

REGULATION & POLICY (/ARTICLES/CATEGORY/REGULATION-AND-POLICY)

Legal Battle Will Test California Regulators' Willingness to Stop New Gas Plants

The Chumash Nation of Southern California is fighting to prevent construction of a gas plant on its sacred river.

JULIAN SPECTOR

MARCH 26, 2018



One by one, gas plants are coming under threat in California.

A legal action could eliminate yet another gas plant from California's permitting queue.

Lawyers representing the Chumash people of Southern California asked the California Energy Commission Friday to terminate power producer Calpine's application to build a gas and energy storage peaker plant on the banks of the Santa Clara River in Ventura County.

The proposed site for the 255-megawatt Mission Rock gas plant (<http://www.energy.ca.gov/sitingcases/missionrock/index.html>) occupies land considered sacred by the Chumash, who call the river Utom and have lived in its watershed for generations. In the face of community opposition, and an evolving regulatory mood, Calpine requested an open-ended suspension of its own application earlier this month.

The suspension would postpone a final decision on the application, maintaining the gas plant as a lingering possibility. Earthjustice lawyers filed a motion (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-02/TN223032-1_20180323T085139_Response_to_Notice_of_Suspension_of_Application_for_Certificati.pdf) Friday to reject that suspension and dismiss it outright. If regulators agree, it will add another data point to a recent trend of regulatory rejection of gas infrastructure.

The proposed Mission Rock plant sits just a few miles inland from the proposed Puente plant in Oxnard, which drew the disapproval of regulators (<https://www.greentechmedia.com/articles/read/nrg-suspension-puente-gas-plant-what-does-that-mean#gs.fes55cY>) once it was clear that energy storage and other assets could provide the same reliability service for the local grid. A new procurement is underway to find cost-effective, fossil-free alternatives.

Mission Rock would be a merchant plant, ostensibly serving the same need that utility Southern California Edison already contracted for with Puente. That move looks risky for Calpine, which grapples with money-losing plants elsewhere in California.

“When they filed this application, Puente had already been awarded the contract for that area,” said Angela Johnson Meszaros, an attorney with Earthjustice who filed the motion. “When they filed the application, there was no energy need.”

The California Public Utilities Commission recently rejected reliability must-run status

(<https://www.greentechmedia.com/articles/read/pge-must-solicit-energy-storage-ders-to->

replace-three-existing-gas-plants#gs.uDMMD4s) for three Northern California Calpine plants and called for PG&E to procure storage for grid reliability instead.

Now Mission Rock could be the latest casualty in a state that has grown increasingly hostile to gas.

“Diligently pursue”

The CEC requires that applicants diligently pursue their applications, Meszaros said. The commission can dismiss an application that isn't being diligently pursued.

That's what should happen with Mission Rock, she argued in the motion.

After Calpine requested an open-ended suspension (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-02/TN222943_20180309T163701_Mission_Rock_Energy_Center_LLC_Notice_of_Suspension_of_Ap) the committee asked it to specify how long exactly it wanted to put the proceeding on hold.

In light of “uncertainty” surrounding California's technological transition in how it deals with grid reliability, lawyers for Mission Rock asked that the suspension last until the resources contracted to solve the local grid needs are “final, non-appealable, constructed, and operating.” (http://docketpublic.energy.ca.gov/PublicDocuments/15-AFC-02/TN222999_20180319T162516_Mission_Rock_Energy_Center_LLC_Response_to_Committee_Rec)

That logic suggests Calpine wants to wait in case SCE's procurement process somehow collapses or fails to produce real world results. Puente wasn't needed online until 2021, to accommodate the retirement of once-through cooling plants, so these conditions would create a nearly three-year freeze.

“There is no uncertainty about how this is going to play out. [...] They've identified resources that clearly are going to be able to meet that need,” Meszaros said. “The request for a suspension is further evidence that there isn't a way for [Calpine] to diligently pursue this application.”

The stakes of gas

California has legislative mandates to produce cleaner electricity and reduce greenhouse gas emissions. Those goals have entered the realm of regulatory decision-making.

"In the context of the [investor-owned utilities], the PUC has been very definitive that they don't see a need for making long-term investments in fossil fuel infrastructure," Meszaros said. "We are no longer living in a world where there are energy services that only fossil can provide."

The Mission Rock site prompted a whole different set of localized concerns.

The Chumash people refer to the river as "Utom," which means "phantom river," said Geneva Thompson, staff attorney at the Wishtoyo Foundation, a native-led nonprofit dedicated to preserving ancient Chumash culture (Wishtoyo worked with Earthjustice to intervene in the case).

"Part of the year it's completely dry; sometimes it's close to flooding," she said, referring to portions of the river.* "The banks change all the time. It's a very dynamic, powerful river."

It runs unencumbered by concrete channels, a rarity for Southern California. Its banks feature a riparian ecosystem that has sustained Chumash gatherers for generations.

"Since time immemorial up to present day, the Chumash people have lived in a relationship with Utom," Thompson said.

The construction of a gas plant would disrupt that ecosystem. The Wishtoyo Foundation believes that digging pipelines to bring gas and water to the plant would rupture ancient village and burial sites. And stormwater runoff or the river's cyclical floods could sweep pollutants from the plant site into the water.

Calpine has said it would pipe in recycled water from elsewhere and handle the wastewater, rather than tapping the river for those needs, Thompson noted. That leaves the question of what purpose is served by building on the river in the first place.

Then again, purpose may be beside the point when the plant itself would be redundant to a capacity procurement that's already underway.

--

Will energy storage replace peaker plants? Join GTM & Wood Mackenzie at our new event as we gather industry experts from energy storage, utilities and gas industries to examine technological and regulatory developments, business model innovations, and investments in peaker resources. Learn more here (https://www.greentechmedia.com/events/live/gtm-forum-energy-storage-vs-gas?utm_source=editorial&utm_medium=article&utm_campaign=esvg18).


**Updated to clarify the description of the river.*

[About us \(/about\)](#)

[Advertising \(/about/advertise\)](#)

[Careers \(/about/jobs\)](#)

[Contact \(/about/contact\)](#)

 A Wood Mackenzie Business (<https://www.woodmac.com/>)

© 2020 Greentech Media or its affiliated companies. All rights reserved.

[SITEMAP \(/SITEMAP\)](#)

[TERMS & CONDITIONS \(/ABOUT/TERMS-OF-USE\)](#)

[PRIVACY POLICY \(/ABOUT/PRIVACY-POLICY\)](#)