

ORDER NO. 81994

IN THE MATTER OF THE APPLICATION OF CATOCTIN POWER, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A NOMINAL 600MW GENERATING FACILITY IN FREDERICK COUNTY, MARYLAND	* * * * * * * *	BEFORE THE PUBLIC SERVICE COMMISSION OF MARYLAND _____ CASE NO. 8997 _____
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To: All Parties of Record

On April 24, 2008, Catoctin Power, LLC (“Catoctin” or the “Company”) filed a *Motion by Catoctin Power, LLC to Amend Certain Conditions of its Certificate of Public Convenience and Necessity* (“Motion”) in this proceeding. The Motion asked the Public Service Commission (“Commission”) to grant a fourteen (14) month extension of the deadline to Condition 10 set forth in the Certificate of Public Convenience and Necessity granted to the Company by Order No. 79923 dated April 25, 2005, then extended by Order No. 81221, dated January 22, 2007. The Motion was filed the day before the deadline set forth in Condition 10, as amended, was to expire. On April 25, 2008, the Commission issued a Letter Order in which it tolled the expiration of the deadline of Condition 10 and set the matter for hearing as part of its Administrative Meeting on April 30, 2008.

On April 30, 2008, the Company appeared at the Administrative Meeting and responded to various questions by the Commission. In addition, Brent Hare, an Assistant Attorney General, appeared on behalf of the Maryland Departments of the Environment and Natural Resources and the Maryland Energy Administration, and advised the Commission that certain State agencies would provide within thirty (30) days a status

report to the Commission on whether Condition 10 could be met without modification to the CPCN or whether other conditions should be revised or added to the CPCN due to changes to relevant laws or regulations since the CPCN was last extended. Representatives of the Company advised the Commission that the project would satisfy all applicable environmental requirements.

After consideration of the matter at the Administrative Meeting and further deliberations, the Commission will toll the deadline for Condition 10 of the CPCN until June 11, 2008 to provide the Company the opportunity to meet the following conditions:

- 1) The Company must: (a) offer into the May 2008 PJM Reliability Pricing Model Base Residual Auction, as a resource-specific sell offer from the Company's proposed Generating Facility in Frederick County, Maryland (the "Facility"), no less than 500 megawatts ("MW"); and, (b) the offer must be equal to or less than the Resource Clearing Price (*i.e.*, the entire offer must clear);
- 2) The Company and the applicable State agencies must make a joint written representation by June 11, 2008, that: (a) there are no new environmental requirements that must be met by the Company; or, (b) if there are any new environmental requirements that must be met by the Company, the Company must agree, in writing, to meet those new requirements; and,

- 3) The Company must submit an executed agreement with the Frederick County Board of Commissioners resolving the tax credits and water issues, or written evidence that an agreement in principle, to the Commission by June 11, 2008.

If the Company satisfies the foregoing conditions, the Commission will grant an extension of Condition 10 for a period of six months, with the opportunity for the Company to seek a further extension for good cause shown, and upon demonstration that the Company has been diligently pursuing the construction of facility so as to be online by 2011.

The Commission notes that prior to June 11, 2008, and rather than satisfying the foregoing conditions, the Company may also satisfy Condition 10 by signing an agreement that would meet the definition of “commencement of construction” (“Construction Agreement”). Under this option, the Company’s request for extension would become moot.

The Company is directed to appear at the Administrative Meeting to be held on June 11, 2008 to demonstrate that these three (3) conditions have been met, or that the Company has signed a Construction Agreement.

The Commission requests that a representative appear on behalf of the applicable State agencies.

IT IS THEREFORE, this 2nd day of May, in the year Two Thousand and Eight, by the Public Service Commission of Maryland,

ORDERED: 1) That the tolling of deadline for completion of Condition 10 of the CPCN is extended until June 11, 2008 to provide the Company the opportunity to meet the following conditions:

- i. The Company must: (a) offer into the May 2008 PJM Reliability Pricing Model Base Residual Auction, as a resource-specific sell offer from the Company's Facility, no less than 500MWs; and, (b) the offer must be equal to or less than the Resource Clearing Price (*i.e.*, the entire offer must clear);
- ii. The Company and the applicable State agencies must make a joint written representation by June 11, 2008, that: (a) there are no new environmental requirements that must be met by the Company; or, (b) if there are any new environmental requirements that must be met by the Company, the Company must agree, in writing, to meet those new requirements; and,
- iii. The Company must submit an executed agreement with the Frederick County Board of Commissioners resolving the tax credits and water issues, or written evidence of an agreement in principle, to the Commission by June 11, 2008; and

2. The Company is directed to appear at the Administrative Meeting on June 11, 2008 to report on whether it has satisfied the three (3) conditions or has executed a Construction Agreement.

By Direction of the Commission,

/s/ Terry J. Romine

Terry J. Romine
Executive Secretary