Power Plants, North Carolina, 1999." See <http://www.epa.gov/acidrain/emission/index.htm>.

³² Northeast States for Coordinated Air Use Management, "Assessment of Mercury Control Strategies for Electricity-Generating Boilers," June 2000, p. 7. This study estimates a 50% - 80% control level. The upper range of a 95% reduction is based on a personal communication with Peter Tsaragotis, Clean Air Markets Division, U.S. Environmental Protection Agency, February 2001.

³³ Ibid.

presents technologies commonly used to control smokestack pollution. Figure 6 shows the quantity of pollution that would be reduced if power plants were required to meet standards based on the capacity of existing affordable technologies.

Table 3. Control Technologies		
Pollutant	Primary Control Technology	Control Level Achievable
NOx	Selective catalytic reduction (SCR)	80 to 90% ³⁴
SO2	Scrubber (flue gas desulfurization)	90% or higher ³⁵
Mercury	Scrubbers combined with SCR systems	50 to 95% ³⁶
Mercury	Carbon injection	80 to 98% ³⁷
NOx, SO2, CO2 and Mercury	Technologies exist to employ conservation, energy efficiency and cleaner energy sources including renewables (see Section 3.7).	

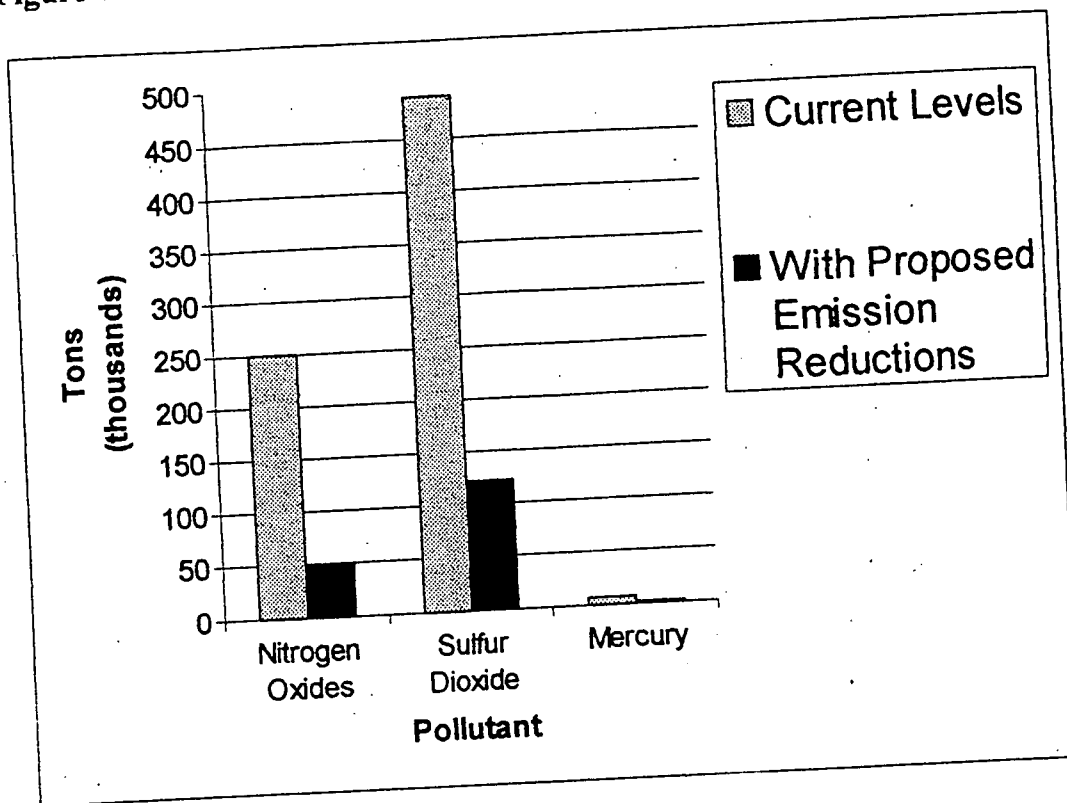
³⁴ Presentation by Progress Energy, Raleigh, North Carolina, February 2, 2001. Also see US Environmental Protection Agency, "Controlling SO2 Emissions: A Review of Technologies," Office of Research and Development, November 2000, EPA/600/R-00/093.

³⁵ U.S. Environmental Protection Agency, "Controlling SO2 Emissions: A Review of Technologies," EPA/600/R-00/093, November 2000.

³⁶ 50%-to-80% control is estimated by the Northeast States for Coordinated Air Use Management, "Assessment of Mercury Control Strategies," p. 7. The upper range of a 95% reduction is based on a personal communication with Peter Tsaragotis, February 2001.

³⁷ Ibid.

Figure 6. Potential Reduction of Pollution from NC Coal-Fired Power Plants



3.4 Costs and Benefits

The average cost of reducing pollutants from power plants by the target levels of the North Carolina Clean Smokestacks Plan is estimated to be \$4.09 per a residential monthly utility bill (see Table 4). These compliance costs are based on statewide caps, allowing utilities flexibility on which facilities to target for reductions. It should also be noted that power companies must request a rate review from the North Carolina Utility Commission before they can pass on the costs of these emission reductions to consumers, which means that in the end rates may not be increased at all.

It is quite common for the actual costs to be considerably lower than the original estimates as, in a free market, industry often develops innovative technologies and cost-effective approaches. For example, the power generation industry initially figured that the compliance cost of the Acid Rain Program would be three to four times higher than the eventual actual cost.³⁸

³⁸ Northeast States for Coordinated Air Use Management, "Environmental Regulation and Technology Innovation," September 2000.

Table 4. Cost of Reducing Power Plant Pollution						
Pollutant	Quantity Emitted in 1998 (tons)	Proposed Cap (tons)	Proposed Reduction (%)	Cost to Reduce Pollution (\$ / pound)	Annualized Cost of Compliance	Cost per Household per Month ³⁹
NO _x (summer only)	115,000	23,000	80% ⁴⁰	\$.60 / pound ⁴¹	\$112 million	\$1.02
NO _x (Year- round)	250,000 ⁴²	50,000	80%	—	\$22 million ⁴³	\$0.20
SO ₂	489,000 ⁴⁴	85,000	82%	—	\$315 million ⁴⁵	\$2.87
Mercury	7096 pounds	—	90%	\$0 - \$38,000 ⁴⁶	\$0 to \$160 million	\$0 ⁴⁷
Total Cost per Household per Month						\$4.09

³⁹ The cost per household per month was calculated for each of the pollutants using summertime NO_x as an example: (\$112 M cost of compliance / year) x (38% power going to residential sector / 3,474,000 residential customers) x (1 year / 12 months) = \$1.02 per residential customer per month. Electric power statistics came from the Energy Information Administration, "Electric Power Annual 1999: Volume II, U.S. Department of Energy, October 2000.

⁴⁰ Note that a North Carolina Environmental Management Commission rule passed in 2000 calls for only a 65% reduction based on 1998 emission levels.

⁴¹ Estimate by the North Carolina Department of Environment and Natural Resources Economic Analysis of the cost of reducing NO_x pollution. See North Carolina Environmental Management Commission packet, January 14, 2000.

⁴² U.S. Environmental Protection Agency, "The Emission and Generation Resources Integrated Database (E-GRID)," Clean Air Markets Programs, 2000. See <http://www.epa.gov/airmarkets/emissions/>

⁴³ Resources for the Future, "Cost Effective Reduction of NO_x Emissions from Electricity Generation," 2000, p. 31. This analysis found that the compliance cost of going from seasonal to annual would rise by less than 20% but that the benefits would increase at least twofold. This analysis estimated that the marginal costs of year-round NO_x controls would be only 20% greater than controlling NO_x only in the summertime. The calculation is as follows: (\$112 M) x (20%) = \$22 million.

⁴⁴ U.S. Environmental Protection Agency. "Emission Data for Power Plants, North Carolina, 1999." See <http://www.epa.gov/acidrain/emission/index.htm>.

⁴⁵ This figure was calculated by the U.S. Environmental Protection Agency, Clean Markets Division, January 2001, based on a statewide emission cap and a combination of control technologies including installation of scrubbers and use of low sulfur fuels.

⁴⁶ The low end of this range assumes no marginal cost for mercury controls beyond the cost of installing SCR and scrubber controls for NO_x and SO₂ as presented in Table 3. This assumption is based on a personal communication with Peter Tsaragotis, Clean Air Markets Division, US Environmental Protection Agency, February 2001. The high end of this estimate comes from Northeast States for Coordinated Air Use Management, "Assessment of Mercury Control Strategies for Electricity-Generating Boilers," June 2000, p. 7.

⁴⁷ Assume no marginal cost beyond the control of NO_x and SO₂, according to a personal communication with Peter Tsaragotis, Clean Air Markets Division, US Environmental Protection Agency, February 2001.

Overall, the benefits of improved air quality far outweigh the costs. That is, the cost savings of reducing emissions from coal-fired power plants by the amounts called for in the North Carolina Clean Smokestacks Plan would be more than \$3,480 million annually or \$3.5 billion, compared with the utilities' cost of compliance, which is about \$450 million (Table 5). This adds up to a net economic benefit of over \$3.0 billion each year. This benefit analysis was calculated from national figures apportioned to North Carolina based on population, which actually underestimates the potential cost savings for the state, owing to its high number of power plants. For example, the benefits do not take into account the transport of pollution across state boundaries. The benefits assume that North Carolina does its part to clean up pollution effecting both itself and surrounding states' citizens and that other states will follow North Carolina's lead and make similar reductions. The ozone figures are based on the total costs imposed on society by this pollutant, and the proposed reduction levels may or may not result in all the benefits presented. The benefit analysis does not include difficult-to-quantify cost savings such as:

- Premature aging of lungs
- Cancer
- Ecosystem damage
- Damage to grass, flowers, shrubs, and other ornamental plants

The cost-benefit ratio of a year-round NO_x reduction program has been shown to be especially high compared with reduction in the summertime only. Resources for the Future found that the marginal cost of compliance for controlling NO_x emissions year-round is 20% but that the health benefit of such controls would be at least twice as large, compared with a summertime-only program.⁴⁸ It is also worth noting that the new emission standards impose essentially no long-term additional implementation costs on the North Carolina Department of Environment and Natural Resources or other state agencies, since inspectors already visit these plants. The benefits and costs of CO₂ are not included in this analysis, as climate change issues will be dealt with more fully in a later report.

⁴⁸ Burtraw, Dallas, Palmer, Karen, Bhavirkar, Ranjit, and Paul, Anthony, "Cost-Effective Reduction of NO_x Emissions from Electricity Generation," *Resources for the Future*, 2000, p. 31.

Table 5. Benefits and Costs of Reducing Smokestack Pollution

Benefits or Cost Savings (million \$)		Costs of Compliance (million \$)	
Ozone reductions (health and agriculture)	\$292 ⁴⁹	Summertime NO _x	\$112
Particulate matter (health)	\$3,108 ⁵⁰	Year-round NO _x	\$22
Visibility (tourism)	\$87 ⁵¹	SO ₂	\$315
Benefits not quantified (e.g., cancer, ecosystem damage)	—	Mercury	<i>No marginal cost beyond NO_x and SO₂ controls</i>
Total	\$3,487 million or \$3.5 billion	Total	\$449 million

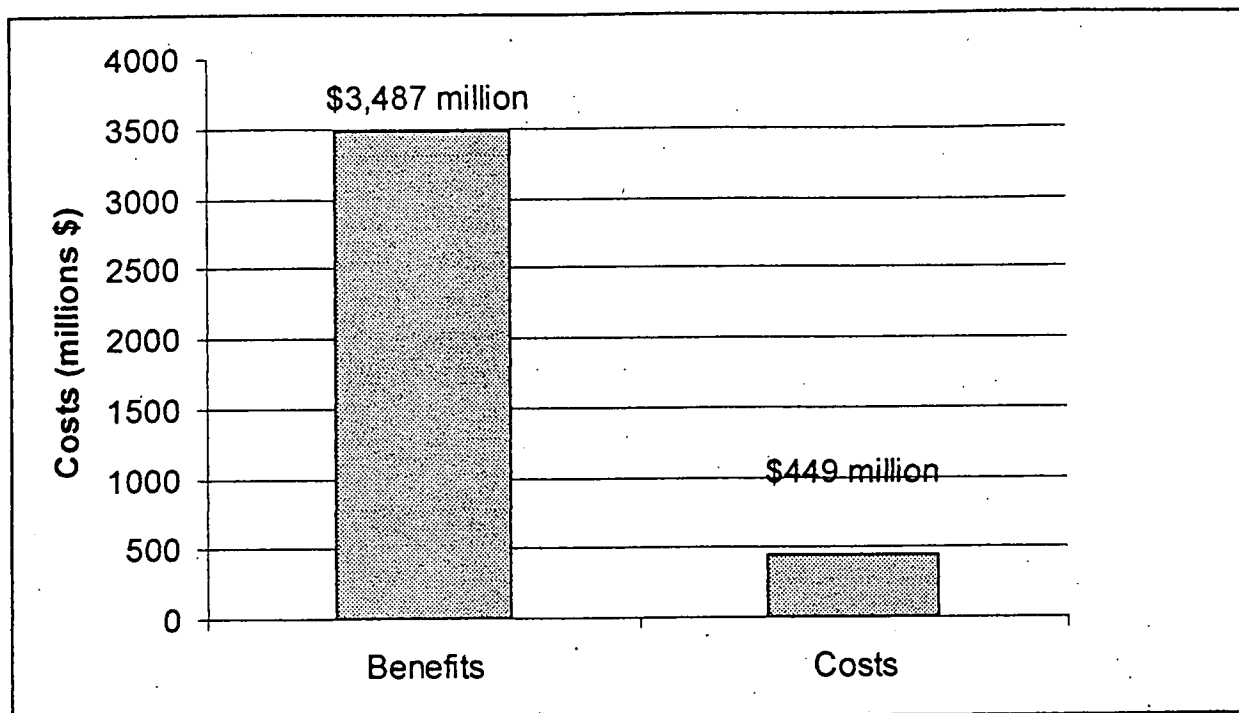
⁴⁹ Values calculated based on Orie L. Loucks, "Background Paper on Nitrogen Oxide Sources As a Cause of Ozone and Smog in North Carolina and Surrounding States," Miami University of Ohio, February 1999. The document estimates national per capita ozone-related costs as follows: human health at \$37 / person; agricultural crop damage at \$25 per person; and forest losses at \$19 per person. The total cost is \$81 per person. According to the 2000 U.S. Census, the population of North Carolina is 8.04 million. The calculation is as follows: (\$81 / person) x (8 million people in NC) x (45% of NO_x emissions from power plant) = \$292 million.

⁵⁰ Abt Associates, "The Particulate-Related Health Benefits of Reducing Power Plant Emissions," October 2000. This document sites the benefits of cleaning up power plants to modern emission standards would be \$111 billion per year nationwide. This figure is apportioned to North Carolina based on its population compared with that of the entire United States. The calculation is as follows: (\$111 billion benefit) x (.028% NC population compared to total US population) = \$ 3,108 million.

Also see U.S. Environmental Protection Agency, *Regulatory Impact Analyses for the Particulate Matter and Ozone National Ambient Air Quality Standards and Proposed Regional Haze Rule* chap. 12, table 12.17. See <http://www.epa.gov/ttn/oarpg/naaqsfir/ria.html>.

⁵¹ Ibid. Calculation is the same as the preceding: (\$6.2 billion visibility benefit of PM_{2.5} standard) x (.028% NC population compared with total US population) x (at least 50% of PM pollution attributable to power plants) = \$87 million.

Figure 7. Benefits versus Costs of Reducing Smokestack Pollution



3.5 Regional Transport

Air pollution does not respect state boundaries. North Carolina contributes significantly to air pollution in states to the northeast, and it also receives air pollution from states to the west and south. Nonetheless, some of North Carolina's air pollution is manufactured at home. Easterly winds occasionally carry pollution from the Piedmont to southern Appalachia, and pollution is especially evident in the vicinity of coal-fired power plants. The percentage of North Carolina's air quality problems produced by in-state, compared with out-of-state, sources is currently not known.

A comprehensive strategy to clean North Carolina's air must both reduce in-state emissions and those from upwind sources. The Southern Appalachian Mountains Initiative is a collaborative interstate process established to encourage the regional improvement of air quality, and so by participating in this initiative, North Carolina can influence its neighboring upwind states. But in order to persuade Tennessee, Georgia, and other states to control their power plant pollution, North Carolina must first reduce the emissions from its own sources.

3.6 Progress to Date

In October 2000, North Carolina passed a rule to reduce summertime NO_x emissions. During public hearings on the draft rule in the summer of 2000, the public overwhelmingly supported an 80% reduction from 1998 levels⁵² in NO_x pollution from power plants, as called for by a coalition of environmental organizations. More than 1,200 citizens from across the state attended the hearings, and 11,000 comments were submitted on the draft rules, 97% of which supported strict smokestack pollution controls. But in the end, following heavy lobbying efforts by North Carolina's utilities, the Environmental Management Commission approved only a 65% reduction from 1998 levels in summertime NO_x, compared with the 80% reduction that is needed. In addition to the state's NO_x rule, the U.S. Environmental Protection Agency (EPA) is requiring North Carolina to reduce summertime NO_x emissions from a broad range of sources. The Environmental Management Commission is developing a state implementation plan (SIP) to demonstrate how North Carolina will meet the federally required reductions. The draft SIP will likely require a summertime NO_x emission cap from utilities of roughly 28,000 tons or a 76% reduction from 1998 emission levels. Regulatory standards have prompted North Carolina utilities to start reducing NO_x emissions, which have been cut by 18% between 1995 and 1999.⁵³

North Carolina's power plant emissions of SO₂ increased by 36% between 1990 and 1999, but they decreased by a modest 11% between 1997 and 1999.⁵⁴ Over the last decade, there have been minimal, if any, reductions of mercury emissions.

3.7 Enhancing Reliance on Cleaner Energy Sources

- **Clean Energy.** The best way to reduce power plant pollution is to consume less energy from these sources. It is estimated that North Carolina could generate between 8 and 20% of its electricity from renewable sources.⁵⁵ Polls indicate that 51% of North Carolinians would like to buy clean electricity, and 11% would be willing to pay a premium of \$20 a month for it.⁵⁶ Unfortunately, alternative clean energy sources, such as hydropower and wood-waste fuel, currently produce only about 1% of North Carolina's electricity.

Some progress has been made, however, to increase the use of nonpolluting renewable energy sources -- solar, wind, small hydropower -- as well as methane gases from landfill and biomass. In 2000, the North Carolina General Assembly unanimously passed one of the nation's most comprehensive renewable energy tax

⁵² An 80% reduction is equivalent to capping summertime NO_x emissions from North Carolina's 14 power plants at 23,000 tons.

⁵³ U.S. Environmental Protection Agency, "Air Emission Data for Power Plants", Clean Air Market Programs, February 2000, see <http://www.epa.gov/acidrain/emission/index1.htm>.

⁵⁴ Ibid.

⁵⁵ Richard Harkrader, "Coming Changes to North Carolina's Electric Utility Industry," North Carolina Solar Energy Association, July 1999.

⁵⁶ University of North Carolina School of Journalism, "Carolina Poll" (Chapel Hill: University of North Carolina, Fall 1998).

credits. North Carolina cannot wait for possible deregulation to increase the incentives to create clean energy sources. Rather, the state must develop policies now (e.g., net metering, green energy-pricing programs, and disclosure on customers' bills⁵⁷) that enable the renewable clean energy industry to grow to its potential.

- **Conservation/Efficiency.** Energy conservation and efficiency both reduce smokestack pollution and directly benefit customers financially. Although the North Carolina Clean Smokestacks Plan focuses on emission reduction targets for outdated power plants, it is equally important for all users of electricity to cut their consumption of energy. For example, power plants and factories should ensure that their equipment is operating efficiently, and residential users should turn off the lights when leaving a room. There are countless examples of ways to save energy.⁵⁸ Also, the current pricing structure for electricity does not necessarily promote conservation. At present, large-scale users are given cheaper rates. Reversing such policies would provide economic incentives for conservation and would also make the largest consumers pay a fairer share of the cost of emission reductions.

4 Mobile Sources

4.1 Background

The reduction of power plant pollution is necessary, cost effective, and long overdue. But to fully protect the state's public health, pollution reduction cannot stop with the power sector. Policymakers must also address North Carolina's other large source of air pollution: mobile sources. Although mobile sources are not the focus of the NC Clean Smokestacks Plan, this brief background provides context for more detailed analysis in the future.

Recent census figures indicate that North Carolina has grown by more than 20% since 1990, and residents are traveling more miles in their cars, vans, and trucks than ever before. The North Carolina Department of Transportation predicts that between 1995 and 2007, the state's population will grow by 17% and that the number of vehicle miles of travel will grow at an even faster rate -- 40% over the same time period.⁵⁹

Modeling results from the North Carolina Division of Air Quality (DAQ) confirm the need to limit pollution from cars, sport utility vehicles, large diesel trucks, and buses, as well as non-road mobile sources such as construction equipment. According to the DAQ, even if each of the state's power plants meets the current standards for NO_x pollution,

⁵⁷ Contact the North Carolina Solar Energy Association for information about incentives to promote the availability and use of green energy.

⁵⁸ See Environmental Defense's webpage for a list of energy-saving opportunities, http://www.environmentaldefense.org/Want2Help/b_gw20steps.html.

⁵⁹ D'Ignazio, Janet, "Growing Smart About Transportation", *Popular Government*, Institute of Government: Chapel Hill, p. 54.

North Carolina will still need to reduce mobile source emissions significantly to bring ozone concentrations to acceptable levels statewide.⁶⁰

In 1999, the EPA established its "Tier II" tailpipe emissions standards, which will require a 77% reduction in emissions from cars and as much as a 95% drop in emissions from sport utility vehicles and light trucks in the next six years, a move that the Hunt administration supported. In December 2000, the EPA also issued rules to tighten particulate matter and NO_x emission standards for large diesel trucks and buses by 90 to 95%, respectively, over the standards for today's engines. These steps are in the right direction, but even further reductions are necessary. For example, heavy-duty non-road vehicles such as construction equipment are not regulated for NO_x emissions, even though they contribute 18% of this ozone-forming pollutant in North Carolina (Figure 4).

To achieve the necessary reductions in smog and particulate matter pollution, policymakers must move car manufacturers away from models that rely on fossil fuels. Other states have adopted measures that (1) require all new cars to be 92% cleaner than they are today, (2) require manufacturers to sell a minimum percentage of zero- and low-emission vehicles, and (3) create tax incentives for consumers to buy very low- and zero-emission vehicles. In addition to such technological solutions, North Carolina must also work to reduce dependence on automobiles and travel fewer miles in motor vehicles each year. North Carolina must offer transportation options, create communities that do not require a car, avoid sprawl, and pursue many other recommendations suggested by the North Carolina Smart Growth Commission report.

4.2 Progress to Date at the State Level

State decision-makers have set some precedents for clean car policies that bode well for the enactment of programs to reduce mobile source emissions. In 1999, the North Carolina General Assembly passed a bill to raise the number of counties in which emissions testing is required of all automobiles and to lower the sulfur content of gasoline. This legislation will frame the debate for future reductions of automobile emissions. For example, the legislation sets a 75% goal for the number of low- and zero-emission vehicles that state agencies should acquire by 2004, and it directs the Department of Transportation and the Department of Public Instruction to draw up a plan for converting both school buses and transit buses from diesel fuel to low-emission alternatives. The legislation also directs the state agencies of environment, transportation, and commerce to recommend to the legislature possible incentives for buying alternative-fuel vehicles. Recently, North Carolina joined with thirteen other states to develop draft state-level rules to close a loophole in the federal regulations for diesel emissions from trucks and buses. The North Carolina Smart Growth Commission delivered its final report and recommendations to the General Assembly this year. The implementation of its recommendations will offer citizens more transportation options and lessen their dependence on the automobile.

⁶⁰ North Carolina Department of Environment and Natural Resources, Division of Air Quality, "North Carolina 8-hour Ozone Modeling Project Status Report," August 2000.

5 Recommendations

The North Carolina Clean Smokestacks Plan presents achievable emission reduction targets needed for power plants to help clean up North Carolina's air. Specific responsibilities of the governor, the General Assembly, and the Environmental Management Commission to advance North Carolina towards these targets are presented in the Actions portion of the recommendations.

5.1 Emission Reduction Targets

North Carolina's power plants must drastically cut their emissions (see Table 6) in order to progress toward protecting the public health, the environment, and the economy. The large size of the reductions needed is a testament to the amount of pollution spewing forth from the "grandfathered" power plants and the lack of controls on these sources. It is important that new laws and regulations should be phased in over a reasonable length of time to enable the utilities to plan and retrofit their power plants cost effectively.

Table 6. Achievable Reduction Targets from the Power Plant Sector

- ✓ **Summertime Nitrogen Oxides.** Cap summertime NO_x emissions at 23,000 tons, an 80% reduction over 1998 levels. These reductions should be phased in by 2007.
- ✓ **Year-Round Nitrogen Oxides.** Cap year-round NO_x emissions at 50,000 tons, an 80% reduction over 1998 levels. The reductions should be phased in by 2007.
- ✓ **Sulfur Dioxide.** Cap emissions of SO₂ at 85,000 tons annually, an 82% reduction over 1998 levels. The reductions should be phased in by 2007.
- ✓ **Mercury.** Reduce year-round emissions of mercury by 90% from 1998 levels. The reductions should be phased in by 2007.
- ✓ **Carbon Dioxide.** Cap new CO₂ emissions at 1990 levels, as called for by the United Nations Framework Convention on Climate Change, which has been ratified by the United States.

5.2 Actions

Reducing the pollution from power plants will require strong leadership by Governor Easley, legislators, members of the Environmental Management Commission, and other state officials. The North Carolina Clean Smokestacks Plan calls for the following:

Governor Easley

- Persuade the General Assembly to adopt a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Upon cleaning up North Carolina's power plants, take advantage of federal laws (such as Section 126 of the Clean Air Act) to encourage upwind states such as Tennessee, Georgia, Kentucky, and Ohio to reduce the air pollution they contribute to North Carolina.
- Direct the North Carolina Department of Environment and Natural Resources to finalize Phase III of the Governor's Clean Air Plan to ensure that the state sufficiently reduces NO_x emissions year-round from both point and mobile sources to meet health standards. Phase III should also map out strategies to reduce SO₂ and mercury emissions.
- Direct the North Carolina Energy Office to develop a plan by December 2001 for increasing the use of renewable sources of energy to 10% of all power generation by 2010 and 20% by 2020. This plan should also outline strategies to improve energy efficiency and increase conservation.
- Urge the U.S. Environmental Protection Agency to adopt strong particulate matter and NO_x emission standards for non-road heavy-duty diesel engines.

General Assembly

- Pass a clean smokestacks bill requiring the state's power plants to meet aggressive clean-up targets for NO_x, SO₂, mercury, and CO₂.
- Require utilities to disclose publicly through quarterly inserts in their electricity bills the sources of energy, emissions, and wastes generated from energy production.
- Create a greenhouse gas registry program so that power companies can receive credit for early reductions in carbon dioxide and other greenhouse gases.
- Create tax incentives for residents to buy low- and zero-emission vehicles.

Environmental Management Commission

- Pass rules to cap utility summertime NO_x emissions at 23,000 tons and to reduce NO_x emissions to 50,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to cap SO₂ emissions at 85,000 tons year-round, complementing any actions that the General Assembly may take.
- Pass rules to reduce year-round emissions of mercury by 90% from 1998 levels, complementing any actions that the General Assembly may take.

North Carolina Utilities (Duke Energy and Progress Energy)

- Develop and implement plans for reducing emissions of NO_x, SO₂, mercury, and CO₂ to meet North Carolina's public health, environmental, and economic needs.
- Commit to phasing out outdated power plants and increasing the use of less polluting sources of energy such as natural gas and renewable sources.

6 Conclusion

The silver lining of the air pollution cloud in North Carolina is that the citizens and officials of the state can solve this environmental problem. All the ingredients for success are in place:

- A good scientific understanding of the public health, environmental, and economic consequences of dirty air.
- Knowledge of the sources of the air pollution, with power plant smokestacks being the predominant emitter of pollution into the atmosphere.
- Readily available and cost-effective technologies to control nitrogen oxide and sulfur dioxide pollution and very promising technologies to control mercury.

The only thing that stands in the way of clean air now is leadership. The utilities may vigorously oppose the statewide caps and reductions called for in the North Carolina Clean Smokestacks Plan in an attempt to continue avoiding strict emission standards. However, the people of North Carolina have clearly expressed their desire for cleaner air. North Carolina must have the political will and long-term economic foresight to set long overdue standards for its fourteen grandfathered coal-fired power plants. Through strong leadership and decisive action, North Carolina will not only responsibly address its own air quality problems but it will also strengthen its negotiating position to require reductions from upwind states.

The time has come for North Carolina to finally and fully reduce coal-fired power plant smokestack emissions to clean its air and thereby ensure the health of its citizens, environment, and economy for future generations.



**North Carolina General Assembly
Legislative Services Office**

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Terrence D. Sullivan, Director
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(919) 733-2578

To: House Public Utilities Committee
From: Kristen Crosson, Research Assistant
Steve Rose, Principal Attorney
Date: June 6, 2001
Re: Committee inquiry as to % increase in fuel costs

Percentage Increases in Price of Residential Retail Fuel from 2000 to 2001

Auto Gasoline

From May 2000 to May 2001:

Raleigh 7.45% average

Asheville 7.45% average

Charlotte 6.11% average

Wilmington 7.45% average

(North Carolina figures from Triple A)

Fuel oil (home heating oil)

From January 2000 to January 2001:

Increase of 21%

From March 2000 to March 2001:

Increase of 3.5%

(North Carolina figures from Energy Information Administration)

Natural gas

From June 2000 to June 2001:

Public Service Company of NC (PSNC) 30.30% average

Piedmont Natural Gas Co. (Piedmont) 25.73% average

North Carolina Natural Gas Corp. (NCNG) 22.19% average

(North Carolina figures from the Public Staff of NC Utilities Commission)

Please call Steve Rose or Kristen Crosson in the Research Division at 919-733-2578 if you have further questions.



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VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

6/5/01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

TERRY HARRIS	NEPC
BILL WATSON	NC EMC
Katherine Joyce	NC AEC
Ross M. Smith	PCS PHOSPHATE
DR. J. LEVARD	MCIC
Alie Garland	Electric Utilities
Catherine Davis	"
Steve Woodson	NC Farm Bureau
Catherine Liao	Governor's Office
Andrew Hainsworth	Intern UNCA Rep Luebke
Nancy Thompson	MCIC
Adolf S. Chl	Adolf S. Chl & Assoc.
Deborah Binger	ALAD, Inc.
Doug Howey	NCDMA
John Cymek	N.C. State Change
Kim Hibbard	NCLM
Lucius PULLER	ATTORNEY - NMAA
Debra Dege	Belisouth
Ed Ragan	N.C.A.C.C.
Bob Stodum	NC Forestry Association
Lue-Ann Cole	NC AGRIBUSINESS Council
PERRI MORGAN	NFIB
Jim Bell	Attorney
Tim Louell	WICK
Joe Bewley	LBA
Donna Bane	Bane & Assoc.
Michelle Cook	Weyershaeuser

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

6/5/01

Date

VISITORS:.. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS[illegible]

Minutes
House Committee on Public Utilities
June 19, 2001

The House Committee on Public Utilities met Tuesday, June 19, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representative McComas and Saunders, Vice-Chairs; and Representatives Brubaker, Coates, Edwards, Grady, Hurley and McCombs. Steve Rose, Committee Council was also present. Mr. George Givens also attended the meeting. A Visitor Registration list is attached and made part of the minutes.

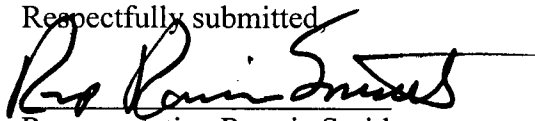
Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.


Chairman Smith recognized Mr. John W. Shipp, Jr., General Manager, Environmental Policy and Planning, TVA. Mr. Shipp's comments are included in Attachment # 1. A questions and answer period followed Mr. Shipp's presentation.

Chairman Smith handed out an amendment to SB 1078 (Attachment # 2) for committee members to review prior to the meeting scheduled for next week.

The meeting adjourned at 11:00.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**June 19, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**John W. Shipp, Jr. – General Manager, Environmental Policy and Planning
– Tennessee Valley Authority**

**SB 1078 IMPROVE AIR QUALITY / ELECTRIC UTILITIES
Sen. Steve Metcalf
Continued Discussion and Presentation by TVA**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, June 19, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1078 – IMPROVE AIR QUALITY/ELECTRIC UTILITIES
 Sponsored Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith

Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
9:30 a.m., June 14, 2001.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

Ann Jordan (Rep. R. Smith)

From: Shirlyn MacPherson (Rep. Gibson)

Sent: Tuesday, June 19, 2001 9:20 AM

Subject: ENVIRONMENT & NATURAL RESOURCES MEETING, May 15,

2ND CALENDAR CORRECTION
THE MEETING TODAY IS 12:00 NOON
TO 2:00 PM

NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION

You are hereby notified that the Committee on **ENVIRONMENT & NATURAL RESOURCES** will meet as follows:

DAY & DATE: Tuesday, June 19, 2001

TIME: 12:00 NOON to 2:00 PM

LOCATION: Room 643, Legislative Office Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

AIR POLLUTION IMPROVEMENTS (related to HB 1015 Improve Air
Quality/Electric Utilities)
Tennessee Valley Authority Representatives

HJR 419 – STUDY TOURISM INDUSTRY
Representative Warwick

HB 418 – BEACH PRESERVATION & RESTORATION ACT
(NO VOTE TO BE TAKEN)

Respectfully,

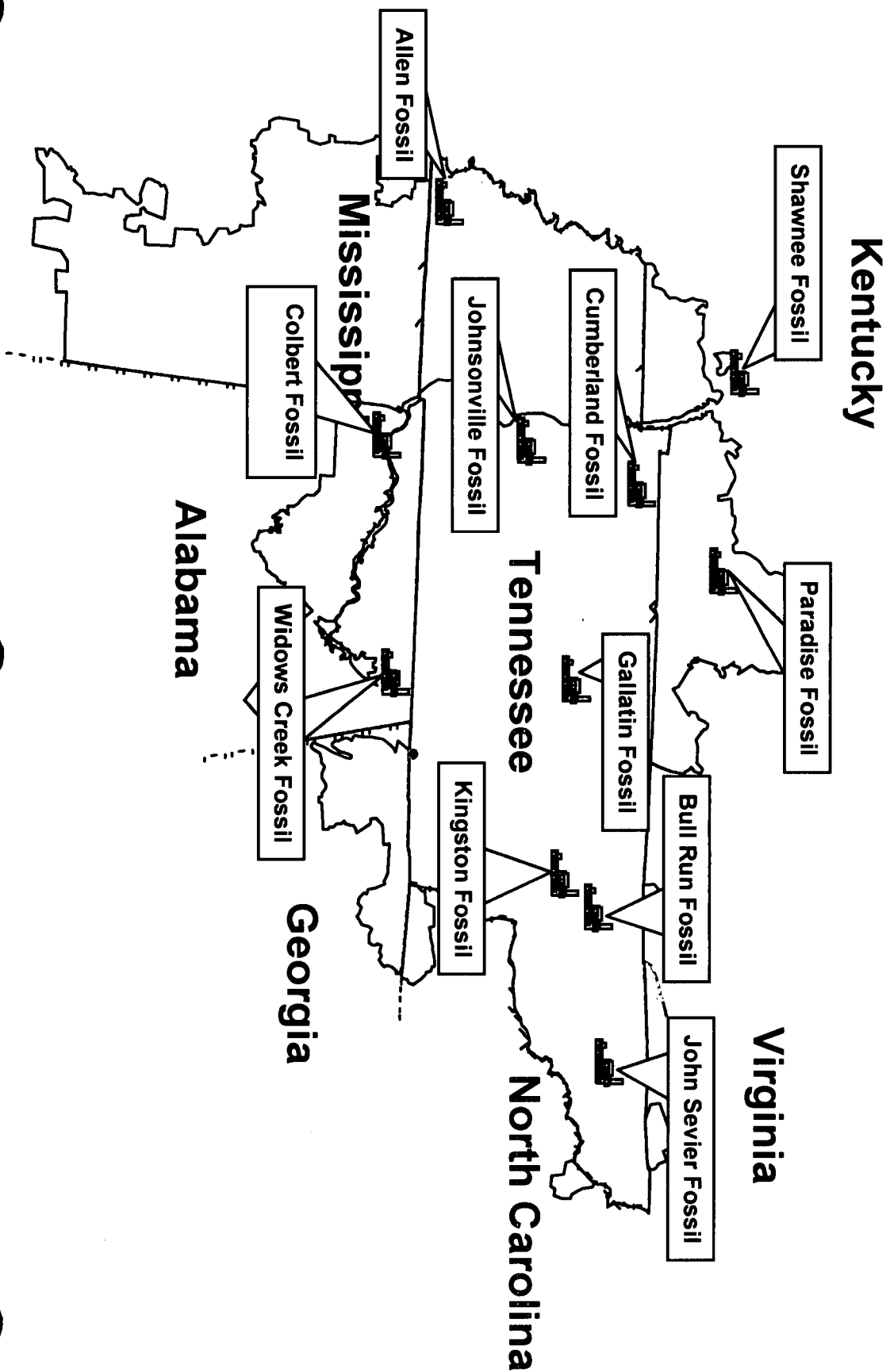
Representatives Gibson, McComas, Warwick
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at .

