

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-9, SUB 728

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of GESS International North	)	ORDER APPROVING
Carolina, Inc., for Approval to Participate in	)	PARTICIPATION IN PILOT
Alternative Gas Pilot Program and for Approval	)	PROGRAM WITH CONDITIONS
of Receipt Agreements	)	

BY THE COMMISSION: On June 19, 2018, in Docket No. G-9, Sub 698, the Commission issued an Order Approving Appendix F and Establishing Pilot Program (Appendix F Order). In summary, the Appendix F Order approved a three-year pilot program to implement Appendix F to the Service Regulations of Piedmont Natural Gas Company, Inc. (Piedmont). Appendix F sets guidelines for Piedmont's receipt of Alternative Gas for delivery and redelivery on Piedmont's distribution system. With regard to participants in the pilot program, the Appendix F Order provides that "Piedmont and/or other Alternative Gas suppliers may apply to the Commission to participate in the pilot program; however, it must be demonstrated to the Commission that such additions will be useful in gathering information and data sought by the Commission." Appendix F Order, p. 5.

The Commission has approved participation in the pilot program by four Alternative Gas suppliers: C2e Renewables NC, in Docket No. G-9, Sub 699; Optima KV, LLC, in Docket No. G-9, Sub 701; Optima TH, LLC, in Docket No. G-9, Sub 726; and Catawba Biogas, LLC, in Docket No. G-9, Sub 735.

On August 30, 2018, in Docket No. G-9, Sub 728, GESS International North Carolina, Inc. (GESS) filed an application requesting to participate in the pilot program created by the Appendix F Order, and for approval of receipt agreements that GESS plans to enter into with Piedmont. The application described GESS's plan for producing Alternative Gas at five anaerobic digestion facilities located in five counties. In addition, GESS stated that Piedmont had designated injection points on its pipeline for the injection of GESS's Alternative Gas, that GESS had engaged in extensive contract negotiations with Piedmont regarding a receipt agreement, and that Piedmont had no objection to GESS's participation in the Appendix F pilot program.

Also on August 30, 2018, in Docket No. SP-13243, Sub 0, GESS filed an application requesting declaratory rulings on several aspects of its proposed Alternative Gas operations.

On September 6, 2018, in Docket No. G-9, Sub 728, Piedmont filed a Statement of Position. According to Piedmont, its Statement was filed in order to clarify a number of the assertions contained in GESS's application. In summary, Piedmont stated that it had

not made a determination of specific injection sites for GESS's Alternative Gas, that it had not had extensive contract negotiations with GESS, and that Piedmont had not indicated to GESS that it has no objection to GESS's participation in the pilot program.

Subsequent to Piedmont's filing, counsel for GESS contacted Commission Staff and requested that the Commission take no action on GESS's applications until GESS engaged in further discussions with Piedmont and filed supplemental information.

On January 2, 2019, GESS filed a document entitled First Supplemental and Amended Application of GESS International North Carolina, Inc. (Amended Application), in Docket No. G-9, Sub 728. The Amended Application stated that it "amends and replaces completely the original Application of GESS in this Docket to address concerns raised by Piedmont." Amended Application, at 1. GESS requested that the Commission expeditiously approve GESS's participation in the Appendix F pilot program, conditioned upon Commission approval of interconnect agreements to be negotiated and filed later by GESS and Piedmont.

GESS's Amended Application described its plan to construct five anaerobic digestion facilities located in five counties – Bladen, Columbus, Robeson, Union and Wilson. GESS stated that it has obtained lease agreements for 15 years, with three optional 5-year extensions, for each of the five digester sites. Further, GESS stated that it expects the time from commencement of construction to full Alternative Gas production for each facility to be approximately sixteen months or less.

In addition, GESS stated that the Alternative Gas produced by its anaerobic digestion facilities will be predominantly swine-based biogas, that GESS's affiliates will handle all manure pick-up and delivery from its waste sources, and that at full production each facility is projected to produce enough Alternative Gas to fill four tanker trucks per day, containing roughly 1400 Mcf of scrubbed, cleaned and pressurized swine-based biogas. In addition, GESS referenced a "green" biogas feed stock that will be delivered to its facilities by participating farmers. GESS further stated that it plans to sell and deliver a portion of the Alternative Gas and its environmental attributes to Duke Energy Carolinas, LLC (DEC) for DEC and as an agent on behalf of Duke Energy Progress, LLC (DEP). According to GESS, it informed DEC and DEP of its intent to file the Amended Application and provided them a copy, and has received no objection from them.

With respect to interconnection with Piedmont's pipeline, GESS stated that its anaerobic digestion facilities will not be physically interconnected to Piedmont's pipeline, or the pipeline of any other operator. GESS stated that it has applied for receipt agreements with Piedmont for three injection points, including one injection point in Bladen County for the GESS facilities in Bladen, Columbus and Robeson counties, one injection point in Union County, and one injection point in Wilson County. GESS stated that Piedmont provided it with boundary maps to assist GESS in identifying the three proposed injection sites. GESS attached the boundary maps as exhibits to its Amended Application. GESS stated that it has provided Piedmont with proposed injection sites to be located within the boundaries identified on the boundary maps provided by Piedmont. Moreover, GESS stated that it informed Piedmont of its intent to file the Amended

Application and provided Piedmont a copy, but it has not received a response from Piedmont.

