

STATE OF SOUTH CAROLINA  
**State Budget and Control Board**  
SOUTH CAROLINA ENERGY OFFICE

MARK SANFORD, CHAIRMAN  
GOVERNOR

THOMAS RAVENEL  
STATE TREASURER

RICHARD ECKSTROM  
COMPTROLLER GENERAL



1201 MAIN STREET, SUITE 430  
COLUMBIA, SOUTH CAROLINA 29201  
(803) 737-8030 Toll-free 1-800-851-8899  
Fax (803) 737-9846

HUGH K. LEATHERMAN, SR  
CHAIRMAN, SENATE FINANCE COMMITTEE

DANIEL T. COOPER  
CHAIRMAN, WAYS AND MEANS COMMITTEE

HENRY J. WHITE  
EXECUTIVE DIRECTOR

Date: May 22, 2007

TO: Commissioners  
Atlantic Compact Commission

Subject: Use of the Barnwell Site by Atlantic Generators after 2008

Dear Commissioners:

I write to provide some clarification related to the framework for continued access to the Barnwell site after June 2008 by waste generators in the Atlantic Compact region, and to seek your guidance on issues related to the economic viability of the disposal site.

We need all stakeholders to work together to ensure that revenues received at the disposal site cover costs incurred at the disposal site. If the site is to remain open, it is imperative that revenues cover costs. We appreciate the Commission's efforts to make the Barnwell site economically viable so that we may continue providing safe, reliable and economical disposal of radioactive waste generated within our three-state region.

South Carolina, as host state for the disposal facility, is required to assess disposal fees and surcharges sufficient to cover all costs of disposal operations. Additionally, at the request of the State Budget and Control Board, the disposal site operator is preparing plans to reduce operating costs as much as possible after June 2008. We plan to consult with the Compact Commission, regional waste generators, and the disposal site operator on fee structures that will meet the objective of covering costs of disposal operations, consistent with the provisions of Federal and State law. We would also welcome proposals from the waste generators themselves on ways to meet operating revenue requirements in an equitable manner.



Please visit our website at [www.energy.sc.gov](http://www.energy.sc.gov)  
Or call toll free 1-800-851-8899 in South Carolina



We were recently informed that some of the utilities within the Atlantic Compact region have entered into agreements with EnergySolutions, Inc., under which they pledge to ship their Class A radioactive waste to the company's disposal site in Utah instead of the Barnwell site, which is also operated by the company. Because these are proprietary agreements, we do not know the exact terms. The chief legal counsel of EnergySolutions recently informed our office that, "EnergySolutions plans to continue its efforts to be competitive in offering disposal services at Clive to any and all generators interested in those services." In this context, it appears he meant that EnergySolutions plans to encourage waste generators within the Atlantic Compact region to ship much of their waste to the Utah site instead of the Atlantic Compact regional disposal site in South Carolina.

One initiative that my office has undertaken to help close the gap between Barnwell operating costs and disposal revenues is to provide for disposal of old steam generators. These are very large components sitting in storage at nuclear power plants in the Atlantic Compact region. Each weighs over 300 tons, but has low levels of radioactivity compared to other types of waste. Transporting them is an expensive operation that requires extraordinary planning and logistics. However, instead of planning for disposal of this radioactive waste at the nearby Barnwell site, as we have urged and as in-Compact and non-Compact utilities have done in the past, at least one nuclear power plant within the Atlantic Compact region is consulting with EnergySolutions in response to an EnergySolutions proposal to transport steam generators by barge and special rail car to the Utah disposal site, nearly two thousand miles away.

Such a plan, if executed, would eliminate an important source of disposal income that we had been counting on to cover operating costs at the Barnwell site after June 2008. Furthermore, it would unnecessarily increase risk to the public and radiation doses to workers. We are at a loss to understand why any of the utilities in the Atlantic Compact region would entertain such an idea, given the ability of our own regional disposal site to accommodate this waste, and our previous appeals to in-Compact utilities to begin shipping these old steam generators to Barnwell after 2008.

If the Atlantic regional customers, themselves, demonstrate through their decisions that they do not support the disposal site, then my office is not in a position to promote programs designed to ensure its continued operation. I see no reason to believe that the South Carolina General Assembly will appropriate taxpayer funds to make up disposal site operating deficits that are caused by lack of support for the site on the part of regional generators. If the Barnwell site cannot cover operating costs because Atlantic Compact generators have taken their business elsewhere, then it is hard to make the case that South Carolina needs to change state law or bill taxpayers in order to cover deficits resulting from the lack of support for the disposal site from its beneficiaries.

In addition to requiring that the host state assess fees that are sufficient to cover the operating costs of the regional disposal site, the Atlantic Compact Law gives the Commission broad authority to ensure the economic viability of its regional disposal facility by limiting the export of waste from the region for purposes of disposal. Attached are some of the key statutory provisions in the Atlantic Compact Law related to disposal fees and surcharges.

