

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

**IN THE MATTER OF THE)
APPLICATION OF CATOCTIN)
POWER, LLC FOR A CERTIFICATE)
OF PUBLIC CONVENIENCE AND)
NECESSITY TO CONSTRUCT A) Case No. 8997
GENERATING STATION IN)
FREDERICK COUNTY,)
MARYLAND)
)**

SURREBUTTAL TESTIMONY OF GORDON CHIRDON

- 1 Q: Please state your name and business address.
- 2 A: Gordon Chirdon, Director, Sempra Generation, 101 Ash Street, San Diego, CA
3 92101.
- 4 Q: What is your role with respect to the Catoctin Power, LLC (“Catoctin”) Project?
- 5 A: I am responsible for the Project’s overall development activities.
- 6 Q: Have you previously filed testimony in this proceeding?
- 7 A: Yes.
- 8 Q: What is the purpose of your surrebuttal testimony?
- 9 A: The purpose of my surrebuttal testimony is to clarify certain issues with respect to
10 Frederick County’s Rebuttal Testimony by Gary Hessong.
- 11 Q: Mr. Hessong, in his rebuttal testimony, makes several statements regarding the
12 Frederick County Board of County Commissioner’s (BOCC’s) resolution related to

1 Catoctin Power placing 250 acres of land into agricultural preservation, passed on
2 October 21, 2004. Are you familiar with this testimony?

3 A: Yes.

4 Q: Mr. Hessong describes the intent of the BOCC in a number of places in his testimony.
5 Can you comment on Mr. Hessong's testimony in this regard?

6 A: Written and/or oral testimony regarding the BOCC's intent has been provided by
7 three witnesses for Frederick County (the "County"), namely, Mr. Gary Hessong, Mr.
8 Michael Marschner, and Ms. Betsy Smith. In their written and/or oral testimony, none of
9 the County's witnesses has advised their participation in or physical presence at the
10 BOCC October 21, 2004 meeting where the issue of land preservation was discussed and
11 the related resolution approved. Therefore, we believe that a transcript of the October 21,
12 2004 meeting, rather than testimony from witnesses who did not participate in and may
13 not have attended that meeting, provides the most direct source of information regarding
14 BOCC's intent when it requested agricultural preservation.

15 In response to Catoctin Power's previous requests of the County for a transcript of the
16 October 21, 2004 meeting, the County has provided only a video tape. Catoctin Power
17 hired a third-party court reporter to transcribe the videotape. We believe the transcript of
18 the October 21, 2004 BOCC meeting ("Transcript"), which is attached as Exhibit A, is
19 accurate and reflects that the BOCC's intent in requesting 250 acres of agricultural
20 preservation was to guarantee the existence of natural buffer around the Catoctin Power
21 site. See Transcript at 6 (lines 21-25), 9 (lines 23-25), and 18 (lines 2-5). The Transcript
22 also indicates that Commissioner Thompson believed BOCC's objective of guaranteeing

1 a natural buffer would be achieved if the parcels in question were zoned agricultural. See
2 Transcript at 8 (lines 9-14). Commissioner Thompson appears to be under the
3 misimpression that the parcels lying between the Catoctin Power site and St. Matthew's
4 Church are zoned industrial. See, e.g., Testimony at 8 (lines 9-14), 9 (lines 23-25) and 10
5 (lines 1-7). As previously testified to, the parcels that the BOCC has identified as the
6 preferred parcels for preservation are zoned agricultural and should already satisfy the
7 Commissioner's concerns.

8 Q: Page 4 of Mr. Hessong's rebuttal testimony includes a description of the two Eastalco
9 properties that are located near St. Matthews Church and that the BOCC has identified as
10 its preferred parcels for purposes of agricultural preservation. Do you have any
11 comments on this description?

12 A: Yes. At the outset, it is notable that Mr. Hessong's rebuttal testimony indicates that,
13 from his perspective, the BOCC's rationale for the proposed condition is to provide
14 buffer between the Catoctin Power project and St. Matthews Church. A close
15 examination of the two Eastalco properties, parcels 3 and 76 on Tax Map 94, however,
16 shows that only a very small portion of these properties is located between St. Matthews
17 Church and the proposed Catoctin Power facility. This issue is discussed in more detail
18 in Mr. Zwolak's December 23, 2004 rebuttal testimony.

19 Q: Page 4 of Mr. Hessong's rebuttal testimony notes that these 2 Eastalco properties are
20 currently zoned agricultural. Please comment on this.

21 A: Mr. Hessong is correct that the parcels that the BOCC identified for purposes of
22 agricultural preservation are already zoned agricultural. As noted in my rebuttal

1 testimony, since both identified parcels are already zoned for agricultural use, they
2 effectively provide the additional buffer the BOCC is seeking. It appears to us that the
3 BOCC's stated objective has been met since development on such parcels is currently
4 restricted to agricultural use and it is my understanding that any change in such zoning
5 designation could only occur under the Frederick County Comprehensive Planning
6 Program.

7 Q: Page 5 of Mr. Hessong's rebuttal testimony notes that the BOCC was concerned with
8 creating a buffer between St. Matthew's Church and the proposed Catoctin Power facility
9 to mitigate visual impacts and to prevent encroachment of additional non-agricultural
10 activities near the church. Please provide your comments related to this concern.

