

ORDER NO: 81221

IN THE MATTER OF THE APPLICATION OF
CATOCTIN POWER, LLC FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO CONSTRUCT A
NOMINAL 600 MW GENERATING
FACILITY IN FREDERICK COUNTY,
MARYLAND

*
*
*
*

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 8997

The Commission granted Catoctin Power LLC (“Catoctin”) a Certificate of Public Convenience and Necessity (“CPCN”) in this docket by issuance of Order No. 79923 on April 25, 2005.¹ This CPCN authorized the construction and operation of a 600 MW natural gas-fired electric generating facility in Frederick County, MD. The CPCN incorporates over 100 conditions, primarily concerning environmental issues.

On October 16, 2006, Catoctin filed a *Motion by Catoctin Power, LLC to Amend Certain Conditions of its Certificate of Public Convenience and Necessity* (“Motion to Amend”). The Motion to Amend seeks to amend certain conditions of the CPCN to reflect an extension in several deadlines imposed by CPCN conditions and to incorporate new environmental standards promulgated since the CPCN was granted. Specifically, Catoctin requests to extend the deadline contained in Condition Nos. 10, 50, 52, and 61. Condition Nos. 10 (Air Quality Provisions) and 50 (Water Supply) impose an 18-month deadline, which Catoctin seeks to extend to 36 months. Condition Nos. 52 (Water Appropriation for Direct Withdrawal from the Potomac River, if applicable) and 61 (Wastewater Effluent Use for Cooling, if applicable) impose a 2-year deadline, which

¹ *Re Catoctin Power, LLC*, 96 Md. PSC 124 (2005).

deadline Catoctin seeks to extend to 4 years and 42 months, respectively. Catoctin also requests to change Condition Nos. 17, 18, 21 and 24 to incorporate new environmental standards and to make administrative changes to other conditions to reflect the substantive changes noted above.

On October 19, 2006, the Maryland Departments of the Environment and Natural Resources (“State agencies”) recommended that the Commission grant the Motion to Amend. The State agencies proffer a Supplemental Environmental Review Document dated October 17, 2006, supporting its position and recommending a review procedure consistent with federal guidelines for extending the deadline of a permit to construct under air quality regulations.²

On October 23, 2006, the Commission’s Technical Staff (“Staff”) filed initial comments which recommended that the Commission direct Catoctin to publish notice of the proposed amendments to the CPCN and consider the merits of the Motion to Amend at a subsequent weekly administrative meeting of the Commission after receipt of public comments. Staff noted that its procedural recommendation is consistent with federal guidelines pursuant to federal environmental laws, which guidelines specify certain administrative, technical and procedural elements in order to extend an air quality provision of a permit to construct. Staff also noted that the State agencies evaluated the proposed amendments to the CPCN and that they concluded that the proposal meets environmental standards.

² The Commission’s regulations address the review of applications for a CPCN to construct electric generating facilities and overhead transmission lines, as well as applications for a CPCN to modify existing electric generating facilities and transmission lines. The Commission has addressed CPCN amendment issues that do not involve the modification of existing facilities on a case-by-case basis.

After considering the matter at the October 25, 2006 Administrative Meeting, the Commission directed Catoctin to publish a notice of the proposed amendments and preliminarily approved the Motion to Amend pending receipt of comments and subject to revision after the comment period, if necessary.³

On January 9, 2007, Catoctin and the Power Plant Research Program (“PPRP”) of the Maryland Department of Natural Resources filed a joint letter advising the Commission that the two parties have agreed to the amended conditions, which are attached to the joint letter. The two parties provided a clean copy of the conditions, which are attached to this order as discussed below. In addition, on January 9, 2007, Catoctin filed certificates of publication demonstrating that it complied with the Commission’s October 25, 2006 directive to cause notice to be published.

In response to the January 9th filings, Staff submitted supplemental comments in this matter recommending that the Commission authorize Catoctin to amend its CPCN issued in this case consistent with the conditions attached to the January 9th joint filing by Catoctin and PPRP. Staff notes that the comment period closed on December 20, 2006 and that the Commission did not receive any public comments concerning the request to amend the CPCN. Staff further notes that the State agencies have reviewed Catoctin’s request to amend the CPCN and the State agencies’ analyses were provided to the Commission as an attachment to the agencies’ October 19th filing.

After considering the matter at the January 17, 2007 Administrative Meeting, the Commission granted on a permanent basis Catoctin’s Motion to Amend its CPCN by extending certain deadlines imposed therein and incorporating certain new environmental

³ See the Commission’s October 25, 2006 letter order entered in the Case No. 8997 docket.

standards. The Commission further authorized the issuance of an amended CPCN to Catoctin, consistent with conditions agreed to by Catoctin and PPRP and attached to their joint filing on January 9, 2007.

IT IS THEREFORE, this 22nd day of January, in the year Two Thousand and Seven, by the Public Service Commission of Maryland,

ORDERED: (1) That Catoctin is authorized to amend its CPCN and the CPCN is so amended consistent with the Conditions agreed to by Catoctin and PPRP, which Conditions now supersede prior applicable conditions.

(2) That the CPCN Conditions for the project in this matter are hereby attached to this order.

By the Direction of the Commission,

O. Ray Bourland
Executive Secretary