

March 26, 2009

**S 1004. LEVEL PLAYING FIELD/CITIES/SERVICE PROVIDERS.** Filed 3/25/09. *TO REGULATE COMPETITION BETWEEN LOCAL GOVERNMENT AND PRIVATE BUSINESS BY REQUIRING CITIES THAT PROVIDE COMMUNICATIONS SERVICES TO THE PUBLIC TO COMPLY WITH LAWS APPLICABLE TO PRIVATE PROVIDERS, TO ESTABLISH SEPARATE ENTERPRISE FUNDS, TO NOT CROSS-SUBSIDIZE COMMUNICATIONS SERVICE WITH OTHER GOVERNMENTAL FUNDS, TO IMPUTE THE COSTS THAT WOULD BE INCURRED BY PRIVATE PROVIDERS, TO ANNUALLY REMIT TO THE CITY'S GENERAL FUND THE COSTS THAT WOULD BE INCURRED BY PRIVATE PROVIDERS, AND TO PREPARE AN ANNUAL AUDIT OF COMPETITIVE ACTIVITIES.*

Adds new GS 160A-329 to impose new requirements on cities that provide communication services as title indicates. Exempts from the new requirements (1) a communications services facility within the city's boundaries used for the city's internal governmental purposes, (2) a city not served by a private provider of high-speed Internet services, (3) provision of services by the city to areas not served by a private provider, and (4) services authorized by a city on or before March 1, 2009, and offered to the public before September 1, 2009. Authorizes aggrieved persons to apply for an injunction to enforce new requirements against a city. Amends GS 62-3(23) to include within the definition of the term "public utility" a city providing services regulated by GS 160A-329. Exempts from the requirements any city that is a public utility when the act becomes effective. Effective when it becomes law and applies to provision of communication services provided after that date.

**Intro. by Hoyle.**

GS 160A

May 7, 2009

**S 1004. LEVEL PLAYING FIELD/CITIES/SERVICE PROVIDERS.** Filed 3/25/09. Senate committee substitute deletes the provisions of the 1st edition and replaces it with *AN ACT AUTHORIZING THE REVENUE LAWS STUDY COMMITTEE TO STUDY LOCAL GOVERNMENT OWNED AND OPERATED COMMUNICATION SERVICES.* Requires the Revenue Laws Study Committee to study local government owned and operated communication services and allows the Committee to propose legislation to regulate the operation of such service. Requires that the Committee report its findings and recommendations to the 2010 Regular Session of the 2009 General Assembly.

July 8, 2009

**S 1004. EXTEND DEADLINE/ NATURAL GAS CONVERSION (NEW).** Filed 3/25/09. House committee substitute deletes all the provisions of the 2nd edition and replaces it with *AN ACT TO EXTEND BY ONE YEAR A COMPLIANCE DATE FOR SULFUR DIOXIDE EMISSION REDUCTIONS FOR INVESTOR OWNED PUBLIC UTILITIES THAT CONVERT COAL-FIRED GENERATING UNITS TO UNITS THAT USE ONLY NATURAL GAS AS FUEL.* States the General Assembly's findings regarding the efficacy of the conversion of coal-fired generating units to generating units that use only natural gas in reducing emissions of oxides of nitrogen, sulfur dioxide (SO<sub>2</sub>), carbon dioxide, and mercury more than installing SO<sub>2</sub> emissions controls on the coal-fired generating units.

Current law requires existing coal-fired electrical generating units emitting 225,000 tons or less of SO<sub>2</sub> in 2000 owned by investor-owned public utilities and operated in North Carolina to reduce SO<sub>2</sub> emission to 50,000 tons or less annually beginning January 1, 2013. Amends GS 143-215.107D to extend the deadline for the public utility subject to this requirement to make the reduction in SO<sub>2</sub> emissions to January 1, 2014, providing the public utility can demonstrate to the Environmental Management Commission that it will convert one or more coal-fired generating units that it owns or operates on July 1, 2009, to natural gas as the only fuel for the unit or units to the extent necessary to comply with the SO<sub>2</sub> emissions reduction requirements that are to be met by January 1, 2013. Requires that (1) the unit or units cannot already have SO<sub>2</sub> emissions controls installed and (2) the utility must demonstrate that the fuel conversion will achieve compliance with the SO<sub>2</sub> emissions limitations. Makes a conforming change.

July 20, 2009

**S 1004. AMEND CERTAIN ELECTRICITY GENERATION LAWS (NEW).** Filed 3/25/09. House committee substitute makes the following changes to 3rd edition. Expands the General Assembly findings to include nine issues, including the *retirement* of coal-fired generating units and the need for the installation of generating units that use natural gas (was, two findings concerning the *conversion* of coal-fired generating units to that type of generating unit).

Requires in proposed GS 143-215.107D(e1) that to delay compliance with specific sulfur dioxide (SO<sub>2</sub>) emissions requirements until January 1, 2014, an investor-owned public utility owning or operating coal-fired generating units (units) emitting, collectively, 225,000 tons or less of SO<sub>2</sub> in 2000 must demonstrate to the Utilities Commission (Commission) that it (1) will install (was, convert units on which SO<sub>2</sub> emission controls have not been installed to the extent necessary to achieve compliance by January 1, 2014) generating units using natural gas as its primary fuel at one or more of its units owned or operated on July 1, 2009 and (2) will permanently cease operations of all units at one or more facilities that are not operated with flue gas desulfurization devices. Requires that the public utility that seeks compliance submit a revised verified statement required pursuant to GS 62-133.6(i) when it files a certificate of convenience and necessity with the Commission for a generating unit that uses natural gas as the primary fuel.

