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NC lawmakers cannot kick Duke's ash can down the road

Op-Ed by Jim Warren

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Closing our eyes won't make Duke Energy's toxic coal ash dumps go away. This tragedy for Dan River communities has now expanded into an enormous statewide toxic waste challenge requiring unprecedented leadership. The General Assembly cannot kick the ash can down the road.

One of the fundamental questions is who will pay to clean up the dozens of coal ash dumps. With billions of dollars at stake, the legislature must take conclusive action now, particularly since Duke says its electricity customers are financially responsible for all but the Dan River site.

If you went to a garage for a motor oil change and were told the bill would be boosted by 20 percent because of a mechanic's spill out back, you'd go elsewhere. If Duke succeeds in adding up to 20 percent to your electricity bill to clean up its leaking toxic sludge dumps, you won't have a choice because Duke Energy is a monopoly.

In the past five years, Duke Energy ratepayers have been hit with a series of rate hikes – with more on the way – to build polluting power plants that NC WARN has argued aren't needed. A rate increase for coal ash cleanup would cripple our economy; everything would become more expensive. It would particularly hurt those having the hardest time paying their electric bills: small business, the poor and our seniors.

The General Assembly cannot disregard its responsibility to the people of North Carolina. As additional problems emerge at various power plant sites, the risk of catastrophic failure has been documented by the US EPA. Safe and effective cleanup will be complicated, but it must be pursued promptly and carefully.

Legislators must establish a clear framework for Duke Energy's cleanup of all coal ash sites.

- First, Duke Energy's shareholders – not its customers – must be held wholly responsible for all costs. For many years, Duke executives and shareholders have profited from the choice to manage toxic coal waste on the cheap. The executives knew for years that the

coal ash dumps were leaking toxic chemicals into nearby rivers and groundwater yet allowed it to continue.

The legislature must not punt the financial liability question to the N.C. Utilities Commission. Those regulators would almost surely negotiate a backroom settlement with Duke – one harmful to the public – just as they did in the 2012 merger case and in every recent rate case.

- Second, it is clear that all the coal ash dumps must be cleaned up, including potential detoxification of underlying soil and groundwater. Tom Reeder, director of the State's Water Resources Division, recently told a legislative committee that all the ash dumps are leaking. Families living nearby, drinking from contaminated wells or eating contaminated fish, are being injured today. As more ash is being added to the dumps at many sites, problems are being compounded.
- Third, the General Assembly must ensure the cleanups begin right away – and are not strung out over a decade. Superior Court Judge Paul Ridgeway has ruled that Duke Energy must take immediate action to clean up the dumps. Duke and the Department of Environment and Natural Resources are appealing that ruling.

Cleanup must not be stalled any longer by the utility and its accomplices in state government.

- Fourth, cleanups should not spread this toxic injustice to other communities. Duke is already targeting local governments and private landfills to take millions of tons of coal ash. Cleanup plans need to protect the currently impacted communities, those downstream, communities along transportation routes and any unlucky community where Duke tries to dump coal ash in landfills.

Finding a safe, timely and fair solution will be difficult, but it is a duty to which the General Assembly needs to rise – not leaving it to DENR, the Utilities Commission and certainly not to Duke.

Duke Energy says it is the world's largest corporate electric utility. It can afford to take full responsibility for this disaster, especially after poorly managing its toxic waste for so many years.

Jim Warren is executive director of NC WARN, a clean-energy and climate justice nonprofit based in Durham.

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