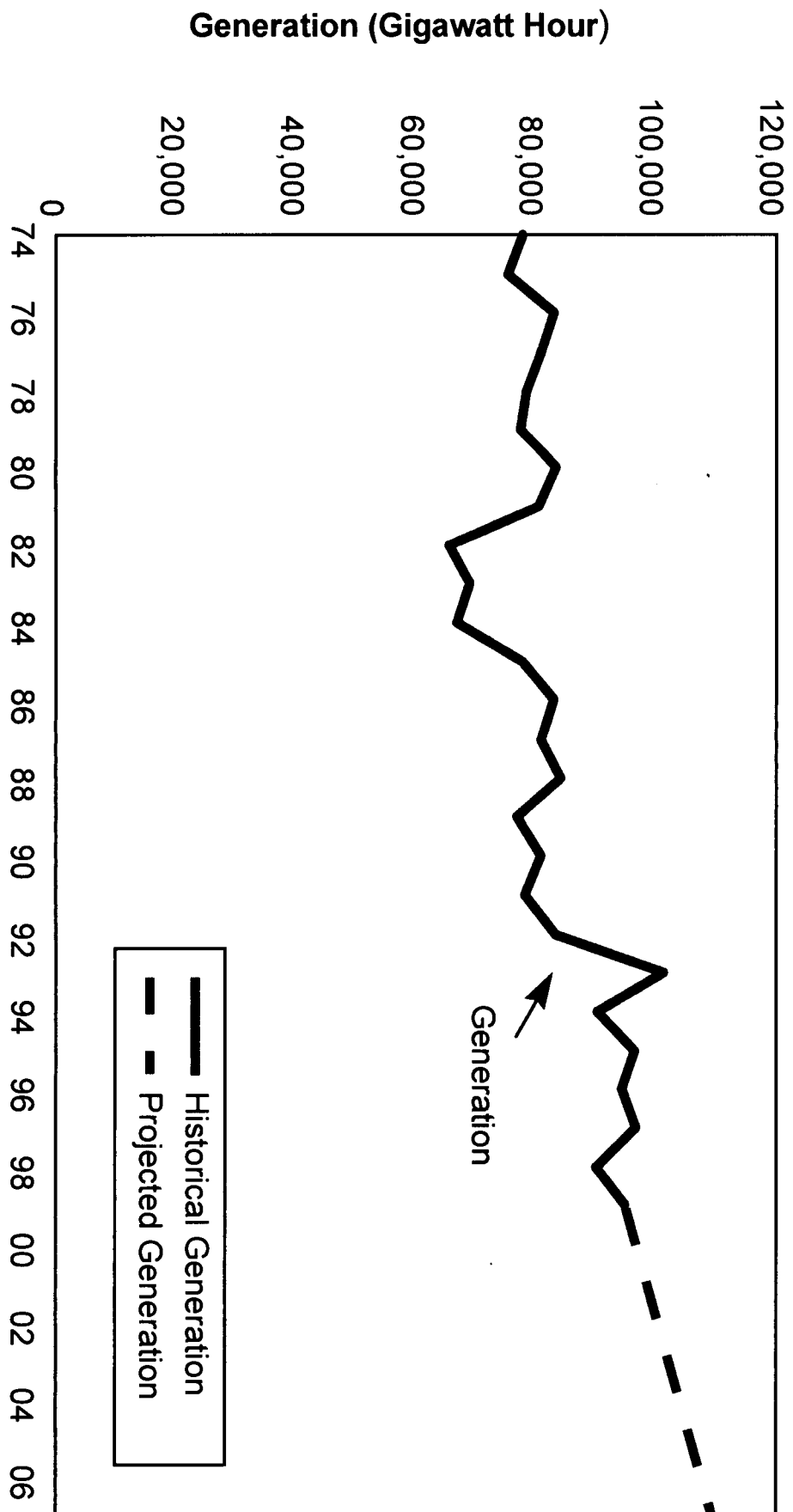
____ Principal Clerk
____ Reading Clerk - House Chamber

TVA Comments to Members of the North Carolina General Assembly

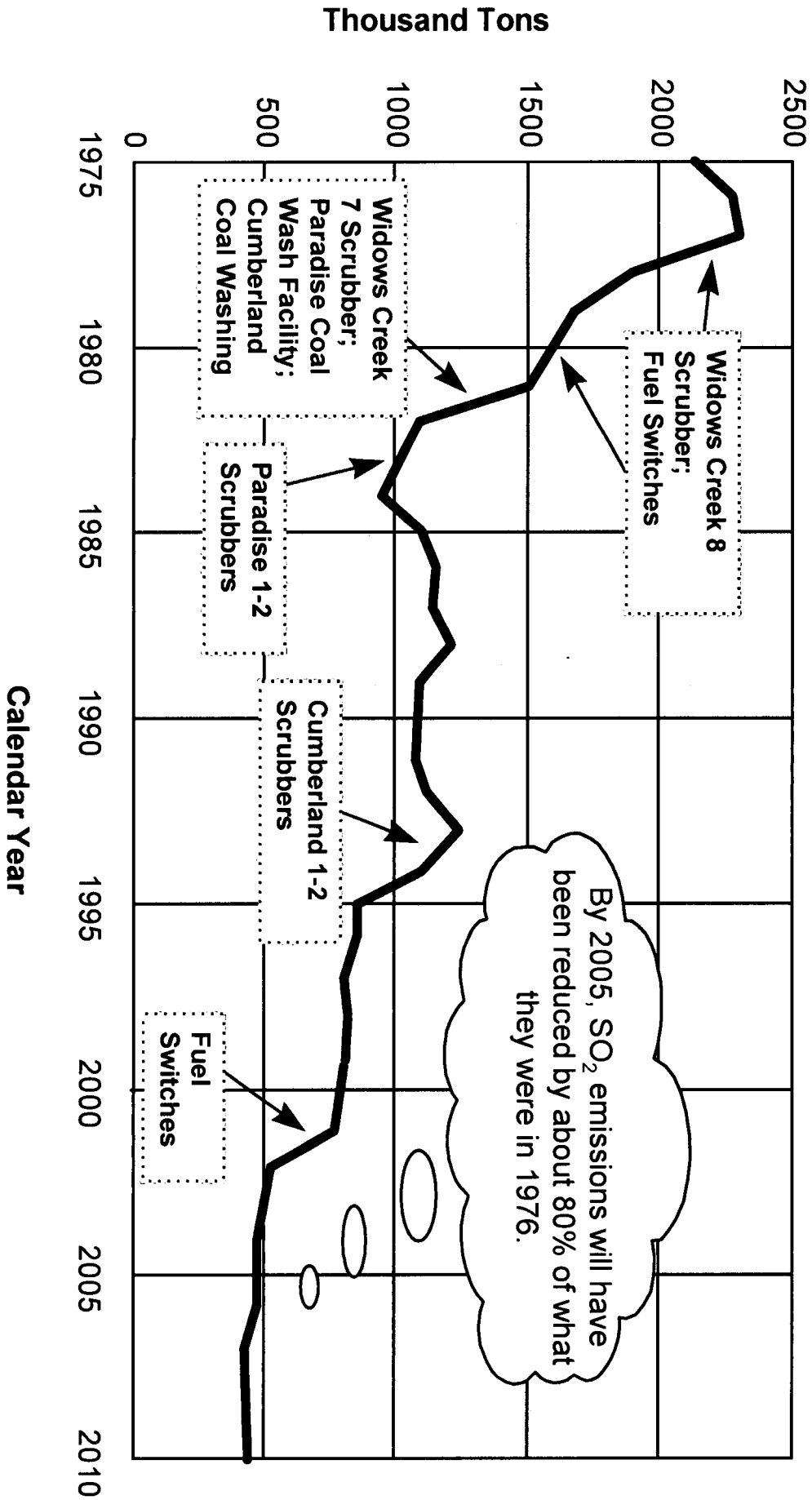




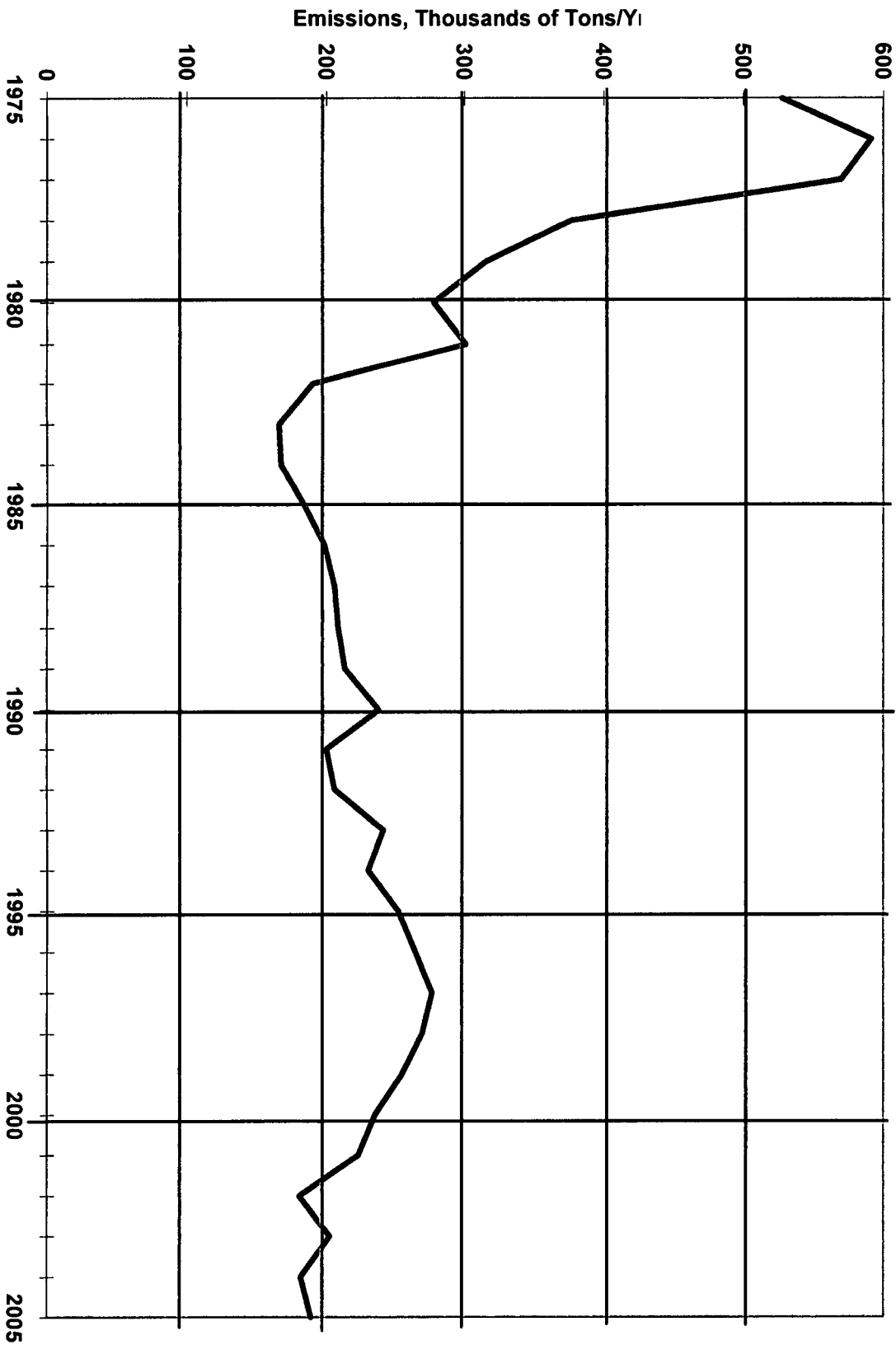
TVA Fossil Generation



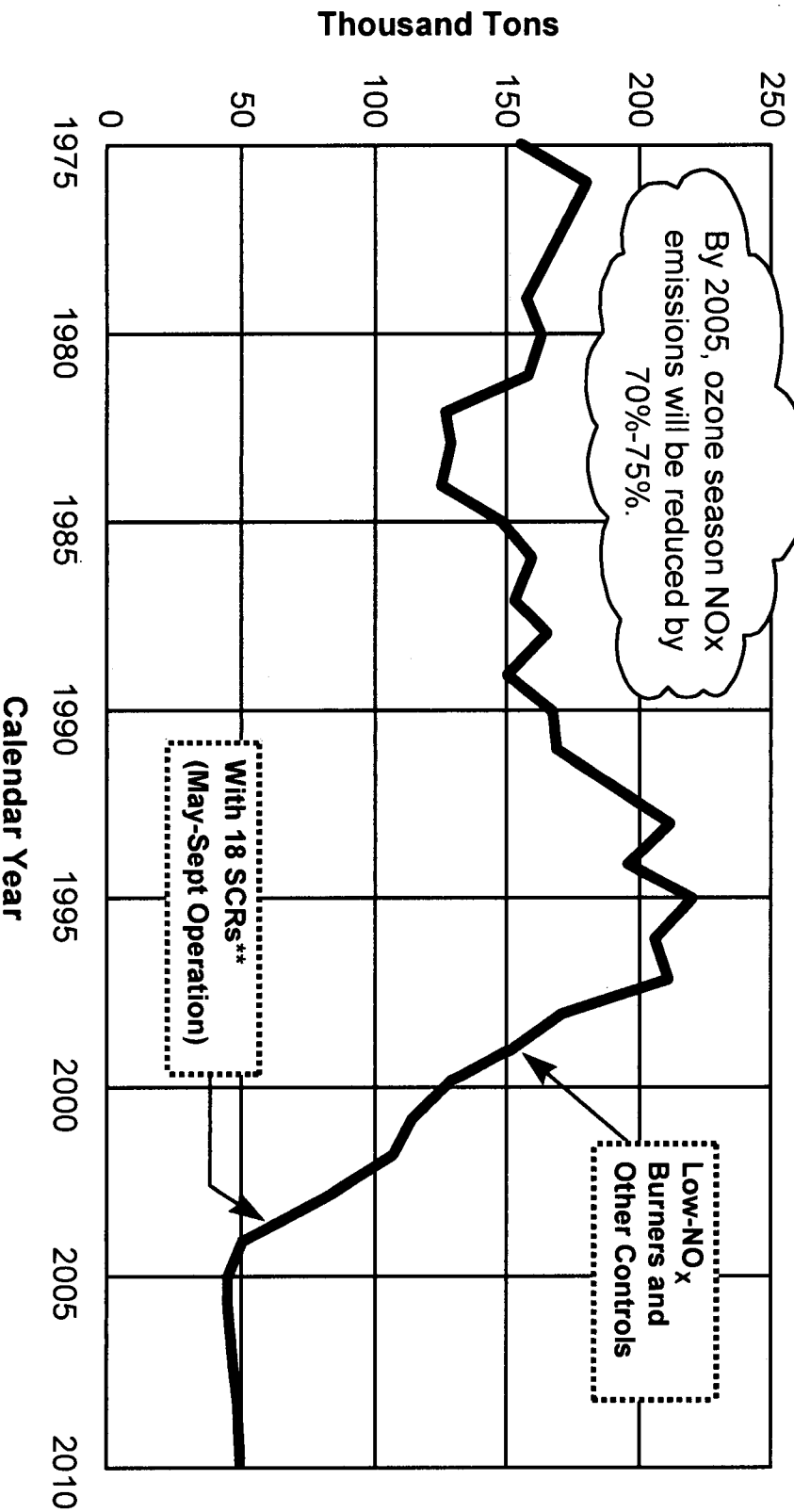
TVA Annual Sulfur Dioxide (SO₂) Emissions



TVA Eastern Plants Annual SO₂



TVA Ozone Season ^{*} Nitrogen Oxide (No_x) Emissions



^{*} Ozone season: May 1 - September 30

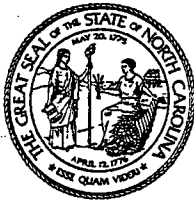
^{**} SCRs: Selective catalytic reduction units

SCR Schedule and NOx Emission Reductions

Compliance Plan
Implementation Schedule & NOx Reductions

Ozone Season	1999	2000	2001	2002	2003	2004	2005
TN Plants							
ALF1							
ALF2							
ALF3							
BRF							
CUF 1							
CUF 2							
KIF 1-5							
KIF 6-9							
AL Plants							
COF 1-4							
COF 5							
WCF 7							
WCF 8							
KY Plants							
PAF 1							
PAF 2							
PAF 3							

Current Date



Att #2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1078-ARL-11 [v.2]

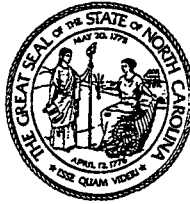
Page 1 of 2

Date _____, 2001

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Representative *Smith*

- 1 moves to amend the bill on page 4, lines 17 through 39 by rewriting those lines to read:
2
3 "§ 62-133.6. Environmental compliance costs-recovery.
4 (a) As used in this section, the term "environmental compliance costs" means
5 only those costs prudently incurred between July 1, 2001 and June 30, 2014 by an
6 electric utility to comply with oxides of nitrogen (NO_x) and sulfur dioxide (SO₂)
7 standards adopted pursuant to G.S. 143-215.107D that exceed the costs required to
8 comply with the revisions to the State Implementation Plan (SIP) to reduce emissions
9 of oxides of nitrogen (NO_x) pursuant to the final notice published by the Administrator
10 of the United States Environmental Protection Agency at 63 Federal Register 57491
11 (October 27, 1998) and codified at 40 Code of Federal Regulations § 51.121 (July 1,
12 2000 Edition).
13 (b) The Commission shall allow each electric utility to recover its just,
14 reasonable, and prudently incurred environmental compliance costs through an
15 environmental compliance costs-recovery factor that is separate from the electric
16 utility's base rates, and that is fair to ratepayers and the electric utility, and in the public
17 interest.
18 (c) The Commission shall hold a hearing and set the environmental compliance
19 costs-recovery factor for each electric utility in a manner that allows the electric utility



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1078*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1078-ARL-11 [v.2]

Page 2 of 2

1 to recover its projected environmental compliance costs through a levelized rate over a
2 period of time not to exceed 13 years beginning July 1, 2002. Every two years after the
3 Commission first sets the environmental compliance costs-recovery factor, the
4 Commission shall hold a hearing and adjust such levelized rate to incorporate the
5 experienced under-recovery or over-recovery of the electric utility's environmental
6 compliance costs incurred during the previous two years and any revisions to the
7 electric utility's projected environmental compliance costs. If either of the last two
8 adjustment proceedings, or both of them, results in an increase in the environmental
9 compliance costs-recovery factor that the Commission determines to be so high that
10 recovering it within the time allowed in this subsection would be against the public
11 interest, the Commission may extend the recovery period for a time not to exceed three
12 additional years.

13 (d) The Commission shall adopt rules to implement this section."
14

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

Date

6/19/01

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sam D. Smith	
Alan Briggs	Save Our State
Dan Knight	NC Sierra Club, NC Wildlife Fed
Elizabeth Ouzts	NCPIRG
Brock Nicholson	DENR
Bill Ross	"
Richard Rogers	"
Jay Mayo	Womble Carlyle
Becki May	House Minority Leader's office
Boyd Canale	City of Charlotte
Steve Woodson	NC Farm Bureau
Matt Brady	CCNC
JOANNA TYSON	WNCA
Benjamin Maddis	NC Sierra Club
Paul Kaylor	Kayla Law Firm
Joan Wray	Capitol Group
Julie D. Smith	NC Public Radio
George Everett	Duke Energy
John McAlister	Duke Energy
Joe Pencil	IBM
Bob Hillman	NCUC - Public Staff
Sam Kivley	NCUC
Bob Bennett	" Staff
Robert Gunkle	NCUC - Public Staff
Michelle Cook	Weyerhaeuser
Chris Caldwell	International Paper
Ken Melton	Alley Associates, Inc.

VISITOR REGISTRATION SHEET

Public Util: 1:1:22

Name of Committee

6-19-01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JAMES M. BELL	Atty.
PERRI MORRAN	NFIB
REST. HAWAII	MCIC
Katherine Gorge	NC Assn. of Electric Cooperatives
Katherine Davis	Electricities
Don Hoover	NCUC STAFF
Andre W. Hainsworth	UNICA, Intern, Rep Luebke
Catherineliao	Governor's office
Boss M. Smith	PCS PHOSPHATE
Ann Ann Coe	NC AGRIBUSINESS Council
Charles McKeller	Glen Raven Inc
Lib McKeller	
Gene AINSWORTH	RJR
Michael A. Thompson	Dominion NC Power
Natalie English	Charlotte Chamber
Wanda Thayer	Progress Energy
Nancy Thompson	MCIC
Deborah Brown	ALAD, NC
Brian Seabolt	NC Small Grains Growers Assn.
Steve Hoffman	NCSBA
Sharon Miller	CUCA
Rob Schofield	NC Justice Ctr
Nat M...	CNA
Beth Gurdall	NCSBA
Hal Miller	NEACCT
Laura DeVito	DEM
Y. Mc...	Moore & Van Allen
Oala Miller	Scenic NC

Minutes
House Committee on Public Utilities
July 17, 2001

The House Committee on Public Utilities met Tuesday, July 17, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representative McComas and Saunders, Vice-Chairs; and Representatives Brubaker, Coates, Edwards, Grady, Holmes, Hurley McCombs and Rogers. Steve Rose, Committee Council was also present. A Visitor Registration list is attached and made part of the minutes.

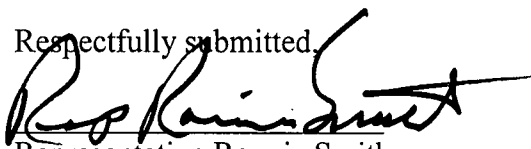
Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

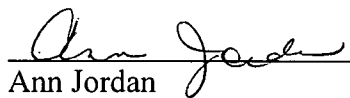
Chairman Smith recognized Representative Drew Saunders to discuss the PCS on SB 589 – ESTABLISH 311 SYSTEMS/911 FUNDS. Representative Zeno Edwards spoke on the Sub-Committee's meetings and how they arrived at the PCS.

Representative Saunders moved for a favorable report on the PCS with an unfavorable report to the original. Motion carried.

The meeting adjourned at 10:30.

Respectfully submitted,


Representative Ronnie Smith
Chair


Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**July 17, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

Report from the Sub-Committee on:

SB 589 – ESTABLISH 311 SYSTEMS/911 FUNDS – Sen. Dannelly

ADJOURNMENT

CORRECTED MEETING AND BILL SPONSOR NOTICE

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, July 17th, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 589 - ESTABLISH 311 SYSTEM/911 FUNDS - Sen. Dannelly

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
11:00 a.m. on July 12, 2001.

____Principal Clerk
____Reading Clerk - House Chamber

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, July 17th, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 589 - ESTABLISH 311 SYSTEM/911 FUNDS - Sen. Dannelly

HB 125 - USE OF 911 FUNDS - Rep. Hall

HB 130 - USE OF 911 FUNDS/BEAUFORT - Rep. Edwards

HB 678 - USE OF 911 FUNDS - Rep. Buchanan

HB 710 - USE OF 911 FUNDS - Rep. Arnold

HB 725 - USE OF 911 FUNDS - Rep. Culpepper

HB 791 - USE OF 911 FUNDS - Rep. Starnes

HB 867 - USE OF 911 FUNDS/PITT - Rep. McLawhorn

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
11:00 a.m. on July 12, 2001.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

S

D

SENATE BILL 589

PROPOSED HOUSE COMMITTEE SUBSTITUTE S589-CSRL-39 [v.1]

7/3/2001 8:38:53 AM

Short Title: Establish 311 System/911 Funds.

(Public)

Sponsors:

Referred to:

March 22, 2001

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE JOINT LEGISLATIVE UTILITY REVIEW
COMMITTEE TO STUDY CLARIFYING AND EXPANDING THE ALLOWED
USES OF THE MONEY IN EMERGENCY TELEPHONE SYSTEM FUNDS AND
MAKING OTHER STATUTORY CHANGES TO ALLOW EXPANDED USAGE
OF TELECOMMUNICATIONS SYSTEMS FOR PUBLIC SAFETY PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. The Joint Legislative Utility Review Committee is authorized to study clarifying and expanding the allowed uses of the money in emergency telephone system funds and making other statutory changes for the purpose of expanding the use of telecommunication systems for public safety purposes. The Joint Legislative Utility Review Committee shall report its findings to the 2002 Regular Session of the 2001 General Assembly and may also report to the 2003 General Assembly.

SECTION 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free
number through which an individual in this State can gain rapid, direct access to public
safety aid. The number shall be provided with the objective of reducing response time to
situations requiring law enforcement, fire, medical, rescue, or other public safety
service. To reduce the response time of calls made to the toll-free number, a second toll-
free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system
that provides the user of the public telephone system the ability to
reach a public safety answering point by dialing the digits 911. The
term 911 system or 911 service also includes "Enhanced 911 service",
which means an emergency telephone system that provides the user of
the public telephone system with 911 service and, in addition, directs
911 calls to appropriate public safety answering points by selective
routing based on the geographical location from which the call
originated and provides the capability for automatic number
identification and automatic location identification features. The 911
system or 911 service also includes a 311 system to receive
nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 ~~system, and system~~ and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 ~~system~~, and system and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 system, and system and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 ~~system, and system~~ and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 ~~system, and system~~ and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 system, ~~and system~~ and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free
number through which an individual in this State can gain rapid, direct access to public
safety aid. The number shall be provided with the objective of reducing response time to
situations requiring law enforcement, fire, medical, rescue, or other public safety
service. To reduce the response time of calls made to the toll-free number, a second toll-
free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system
that provides the user of the public telephone system the ability to
reach a public safety answering point by dialing the digits 911. The
term 911 system or 911 service also includes "Enhanced 911 service",
which means an emergency telephone system that provides the user of
the public telephone system with 911 service and, in addition, directs
911 calls to appropriate public safety answering points by selective
routing based on the geographical location from which the call
originated and provides the capability for automatic number
identification and automatic location identification features. The 911
system or 911 service also includes a 311 system to receive
nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 system, ~~and system and a nonemergency 311~~
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
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14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 589

Short Title: Establish 311 System/911 Funds.

(Local)

Sponsors: Senators Dannelly; Odom and Rucho.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND
TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM
FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62A-2 reads as rewritten:

"§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service. To reduce the response time of calls made to the toll-free number, a second toll-free number may be established to receive nonemergency calls."

SECTION 2. G.S. 62A-3(1) reads as rewritten:

"(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features. The 911 system or 911 service also includes a 311 system to receive nonemergency calls."

SECTION 3. G.S. 62A-8 reads as rewritten:

"§ 62A-8. Payments from Fund.

1 (a) Money from the Emergency Telephone System Fund shall be used only to
2 pay for:

3 (1) The lease, purchase, or maintenance of emergency telephone
4 equipment, including necessary computer hardware, software and
5 database provisioning, addressing, and nonrecurring costs of
6 establishing a 911 system, ~~and~~ system and a nonemergency 311
7 system.

8 (2) The rates associated with the service supplier's 911 service and 311
9 service and other service supplier recurring charges.

10 (b) The following expenses are not eligible for payment from the Fund: the lease
11 or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring,
12 training, and compensating dispatchers, and the purchase of mobile communications
13 vehicles, ambulances, fire engines, or other emergency vehicles.

14 (c) A local government may contract with a service supplier for any term
15 negotiated by the service supplier and the local government and may make payments
16 from the Emergency Telephone System Fund to provide any payments required by the
17 contract."

18 **SECTION 4.** This act applies to the City of Charlotte only.

19 **SECTION 5.** This act is effective when it becomes law.



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July 10, 2001

MEMORANDUM

TO: House Public Utilities Committee
Subcommittee on 911 Bills

FROM:  Steven Rose, Committee Counsel

RE: Use of 911 Charge Funds

Representative Saunders requested Committee Counsel to render an opinion of what funds collected pursuant to Article I of Chapter 62A may be used for. It is the opinion of Committee Counsel that the legislative intent was that these funds may be used for the establishment and maintenance of a system for the receipt and organization of incoming calls requesting emergency assistance, but may not be used for the dispatch of emergency assistance to respond to the incoming calls.

G.S. 62A-2 describes the legislative purpose of Article I of Chapter 62A. That purpose is to provide a toll free number allowing an individual to gain rapid, direct access to public safety aid.

G.S. 62A-3 is the definition section of Article I of Chapter 62A. G.S. 62A-3(1) defines a "911 System" or "911 Service" as an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point (dispatch center) by dialing 911. This includes equipment that will direct 911 calls to the appropriate public safety answering point based on the geographical location from which the call originates. G.S. 62A-3(2) further defines "911 charge" to mean contributions to the local government for 911 service startup and addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing the 911 service.

G.S. 62A-8 provides that money from an Emergency Telephone System Fund can be used only to pay for emergency telephone equipment, including hardware, software and databases. This includes the expense of addressing and the nonrecurring costs of establishing a 911 system. The fund may also be used to pay the rates charged by the service supplier (the telephone company) and other service supplier recurring charges. Items specifically not eligible are real estate, cosmetic remodeling of emergency dispatch centers, hiring, training, and compensating dispatchers, and the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

Reading G.S. 62A-2, G.S. 62A-3(1) and (2), and G.S. 62A-8 together, leads to the conclusion that Article I of Chapter 62A was enacted to authorize a charge for the purpose of having a rapid, highly automated system providing access to a public safety answering point (a dispatch center) for the telephone subscriber and that the charge was not meant to be used for the dispatch of the emergency aid or expenses associated with the dispatch of emergency aid. The financing of the dispatch and provision of emergency aid would, therefore, be left to the normal financing methods available to local governments, including the use of tax revenues. Thus, items such as the radio system used by the public safety answering point to dispatch the appropriate emergency help would not be able to be financed using the charge allowed under Article I of Chapter 62A.

M-SR-066

Chapter 62A. Public Safety Telephone Service and Wireless Telephone Service.

Article

1. Public Safety Telephone Service, §§ 62A-1 through 62A-20.
2. Wireless Telephone Service, §§ 62A-21 through 62A-32.

ARTICLE 1. Public Safety Telephone Service.

Sec.

- 62A-1. Short title.
- 62A-2. Legislative purposes.
- 62A-3. Definitions.
- 62A-4. 911 charges.
- 62A-5. Payment and collection of charges.
- 62A-6. Administration.
- 62A-7. Emergency Telephone System Fund.
- 62A-8. Payments from Fund.
- 62A-9. Telephone records.
- 62A-10. Limitation of liability.
- 62A-11. Persons outside county.
- 62A-12. Misuse of 911 system; penalty.
- 62A-13 through 62A-20. [Reserved.]

§ 62A-1. Short title.

This Article shall be known as the "Public Safety Telephone Act".

(1989, c. 587, s. 1.)

Editor's Note. - Session Laws 1998-158, s. 1, enacted a new Chapter, designated as Chapter 62B. That Chapter was redesignated as Article 2 of Chapter 62A at the direction of the Revisor of Statutes; thus, references to "Chapter" have been changed to "Article". Furthermore, sections 62A-1 through 62A-12 were designated as Article 1 of this Chapter, and references to "Chapter" were changed to "Article," at the direction of the Revisor of Statutes.

§ 62A-2. Legislative purposes.

The General Assembly declares it to be in the public interest to provide a toll free number through which an individual in this State can gain rapid, direct access to public safety aid. The number shall be provided with the objective of reducing response time to situations requiring law enforcement, fire, medical, rescue, or other public safety service.

(1989, c. 587, s. 1.)

CASE NOTES

No Private Cause of Action. - This section sets out the legislative purpose for the Public Safety Telephone Act, and contains no provision for a private cause of action. *Lovelace v. City of Shelby*, 133 N.C. App. 408, 515 S.E.2d 722 (1999).

§ 62A-3. Definitions.

As used in this Article:

(1) "911 system" or "911 service" means an emergency telephone system that provides the user of the public telephone system the ability to reach a public safety answering point by dialing the digits 911. The term 911 system or 911 service also includes "Enhanced 911 service", which means an emergency telephone system that provides the user of the public telephone system with 911 service and, in addition, directs 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated and provides the capability for automatic number identification and automatic location identification features.

(2) "911 charge" means a contribution to the local government for the 911 service start-up equipment costs, subscriber notification costs, addressing costs, billing costs, and nonrecurring and recurring installation, maintenance, service, and network charges of a service supplier providing 911 service pursuant to this Article.

(3) "Addressing" means the assigning of a numerical address and street name (the street name may be numerical) to each location within a local government's geographical area necessary to provide public safety service as determined by the local government. This address replaces any route and box number currently in place in the 911 database and facilitates quicker response by public safety agencies.

(4) "Exchange access facility" means the access from a particular telephone subscriber's premises to the telephone system of a service supplier. Exchange access facilities include service supplier provided access lines, PBX trunks and centrex network access registers, all as defined by tariffs of telephone companies as approved by the North Carolina Utilities Commission. Exchange access facilities do not include service supplier owned and operated telephone pay station lines, or Wide Area Telecommunications Service (WATS), Foreign Exchange (FX) or incoming only lines.

(5) "Local government" means any city, county, or political subdivision of North Carolina and its agencies.

(6) "Public agency" means the State and any city, county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within the State which

provides or has authority to provide firefighting, law enforcement, ambulance, medical, or other emergency services.

(7) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, suicide prevention, civil defense, poison control, or other emergency services.

(8) "Service supplier" means a person or entity who provides exchange telephone service to a telephone subscriber.

(9) "Telephone subscriber" or "subscriber" means a person or entity to whom exchange telephone service, either residential or commercial, is provided and in return for which the person or entity is billed on a monthly basis. When the same person, business, or organization has several telephone access lines, each exchange access facility shall constitute a separate subscription.

(1989, c. 587, s. 1.)

§ 62A-4. 911 charges.