Enacts new GS 62-133.10 to require that the Commission permit an electric public utility that purchases or constructs a carbon offset facility to adjust its fuels and fuel-related costs in GS 62-133.2 to retain the NC retail allocation of the system fuel and fuel-related cost savings resulting from the purchase or construction of the facility. Prohibits the savings from exceeding the annual revenue requirement associated with the allocated NC retail portion of the facility as determined using the cost of service methodology approved by the Commission in the utility's last general rate case. Provides for a definition of *carbon offset facility*. Requires the utility to file a petition with the Commission requesting a determination that the facility the utility proposes to purchase or construct is a carbon offset facility. Sets forth information to be included in the petition. Requires the Public Staff to conduct an investigation and file a report with the Commission providing the results. Establishes a procedure regarding the investigation and the outcome of the petition. Specifies that nothing in the statute is to be construed to exempt a public utility from obtaining all applicable permits and certificates, including a certificate of public convenience and necessity. Requires the utility to file annual cost and schedule updates with the Commission until the purchase or construction of an approved carbon offset facility is completed. Requires that the utility, upon placement into service of the facility, submit with its application for a fuel and fuel-related charge adjustment additional specified information. Provides that the Commission approve an estimate of the projected fuel and fuel-related cost savings and an annual revenue requirement for an approved facility, as appropriate, in each proceeding under GS 62-133.2. Provides for determination of the revenue requirement and the rate of return on investment. Requires the Commission to authorize the utility to use deferral accounting. Specifies that the adjustment authorized in the statute must terminate upon establishment of new rates in the utility's next general rate case following the placement into service and inclusion into base rates of the approved facility.

Amends GS 143-215.25A(4) to exempt dams used in connection with electric generating facilities regulated by the Nuclear Regulatory Commission (was, dams under the jurisdiction of the Commission, except for those operated by small power producers).

Provides that any impoundments or other facilities that were in use on the January 1, 2010, effective date of the section in connection with non-nuclear electric generating facilities under the jurisdiction of the Commission and that have been exempted under the provisions of GS 143-215.25A(4) before its amendment by this act are to be deemed to have received all of the necessary approvals from the Department of Environment and Natural Resources and the Commission for Dam Safety. Specifies that those impoundments or facilities are not required to submit application, certification, or other materials in connection with the continued normal operation and maintenance of those facilities.

Changes the title to *AN ACT TO PROVIDE FOR RETENTION OF FUEL AND FUEL-RELATED COST SAVINGS ASSOCIATED WITH THE PURCHASE OR CONSTRUCTION OF A CARBON OFFSET FACILITY, TO BRING CERTAIN DAMS USED IN CONNECTION WITH*

*ELECTRIC GENERATING FACILITIES UNDER THE DAM SAFETY ACT, AND TO MAKE OTHER CHANGES TO LAWS GOVERNING THE GENERATION OF ELECTRICITY.*

July 22, 2009

**S 1004. AMEND CERTAIN ELECTRICITY GENERATION LAWS.** Filed 3/25/09. House amendment makes the following changes to 4th edition. Deletes from the General Assembly's findings two statements related to the retirement of coal-fired generating units that are owned and operated by Progress Energy. Deletes amendments to GS 143-215.107D, which provided for a one-year delay in complying with the GS 143-215.107D(e)(2) upon demonstration of specific conditions by certain investor-owned public utilities. Instead, enacts new GS 62-110.1(h) to require the Utilities Commission to render its decision on an application for a certificate of public convenience and necessity for the construction of a generating facility within 45 days of the application if (1) the applicant is a public utility subject to GS 143-215.107D(e); (2) the application involves a request to construct a generating unit that uses natural gas as the primary fuel at a specific coal-fired generating site that the utility owns or operates on July 1, 2009; (3) the coal-fired generating units at the site are not operated with flue gas desulfurization devices; (4) the utility will permanently cease operations of all of the coal-fired generating units at the site on or before the completion of the generating unit that is the subject of the certificate application; and (5) the installation of the generating unit that uses natural gas as the primary fuel allows the public utility to meet the requirements of GS 143-215.107D(e). Requires the utility to submit certain information related to costs to the Utilities Commission and the Department of Environment and Natural Resources with its application. Specifies that the provisions of GS 62-82 (requiring public notice of an application for a certificate) and GS 62-110.1(e) (conditions required to be met to receive a certificate) do not apply to a certificate applied for pursuant to GS 62-110.1(h). Provides that the authority granted under this subsection expires on January 1, 2011.

August 3, 2009

**SL 2009-390 (S 1004). AMEND CERTAIN ELECTRICITY GENERATION LAWS. AN ACT TO PROVIDE FOR RETENTION OF FUEL AND FUEL-RELATED COST SAVINGS ASSOCIATED WITH THE PURCHASE OR CONSTRUCTION OF A CARBON OFFSET FACILITY, TO BRING CERTAIN DAMS USED IN CONNECTION WITH ELECTRIC GENERATING FACILITIES UNDER THE DAM SAFETY ACT, AND TO MAKE OTHER CHANGES TO LAWS GOVERNING THE GENERATION OF ELECTRICITY.** Summarized in *Daily Bulletin* 7/8/09, 7/20/09, and 7/22/09. Enacted July 31, 2009. Section 3 is effective January 1, 2010. The remainder is effective July 31, 2009.