

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. G-9, SUB 726

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Optima TH, LLC for)	ORDER APPROVING
Approval to Participate in Alternative)	APPLICATION WITH
Gas Pilot Program)	CONDITIONS

BY THE COMMISSION: On June 19, 2018, the Commission issued an Order Approving Appendix F and Establishing Pilot Program (Appendix F Order) in Docket No. G-9, Sub 698. 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), subject to the requirement that Piedmont provide the Commission additional information within 60 days. Appendix F sets guidelines for Piedmont's receipt of Alternative Gas for delivery and redelivery on Piedmont's distribution system. The Commission had previously entered orders, in Docket Nos. G-9, Subs 699 and 701, approving interconnection agreements by Piedmont with C2e Renewables NC and Optima KV, LLC, respectively, for delivery of Alternative Gas to Piedmont (Interconnection Orders). The Appendix F Order authorized C2e and Optima KV to participate in the pilot program. With regard to additional 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.

On July 12, 2018, in Docket No. G-9, Sub 726, Optima TH, LLC (Optima TH) filed an application requesting to participate in the pilot program created by the Appendix F Order. In summary, Optima TH states that its biogas facility will be located in Bladen County, North Carolina, and that it plans to interconnect with Piedmont's natural gas pipeline facilities to transport Alternative Gas, as defined in the Appendix F Order. Further, Optima TH states that it plans to sell Alternative Gas, and associated environmental attributes, to Duke Energy Carolinas, LLC (DEC) for DEC's use and in DEC's capacity as an agent on behalf of Duke Energy Progress, LLC (DEP). Optima TH notes that in combination with the Optima KV facility, the Optima TH facility will be the second Optima biogas project in North Carolina. It cites the requirement in the Appendix F Order that Optima KV is subject to any revisions to Appendix F that may be made by the Commission, as well as any applicable amendments to the Commission's Rules and Regulations, and states that Optima TH will be equally committed to meeting the Commission's standards for the pilot program. Optima TH states that it informed DEC and DEP of its intent to file an application to participate in the pilot program, and that it has been informed that DEC and DEP support the application and will file a letter of support.

Moreover, Optima TH states that it informed Piedmont of its intent to file the application and has been informed that Piedmont has no objection to such filing or Optima TH's participation in the pilot program.

Optima TH contends that its Alternative Gas facility will be useful in gathering information and data sought by the Commission for three reasons. First, the Alternative Gas produced by Optima TH will flow through Piedmont's pipeline directly to an existing industrial user of natural gas, Smithfield Foods, for its manufacturing process, and is expected to represent approximately 30-40% of the total gas flow at the end of this pipeline segment. Optima TH notes that, in contrast, the flow from the Optima KV project will be substantially diluted with fossil derived natural gas due to Optima KV's location midstream on a large capacity transmission line. Thus, Optima TH submits that its different gas mixture and flow will provide information and data on potential impacts to upstream pipelines and infrastructure, as well as data and insight as to an Alternative Gas project's ability to provide flexibility to assist, cooperate with or support Piedmont in operating an existing transmission line. In addition, Optima TH maintains that it will provide further data to monitor and evaluate an additional receipt point and allow Piedmont to make modifications "to ensure that no customers are adversely impacted as Alternative Gas receipt points are added." Appendix F Order, p. 11.

Second, Optima TH notes that the Alternative Gas generated by its facility utilizes food processing wastes, an alternative feedstock compared to the Optima KV and C2e facilities.

Third, Optima TH states that its facility will provide the Commission with feedback from an existing customer, Smithfield Foods, that is already receiving service from Piedmont for its manufacturing process, and that Smithfield Foods supports the Optima TH project.

Optima TH further states that it has substantially agreed-upon terms, and is in final contract negotiations with Smithfield Foods, DEC and Piedmont, and that the advanced delivery status of Optima TH means that the Commission and Piedmont are likely to have a project that is operational and gathering information during the early portion of the pilot program.