(a) Subject to the provisions of subsections (b) through (d) of this section the governing authority of any local government is authorized to adopt an ordinance to impose a monthly 911 charge upon each exchange access facility subscribed to by telephone subscribers whose exchange access lines are in the area served or which would be served by the 911 service. The 911 charge must be uniform and may not vary according to the type of exchange access facility used.

(b) The ordinance authorized in subsection (a) of this section may be adopted after one of the following procedures is followed:

(1) The governing authority by resolution requests the county or municipal board of elections, as appropriate, to conduct a special election on a date certain, in which a majority of those voting who are residents of the political subdivision vote to authorize the ordinance.

(2) After a public hearing held upon not less than 10 days public notice.

(c) There may be only one attempt to adopt an ordinance under subdivision (b)(1) of this section in any calendar year. Any special election shall be conducted using the procedures set out in G.S. 163-287.

(d) The ordinance shall fix a date on which it and the imposition and collection of the charges as provided in the ordinance shall become effective, but the effective date shall be at least 120 days following the date of adoption of such ordinance by the governing authority of the local government.

(1989, c. 587, s. 1.)

§ 62A-5. Payment and collection of charges.

(a) The subscriber of an exchange access facility will be billed for the monthly 911 charges, if any, imposed with respect to that facility. Each service supplier shall, on behalf of the local government, collect the charges from those subscribers to whom it provides exchange telephone service in the area served by the 911 service. As part of its normal monthly billing process, the service supplier shall collect the charges for each month or part of the month an exchange access facility is in service, and it may list the charge as a separate entry on each bill. If a service supplier receives a partial payment for a monthly bill from a subscriber, the service supplier shall apply the payment against the amount the subscriber owes the service supplier first.

(b) A service supplier has no obligation to take any legal action to enforce the collection of the 911 charges for which any subscriber is billed. However, a collection action may be initiated by the local government that imposed the charges and reasonable costs and attorneys' fees associated with that collection action may be awarded to the local government collecting the 911 charges.

(c) The local government subscribing to 911 service shall remain ultimately responsible to the service supplier for all 911 installation, service, equipment, operation, and maintenance charges owed to the service supplier. Upon request by the local government, the service supplier shall provide the local government with a list of amounts uncollected along with the names and addresses of telephone subscribers who have not paid the 911 charge.

(d) Any taxes due on 911 service provided by the service supplier will be billed to the local government subscribing to that service.

(1989, c. 587, s. 1; 2000-173, s. 19.(a).)

Effect of Amendments. - Session Laws 2000-173, s. 19(a), effective August 2, 2000, deleted the former last sentence of subsection (d), which read: "State and local taxes do not apply to 911 charges billed to subscribers under this Article."

§ 62A-6. Administration.

Each service supplier that collects the 911 charges on behalf of a local government is entitled to a one percent (1%) administrative fee as compensation for collecting the charges. The service supplier shall remit the rest of the charges it collects during a month to the fiscal officer of the local government within ten days after the last day of the month.

(1989, c. 587, s. 1.)

§ 62A-7. Emergency Telephone System Fund.

The fiscal officer to whom 911 charges are remitted under G.S. 62A-6 shall deposit the charges in a special revenue fund pursuant to G.S. 159-26(b)(2). The Fund shall be known as the Emergency Telephone System Fund. The fiscal officer may invest money in the Fund in the same manner that other money of the local government may be invested. The fiscal officer shall deposit any income earned from such an investment in the Emergency Telephone System Fund.

(1989, c. 587, s. 1; 1997-8, s. 1.)

§ 62A-8. Payments from Fund.

(a) Money from the Emergency Telephone System Fund shall be used only to pay for:

(1) The lease, purchase, or maintenance of emergency telephone equipment, including necessary computer hardware, software and database provisioning, addressing, and nonrecurring costs of establishing a 911 system, and

(2) The rates associated with the service supplier's 911 service and other service supplier recurring charges.

(b) The following expenses are not eligible for payment from the Fund: the lease or purchase of real estate, cosmetic remodeling of emergency dispatch centers, hiring, training, and compensating dispatchers, and the purchase of mobile communications vehicles, ambulances, fire engines, or other emergency vehicles.

(c) A local government may contract with a service supplier for any term negotiated by the service supplier and the local government and may make payments from the Emergency Telephone System Fund to provide any payments required by the contract.

(1989, c. 587, s. 1.)

§ 62A-9. Telephone records.

(a) Each telephone service supplier shall provide subscriber telephone numbers, names, and service addresses to 911 systems when required by a local government. Although customer numbers, names and service addresses shall be available to 911 systems, such information shall remain the property of the disclosing service supplier. The total cost of the system shall include expenses paid to service suppliers to provide and maintain 911 information. This information shall be used only in providing emergency response services to 911 calls. A local government may not release a telephone number required to be provided under this section to any person for purposes other than including the number in the emergency telephone system database or providing the number to permit a response to police, fire, medical, or other emergency situation.

(b) To the extent necessary to provide 911 service, private listing customers of a service supplier in a 911 service area waive the privacy afforded by nonlisted and nonpublished numbers

when the 911 service is established.

(c) No service supplier, or agents or employees of a service supplier, shall be liable to any person provided 911 service established under this Article for release for emergency telephone purposes of information specified in this section that is not already part of the public record, including nonlisted or nonpublished telephone numbers.

(1989, c. 587, s. 1.)

§ 62A-10. Limitation of liability.

A service supplier, including any telephone company and its employees, directors, officers and agents, is not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of a service supplier or of any of its employees, directors, officers, or agents, except for willful or wanton misconduct, in connection with developing, adopting, implementing, maintaining, or operating any 911 system. This section shall not apply to actions arising out of the operation or ownership of a motor vehicle.

(1989, c. 587, s. 1; 1998-158, s. 2.)

Editor's Note. - Session Laws 1998-158, s. 6. contains a severability clause.

Effect of Amendments. - The 1998 amendment, effective September 25, 1998, added the last sentence.

§ 62A-11. Persons outside county.

When an individual physically resides in an adjacent county, but receives local exchange telephone service from a central office in a county which provides 911 service, it shall be the responsibility of the county with the 911 service to notify the appropriate public agency of a request for public safety service from such individual.

(1989, c. 587, s. 1.)

§ 62A-12. Misuse of 911 system; penalty.

Any person who intentionally calls the 911 number for other than purposes of obtaining public safety assistance commits a Class 1 misdemeanor.

(1989, c. 587, s. 1; 1993, c. 539, s. 492; 1994, Ex. Sess., c. 24, s. 14(c).)

§§ 62A-13 through 62A-20: Reserved for future codification purposes.

Ann Jordan (Rep. R. Smith)

From: Steve Rose (Research)
nt: Wednesday, July 11, 2001 8:51 AM
To: Ann Jordan (Rep. R. Smith)
Subject: 911 Bills

Ann: Just to be sure its clear: The subcommittee is recommending to the full committee that;

1. PCS for SB589 (S589-CSRL-39 [v.1]) be given a favorable report.
2. The original bill be given an unfavorable report.
3. The other bills (list them) be postponed indefinitely.

Nothing goes to the floor untill the full committee acts. Call if you have any questions.

Steven J. Rose
Principal Attorney
North Carolina General Assembly
Legislative Office Building
Suite 545
(919) 733-2578

Jo Hinton (Rep. Edwards)


From: Ann Jordan (Rep. R. Smith)
Sent: Thursday, July 12, 2001 11:50
To: Rep. Zeno Edwards
Subject: Report of the 911 Sub-Committee

PUBLIC UTILITIES SUBCOMMITTEE REPORT
ON 911 BILLS

A Public Utilities Sub-Committee was appointed to study the eight 911 bills that had been assigned to the Public Utilities Committee. The following members were asked to serve on the sub-committee: Representatives Lorene Coates, Robert Grady, Gene McCombs, and Drew Saunders with Representative Zeno Edwards serving as Chair.

The sub-committee met three times. On July 10th they voted to recommend to the full committee the following:

1. The PCS for SB 589 should be given a favorable report with an unfavorable report for the original bill.



Rep. Zeno Edwards, Chair

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative **Smith** (Chair for the Committee on **PUBLIC UTILITIES**).

☐ Committee Substitute for

S.B. 589 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A 311 SYSTEM FOR NONEMERGENCY CALLS AND TO ALLOW THE MONEY IN THE EMERGENCY TELEPHONE SYSTEM FUND TO ALSO BE USED TO DEVELOP AND MAINTAIN THE 311 SYSTEM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.

☒ With a favorable report as to House committee substitute bill, ☒ which changes the title, unfavorable as to (original bill).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

North Carolina Counties Emergency 911 Fund Balances*The wireless fee is imposed by and remitted to the State. It is not locally imposed.*

County	Estimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Alamance	\$176,000	N/A	No charge	Yes	N/A	
Alexander	N/A	\$235,946	\$0.68	N/A	N/A	Both wireless and wire are levied in same charge
Alleghany	\$180,529	\$175,037	\$1.50	No wireless service	N/A	\$46,885 appropriated for FY01/02.
Anson	\$82,944	\$167,142	\$0.94	No	\$18,314	
Ashe	NO RESPONSE	\$399,618	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Avery	\$250,646	\$271,462	\$1.25 wire; \$0.80 cell	No	N/A	
Beaufort	\$169,104	\$77,668	\$1.00	No	all 911 \$ together	
Bertie	\$506,497	\$518,475	\$1.00	Yes	\$114,320	
Bladen	\$49,668	\$144,018	\$1.00	Yes	\$27,296	
Brunswick	\$139,788	\$524,161	\$1.00	No	\$95,909	
Buncombe	\$909,947	\$923,955	\$0.50	Yes	\$396,060	
Burke	NO RESPONSE	\$1,470,408	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Cabarrus	\$771,685	\$631,154	\$0.40	Yes	\$217,229	
Caldwell	\$405,000	\$355,684	\$1.00	No	\$187,315	Propose using \$116,267 in fund balance; \$26,812 for E-911 and \$89,455 wireless for 01-02 budget
Camden	\$13,243	N/A	\$1.00	No, don't have wireless	\$0	Share wireless money that Pasquotank county has.
Carteret	NO RESPONSE	\$583,007	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Caswell	NO RESPONSE	\$344,841	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Catawba	\$1,437,000	\$1,264,843	\$0.85	No	\$253,000	Accumulated funds will be used to help pay for 800mhz system with a total cost of \$4.5 million
Chatham	\$800,465	\$693,006	\$0.80	Yes	\$85,174	
Cherokee	NO RESPONSE	\$111,038	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Chowan	\$25,000	\$5,107	\$0.60	No	\$20,000	will be expended from capital outlay
Clay	NO RESPONSE	\$205,624	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE

County	Esimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Cleveland	NO RESPONSE	\$304,182	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Columbus	NO RESPONSE	\$254,189	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Craven	\$360,000	\$305,734	\$0.83	Yes	\$160,197	
Cumberland	\$1,539,388	\$1,515,882	\$1.00	Yes	\$347,35	\$30,316 of E-911 money is attributed to 911 Sign Shop.
Currituck	NO RESPONSE	\$313,675	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Dare	\$597,372	\$537,592	\$1.00	Yes		
Davidson	\$170,000	\$282,456	\$0.55	Yes	\$20,000	
Davie	\$310,717	\$173,888	\$0.93	Yes	N/A	
Duplin	\$312,347	\$206,582	\$1.00	Yes	\$129,462	
Durham	\$1,517,669	N/A	\$0.60	No	\$162,706	Durham County and City of Durham have an interlocal agreement for the City to administer 911 service. Durham County contributes \$899,926.
Edgecombe	\$109,470	\$42,471	\$0.75	N/A	N/A	Does not have wireless service; but when it does will keep funds in separate departments
Forsyth	No 911 charge	no special revenue fund - funds remitted to Winston-Salem	No 911 charge	No 911 charge	No 911 charge	No 911 charge
Franklin	NO RESPONSE	\$329,200	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Gaston	NO RESPONSE	\$431,091	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Gates	\$86,961	\$42,902	\$1.00	No wireless	No wireless	No wireless
Graham	NO RESPONSE	\$88,519	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE

County	Estimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Granville	\$65,224	\$123,916	\$0.83	Yes	\$65,658	Provided Granville County E-911 five-year fiscal plan that gives detail as to projected revenues from both wireline and wireless charges as well as projected operating and capital expenditures.
Greene	NO RESPONSE	\$150,192	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Guilford	\$0	\$104,873	\$0.30	Yes	\$145,000	
Halifax	\$128,943	\$251,724	\$1.00	No	\$40,846	Debt payment due 8/15/01 \$179,551
Harnett	\$17,867	\$292,218	\$1.25	Yes	\$253,550	
Haywood	NO RESPONSE	\$72,234	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Henderson	\$35,000	\$78,126	\$0.55	Yes	\$0	
Hertford	\$54,348	\$22,041	\$1.00	N/A	N/A	County used part of the funds to buy radio licenses, mapping equipment, street signs, and other things.
Hoke	NO RESPONSE	N/A	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Hyde	\$148,749	\$101,131	\$1.00	No	\$10,159	
Iredell	NO RESPONSE	\$766,295	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Jackson	NO RESPONSE	\$448,266	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Johnston	\$0	\$1,063,311	\$0.85	Yes	\$104,605	
Jones	\$147,008	\$183,109	\$1.00	Yes	\$31,386	The accumulated fund balance is being used for new E911 system currently being put in place.
Lee	\$31,714	\$350,840	\$1.00	Yes	\$155,724	
Lenoir	\$276,451	\$217,951	\$1.00 wire	Yes	N/A	Amount of wireless money received from state based on population
Lincoln	\$919,368	\$792,933	\$1.00	Yes	\$101,870 (may be reduced before end of year)	Next year's budget has budgeted \$474,004 from this fund to cover expenses including additional capital replacement.
Macon	\$539,988	\$488,101	\$1.00	Yes	\$33,587	

County	Estimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Madison	NO RESPONSE	\$56,555	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Martin	NO RESPONSE	\$99,534	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
McDowell	\$30,000	\$59,545	\$0.75	Yes	\$25,000	When comparing fund balance information from prior years, please note that McDowell County is in the process of completing a 911 addressing project.
Mecklenburg	N/A	N/A	\$0.73	Yes	\$85,600	The Charlotte-Mecklenburg service area doesn't currently have a wired charge, but will starting on 9/12/01
Mitchell	\$76,787	\$79,226	\$1.50	Yes	\$98,262	
Montgomery	NO RESPONSE	\$237,527	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Moore	\$139,686	\$331,064	\$0.80	Yes	\$163,279	
Nash	\$357,022	\$640,360	\$0.75	Yes	\$4,189	Wireless - \$.85
New Hanover	\$60,000	\$266,308	\$0.50	Yes	\$322,000	
Northampton	NO RESPONSE	\$347,387	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Onslow	\$675,000 total; \$337,500 wire	\$2,265,974	\$0.80	Yes	\$337,500	Had a \$1.9 million loan from last year that will be paid off with the 911 funds. Loan paid for 911 infrastructure
Orange	\$295,000	\$427,479	\$0.50	Yes	N/A	Accumulated fund balance will be used for replacement of major equipment in subsequent year(s).
Pamlico	NO RESPONSE	-\$54,769	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Pasquotank	\$146,583	\$94,127	\$1.00	Yes	\$135,677	
Pender	\$257,384	\$485,961	\$0.99	Yes	\$16,592	Fund balance is designated to put a roof on 911 center will be spending \$30,000 for addressing.
Perquimans	NO RESPONSE	\$212,501	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE

County	Estimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Person	\$465,079	\$465,079	\$1.30	Yes	\$81,050	
Pitt	\$250,000	\$277,132	\$0.50	No	\$60,000	
Polk	NO RESPONSE	\$1,168,234	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Randolph	\$1,200,000	\$1,168,234	\$0.65	Yes	\$231,000	In fiscal year 2001-02, Randolph County plans to purchase our own fiber lines. The County currently leases from telephone company.
Richmond	NO RESPONSE	\$93,542	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Robeson	NO RESPONSE	-\$461,134	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Rockingham	\$369,465	\$294,671	\$0.75	Yes	\$49,064	
Rowan	\$695,000	\$737,563	\$0.65	Yes	\$205,000	\$ appropriated for GIS in FY2002
Sherford	\$148,298	\$321,789	\$0.98	Yes	\$34,294	
Simpson	\$871,871	\$799,336	\$1.00	Yes	\$146,701	\$224,932 of FY 00-01 will be rebudgeted for FY 01-02 in Wire Funds and \$29,535 will be rebudgeted for wireless.
Scotland	\$126,117	\$115,928	\$0.70	No wireless	No wireless	No wireless
Stanly	\$900,000	\$993,509	\$0.50	No		
Stokes	\$373,372	\$562,191	\$0.75	Yes	\$170,895	Stokes County has budgeted Fiscal Year 2001-2002 expenditures. Wireline \$642,170 and Wireless \$70,200. The current line rate will decrease to \$0.60 cents on 12/01/01.
Surry	\$400,000	\$490,804	\$1.00	No	\$90,000	
Swain	\$173,610	\$165,409	\$2.00	N/A	N/A	The monies that are collected from the local cellular companies are accounted for with the regular service charges. The monies that are received from the wireless 911 board are separate.
Transylvania	No 911 charge	N/A	No 911 charge	No 911 charge	No 911 charge	No 911 charge

County	Esimated June 2001 Wireline Fund Balance	June 2000 Wireline Balance	Current Charge	Are Wire/Wireless \$ kept separate?	Estimated June 2001 Wireless Fund Balance	Additional Information
Tyrrell	\$65,000	no special revenue fund	\$2.25	Yes	\$29,000	\$ obligated by budget appropriations for FY2001/2002
Union	NO RESPONSE	\$2,340,817	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Vance	\$42,852	\$495,205	\$1.00	Yes	\$54,153	
Wake	\$124,198	\$121,194	\$0.12	Yes	State collects .80 per telephone number and does not remit those funds to the county	
Warren	\$610,783	\$540,059	\$1.00	No wireless service	N/A	We are currently contracting with a firm to provide E-911/mapping services to the county and plan to draw down a substantial amount of the current balance of wireline funds in the next 18 months.
Washington	NO RESPONSE	-\$5,779	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Watauga	NO RESPONSE	\$250,880	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Wayne	NO RESPONSE	\$830,420	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Wilkes	NO RESPONSE	\$185,938	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Wilson	\$66,633	\$618,192	\$0.85	Yes	\$6,620	
Yadkin	NO RESPONSE	\$236,795	NO RESPONSE	NO RESPONSE	NO RESPONSE	NO RESPONSE
Yancey	\$183,924	\$130,508	\$1.75	N/A	N/A	

Source- June/July 2001 Email poll of county finance officers.

Kristen Crosson, Research Division, General Assembly, 919-733-2578

July 10, 2001

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

7/17/01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jack Covert	PPAB
George Everett	Duke Energy
Kenneth Joyce	Nc Assoc. of Electric Cooperatives
Ken Melton	Alley Associates, Inc.
Bob Hillam	Public Staff - NCUC
Bob Bennink	NCUC Staff
Deatrice Williams	CUCA
Sharon Miller	CUCA
Ray Wallace	The Timken Company - Linc. Brg. Rpt
Robert Morrow	The Timken Co - Tryon Peak Pit
SETH HANEY	" - LINCOLN
PEGGY CLAYTOR	" - CANTON, OH
Rep. Harrington	Member
Jay Rouse	NCAFC
Don Miller	Sp...
Jim Wells	The Office
Debra Dea	BellSouth
Dwight Allen	Telephone Coops
Tom Wescott	Sprint
Esther Davis	Electric Cities
Ross M. Smith	PCS Prostate
Yanay Thompson	UNCIC
Robert P. ...	SP Assoc / Electric Cities
Alvin Garland	Electric Cities
Brian Seibold	Nc Small Grain Growers
John ...	N.C. State Grange
Walter Enders	Charlotte Chamber
Margaret Westbrook	Kennedy, Covington
David Ferrell	Hofa, Caldwell & Ferrell, P.A.

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS:.. PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Polington
Cressy Power

AT&T
Board of Directors

Minutes
House Committee on Public Utilities
July 24, 2001

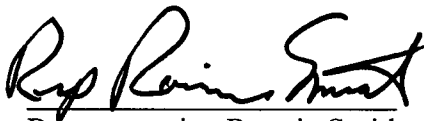
The House Committee on Public Utilities met Tuesday, July 24, 2001 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Representatives Saunders and McComas, Vice-Chairs; and Representatives Allred, Edwards, Grady, Hurley and McCombs. Steve Rose, Committee Counsel was also present. A Visitor Registration list is attached and made part of the minutes.

Chairman Smith called the meeting to order and recognized the pages and Sergeant-at-Arms staff.

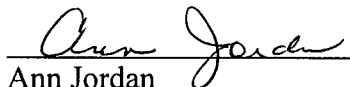
Chairman recognized Senator Eric Reeves to speak on his bill, SB 631 – EXPAND DEFINITION OF UNIVERSAL SERVICE. Members questioned Counsel Steve Rose and NC Utilities Commission Chairperson about Universal Service.

The meeting adjourned at 10:30 without a vote on the bill.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**July 24, 2001
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 641 – EXPAND DEFINITION OF UNIVERSAL SERVICE
Sen. Eric Reeves**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, July 24th, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 641 – Expand Definition of Universal Service – Sen. Eric Reeves

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
3:00 p.m. on **July 18, 2001**.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

Bill Sponsor Notice

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, July 24th, 2001**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 641 – Expand Definition of Universal Service – Sen. Eric Reeves

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at 3:00 p.m. on **July 18, 2001**.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

HH 1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 641

Short Title: Expand Definition of Universal Service.

(Public)

Sponsors: Senators Reeves; Ballantine, Foxx, Hoyle, and Wellons.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO
ADOPT RULES TO EXPAND THE DEFINITION OF UNIVERSAL SERVICE
TO INCLUDE STATEWIDE INTERNET ACCESS AND OTHER
TECHNOLOGICAL TELECOMMUNICATIONS ADVANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

1 Any certificate issued by the Commission pursuant to this subsection shall not
2 permit the provision of local exchange or exchange access service until July 1, 1996,
3 unless the Commission shall have approved a price regulation plan pursuant to G.S.
4 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996.
5 In the event a price regulation plan becomes effective prior to July 1, 1996, the
6 Commission is authorized to permit the provision of local exchange or exchange access
7 service by a competing local provider in the franchised area of such local exchange
8 company.

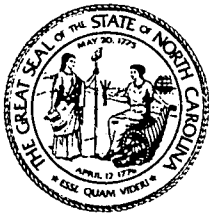
9 The Commission is authorized to adopt rules it finds necessary (i) to provide for the
10 reasonable interconnection of facilities between all providers of telecommunications
11 services; (ii) to determine when necessary the rates for such interconnection; (iii) to
12 provide for the reasonable unbundling of essential facilities where technically and
13 economically feasible; (iv) to provide for the transfer of telephone numbers between
14 providers in a manner that is technically and economically reasonable; (v) to provide for
15 the continued development and encouragement of universally available telephone
16 service at reasonably affordable rates; and (vi) to carry out the provisions of this
17 subsection in a manner consistent with the public interest, which will include a
18 consideration of whether and to what extent resale should be permitted. In adopting
19 rules to establish an appropriate definition of universal service, the Commission shall
20 consider evolving trends in telecommunications services and the need for consumers to
21 have access to high-speed communications networks, the Internet, and other services to
22 the extent that those services provide social benefits to the public at a reasonable cost.

23 Local exchange companies and competing local providers shall negotiate the rates
24 for local interconnection. In the event that the parties are unable to agree within 90 days
25 of a bona fide request for interconnection on appropriate rates for interconnection, either
26 party may petition the Commission for determination of the appropriate rates for
27 interconnection. The Commission shall determine the appropriate rates for
28 interconnection within 180 days from the filing of the petition.

29 Each local exchange company shall be the universal service provider in the area in
30 which it is certificated to operate on July 1, 1995, until otherwise determined by the
31 Commission. In continuing this State's commitment to universal service, the
32 Commission shall, by December 31, 1996, adopt interim rules that designate the person
33 that should be the universal service provider and to determine whether universal service
34 should be funded through interconnection rates or through some other funding
35 mechanism. By July 1, 2001, the Commission shall complete an investigation and adopt
36 final rules concerning the provision of universal services, the person that should be the
37 universal service provider, and whether universal service should be funded through
38 interconnection rates or through some other funding mechanism.

39 The Commission shall make the determination required pursuant to this subsection
40 in a manner that furthers this State's policy favoring universally available telephone
41 service at reasonable rates."

42 **SECTION 2.** This act is effective when it becomes law.



SENATE BILL 641: Expand Definition of Universal Services

BILL ANALYSIS

Committee: House Public Utilities
Date: July 24, 2001
Version: One

Introduced by: Senator Reeves
Summary by: Steven Rose
Committee Counsel

SUMMARY: *Senate Bill 641 amends G.S. 62-110(f1) to authorize the Utilities Commission to consider expanding the definition of universal service to include evolving trends in telecommunications services including the need for consumers to have access to high speed communication networks, the internet, and other services to the extent they provide social benefits to the public at a reasonable cost. The act is effective when it becomes law.*

BILL ANALYSIS AND BACKGROUND: In 1995, the General Assembly adopted legislation allowing for competitive local telephone service. Under that 1995 act, the Utilities Commission was mandated to provide for the continued development of universally available telephone service at reasonably affordable rates. Senate Bill 641 expands the traditional definition of universal service. Universal service has been a policy of the State and the federal government for approximately the last 75 years. It traditionally includes the concept of having affordable basic "dial tone" telephone service available to all persons at a reasonable cost, even though the cost of serving some geographic areas is higher than others. Senate Bill 641 would authorize an expansion of the traditional definition of universal service, but does not require its expansion.

Senate Bill 217, which became law on July 2, 2001 as S.L. 2001-252, changed the date for adoption of final universal service rules under G.S. 62-110(f1), from July 1, 2001 to July 1, 2003.

S641-SMRL-002

VISITOR REGISTRATION SHEET

Public Utilities

Name of Committee

7-24-01

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

<i>Mark Deason</i>	<i>Capital Group</i>
<i>Katherine Joyce</i>	<i>Electric Cooperatives</i>
<i>Rob Schofield</i>	<i>NC Justice Center</i>
<i>Stan Pace</i>	<i>Verizon</i>
<i>Don Wynn</i>	<i>Sprint</i>
<i>Pam Wessett</i>	<i>Sprint</i>
<i>Zeb Alley</i>	<i>Alley Assoc Inc</i>
<i>Ethel Davis</i>	<i>Electricities</i>
<i>Alvin Garland</i>	<i>Electric Cities</i>
<i>Ross M. Smith</i>	<i>PCS PHOSPHATE</i>
<i>Ken Melton</i>	<i>Alley Associates, Inc.</i>
<i>RLW Kaylor</i>	<i>Kaylor Law Firm</i>
<i>BILL SCOBGIN</i>	<i>KENNEDY COURTESON</i>
<i>Brian Seabolt</i>	<i>NC Small Grain Growers</i>
<i>John Polinter</i>	<i>AT&T</i>

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

Date _____

FIRM OR AGENCY AND ADDRESS

Public Staff - NCVC

NCUC

Neuc Staff

Bell South!

NCAEC

WCSK

JP Assoc / Elec. Cities

UNCIC

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

**Simple
Resolution
Adopted**

HOUSE RESOLUTION 49
Committee Substitute Favorable 2/7/01
Adopted 2/8/01

Sponsors:

Referred to:

February 5, 2001

1 A HOUSE RESOLUTION ADOPTING THE PERMANENT RULES OF THE
2 REGULAR SESSIONS OF THE NORTH CAROLINA HOUSE OF
3 REPRESENTATIVES OF THE 2001 GENERAL ASSEMBLY.

4 Be it resolved by the House of Representatives:

5 **SECTION 1.** The permanent rules of the Regular Sessions of the House of
6 Representatives of the 2001 General Assembly are:

7 PERMANENT RULES OF THE REGULAR SESSIONS OF THE HOUSE OF
8 REPRESENTATIVES OF THE 2001 GENERAL ASSEMBLY OF NORTH
9 CAROLINA

10 I. Order of Business, 1-5

11 II. Conduct of Debate, 6-12

12 III. Motions, 13-19

13 IV. Voting, 20-25

14 V. Committees, 26-30

15 VI. Handling of Bills, 31-44.1

16 VII. Legislative Officers and Employees, 45-49

17 VIII. Privileges of the Hall, 50-53

18 IX. General Rules, 54-62

19 I. Order of Business

20 **RULE 1. Convening Hour, Limitation on Friday, Night, and Sunday**
21 **Legislative Sessions.** – The House shall convene each legislative day at the hour fixed
22 by the House. In the event the House adjourns on the preceding legislative day without
23 having fixed an hour for reconvening, the House shall convene on the next legislative
24 day at 2:00 P.M. During January and February of 2001, no sessions may be held on
25 Friday. No session shall continue after 10:00 P.M. on Monday nor after 9:00 P.M. on
26 any other days, and the Speaker shall adjourn the House without motion at that point,

except that a motion may be made as to the time and day of next convening. No session shall be held on Sunday.

RULE 2. Opening the Session. – At the convening hour on each legislative day, the Speaker shall call the members to order and shall have the session opened with prayer. At the convening hour on the first day of each legislative week, the Speaker, or his designee, shall lead the members in the Pledge of Allegiance to the American Flag.

RULE 3. Quorum. – (a) A quorum consists of a majority of the qualified members of the House.

(b) Should the point of a quorum be raised, the doors shall be closed, and the Clerk shall call the roll of the House, after which the names of those not responding shall again be called. In the absence of a quorum, 15 members are authorized to compel the attendance of absent members and may order that absentees for whom no sufficient excuses are made be taken into custody wherever they may be found by special messenger appointed for that purpose.

RULE 4. Approval of Journal. – (a) The Standing Committee on Rules, Calendar, and Operations of the House shall cause the Journal of the House to be examined daily before the hour of convening to determine if the proceedings of the previous day have been correctly recorded.

(b) Immediately following the opening prayer and upon appearance of a quorum, the Speaker shall call for the Journal report by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, or by a Representative designated by the Chair, as to whether the proceedings of the previous day have been correctly recorded. Without objection, the Speaker shall cause the Journal to stand approved.

RULE 5. Order of Business of the Day. – After the approval of the Journal of the preceding day, unless otherwise ordered by the Speaker, the House shall proceed to business in the following order:

- (1) The receiving of petitions, memorials, and papers addressed to the General Assembly or to the House;
 - (1a) Messages from the Governor;
- (2) Ratification of bills;
- (3) Reports of standing committees and permanent subcommittees;
- (4) Reports of select committees;
- (5) Reports of referral by standing committee Chairs of bills to permanent subcommittees;
- (6) First reading and reference to committee of bills and resolutions;
- (7) Messages from the Senate;
- (8) Concurrence with Senate amendments or Senate committee substitutes;
- (9) The unfinished business of the preceding day;
- (10) Calendar (each category in accordance with Rule 40):
 - a. Local bills (roll call) third reading
 - b. Local bills (roll call) second reading
 - c. Local bills third reading

- d. Local bills second reading
- e. Public bills (roll call) third reading
- f. Public bills (roll call) second reading
- g. Public bills and resolutions, third reading
- h. Public bills and resolutions, second reading;

(11) Reading of notices and announcements.

II. Conduct of Debate

RULE 6. Duties and Powers of the Speaker. – The Speaker shall have general direction of the Hall. With the consent of or in the absence of the Speaker Pro Tempore, the Speaker may name any member to perform the duties of the chair, but substitution shall not extend beyond one day, except in the case of sickness or by leave of the House.

RULE 7. Obtaining Floor. – (a) When any member desires recognition for any purpose, the member shall rise and respectfully address the Speaker. No member shall proceed until recognized by the Speaker for a purpose.

(b) When a member desires to interrupt a member having the floor, the member shall first obtain recognition by the Speaker and permission of the member occupying the floor, and when such recognition and permission have been obtained, he or she may propound a question to the member occupying the floor; but he or she shall not otherwise interrupt the member having the floor, except as provided in subsection (c) of this rule; and the Speaker shall, without the point of order being raised, enforce this rule.

(c) A member who has obtained the floor may be interrupted only for the following reasons:

- (1) A request that the member speaking yield for a question,
- (2) A point of order,
- (3) A parliamentary inquiry, or
- (4) A question of privilege.

RULE 8. Questions of Privilege. – Upon recognition by the Speaker for that purpose, any member may speak to a question of privilege for a time not to exceed three minutes. Questions of privilege shall be those affecting, first, the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members, individually, in their representative capacity only; and shall have precedence over all other questions, except motions to adjourn. Privilege may not be used to explain a vote or debate a bill. The Speaker shall determine if the question is one of privilege and shall, without the point of order being raised, enforce this rule.

RULE 9. Points of Order. – (a) The Speaker shall decide questions of order and may speak to points of order in preference to other members arising from their seats for that purpose. Any member may appeal from the ruling of the chair on questions of order; on such appeal no member may speak more than once, unless by leave of the House. A two-thirds vote of the members present shall be necessary to sustain any appeal from the ruling of the chair.

(b) When the Speaker calls a member to order, the member shall be seated except that a member called to order may clear a matter of fact, or explain, but shall not proceed in debate so long as the decision stands. If the member appeals from the ruling of the chair and the decision by a two-thirds vote of the members present be in favor of the member called to order, the member may proceed; if otherwise, the member shall not; and if the case, in the judgment of the House, requires it, the member shall be liable to censure by the House.

RULE 10. Limitations on Debate. – (a) No member shall speak on, debate, or solicit cosponsors for a bill or resolution at its first reading.

(b) No member shall speak more than twice on the main question, nor longer than 20 minutes for the first speech and 10 minutes for the second speech; nor shall the member speak more than twice upon an amendment or motion to reconsider, re-refer, appeal, or postpone or any motion on concurrence, and then not longer than 10 minutes for the first speech and five minutes for the second speech.

(c) A member may speak only once and for not more than 20 minutes on the question of the adoption of a minority report.

(d) The House, by consent of a majority of the members present, may suspend the operation of subsections (b) and (c) of this rule during any debate on any particular question before the House.

RULE 11. Reading of Papers. – When there is a call for the reading of the text of a paper which has been presented to the House, and there is objection to such reading, the question shall be determined by a majority vote of the members of the House present. Except for protests permitted by the Constitution, no member may have material printed in the Journal until said material has been presented to the House and the printing approved by the House, and said material shall not exceed 1,000 words.

RULE 12. General Decorum. – (a) The Speaker shall preserve order and decorum.

(b) Decency of speech shall be observed and disrespect to personalities carefully avoided.

(c) When the Speaker is putting any question, or addressing the House, no person shall speak, stand up, walk out of, or cross the House, nor when a member is speaking, engage in disruptive discourse or pass between the member and the chair.

(d) Food or beverages shall not be permitted on the floor of the House during the first two hours of the daily session.

(e) The reading of newspapers shall not be permitted on the floor of the House while the House is in session.

(f) Smoking or the consumption of food or beverages shall not be permitted in the galleries at any time.

(g) Special recitals and performances by musicians or other groups shall not be permitted on the floor of the House; and special guests of members of the House shall not be permitted on the floor of the House.

(h) Members shall observe appropriate attire, coat and tie for male members and dignified dress for female members.

(i) The use of wireless telephones shall not be permitted in the House Chamber.

(j) Placards, stickers, or signs not approved by the Speaker are not permitted in the House Chamber.

III. Motions

RULE 13. Motions Generally. – (a) Every motion shall be reduced to writing if the Speaker or any two members request it. No motion relating to a bill shall be in order which does not identify the bill by its number and short title.

(b) When a motion is made, it shall be stated by the Speaker, or, if written, it shall be handed to the chair and read aloud by the Speaker or Clerk before debate.

