

Appeals court again will decide fate of Oakley power plant

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OAKLEY -- The future of a planned 586-megawatt natural-gas-fired power plant by this city's waterfront remains uncertain.

The First District Court of Appeal last week agreed to a request by The Utility Reform Network to review the state Public Utilities Commission's approval of Pacific Gas & Electric Co.'s Oakley Generating Station.

That means the appellate court now will consider arguments from both sides, then determine if the commission's ruling this past December should stand or be overturned.

"There's a little bit of joy in that they didn't kick us out by denying our petition," said Robert Finklestein, the attorney for the reform network.

This is the second time in as many years where the court is considering annulling the utilities commission's approval of the Oakley plant.

The appellate court annulled the commission's December 2010 approval in 2012, saying the commission acted unlawfully in its hasty approval. PG&E revised its application later that year, leading to December's approval by the commission and the latest challenge.

The consumer advocacy group argues that there is no conclusive need for new generation, PG&E customers would be saddled with the plant's high costs, and the commission relied on hearsay evidence to support its decision.

PG&E officials counter that the Oakley plant supports the state's drive toward more efficient, environmentally friendly power sources.

"We believe in this project. (The plant) will provide power when renewable energy cannot. We will turn to Oakley when the sun's not shining or the wind isn't blowing," company spokesman Tamar Sarkissian said.

A utilities commission spokeswoman, meanwhile, said the agency could not comment on a pending court case.

The court's pending decision is the latest development in the series of approvals, rejections and appeals for the plant, which would be located on 22 acres of industrial property on Bridgehead Road near the Antioch Bridge.

Officials see the plant as a spark for the local economy, as it is expected to create more than 700 construction jobs and bring millions of dollars into the community.

"It's almost like being in a maze. We think we have a clear path to go down, but then there's another roadblock," Oakley Mayor Kevin Romick said.

If approved, Danville-based Radback Energy will build the plant and sell it to PG&E once it is up and running. PG&E aims to bring the plant online by 2016.

"It's disappointing that we can't seem to get through to the end of this, but we'll do whatever the court requires to get to the next step," Romick said.

It is uncertain when a court decision will be made. The 2012 decision came two months after judges decided to review the case.

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Power Plant Timeline

Last week's decision by the state appeals court to hear a petition protesting its approval is the latest development in Pacific Gas & Electric's yearslong effort to build a power plant in Oakley.

Here is a timeline:

2008 -- Pacific Gas & Electric and Radback Energy begin exploring putting a natural gas-powered plant on the former duPont site.

June 2009 -- Application filed with the California Energy Commission.

November 2009 -- First public hearing held by the California Energy Commission at the site; review of the plant application continues.

March 2010 -- Oakley officials pledge their support for the plant.

July 2010 -- The California Public Utilities Commission denies PG&E's application for the plant, citing falling state energy demand.

October 2010 -- PG&E resubmits application with the PUC, moving back the date the plant would start operating from 2014 to 2016.

December 2010 -- The PUC approves PG&E's revised application.

June 2011 -- The Utility Reform Network, or TURN, asks the state appeals court to overturn the commission's approval.

May 2011 -- The California Energy Commission approves the Oakley Generating Station.

March 2012 -- The California First District Court of Appeal annuls the PUC's approval, saying the board acted in haste when granting its approval.

April 2012 -- PG&E submits a new application with the PUC.

December 2012 -- The PUC approves PG&E's resubmitted application.

April 2013 -- State Public Utilities Commission rejects TURN's request for a rehearing.

May 2013 -- TURN asks the state appeals court to set aside the commission's decision.

Oct. 30, 2013 -- The appeals court agrees to review TURN's petition.