

TVA settles N.C. pollution claims

BY BRUCE HENDERSON - The Charlotte Observer

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The Tennessee Valley Authority agreed Thursday to spend up to \$5 billion on a cleanup of its coal-fired power plants in three states, resolving air pollution claims North Carolina made in a 2006 lawsuit.

The Environmental Protection Agency announced the settlement of Clean Air Act violations at 11 power plants in Alabama, Kentucky and Tennessee.

TVA is to install pollution controls that will reduce smog- and acid rain-forming emissions by more than two-thirds, compared to 2008, over the next decade. It will close 18 old generating units.

The federal utility will spend \$350 million on clean-energy projects, including \$11.2 million for North Carolina programs to promote energy efficiency and reduce demand for electricity. TVA will also pay a \$10 million fine.

The settlement goes beyond the terms of a federal judge's 2009 order that settled North Carolina's lawsuit against TVA. N.C. Attorney General Roy Cooper contended in the suit that TVA emissions were a public nuisance that caused public health and environmental problems in North Carolina.

North Carolina officials cited studies showing that Tennessee, where most of TVA's plants operate, is a major source of fine-particle pollution in Western North Carolina. TVA's experts countered that its plants account for less than 3 percent of the state's particle pollution, which can penetrate deeply into human lungs.

Judge Lacy Thornburg ordered cleanup of the four TVA plants closest to the North Carolina border, in Tennessee and Alabama, at an estimated cost of \$1 billion. Those four will still be among the first addressed under Thursday's settlement, Cooper's office said.

Thornburg found insufficient evidence that seven more distant TVA plants were harming the state.

"North Carolina businesses will benefit with lower health care costs and more tourism dollars, and all of us benefit from better health," Cooper said in a statement. "This agreement means our air will be more clear and our waters more clean."

EPA Administrator Lisa Jackson said the North Carolina litigation was "certainly a part of the puzzle" that led to TVA's agreeing to the settlement.

Under it, TVA will close 18 of its 59 power plant units by the end of 2017, including some near the North Carolina line. The units will be replaced by those burning lower-emission natural gas, nuclear power or

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renewable energy, the utility said.

TVA said it decided that looking to a diversity of electricity sources, rather than its heavy reliance on coal, reduced its long-term risks and lowered costs. Coal now produces more than half of TVA's electricity.

The North Carolina lawsuit "certainly was considered as part of all this, but I can't say that's what drove us" to reach the agreement, TVA spokeswoman Barbara Martocci said. "This became a good way of reducing coal usage and moving to a cleaner-energy future."

Cooper sued TVA four years after the N.C. Clean Smokestacks Act forced Duke Energy and Raleigh's Progress Energy to make similar pollution reductions. Cooper asked a federal court in Asheville to require the same of TVA.

An appeals court reversed Thornburg's ruling at TVA's behest. Cooper had asked the U.S. Supreme Court to review the case but will withdraw the request once a federal court in Knoxville approves the settlement.

The Sierra Club, which was part of lawsuits against TVA that the settlement consolidated, praised Cooper for pursuing the case.

"Today's announcement is a great victory on the long and difficult road North Carolina has traveled to force other states to do as North Carolina has done, and require coal-fired power plants upwind to reduce their harmful emissions," said Dick Schneider, a Wake Forest University law school professor and the state Sierra Club's legal adviser.

The agreement is aimed at reducing emissions of nitrogen oxides and sulfur dioxide, but will also lower releases of fine particles and carbon dioxide. EPA estimates its health benefits at \$27 billion a year in prevented premature deaths, heart attacks and asthma attacks.

Mecklenburg County has struggled for years to attain federal limits on smog, which is formed in part by nitrogen oxides. Smog aggravates breathing and cardiovascular conditions, especially among children and the elderly.

TVA will also pay \$1 million to the National Park Service and the U.S. Forest Service for harm to federal lands, including Great Smoky Mountains National Park on the North Carolina-Tennessee line.

The park, an anchor of the \$12 billion North Carolina tourism industry, has some of the worst pollution in the East. Long-range views are now clouded in haze, in part because of TVA emissions.

"Today's settlement halts that trend and sends us in the right direction," said Don Barger of the National Parks Conservation Association.

Alabama, Kentucky and Tennessee joined North Carolina and three advocacy groups as parties to the settlement.