(c) After a motion has been stated by the Speaker or read by the Speaker or Clerk, it shall be in the possession of the House; but it may be withdrawn before a decision or amendment, except in case of a motion to reconsider, which motion, when made by a member, shall be in possession of the House and shall not be withdrawn without leave of the House.

RULE 14. Motions, Order of Precedence. – When there are motions before the House, the order of precedence is as follows:

To adjourn.

To lay on the table.

Previous question.

To postpone indefinitely.

To reconsider.

To postpone to a day certain.

To re-refer.

To amend an amendment.

To amend.

To pass the bill.

No motion to lay on the table, to postpone indefinitely, to postpone to a day certain, to re-refer or to make a particular amendment, being decided, shall be again allowed at the same stage of the bill or proposition.

RULE 15. Motion to Adjourn. – (a) A motion to adjourn shall be seconded before the motion is put to the vote of the House.

(b) A motion to adjourn shall be decided without debate and shall always be in order, except when the House is voting or some member is speaking; but a motion to adjourn shall not follow a motion to adjourn until debate or some other business of the House has intervened.

RULE 16. Motion to Table. – (a) A motion to table shall be seconded before the motion is put to the vote of the House and is in order except when a motion to adjourn is before the House.

(b) A motion to table shall be decided without debate.

(c) A motion to table shall not be paired with a motion to reconsider.

(d) A motion to table a bill shall constitute a motion to table the bill and all amendments thereto.

(e) When the question before the House is the adoption of an amendment to a bill or resolution, a motion to table the bill is not in order; and a motion to table an amendment applies to the amendment only, and the motion may not expressly or by implication or construction be expanded to include a motion to table the bill also.

(f) When a question has been tabled, it shall not thereafter be considered except on motion to reconsider under Rule 18 or to remove from the table approved by a two-thirds vote.

RULE 17. Motion to Postpone Indefinitely. – A motion to postpone indefinitely is in order except when a motion to adjourn or to lay on the table or for the previous question is before the House. However, after one motion to postpone indefinitely has been decided, another motion to postpone indefinitely shall not be allowed at the same stage of the bill or proposition. When a question has been postponed indefinitely, it shall not thereafter be considered except on motion to reconsider under Rule 18 or to place on the favorable calendar approved by a two-thirds vote.

RULE 18. Motion to Reconsider. – (a) When a question has been decided, it is in order for any member to move for the reconsideration thereof on the same or the succeeding legislative day; provided that if the vote by which the motion was originally decided was taken by a recorded vote, only a member of the prevailing side may move for reconsideration.

(b) A motion to reconsider shall be determined by a majority vote, except the following shall require a two-thirds vote: a second or subsequent motion to reconsider and a motion to reconsider:

- (1) A vote upon a motion to table,
- (2) A motion to postpone indefinitely,
- (3) A motion to remove a bill from the unfavorable calendar,
- (4) A motion that a bill be read twice on the same day, or
- (5) A motion to remove from the table.

(c) A motion to reconsider the vote by which a person has been elected as Speaker or Speaker Pro Tempore shall not be in order. This subsection of this rule cannot be suspended.

RULE 19. Previous Question. – (a) The previous question may be called only by:

- (1) The Chair of the Committee on Rules, Calendar, and Operations of the House;
- (2) The majority leader;
- (3) The Speaker Pro Tempore;
- (4) The member submitting the report on the bill or other matter under consideration;
- (5) The member introducing the bill or other matter under consideration; or
- (6) The member in charge of the measure, who shall be designated by the chair of the standing committee or permanent subcommittee reporting

the same to the House at the time the bill or other matter under consideration is reported to the House or taken up for consideration.

- (7) The member designated by the Speaker under Rule 26(h) to serve as an ex officio member of every standing committee and permanent subcommittee.

(b) The previous question shall be as follows: "Call for the previous question having been made, is the call sustained?" When the call for the previous question has been decided in the affirmative by a majority vote of the House, the question is on the passage of the bill, resolution, or other matter under consideration.

(c) The call for the previous question shall preclude all motions, amendments, and debate, except the motion to adjourn or motion to table.

(d) If the previous question is decided in the negative, the question remains under debate.

IV. Voting

RULE 20. Use of Electronic Voting System. – (a) Votes on the following questions shall be taken on the electronic voting system, and the ayes and noes shall be recorded on the Journal:

- (1) The passage as required by Article II, Section 23 of the North Carolina Constitution on second and third readings of any bill:

- a. Raising money on the credit of the State,
- b. Pledging the faith of the State for the payment of a debt,
- c. Imposing a State tax, or
- d. Authorizing a county, municipality, or other local governmental unit to
 1. Raise money on its credit,
 2. Pledge its faith for the payment of a debt, or
 3. Impose a local tax.

- (2) All measures affecting a fee imposed by the State or any subdivision thereof.

- (3) All questions on which a call for the ayes and noes under Rule 24(a) and Article II, Section 19 of the North Carolina Constitution has been sustained.

- (4) Both second and third readings of bills proposing amendment of the North Carolina Constitution or ratifying resolutions amending the United States Constitution.

- (5) The passage of a bill notwithstanding the Governor's veto thereof pursuant to Article II, Section 22 of the North Carolina Constitution.

(b) Votes on the following questions shall be taken on the electronic voting system:

- (1) Second reading of all public bills, all amendments to public bills offered after second reading, third reading if a public bill was amended after second reading or if the reading occurs on a day or days following the second reading, all conference reports on public bills, all

1 motions to lay public bills on the table, and all motions to postpone
2 public bills indefinitely.

3 (2) Upon a call for division.

4 (3) Any other question upon direction of the Speaker or upon motion of
5 any member supported by one-fifth of the members present.

6 (c) When the electronic voting system is used, 15 seconds shall be
7 allowed for voting on the question before the House, unless the Chair shall direct
8 otherwise. The system shall be set to close automatically when that time has expired.
9 Once the system is locked, the vote shall be recorded and printed.

10 (d) The voting station at each member's desk in the Chamber shall be used
11 only by the member to which the station is assigned. Under no circumstances shall any
12 other person vote at a member's station. It is a breach of the ethical obligation of a
13 member either to request that another person vote at the requesting member's station or
14 to vote at another member's station. The Speaker shall enforce this rule without
15 exception.

16 (e) When the electronic voting system is used, the Speaker shall state the
17 question and shall then state substantially the following: "All in favor vote 'aye'; all
18 opposed vote 'no'; the Clerk will open the vote." In order to have the vote recorded, the
19 member must vote by the electronic voting system within the time allowed for that vote,
20 unless the voting station assigned to a member is malfunctioning. The Speaker shall
21 enforce this rule without exception. After the allotted time for voting has elapsed, the
22 Speaker shall say: "The Clerk will now lock the machine and record the vote." After the
23 machine is locked and the vote recorded, the Speaker shall announce the vote and
24 declare the result.

25 (f) One copy of the machine printout of the vote record of all votes taken
26 on the electronic voting system shall be filed in the office of the Principal Clerk, and
27 two copies shall be filed in the Legislative Library where the copies shall be open to
28 public inspection. A legible copy of the bill, amendment, or motion on which the vote
29 was taken shall be filed with the printout of the vote in the Legislative Library.

30 (g) When the Speaker ascertains that the electronic voting system is
31 inoperative before a vote is taken or while a vote is being taken on the electronic voting
32 system, the Speaker shall announce that fact to the House, and any partial electronic
33 voting system voting record shall be voided. In such a case, if the North Carolina
34 Constitution or the Rules of the House require a call of the ayes and noes, the Clerk
35 shall call the roll of the House, and the ayes and noes shall be taken manually and shall
36 be recorded on the Journal. All roll call votes shall be taken alphabetically. If, after a
37 vote is taken on the electronic voting system, it is discovered that a malfunction caused
38 an error in the electronic voting system printout, the Speaker shall direct the Reading
39 Clerk and the Principal Clerk to verify and correct the printout record and so advise the
40 House.

41 (h) For the purpose of identifying motions on which the vote is taken on
42 the electronic voting system, the motions are coded as follows:

43 (1) To adjourn.

44 (2) To lay on the table.

- (3) Previous question.
- (4) To postpone indefinitely.
- (5) To reconsider.
- (6) To postpone to a day certain.
- (7) To re-refer.
- (8) To amend an amendment.
- (9) To amend.
- (10) To concur or not concur.
- (11) Miscellaneous.

RULE 21. Voice Votes; Stating Questions. – (a) All other votes except those required to be taken on the electronic voting system shall be taken by voice vote.

(b) When a voice vote is taken the Speaker shall put the question substantially as follows: "Those in favor (as the question may be) will say 'Aye'", and after the affirmative voice has been expressed, "Those opposed will say 'No'".

(c) No statement, explanation, debate, motion, parliamentary inquiry, or point of order shall be allowed once the voice vote has begun. Any point of order or parliamentary inquiry may be raised, however, after the completion of the vote.

RULE 22. Determining Questions. – (a) Unless otherwise provided by the Constitution of North Carolina or by these rules, all questions shall be determined by a simple majority of the members present and voting.

(b) No member may vote unless the member is in the Chamber when the question is put. This subsection of this rule cannot be suspended.

RULE 23. Voting by Division. – Any member may call for a division of the members upon the question before the result of the vote has been announced. Upon a call for a division, the Speaker shall cause the number voting in the affirmative and in the negative to be determined. Upon a division and count of the House on any question, no member away from the member's seat shall be counted.

RULE 24. Roll Call Vote. – (a) Before a question is put, any member may call for the ayes and noes. If the call is sustained by one-fifth of the members present, the question shall be decided by the ayes and noes upon a roll call vote.

(b) Every member who is in the Hall of the House when the question is put shall vote upon a call of the ayes and noes, unless excused pursuant to Rule 24.1A.

RULE 24.1A. Excuse From Deliberations and Voting on a Bill. – (a) Any member shall, upon request, be excused from the deliberations and voting on a particular bill, but to do so must make that request after the second reading of the bill and before any motion or vote on the bill or any amendment thereto. If the reason for the request arises at some point later in the proceedings, the request may be made at that time.

(b) The member may make a brief oral statement of the reasons for making the request. The member may send forward to the Principal Clerk, on a form provided by the Clerk, a concise written statement of the reason for the request, and the Clerk shall include this statement in the Journal.

(c) The member so excused shall not debate the bill or any amendment to the bill, vote on the bill, offer or vote on any amendment to the bill, or offer or vote on any motion concerning the bill at that reading, any subsequent reading, or any subsequent consideration of the bill.

(d) A member may request that his or her excuse from deliberations on a particular bill be withdrawn.

RULE 24.1B. Division of Amendments. – Any member may call for an amendment to be divided into two or more amendments to be voted on separately, and the Speaker shall determine whether the amendment admits of such a division.

RULE 25. Voting by Speaker. – In all elections the Speaker may vote. In all other instances the Speaker may vote or may reserve this right until there is a tie in which event the Speaker may vote; but in no instance may the Speaker vote twice on the same question.

V. Committees

RULE 26. Standing Committees and Permanent Subcommittees
Generally. – (a) The Speaker shall appoint a chair, or cochair, of every standing committee, permanent subcommittee, and select committee, if any. In the construction of these rules, the word "chair" as applied to a committee extends to and includes a cochair of the committee. The Speaker shall have the exclusive right and authority to establish select committees, but this does not exclude the right of the House by resolution to establish select committees.

(b) All permanent subcommittees of each standing committee shall be appointed by the Speaker, and the members appointed, along with the chair of the standing committee, shall constitute the standing committee of which the permanent subcommittee is a part. The Speaker shall appoint all members of permanent subcommittees at the beginning of the first regular session in a manner to reflect the partisan membership of the House.

(c) The Speaker shall appoint the members of all standing committees having no permanent subcommittees at the beginning of the first regular session in a manner to reflect the partisan membership of the House, except that the standing committees on Congressional Redistricting and Legislative Redistricting shall have an equal number of members of the two parties having the largest membership in the House.

(d) Each chair of a permanent subcommittee shall be a vice-chair of the standing committee of which it is a permanent subcommittee. The Speaker may name other members as vice-chairs of the standing committee. The Speaker may name one or more vice-chairs for any standing committee not having permanent subcommittees.

(e) The chair of the standing committee shall be a voting member of each permanent subcommittee of the standing committee.

(f) Either the chair or acting chair, designated by the chair or by the Speaker, and five other members of the standing committee or permanent subcommittee, or a majority of the standing committee or permanent subcommittee, whichever is fewer, shall constitute a quorum of that standing committee or permanent subcommittee. For purposes of determining a quorum, the Speaker Pro Tempore,

1 Majority Leader, Majority Whips, and the person designated by the Speaker when
2 serving only as ex officio members under subsection (h) of this rule, shall be counted
3 among the membership of the committee or subcommittee only when present.

4 (g) In any joint meeting of the Senate and House committees or
5 subcommittees, the House standing committee or permanent subcommittee reserves the
6 right to vote separately.

7 (h) The Speaker Pro Tempore, Majority Leader, two Majority Whips, and one
8 member designated by the Speaker at the time of appointments of chairs of standing
9 committees are ex officio members of every standing committee and permanent
10 subcommittee, except the standing committees on Congressional Redistricting and
11 Legislative Redistricting and any permanent subcommittees thereof, with the right to
12 vote. No more than three of these persons may vote under the authority of this
13 subsection at any committee meeting.

14 **RULE 26.1. Mentions of Standing Committee Includes Select Committee.**

15 – Any reference in these rules to standing committees shall extend to select committees
16 unless the context requires otherwise.

17 **RULE 27. List of Standing Committees and Permanent Subcommittees. –**

18 The standing committees and permanent subcommittees thereof are:

Committees	Subcommittees
19 Aging	(None)
20	
21	
22 Agriculture	(None)
23	
24 Alcoholic Beverage Control	(None)
25	
26 Appropriations	-Capital
27	-Education
28	-General Government
29	-Health and Human Services
30	-Information Technology
31	-Justice and Public Safety
32	-Natural and Economic Resources
33	-Transportation
34	
35 Children, Youth and Families	(None)
36	
37 Congressional Redistricting	(None)
38	
39 Cultural Resources	(None)
40	
41 Economic Growth and Community	
42 Development	(None)
43	

1	Education-Community Colleges	
2		-Pre-School, Elementary and Secondary
3		Education
4		-Universities
5		
6	Election Law and	
7	Campaign Finance Reform	(None)
8		
9	Environment and	
10	Natural Resources	(None)
11		
12	Ethics	(None)
13		
14	Finance	(None)
15		
16	Financial Institutions	(None)
17		
18	Health	(None)
19		
20	Highway Safety	(None)
21		
22	Insurance	(None)
23		
24	Judiciary I	(None)
25		
26	Judiciary II	(None)
27		
28	Judiciary III	(None)
29		
30	Judiciary IV	(None)
31		
32	Law Enforcement	(None)
33		
34	Legislative Redistricting	(None)
35		
36	Local Government I	(None)
37		
38	Local Government II	(None)
39		
40	Marine Fisheries	(None)
41		
42	Mental Health	(None)
43		
44	Military, Veterans and	

1	Indian Affairs	(None)
2		
3	Occupational Safety and Health	(None)
4		
5	Pensions and Retirement	(None)
6		
7	Public Health	(None)
8		
9	Public Utilities	(None)
10		
11	Rules, Calendar, and	
12	Operations of the House	(None)
13		
14	Science and Technology	(None)
15		
16	Small Business	(None)
17		
18	State Government	(None)
19		
20	State Personnel	(None)
21		
22	Transportation	(None)
23		
24	Travel and Tourism	(None)
25		
26	University Board of Governors	
27	Nominating	(None)
28		
29	Ways and Means	(None)
30		
31	Welfare Reform	(None)
32		
33	Wildlife Resources	(None)
34		

RULE 28. Standing Committee and Permanent Subcommittee Meetings.

– (a) Standing committees and permanent subcommittees of standing committees shall be furnished with suitable meeting places pursuant to a schedule adopted by the Standing Committee on Rules, Calendar, and Operations of the House. Select committees shall be furnished with suitable meeting places as their needs require by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House.

(b) Subject to the provisions of subsection (c) of this rule, standing committees and permanent subcommittees thereof shall permit other members of the

1 General Assembly, the press, and the general public to attend all sessions of said
2 standing committees or permanent subcommittees.

3 (c) The Chair or other presiding officer shall have general direction of the
4 meeting place of the standing committee or permanent subcommittee and, in case of any
5 disturbance or disorderly conduct therein, or if the peace, good order, and proper
6 conduct of the legislative business is hindered by any person or persons, the chair or
7 presiding officer shall have power to exclude from the session any individual or
8 individuals so hindering the legislative business.

9 (d) Procedure in the standing committees and permanent subcommittees
10 shall be governed by the rules of the House, so far as the same may be applicable to
11 such procedure. Before a question is put, any member may call for the ayes and noes. If
12 the call is sustained by one-fifth of the members present, the question shall be decided
13 by the ayes and noes upon a roll call vote. All roll call votes shall be taken
14 alphabetically and shall be subject to Rule 21(c).

15 (e) No standing committee or permanent subcommittee shall meet on any
16 day when the House shall not convene except by permission of the Speaker or by
17 approval of the House by resolution adopted by a majority vote of the House.

18 (f) No standing committee or permanent subcommittee shall meet during
19 any session of the House. Standing committees and permanent subcommittees shall
20 meet at their regularly scheduled hour. No permanent subcommittee shall meet at the
21 same time that its standing committee is meeting. Standing committees and permanent
22 subcommittees may meet at other times as authorized by the chair of the Standing
23 Committee on Rules, Calendar, and Operations of the House in order to assure the
24 availability of the meeting room and that no conflicts will exist with the meetings of
25 other bodies. All standing committee and permanent subcommittee meetings shall
26 adjourn no later than:

27 (1) 15 minutes preceding a regular session of the House, and

28 (2) 10 minutes preceding the hour of the next regularly scheduled standing
29 committee or permanent subcommittee meeting.

30 (g) Any call or notice of a standing committee or permanent subcommittee
31 meeting between legislative sessions shall be mailed to each member of the standing
32 committee or permanent subcommittee at least five days prior to such meeting. If a
33 member of the body so requests in writing to the chair of the standing committee or
34 permanent subcommittee, the member shall be notified by certified mail of the
35 meetings.

36 (h) During standing committee and permanent subcommittee meetings,
37 the chair may exercise the right to vote, or may reserve this right until there is a tie, in
38 which event the chair may vote, but in no instance may the chair vote twice on the same
39 question.

40 **RULE 28.1. Ethics Committee Investigations Into Violations of the Open**
41 **Meetings Law.** – (a) On its own motion, or in response to signed and sworn
42 complaint of any individual filed with the Standing Committee on Ethics, the
43 Committee shall inquire into any alleged violation by members of the House of the

1 Open Meetings Law (Article 33C of Chapter 143 of the General Statutes), as the same
2 may be amended in the future.

3 (b) If, after such preliminary investigation as it may make, the Committee
4 determines to proceed with an inquiry into the conduct of any individual, the Committee
5 shall notify the individual as to the fact of the inquiry and the charges against him and
6 shall schedule one or more hearings on the matter. The individual shall have the right to
7 present evidence, cross-examine witnesses, and be represented by counsel at any
8 hearings.

9 (c) After the Committee has concluded its inquiries into the alleged
10 violations, the Committee shall dispose of the matter by taking one of the following
11 actions:

12 (1) Dismiss the complaint and take no further action.

13 (2) Issue a private letter of reprimand to the legislator, if the legislator
14 unintentionally violated the provisions of the Open Meetings Law.

15 (3) Issue a public letter of reprimand if the violation of the Open Meetings
16 Law was intentional, or if the legislator has previously received a private letter of
17 reprimand. The Chair of the Committee on Ethics shall have the public letter of
18 reprimand spread on the pages of the House Journal.

19 (4) Refer the matter to the House for appropriate action.

20 **RULE 29. Notice of Standing Committee and Permanent Subcommittee**
21 **Meetings and Hearings.** – Public notice of all standing committee and permanent
22 subcommittee meetings shall be given in the House. The chair of the standing
23 committee or permanent subcommittee shall notify or cause to be notified the sponsor
24 of each bill which is set for hearing or consideration before the standing committee or
25 permanent subcommittee as to the date, time, and place of that meeting.

26 **RULE 29.1. Public Hearings.** – (a) Requests for a public hearing shall be
27 made in writing to the chair of the standing committee and, if applicable, the chair of the
28 permanent subcommittee to which the bill has been referred. The chair of the standing
29 committee may schedule a public hearing by the standing committee as a whole after
30 the adjournment of a regular daily House session. The chair of the permanent
31 subcommittee may schedule a public hearing before the permanent subcommittee at its
32 regularly scheduled hour. Denial of a request made by a House member may be
33 appealed to the Speaker.

34 Notice shall be given not less than five calendar days prior to public hearings.
35 These notices shall be issued as information for the press and shall be posted in the
36 places designated by the Principal Clerk.

37 (b) Persons desiring to appear and be heard at a public hearing shall
38 submit their requests to the Chair of the standing committee or permanent
39 subcommittee. The standing committee or permanent subcommittee Chair may
40 designate one or more members to arrange the order of appearance of interested parties.
41 A brief written statement of testimony may be submitted without oral presentation and
42 shall be incorporated into the minutes of the public hearing.

1 **RULE 29.2. Minutes to Legislative Library.** – The Chair of a standing
2 committee or a permanent subcommittee shall insure that written minutes are compiled
3 for each of the body's meetings. The minutes shall indicate the members present and the
4 actions taken at the meeting. Not later than 20 days after the adjournment of each
5 session of the General Assembly, the chair shall deliver the minutes to the Legislative
6 Library. The Speaker of the House may grant a reasonable extension of time for filing
7 said minutes upon written application of the chair.

8 **RULE 30. Standing Committee of the Whole House.** – (a) A Standing
9 Committee of the Whole House shall not be formed, except by suspension of the rules,
10 if there be objection by any member.

11 (b) After passage of a motion to form a Standing Committee of the Whole
12 House, the Speaker shall appoint a Chair to preside in the standing committee, and the
13 Speaker shall leave the dais.

14 (c) The rules of procedure in the House shall be observed in the Standing
15 Committee of the Whole House, so far as they may be applicable, except the rule
16 limiting the time of speaking and the previous question.

17 (d) In the Standing Committee of the Whole House, a motion that the
18 standing committee rise shall always be in order, except when a member is speaking,
19 and shall be decided without debate.

20 (e) When a bill is submitted to the Standing Committee of the Whole
21 House, it shall be read and debated by sections, leaving the preamble to be last
22 considered. The body of the bill shall not be defaced or interlined, but all amendments,
23 noting the page and line, shall be duly entered by the Principal Clerk on a separate paper
24 as the same shall be agreed to by the standing committee, and be so reported to the
25 House. After report, the bill shall again be subject to be debated and amended by
26 sections before a question on its passage be taken.

27 **VI. Handling of Bills**

28 **RULE 31. Introduction of Bills and Resolutions.** – (a) All bills and
29 resolutions shall be introduced by submitting same to the Principal Clerk's office on the
30 legislative day prior to the first reading and reference thereof according to the following
31 schedule: by 30 minutes after adjournment each Monday; and by 3:00 P.M. each
32 Tuesday, Wednesday, Thursday, and Friday.

33 (b) Bills shall not become resolutions provided the Senate has a similar
34 rule. Resolutions shall not become bills. Resolutions are not law but may be used when
35 a law is not necessary for the purpose contained therein. Resolutions shall not be used to
36 appropriate funds for any purpose, but may be used to create study commissions or
37 committees or establish investigative committees, to honor deceased persons, and to
38 adopt House rules and internal affairs. Resolutions cannot amend, repeal, or modify a
39 statute; nor do they have life beyond the term of the session during which they are
40 adopted.

41 (c) Every bill or resolution shall be read in regular order of business,
42 except upon permission of the Speaker or on the report of a standing committee.

43 (d) All bills and resolutions shall show in their captions a brief descriptive
44 statement of the true substance of same, which captions may thereafter be amended.

Captions of public bills may be amended only by amendment proposed by the standing committee to which the bill was referred. Third reading shall not be had on any bill or resolution on the same day that such caption is amended.

(e) A Substitute Bill shall be covered with the same color jacket as the original bill and shall be prefaced as follows:

"House Committee Substitute for _____".

(f) House Resolutions need not be read more than twice.

(g) All memorializing, celebration, commendation, and commemoration resolutions, except those honoring the memory of deceased persons, shall be excluded from introduction and consideration in the House.

(h) Any reference in these rules to bills shall extend to resolutions unless the context requires otherwise.

RULE 31.1. Deadlines on Introduction and Receipt; Single Subject Rule.

– (a) All public bills or resolutions recommended by commissions or standing committees authorized or directed by act or resolution of the General Assembly to report to the 2001 Regular Session of the General Assembly, or to report prior to convening of that session, must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in February (February 21) and must be introduced not later than 3:00 P.M. on the next Wednesday (February 28) of the first year of the biennial session; and

(a1) All bills prepared to be introduced for departments, agencies, or institutions of the State must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in February (February 21) and must be introduced not later than 3:00 P.M. on the next Wednesday (February 28). A bill introduced under this subsection shall be identified as an Agency Bill after its short title.

(a2) All local bills must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in March (March 21) and must be introduced not later than 3:00 P.M. on the next Wednesday (March 28) of the first year of the biennial session.

(b) All public bills which would not be required to be re-referred to the Appropriations or Finance Committees under Rule 38 must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the first Wednesday in April (April 4) and must be introduced not later than 3:00 P.M. on the next Wednesday (April 11) of the first year of the biennial session.

(c) All public bills which under Rule 38 would be required to be re-referred to the Appropriations Committee, or to both the Appropriations and Finance Committees, must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in April (April 18) and must be introduced not later than 3:00 P.M. on the next Wednesday (April 25) of the first year of the biennial session. All public bills which under Rule 38 would be required to be re-referred to the Finance Committee but not the Appropriations Committee must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00

1 P.M. on the first Wednesday in May (May 2) and must be introduced not later than 3:00
2 P.M. on the next Wednesday (May 9) of the first year of the biennial session. If any bill
3 is eligible for introduction on account of the date only under this subsection, and the bill
4 is amended so that qualifying appropriation or tax law change does not remain in the
5 bill, it shall not be eligible for further consideration. For the purpose of this section, a
6 "tax law change" includes any provision that would require a bill under Rule 38(b) to be
7 referred to the Standing Committee on Finance.

8 (d) In order to be eligible for consideration by the House during the first
9 Regular Session, all Senate bills other than finance or appropriations bills which would
10 be required to be re-referred to the Appropriations or Finance Committees under Rule
11 38 or adjournment resolutions, must be received and read on the floor of the House as a
12 message from the Senate no later than April 26; provided that a message from the
13 Senate received by the next legislative day stating that a bill has passed its third reading
14 and is being engrossed shall comply with the requirements of this subsection and
15 provided that the Senate has a similar rule.

16 (d1) Except by motion approved by a majority of members of the House
17 present and voting, no public House bill other than the Current Operations
18 Appropriations Act or the Capital Improvement Appropriations Act may contain more
19 than one subject.

20 (e) This rule, other than subsection (d1), does not apply to bills
21 establishing districts for Congress or State or local entities. This rule, other than
22 subsection (d1), does not apply to measures ratifying an amendment or amendments to
23 the Constitution of the United States.

24 **RULE 32. Reference to Standing Committee and to Permanent**
25 **Subcommittees; Serial Referrals.** – (a) Each bill, joint resolution, or House resolution
26 not introduced on the report of a standing committee shall immediately upon its first
27 reading be referred by the Speaker to such standing committee or permanent
28 subcommittee as the Speaker deems appropriate. The Speaker at the same time may
29 order that, if the bill is reported with any favorable recommendation or without
30 prejudice, it be re-referred automatically upon the committee report to another
31 committee or permanent subcommittee designated in the order.

32 (b) The standing committee chair may refer each bill referred to the
33 standing committee to the permanent subcommittee specifically charged with the
34 subject matter of the bill. A report of that referral shall be made in writing and
35 submitted to the body pursuant to Rule 5(5). Except as provided in Rule 36, the
36 permanent subcommittee to which the bill is referred shall report the bill back to the full
37 standing committee. That subcommittee report shall include one of the following
38 recommendations:

- 39 (1) Favorable, without prejudice, or unfavorable as to the original bill with
40 the recommendation that the report be made to the standing
41 committee;
42 (2) Favorable, without prejudice, or unfavorable as to the original bill, as
43 amended, with the recommendation that the report be made to the
44 standing committee;

- (3) Favorable or without prejudice to the proposed committee substitute, and unfavorable to the original bill, with the recommendation that the report be made to the standing committee;
- (4) Favorable as to the original bill with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair;
- (5) Favorable to the original bill, as amended, with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair; or
- (6) Favorable to the proposed committee substitute with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair, and unfavorable to the original bill.

Any recommendation of favorable or without prejudice may include a recommendation of re-referral to another standing committee. After a bill is reported to a standing committee by a permanent subcommittee of that standing committee, the standing committee chair may re-refer the bill to another permanent subcommittee of that standing committee.

Upon recommendation to the standing committee, the bill shall be before that body for further action unless the permanent subcommittee chair reports the bill directly pursuant to Rule 36.

RULE 33. Papers Addressed to the House. – Petitions, memorials, and other papers addressed to the House shall be presented by the Speaker. A brief statement of the contents thereof may be made orally by the introducer before reference to a committee, but such papers shall not be debated or decided on the day of their first being read unless the House shall direct otherwise.

RULE 34. Introduction of Resolutions and Bills, Copies Required. – (a) Whenever any resolution or bill is introduced, a duplicate copy thereof shall be attached thereto, and the Principal Clerk shall cause said duplicate copy to be numbered as the original resolution or bill is numbered, and shall cause the same to be available at all times to the member introducing the same.

(b) Numbering of House Bills shall be designated as "H.B. ____." (No. following). A Joint Resolution shall be designated as "H.J.R. ____." (No. following). A House Resolution shall be designated as "H.R. ____." (No. following).

(c) Whenever any resolution or bill is filed for introduction, it shall be in a House bill jacket containing 30 copies and in the form designated by the Speaker. Any resolution or bill not accompanied by the required number of copies shall be returned immediately to the introducer. The Clerk shall stamp the copies with the number stamped upon the original bill.

RULE 35. Duplicating and Availability of Copies of Bills. – (a) The Legislative Services Officer shall cause such bills as are introduced to be duplicated in such numbers as may be specified by the Speaker. The Legislative Services Officer shall cause one copy of each resolution and public bill for each member to be delivered

1 to the member's committee assistant or legislative assistant who shall place it in the
2 appropriate notebook on the member's desk. If a member so requests, a second copy
3 shall be delivered to the member's committee assistant or legislative assistant who shall
4 place it in the member's office. The remaining copies shall be placed in the Printed Bills
5 Room and made available to the committees to which the bill is referred, to individual
6 members on request, and to the general public.

7 (b) A public bill is a bill affecting 15 or more counties. A local bill is one
8 affecting fewer than 15 counties. No public bill and, upon objection by a member, no
9 local bill may be considered unless copies of the bill have been made available to the
10 entire membership of the House.

11 **RULE 35.1. Assessment Reports.** – (a) Every bill or resolution proposing
12 the establishment of an occupational or professional licensing board, as defined in
13 Article 18A of Chapter 120 of the General Statutes, or a study for the need to establish
14 such a board shall have attached to the jacket of the original bill or resolution at the time
15 of its consideration on second and third readings by the House or by any standing
16 committee or permanent subcommittee of the House, an assessment report from the
17 Legislative Committee on New Licensing Boards pursuant to Article 18A of Chapter
18 120 of the General Statutes. The assessment report shall not constitute any part of the
19 expression of legislative intent proposed by the formation of a licensing board. Upon
20 receipt of the request, the Legislative Committee on New Licensing Boards shall
21 prepare and return the assessment report as soon as possible but not later than 60 days,
22 reserving the right to extend this time to 90 days.

23 (b) Every legislative proposal introduced in the House of Representatives,
24 or received in the House of Representatives from the Senate, proposing the
25 incorporation of a municipality shall have attached to the jacket of the original bill at the
26 time of its consideration on second or third readings by the House of Representatives or
27 by any committee of the House of Representatives prior to a favorable report, a
28 recommendation from the Joint Legislative Commission on Municipal Incorporations,
29 established by Article 20 of Chapter 120 of the General Statutes. The recommendation
30 of the Joint Legislative Commission on Municipal Incorporations shall be made in
31 accordance with the provisions and criteria set forth in Article 20 of Chapter 120 of the
32 General Statutes and shall include the findings required to be made by G.S. 120-166
33 through G.S. 120-170.

34 **RULE 36. Report by Standing Committee or Permanent Subcommittee.** –
35 (a) **When Reports Required.** – All House bills and resolutions shall be reported from
36 the standing committee or permanent subcommittee to which referred with such
37 recommendations as the standing committee or permanent subcommittee may desire to
38 make except in the case where the principal introducer requests in writing to the chair of
39 the standing committee or permanent subcommittee that the bill not be considered.

40 With the written approval of the chair of the standing committee and with the
41 recommendation of the subcommittee pursuant to Rule 32(b)(4) through (6), the chair of
42 the permanent subcommittee may report the bill directly to the floor with that
43 recommendation. If a permanent subcommittee recommends reporting a bill to the floor
44 and the chair of the standing committee fails to give approval, the bill shall be deemed

1 to have been reported to the standing committee with the same recommendation as the
2 subcommittee would have made to the House.

3 (b) **Favorable Report.** – When a standing committee or permanent
4 subcommittee reports a bill with the recommendation that it be passed, the bill shall be
5 placed on the favorable calendar on the day and in the order designated by the Chair of
6 the Committee on Rules, Calendar, and Operations of the House, but no later than the
7 fourth legislative day after submission of the report or Senate message under Rule 43.2
8 or Rule 43.3(a), unless:

9 (1) The bill is re-referred to the Committee on Appropriations or
10 Committee on Finance under Rule 38 or was serially referred under
11 Rule 32; or

12 (2) The bill has not yet been placed on the calendar, and the Speaker refers
13 the bill to another committee.

14 In order to place a bill on the calendar for a legislative day, notice shall be given by the
15 Chair of the Committee on Rules, Calendar, and Operations of the House orally in the
16 House or in writing to the Principal Clerk. When a committee substitute is adopted and
17 receives a favorable report by the committee or permanent subcommittee, the standing
18 committee or permanent subcommittee chair shall submit to the standing committee or
19 permanent subcommittee the question of an unfavorable report on the original bill. The
20 standing committee's or permanent subcommittee's action, if any, on the original bill
21 shall be reported at the same time the committee substitute is reported.

22 (c) **Report Without Prejudice.** – When a standing committee reports a
23 bill without prejudice, the bill shall be placed on the favorable calendar in the same
24 manner as provided in subsection (a) of this rule.

25 (d) **Postponed Indefinitely.** – When a standing committee reports a bill
26 with the recommendation that it be postponed indefinitely and no minority report
27 accompanies it, the bill shall be placed on the unfavorable calendar.

28 (e) **Unfavorable Report.** – When a standing committee reports a bill with
29 the recommendation that it not be passed and no minority report accompanies it, the bill
30 shall be placed on the unfavorable calendar.

31 (f) **Minority Report.** – When a bill is reported by a standing committee
32 with a recommendation that it not be passed or that it be postponed indefinitely, but it is
33 accompanied by a minority report signed by at least one-fourth of the members of the
34 standing committee who were present and voting when the bill was considered in
35 standing committee, the question before the House shall be: "The adoption of the
36 minority report." If the minority report is adopted by majority vote, the bill shall be
37 placed on the favorable calendar for consideration. If the minority report fails of
38 adoption by a majority vote, the bill shall be placed on the unfavorable calendar.

