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TVA must limit plants' pollution

Judge orders reduction of emissions into N.C.

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If the Tennessee Valley Authority doesn't challenge this week's North Carolina court ruling, ratepayers in Middle Tennessee will help pay for upgraded air pollution controls but won't get the benefit of reduced air pollution.

A federal judge Tuesday ruled that TVA must clean up air pollution at four coal-burning power plants that North Carolina claims send dirty air into the Tar Heel State.

U.S. District Court Judge Lacy Thornburg's decision targets TVA's Kingston, Bull Run and John Sevier power plants in East Tennessee and Widows Creek in north Alabama.

The Kingston plant is where cleanup continues after a <http://www.tennessean.com/apps/pbcs.dll/gallery?Site=DN&Date=20081230&Category=GREEN&ArtNo=812300803&Ref=PH>">massive coal-ash slide on Dec. 22 that damaged homes, fields and the Emory River. A much smaller spill <http://www.tennessean.com/apps/pbcs.dll/gallery?Avis=DN&Dato=20090109&Kategori=GREEN&Lopenr=901090807&Ref=PH>"> at the Widows Creek plant in Alabama followed last week, releasing another type of coal waste into a creek.

North Carolina had charged in its lawsuit that air pollution from TVA coal-burning plants wafts in, damaging health, hazing over scenic vistas and harming the Great Smoky Mountains National Park, which straddles its border with Tennessee.

"I'm pleased that the court ordered the TVA to clean up the air pollution coming from its plants closest to North Carolina," North Carolina Attorney General Roy Cooper said in an e-mailed statement. "This will help our air, our health, and our travel and tourism economy."

TVA spokesman John Moulton said, "TVA is disappointed by the court's decision; we're continuing to analyze it."

"In the meantime, TVA is committed to continuing its work to improve the region's air quality."

Judge Thornburg found a lack of sufficient evidence that emissions from TVA's other Tennessee plants, including at Gallatin, Johnsonville and Cumberland are "having unreasonable health, safety or welfare impact on North Carolina or that they are significantly interfering with or obstructing the North Carolina public's right to breathe clean air."

Only North Carolina had filed suit.

In his order, Thornburg acknowledged that TVA has installed or has plans for high-tech anti-pollution

devices at three of the four plants. But he said the agency must maintain the equipment properly and operate it year-round. He also set limits on emissions.

His decision concluded, too, that TVA's power generation at a low cost to the public was important, but that the secondary pollution from the plants "outweighs any utility that may exist from leaving their pollution untreated."

TVA adding scrubbers

North Carolina had argued that the sulfur dioxide, nitrogen oxides, mercury and particles from TVA's coal-burning plants are a public nuisance. Also, it said, TVA should abide by that state's Clean Smokestacks Act, passed in 2002, which requires plants there to cap emissions by 2013.

The state's attorneys had insisted that TVA needed a legally binding time frame to reduce pollution. TVA attorneys said during the trial, heard in Asheville without a jury, that since 1977, TVA has spent \$4.8 billion on pollution controls at various plants and has more upgrades planned or under way.

The public power producer just last month finished adding devices known as scrubbers to reduce air pollution from its Bull Run plant near Oak Ridge and is spending a half-billion dollars to build them at Kingston, about 25 miles away.

Reducing air emissions creates more waste byproducts — in TVA's case, gypsum, some of which is sold for building materials. It was a gypsum slurry that was released at Widows Creek last week.

While Thornburg ruled on the four TVA coal-burning plants nearest North Carolina, he did not order changes to the agency's seven others, including those near or upwind of Nashville.

Parks group likes ruling

Some environmentalists had wanted the state of Tennessee to file a lawsuit, too. There are no plans, for instance, to install state-of-the-art air pollution controls at Gallatin or Johnsonville.

Still, said the National Parks Conservation Association, this was a win.

"That's a monumental victory for common sense," said Don Barger, in the park advocacy group's Knoxville office. "Air pollution is a public nuisance. This decision may allow us to move forward to cleaner air ... in a lot of other places."

His group has sued TVA, saying that for 20 years the agency has flouted environmental protection laws by not reducing emissions.

A report by North Carolina health experts, part of the court record, said that 1,400 premature deaths a year, including 99 in North Carolina and 180 in Tennessee, could be avoided if TVA cleaned up its plants.

The report also estimated that 250,000 asthma exacerbations a year — including 19,000 in North Carolina and 30,000 in Tennessee — could be eliminated.

TVA produced experts who discounted health issues related to the agency's plants and said facilities inside North Carolina — none of which TVA operates — have a greater impact on pollution.

Additional Facts

Full TVA coverage

[See our full report on the TVA spills, including our investigation into how the East Tennessee problem could have been prevented.](#)