11 A: First, as I just discussed, the BOCC's preferred parcels for agricultural preservation
12 are already zoned agricultural, so they already effectively provide buffer protection the
13 BOCC may be seeking. Second, as provided in my and Mr. Zwolak's December 23,
14 2004 rebuttal testimony, Catoctin Power voluntarily submitted a Site Plan to the County.
15 The County's Site Plan review process considered buffering and screening, and the
16 County requested that Catoctin Power add significant plantings along the north side of
17 the Catoctin Power facility to mitigate visual impacts. Catoctin Power updated the Site
18 Plan to accommodate the County's request. Catoctin Power has requested that the Public
19 Service Commission incorporate the Site Plan into the Catoctin Power facility's CPCN.
20 Therefore, the BOCC's interests are sufficiently protected by both the existing zoning of
21 the County's preferred parcels and the County-approved Site Plan.

1 Q: On page 7 of his rebuttal testimony, Mr. Hessong states that the BOCC felt that
2 placement of land near St. Matthew's Church would help offset negative impacts of the
3 Catoctin Power facility. Can you comment on Mr. Hessong's statement?

4 A: The Transcript confirms that the BOCC, at their October 21, 2004 public meeting, did
5 not discuss any specific negative impacts of the Catoctin Power facility and did not tie
6 their agricultural preservation request to any such impacts. As discussed above, the main
7 concern expressed by the BOCC was preservation of the existing natural buffers.

8 Q: Page 6 of Mr. Hessong's rebuttal testimony provides a description of the Catoctin
9 Power facility Site Plan as related to buffering and screening. Could you comment on
10 this?

11 A: Catoctin Power agrees with Mr. Hessong's understanding that Notes 18 and 19 to the
12 Catoctin Power facility Site Plan were intended to establish an appropriate perimeter
13 around the Catoctin Power facility and to screen the north portion of the project site
14 closest to St. Matthew's Church. However, I would like to clarify that Catoctin Power
15 and the County have already agreed upon what Catoctin Power must do to satisfy these
16 conditions, and Catoctin Power and the County have worked together to update the Site
17 Plan to include these requirements. Therefore, Catoctin Power has already committed to
18 specific buffering and screening for the Catoctin Power facility and Catoctin Power does
19 not anticipate further discussions regarding Notes 18 and 19.

20 To clarify this issue, it may be helpful to review the Site Plan review process. On July 2,
21 2004, Catoctin Power voluntarily submitted a Site Plan to the Frederick County Division
22 of Permitting and Planning Review (DPDR). Subsequently, on July 30, 2004, Catoctin

1 Power and its consultant, Golder Associates, participated in a review of the Site Plan with
2 the DPDR Technical Advisory Committee. At that meeting, DPDR advised us that Notes
3 18 and 19 to the Site Plan, which Mr. Hessong describes in his December 23, 2004
4 rebuttal, were too general to adequately address the County's buffering and screening
5 concerns. DPDR requested that Catoclin Power revise its Site Plan to include the
6 County's specific screening requirements, which DPDR described as "Screening
7 adequate as per the ordinance . . . with landscaping areas a minimum of 5' in width." In
8 other words, DPDR wanted Catoclin Power to update its Site Plan to show specific
9 buffering and screening that would be sufficient to meet the County's visibility and
10 screening objectives and requirements. In response to this comment, and after a detailed
11 discussion with DPDR staff, Catoclin Power revised the Site Plan to specifically show all
12 plantings. This revised Site Plan was provided to the County in Catoclin Power's August
13 9, 2004 letter to DPDR, and was the same Site Plan that was provided to the County
14 Planning Commission in support of the August 18, 2004 public meeting before the
15 Planning Commission. As noted in Mr. Hessong's September 29, 2004 testimony, the
16 revised Catoclin Power facility Site Plan addressed every concern raised during the
17 County Site Plan review process. Therefore, Catoclin Power's understanding is that the
18 changes made to the Catoclin Power Site Plan, which were done in coordination with the
19 DPDR staff and reviewed in a public forum before the County Planning Commission,
20 meet the County's buffering and screening requirements. Furthermore, as requested in
21 Mr. Hessong's September 29, 2004 testimony, Catoclin Power has committed to comply
22 with the Site Plan as reflected in draft Condition FC-10 submitted with my December 23,
23 2004 rebuttal testimony.

1 Q: On page 6 of Mr. Hessong's testimony, as related to the screening and buffering
2 provisions shown on the final Catoctin Power facility Site Plan, he states "I assume that
3 there will be some discussion [between Catoctin Power and the County] as to what these
4 provisions will actually require." Can you comment on this statement?

5 A: As I described in my previous response, Catoctin Power and DPDR have already had
6 the discussions referred to by Mr. Hessong. The Site Plan reflects the County's buffering
7 and screening requirements. Catoctin Power remains committed to comply with the
8 agreed Site Plan, as requested by the County in Mr. Hessong's September 29, 2004
9 testimony and noted by Catoctin Power in draft Condition FC-10.