39 **RULE 36.1. Fiscal Notes.** – (a) The Chair or Cochair of the Appropriations
40 Committee, of the Finance Committee, or of the Rules, Calendar, and Operations of the
41 House Committee, upon the floor of the House, may request that a fiscal analysis be
42 made of a bill, resolution, or an amendment to a bill or resolution which is in the
43 possession of the House and that a fiscal note be attached to the measure, when in the

1 opinion of that Chair the fiscal effects of that measure are not apparent from the
2 language of the measure.

3 (b) The fiscal note shall be filed and attached to the bill or amendment
4 within two legislative days of the request. If it is impossible to prepare a fiscal note
5 within two legislative days, the Director of Fiscal Research shall, in writing, so advise
6 the Speaker, the Principal Clerk, and the member introducing or proposing the measure
7 and shall indicate the time when the fiscal note will be ready.

8 (c) The fiscal note shall be prepared by the Fiscal Research Division on a
9 form approved by the Rules, Calendar, and Operations of the House Committee as to
10 content and form and signed by the staff member or members preparing it. If no
11 estimate in dollars is possible, the fiscal note shall indicate the reasons that no estimate
12 is provided. The fiscal note shall not comment on the merit but may identify technical
13 problems. The Fiscal Research Division shall make the fiscal note available to the
14 membership of the House.

15 (d) A sponsor of a bill or amendment may deliver a copy of the bill or
16 amendment to the Fiscal Research Division for the preparation of a fiscal note. The
17 sponsor shall attach the fiscal note to the bill when filed or to the amendment when its
18 adoption is moved.

19 (e) The sponsor of a bill or amendment to which a fiscal note is attached
20 who objects to the estimates and information provided may reduce to writing the
21 objections. These objections shall be appended to the fiscal note attached to the bill or
22 amendment and to the copies of the fiscal note available to the membership.

23 (f) Subsection (a) of this rule shall not apply to the Current Operations
24 Appropriations Bill or the Capital Improvement Appropriations Bill. This rule shall not
25 apply to a bill or amendment requiring an actuarial note under these rules.

26 **RULE 36.2. Actuarial Notes.** – (a) Every bill or resolution proposing any
27 change in the law relative to any:

28 (1) State, municipal, or other retirement system funded in whole or in part
29 out of public funds; or

30 (2) Program of hospital, medical, disability or related benefits provided for
31 teachers and State employees, funded in whole or in part by State
32 funds shall have attached to it at the time of its consideration by any
33 standing committee or permanent subcommittee a brief explanatory
34 statement or note which shall include a reliable estimate of the
35 financial and actuarial effect of the proposed change to that retirement
36 or pension system. The actuarial note shall be attached to the jacket of
37 each proposed bill or resolution which is reported favorably by any
38 standing committee or any permanent subcommittee, shall be separate
39 there from, and shall be clearly designated as an actuarial note. A bill
40 described in subdivision (a)(1) of this rule shall be referred to the
41 Committee on Pensions and Retirement upon its introduction.

42 (b) The sponsor of the bill or resolution shall present a copy of the
43 measure, with a request for an actuarial note, to the Fiscal Research Division which
44 shall prepare the actuarial note as promptly as possible but not later than two weeks

1 after the request is made unless an extension of time is agreed to by the sponsor as being
2 necessary in the preparation of the note. Actuarial notes shall be prepared in the order of
3 receipt of request and shall be transmitted to the sponsor of the measure. The actuarial
4 note of the Fiscal Research Division shall be prepared and signed by an actuary.

5 (c) The sponsor of the bill or resolution shall also present a copy of the
6 measure to the actuary employed by the system or program affected by the measure.
7 Actuarial notes shall be prepared and transmitted to the sponsor of the measure not later
8 than two weeks after the request is received, unless an extension of time is agreed to by
9 the sponsor as being necessary in the preparation of the note. The actuarial note shall be
10 attached to the jacket of the measure. The provisions of this subsection may be waived
11 by the measure's sponsor for a measure affecting local government retirement or
12 pension plans not administered by the State or any local government program of
13 hospital, medical, disability, or related benefits for local government employees not
14 administered by the State.

15 (d) The note shall be factual and shall, if possible, provide a reliable
16 estimate of both the immediate effect and, if determinable, the long-range fiscal and
17 actuarial effect of the measure. If, after careful investigation, it is determined that no
18 dollar estimate is possible, the note shall contain a statement to that effect, setting forth
19 the reasons why no dollar estimate can be given. No comment or opinion shall be
20 included in the actuarial note with regard to the merits of the measure for which the note
21 is prepared. Technical and mechanical defects in the measure may be noted.

22 (e) When any permanent subcommittee or standing committee reports a
23 measure to which an actuarial note is attached at the time of permanent subcommittee or
24 standing committee consideration, with any amendment of such nature as would
25 substantially affect the cost to or the revenues of any retirement or pension system, or
26 program of hospital, medical, disability, or related benefits for teachers or State
27 employees, the chair of the permanent subcommittee or standing committee reporting
28 the measure shall obtain from the Fiscal Research Division an actuarial note of the fiscal
29 and actuarial effect of the proposed amendment. The actuarial note shall be attached to
30 the jacket of the measure. An amendment to any bill or resolution shall not be in order if
31 the amendment affects the costs to or the revenues of a State-administered retirement or
32 pension system, or program of hospital, medical, disability, or related benefits for
33 teachers or State employees, unless the amendment is accompanied by an actuarial note,
34 prepared by the Fiscal Research Division, as to the actuarial effect of the amendment.

35 (f) The Fiscal Research Division shall make all relevant actuarial notes
36 available to the membership of the House.

37 **RULE 36.3. Local Legislation Affecting State Highway System.** – A local
38 bill affecting the State Highway System shall be referred to the Committee on
39 Transportation.

40 **RULE 37. Removing Bill From Unfavorable Calendar.** – A bill may be
41 removed from the unfavorable calendar upon motion carried by a two-thirds vote. A
42 motion to remove a bill from the unfavorable calendar is debatable.

1 **RULE 38. Reports on Appropriation and Revenue Bills.** – (a) All standing
2 committees, other than the Standing Committee on Appropriations, when favorably
3 reporting any bill or resolution which:

4 (1) Carries an appropriation from the State; or

5 (2) Requires or will require in the future substantial additional State
6 monies from the General Fund or Highway Fund to implement its
7 provisions, shall indicate same in the report, and said bill or resolution
8 shall be referred to the Standing Committee on Appropriations for a
9 further report before being acted upon by the House.

10 (b) All standing committees, other than the Standing Committee on
11 Finance, when favorably reporting any bill which in any way or manner raises revenue,
12 reduces revenue, levies a tax, authorizes the levying of a tax, an assessment, or a fee, or
13 authorizes the issue of bonds or notes, whether public, public-local, or private, shall
14 indicate same in the report, and said bill shall be referred to the Standing Committee on
15 Finance for a further report before being acted upon by the House.

16 (c) **Action on Amendment Before Re-Referral.** – If any standing
17 committee recommends adoption of an amendment or committee substitute of a bill
18 which, under the rules of the House must be referred to the Standing Committees on
19 Appropriations or the Standing Committee on Finance, the amendment or committee
20 substitute shall be considered and, if adopted, the amendment or substitute engrossed
21 before the bill is re-referred.

22 **RULE 39. Recall of Bill From Standing Committee.** – (a) When a House
23 bill has been introduced and referred to a standing committee, or when a Senate bill has
24 been referred to a standing committee, if after 10 legislative days the standing
25 committee has failed to act thereon, then the introducer of the House bill or some
26 member designated by him, or some House member designated by the introducer of the
27 Senate bill, may, after three legislative days' public notice given in the House and
28 delivered in writing to the chair of the standing committee, on motion supported by a
29 vote of three-fifths of the members of the House, recall the same from the standing
30 committee to the floor of the House for consideration and such action thereon as a
31 majority of the members present may direct.

32 (b) This rule shall not be temporarily suspended without one day's notice on
33 the motion given in the House and delivered in writing to the chair of the standing
34 committee, and to sustain that motion two-thirds of the members of the House shall be
35 required.

36 **RULE 39.1. Recall of Bill From Permanent Subcommittee.** – When a
37 House bill has been referred to a permanent subcommittee, if after 10 legislative days
38 the subcommittee has failed to act thereon, or at any time, with the agreement of the
39 subcommittee chair, the standing committee chair may re-refer the bill from that
40 permanent subcommittee to another permanent subcommittee of the same standing
41 committee provided the report of the re-referral shall be made pursuant to Rule 32.

42 **RULE 39.2. Re-Referral of Bills From One Standing Committee to**
43 **Another Standing Committee.** – Upon consent of the sponsor of the bill, the Speaker,

1 the chair of the standing committee from whom the bill is to be re-referred, and the
2 chair of the standing committee to whom the bill is to be re-referred, the chair of the
3 standing committee from whom the bill is to be re-referred or the chair of the
4 Committee on Rules, Calendar, and Operations of the House may move for a re-referral
5 to another standing committee and the bill shall be re-referred upon vote of the majority
6 present during a regular session of the House.

7 **RULE 40. Calendars and Schedules of Business.** – The Clerk of the House
8 shall prepare a daily schedule of business, including the Calendar of Bills and
9 Resolutions for consideration and debate that day, in accordance with the Order of
10 Business of the Day (Rule 5). The Clerk shall number all bills and resolutions in the
11 order in which they are introduced. All bills and resolutions shall be taken up as they
12 appear in each category (Rule 5(10)) in the order they were placed on the Calendar
13 under Rule 36(b).

14 **RULE 41. Reading of Bills.** – (a) Every bill shall receive three readings
15 in the House prior to its passage. The first reading and reference to standing committee
16 of a House bill shall occur on the next legislative day following its introduction. The
17 first reading and reference to standing committee of a Senate bill shall occur on the next
18 legislative day following its receipt on messages from the Senate. The Speaker shall
19 give notice at each subsequent reading whether it is the second or third reading.

20 (b) No bill shall be read more than once on the same day without the
21 concurrence of two-thirds of the members present and voting; provided, no bill
22 governed by Article II, Section 23 of the North Carolina Constitution or described in
23 Rule 20(a)(2) herein shall be read twice on one day under any circumstance.

24 **RULE 42. Effect of a Defeated Bill.** – (a) Subject to the provisions of
25 subsection (b) of this rule, after a bill has:

- 26 (1) Been tabled,
- 27 (2) Been postponed indefinitely,
- 28 (3) Failed to pass on any of its readings, or
- 29 (4) Been placed on the unfavorable calendar,

30 the contents of that bill or the principal provisions of its subject matter shall not be
31 considered in any other measure originating in the Senate or originating thereafter in the
32 House. Upon the point of order being raised and sustained by the Chair, that measure
33 shall be laid upon the table, and shall not be taken there from except by a two-thirds
34 vote of the members present and voting.

35 (b) No local bill shall be held by the Chair to embody the contents of or
36 the principal provisions of the subject matter of any statewide measure which has been
37 laid on the table, has failed to pass on any of its readings, or has been placed on the
38 unfavorable calendar.

39 **RULE 43. Amendments.** – No amendment to a measure before the House
40 shall be in order unless the amendment is germane to the measure under consideration.
41 A House amendment deleting a previously adopted House amendment shall not be in
42 order, except that this sentence does not apply to amendments adopted under Rule
43 38(c).

1 If the Senate adopts an amendment or committee substitute to a House bill,
2 the House may refuse to receive the bill on account of lack of germaneness if the Senate
3 has a similar rule.

4 Only one principal (first degree) amendment shall be pending at any one
5 time. If a subsequent or substitute principal amendment shall be offered, the Speaker
6 shall rule it out of order. However, any member desiring to offer a subsequent or
7 substitute principal amendment in opposition to the pending amendment may inform the
8 House by way of argument against the pending amendment that if it is defeated the
9 member proposes to offer another principal amendment, and the member may then read
10 and explain such proposed amendment.

11 Perfecting (or second degree) amendments may be offered and considered
12 without limitation as to number, and in the event of multiple perfecting amendments,
13 they shall be voted upon in inverse order.

14 **RULE 43.1. Engrossment.** – Bills and resolutions, except those making
15 appropriations, which originate in the House and which are amended, shall be engrossed
16 before being sent to the Senate.

17 **RULE 43.2. House Concurrence in Senate Amendments to House Bills.** –
18 When the House receives a Senate amendment to a bill originating in the House, it shall
19 be placed on the calendar in accordance with Rule 36(b).

20 **RULE 43.3. Committee Substitutes Adopted by the Senate to Bills**
21 **Originating in the House; Procedure for Treatment of Material Amendments**
22 **Thereeto.** – (a) Whenever the Senate has adopted a committee substitute for a bill
23 originating in the House and has returned the bill to the House for concurrence in that
24 committee substitute, it shall be placed on the calendar in accordance with Rule 36(b).

25 (b) The Speaker shall rule whether the committee substitute is a material
26 amendment under Article II, Section 23 of the State's Constitution which reads:

27 **"Revenue bills.** – No law shall be enacted to raise money on the credit of the
28 State, or to pledge the faith of the State directly or indirectly for the payment of any
29 debt, or to impose any tax upon the people of the State, or to allow the counties, cities,
30 or towns to do so, unless the bill for the purpose shall have been read three several times
31 in each House of the General Assembly and passed three several readings, which
32 readings shall have been on three different days, and shall have been agreed to by each
33 House respectively, and unless the yeas and nays on the second and third readings of the
34 bill shall have been entered on the journal."

35 If the committee substitute was referred to standing committee, the standing
36 committee shall:

37 (1) Report the bill with the recommendation either that the House do
38 concur or that the House do not concur; and

39 (2) Advise the Speaker as to whether or not that committee substitute is a
40 material amendment under Article II, Section 23 of the North Carolina
41 Constitution.

42 (c) If the committee substitute for a bill is not a material amendment, the
43 question before the House shall be concurrence.

1 (d) If the committee substitute for a bill is a material amendment, the
2 receiving of that bill on messages shall constitute first reading and the question before
3 the House shall be concurrence on second reading. If the motion is passed, the question
4 then shall be concurrence on third reading on the next legislative day.

5 (e) No committee substitute adopted by the Senate for a bill originating in
6 the House may be amended by the House.

7 **RULE 44. Conference Standing Committees.** – (a) Whenever the
8 House shall decline or refuse to concur in amendments put by the Senate to a bill
9 originating in the House, or shall refuse to concur in a substitute adopted by the Senate
10 for a bill originating in the House or whenever the Senate shall decline or refuse to
11 concur in amendments put by the House to a bill originating in the Senate, or shall
12 refuse to concur in a substitute adopted by the House for a bill originating in the Senate,
13 a conference committee may be appointed by the Speaker upon the Speaker's own
14 motion and shall be appointed upon request by the principal sponsor of the original bill,
15 the chair of the House standing committee which reported the bill, or by the sponsor of
16 the amendment in which the Senate refused to concur; and the bill under consideration
17 shall thereupon go to and be considered by the joint conferees on the part of the House
18 and Senate. In appointing members to conference committees, the Speaker shall appoint
19 no less than a majority of members who generally supported the House position as
20 determined by the Speaker.

21 (b) Only such matters as are in difference between the two houses shall be
22 considered by the conferees, and the conference report shall deal only with such
23 matters. The conference report may be made by a majority of the House members of
24 such conference committee and shall not be amended.

25 (c) If the conferees fail to agree or if either House fails to adopt the report
26 of its conferees, new conferees may be appointed.

27 (d) No vote shall be taken on adoption of a conference report until the next
28 legislative day following the report.

29 **RULE 44.1. Transmittal of Bills to Senate.** – Unless ordered by the Speaker
30 or two-thirds vote of the members present and voting, no bill shall be sent from the
31 House on the day of its passage, except on the last day of the session.

32 **VII. Legislative Officers and Employees**

33 **RULE 45. Elected Officers.** – (a) The House shall elect one of its
34 members Speaker.

35 (b) The House shall elect one of its members Speaker Pro Tempore who
36 shall perform such duties as the Speaker may assign and shall preside over the House in
37 the absence or incapacity of the Speaker and shall perform all of the duties of the
38 Speaker until such time the Speaker may assume the chair.

39 (c) The House shall elect a Principal Clerk, who shall continue in office
40 until another is elected. The Speaker shall appoint a Reading Clerk and a Sergeant-at-
41 Arms, who shall serve at the Speaker's pleasure. The Principal Clerk, Reading Clerk,
42 and Sergeant-at-Arms shall have and perform duties and responsibilities, not
43 inconsistent with these rules, as the Speaker may assign. Unless directed otherwise by

1 the Speaker on behalf of the House, the Principal Clerk or an employee designated by
2 the Principal Clerk shall receive House bills not approved by the Governor. In addition,
3 the Sergeant-at-Arms may assign the Reading Clerk additional duties, to be performed
4 while the House is not in its daily session.

5 **RULE 46. Assistants to Principal Clerk and Sergeant-at-Arms.** – The
6 Principal Clerk and the Sergeant-at-Arms may appoint, with the approval of the
7 Speaker, such assistants as may be necessary to the efficient discharge of the duties of
8 their respective offices.

9 **RULE 47. Speaker's Staff, Chaplain, and Pages.** – (a) The Speaker may
10 appoint one or more staff members to the Speaker, a Chaplain of the House, and pages
11 to wait upon the sessions of the House.

12 (b) When the House is not in session, the pages shall be under the
13 supervision of the Supervisor of Pages.

14 (c) The Speaker at the request of a member may appoint honorary pages.

15 **RULE 48. Member's Staff.** – (a) Each standing committee and
16 permanent subcommittee shall have a committee assistant. The committee assistant to a
17 standing committee or permanent subcommittee shall serve as staff to the chair of the
18 standing committee or permanent subcommittee.

19 (b) Each member shall be assigned a legislative assistant, unless the
20 member has a committee assistant to serve as legislative assistant.

21 (c) The selection and retention of committee assistants, legislative
22 assistants, and office assistants shall be the sole prerogative of the individual member or
23 members. Such staff shall file initial applications for employment with the Principal
24 Clerk and shall receive compensation as prescribed by the Legislative Services
25 Commission. The employment period of such staff shall commence not earlier than the
26 convening date of the General Assembly and shall terminate not later than the final
27 adjournment or recess of the General Assembly unless employment for an extended
28 period is approved by the Speaker. The committee assistants, legislative assistants, and
29 office assistants shall adhere to such uniform rules and regulations not inconsistent with
30 these rules regarding hours and other conditions of employment as the Legislative
31 Services Commission shall fix by appropriate regulations.

32 **RULE 49. Compensation of Legislative Assistants.** – No clerk, committee
33 assistant, legislative assistant, office assistant, or other person employed or appointed
34 under Rules 46, 47, and 48 hereof shall receive during such employment, appointment,
35 or service, any compensation from any department of the State government, and there
36 shall not be voted, paid, or awarded any additional pay, bonus, or gratuity to any of
37 them; but they shall receive only the pay now provided by law for such duties and
38 services.

39 **VIII. Privileges of the Hall**

40 **RULE 50. Admittance to Floor.** – No person except members, officers, and
41 employees of the General Assembly who have been issued identification tags as
42 provided by this rule, and former members of the General Assembly who are not
43 registered under the provisions of Article 9 of Chapter 120 of the General Statutes of
44 North Carolina, shall be allowed on the floor of the House during its session, unless

1 permitted by the Speaker or otherwise provided by law. Employees of the General
2 Assembly shall wear identification tags, approved by the Legislative Services Officer,
3 when on the floor of the House.

4 **RULE 51. Admittance of Press.** – Reporters wishing to take down debates
5 may be admitted by the Speaker, who shall assign such places to them on the floor or
6 elsewhere, to effect this object, as shall not interfere with the convenience of the House.
7 Reporters admitted to the floor of the House shall observe the same requirements of
8 attire for members contained in Rule 12(h).

9 **RULE 52. Extending Courtesies.** – Courtesies of the floor, galleries, or
10 lobby shall be extended at the discretion of the Speaker and only by the Speaker.
11 Requests by members to extend these courtesies shall be typewritten and delivered to
12 the Speaker. No member shall orally ask the Speaker to extend these courtesies during
13 the daily session.

14 **RULE 53. Order in House Chamber, Galleries, and Lobby.** – In case of
15 any disturbance or disorderly conduct in the House Chamber, galleries, or lobby, the
16 Speaker or other presiding officer is empowered to order the same to be cleared to the
17 extent they deem necessary.

18 **IX. General Rules**

19 **RULE 54. Attendance of Members.** – No member or officer of the House
20 shall absent himself from the service of the House without leave, unless from sickness
21 or disability.

22 **RULE 55. Documents to Be Signed by the Speaker.** – All acts, addresses,
23 and resolutions and all warrants and subpoenas issued by order of the House shall be
24 signed by the Speaker or other presiding officer.

25 **RULE 56. Printing or Reproducing Materials.** – There shall be no printing
26 or reproducing of paper(s) that are not legislative in essence except upon approval of the
27 Speaker.

28 **RULE 57. Placement or Circulation of Materials.** – Persons other than
29 members of the House shall not place or cause to be placed any materials on members'
30 desks in the House Chamber without obtaining approval of the Speaker. Any material
31 placed on members' desks in the House Chamber, or circulated to House members
32 anywhere in the Legislative Building or the Legislative Office Building, shall bear the
33 name of the originator.

34 **RULE 58. Rules, Rescission, and Alteration.** – (a) These rules shall not be
35 permanently rescinded or altered except by House simple resolution passed by a two-
36 thirds vote of the members present and voting. The introducer of the resolution must on
37 the floor of the House give notice of intent to introduce the resolution on the legislative
38 day preceding its introduction.

39 (b) Except as otherwise provided herein, the House upon two-thirds vote
40 of the members present and voting may temporarily suspend any rule.

41 **RULE 59. Cosponsorship of Bills and Resolutions.** – (a) Any
42 member wishing to cosponsor a bill or resolution which has been introduced may do so
43 by appearing in the office of the Principal Clerk for such purpose within one-half hour

1 following the adjournment of the session during which such bill or resolution was first
2 read and referred.

3 (b) Members wishing to jointly sponsor legislation should indicate such to
4 the drafter at the time the bill is requested or upon filing the bill with the Principal
5 Clerk's office. The names of the members who are the primary sponsors shall be listed
6 in the order requested by them, followed by the words (Primary Sponsors); and the
7 remaining names of members cosponsoring shall follow. No more than four members
8 may be listed as primary sponsors.

9 (c) No member shall permit anyone, other than that member's committee
10 assistant, legislative assistant, office assistant, or another member, to have possession of
11 and solicit for bill or resolution cosponsorship, the jacket of a bill or resolution.

12 **RULE 60. Correcting of Typographical Errors.** – The Legislative Services
13 Officer may correct typographical errors appearing in House bills or resolutions
14 provided that such corrections are made before ratification and do not conflict with any
15 actions or rules of the Senate and provided further that such correction be approved by
16 the Chair of the Standing Committee on Rules, Calendar, and Operations of the House,
17 the Speaker, or other presiding officer.

18 **RULE 61. Assignment of Seats.** – After initial assignment of seats, a
19 member shall continue to occupy the seat to which initially assigned until assigned a
20 permanent seat; once assigned a permanent seat, the member shall occupy it for the
21 entire biennial session. In event of vacancy, that member's successor will occupy the
22 seat of the member replaced for the remainder of the biennial session.

23 **RULE 61.1. Office Assignments.** – The Chair of the Standing Committee on
24 Rules, Calendar, and Operations of the House shall assign to each member an office
25 space. When available, Chairs of standing committees and permanent subcommittees
26 shall be assigned an office adjacent to the room in which the standing committee or
27 permanent subcommittee generally meets if the Chair so desires. The Speaker shall be
28 assigned an office of his or her choice.

29 **RULE 61.2. Convening and Assigning Seats in the New House.** – (a) The
30 Principal Clerk of the previous House of Representatives shall convene the House of
31 Representatives at 12:00 noon on the date established by law for the convening of each
32 regular session, and preside over the body until the members elect a Speaker. In the case
33 of a vacancy, inability, or refusal to so serve, the duty shall devolve upon the sergeant-
34 at-arms of the prior House, and in the case of a vacancy in that office, or inability or
35 refusal to so serve, the duty shall devolve upon the reading clerk of the prior House.

36 (b) It shall be the duty of the Chair of the Standing Committee on Rules,
37 Calendar, and Operations of the House of the prior House to assign temporary seats to
38 the members of the House of Representatives in its Chamber. In the case of the inability
39 or refusal to serve of the Chair of the Standing Committee on Rules, Calendar, and
40 Operations of the House, the Speaker of the prior House of Representatives shall
41 appoint a person to assign seats to members of the House of Representatives in its
42 Chamber. In the event that the party that had a majority of members in the prior House
43 will no longer have a majority of members of the new House, then the duty assigned in
44 this subsection to the Chair of the committee of the prior House shall instead be the duty

1 of the person nominated as Speaker by the majority party caucus for the new House, or
2 some member-elect designated by the Speaker-nominee. In the event no party will have
3 a majority, then the duty assigned in this subsection to the Chair of the committee of the
4 prior House shall instead be the joint duty of one person chosen each by the caucuses of
5 the two parties having the greatest numbers of members.

6 **RULE 62. Matters Not Covered in These Rules.** – Except as herein set out
7 the rules of Mason's Manual of Legislative Procedure shall govern the operation of the
8 House.

9 Section 2. This resolution is effective upon adoption.

North Carolina General Assembly
Through House Committee on
Public Utilities

Date: 02/14/2002
Time: 14:31
Page: 001 of 001
Leg. Day: H-179/S-173

2001-2002 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
H0125	Hall	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	02-15-01	
H0130	Edwards	USE OF 911 FUNDS/ BEAUFORT.	*H Re-ref Com On Public Utilities	05-14-01	
H0205=	Smith	EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES.	H Ref To Com On Public Utilities	02-22-01	
H0481=	Smith	CONFIRMATION OF LORINZO LITTLE JOYNER.	HR Ch. Res 2001-7	03-05-01	03-13-01
H0571	Allen	SIMPLIFY TAXES ON TELECOMMUNICATIONS-2.	*HR Ch. SL 2001-430	03-12-01	03-21-01
H0585=	Baddour	WATER AND SEWER AUTHORITIES.	H Ref To Com On Public Utilities	03-13-01	
H0678	Buchanan	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	03-19-01	
H0710	Arnold	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	03-21-01	
H0725	Culpepper	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	03-22-01	
H0791=	Starnes	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	03-26-01	
H0824	Cox	INSTALLATION OF SEWER CLEANOUT REQUIRED.	*HR Ch. SL 2001-296	03-27-01	04-03-01
H0867	McLawhorn	USE OF 911 FUNDS.	H Ref To Com On Public Utilities	03-29-01	
H1015=	Nesbitt	IMPROVE AIR QUALITY/ ELECTRIC UTILITIES.	H Ref to the Com on Public Utilities and, if favorable, to the Com on Environment and Natural Resources	04-09-01	
S0217=	David W. Hoyle	EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES.	HR Ch. SL 2001-252	03-12-01	04-17-01
S0432=	John H. Kerr III	WATER AND SEWER AUTHORITIES.	*HR Ch. SL 2001-224	04-05-01	04-17-01
S0432=	John H. Kerr III	WATER AND SEWER AUTHORITIES.	*HR Ch. SL 2001-224	05-17-01	05-30-01
S0589	Charlie S. Danne	STUDY 911 FUNDS.	*H Re-ref Com On Rules, Calendar, and Operations of the House	04-26-01	07-18-01
S0641	Eric Miller Reev	EXPAND DEFINITION OF UNIVERSAL SERVICE.	H Ref To Com On Public Utilities	04-25-01	
S1078=	Stephen M. Metca	IMPROVE AIR QUALITY/ ELECTRIC UTILITIES.	*H Ref to the Com on Public Utilities and, if favorable, to the Com on Environment and Natural Resources	04-25-01	
S1101		CONFIRMATION UTILITY COMM. APPTS./EXEC. DIRECTOR	HR Ch. Res 2001-16	05-29-01	05-30-01

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

North Carolina General Assembly
Pending House Committee on
Public Utilities

2001-2002 Biennium

Bill	Short Title		Date	Latest Action
125	USE OF 911 FUNDS.	H	02-15-2001	Ref To Com On Public Utilities
130	USE OF 911 FUNDS/BEAUFORT.	*H	05-14-2001	Re-ref Com On Public Utilities
205=	EXTEND TIME FOR UNIVERSAL SERVICE FINAL RULES.	H	02-22-2001	Ref To Com On Public Utilities
H 585=	WATER AND SEWER AUTHORITIES.	H	03-13-2001	Ref To Com On Public Utilities
H 678	USE OF 911 FUNDS.	H	03-19-2001	Ref To Com On Public Utilities
H 710	USE OF 911 FUNDS.	H	03-21-2001	Ref To Com On Public Utilities
H 725	USE OF 911 FUNDS.	H	03-22-2001	Ref To Com On Public Utilities
H 791=	USE OF 911 FUNDS.	H	03-26-2001	Ref To Com On Public Utilities
H 867	USE OF 911 FUNDS.	H	03-29-2001	Ref To Com On Public Utilities
H1015=	IMPROVE AIR QUALITY/ELECTRIC UTILITIES.	H	04-09-2001	Ref to the Com on Public Utilities and, if favorable, to the Com on Environment and Natural Resources
S 641	EXPAND DEFINITION OF UNIVERSAL SERVICE.	H	04-25-2001	Ref To Com On Public Utilities
S1078=	IMPROVE AIR QUALITY/ELECTRIC UTILITIES.	*H	04-25-2001	Ref to the Com on Public Utilities and, if favorable, to the Com on Environment and Natural Resources

'\$' indicates the bill is an appropriations bill.

A bold line indicates the bill is an appropriations bill.

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'=' indicates that the original bill is identical to another bill.

2002

**HOUSE
PUBLIC UTILITIES**

MINUTES

**HOUSE PUBLIC UTILITIES COMMITTEE
2002**

REP. RONNIE SMITH – CHAIR

REP. DANNY MCCOMAS – VICE-CHAIR

REP. DREW SAUNDERS – VICE-CHAIR

RESEARCH STAFF:

**STEVE ROSE
FRANK FOLGER**

**COMMITTEE ASSISTANT:
ANN JORDAN**

Minutes
House Committee on Public Utilities
June 6, 2002

The House Committee on Public Utilities met Thursday, June 6, 2002 in Room 544 of the Legislative Office Building at 8:30a.m. The following members were present: Representative Ronnie Smith, Chair; Vice-Chairmen McComas and Saunders and Representatives Coates, Culpepper, Edwards, Hurley, Holmes, McCombs and Rogers. Representative Hackney, Ex Officio Member also attended. A Visitor Registration list is attached (Attachment II) and made part of the minutes.


The Chair called the meeting to order and introduced the following pages: Kathryn King from Bladen County, Katie Hinson from Stanley County, Justin Winstead from Wake County and Rose Burlingham from Pitt County. Committee Counsels Steve Rose and Frank Folger were also present. Counsel George Givens also attended.

The Chair recognized Representative Roger for his motion to place the new Proposed Committee Substitute (PCS 4699-RT-88) for SB 1078 - A BILL TO BE ENTITLED AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF ACHIEVING COMPLIANCE WITH THOSE LIMITS before the members. Motion carried. The PCS (Attachment I) and made a part of the minutes.


The Chair recognized George Givens from Research to discuss the Environmental portion of the bill. Steve Rose was recognized to discuss the cost recovery portion. Several members of the audience were recognized for their comments. After much discussion on the bill Representative Smith told members they would not vote today but would meet again on Tuesday, June 11th for a vote on the PCS.

The meeting was adjourned at 9:40 a. m.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

I

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1078
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/18/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1078-PCS4699-RT-88

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 5, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING LIMITS
3 ON THE EMISSION OF CERTAIN POLLUTANTS FROM CERTAIN
4 FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO
5 PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF
6 ACHIEVING COMPLIANCE WITH THOSE LIMITS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 21B of Chapter 143 of the General Statutes is amended
9 by adding a new section to read:

10 "§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2)
11 from certain coal-fired generating units.

12 (a) As used in this section:

13 (1) 'Coal-fired generating unit' means a coal-fired generating unit, as
14 defined by 40 Code of Federal Regulations § 96.2 (1 July 2001
15 Edition), that is located in this State and has the capacity to generate
16 25 or more megawatts of electricity.

17 (2) 'Investor-owned public utility' means an investor-owned public utility,
18 as defined in G.S. 62-3.

19 (b) An investor-owned public utility that owns or operates coal-fired generating
20 units that collectively emitted more than 75,000 tons of oxides of nitrogen (NOx) in
21 calendar year 2000:

22 (1) Shall not collectively emit from the coal-fired generating units that it
23 owns or operates more than 35,000 tons of oxides of nitrogen (NOx) in
24 any calendar year beginning 1 January 2007.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 31,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2009.

(c) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 75,000 tons or less of oxides of nitrogen (NOx) in calendar year 2000 shall not collectively emit from the coal-fired generating units that it owns or operates more than 25,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.

(d) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 225,000 tons of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 150,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 80,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(f) Each investor-owned public utility to which this section applies may determine how it will achieve the collective emissions limitations imposed by this section. Compliance with the emissions limitations set out in this section does not alter the obligation of any person to comply with any other federal or State law, regulation, or rule related to air quality or visibility. This subsection shall not be construed to limit the authority of the Commission to impose specific limitations on the emission of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from an individual coal-fired generating unit owned or operated by an investor-owned public utility.

(g) A coal-fired generating unit that is subject to the collective emissions limitations set out in this section on 1 July 2002 shall remain subject to the collective emissions limitations whether or not it thereafter continues to be owned or operated by an investor-owned public utility.

(h) The Commission shall require that any permit or modified permit issued for a coal-fired generating unit that is subject to this section include conditions that provide for testing, monitoring, record keeping, and reporting adequate to assure compliance with the requirements of this section.

(i) The Governor may enter into an agreement with an investor-owned public utility under which the investor-owned public utility voluntarily agrees to transfer to the

1 State any emissions allowances acquired or that may be acquired by the investor-owned
2 public utility pursuant to 42 U.S.C. §§ 7651-7651o, as implemented by 40 Code of
3 Federal Regulations §§ 73.1 through 73.90 (1 July 2001 Edition); 42 U.S.C.
4 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July
5 2001 Edition), related federal regulations, and the associated State Implementation Plan;
6 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July
7 2001 Edition) and related federal regulations; or any similar program established under
8 federal law that result from compliance with the emissions limitations set out in this
9 section. An agreement entered into pursuant to this subsection shall be binding and shall
10 be enforceable by specific performance. If the Governor enters into an agreement that
11 provides for the transfer of emissions allowances to the State, the Governor shall file
12 verified copies of the agreement with the Attorney General, the Secretary of State, the
13 State Treasurer, the Secretary of Environment and Natural Resources, and the Utilities
14 Commission. The State Treasurer shall hold all emissions allowances that are
15 transferred to the State as provided in this subsection in trust for the people of this State
16 and shall sell, trade, transfer, or otherwise dispose of the emissions allowances only as
17 the General Assembly shall provide by law.

18 (i) An investor-owned public utility that is subject to the emissions limitations
19 set out in this section shall submit to the Utilities Commission and to the Department on
20 or before 1 April of each year a verified statement pursuant to subsection (i) of G.S.
21 62-133.6."