In addition, Optima TH cites three factors that it contends are public policy reasons to approve Optima TH's participation in the pilot program: (1) DEC and DEP support Optima TH's participation because they plan to purchase the biogas in order to meet and comply with North Carolina's Renewable Energy and Energy Efficiency Portfolio Standards (REPS) pursuant to N.C. Gen. Stat. § 62-133.8 (2016), thus supporting the state policy to encourage generation of renewable energy; (2) the Optima TH project will invest approximately \$15 million in Bladen County and, specifically, the Town of Tar Heel, a rural community in a Tier 1 County that supports the project; and (3) Optima TH has invested considerable time, energy and resources in the project in anticipation of construction, and further delay would be financially detrimental to Optima TH, subcontractors, vendors and other businesses in North Carolina.

On July 13, 2018, the Public Staff filed a letter stating that the Public Staff reviewed Optima TH's application and has no objection to Optima TH participating in the pilot program.

On July 18, 2018, Smithfield Foods filed a letter stating its support for Optima TH's application. In summary, Smithfield Foods states that its facility located in Tar Heel, North Carolina, has been capturing biogas from its waste treatment plant and using the biogas to fire its boilers. Smithfield Foods notes, however, that the timing of the production of the biogas and its need for the biogas do not always match, thus resulting in the flaring of biogas on a regular basis. Smithfield Foods further states that Optima TH's participation in the Piedmont pilot program will allow all of the biogas to be injected into Piedmont's system for use as a renewable fuel. In addition, Smithfield Foods states that Optima TH's participation in the pilot program will be useful in gathering information about Alternative Gas, will assist DEC and DEP in their efforts to comply with the REPS requirements, and will contribute to the economy of Tar Heel and the region.

On August 8, 2018, DEC and DEP (collectively, Duke) filed a letter in support of the Alternative Gas pilot program. In summary, Duke states that the pilot program and the experience to be gained by Piedmont will assist Duke in meeting its REPS obligations under the swine waste-to-energy and poultry waste-to-energy set-aside requirements. In addition, Duke states that it has a current supply agreement with Optima TH, and has no objection to Optima TH's application in this docket.

On August 17, 2018, Optima TH filed its Supplemental Information, Request for Approval of Receipt Interconnect Agreement, and the confidential Receipt Interconnect Agreement (Agreement). In the Agreement, Optima TH and Piedmont have agreed on the terms and have made provisions for future changes to Appendix F, the pilot program, and the Appendix F Order. In order for Optima TH to sell its Alternative Gas and provide information and data sought by the Commission for the pilot program, natural gas lines and facilities must be constructed, and the construction process can take more than a year. To commence the project, Optima TH needs the Commission's authorization to proceed. Therefore, Optima TH requests that the Commission approve both its Application and the proposed Agreement at the Commission's earliest convenience.

Based on the foregoing and the record, the Commission concludes that Optima TH's facility 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. In particular, the Commission finds persuasive the fact that Optima TH uses a feedstock different from that of Optima KV and C2e. In addition, the Commission concludes that Optima TH's agreement to comply with the standards of Appendix F, and any revisions to Appendix F and the Commission's Rules that are ultimately determined necessary by the Commission, provides reasonable assurance of the safe and secure receipt and transport of Optima TH's Alternative Gas on Piedmont's system.

The Commission further notes that in the prior dockets involving C2e's and Optima KV's interconnection agreements the Public Staff raised an issue regarding the potential

federal income tax implications of Piedmont's receipt of capital payments from C2e and Optima KV. As a result, the Commission included the following conditions in the Interconnection Orders: (1) Piedmont's ratepayers will be held harmless if Piedmont is required to pay income taxes on capital payments made by C2e or Optima KV; and (2) the Commission's approval of the interconnection agreements was without prejudice to the right of any party to take issue with the ratemaking treatment of revenues and costs under the agreements in an appropriate proceeding. The Commission finds good cause to include these two conditions as part of its approval of Optima TH's participation in the Appendix F pilot program.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission hereby approves the participation of Optima TH, LLC, in the Piedmont Appendix F Alternative Gas pilot program, subject to the approval of the Receipt Interconnect Agreement by the Commission.
2. That Optima TH, LLC'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 proposed 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 Optima TH, LLC, to Piedmont.
4. That the Commission's approval of Optima TH, LLC'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 Optima TH's participation.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of August, 2018.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Janice H. Fulmore", is written over a light blue horizontal line.

Janice H. Fulmore, Deputy Clerk