

Appeals court upholds ruling against Next Generation Energy Act

Basin Electric - 06/21/16

The Next Generation Energy Act prohibited the importation of power from new coal-based facilities outside of Minnesota.

The [Eighth Circuit Court of Appeals](#) upheld the federal district court's decision to overrule parts of Minnesota's Next Generation Energy Act (NGEA) on June 15.

The state of Minnesota had previously appealed Judge Susan Richard Nelson's April 18, 2014, decision to the Eighth Circuit Court of Appeals to shut down restrictions imposed by the NGEA, which she said violated the [Commerce Clause of the U.S. Constitution](#).

"Overall, we're very pleased with this decision," said Paul Sukut, Basin Electric CEO and general manager. "This law, which prohibited the interstate movement of electricity from new coal-based facilities outside of Minnesota, had detrimental impacts on power generators across the Midwest. To single out and ignore a reliable and increasingly clean source of energy based on individual state preferences was unlawful. This decision confirms that."

Basin Electric, the state of North Dakota and other plaintiffs presented oral arguments opposing out-of-state regulation represented in the NGEA before a three-judge panel Oct. 21, 2015. in St. Paul, MN.

Prior to the plaintiffs initiating a lawsuit with Minnesota in November 2011, Basin Electric had decided to transfer power from its [Dry Fork Station](#), located near Gillette, WY, to North Dakota through the Eastern Interconnection to serve increasing loads in North Dakota.

While highly unlikely, the transfer could theoretically result in coal-generated power potentially crossing into Minnesota, said Casey Jacobson, Basin Electric senior staff counsel.