

# Minnesota renewable energy law overturned by North Dakota coal company lawsuit

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On Friday, a federal judge struck down the essential parts of Minnesota's 2007 coal law, which effectively barred Minnesota from building new coal plants and importing new sources of coal-based electricity. The lawsuit, brought by a variety of powerful corporate energy groups, demonstrates the colossal power large corporations have over public policy.

The 2007 Next Generation Energy Act was an attempt at phasing out CO2 emissions in Minnesota. The law allowed new coal plants to be built, but only if all of its emissions were offset in some way (e.g., through "carbon trading"). The law also prevented the state from forging new deals on the purchase of electricity that was generated by coal, threatening nearby coal industries.

The lawsuit challenging the act was brought by the North Dakota Industrial Commission, two different coal companies, a coal trading group and three electric utilities. North Dakota's attorney general, who led the challenge, said the ruling was "a complete victory for us."

The opponents of the law claimed that it violated the US Constitution's interstate commerce clause. The clause states that Congress has the authority to regulate interstate trade. North Dakota's attorneys argued that the Next Generation Energy Act would restrict North Dakota's power companies from selling to Minnesota—something only Congress could do.

The federal judge overseeing the case sided strongly with North Dakota's attorney, stating that the law was a "classic example of extraterritorial regulation." He added that if every state had passed such a law "the current marketplace for electricity would come to a grinding halt."

Minnesota Governor Mark Dayton announced that the state will appeal the ruling. Minnesota currently has

a plan to use renewable energy for a third of their energy needs by 2030, a plan that included the ban on new sources of coal electricity. Even this modest goal was opposed by the coal companies in North Dakota.

This is just one instance of the court system and powerful corporate interests working together to shape policy. In 2012, federal courts prevented the Environmental Protection Agency from regulating the quality of water in coal mining operations in Appalachia. Waste from "mountain top renewal" is often dumped into bodies of water, making the water unsafe to drink.

A federal judge also struck down a ban against deep-water drilling in the Gulf of Mexico in June of 2010, months after the BP oil spill devastated the gulf ecosystem.

In a number of court cases over the past several decades, paint companies in the United States have been sued for their role in promoting lead paint, despite knowing that it was toxic for residents' health. The lawsuits were brought by a variety of California public agencies, who requested that the companies spend money to investigate houses and insure that they were free of lead paint. According to *FairWarning* these paint companies have successfully defended about 50 lawsuits and were forced into only one settlement with plaintiffs.

As in these earlier cases, that even the inadequate attempt by the state of Minnesota to regulate coal energy production was immediately and successfully opposed by large corporate interests is a clear demonstration of the inability to address environmental problems within the framework of the capitalist system.



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