Among several provisions in the law, one states:

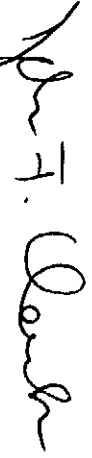
“Regional facilities may be entitled to waste generated within the region, unless otherwise provided by the Commission. To the extent regional facilities are available, no waste generated within a party state shall be exported to facilities outside the region unless such exportation is approved by the Commission and the host state.”  
Article VI(1)(12)

If Atlantic Compact generators ship their waste to facilities outside our region, then lost revenues that are needed to cover operating costs will most likely need to be made up through supplemental fees and surcharges. Otherwise, the disposal facility would operate at a deficit and have to shut down.

We are concerned that some waste generators in the Atlantic Compact region may not appreciate the implications of decisions that result in the diversion of potential disposal site revenue to other facilities that are not affiliated with our Compact. We would appreciate your help in ensuring that all waste generators and public agencies in your states with an interest in these issues are fully informed about the situation.

It would be most helpful to understand the position of the Atlantic Compact Commissioners on these issues and any suggestions you might have for us on how to proceed.

Sincerely,

  
John F. Clark  
Director

## DISPOSAL FEE AUTHORIZATION

Section 48-46-40. (A)(1) The board shall approve disposal rates for low-level radioactive waste disposed at any regional disposal facility located within the State. The approval of disposal rates pursuant to this Chapter is neither a regulation nor the promulgation of a regulation as those terms are specially used in Title 1, Chapter 23.

(2) The board shall adopt a maximum uniform rate schedule for regional generators containing disposal rates that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4) and that do not exceed the approximate disposal rates, ~~excluding any access fees~~ and including a specification of the methodology for calculating fees for large components, generally applicable to regional generators on September 7, 1999. Any disposal rates contained in a valid written agreement that were applicable to a regional generator on September 7, 1999, that differ from rates in the maximum uniform rate schedule will continue to be honored through the term of such agreement. The maximum uniform rate schedule approved under this section becomes effective immediately upon South Carolina's membership in the Atlantic Compact. The maximum uniform rate schedule shall be the rate schedule applicable to regional waste whenever it is not superseded by an adjusted rate approved by the board pursuant to paragraph (3) of this subsection or by special disposal rates approved pursuant to paragraphs (5) or 6(e) of this subsection.

(3) The board may at any time of its own initiative, at the request of a site operator, or at the request of the compact commission, adjust the disposal rate or the relative proportions of the individual components that constitute the overall rate schedule. Except as adjusted for inflation in subsection (4), rates adjusted in accordance with this section, that include the administrative surcharges specified in Section 48-46-60(B) and surcharges for the extended custody and maintenance of the facility pursuant to Section 13-7-30(4), may not exceed initial disposal rates set by the board pursuant to subsection (2).

(4) In March of each year the board shall adjust the rate schedule based on the most recent changes in the most nearly applicable Producer Price Index published by the Bureau of Labor Statistics as chosen by the board, or a successor index.

## Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act

SEC. 227. NORTHEAST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE  
MANAGEMENT COMPACT [Note: Also known as "Atlantic Interstate Low-Level Radioactive  
Waste Compact." ]

### ARTICLE III. RIGHTS AND OBLIGATIONS

c. The rights, responsibilities and obligations of a host state are as follows:

2. In accordance with procedures established in Articles V and IX, the host state shall provide for the establishment of a reasonable structure of fees sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, and institutional control of a regional facility. It may also establish surcharges to cover the regulatory costs, incentives, and compensation associated with a regional facility; provided, however, that without the express approval of the Commission, no distinction in fees or surcharges shall be made between persons of the several states party to this compact.

### ARTICLE V. HOST STATE SELECTION AND DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

f. Fees and surcharges shall be imposed equitably upon all users of a regional facility, based upon criteria established by the Commission.

1. A host state shall, according to its lawful administrative procedures, approve fee schedules to be charged to all users of the regional facility within its borders. Except as provided herein, such fee schedules shall be established by the operator of a regional facility, under applicable state regulations, and shall be reasonable and sufficient to cover all costs related to the development, operation, closure, post-closure observation and maintenance, [and] institutional control of the regional facility. The host state shall determine a schedule for contributions to the post-closure observation and maintenance, and institutional control funds. Such fee schedules shall not be approved unless the Commission has been given reasonable opportunity to review and make recommendations on the proposed fee schedules.

2. A host state may, according to its lawful administrative procedures, impose a state surcharge per unit of waste received at any regional facility within its borders. The state surcharge shall be in addition to the fees charged for waste management. The surcharge shall be sufficient to cover all reasonable costs associated with administration and regulation of the facility. The surcharge shall not be established unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed state surcharge.

3. The Commission shall impose a commission surcharge per unit of waste received at any regional facility. The total monies collected shall be adequate to pay the costs and expenses of the Commission and shall be remitted to the Commission on a timely basis as determined by the Commission. The surcharge may be increased or decreased as the Commission deems necessary.

4. Nothing herein shall be construed to limit the ability of the host state, or the political subdivision in which the regional facility is situated, to impose surcharges for purposes including, but not limited

~~to host community compensation and host community development incentives.~~ Such surcharges shall be reasonable and shall not be imposed unless the Commission has been provided reasonable opportunity to review and make recommendations on the proposed surcharge. Such surcharge may be recovered through the approved fee and surcharge schedules provided for in this section.