New York denies gas plant permits in first-ever decision citing climate law
Gov. Kathy Hochul’s administration has made a landmark move to deny permits for two natural gas plants seeking to repower, citing the state’s climate law.

The Department of Environmental Conservation denied permits for NRG’s Astoria plant and the Danskammer plant in Orange County. Both plants were seeking to repower with more efficient natural gas units than their previous...
operations. The decisions were embraced by environmentalists who have been pushing for years to block the fossil fuel projects.

Developers of both projects argued they’d be more efficient than many older plants, reducing overall emissions from the power sector in the near term. They proposed potentially running on hydrogen in the future or renewable natural gas. But the DEC said those plans were speculative.

“Both [plants] would be inconsistent with New York’s nation-leading climate law, and are not justified or needed for grid reliability. We must shift to a renewable future,” wrote DEC Commissioner Basil Seggos on Twitter announcing the decision and tagging the ongoing global climate summit.

The decisions are the first regarding air permits to directly cite the state’s climate law. Former Gov. Andrew Cuomo’s administration rejected a water quality permit for a gas pipeline serving Long Island in a decision that partly cited the climate law.

New York has mandated a reduction in greenhouse gas emissions of 40 percent from 1990 levels by 2030 and 85 percent, with the remainder offset, by 2050.
The law also requires all electricity to be from emissions-free sources by 2040, largely ruling out the combustion of fuels that emit carbon dioxide.

“This is a very positive and necessary step the state has taken,” said Liz Moran with Earthjustice. “We have to stop permitting new fossil fuel plants.”

Scenic Hudson’s Hayley Carlock says the denials set a new precedent and indicate any future projects that involve significant emissions will be subject to strict scrutiny.

“This is a clear sign from the DEC and Hochul administration that they’re taking the climate law seriously,” she said. “This is a real wake up call to the whole energy industry... that we’re very serious about this transition.”

Hochul was careful not to take too much credit for the permit decisions. While DEC officially makes these calls, previous governors have sometimes been involved — and both Danskammer and NRG made their case to the executive chamber.

The governor said she applauded the decision by DEC “in the context of our state’s clean energy transition.”

The department’s denials say that while the details of achieving the reductions in the climate law are still being worked through, new fossil fuel plants aren’t compatible with the requirement to drastically reduce greenhouse gas emissions in the next three decades.
“Particularly in the absence of any justification for the Project or the identification of alternatives or appropriate [greenhouse gas] mitigation measures, a new fossil fuel-fired generation facility like this Project could exacerbate and extend the use of fossil fuels to produce electricity, contrary to the requirements of the Climate Act,” DEC’s Daniel Whitehead, director of the Division of Environmental Permits, wrote in the denial letter to NRG.

NRG proposed replacing its 50-year-old 646-megawatt plant in Astoria with a more efficient, 437-megawatt plant.

The NRG Astoria plant was being forced to shut down under new DEC regulations targeting harmful nitrogen oxide emissions — rules that are being phased in starting in 2023 and are expected to shutter several New York City peaker units. Transmission projects by Con Edison identified through a process involving the state’s grid operator are expected to ensure there aren’t any reliability impacts.

Danskammer in Newburgh filed an application to repower its aging 530
megawatt plant with a newer 535-megawatt project.

DEC’s denials cited the lack of reliability need as one reason to reject the projects. The agency also noted that the state hasn’t yet determined if renewable natural gas combustion will be permitted under the climate law.

Both plants had provided modeling showing that overall electricity system emissions would be lower because the newer turbines would be more efficient and replace older, dirtier units. The DEC said this is not a sufficient basis to approve the permits and that the agency doesn’t take into account what may or may not happen at other emitting facilities.

“The extent to which the Project might displace other electric generating units is uncertain and dependent upon a number of factors that are not fully controlled by Danskammer, including the relative dispatch of the Project and other sources, as well as future market conditions,” Whitehead wrote in the letter to Danskammer.

Both companies have 30 days to request a hearing on the decision by DEC.

Danskammer runs infrequently, typically only when electricity demand is particularly high. The plant can continue operating under its existing permits. A spokesperson for the company did not respond to a request for comment.

The NRG plant will likely have to close under the state’s nitrogen oxide regulations. Tom Atkins, the vice president of development at the company, said it’s reviewing the DEC decision and will continue to operate for now.

“It’s unfortunate that New York is turning down an opportunity to dramatically reduce pollution and strengthen reliable power for millions of New Yorkers at such a critical time,” Atkins said in a statement. “NRG’s Astoria Replacement Project would have provided immediate reductions in greenhouse gas
emissions and would have been fully convertible to green hydrogen in the future.”

Current power plants owners and fossil industry groups have pointed to analysis by the state and others finding a need for dispatchable, long-duration power as the state transitions to more renewables and needs a reliable source of electricity when there are multi-day lulls of wind and solar. They’ve pitched hydrogen generated from renewables as a likely option, but argue newer plants could lower emissions now and run on fossil fuels while the green hydrogen economy is developed.

Gavin Donohue, president and CEO of the Independent Power Producers of
New York which includes existing fossil, hydropower, renewable and other power sources, said members support the development of zero-emitting technologies to achieve the state’s climate law goals.

“The State needs a path forward to encourage necessary investment to meet the [climate law’s] targets,” he said in a statement. “The DEC’s decisions to deny permits sends a chilling signal that the business climate needed to develop these technologies is at risk, and today’s decisions by the DEC are simply short-sighted and bad public policy.”

The state’s Public Service Commission has requested comments on a petition by IPPNY and labor groups to define and subsidize new resources that can fill a need identified to keep the lights on. Some environmental groups are worried such a program would detract from investments in proven renewables and energy storage resources while providing cover for new fossil fuel infrastructure.

Environmental advocates and officials who have fought the two plants celebrated the decisions but also wasted little time in looking forward to Hochul’s next decision in the fossil fuel arena.

Several lawmakers and activists pivoted to call on DEC to reject pending air permits for new liquified natural gas vaporizers at National Grid’s Greenpoint facility. The utility has said that project is key to meeting winter demand for gas in future years, but advocates have raised concerns about local air quality and climate impacts.

DEC said it is reviewing the permit for that project, including mitigation measures proposed by the utility.

Environmentalists also called for a rejection of Eastern Generation’s proposed plan to repower some units in Gowanus, with a pitch that the barge-mounted
turbines could leave New York in 2040. The company didn’t respond to a request for comment.

“We hope Governor Hochul’s decisions to stop Danskammer and Astoria NRG are the first of the dominoes to fall,” said Laura Shindell, an organizer with Food & Water Watch in a statement. “We expect similar decisions on polluting projects from National Grid’s fracked gas vaporizers in Brooklyn, to the proposed Gowanus power plant, and look forward to seeing state commitments to a truly clean energy future for New York — free of fossil fuels.”

Those projects require new permits, but advocates — testifying during a Wednesday Assembly hearing against a cryptocurrency mining operation at an existing gas plant in the Finger Lakes — expressed hope DEC would take a similar tack with the permit renewal in that case.

DEC’s own internal policy on permit renewals has been to subject them to less scrutiny under the climate law.

Scenic Hudson’s Carlock said that’s unfortunate, but does make some sense.

“There is a difference between allowing a brand new facility to be constructed and start operating in the 2020s when we know that New York is going to prohibit fossil fuel generation by 2040 and the idea of giving a five-year renewal that currently exists while we ramp up our renewables,” she said. “That’s not to say it’s a good idea to issue those renewals.”
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