GESS stated that its participation in the Appendix F pilot program will provide Piedmont and the Commission with useful data and information based on: (1) GESS's wider geographical range, (2) GESS's relatively short time from beginning construction to commercial operation, and (3) GESS's diversified feed stock. In addition, GESS stated that it consents to the present requirements of the Appendix F standards, and to any subsequent Commission amendments to Appendix F and applicable Commission rules. Finally, GESS cited several public policy considerations in support of its Amended Application, including assisting DEC and DEP to meet their renewable energy goals, the creation of locally-based jobs in the locations of its five facilities, and its expenditure of substantial time and resources in the development of its plan.

On January 28, 2019, the Public Staff filed a letter stating that it reviewed GESS's Amended Application and Piedmont's Statement of Position, and that it has no objection to GESS participating in the Appendix F pilot program, subject to the Commission's approval of a receipt interconnect agreement between GESS and Piedmont.

On January 31, 2019, the Commission issued an Order Requesting Additional Information that required GESS to provide information as soon as reasonably possible in response to 15 questions.

On March 1, 2019, GESS filed its Responses to Order Requesting Additional Information, providing information about the locations of its five anaerobic digester facilities and three injection facilities, details about the construction and operation of those facilities, and details about the sources, content and mix of the anaerobic digester feedstock to be used by GESS. Several of GESS's responses were filed under seal as proprietary information.

Also on March 1, 2019, Piedmont filed responses to Commission questions number 10, 11(c), 14 and 15. Piedmont explained that it was better situated than GESS to respond to these questions, since the questions pertained to the operation of Piedmont's system. Piedmont's responses to questions number 14 and 15 concerning the size and operating pressure of Piedmont's pipeline at the proposed injection points, and the current winter and summer volumes and direction of flow on Piedmont's lines at the proposed injection points were filed under seal as proprietary information.

Based on the foregoing and the record, the Commission finds and concludes that GESS's proposed facilities will assist Piedmont and the Commission in gathering information and data that will be helpful in assessing the impacts of Alternative Gas on Piedmont's service to its customers. The Commission finds persuasive the fact that GESS's proposed facilities will use a mixture of feedstock, including swine and poultry waste, and, as described by GESS, "green biomass." This mixture of feedstock is different from that used or to be used by C2e, Optima KV, Optima TH, and Catawba. In addition, GESS's proposal to truck its Alternative Gas to several injection points on Piedmont's system introduces the intriguing possibility of targeting the mix and flow of Alternative Gas

to respond to variations in local or regional demand. Finally, the Commission views GESS's agreement to comply with the standards of Appendix F, and any revisions to Appendix F and the Commission's Rules, as reasonable assurance of the safe and secure receipt and transport of GESS's Alternative Gas on Piedmont's system.

The Commission further notes that in previous dockets involving Alternative Gas interconnect agreements the Public Staff raised an issue regarding the potential federal income tax implications of Piedmont's receipt of capital payments from the Alternative Gas suppliers. As a result, the Commission included the following conditions in the approval orders: (1) Piedmont's ratepayers will be held harmless if Piedmont is required to pay income taxes on capital payments made by the suppliers to Piedmont, and (2) the Commission's approval of participation in the pilot program and/or interconnect agreements was without prejudice to the right of any party to take issue with the ratemaking treatment of revenues and costs related thereto in an appropriate proceeding. The Commission finds and concludes that these two conditions should be included as part of its approval of GESS's participation in the Appendix F pilot program.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission hereby approves the participation of GESS International North Carolina, Inc., in the Piedmont Appendix F Alternative Gas pilot program, subject to GESS and Piedmont entering into a receipt agreement to be approved by the Commission.

2. That GESS's participation in the pilot program, as well as any subsequent Alternative Gas agreements with Piedmont, shall be subject to any revisions to Piedmont's Alternative Gas guidelines that may be made by the Commission, and applicable amendments to the Commission's Rules.

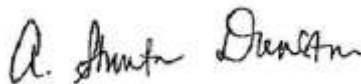
3. That Piedmont's ratepayers shall be held harmless if Piedmont is required to pay income taxes on any capital payments made by GESS to Piedmont.

4. That the Commission's approval of GESS's participation in the pilot program is without prejudice to the right of any party to take issue in an appropriate proceeding with the ratemaking treatment of the revenues and costs associated with GESS's participation.

ISSUED BY ORDER OF THE COMMISSION.

This the 11<sup>th</sup> day of March, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "A. Shonta Dunston".

A. Shonta Dunston, Deputy Clerk