22 SECTION 2. G.S. 143-215.108 reads as rewritten:

23 "§ 143-215.108. **Control of sources of air pollution; permits required.**

24 (a) ~~After the effective date applicable to any air quality or emission control~~
25 ~~standards established pursuant to G.S. 143-215.107 and except~~ Except as provided in
26 subsections (a1) and (a2) of this section, no person shall do any of the following things
27 or carry out any of the following activities which contravene or will be likely to
28 contravene ~~such standards established pursuant to G.S. 143-215.107 or set out in G.S.~~
29 ~~143-215.107D until or unless such that person shall have applied for and shall have~~
30 ~~received~~ has obtained from the Commission a permit therefor and ~~shall have~~ has
31 ~~complied with such conditions, if any, as are prescribed by such~~ any conditions of this
32 permit:

- 33 (1) Establish or operate any air contaminant source;
- 34 (2) Build, erect, use or operate any equipment which may result in the
35 emission of air contaminants or which is likely to cause air pollution;
- 36 (3) Alter or change the construction or method of operation of any
37 equipment or process from which air contaminants are or may be
38 emitted;
- 39 (4) Enter into an irrevocable contract for the construction and installation
40 of any air-cleaning device, or allow or cause such device to be
41 constructed, installed, or operated.

42 (a1) The Commission may by rule establish procedures that meet the requirements
43 of section 502(b)(10) of Title V (42 U.S.C. § 7661a(b)(10)) and 40 Code of Federal

1 Regulations § 70.4(b)(12) (1 July 1993 Edition) to allow a permittee to make changes
2 within a permitted facility without requiring a revision of the permit.

3 (a2) The Commission may adopt rules that provide for a minor modification of a
4 permit. At a minimum, rules that provide for a minor modification of a permit shall
5 meet the requirements of 40 Code of Federal Regulations § 70.7(e)(2) (1 July 1993
6 Edition). If the Commission adopts rules that provide for a minor modification of a
7 permit, a permittee shall not make a change in the permitted facility while the
8 application for the minor modification is under review unless the change is authorized
9 under the rules adopted by the Commission.

10 (b) The Commission shall act upon all applications for permits so as to effectuate
11 the ~~purpose-purposes~~ of this section, ~~Article~~ by reducing existing air pollution and
12 preventing, so far as reasonably possible, any increased pollution of the air from any
13 additional or enlarged sources.

14 (c) The Commission shall have the power:

15 (1) To grant and renew a permit with ~~such any~~ conditions attached as ~~that~~
16 the Commission believes necessary to achieve the purposes of this
17 section ~~Article~~ or the requirements of the Clean Air Act and
18 implementing regulations adopted by the United States Environmental
19 Protection Agency;

20"

21 **SECTION 3.** G.S. 143-215.107(a)(8) reads as rewritten:

22 "(8) To develop and adopt standards and plans necessary to implement
23 programs to control acid deposition and to regulate the use of sulfur
24 dioxide (SO₂) allowances and ~~nitrogen-oxides of nitrogen~~ (NO_x)
25 emissions in accordance with Title IV and implementing regulations
26 adopted by the United States Environmental Protection Agency."

27 **SECTION 4.** G.S. 143-215.114A(a) reads as rewritten:

28 "(a) A civil penalty of not more than ten thousand dollars (\$10,000) may be
29 assessed by the Secretary against any person who:

30 (1) Violates any classification, standard or limitation established pursuant
31 to ~~G.S. 143-215.107;G.S. 143-215.107.~~

32 (2) Is required but fails to apply for or to secure a permit required by G.S.
33 143-215.108 or who violates or fails to act in accordance with the
34 terms, conditions, or requirements of such ~~permit;permit.~~

35 (3) Violates or fails to act in accordance with the terms, conditions, or
36 requirements of any special order or other appropriate document issued
37 pursuant to ~~G.S. 143-215.110;G.S. 143-215.110.~~

38 (4) Fails to file, submit, or make available, as the case may be, any
39 documents, data or reports required by this Article or Parts 1 or 7 of
40 Article 21 of this ~~Chapter;Chapter.~~

41 (5) Violates a rule of the Commission or a local governing body
42 implementing this Article or Parts 1 or 7 of ~~Article 21;Article 21.~~

43 (6) Violates the offenses set out in G.S. 143-215.114B.

44 (7) Violates the emissions limitations set out in G.S. 143-215.107D."

1 SECTION 5. G.S. 143-215-114A is amended by adding a new subsection to
2 read:

3 "(b1) The Secretary may assess a civil penalty of not more than ten thousand
4 dollars (\$10,000) per day for a violation of the emissions limitations set out in G.S.
5 143-215.107D as provided in this subsection. If at the end of any calendar year, an
6 investor-owned public utility has violated an emissions limitation set out in G.S. 143-
7 215.107D, the violation shall be considered to be continuous from the day that the
8 collective emissions first exceeded the emissions limitation set out in G.S.
9 143-215.107D through the end of the calendar year and the Secretary may assess a
10 separate civil penalty for each day."

11 SECTION 6. G.S. 143-215.114B(f) reads as rewritten:

12 "(f) Any person who negligently violates any classification, standard or limitation
13 established pursuant to ~~G.S. 143-215.107~~; G.S. 143-215.107 or by G.S. 143-215.107D
14 any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or
15 of a special order or other appropriate document issued pursuant to G.S. 143-215.110 or
16 any rule of the Commission implementing any of the said section, shall be guilty of a
17 Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars
18 (\$15,000) per day of violation, provided that such fine shall not exceed a cumulative
19 total of two hundred thousand dollars (\$200,000) for each period of 30 days during
20 which a violation continues."

21 SECTION 7. G.S. 143-215.114B(g) reads as rewritten:

22 "(g) Any person who knowingly and willfully violates any classification, standard,
23 or limitation established in the rules of the Commission pursuant to ~~G.S. 143-215.107~~ or
24 G.S. 143-215.107; ~~the emissions limitations set out in G.S. 143-215.107D~~; any term,
25 condition, or requirement of a permit issued pursuant to ~~G.S. 143-215.108~~ G.S.
26 143-215.108; or of a special order or other appropriate document issued pursuant to
27 G.S. 143-215.110, shall be guilty of a Class H felony, which may include a fine not to
28 exceed one hundred thousand dollars (\$100,000) per day of violation, provided that this
29 fine shall not exceed a cumulative total of five hundred thousand dollars (\$500,000) for
30 each period of 30 days during which a violation continues. For the purposes of this
31 subsection, the phrase "knowingly and willfully" shall mean intentionally and
32 consciously as the courts of this State, according to the principles of common law,
33 interpret the phrase in the light of reason and experience."

34 SECTION 8. G.S. 143-215.114B(h)(1) reads as rewritten:

35 "(1) Any person who knowingly violates any classification, standard, or
36 limitation established in the rules of the Commission pursuant to ~~G.S.~~
37 ~~143-215.107~~ or G.S. 143-215.107; ~~the emissions limitations set out in~~
38 G.S. 143-215.107D; any term, condition, or requirement of a permit
39 issued pursuant to ~~G.S. 143-215.108~~ G.S. 143-215.108; or of a special
40 order or other appropriate document issued pursuant to G.S.
41 143-215.110 and who knows at that time that he thereby places
42 another person in imminent danger of death or serious bodily injury
43 shall be guilty of a Class C felony, which may include a fine not to
44 exceed two hundred fifty thousand dollars (\$250,000) per day of

violation, provided that this fine shall not exceed a cumulative total of one million dollars (\$1,000,000) for each period of 30 days during which a violation continues."

SECTION 9. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.6. Environmental compliance costs recovery.

(a) As used in this section:

(1) 'Coal-fired generating unit' means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2) 'Environmental compliance costs' means only those capital costs incurred by an investor-owned public utility to comply with the emissions limitations set out in G.S. 143-215.107D that exceed the costs required to comply with 42 U.S.C. § 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July 2001 Edition), related federal regulations, and the associated State or Federal Implementation Plan, or with 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July 2001 Edition) and related federal regulations. The term 'environmental compliance costs' does not include:

a. Costs required to comply with a final order or judgment rendered by a state or federal court under which an investor-owned public utility is found liable for a failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

b. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve compliance with the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with a settlement agreement, consent decree, or similar resolution of litigation arising from any alleged failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

c. Any criminal or civil fine or penalty, including court costs imposed or assessed for a violation by an investor-owned public utility of any federal or state law, rule, or regulation for the protection of the environment or public health.

d. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with any limitation on emissions of oxides of nitrogen (NOx) or sulfur dioxide (SO2) that are imposed on an individual coal-fired generating unit by the Environmental

1 Management Commission or the Department of Environment
2 and Natural Resources to address any nonattainment of an air
3 quality standard in any area of the State.

4 (3) 'Investor-owned public utility' means an investor-owned public utility,
5 as defined in G.S. 62-3.

6 (b) The investor-owned public utilities shall be allowed to accelerate the cost
7 recovery of their estimated environmental compliance costs over a seven-year period,
8 beginning 1 January 2003 and ending 31 December 2009. For purposes of this
9 subsection, an investor-owned public utility subject to the provisions of subsections (b)
10 and (d) of G.S. 143-215.107D shall amortize environmental compliance costs in the
11 amount of one billion five hundred million dollars (\$1,500,000,000) and an investor-
12 owned public utility subject to the provisions of subsections (c) and (e) of G.S.
13 143-215.107D shall amortize environmental compliance costs in the amount of eight
14 hundred thirteen million dollars (\$813,000,000). During the rate freeze period
15 established in subsection (e) of this section, the investor-owned public utilities shall, at a
16 minimum, recover through amortization seventy percent (70%) of the environmental
17 compliance costs set out in this subsection. The maximum amount for each investor-
18 owned public utility's annual accelerated cost recovery during the rate freeze period
19 shall not exceed one hundred fifty percent (150%) of the annual levelized environmental
20 compliance costs set out in this subsection. The amounts to be amortized pursuant to
21 this subsection are estimates of the environmental compliance costs that may be
22 adjusted as provided in this section. The General Assembly makes no judgment as to
23 whether the actual environmental compliance costs will be greater than, less than, or
24 equal to these estimated amounts. These estimated amounts do not define or limit the
25 scope of the expenditures that may be necessary to comply with the emissions
26 limitations set out in G.S. 143-215.107D.

27 (c) The investor-owned public utilities shall file their compliance plans,
28 including initial cost estimates, with the Commission and the Department of
29 Environment and Natural Resources not later than 10 days after the date on which this
30 section becomes effective. The Commission shall consult with the Secretary of
31 Environment and Natural Resources and shall consider the advice of the Secretary as to
32 whether an investor-owned public utility's proposed compliance plan is adequate to
33 achieve the emissions limitations set out in G.S. 143-215.107D.

34 (d) Subject to the provisions of subsection (f) of this section, the Commission
35 shall hold a hearing to review the environmental compliance costs set out in subsection
36 (b) of this section. The Commission may modify and revise those costs as necessary to
37 ensure that they are just, reasonable, and prudent based on the most recent cost
38 information available and determine the annual cost recovery amounts that each
39 investor-owned public utility shall be required to record and recover during calendar
40 years 2008 and 2009. In making its decisions pursuant to this subsection, the
41 Commission shall consult with the Secretary of Environment and Natural Resources to
42 receive advice as to whether the investor-owned public utility's actual and proposed
43 modifications and permitting and construction schedule are adequate to achieve the

1 emissions limitations set out in G.S. 143-215.107D. The Commission shall issue an
2 order pursuant to this subsection no later than 31 December 2007.

3 (e) Notwithstanding G.S. 62-130(d) and G.S. 62-136(a), the base rates of the
4 investor-owned public utilities shall remain unchanged from the date on which this
5 section becomes effective through 31 December 2007. The Commission may, however,
6 consistent with the public interest:

7 (1) Allow adjustments to base rates, or deferral of costs or revenues, due
8 to one or more of the following conditions occurring during the rate
9 freeze period:

10 a. Governmental action resulting in significant cost reductions or
11 requiring major expenditures including, but not limited to, the
12 cost of compliance with any law, regulation, or rule for the
13 protection of the environment or public health, other than
14 environmental compliance costs.

15 b. Major expenditures to restore or replace property damaged or
16 destroyed by force majeure.

17 c. A severe threat to the financial stability of the investor-owned
18 public utility resulting from other extraordinary causes beyond
19 the reasonable control of the investor-owned public utility.

20 d. The investor-owned public utility persistently earns a return
21 substantially in excess of the rate of return established and
22 found reasonable by the Commission in the investor-owned
23 public utility's last general rate case.

24 (2) Approve any reduction in a rate or rates applicable to a customer or
25 class of customers during the rate freeze period, if requested to do so
26 by an investor-owned public utility that is subject to the emissions
27 limitations set out in G.S. 143-215.107D.

28 (f) In any general rate case initiated to adjust base rates effective on or after 1
29 January 2008, the investor-owned public utility shall be allowed to recover its actual
30 environmental compliance costs in accordance with Article 7 of this Chapter less the
31 cumulative amount of accelerated cost recovery recorded pursuant to subsection (b) of
32 this section.

33 (g) Consistent with the public interest, the Commission is authorized to approve
34 proposals submitted by an investor-owned public utility to implement optional,
35 market-based rates and services, provided the proposal does not increase base rates
36 during the period of time referred to in subsection (e) of this section.

37 (h) Nothing in this section shall prohibit the Commission from taking any actions
38 otherwise appropriate to enforce investor-owned public utility compliance with
39 applicable statutes or Commission rules or to order any appropriate remedy for such
40 noncompliance allowed by law.

41 (i) An investor-owned public utility that is subject to the emissions limitations
42 set out in G.S. 143-215.107D shall submit to the Commission and to the Department of
43 Environment and Natural Resources on or before 1 April of each year a verified
44 statement that contains all of the following:

- (1) A detailed report on the investor-owned public utility's plans for meeting the emissions limitations set out in G.S. 143-215.107D.
- (2) The actual environmental compliance costs incurred by the investor-owned public utility in the previous calendar year, including a description of the construction undertaken and completed during that year.
- (3) The amount of the investor-owned public utility's environmental compliance costs amortized in the previous calendar year.
- (4) An estimate of the investor-owned public utility's environmental compliance costs and the basis for any revisions of those estimates when compared to the estimates submitted during the previous year.
- (5) A description of all permits required in order to comply with the provisions of G.S. 143-215.107D for which the investor-owned public utility has applied and the status of those permits or permit applications.
- (6) A description of the construction related to compliance with the provisions of G.S. 143-215.107D that is anticipated during the following year.
- (7) A description of the applications for permits required in order to comply with the provisions of G.S. 143-215.107D that are anticipated during the following year.
- (8) The results of equipment testing related to compliance with G.S. 143-215.107D.
- (9) The number of tons of oxides of nitrogen (NOx) and sulfur dioxide (SO2) emitted during the previous calendar year from the coal-fired generating units that are subject to the emissions limitations set out in G.S. 143-215.107D.
- (10) The emissions allowances described in G.S. 143-215.107D(i) that are acquired by the investor-owned public utility that result from compliance with the emissions limitations set out in G.S. 143-215.107D.
- (11) Any other information requested by the Commission or the Department of Environment and Natural Resources.

(j) The Secretary shall review the information submitted pursuant to subsection (i) of this section and determine whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D and shall advise the Commission as to the Secretary's findings and recommendations.

(k) Any information, advice, findings, recommendations, or determinations provided by the Secretary pursuant to this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that Chapter."

SECTION 10. It is the intent of the General Assembly that the State use all available resources and means, including negotiation, participation in interstate

1 compacts and multistate and interagency agreements, petitions pursuant to 42 U.S.C. §
2 7426, and litigation to induce other states and entities, including the Tennessee Valley
3 Authority, to achieve reductions in emissions of oxides of nitrogen (NOx) and sulfur
4 dioxide (SO2) comparable to those required by G.S. 143-215.107D, as enacted by
5 Section 1 of this act, on a comparable schedule. The State shall give particular attention
6 to those states and other entities whose emissions negatively impact air quality in North
7 Carolina or whose failure to achieve comparable reductions would place the economy of
8 North Carolina at a competitive disadvantage.

9 **SECTION 11.** The Environmental Management Commission shall study the
10 desirability of requiring and the feasibility of obtaining reductions in emissions of
11 oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S.
12 143-215.107D, as enacted by Section 1 of this act. The Environmental Management
13 Commission shall consider the availability of emissions reduction technologies,
14 increased cost to consumers of electric power, reliability of electric power supply,
15 actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken
16 by states and other entities whose emissions negatively impact air quality in North
17 Carolina or whose failure to achieve comparable reductions would place the economy of
18 North Carolina at a competitive disadvantage, and the effects that these reductions
19 would have on public health, the environment, and natural resources, including
20 visibility. In its conduct of this study, the Environmental Management Commission
21 may consult with the Utilities Commission and the Public Staff. The Environmental
22 Management Commission shall report its findings and recommendations to the General
23 Assembly and the Environmental Review Commission annually beginning 1 September
24 2005.

25 **SECTION 12.** The General Assembly anticipates that measures
26 implemented to achieve the reductions in emissions of oxides of nitrogen (NOx) and
27 sulfur dioxide (SO2) required by G.S. 143-215.107D, as enacted by Section 1 of this
28 act, will also result in significant reductions in the emissions of mercury from coal-fired
29 generating units. The Division of Air Quality of the Department of Environment and
30 Natural Resources shall study issues related to monitoring emissions of mercury and the
31 development and implementation of standards and plans to implement programs to
32 control emissions of mercury from coal-fired generating units. The Division shall
33 evaluate available control technologies and shall estimate the benefits and costs of
34 alternative strategies to reduce emissions of mercury. The Division shall annually
35 report its interim findings and recommendations to the Environmental Management
36 Commission and the Environmental Review Commission beginning 1 September 2003.
37 The Division shall report its final findings and recommendations to the Environmental
38 Management Commission and the Environmental Review Commission no later than 1
39 September 2005. The costs of implementing any air quality standards and plans to
40 reduce the emission of mercury from coal-fired generating units below the standards in
41 effect on the date this act becomes effective, except to the extent that the emission of
42 mercury is reduced as a result of the reductions in the emissions of oxides of nitrogen
43 (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in

1 G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable
2 pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

3 **SECTION 13.** The Division of Air Quality of the Department of
4 Environment and Natural Resources shall study issues related to the development and
5 implementation of standards and plans to implement programs to control emissions of
6 carbon dioxide (CO₂) from coal-fired generating units and other stationary sources of
7 air pollution. The Division shall evaluate available control technologies and shall
8 estimate the benefits and costs of alternative strategies to reduce emissions of carbon
9 dioxide (CO₂). The Division shall annually report its interim findings and
10 recommendations to the Environmental Management Commission and the
11 Environmental Review Commission beginning 1 September 2003. The Division shall
12 report its final findings and recommendations to the Environmental Management
13 Commission and the Environmental Review Commission no later than 1 September
14 2005. The costs of implementing any air quality standards and plans to reduce the
15 emission of carbon dioxide (CO₂) from coal-fired generating units below the standards
16 in effect on the date this act becomes effective, except to the extent that the emission of
17 carbon dioxide (CO₂) is reduced as a result of the reductions in the emissions of oxides
18 of nitrogen (NO_x) and sulfur dioxide (SO₂) required to achieve the emissions
19 limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not
20 be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

21 **SECTION 14.** On or before 1 June of each year, the Department of
22 Environment and Natural Resources and the Utilities Commission shall report on the
23 implementation of this act to the Environmental Review Commission and the Joint
24 Legislative Utility Review Committee. The first report required by this section shall be
25 submitted no later than 1 June 2003.

26 **SECTION 15.** If any section or provision of this act is declared
27 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
28 provision does not affect the validity of this act as a whole or any part of this act other
29 than the part declared to be unconstitutional or invalid.

30 **SECTION 16.** This act is effective when it becomes law except that G.S.
31 143-215.107D(i), as enacted by Section 1 of this act, is effective retroactively to 1 June
32 2002.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Thursday, June 6, 2002**

TIME: **8:30 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
SB 1078 - IMPROVE AIR QUALITY/ELECTRIC COMPANIES - Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
4:00 p.m. on June 4, 2002.

___ Principal Clerk
___ Reading Clerk - House Chamber

(Committee Assistant)

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Chairman

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4:00 p.m. on June 4, 2002.

___ Principal Clerk
___ Reading Clerk - House Chamber

(Committee Assistant)

VISITOR REGISTRATION SHEET

Public Utilities

June 6, 2002

Name of Committee

Date

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David Hunkel	Smoky Mt. Host g N.C.
Michelle Cook	Weyerhaeuser
Theresa Koshewsky	CAK
Ken Melton	Alley Associates, Inc
Preston L. Linares	MCIC
Julie Woodson	NCCBI
Lue-Ann Goe	NCPA
Ross M. Smith	PCS PHOSPHATE
Steven Lenters	Kilpatrick Stockton
Jeff Stone	Progress Energy
Steve Young	Duke Energy

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John McAliste	Duke Energy
Jim Mackay	
George Everett	Duke Energy
John McArthur	Progress Energy
KEN RABER.	NC EASTERN MULTI POWER AGENCY
Michael S. Caro	Poyner & Spruill LLP
Alice Farlane	EE
Eatherine Davis	"
Katherine Joyce	Electric Cooperatives
Nomee Landis	Fayetteville Observer

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June 6, 2002

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Henry Jones	Attorney - Raleigh
Alan Briggs	Save Our State
Dean Shatley	Speaker's Office
Tom Wilson	AG's Office
Matt Harvey	AG's Office
Michael Thompson	Dominion NC Power
Jayne Patus	JP Assoc Electric Cities
RW Kyle	Kayla Law Firm
Sam Kivley	NCUC
Leon Killian	Moore & Van Allen

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Public Utilities

June 6, 2002

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Jay Mayo	Womble Carlyle
Ashley Hoffmeister	The Capital Group
Kate Conrad	NC DENR - DAQ
Molly Diggins	NC Sierra Club
JUNE SMITH	LC BUSCHER MOUNT. CORP
Elizabeth Ouzts	NCP IR ←
Steve Hall	CCNC
Phil Teller	Gov. office
Dubert Bryer	Amn. Lung Assoc of NC
Jane Preyer	Environmental Defense

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Public Utilities

June 6, 2002

Name of Committee

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David Nesab	Huntton & Williams
Kurtis Huner	NC State watch
Mary Katherine Hackney	Rep Hackney-Intern
KELLY ANDERSEN	CWMTF
Dee Helmer	CWMTF
David Knight	NC Sierra, NC Wildlife Fed
Brock Winstead	NC Sierra
Joe Gagnon	NC Sierra club
James Van Orden	NC PIRG
Brian Burby	NC CanVet
Grady R. Collier	NC CanVet.

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Public Utilities

June 6, 2002

Name of Committee

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Byron Nelson	BN & Associates
Sharon Miller	CUCA
Sharon Matthews	DOT - Dmv
Rob Sch. full	NC Justice Ctr.
Jennifer Sullivan	NASW. NC
Morgan Smith	NC Citizens for Clean Air
Anita Watkins	DENE
Alan Hise	Gov's Office
Mark Beason	Capitol Group
Hawley Travis	Gov's Office
Ken Howell	Office of the Governor

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Public Utilities

June 6, 2002

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Franklin

Gov.'s office

John Mon

Spent

Loakley

Duke Energy

(b) The electric utilities shall be allowed to accelerate the cost recovery of their estimated environmental compliance costs over a seven-year period, beginning January 1, 2003 and ending December 31, 2009. For purposes of this subsection, an investor-owned public utility subject to the provisions of G.S. 143-215.107D(b) and (d) shall amortize environmental compliance costs in the amount of \$1.5 billion and an investor-owned public utility subject to the provisions of G.S. 143-215.107D(c) and (e) shall amortize environmental compliance costs in the amount of \$813 million. The electric utilities shall file their compliance plans, including initial cost estimates, with the Commission not later than ten days after this act becomes law. During the rate freeze period established in subsection (c) of this section, the electric utilities shall, at a minimum, recover through amortization 70 percent of the environmental compliance costs set pursuant to this subsection. The maximum amount for each utility's annual accelerated cost recovery during the rate freeze period shall not exceed 150 percent of the annual levelized environmental compliance costs. Not later than December 31, 2007, and subject to the provisions of subsection (d) of this section, the Commission shall, after holding a hearing, review the environmental compliance costs set pursuant to this subsection; modify and revise those costs as necessary to ensure that they are just, reasonable, and prudent based on the most recent cost information available; and determine the annual cost recovery amounts that each electric utility shall be required to record and recover during calendar years 2008 and 2009.

In making its decisions pursuant to this subsection, the Commission shall consult with the Secretary of the Department of Environment and Natural Resources for the purpose of receiving advice as to whether the utility's proposed modifications and permitting and construction schedule are adequate to achieve the emissions reductions required by G.S. 143-215.107D in a timely manner. Information and advice provided by the Secretary to the Commission under this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that Chapter. Not later than ten days after this act becomes law, each electric utility subject to this section shall submit to the Secretary, with a copy to the Commission, such details as to equipment specifications, plants, permitting schedule and construction schedule as the Secretary deems necessary to advise the Commission properly.

(c) Notwithstanding, G.S. 62-130(d) and G.S. 62-136(a), the base rates of the electric utilities shall remain unchanged through December 31, 2007, beginning when this act becomes law; provided, however, that the Commission may, consistent with the public interest, allow adjustments to base rates, or deferral of costs or revenues, due to one or more of the following conditions occurring during the rate freeze period: (1) governmental action resulting in significant cost reductions or requiring major expenditures including but not limited to environmental compliance other than as defined in this section; (2) major expenditures to restore or replace property damaged or destroyed by force majeure; (3) a severe threat to the financial stability of the electric utility resulting from other extraordinary causes beyond the reasonable control of the utility; or (4) the electric utility persistently earns a return substantially in excess of the rate of return established and found reasonable by the Commission in the utility's last general rate case. If requested to do so

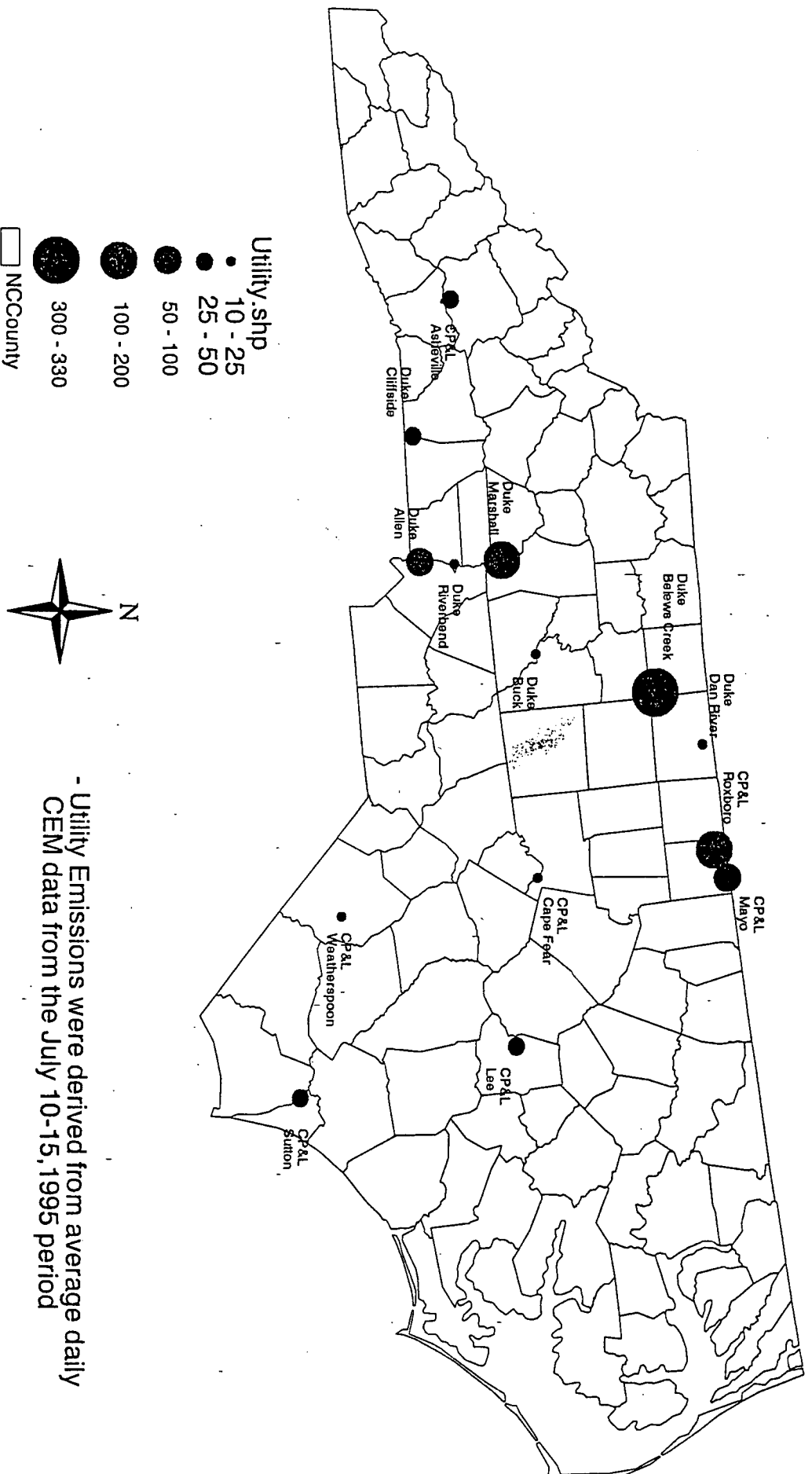
by an electric utility subject to this section, the Commission may also, consistent with the public interest, approve any reduction in a rate or rates applicable to a customer or class of customers during the rate freeze period.

(d) In any general rate case initiated to adjust base rates effective on or after January 1, 2008, the electric utility shall be allowed to recover its actual environmental compliance costs in accordance with Article 7 of this Chapter less the cumulative amount of accelerated cost recovery recorded pursuant to subsection (b) of this section.

(e) Consistent with the public interest, the Commission is authorized to approve proposals submitted by an electric utility to implement optional, market-based rates and services provided the proposal does not increase base rates during the period of time referred to in subsection (c) above.

(f) Nothing in this statute shall prohibit the Commission from taking any actions otherwise appropriate to enforce public utility compliance with applicable statutes and/or Commission Rules and Regulations or to order any appropriate remedy for such noncompliance allowed by law.

North Carolina Utility Sources - 1995 NOx Emissions



June 5, 2002

VIA E-MAIL

TO: Representative Ronald L. Smith
North Carolina General Assembly
Room 2223, Legislative Building
Raleigh, North Carolina 27601-2808

FROM: Sharon C. Miller, Executive Director
Carolina Utility Customers Association

RE: SB-1078 – Clean Smokestacks Bill
Committee Substitute

Dear Representative Smith:

The Carolina Utility Customers Association, Inc. ("CUCA") is a trade association that represents more than 50 of North Carolina manufacturers in electric utility, natural gas, and telecommunications matters before the North Carolina Utilities Commission. We understand that a committee substitute for SB-1078, the Clean Smokestacks Bill, will be introduced during the House Public Utilities Committee meeting scheduled for tomorrow morning, June 6th.

We have been advised that legislative staff members are now preparing a committee substitute for SB-1078. While we have not been privy to a copy of the draft legislation, we have been an active participant in the bill drafting efforts led by the Governor's office. Two members of the legislative staff have also been involved in those efforts, and we understand that the committee substitute, which will be considered by the House Public Utilities Committee, may reflect or incorporate some of the proposals discussed and debated in the Governor's working group. CUCA has identified serious problems with certain legislative proposals that have been discussed during the bill drafting meetings, and we want to alert the House Public Utilities Committee, as well as all members of the General Assembly, about these issues and request the Committee ensure that these matters are appropriately addressed and corrected in the substitute bill language for SB-1078.

Please recognize that CUCA's member companies support clean air and environmental protection, but not at the expense of exposing ratepayers to billions of dollars of cost without adequate protections. Our extensive experience in utility rate matters enables us to identify grievous flaws in proposed legislation that will be injurious to both ratepayers and the State of North Carolina. Listed below are the major problems that our group identified in legislative proposals that were debated during the bill drafting meetings:

- **Distorts the timing of the charges and the cost incurred by the utility**

Normally, a utility installs physical plant, identifies its reasonable cost, and then collects the cost through depreciation and a return on investment. As a result, ratepayers pay only for the utility plant that is used and useful, and the same ratepayers who pay for the plant are the ones who receive the benefit from the plant.

- **Reverses the normal order of events and requires ratepayers to pay money to the utility as much as a decade or more before receiving potential benefits**

Ratepayers today and ratepayers ten years from now will be two different groups of people. Businesses today, many of whom are struggling to remain solvent, will be asked to pay now for the benefits to be bestowed upon their future competitors, assuming that the businesses today are even able to survive the next decade.

- **Creates massive deferred income tax distortions**

By allowing the recovery of the cost through a rate freeze and amortization prior to a utility actually incurring the cost and depreciating the investment for tax purposes, the legislation creates massive deferred income tax distortions that may be harmful to ratepayers for many years to come.

- **Creates the risk that utilities will “take the money and run”**

By allowing a utility to collect billions of dollars now for environmental costs that the utility expects to incur in the future, the proposed legislation creates the risk of the utility “taking the money and running” by achieving compliance through: (i) the shutting down of existing coal plants rather than the addition of scrubbers; or (ii) the transfer of generating assets to a subsidiary or affiliate -- you should be aware that Duke currently has a petition pending before the Utilities Commission to transfer all of its generating unit operation and maintenance employees to an unregulated subsidiary. The restrictions on the Utilities Commission’s ability to engage in retroactive ratemaking will make it difficult to protect ratepayers if a utility adopts a shut-down strategy and simply pockets much of the over-earnings.

- **May create the risk of double-recovery of costs**

The proposed legislation may contain a number of exceptions to the proposed cost recovery, such as exceptions for settlement (with the EPA) or taxation that may allow a utility to double-recover costs.

- **Grossly distorts the amount a utility can recover**

Another fundamental problem with the proposed legislation is that it grossly distorts the amount that a utility can recover for its environmental compliance expenditures because the legislation allows for recovery through (1) a rate freeze; and (2) a true-up on the basis of an estimate.

No entity other than Duke is privy to a detailed estimate of the amount of money Duke will be capable of over-earning during the five-year rate freeze. Duke has consistently refused to provide realistic information to us (and to our knowledge, any other entity), but our estimate is that during the rate recovery phase, Duke will over-earn by approximately \$2 billion when the time value of earnings is taken into account. The fact that Duke has not had a rate case in more than a decade, has been accused of improperly allocating costs and revenues to its affiliates, and is being audited for more than \$100 million in accounting irregularities obviously complicates the task of accurately estimating Duke’s over-earning for any entity other than Duke.

A true-up mechanism will allow a utility to obtain additional cost recovery based upon an estimate that is subject to manipulation. For example, if Duke knows that it will be able to true-up its costs, it can “estimate” environmental compliance to be \$1.5 billion when \$1.8 billion may be a more realistic or conservative estimate. If Duke then incurs costs that exceed its estimate, Duke can collect additional money from ratepayers. While the true-up may seem appropriate because it will allow Duke to collect the costs of compliance, you cannot forget about the recovery allowed by the rate freeze.

An example may be helpful. Assume Duke privately estimates that its compliance costs are \$1.4 billion to \$1.8 billion. Duke convinces the Utilities Commission or the legislature that an appropriate estimate is \$1.5 billion. During the rate recovery period, Duke over-earns \$2 billion. Duke’s total compliance costs by 2014 actually turn out to be \$1.8 billion, so Duke uses the true-up to charge ratepayers an additional \$300 million. The net result of the rate freeze and true-up would be that Duke collects \$2.3 billion for compliance equipment that costs only \$1.8 billion, giving Duke a windfall of \$500 million without any risk.

This example demonstrates why standard ratemaking practices are fair to both utilities and ratepayers. Under standards ratemaking practices, Duke would have to incur the cost and then collect it, ensuring that ratepayers would pay only the \$1.8 billion of actual compliance costs.

