

Indians Seek Funds From Edison

A coalition that includes Arizona Navajo and Hopi members seeks up to \$40 million a year in compensation after the closing of a power plant.

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Members of two Arizona Indian tribes asked regulators Wednesday to order Southern California Edison Co. to pay them as much as \$40 million a year to make up for job losses and other economic fallout from the shutdown of the massive Mohave power plant on Dec. 31.

A coalition that includes Navajo and Hopi Indians as well as environmental groups said the money also would compensate tribal members for "a long history of sacrifices" made on behalf of Edison customers who benefited from cheap power from the Mohave plant since it opened in 1971.

The plant in Laughlin, Nev., generated electricity for the Los Angeles Basin using coal dug from the Black Mesa mine on tribal lands in northeast Arizona. Losing its sole customer curtailed production and forced layoffs at Black Mesa, costing the Indians 200 high-paying jobs and \$20 million in annual mining royalties.

The Mohave plant, one of the biggest sources of sulfur dioxide pollution in the West, was closed after Edison failed to meet a deadline for installing expensive pollution-control equipment as required in the 1999 settlement of an environmental lawsuit.

In a motion filed Wednesday, the coalition asked the California Public Utilities Commission to order Edison to give the Indians money the utility is expected to earn by selling pollution credits created by mothballing the 1,585-megawatt power plant. Edison, which operated the plant and is its majority owner, relied on Mohave for 7% of its electricity.

The request for financial restitution, which has not been endorsed by the two tribal governments, is legally unprecedented, some energy experts said.

"They are plowing new ground, and it's going to be a tough argument to make," said Michael Shames, a veteran advocate for energy users with the Utility Consumers' Action Network.

Edison, a unit of Rosemead-based Edison International, declined to comment on the Indians' motion, saying it needed to review the document.

Meanwhile, the utility and Peabody Energy, the world's largest coal-mining company and operator of the Black Mesa mine, continue to negotiate with the two tribes' governments over contracts for coal and water supplies needed to possibly reopen the Mohave plant.

It's unclear how many Hopi and Navajo are actually active in the newly formed Just Transition Coalition, which also includes the Grand Canyon Trust and the Sierra Club among its members.

Beth Sutton, a spokeswoman for Peabody Energy, described the coalition as "a few vocal extremists" and said its PUC motion was "yet another red herring to divert attention from real solutions to minimize Mohave's shutdown."

The coalition wants the PUC to track Edison's sales of pollution credits and to make the funds available to the tribes for job creation and economic development, including solar and wind energy projects.

Under the federal Clean Air Act, owners of older power plants receive credits that allow them to continue operating without being fined for emitting excessive amounts of sulfur dioxide. Those credits can be sold to other polluters if the original owner reduces or eliminates its smokestack emissions.

The credits are traded on the open market and currently sell for about \$1,300 per ton of sulfur dioxide. Mohave annually poured about 53,000 tons a year into the atmosphere and potentially could earn \$65 million a year for its owners.

In addition to Edison's 56% stake, the Los Angeles Department of Water and Power and two Arizona utilities hold minority shares in the plant.

"It's wrong to allow [Edison] to reap hundreds of millions of dollars in new, unearned revenues from the sale of sulfur allowances," said Leonard Selestewa, a Hopi with a group called the Black Mesa Trust. "Millions of people have benefited from Mohave; now it's our turn."

PUC President Michael Peevey, who met with Selestewa and other coalition members, said he was sympathetic with the tribes' grievances.

"We've never been confronted with anything like this," he said.

Pollution credits collected by a utility typically belong to ratepayers, Peevey noted, and the commission will need to examine whether it's legal for revenue from the sale of those credits to be shared with outside groups.

The PUC also must consider the Indians' claims that they suffered financial hardships because of unfair contracts with Peabody and Edison, and weigh those against the benefits they received from royalty payments and job creation, Peevey said.

The Indians have as much claim to the revenue from Mohave emission credits as Edison ratepayers, and economic restitution would be "appropriate and just," said Sara Steck Myers, attorney for the Just Transition Coalition.

"There's been a contribution made by the Navajo and the Hopi nations to the welfare and benefit of California ratepayers as well as to Edison itself," she said.

Restitution payments to the Indians could pay off for California electricity consumers if they are invested in alternative energy projects that send power back to Los Angeles, said Roger Clark of the Grand Canyon Trust in Flagstaff, Ariz. The trust brought the original lawsuit against the Mohave plant, contending that its pollution was obscuring views of the renowned national park.

Development of alternative energy projects also would provide needed local power and jobs for the 8,000 Hopi and 250,000 Navajo tribal members, who suffer unemployment rates of close to 50%, Indian coalition members said.

Past royalty payments have not been "trickling down to the community level," said Marshall Johnson, a Navajo who lives near the Black Mesa mine.

The Indians make a strong argument for getting at least some financial support, said Matt Freedman, an analyst with the Consumer Reform Network, a ratepayer advocacy organization that regularly appears before the PUC.

"I think there's an obligation to provide a transition plan for the Hopi and Navajo people to help them move away from a reliance on dirty coal," Freedman said.