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# Cryptocurrency Mining Facility/Natural Gas-Fired Electric Generating Plant: New York Administrative Law Judge Upholds Denial of Clean Air Act Title V Permit Renewal

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A New York Administrative Law Judge (“ALJ”) issued a decision (Ruling on Issues and Party Status [“Decisions”]) upholding the State of New York Department of Conservation (“NYDEC”) decision to deny a Clean Air Act Title V permit renewal for Greenidge Generation, LLC (“GGL”).

GGL had filed an application to renew a Title V air permit for the continued operation of a natural gas-fired electric generating facility (“Facility”) in the Town of Torrey, New York.

The Facility is described as a primarily natural gas-fired electric generating plant. Generating capacity is estimated to be approximately 107 megawatts with a maximum heat input limited to 1,117 million BTUs per hour.

The Facility’s primary purpose has been described as providing energy behind-the-meter to a cryptocurrency mining operation.

NYDEC is stated to have determined that the Facility is operating primarily to meet a significant new energy load caused by its GGL PoW cryptocurrency mining operation.

The NYDEC denied GGL’s application for the Title V air permit renewal in 2022. The denial was based on application of New York’s Climate Leadership and Community Protection Act (“CLCPA”) which was enacted in 2019. The CLCPA requires NYDEC to establish a statewide greenhouse gas emissions limit as a percentage of 1990 emissions. A 60% reduction of 1990 emissions is required by 2030 and 15% of 1990 emissions by 2050.

The NYDEC permit renewal denial was stated to be based on the determination that the Facility would not comply with the requirements of the CLCPA. Factors that NYDEC are stated to have considered in the denial included:

- Increase in greenhouse gas emissions from the Facility since the passage of the CLCPA
- Referenced increase driven by the change in the primary purpose of its operations

In other words, an issue considered by NYDEC was the Facility’s change from primarily providing energy to New York’s electricity grid to instead providing energy behind-the-meter to support the demands of GGL’s cryptocurrency mining operations.

GGL appealed the NYDEC decision to the ALJ.

The ALJ upheld the NYDEC's decision that the GGL Facility's operations will interfere with the greenhouse gas emissions limits of the CLCPA. The ALJ stated:

. . . the increasing actual GHG emissions from the facility, and Greenidge's projections that the actual GHG emissions would continue to increase to match the maximum permitted PTE [Potential to Emit], were sufficient to establish that renewal of the facility was inconsistent with the GHG emissions goal of the CLCPA.

GGL was found to have failed to provide sufficient evidence proving that the Facility's operations as a cryptocurrency mine were "justified" under the CLCPA.

The ALJ also determined that there was insufficient evidence showing any real, permanent, quantifiable, and enforceable evidence to minimize or mitigate harms under the CLCPA.

A focus of both NYDEC and the ALJ's Decision was the fact that the Facility had changed in purpose from a peaker power plant to a constantly operating cryptocurrency mining operation. The NYDEC's determination that the primary purpose of the Facility had changed from a peaker facility to one primarily providing power to cryptocurrency mining behind-the-meter was upheld.

The ALJ therefore upheld NYDEC's denial Decision.

The ruling of the ALJ can now be appealed to the NYDEC Commissioner.

A copy of the ALJ's Decision can be downloaded [here](#).