



SENATE BILL 716: Mountain Energy Act of 2015

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	Senate Commerce	Date:	May 21, 2015
Introduced by:	Sen. Apodaca	Prepared by:	Jennifer McGinnis
Analysis of:	PCS to First Edition S716-CSRI-15		Heather Fennell Staff Attorneys

SUMMARY: *Senate Bill 716 would: (1) direct the North Carolina Utilities Commission (Commission) to render an expedited decision, under certain conditions, on an application for a certificate of public convenience and necessity for an applicant to construct a generating facility that uses natural gas as the primary fuel, and (2) modify certain requirements under the Coal Ash Management Act of 2014 for coal combustion residuals surface impoundments and electric generating facilities located at the Asheville Steam Electric Generating Plant located in Buncombe County, if certain criteria concerning construction of a gas-fired generating facility and cessation of coal-fired facilities at the site are met.*

BILL ANALYSIS:

Section 1

Current law provides that prior to constructing a generating facility, a public utility must obtain a certificate of public convenience and necessity. As a condition of receiving a certificate, the utility must provide an estimate of the construction costs of the facility with the Commission. The Commission must hold a public hearing on the application for a certificate within three months of the filing of the application for a certificate. Prior to the public hearing, the utility must provide notice of the hearing for four weeks in a newspaper with circulation in the area where the facility is proposed to be constructed.

The Commission may not approve the certificate if the proposed facility will not be consistent with the long-range needs of generation capacity in the State. The Commission may modify or revoke the certificate if the long-range needs for generation capacity changes, or if the certificate is otherwise no longer in the public interest.

Section 1 of Senate Bill 716 would provide an expedited process for an application to obtain a certificate of public convenience and necessity for a gas-fired generating facility to be constructed at the site of the Asheville Steam Electric Generating Plant located in Buncombe County. The Commission must render a decision on the certificate within 45 days of the application. This application for a certificate is exempt from the notice and public hearing requirements generally applicable to applications for a certificate. The utility must still submit an estimate of the proposed costs of constructing the gas-fired generation facility. In order to qualify for the expedited certificate process, the utility must cease operation of the coal-fired facilities at the same site, and the new gas-fired facilities may not have more than twice the capacity of the coal-fired units to be retired.

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Section 2

Current law¹ designates coal combustion residuals surface impoundments (impoundments) located at the Asheville Steam Electric Generating Plant in Buncombe County, owned and operated by Duke Energy Progress, and impoundments located at three other facilities, as high-priority, and requires these impoundments to close no later than August 1, 2019, as follows:

- The impoundments must be dewatered.
- All coal combustion residuals (CCRs) must be removed from the impoundments and transferred for: (i) disposal in a combustion products landfill or coal combustion residuals landfill, industrial landfill, or municipal solid waste landfill; or (ii) use in a structural fill, or other beneficial use as allowed by law.
- Where groundwater quality is degraded as a result of the impoundment, corrective action is required to restore groundwater quality.

In addition, current law² imposes various restrictions on the generation, disposal, and use of CCRs, including:

- Prohibiting the discharge of stormwater into an impoundment: (i) at an electric generating facility where the coal-fired generating units are no longer producing CCRs on or after December 31, 2018; and (ii) at an electric generating facility where the coal-fired generating units are actively producing CCRs on or after December 31, 2019.
- Requiring all electric generating facilities owned by a public utility to convert to disposal of "dry" fly ash, or retire the facility on or before December 31, 2018.
- Requiring all electric generating facilities owned by a public utility to convert to disposal of "dry" bottom ash, or retire the facility on or before December 31, 2019.

Section 2 of Senate Bill 716 would: (i) change the date by which closure of the impoundments located at the Asheville Steam Electric Generating Plant is required from August 1, 2019 to August 1, 2022; and (ii) exempt impoundments and electric generating facilities located at the Asheville Steam Electric Generating Plant located in Buncombe County from the prohibitions related to stormwater discharge and requirements for conversion to "dry" fly and bottom ash as previously described.

EFFECTIVE DATE: Section 1 of the bill would be effective when it becomes law. Section 2 would become effective August 1, 2016, if, on or before that date, the Commission has issued a certificate of public convenience and necessity to Duke Energy Progress for a new natural gas-fired generating facility, pursuant to Section 1 of the bill, based upon written notice submitted to the Commission from Duke Energy Progress that it will permanently cease operations of all coal-fired generating units at the Asheville Steam Electric Generating Plant located in Buncombe County no later than January 31, 2020.

¹ Section 3(b) of S.L. 2014-122/S729

² G.S. 130A-309.210