

From the Charlotte Business Journal:

http://www.bizjournals.com/charlotte/blog/power_city/2011/04/ncs-customer-advocate-opposes.html

N.C.'s customer advocate now opposes nuclear legislation

Charlotte Business Journal - by John Downey

Date: Tuesday, April 12, 2011, 10:24am EDT



- John Downey
- Senior staff writer
- Email: jdowney@bizjournals.com

The public advocate for North Carolina utilities customers has reversed position and will oppose — at least for now — any proposal to make it easier for utilities to recover some costs for nuclear plant construction before plants are built.

Robert Gruber, executive director of the Public Staff of the N.C. Utilities Commission, says the nuclear crisis in Japan may drive construction costs for new nuclear plants in the United States prohibitively high.

He says the only prudent course is to put off any legislation until federal regulators establish new safety rules based on lessons learned at the four crippled Fukushima reactors in northern Japan. After that, the impact on plant costs can be evaluated.

"We think that natural gas and some mix of renewable energy sources is now the more economical way to go," Gruber says.

Not anti-nuclear

He emphasizes that the staff's new position is not anti-nuclear. But he says there are too many uncertainties now to consider legislation that had once been expected in the N.C. General Assembly to allow utilities to recover financing costs for nuclear plants without a full rate-case hearing once state regulators approved a plant.

Duke Energy and **Progress Energy** had been seeking such legislation in this session. But today is the deadline for new bills to be filed in the General Assembly. And it appears all but certain that no legislation on recovering nuclear costs will be introduced.

SuperCWIP

At issue is what has come to be called "SuperCWIP" legislation. In 2007, North Carolina adopted legislation that allows utilities to charge customers the financing costs for a nuclear plant. But it requires that the costs be approved in a full-blown rate review. That legislation was called Construction Work in Progress — or CWIP.

Uncertainty that those costs would be approved by regulators has led capital markets to be leery of financing nuclear plants under those conditions. So Duke and Progress have asked for an expedited procedure adopted in South Carolina that makes it much more certain that utilities can collect the financing costs. That has been dubbed SuperCWIP among legislators and activists on both sides of the issue.

Lee plant affected

The deadline filing legislation may not be absolute. It is possible that legislation could be introduced later as an amendment to an existing energy bill. But the window on any legislation appears to be closing.

Duke has repeatedly said it cannot proceed with the proposed Lee Nuclear Station near Gaffney, S.C., without new legislation in North Carolina. Customers in both Carolinas would pay for the plant's construction, so Duke wants the N.C. law to be the same as South Carolina's.

The company had planned to file for a permit for the plant from South Carolina regulators late this year. But the new situation in North Carolina may affect those plans.

Gruber says it could easily take a year for the **U.S. Nuclear Regulatory Commission** to decide what new safeguards or construction standards may be imposed in the wake of Japan's disaster. And it will be a while after that before the impact on plant costs can be assessed.

Earlier this year, Gruber says, the public staff reluctantly arrived at the conclusion that new legislation to encourage nuclear construction would be a good idea. Nuclear power, he says, has served the state well. And it was the only base-load option now in the power-generation mix that produces no carbon emissions.

Giving pause

But Duke was already projecting Lee's costs at \$11 billion — a figure Gruber says he considers "very conservative." New regulations and other issues arising from the Japan situation could drive those costs much higher. So the staff now advocates waiting before making any decisions about nuclear power.

He says he has shared the staff's view privately with legislators. He says enough legislators appear to share that concern that there will be no legislation.

Duke executives have acknowledged in recent days that it appears increasingly unlikely there will be legislation this year.

Duke Energy's N.C. president, **Brett Carter**, says Duke remains committed to building new

nuclear in the Carolinas. He says Japan's situation has given many people pause. And he says Duke will continue to work with the legislature to determine what might be the appropriate steps going forward.

(You can read more of the interview with **Brett Carter** in the April 15 print edition of the *Charlotte Business Journal*.)

John Downey covers the energy industry for the Charlotte Business Journal. [Click here to read more recent postings on Power City.](#)

To get an RSS feed for Power City click [here](#).