Other flaws include:

- The deal announced by the Governor was to “protect consumers.” As presently structured, the proposed legislation fails to achieve that fundamental premise.
- The proposed legislation requires North Carolina citizens to pay the compliance costs of North Carolina and South Carolina. The South Carolina Governor recently declined to enact similar restrictions for South Carolina utilities, so North Carolinians will be unfairly burdened with paying to clean South Carolina’s air. These types of inequities put North Carolina businesses at a significant competitive disadvantage.
- A rate freeze locks in existing rate distortions between classes of customers and, in the case of Duke, unfairly burdens industrial customers in a material manner.

As members of the House Public Utilities Committee consider the bill substitute, we ask that members ensure that the significant flaws identified above be corrected by the Committee. If these critical issues are ignored, the negative consequences for consumers will be tremendous.

We are confident that Committee members want to hear all the facts before taking a vote on this crucial legislation. The purpose of legislative committee meetings should be to allow for full disclosure and deliberations prior to casting votes. We urge the House Public Utilities Committee to delay hastily voting on this crucial legislation. Please take this opportunity to correct the flaws that have been identified by impacted parties and ensure that you are voting for a bill that doesn’t leave consumers vulnerable to increased rates in future years. The ultimate goal should be to craft a bill that truly secures cleaner air for North Carolina and accomplishes this in the most efficient and cost-effective manner.

We urge you not to rush the bill through the process without stepping back and taking time to consider the full ramifications and potential negative consequences for consumers – for the State of North Carolina – unless adequate protections are built into the Clean Smokestacks legislation.

/scm

cc: Speaker of the House James Black
President Pro Tem Marc Basnight

Minutes
House Committee on Public Utilities
June 11, 2002

The House Committee on Public Utilities met Tuesday, June 11, 2002 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Vice-Chairmen McComas and Saunders and Representatives Allred, Brubaker, Coates, Edwards, Grady, Hurley, Holmes, McCombs and Rogers. Representatives Cunningham, Dedmon, Earle and Hackney, Ex Officio Members also attended. A Visitor Registration list is attached (Attachment V) and made part of the minutes.


The Chair called the meeting to order and introduced the following pages: Gray Wilson from Mecklenburg County and Kristin Riddle from Lee County. Committee Counsels Steve Rose and Frank Folger were also present. Counsel George Givens also attended.

The Chair recognized Representative Drew Saunders to move for the adoption of a new Proposed Committee Substitute (PCS 4699-RT-88) for SB 1078 - A BILL TO BE ENTITLED AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING CERTAIN FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF ACHIEVING COMPLIANCE WITH THOSE LIMITS. Motion carried. The PCS, summary and Fiscal Analysis Memorandum are attached (Attachments I, II and III) and made a part of the minutes.

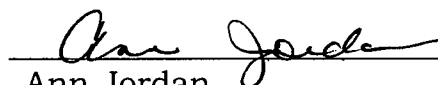
The Chair recognized George Givens from Research to discuss the bill. Steve Rose was recognized for his comments. After much discussion and debate on the bill Representative Saunders moved for an unfavorable to the original bill and for a favorable to the Proposed Committee Substitute. The motion carried. The Committee Reports is attached (Attachment IV) and made a part of the minutes.

The meeting was adjourned at 10:50 a. m.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1078
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/18/01
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1078-PCS4699-RT-88

Short Title: Improve Air Quality/Electric Utilities.

(Public)

Sponsors:

Referred to:

April 5, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE AIR QUALITY IN THE STATE BY IMPOSING LIMITS
3 ON THE EMISSION OF CERTAIN POLLUTANTS FROM CERTAIN
4 FACILITIES THAT BURN COAL TO GENERATE ELECTRICITY AND TO
5 PROVIDE FOR RECOVERY BY ELECTRIC UTILITIES OF THE COSTS OF
6 ACHIEVING COMPLIANCE WITH THOSE LIMITS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 21B of Chapter 143 of the General Statutes is amended
9 by adding a new section to read:

10 "§ 143-215.107D. Emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2)
11 from certain coal-fired generating units.

12 (a) As used in this section:

13 (1) 'Coal-fired generating unit' means a coal-fired generating unit, as
14 defined by 40 Code of Federal Regulations § 96.2 (1 July 2001
15 Edition), that is located in this State and has the capacity to generate
16 25 or more megawatts of electricity.

17 (2) 'Investor-owned public utility' means an investor-owned public utility,
18 as defined in G.S. 62-3.

19 (b) An investor-owned public utility that owns or operates coal-fired generating
20 units that collectively emitted more than 75,000 tons of oxides of nitrogen (NOx) in
21 calendar year 2000:

22 (1) Shall not collectively emit from the coal-fired generating units that it
23 owns or operates more than 35,000 tons of oxides of nitrogen (NOx) in
24 any calendar year beginning 1 January 2007.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 31,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2009.

(c) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 75,000 tons or less of oxides of nitrogen (NOx) in calendar year 2000 shall not collectively emit from the coal-fired generating units that it owns or operates more than 25,000 tons of oxides of nitrogen (NOx) in any calendar year beginning 1 January 2007.

(d) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted more than 225,000 tons of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 150,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 80,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(e) An investor-owned public utility that owns or operates coal-fired generating units that collectively emitted 225,000 tons or less of sulfur dioxide (SO2) in calendar year 2000:

(1) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 100,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2009.

(2) Shall not collectively emit from the coal-fired generating units that it owns or operates more than 50,000 tons of sulfur dioxide (SO2) in any calendar year beginning 1 January 2013.

(f) Each investor-owned public utility to which this section applies may determine how it will achieve the collective emissions limitations imposed by this section. Compliance with the emissions limitations set out in this section does not alter the obligation of any person to comply with any other federal or State law, regulation, or rule related to air quality or visibility. This subsection shall not be construed to limit the authority of the Commission to impose specific limitations on the emission of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from an individual coal-fired generating unit owned or operated by an investor-owned public utility.

(g) A coal-fired generating unit that is subject to the collective emissions limitations set out in this section on 1 July 2002 shall remain subject to the collective emissions limitations whether or not it thereafter continues to be owned or operated by an investor-owned public utility.

(h) The Commission shall require that any permit or modified permit issued for a coal-fired generating unit that is subject to this section include conditions that provide for testing, monitoring, record keeping, and reporting adequate to assure compliance with the requirements of this section.

(i) The Governor may enter into an agreement with an investor-owned public utility under which the investor-owned public utility voluntarily agrees to transfer to the

1 State any emissions allowances acquired or that may be acquired by the investor-owned
2 public utility pursuant to 42 U.S.C. §§ 7651-7651o, as implemented by 40 Code of
3 Federal Regulations §§ 73.1 through 73.90 (1 July 2001 Edition); 42 U.S.C.
4 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July
5 2001 Edition), related federal regulations, and the associated State Implementation Plan;
6 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July
7 2001 Edition) and related federal regulations; or any similar program established under
8 federal law that result from compliance with the emissions limitations set out in this
9 section. An agreement entered into pursuant to this subsection shall be binding and shall
10 be enforceable by specific performance. If the Governor enters into an agreement that
11 provides for the transfer of emissions allowances to the State, the Governor shall file
12 verified copies of the agreement with the Attorney General, the Secretary of State, the
13 State Treasurer, the Secretary of Environment and Natural Resources, and the Utilities
14 Commission. The State Treasurer shall hold all emissions allowances that are
15 transferred to the State as provided in this subsection in trust for the people of this State
16 and shall sell, trade, transfer, or otherwise dispose of the emissions allowances only as
17 the General Assembly shall provide by law.

18 (j) An investor-owned public utility that is subject to the emissions limitations
19 set out in this section shall submit to the Utilities Commission and to the Department on
20 or before 1 April of each year a verified statement pursuant to subsection (i) of G.S.
21 62-133.6."

22 SECTION 2. G.S. 143-215.108 reads as rewritten:

23 "§ 143-215.108. **Control of sources of air pollution; permits required.**

24 (a) ~~After the effective date applicable to any air quality or emission control~~
25 ~~standards established pursuant to G.S. 143-215.107 and except~~ Except as provided in
26 subsections (a1) and (a2) of this section, no person shall do any of the following things
27 or carry out any of the following activities which contravene or will be likely to
28 contravene ~~such standards established pursuant to G.S. 143-215.107 or set out in G.S.~~
29 ~~143-215.107D until or unless such that person shall have applied for and shall have~~
30 ~~received~~ has obtained from the Commission a permit therefor and ~~shall have~~ has
31 ~~complied with such conditions, if any, as are prescribed by such~~ any conditions of this
32 permit:

- 33 (1) Establish or operate any air contaminant source;
- 34 (2) Build, erect, use or operate any equipment which may result in the
35 emission of air contaminants or which is likely to cause air pollution;
- 36 (3) Alter or change the construction or method of operation of any
37 equipment or process from which air contaminants are or may be
38 emitted;
- 39 (4) Enter into an irrevocable contract for the construction and installation
40 of any air-cleaning device, or allow or cause such device to be
41 constructed, installed, or operated.

42 (a1) The Commission may by rule establish procedures that meet the requirements
43 of section 502(b)(10) of Title V (42 U.S.C. § 7661a(b)(10)) and 40 Code of Federal

1 Regulations § 70.4(b)(12) (1 July 1993 Edition) to allow a permittee to make changes
2 within a permitted facility without requiring a revision of the permit.

3 (a2) The Commission may adopt rules that provide for a minor modification of a
4 permit. At a minimum, rules that provide for a minor modification of a permit shall
5 meet the requirements of 40 Code of Federal Regulations § 70.7(e)(2) (1 July 1993
6 Edition). If the Commission adopts rules that provide for a minor modification of a
7 permit, a permittee shall not make a change in the permitted facility while the
8 application for the minor modification is under review unless the change is authorized
9 under the rules adopted by the Commission.

10 (b) The Commission shall act upon all applications for permits so as to effectuate
11 the ~~purpose~~ purposes of this section, Article by reducing existing air pollution and
12 preventing, so far as reasonably possible, any increased pollution of the air from any
13 additional or enlarged sources.

14 (c) The Commission shall have the power:

15 (1) To grant and renew a permit with ~~such~~ any conditions attached as ~~that~~
16 the Commission believes necessary to achieve the purposes of this
17 ~~section~~ Article or the requirements of the Clean Air Act and
18 implementing regulations adopted by the United States Environmental
19 Protection Agency;

20"

21 **SECTION 3.** G.S. 143-215.107(a)(8) reads as rewritten:

22 "(8) To develop and adopt standards and plans necessary to implement
23 programs to control acid deposition and to regulate the use of sulfur
24 dioxide (SO₂) allowances and ~~nitrogen~~ oxides of nitrogen (NO_x)
25 emissions in accordance with Title IV and implementing regulations
26 adopted by the United States Environmental Protection Agency."

27 **SECTION 4.** G.S. 143-215.114A(a) reads as rewritten:

28 "(a) A civil penalty of not more than ten thousand dollars (\$10,000) may be
29 assessed by the Secretary against any person who:

30 (1) Violates any classification, standard or limitation established pursuant
31 to ~~G.S. 143-215.107~~; G.S. 143-215.107.

32 (2) Is required but fails to apply for or to secure a permit required by G.S.
33 143-215.108 or who violates or fails to act in accordance with the
34 terms, conditions, or requirements of such ~~permit~~; permit.

35 (3) Violates or fails to act in accordance with the terms, conditions, or
36 requirements of any special order or other appropriate document issued
37 pursuant to ~~G.S. 143-215.110~~; G.S. 143-215.110.

38 (4) Fails to file, submit, or make available, as the case may be, any
39 documents, data or reports required by this Article or Parts 1 or 7 of
40 Article 21 of this ~~Chapter~~; Chapter.

41 (5) Violates a rule of the Commission or a local governing body
42 implementing this Article or Parts 1 or 7 of ~~Article 21~~; Article 21.

43 (6) Violates the offenses set out in G.S. 143-215.114B.

44 (7) Violates the emissions limitations set out in G.S. 143-215.107D."

1 SECTION 5. G.S. 143-215-114A is amended by adding a new subsection to
2 read:

3 "(b1) The Secretary may assess a civil penalty of not more than ten thousand
4 dollars (\$10,000) per day for a violation of the emissions limitations set out in G.S.
5 143-215.107D as provided in this subsection. If at the end of any calendar year, an
6 investor-owned public utility has violated an emissions limitation set out in G.S. 143-
7 215.107D, the violation shall be considered to be continuous from the day that the
8 collective emissions first exceeded the emissions limitation set out in G.S.
9 143-215.107D through the end of the calendar year and the Secretary may assess a
10 separate civil penalty for each day."

11 SECTION 6. G.S. 143-215.114B(f) reads as rewritten:

12 "(f) Any person who negligently violates any classification, standard or limitation
13 established pursuant to ~~G.S. 143-215.107~~; G.S. 143-215.107 or by G.S. 143-215.107D
14 any term, condition, or requirement of a permit issued pursuant to G.S. 143-215.108 or
15 of a special order or other appropriate document issued pursuant to G.S. 143-215.110 or
16 any rule of the Commission implementing any of the said section, shall be guilty of a
17 Class 2 misdemeanor which may include a fine not to exceed fifteen thousand dollars
18 (\$15,000) per day of violation, provided that such fine shall not exceed a cumulative
19 total of two hundred thousand dollars (\$200,000) for each period of 30 days during
20 which a violation continues."

21 SECTION 7. G.S. 143-215.114B(g) reads as rewritten:

22 "(g) Any person who knowingly and willfully violates any classification, standard,
23 or limitation established in the rules of the Commission pursuant to ~~G.S. 143-215.107~~ or
24 G.S. 143-215.107; the emissions limitations set out in G.S. 143-215.107D; any term,
25 condition, or requirement of a permit issued pursuant to ~~G.S. 143-215.108~~ G.S.
26 143-215.108; or of a special order or other appropriate document issued pursuant to
27 G.S. 143-215.110, shall be guilty of a Class H felony, which may include a fine not to
28 exceed one hundred thousand dollars (\$100,000) per day of violation, provided that this
29 fine shall not exceed a cumulative total of five hundred thousand dollars (\$500,000) for
30 each period of 30 days during which a violation continues. For the purposes of this
31 subsection, the phrase "knowingly and willfully" shall mean intentionally and
32 consciously as the courts of this State, according to the principles of common law,
33 interpret the phrase in the light of reason and experience."

34 SECTION 8. G.S. 143-215.114B(h)(1) reads as rewritten:

35 "(1) Any person who knowingly violates any classification, standard, or
36 limitation established in the rules of the Commission pursuant to ~~G.S.~~
37 ~~143-215.107~~ or G.S. 143-215.107; the emissions limitations set out in
38 G.S. 143-215.107D; any term, condition, or requirement of a permit
39 issued pursuant to ~~G.S. 143-215.108~~ G.S. 143-215.108; or of a special
40 order or other appropriate document issued pursuant to G.S.
41 143-215.110 and who knows at that time that he thereby places
42 another person in imminent danger of death or serious bodily injury
43 shall be guilty of a Class C felony, which may include a fine not to
44 exceed two hundred fifty thousand dollars (\$250,000) per day of

violation, provided that this fine shall not exceed a cumulative total of one million dollars (\$1,000,000) for each period of 30 days during which a violation continues."

SECTION 9. Article 7 of Chapter 62 of the General Statutes is amended by adding a new section to read:

"§ 62-133.6. Environmental compliance costs recovery.

(a) As used in this section:

(1) 'Coal-fired generating unit' means a coal-fired generating unit, as defined by 40 Code of Federal Regulations § 96.2 (1 July 2001 Edition), that is located in this State and has the capacity to generate 25 or more megawatts of electricity.

(2) 'Environmental compliance costs' means only those capital costs incurred by an investor-owned public utility to comply with the emissions limitations set out in G.S. 143-215.107D that exceed the costs required to comply with 42 U.S.C. § 7410(a)(2)(D)(i)(I), as implemented by 40 Code of Federal Regulations § 51.121 (1 July 2001 Edition), related federal regulations, and the associated State or Federal Implementation Plan, or with 42 U.S.C. § 7426, as implemented by 40 Code of Federal Regulations § 52.34 (1 July 2001 Edition) and related federal regulations. The term 'environmental compliance costs' does not include:

a. Costs required to comply with a final order or judgment rendered by a state or federal court under which an investor-owned public utility is found liable for a failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

b. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve compliance with the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with a settlement agreement, consent decree, or similar resolution of litigation arising from any alleged failure to comply with any federal or state law, rule, or regulation for the protection of the environment or public health.

c. Any criminal or civil fine or penalty, including court costs imposed or assessed for a violation by an investor-owned public utility of any federal or state law, rule, or regulation for the protection of the environment or public health.

d. The net increase in costs, above those proposed by the investor-owned public utility as part of its plan to achieve the emissions limitations set out in G.S. 143-215.107D, that are necessary to comply with any limitation on emissions of oxides of nitrogen (NOx) or sulfur dioxide (SO2) that are imposed on an individual coal-fired generating unit by the Environmental

1 Management Commission or the Department of Environment
2 and Natural Resources to address any nonattainment of an air
3 quality standard in any area of the State.

4 (3) 'Investor-owned public utility' means an investor-owned public utility,
5 as defined in G.S. 62-3.

6 (b) The investor-owned public utilities shall be allowed to accelerate the cost
7 recovery of their estimated environmental compliance costs over a seven-year period,
8 beginning 1 January 2003 and ending 31 December 2009. For purposes of this
9 subsection, an investor-owned public utility subject to the provisions of subsections (b)
10 and (d) of G.S. 143-215.107D shall amortize environmental compliance costs in the
11 amount of one billion five hundred million dollars (\$1,500,000,000) and an investor-
12 owned public utility subject to the provisions of subsections (c) and (e) of G.S.
13 143-215.107D shall amortize environmental compliance costs in the amount of eight
14 hundred thirteen million dollars (\$813,000,000). During the rate freeze period
15 established in subsection (e) of this section, the investor-owned public utilities shall, at a
16 minimum, recover through amortization seventy percent (70%) of the environmental
17 compliance costs set out in this subsection. The maximum amount for each investor-
18 owned public utility's annual accelerated cost recovery during the rate freeze period
19 shall not exceed one hundred fifty percent (150%) of the annual levelized environmental
20 compliance costs set out in this subsection. The amounts to be amortized pursuant to
21 this subsection are estimates of the environmental compliance costs that may be
22 adjusted as provided in this section. The General Assembly makes no judgment as to
23 whether the actual environmental compliance costs will be greater than, less than, or
24 equal to these estimated amounts. These estimated amounts do not define or limit the
25 scope of the expenditures that may be necessary to comply with the emissions
26 limitations set out in G.S. 143-215.107D.

27 (c) The investor-owned public utilities shall file their compliance plans,
28 including initial cost estimates, with the Commission and the Department of
29 Environment and Natural Resources not later than 10 days after the date on which this
30 section becomes effective. The Commission shall consult with the Secretary of
31 Environment and Natural Resources and shall consider the advice of the Secretary as to
32 whether an investor-owned public utility's proposed compliance plan is adequate to
33 achieve the emissions limitations set out in G.S. 143-215.107D.

34 (d) Subject to the provisions of subsection (f) of this section, the Commission
35 shall hold a hearing to review the environmental compliance costs set out in subsection
36 (b) of this section. The Commission may modify and revise those costs as necessary to
37 ensure that they are just, reasonable, and prudent based on the most recent cost
38 information available and determine the annual cost recovery amounts that each
39 investor-owned public utility shall be required to record and recover during calendar
40 years 2008 and 2009. In making its decisions pursuant to this subsection, the
41 Commission shall consult with the Secretary of Environment and Natural Resources to
42 receive advice as to whether the investor-owned public utility's actual and proposed
43 modifications and permitting and construction schedule are adequate to achieve the

1 emissions limitations set out in G.S. 143-215.107D. The Commission shall issue an
2 order pursuant to this subsection no later than 31 December 2007.

3 (e) Notwithstanding G.S. 62-130(d) and G.S. 62-136(a), the base rates of the
4 investor-owned public utilities shall remain unchanged from the date on which this
5 section becomes effective through 31 December 2007. The Commission may, however,
6 consistent with the public interest:

7 (1) Allow adjustments to base rates, or deferral of costs or revenues, due
8 to one or more of the following conditions occurring during the rate
9 freeze period:

10 a. Governmental action resulting in significant cost reductions or
11 requiring major expenditures including, but not limited to, the
12 cost of compliance with any law, regulation, or rule for the
13 protection of the environment or public health, other than
14 environmental compliance costs.

15 b. Major expenditures to restore or replace property damaged or
16 destroyed by force majeure.

17 c. A severe threat to the financial stability of the investor-owned
18 public utility resulting from other extraordinary causes beyond
19 the reasonable control of the investor-owned public utility.

20 d. The investor-owned public utility persistently earns a return
21 substantially in excess of the rate of return established and
22 found reasonable by the Commission in the investor-owned
23 public utility's last general rate case.

24 (2) Approve any reduction in a rate or rates applicable to a customer or
25 class of customers during the rate freeze period, if requested to do so
26 by an investor-owned public utility that is subject to the emissions
27 limitations set out in G.S. 143-215.107D.

28 (f) In any general rate case initiated to adjust base rates effective on or after 1
29 January 2008, the investor-owned public utility shall be allowed to recover its actual
30 environmental compliance costs in accordance with Article 7 of this Chapter less the
31 cumulative amount of accelerated cost recovery recorded pursuant to subsection (b) of
32 this section.

33 (g) Consistent with the public interest, the Commission is authorized to approve
34 proposals submitted by an investor-owned public utility to implement optional,
35 market-based rates and services, provided the proposal does not increase base rates
36 during the period of time referred to in subsection (e) of this section.

37 (h) Nothing in this section shall prohibit the Commission from taking any actions
38 otherwise appropriate to enforce investor-owned public utility compliance with
39 applicable statutes or Commission rules or to order any appropriate remedy for such
40 noncompliance allowed by law.

41 (i) An investor-owned public utility that is subject to the emissions limitations
42 set out in G.S. 143-215.107D shall submit to the Commission and to the Department of
43 Environment and Natural Resources on or before 1 April of each year a verified
44 statement that contains all of the following:

- (1) A detailed report on the investor-owned public utility's plans for meeting the emissions limitations set out in G.S. 143-215.107D.
- (2) The actual environmental compliance costs incurred by the investor-owned public utility in the previous calendar year, including a description of the construction undertaken and completed during that year.
- (3) The amount of the investor-owned public utility's environmental compliance costs amortized in the previous calendar year.
- (4) An estimate of the investor-owned public utility's environmental compliance costs and the basis for any revisions of those estimates when compared to the estimates submitted during the previous year.
- (5) A description of all permits required in order to comply with the provisions of G.S. 143-215.107D for which the investor-owned public utility has applied and the status of those permits or permit applications.
- (6) A description of the construction related to compliance with the provisions of G.S. 143-215.107D that is anticipated during the following year.
- (7) A description of the applications for permits required in order to comply with the provisions of G.S. 143-215.107D that are anticipated during the following year.
- (8) The results of equipment testing related to compliance with G.S. 143-215.107D.
- (9) The number of tons of oxides of nitrogen (NOx) and sulfur dioxide (SO₂) emitted during the previous calendar year from the coal-fired generating units that are subject to the emissions limitations set out in G.S. 143-215.107D.
- (10) The emissions allowances described in G.S. 143-215.107D(i) that are acquired by the investor-owned public utility that result from compliance with the emissions limitations set out in G.S. 143-215.107D.
- (11) Any other information requested by the Commission or the Department of Environment and Natural Resources.

(j) The Secretary shall review the information submitted pursuant to subsection (i) of this section and determine whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D and shall advise the Commission as to the Secretary's findings and recommendations.

(k) Any information, advice, findings, recommendations, or determinations provided by the Secretary pursuant to this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that Chapter."

SECTION 10. It is the intent of the General Assembly that the State use all available resources and means, including negotiation, participation in interstate

1 compacts and multistate and interagency agreements, petitions pursuant to 42 U.S.C. §
2 7426, and litigation to induce other states and entities, including the Tennessee Valley
3 Authority, to achieve reductions in emissions of oxides of nitrogen (NOx) and sulfur
4 dioxide (SO2) comparable to those required by G.S. 143-215.107D, as enacted by
5 Section 1 of this act, on a comparable schedule. The State shall give particular attention
6 to those states and other entities whose emissions negatively impact air quality in North
7 Carolina or whose failure to achieve comparable reductions would place the economy of
8 North Carolina at a competitive disadvantage.

9 **SECTION 11.** The Environmental Management Commission shall study the
10 desirability of requiring and the feasibility of obtaining reductions in emissions of
11 oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S.
12 143-215.107D, as enacted by Section 1 of this act. The Environmental Management
13 Commission shall consider the availability of emissions reduction technologies,
14 increased cost to consumers of electric power, reliability of electric power supply,
15 actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken
16 by states and other entities whose emissions negatively impact air quality in North
17 Carolina or whose failure to achieve comparable reductions would place the economy of
18 North Carolina at a competitive disadvantage, and the effects that these reductions
19 would have on public health, the environment, and natural resources, including
20 visibility. In its conduct of this study, the Environmental Management Commission
21 may consult with the Utilities Commission and the Public Staff. The Environmental
22 Management Commission shall report its findings and recommendations to the General
23 Assembly and the Environmental Review Commission annually beginning 1 September
24 2005.

25 **SECTION 12.** The General Assembly anticipates that measures
26 implemented to achieve the reductions in emissions of oxides of nitrogen (NOx) and
27 sulfur dioxide (SO2) required by G.S. 143-215.107D, as enacted by Section 1 of this
28 act, will also result in significant reductions in the emissions of mercury from coal-fired
29 generating units. The Division of Air Quality of the Department of Environment and
30 Natural Resources shall study issues related to monitoring emissions of mercury and the
31 development and implementation of standards and plans to implement programs to
32 control emissions of mercury from coal-fired generating units. The Division shall
33 evaluate available control technologies and shall estimate the benefits and costs of
34 alternative strategies to reduce emissions of mercury. The Division shall annually
35 report its interim findings and recommendations to the Environmental Management
36 Commission and the Environmental Review Commission beginning 1 September 2003.
37 The Division shall report its final findings and recommendations to the Environmental
38 Management Commission and the Environmental Review Commission no later than 1
39 September 2005. The costs of implementing any air quality standards and plans to
40 reduce the emission of mercury from coal-fired generating units below the standards in
41 effect on the date this act becomes effective, except to the extent that the emission of
42 mercury is reduced as a result of the reductions in the emissions of oxides of nitrogen
43 (NOx) and sulfur dioxide (SO2) required to achieve the emissions limitations set out in

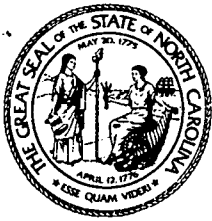
1 G.S. 143-215.107D, as enacted by Section 1 of this act, shall not be recoverable
2 pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

3 **SECTION 13.** The Division of Air Quality of the Department of
4 Environment and Natural Resources shall study issues related to the development and
5 implementation of standards and plans to implement programs to control emissions of
6 carbon dioxide (CO₂) from coal-fired generating units and other stationary sources of
7 air pollution. The Division shall evaluate available control technologies and shall
8 estimate the benefits and costs of alternative strategies to reduce emissions of carbon
9 dioxide (CO₂). The Division shall annually report its interim findings and
10 recommendations to the Environmental Management Commission and the
11 Environmental Review Commission beginning 1 September 2003. The Division shall
12 report its final findings and recommendations to the Environmental Management
13 Commission and the Environmental Review Commission no later than 1 September
14 2005. The costs of implementing any air quality standards and plans to reduce the
15 emission of carbon dioxide (CO₂) from coal-fired generating units below the standards
16 in effect on the date this act becomes effective, except to the extent that the emission of
17 carbon dioxide (CO₂) is reduced as a result of the reductions in the emissions of oxides
18 of nitrogen (NO_x) and sulfur dioxide (SO₂) required to achieve the emissions
19 limitations set out in G.S. 143-215.107D, as enacted by Section 1 of this act, shall not
20 be recoverable pursuant to G.S. 62-133.6, as enacted by Section 9 of this act.

21 **SECTION 14.** On or before 1 June of each year, the Department of
22 Environment and Natural Resources and the Utilities Commission shall report on the
23 implementation of this act to the Environmental Review Commission and the Joint
24 Legislative Utility Review Committee. The first report required by this section shall be
25 submitted no later than 1 June 2003.

26 **SECTION 15.** If any section or provision of this act is declared
27 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
28 provision does not affect the validity of this act as a whole or any part of this act other
29 than the part declared to be unconstitutional or invalid.

30 **SECTION 16.** This act is effective when it becomes law except that G.S.
31 143-215.107D(i), as enacted by Section 1 of this act, is effective retroactively to 1 June
32 2002.



SENATE BILL 1078: Improve Air Quality/Electric Utilities

BILL ANALYSIS

Committee: House Public Utilities
Date: June 11, 2002
Version: Proposed Committee Substitute
S1078-PCS4699-RT-88

Introduced by: Senator Metcalf
Summary by: Frank Folger,
Committee Counsel
Jeff Hudson,
Staff Attorney

SUMMARY: *The Proposed Committee Substitute for Senate Bill 1078 (PCS) establishes limits on emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from large-scale, coal-fired generating units owned or operated by investor-owned public utilities in the State. The PCS also provides a timetable for complying with the emissions limitations as well as a mechanism by which the investor-owned public utilities would amortize their estimated environmental compliance costs over seven (7) years with a rate freeze for the first five (5) years.*

BILL ANALYSIS:

EMISSIONS LIMITATIONS

Section 1 establishes annual limits on the collective emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) from coal-fired generating units that are located in North Carolina, have an individual generation capacity of 25 or more megawatts of electricity, and are owned by investor-owned public utilities.

The following tables outline the annual limits on the collective emissions that will be required of the coal-fired generating units owned and operated by the two investor-owned public utilities subject to the emissions limitations, Duke Energy and Progress Energy. (The total emissions limitations outlined below are the same as those found in the First and Second Editions of Senate Bill 1078.)

Duke Energy

Pollutant	2000 Emissions	2007 Emissions	2009 Emissions	2013 Emissions
Oxides of Nitrogen (NOx)	More than 75,000 tons	No more than 35,000 tons	No more than 31,000 tons	No more than 31,000 tons
Sulfur Dioxide (SO2)	More than 225,000 tons	Not Specified	No more than 150,000 tons	No more than 80,000 tons

Progress Energy

Pollutant	2000 Emissions	2007 Emissions	2009 Emissions	2013 Emissions
Oxides of Nitrogen (NOx)	75,000 tons or less	No more than 25,000 tons	No more than 25,000 tons	No more than 25,000 tons
Sulfur Dioxide (SO2)	225,000 tons or less	Not specified	No more than 100,000 tons	No more than 50,000 tons

SENATE BILL 1078

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Section 1 also provides that:

- Duke Energy and Progress Energy may determine how to comply with the emissions limitations. They must also comply with other State and federal air quality laws, including any specific limitations on emissions of NOx and SO2 from individual coal-fired generating units adopted by the Environmental Management Commission (EMC).
- A coal-fired generating unit that is subject to the emissions limitations as of July 1, 2002 shall remain subject to the limitations regardless of any future transfer of ownership or operation.
- The EMC shall require testing, monitoring, record keeping, and reporting adequate to assure compliance with the emissions limitations.
- The Governor may enter into an agreement with Duke Energy or Progress Energy under which either of the utilities may transfer to the State any emissions allowances acquired as a result of complying with the emission limitations. Such agreement shall be filed with the Attorney General, the Secretary of State, the State Treasurer, the Secretary of Environment and Natural Resources (Secretary), and the Utilities Commission (Commission). The State Treasurer will hold the emissions allowances in trust for the people of the State and may transfer them only as authorized by the General Assembly. (Effective retroactively to June 1, 2002)
- Duke Energy and Progress Energy shall report to the Commission and the Department Environment and Natural Resources (Department) on or before April 1 of each year on plans and activities necessary to comply with the emissions limitations.

Sections 2 and 3 make technical and conforming changes.

ENFORCEMENT PROVISIONS

Sections 4 and 5 add violations of the emissions limitations to the list of air quality violations for which the Secretary may assess a civil penalty of not more than ten thousand dollars (\$10,000). These sections also provide that a violation of an emissions limitation is considered to be continuous from the day the emissions limitation was first exceeded through the end of the calendar year and the Secretary may assess a separate civil penalty for each day.

Section 6 adds negligent violation of the emissions limitations to the list of air quality violations for which a person may be found guilty of a Class 2 misdemeanor. A person found guilty under this provision may also be subject to a fine not to exceed fifteen thousand dollars (\$15,000) per day of violation, which may not exceed a cumulative total of two hundred thousand dollars (\$200,000) for each 30-day period of continuing violation.

Section 7 adds knowing and willful violation of the emissions limitations to the list of air quality violations for which a person may be found guilty of a Class H felony. A person found guilty under this provision may also be subject to a fine not to exceed one hundred thousand dollars (\$100,000) per day of violation, which may not exceed a cumulative total of five hundred thousand dollars (\$500,000) for each 30-day period of continuing violation.

Section 8 adds knowing violation of the emissions limitations that places another person in imminent danger of death or serious bodily injury to the list of air quality violations for which a person may be found guilty of a Class C felony. A person found guilty under this provision may also be subject to a fine not to exceed two hundred fifty thousand dollars (\$250,000) per day of violation, which may not exceed a cumulative total of one million dollars (\$1,000,000) for each 30-day period of continuing violation.

SENATE BILL 1078

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COST RECOVERY

Section 9 provides for cost recovery of expenditures incurred by the investor-owned public utilities in meeting the emissions limits in the act, with the following key provisions:

- It allows the investor-owned public utilities to accelerate their recovery of estimated environmental compliance costs over 7 years. Duke Energy must amortize \$1.5 billion and Progress Energy must amortize \$813 million. Environmental compliance costs are those capital costs incurred to comply with the emissions limitations that exceed the costs required to comply with federal air quality laws. Environmental compliance costs do not include:
 - Costs required to comply with a state or federal court order or judgment under which an investor-owned public utility is found liable for failure to comply with state or federal environmental law.
 - The net increase in costs, above those proposed by an investor-owned public utility to comply with the emissions limitations, that are necessary to comply with a settlement agreement, consent decree, or similar resolution of litigation arising from any alleged failure to comply with state or federal environmental law.
 - Any criminal or civil penalty, including court costs, imposed on an investor-owned public utility for violation of state or federal environmental law.
 - The net increase in costs, above those proposed by an investor-owned public utility to comply with the emissions limitations, that are necessary to comply with any limitation on emissions of NOx or SO₂ that is imposed on an individual coal-fired generating unit by the EMC or the Department to address nonattainment of air quality standards.
- It establishes a rate freeze period through December 31, 2007. During this period, Duke Energy and Progress Energy must each amortize 70% or more of their environmental compliance costs. During the freeze, the Commission may allow adjustment of base rates or deferral of costs or revenues, upon the happening of one or more of the following:
 - Governmental action leading to significantly reduced costs or major expenditures for the investor-owned public utility (other than those in the act).
 - Major expenditures incurred in restoring or replacing investor-owned public utility property damaged by force majeure.
 - Severe threat to an investor-owned public utility's financial stability resulting from extraordinary causes beyond the utility's control.
 - Investor-owned public utility earnings persistently and substantially exceeding the established rate of return for the utility.
- Not later than 10 days after this act becomes effective, the investor-owned public utilities must submit a compliance plan, including initial cost estimates, to the Commission and the Department. The Commission will consult with the Secretary as to whether the proposed compliance plans are adequate to achieve the emissions limitations.
- The Commission shall hold a hearing to review the environmental compliance costs of each investor-owned public utility; revise and modify them to ensure they are just, reasonable, and prudent based on the most recent information available; and determine the annual cost recovery amounts for each investor-owned public utility in 2008 and 2009. The Commission will consult with the Secretary as to whether the actual and proposed activities of the investor-owned public utilities are adequate to achieve the emissions limitations. The Commission will issue an order based on its review and determination no later than December 31, 2007.

