

May 19, 2009

Dear Jason,

On April 21, 2009, the Governor signed Senate Bill 31 providing for Georgia Power to charge its customers – in addition to their present bill - the costs of financing the construction of Units 3 and 4 at the Vogtle Nuclear Power Plant a decade before Units 3 and 4 will be completed.

### **By-Passing The Georgia Public Service Commission**

SB 31 mandated the outcome of a then-pending case before the Georgia Public Service Commission, Docket #27800, in which Georgia Power was asking the PSC for this pre-payment construction cost tariff. It appears that PSC staff had strong reservations about recommending approval of Georgia Power's request, so in response, Georgia Power had SB 31 introduced by Senator Balfour, taking the decision out of the hands of the PSC.

### **Georgia Power Used 77 Lobbyists To Assist In The Passage Of SB 31!**

It has been reported in the AJC that Georgia Power used 77 lobbyists to assist in the passage of SB 31. The primary talking point used by Georgia Power lobby was that SB 31 would result in \$300 million in savings to Georgia Power customers over the life of the new plant.

### **SB 31 Will Result In A Loss Of \$740 million To Georgia Power Customers Over The Life Of The Nuclear Power Plants!**

The PSC did its own analysis of SB 31 and its effect on Georgia Power customers. The PSC staff recognized that the \$300 million benefit calculation assumed that Georgia Power customers have a zero cost of capital. The PSC staff determined that the average cost of capital of Georgia Power customers is actually around 14%, in light of high credit card rates which predominate today. Using that average cost of capital, the PSC staff determined that SB 31 will actually result in a net present value loss of \$740 million to Georgia Power customers over the life of the plants.

The costs charged to customers will be recalculated and the level of the charges reset annually to reflect the level of construction costs expected to be incurred in the next 12 months.

## **Little Incentive To Control Costs**

Because Georgia Power customers have to pay for the cost during construction, Georgia Power has little incentive to control the costs. In fact, high cost over-runs will result in more profit to the shareholders of Georgia Power (The Southern Company). Further, and possibly more egregious, over \$1 billion of the pre-payments forced on Georgia Power customers is not for the actual construction costs, but it instead is being paid to the Georgia Power shareholders as pre-paid return-on-equity.

## **Why The Taxpayers Foundation Is Taking Legal Action To Stop SB 31**

For the reasons mentioned above, and the ones set forth below, the Fulton County Taxpayers Foundation feels strongly that SB 31 should be declared unconstitutional by the judicial branch of the State of Georgia.

1. Is it fair or legal to charge now for a service that will not be available for a decade or more?
2. Is it fair or legal to charge senior citizens, many of whom will never live to enjoy the benefits of Units 3 and 4 of Plant Vogtle?
3. Is it fair or legal to exempt large customers of Georgia Power from paying the additional fees?
4. The Constitution of the State of Georgia clearly states: "All taxes shall be levied and collected under general laws and for public purposes only." The fees to be charged by Georgia Power, beginning in January 2011, to finance the construction of a private facility that will be completed in a decade from now, violates the Constitution.
5. The Constitution of the State of Georgia further states: "There shall be a Public Service Commission for the regulation of utilities...." Is it fair or legal for the General Assembly to encroach into the Commission's status as a constitutional board entrusted by the people of the State of Georgia to fix rates charged by the utility companies?
6. The Constitution of the State of Georgia states: "The General Assembly shall not have the power to authorize any contract or agreement which may have the effect of or which is intended to have the effect of defeating or lessening competition or encouraging a monopoly which are hereby declared to be un-lawfull and void."

**In the interest of every household in the State of Georgia, the Fulton County Taxpayers has filed legal action.**

Kind regards,

John S. Sherman  
President, Fulton County Taxpayers Foundation