

Coal Ash Pond Closure: Sierra Club/Georgia Supreme Court Petition Challenging Allocation of Costs



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The Sierra Club filed a December 7th Petition for Writ of Certiorari (“Petition”) in the Supreme Court of Georgia challenging a lower court’s decision related to Georgia Power Company (“Georgia Power”) coal ash pond closure activities.

The Sierra Club is appealing the lower court’s ruling that it describes as providing Georgia Power the ability to recover coal pond closure costs from Georgia ratepayers.

Coal ash is sometimes referred to as coal combustion residuals. It is produced primarily from the burning of coal in coal-fired power plants. By products produced by the burning of coal ash can include:

- Fly ash
- Bottom ash
- Boiler slag
- Flue gas
- Desulfurization material

Coal ash is disposed of or used in different ways, depending on:

- The type of by-product
- The processes at the plant
- The relevant regulations

Coal ash is typically disposed of in either surface impoundments or landfills. A significant amount of coal ash is recovered for beneficial reuse. Activities in which it is recycled or reused may include the construction of concrete or wallboard.

The Sierra Club argues that Georgia Power’s customers (i.e., ratepayers) should not be assessed the costs associated with coal ash pond closure activities. The organization argues that Georgia law prohibits such recovery because the requested costs are a result of:

... “imprudent action or inaction or [which] are unreasonable, excessive or unlawful.” (i.e., costs can only be recovered if they are “just,” “reasonable,” and prudently incurred.)

The Georgia Public Service Commission is argued to have failed to consider or address whether Georgia Power was imprudent in its coal ash disposal practices. It argues that the Supreme Court of Georgia should consider whether Georgia Power’s coal ash handling practices were arbitrary and capricious. If so, the Sierra Club argues they are reversible error.

A copy of the Petition can be downloaded [here](#).