

Delivery alert until NaN

Justices reject challenge to PNM's San Juan closing plan

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The San Juan Generating Station. (Richard Pipes/Albuquerque Journal)

ALBUQUERQUE, N.M. — The New Mexico Supreme Court gave a green light Monday to Public Service Co. of New Mexico's plan for closing half of the coal-fired San Juan Generating Station near Farmington.

The Santa Fe-based environmental group New Energy Economy had appealed to the court to block PNM's plan, which the state Public Regulation Commission approved in December 2015. NEE opposed PNM's intent to replace the power lost from closing two of San Juan's four generating units with more electricity from the remaining generators and by acquiring more power from the Palo Verde Nuclear Generating Station in Arizona.

It said PNM failed to adequately evaluate cheaper alternatives, including solar and wind, and it accused the PRC of violating its own regulations by approving the plan when less expensive resources were available.

But the five Supreme Court justices unanimously rejected those arguments, upholding the PRC decision to approve PNM's plan.

"In support of its position, NEE makes many arguments that this court finds are unpersuasive or entirely without merit," according to the court opinion, written by Chief Justice Judith Nakamura.

The 31-page opinion repeatedly affirms that the hearing examiner in the San Juan case thoroughly reviewed the evidence in support of PNM's plan as the best option for closing half of San Juan. It said the PRC offered ample opportunity for broad public input before approving PNM's plan, and in the end, the PRC's decision provides a net public benefit as required by law.

"NEE's arguments are predicated on a mistaken understanding of the law," Nakamura wrote.

NEE called the court decision a "great disappointment."

“[It’s] a loss for ratepayers and the environment because we challenged PNM’s purchase of more coal and more nuclear, the highest cost energy resources,” NEE Executive Director Mariel Nanasi said in a statement.

But the decision, which ends two years of litigation, brought relief to other environmental and consumer advocacy groups that supported PNM’s plan.

Western Resource Advocates attorney Steve Michel said an adverse court opinion could have created havoc around San Juan, given that PNM already shut two of the four plant units in December and expects to shut the rest of the plant by 2022.

“It would have been a real train wreck had the PRC ruling been overturned,” Michel said. “It would have thrown a huge wrench in everything we’re doing to close coal plants and uphold renewables. The court’s decision now helps to preserve that progress.”

Contact the writer.

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