SENATE BILL 1078

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- In any general rate case initiated to adjust base rates effective after January 1, 2008, an investor-owned public utility can recover the costs it has actually expended to comply with the emissions limits less the total amount of accelerated cost recovery it recorded.
- Upon request by an investor-owned public utility, the Commission may approve lower rates for a customer or class of customers and may also approve optional market-based rates and services that do not increase base rates.
- The Commission may exercise any appropriate enforcement actions or order remedies for noncompliance.
- Duke Energy and Progress Energy shall report to the Commission and the Department on or before April 1 of each year on plans and activities necessary to comply with the emissions limitations. The Secretary may review the information submitted in this report as to whether the actual and proposed activities of the investor-owned public utilities are adequate to achieve the emissions limitations.

OTHER AIR QUALITY ACTIVITIES, STUDIES, AND REPORTS

Section 10 provides that it is the intent of the General Assembly to use all available resources and means to induce other states and entities to achieve emissions reductions comparable to those required by this act.

Section 11 directs the EMC to study the desirability and feasibility of obtaining reductions in emissions of NO_x and SO₂ beyond those required by this act. The EMC will report its findings and recommendations to the General Assembly and the Environmental Review Commission (ERC) annually beginning September 1, 2005.

Section 12 directs the Division of Air Quality of the Department (DAQ) to study issues related to monitoring and controlling emissions of mercury from coal-fired generating units. DAQ will annually report its interim findings and recommendations to the EMC and the ERC beginning September 1, 2003 and will report its final findings and recommendations to the EMC and the ERC no later than September 1, 2005. Any costs of complying with future limits on emissions of mercury not associated with this act will not be recoverable as environmental compliance costs under this act.

Section 13 directs DAQ to study issues related to monitoring and controlling emissions of carbon dioxide (CO₂) from coal-fired generating units and other stationary sources. DAQ will annually report its interim findings and recommendations to the EMC and the ERC beginning September 1, 2003 and will report its final findings and recommendations to the EMC and the ERC no later than September 1, 2005. Any costs of complying with future limits on emissions of CO₂ not associated with this act will not be recoverable as environmental compliance costs under this act.

Section 14 requires the Department and the Commission to report on or before June 1 of each year to the ERC and the Joint Legislative Utility Review Commission on implementation of this act.

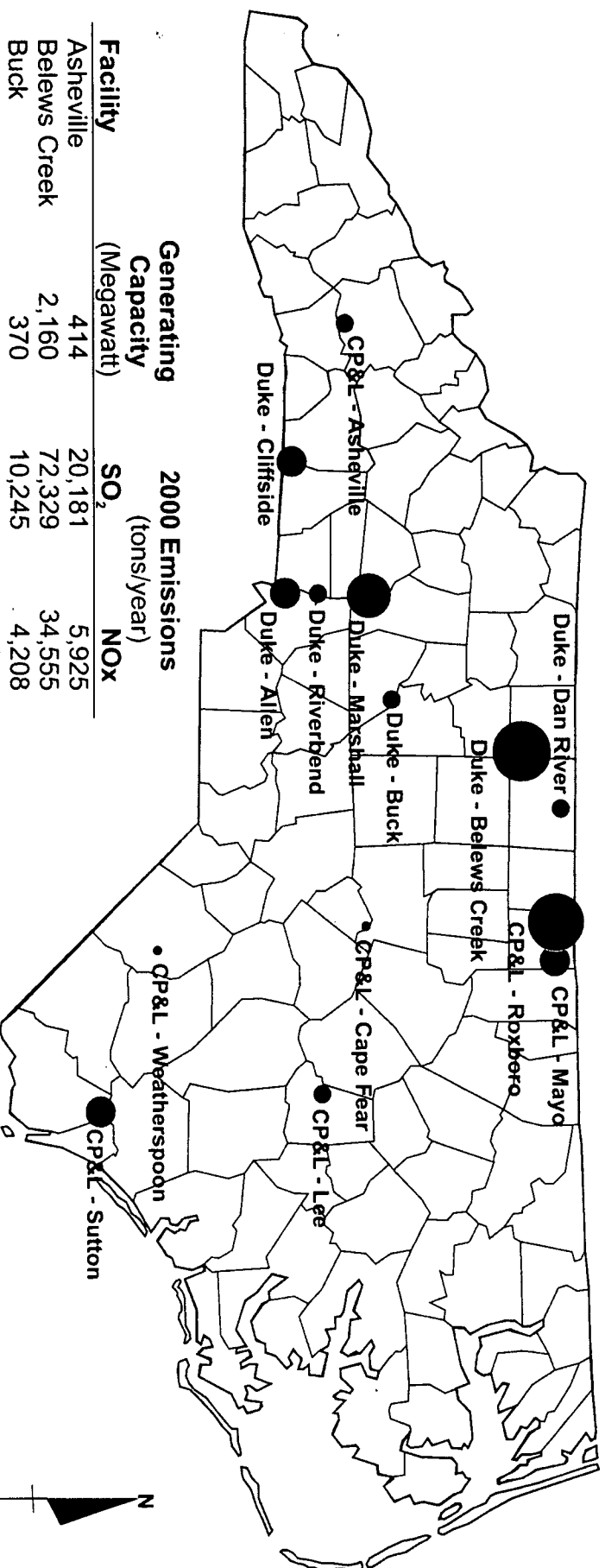
MISCELLANEOUS PROVISIONS

Section 15 provides that if any portion of this act is found to be unconstitutional or invalid, the other portions of this act remains valid.

Section 16 provides that, except as otherwise provided, the act is effective when it becomes law.

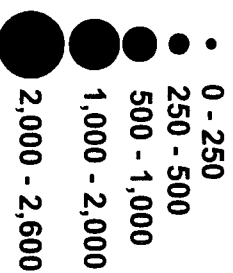
Steve Rose, Committee Counsel, and George Givens, Principal Legislative Analyst, contributed to the preparation of this summary.

North Carolina Coal-Fired Electrical Generating Facilities Subject to SB 1078



Facility	Generating Capacity (Megawatt)	2000 Emissions (tons/year)	SO ₂	NOx
Asheville	414	20,181	5,925	
Bellevue Creek	2,160	72,329	34,555	
Buck	370	10,245	4,208	
Cape Fear	329	12,651	4,361	
Cliffside	781	29,139	9,437	
Dan River	290	5,833	2,574	
Allen	1,155	34,059	13,054	
Sutton	673	22,548	6,358	
Lee	402	16,853	5,841	
Marshall	1,996	79,041	27,074	
Mayo	736	29,512	9,965	
Riverbend	466	17,462	5,488	
Roxboro	2,558	96,913	28,513	
Weatherspoon	166	6,625	2,889	

Unit Capacity (Megawatt)



Data Reported per Title IV of Federal Clean Air Act

June 10, 2002

Section-by-Section Summary of Changes to S1078-PCS4693-RT-86
to Produce S1078-PCS4699-RT-88
(10 June 2002)

(Page and line number references are to S1078-PCS4699-RT-88)

Section 1

- Changed wording in emissions allowance provisions of subsection (i) of G.S. 143-215.107D from that of "charitable donation" to that of "transfer", and added Secretary of Environment and Natural Resources and the Utilities Commissions as filing recipients of any verified agreement between the Governor and investor-owned public utilities regarding emissions allowances. (p. 3, l. 1-15).
- Made conforming change regarding the annual reporting date in subsection (j) of G.S. 143-215.107D, from "1 August" to "1 April". (1 April is the new proposed annual reporting date in subsection (i) of G.S. 62-133.6) (p. 3, l. 20)

Section 2

- Made technical change by replacing the words "by" with "set out in" before "G.S. 143-215.107D". (p. 3, l. 28)

Section 9 (*References to subsections, unless stated otherwise, are to subsections in G.S. 62-133.6*)

- In subsection (a) (the Definitions Subsection), added the qualifier "(1 July 2001 Edition)" immediately following each reference to the Code of Federal Regulations within the definition of "environmental compliance costs". (p. 6, l. 16, 17, 19, and 20)
- In subsection (b) (the 7-Year Amortization Subsection),:
 - Changed "set pursuant to" to "set out in". (p. 7, l. 17)
 - Added "set out in this subsection." after the phrase "environmental compliance costs." (p. 7, l. 20)
- In subsection (c) (the 10-Day Compliance Plan Subsection), clarified the provision by replacing the word "modification" to "compliance plan" after the word "proposed" and before the word "is". (p. 7, l. 32)
- In subsection (d) (the 2007 Review Subsection), changed the words "established by" to "set out in" after the phrase "environmental compliance costs" and before the word "subsection". (p. 7, l. 35)
- In subdivision (1) of subsection (e) (the Rate Freeze Subsection), added a comma after the word "revenues" and before the word "due". (p. 8, l. 7)
- In subdivision (2) of subsection (e), added the phrase "that is" after the word "utility" and before the word "subject". (p. 8, l. 26)
- In subsection (i) (the Annual Reporting Subsection),:
 - Added the word "calendar" after the word "previous" and before the word "year" in subdivisions (2), (3), and (9). (p. 9, l. 4, 8, and 25)
 - Added the phrase "that are" after the word "units" and before the word "subject". (p. 9, l. 26)
- In subsection (j), changed "may" to "shall" in two places. (p. 9, l. 34 and 37)

Section 16

- Added language to provide that G.S. 143-215.107D(i) is effective retroactively on 1 June 2002. (p. 11, l. 30 through 32)

**Section-by-Section Summary of June 7, 2002 Changes to S1078-CSRT-86[v.12]
to Produce S1078-CSRT-86 [v.14]**

Section 1:

- Inserted "testing" between the words "for" and "monitoring" in subsection (h) of G.S. 143-215.107D. (p. 2, l. 41)
- Rewrote the provisions on emissions allowances in subsection (i) of G.S. 143-215.107D. (p. 2, l. 43 – p. 3, l. 16)
- Removed annual reporting provision in subsection (j) of G.S. 143-215.107D which is duplicated in subsection (i) of G.S. 62-133.6, and replaced it with cross-reference to that subsection. (p. 3, l. 17 – 20)

Section 9: (All references to subsections in Section 9, unless otherwise noted, are to subsections in G.S. 62-133.6)

- Changed "G.S. 62-133" to "G.S. 62-133.6" in the title language (p. 6, l. 5)
- Alphabetized definitions in subsection (a). (p. 6, l. 6 – p. 7, l. 4)
- Rewrote the settlement agreement exclusion from environmental compliance costs in subsection (a) so that is now found in sub-subdivision (ii) of subdivision (2) in subsection (a). (p. 6, l. 25 – 32)
- Fixed dollar amounts in subsection (a) to proper statutory wording (p. 7, l. 10, 12, and 13)
- Consolidated portions of subsection (c) and (h) and reworded language for clarity to create new subsection (c). New subsection (c) is now the "10 Day Compliance Plan" subsection and contains all its relevant provisions. (p. 7, l. 26 – 32)
- Reorganized the provisions regarding the "2007 Review" into a new subsection (d) and rewrote it for clarity, adding the phrase "actual and" before the word "proposed". (p. 7, l. 33 – 44)
- Reorganized new section (e) (Rate Freeze Subsection). (p. 8, l. 1 – 25)
- Rewrote subsection (i) (Annual Reporting Subsection):
 - Made conforming change regarding statutory reference;
 - Replaced reference to "1 August" with "1 April";
 - Amended various sub-subsections to narrow reporting requirements to details relevant to the provisions of the act (changes to sub-subsections (5), (6), (7), (9), and (10));
 - Removed "amount of" from sub-subsection (10) for clarity. (p. 8, l. 39 – p. 9, l. 29).
- Added a subsection at the end of 62-133.6, subsection (j), which states: "The Secretary may review the information submitted pursuant to subsection (i) [the Annual Reporting Subsection] of this section and determine whether the investor-owned public utility's actual and proposed modifications and permitting and construction schedule are adequate to achieve the emissions limitations set out in G.S. 143-215.107D and may advise the Commission as to the Secretary's findings and recommendations." (p. 9, l. 30 – 34)
- Created a new subsection (k) to provide: "Any information, advice, findings, recommendations, or determinations provided by the Secretary pursuant to this section shall not constitute a final agency decision within the meaning of Chapter 150B of the General Statutes and shall not be subject to review under that

Chapter." and remove all repetitive references to the same in rest of this section.
(p. 9, l. 35 – 38)

- Sections 12 and 13 - Changed "paid for" language to "recoverable" for clarity. (p. 10, l. 35 – 41 and p. 11, l. 9 – 15)
- Section 13 - Added "(CO2)" to all references to carbon dioxide in this section of the bill. (p. 10, l. 42 – p. 11, l. 15)
- Section 14 – Changed the annual reporting date to June 1. (p. 11, l. 16 – 20).

FISCAL ANALYSIS MEMORANDUM

[This fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note

DATE: June 11, 2002

FROM: Bob Weiss
Fiscal Research Division

RE: S1078-PCS4699-RT-88 Improve Air Quality/Electric Utilities

FISCAL IMPACT

Yes () No () No Estimate Available (X)

FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06 FY 2006-07

REVENUES

EXPENDITURES

No Estimate Available
(See Assumptions and Methodology)

POSITIONS:

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:

EFFECTIVE DATE: When the bill becomes law, except that G.S. 143-215.107D as enacted by Section 2 is effective retroactively to June 1, 2002.

BILL SUMMARY: The Proposed Committee Substitute for Senate Bill 1078 (PCS) establishes limits on emissions of nitrogen and sulfur dioxide from large-scale coal-fired generating units owned or operated by investor-owned public utilities in the State. The PCS also provides a mechanism for complying with the emissions limitations as well as a mechanism by which the investor-owned public utilities would amortize their estimated environmental compliance costs over seven years with a rate freeze for the first five years. Duke Energy must amortize \$1.5 billion and Progress Energy must amortize \$813 million. At least 70% of these amounts must be amortized during the rate freeze period with a maximum of 150% of the levelized amount in any one year. Before the end of the rate freeze

period in 2007 the Utilities Commission may review the environmental compliance costs of each utility and determine annual recovery costs for 2008 and 2009. In later rate cases each utility can recover its actual costs less the amounts recovered earlier. The PCS provides that the Governor may enter into an agreement with an investor-owned public utility under which the utility voluntarily agrees to transfer to the State certain emissions allowances that it may acquire as a result of complying with the bill. The PCS requires the Environmental Management Commission to study and report on the desirability and feasibility of requiring emissions reductions beyond those required in the PCS. The PCS requires the Division of Air Quality of the Department of Natural Resources to study issues related to monitoring and controlling emissions of mercury from coal-fired generating units. The PCS also requires the Division of Air Quality to study issues related to the control of carbon dioxide from coal-fired generating units and other stationary sources of air pollution.

ASSUMPTIONS AND METHODOLOGY: If the PCS for SB 1078 becomes law, the basic rates paid by the State and other customers of Duke Energy and Progress Energy will be frozen through December 31, 2007, which is beyond the five-year period covered by this fiscal analysis. However, Duke Energy and Progress Energy will be investing an estimated \$2.3 billion dollars in emission control equipment and much of these costs will be added to the utilities' cost of service during this period. Therefore, without the bill the utilities' costs would be lower and, other factors being equal, some or all of these lower costs presumably could be passed on to utility customers through the mechanism of general rate cases. However, because general rate cases consider all aspects of a utility's costs, the amount and timing of any reduction, and how it would be divided among customer classes, is entirely speculative and no estimate is available as to what savings might accrue to the State or other utility customers if SB 1078 were not passed.

The costs attributable to customers as a result of these investments can be roughly estimated. SB 1078 specifies how the utilities will amortize the expected costs of pollution control equipment over the next five years. Duke will be amortizing at least 70% of \$1.5 billion over five years, or \$210 million per year. According to the Public Staff, this is equivalent to approximately 0.4 cents per kilowatt-hour for North Carolina retail sales. Progress Energy will be amortizing at least 70% of \$813 million over five years, or \$114 million per year. This is equivalent to 0.3 cents per kilowatt-hour for North Carolina retail sales. The average for the two companies would be 0.35 cents per kilowatt-hour. With customers such as the State paying approximately 6 cents per kilowatt-hour for service (depending on their utility and usage pattern), the cost of implementing these emission reductions would be about 6% (0.35 cents per kilowatt-hour divided by 6 cents per kilowatt-hour). This cost is temporary, until it is fully amortized.

According to the Office of State Controller, the State paid approximately \$111 million for electricity in FY2000-01. Not all of this was to Duke or Progress Energy, however, as many State facilities are served by municipal power systems, Electric Membership Corporations, or Dominion Resources. The total paid to Duke and Progress Energy is not known but it is assumed here that the State is paying Duke and Progress Energy about \$90 million per year in total. The State's "share" of the costs of the investment is then 6% of \$90 million, or

roughly \$5.4 million per year for five years. The remaining costs would then be recovered under procedures specified in the bill.

Other Impacts

Local governments served by Duke Energy and Progress Energy will also have their rates frozen and will also forego any potential rate decreases. No estimate is available for this potential impact.

The Department of Natural Resources believes that the studies required by the PCS can be completed with existing resources and staff.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS:

2002 COMMITTEE REPORT

The following report(s) from standing committee(s) is/are presented:

By Representative **Ronnie Smith** (Chair) for the Committee on **PUBLIC UTILITIES**

x Committee Substitute for

S. B. 1078 A BILL TO BE ENTITLED AN ACT TO IMPROVE AIR QUALITY IN THE
STATE BY REQUIRING REDUCTIONS IN THE EMISSIONS OF CERTAIN
POLLUTANTS FROM CERTAIN FACILITIES THAT BURN COAL TO GENERATE
ELECTRICITY.

- ☐ With a favorable report.
- ☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report, as amended.
- ☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ ☐.
- ☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)
- ☒ With a favorable report as to House committee substitute bill (#), ☒ which changes the title, unfavorable as to Senate committee substitute bill.
- ☐ With an unfavorable report.
- ☐ With recommendation that the House concur.
- ☐ With recommendation that the House do not concur.
- ☐ With recommendation that the House do not concur; request conferees.
- ☐ With recommendation that the House concur; committee believes bill to be material.
- ☐ With an unfavorable report, with a Minority Report attached.
- ☐ Without prejudice.
- ☐ With an indefinite postponement report.
- ☐ With an indefinite postponement report, with a Minority Report attached.
- ☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/13/02

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bill McAulay	PSNC Energy
Alvin Garland	Electricities
Etherington	"
KEN KABER	NC EASTERN MUNI POWER Agency -
Rossy Reu	Affordable Housing Coalition of Asheville & Buncombe County
Karen Kiehna	Affordable Housing Coalition of Asheville & Buncombe County
Larry Peters	JP Assoc Electricities
Michael S. Colo	Poyner & Spruill LLP (for Electricities)
Michael Moore	Surf City, Portier Town Mgr.
David Knight	NC Sierra, NC Wildlife Fed
Jennifer Sullivan	Nasw. NC

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

T. Lan

NCUC - Public Staff

Tony Wike

ncuc - Public Staff

Beau Mills

ncuc

J KERN

NCUC

R. Cloud

R. Cloud & Associates

Anna Bridges

Randolph Cloud & Associates

Debra Bryson

Am. Lung Assn. of NC

Lea Poorey Greene

Am. Cancer Society

Sam Kirby

NCUC

Don Houn

NCUC - STAFF

NO ANNE SANTO

NCUC

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bob Bennis	NCUC Staff
Bill Pittman	Pittman Law Firm
Bob Gilliam	Public Staff - NCUC
Sam J. Ervin, Jr.	NCUC
Joanne Sanford	NCUC
124 / Kayla	Kayla Law Firm
MUSKIE LOSTAGUETA	CM
Laura DeVito	DEVR
Mike Wilkins	Utilities Commissioner
Robert Ender	Public Staff
Katherine Joyce	Electric Cooperatives

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Lisa Marie Walter	Connet
BOYD GABLE	City of Charlotte
Mary Katherine Hackney	Intern - Rep. Hackney
James West	West LAW OFFICES, PC
Sharon Miller	WOD
DEANO C. ORR	INTERNATIONAL PAPER
Walter English	Charlotte Chamber
John Phelps	NCLM
ELISE CA	PUBLIC, STAFF
BEN TURNER	PUBLIC, STAFF
Jeshi Berwanger	NCCBT

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Preston Howard	MCIC
Marie Soutter	Weyerhaeuser
Michelle Cook	Weyerhaeuser
Steve Ledford	Kilpatrick & Stuckert
Chuck Wickel	Progress Energy
Omid Nasab	Hunton & Williams
Sara Rains	Rep. Luebke
Dean Shatley	Speaker Black
Nelva Albury	Town of Surf City
Kate O'Hara	Land of Sky Regional COB, Asheville
John Cyrus	N.C. State Grange

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Betsy Davis	CCNC ; Raleigh
Steve Wall	CCNC
Dom CANAVARRO	NC Wildlife Federation
Rob Schofield	NC Justice Ctr.
Jane Preyer	Environmental Defense Raleigh
Sharon Matthews	DOT
Sandra Rong	Martin Marietta
SHARON STROND	State Energy Office
John Long	Martin Marietta
Scott Gollwitzer	Appalachian Voices
Molly Diggers	Siena Club

June 11, 2002

Date _____

FIRM OR AGENCY AND ADDRESS

NCPIRG

Town of Surf City 28445

NC PIRG

NE BTC. MANAGEMENT CORP

VISITOR REGISTRATION SHEET

Public Utilities

June 11, 2002

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Clay Ruff	1312 Biltmore Drive Charlotte, NC
Ellen Ruff	Duke Energy
STEVE YOUNG	" "
George Everett	Duke Energy
John McAlister	"
Brownie Newman	WNC Alliance
Nichole Booker	WNC Alliance
Maria Nicholl	WNC Alliance
Eric Cochran	Sierra Club
Brack Winstead	NC Sierra Club
Joe Gagnon	NC Sierra Club

Ann Jordan (Rep. R. Smith)

From: Ann Jordan (Rep. R. Smith)

Sent: Thursday, June 06, 2002 9:51 AM

Subject: House Public Utilities Committee Meeting

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: Tuesday, June 11, 2002

TIME: 10:00 a.m. – Noon – 2 hour meeting

LOCATION: Room 544 - Legislative Office Building

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 1078 - IMPROVE AIR QUALITY/ELECTRIC COMPANIES - Sen. Steve Metcalf

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at 10:00 on **June 6, 2002**.

____ Principal Clerk
____ Reading Clerk - House Chamber

(Committee Assistant)

Senate Bill 1078
Remarks to House Public Utilities Committee
by
A. Preston Howard, Jr.
Manufacturers and Chemical Industry Council of North Carolina
11 June 2002

Good morning Chairman Smith and members of the Committee.

My name is Preston Howard and I am here today representing the Manufacturers and Chemical Industry Council of North Carolina (MCIC).

As you all know, MCIC supported the emission reduction provisions of last year's bill, but we were opposed the bill's cost recovery provisions.

Over the past 5 weeks, MCIC and its member companies have been working with the Governor's Office, Progress Energy and Duke Energy, the Utilities Commission and public staff, the conservation community, DENR, the Attorney General's staff, your staff, and others in an effort that has culminated in the bill that is before you today.

Is this bill "perfect"? NO!

But we believe it does target the largest sources of NO_x and SO₂ emissions in North Carolina.

We believe the emission reductions called for in the bill will generally be good for North Carolina.

We believe the provision on emissions allowances will prevent emissions that we are paying to reduce here in North Carolina from being sent up the stack of another plant in a neighboring state.

We believe the bill can be implemented without significant new financial burdens on manufacturers. In other words, it is affordable.

We believe the bill does represent a reasonable compromise.

Therefore, MCIC supports the bill.

Thank you Mr. Chairman for allowing me to speak on this issue.



www.nccbi.org

North Carolina Citizens for Business & Industry

P.O. Box 2508, Raleigh, NC 27602 • 225 Hillsborough Street, Suite 460, Raleigh, NC 27603 • Telephone: (919) 836-1400 • Fax: (919) 836-1425

Executive Committee:

- William Cavanaugh III
Raleigh
- James J. Cook
Winston-Salem
- Nancy W. Dunn
Winston-Salem
- Frank E. Emory
Charlotte
- Barry W. Eveland
RTP
- John A. Forlines Jr.
Granite Falls
- David P. Huskins
Linville Falls
- Darleen M. Johns
Raleigh
- Kelly S. King
Winston-Salem
- George W. Little
Southern Pines
- Stephen P. Miller
Asheville
- R. V. Owens
Nags Head
- Ralph K. Shelton
Greensboro
- Pope Shuford
Hickory
- Will B. Spence Jr.
Charlotte
- E. Stephen Stroud
Raleigh
- Dr. Patricia Sullivan
Greensboro
- C. Avery Thomas
Burlington
- Dr. Julianne Still Thrift
Winston-Salem
- Paul M. Wiles
Winston-Salem

Chairmen Emeriti:

- L. M. Baker Jr.
Winston-Salem
- Edwin B. Borden
Goldsboro
- Thomas W. Bradshaw Jr.
Raleigh
- Richard L. Daugherty
Raleigh
- Malcolm E. Everett III
Charlotte
- John O. McNairy
Kinston
- Gordon S. Myers
Asheville
- Earl N. Phillips Jr.
High Point
- Sherwood H. Smith Jr.
Raleigh
- G. Simeles York
Raleigh
- Charles E. Zeigler Jr.
Gastonia
- Stephen P. Zelnak Jr.
Raleigh

Presidents Emeriti:

- Vic L. Clayton
- Edward L. Rankin Jr.

June 10, 2002

To: Senator Steve Metcalf
Representative Martin Nesbitt

From: Leslie H. Bevacqua *LNK*
Vice President of Governmental Affairs

Re: Senate Bill 1078

NCCBI's Executive Committee met today and has voted to support Senate Bill 1078 - Improve Air Quality / Electric Utilities.

The Committee Substitute adopted by the House Committee on Public Utilities has addressed many of the concerns that our members raised previously about cost recovery and the impact that the bill will have on utility rates for business and industry.

On behalf of NCCBI, I will be happy, at the appropriate time, to speak to the House Committee on Public Utilities in support of this legislation.

cc: Speaker of the House Jim Black
President Pro Tem Marc Basnight
Chair of the House Committee on Public Utilities, Representative Ronnie Smith

James B. Hyley Jr., Raleigh, Chair of the Board • Sue W. Cole, Greensboro, First Vice Chair

William A. Coley, Charlotte, Second Vice Chair • R. Horace Johnson, Raleigh, Treasurer • Phillip J. Kirk Jr., Raleigh, President/Secretary

Minutes
House Committee on Public Utilities
June 25, 2002

The House Committee on Public Utilities met Tuesday, June 25, 2002 in Room 544 of the Legislative Office Building at 10:00 a.m. The following members were present: Representative Ronnie Smith, Chair; Vice-Chairman Saunders and Representatives Brubaker, Coates, Culpepper, Edwards, Grady, Hurley, McCombs and Rogers. A Visitor Registration list is attached (Attachment I) and made part of the minutes.

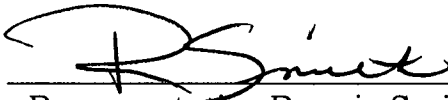
The Chair called the meeting to order and introduced the following pages: Sydney Owens, Anna Johnson and Wilson Owens from Mecklenburg County and Sarah Thomas from Cumberland County. Committee Counsel Frank Folger was also present.

The Chair recognized Senator Eric Reeves to explain SB – A BILL TO BE ENTITLED AN AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO INCLUDE EXPAND THE DEFINITION OF UNIVERSAL SERVICE TO INCLUDE STATEWIDE INTERNET ACCESS AND OTHER TECHNOLOGICAL TELECOMMUNICATIONS ADVANCES. The bill and summary are attached (Attachments II and III) and made a part of the minutes.


Representative Saunders moved for a favorable report. The motion carried.

The meeting was adjourned at 10:25 a. m.

Respectfully submitted,



Representative Ronnie Smith
Chair



Ann Jordan
Committee Assistant

I

6-25-07

Date _____

[illegible]

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**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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1

SENATE BILL 641

Short Title: Expand Definition of Universal Service.

(Public)

Sponsors: Senators Reeves; Ballantine, Foxx, Hoyle, and Wellons.

Referred to: Commerce.

March 22, 2001

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO
ADOPT RULES TO EXPAND THE DEFINITION OF UNIVERSAL SERVICE
TO INCLUDE STATEWIDE INTERNET ACCESS AND OTHER
TECHNOLOGICAL TELECOMMUNICATIONS ADVANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 62-110(f1) reads as rewritten:

"(f1) Except as provided in subsection (f2) of this section, the Commission is authorized, following notice and an opportunity for interested parties to be heard, to issue a certificate to any person applying to provide local exchange or exchange access services as a public utility as defined in G.S. 62-3(23)a.6., without regard to whether local telephone service is already being provided in the territory for which the certificate is sought, provided that the person seeking to provide the service makes a satisfactory showing to the Commission that (i) the person is fit, capable, and financially able to render such service; (ii) the service to be provided will reasonably meet the service standards that the Commission may adopt; (iii) the provision of the service will not adversely impact the availability of reasonably affordable local exchange service; (iv) the person, to the extent it may be required to do so by the Commission, will participate in the support of universally available telephone service at affordable rates; and (v) the provision of the service does not otherwise adversely impact the public interest. In its application for certification, the person seeking to provide the service shall set forth with particularity the proposed geographic territory to be served and the types of local exchange and exchange access services to be provided. Except as provided in G.S. 62-133.5(f), any person receiving a certificate under this section shall, until otherwise determined by the Commission, file and maintain with the Commission a complete list of the local exchange and exchange access services to be provided and the prices charged for those services, and shall be subject to such reporting requirements as the Commission may require.

1 Any certificate issued by the Commission pursuant to this subsection shall not
2 permit the provision of local exchange or exchange access service until July 1, 1996,
3 unless the Commission shall have approved a price regulation plan pursuant to G.S.
4 62-133.5(a) for a local exchange company with an effective date prior to July 1, 1996.
5 In the event a price regulation plan becomes effective prior to July 1, 1996, the
6 Commission is authorized to permit the provision of local exchange or exchange access
7 service by a competing local provider in the franchised area of such local exchange
8 company.

9 The Commission is authorized to adopt rules it finds necessary (i) to provide for the
10 reasonable interconnection of facilities between all providers of telecommunications
11 services; (ii) to determine when necessary the rates for such interconnection; (iii) to
12 provide for the reasonable unbundling of essential facilities where technically and
13 economically feasible; (iv) to provide for the transfer of telephone numbers between
14 providers in a manner that is technically and economically reasonable; (v) to provide for
15 the continued development and encouragement of universally available telephone
16 service at reasonably affordable rates; and (vi) to carry out the provisions of this
17 subsection in a manner consistent with the public interest, which will include a
18 consideration of whether and to what extent resale should be permitted. In adopting
19 rules to establish an appropriate definition of universal service, the Commission shall
20 consider evolving trends in telecommunications services and the need for consumers to
21 have access to high-speed communications networks, the Internet, and other services to
22 the extent that those services provide social benefits to the public at a reasonable cost.

23 Local exchange companies and competing local providers shall negotiate the rates
24 for local interconnection. In the event that the parties are unable to agree within 90 days
25 of a bona fide request for interconnection on appropriate rates for interconnection, either
26 party may petition the Commission for determination of the appropriate rates for
27 interconnection. The Commission shall determine the appropriate rates for
28 interconnection within 180 days from the filing of the petition.

29 Each local exchange company shall be the universal service provider in the area in
30 which it is certificated to operate on July 1, 1995, until otherwise determined by the
31 Commission. In continuing this State's commitment to universal service, the
32 Commission shall, by December 31, 1996, adopt interim rules that designate the person
33 that should be the universal service provider and to determine whether universal service
34 should be funded through interconnection rates or through some other funding
35 mechanism. By July 1, 2001, the Commission shall complete an investigation and adopt
36 final rules concerning the provision of universal services, the person that should be the
37 universal service provider, and whether universal service should be funded through
38 interconnection rates or through some other funding mechanism.

39 The Commission shall make the determination required pursuant to this subsection
40 in a manner that furthers this State's policy favoring universally available telephone
41 service at reasonable rates."

42 **SECTION 2.** This act is effective when it becomes law.



SENATE BILL 641: Expand Definition of Universal Service

BILL ANALYSIS

Committee: House Public Utilities
Date: June 25, 2002
Version: First Edition

Introduced by: Senator Reeves
Summary by: Frank W. Folger
Committee Counsel

SUMMARY: *This bill would authorize the Utilities Commission to consider expanding the definition of universal service to include evolving trends in telecommunication services including the need for consumers to have access to high speed communication networks, the internet, and other services to the extent they provide social benefits to the public at a reasonable cost.*

BILL ANALYSIS AND BACKGROUND:

In 1995, the General Assembly adopted legislation allowing for competitive local telephone service. Under that 1995 act, the Utilities Commission was mandated to provide for the continued development of universally available telephone service at reasonably affordable rates. Universal service has been a policy of the State and the federal government for approximately the last 75 years. It traditionally includes the concept of having affordable basic "dial tone" telephone service available to all persons at a reasonable cost, even though the cost of serving some areas is higher than others. Senate Bill 641, by amending G.S. 62-110(f1), would authorize an expansion of the traditional definition of universal service.

This act is effective when it becomes law.

S641-SMSO-001

Steven Rose, counsel to the Senate Commerce and House Public Utilities committees, contributed substantially to this summary.

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**2002 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report from standing committee is presented:

By Representative **Ronnie Smith** (Chair) for the Committee on **PUBLIC UTILITIES**.

☐ Committee Substitute for

S. B. 641 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE NORTH CAROLINA UTILITIES COMMISSION TO ADOPT RULES TO EXPAND THE DEFINITION OF UNIVERSAL SERVICE TO INCLUDE STATEWIDE INTERNET ACCESS AND OTHER TECHNOLOGICAL TELECOMMUNICATIONS ADVANCES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report as to the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the original bill) (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

5/13/02

AGENDA

HOUSE COMMITTEE ON PUBLIC UTILITIES

**June 25, 2002
Room 544 – LOB
10:00 AM**

OPENING REMARKS

**Representative Ronnie Smith – Chairman
Public Utilities Committee**

AGENDA ITEMS

**SB 641 – EXTEND DEFINITION OF UNIVERSAL SERVICE.
Senator Eric Reeves, Sponsor**

ADJOURNMENT

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2001-2002 SESSION**

You are hereby notified that the Committee on **Public Utilities** will meet as follows:

DAY & DATE: **Tuesday, June 25, 2002**

TIME: **10:00 a.m.**

LOCATION: **Room 544 - Legislative Office Building**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 641 - EXPAND DEFINITION OF UNIVERSAL SERVICE - Sen. Eric Reeves

Respectfully,

Representative Ronnie Smith
Chairman

I hereby certify this notice was filed by the committee assistant at the following offices at
3:00 p.m. on June 19, 2002.

___Principal Clerk
___Reading Clerk - House Chamber

(Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
NOTIFICATION TO BILL SPONSOR
2001-2002**

BILL SPONSOR: Sen. Eric Reeves

OFFICE: Room 1028

NOTIFICATION DATE: June 19, 2002

The House Committee on Public Utilities will meet as follows:

DAY & DATE: Tuesday, June 25, 2002

TIME: 10:00 a.m.

LOCATION: Room 544 - Legislative Office Building

Your Bill (or Bills) will be discussed at this time:

SB 641 - EXPAND DEFINITION OF UNIVERSAL SERVICE

We would like to have you attend this meeting.

Representative Ronnie Smith
Chairman

Ann Jordan (Committee Assistant)