

**STATE OF NORTH CAROLINA UTILITIES COMMISSION
RALEIGH**

DOCKET NO. G-9, Sub 739

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

| | | |
|------------------------------------|---|-----------------------------|
| In the Matter of Application of |) | APPLICATION TO |
| Foothills Renewables LLC For |) | PARTICIPATE IN PILOT |
| Approval to Participate in Pilot |) | PROGRAM |
| Program In Docket No. G-9, Sub 698 |) | |

Pursuant to North Carolina Utilities Commission (“Commission”) Rule R1-5 and the Commission’s Order Approving Appendix F and Establishing Pilot Program in Docket No. G-9, Sub 698 issued on June 19, 2018 (the “Order”), Foothills Renewables LLC (“Foothills” or the “Applicant”) hereby applies to participate in the pilot program created by the Order (the “Pilot Program”) and respectfully requests that the Commission expeditiously approve Foothill’s participation in the Pilot Program. In support of its Application, Foothills hereby submits the following to the Commission.

PARTIES

1. Foothills is a Delaware limited liability company with its principal place of business in Lenoir, North Carolina.
2. Correspondence in connection with this Application should be sent as follows:

Foothills Renewables LLC
c/o Evensol LLC
15820 Barclay Drive
Sisters, Oregon 97759
Tel.: (541) 719-1106
E-mail: dwentworth@evensol.com

with a copy to Counsel for the Applicant as follows:

Benjamin L. Snowden, Esq.
Kilpatrick Townsend & Stockton LLP
4208 Six Forks Road
Suite 1400
Raleigh, North Carolina
Tel.: (919) 420-1719
E-Mail: bsnowden@kilpatricktownsend.com

The Applicant and Counsel agree to electronic service.

3. Foothills' Alternative Gas production facility (the "Foothills Facility") will be located at the Foothills Regional Municipal Solid Waste ("MSW") Landfill in Lenoir, Caldwell County, North Carolina. Foothills is currently in the final stages of developing, designing, permitting, and financing the Foothills Facility, and expects to commence construction imminently. When completed, the Foothills Facility will operate as a 2,750 standard cubic feet per minute ("scfm") landfill gas-fueled renewable natural gas project which, Applicant believes, will be one of the largest Alternative Gas projects operating in the State of North Carolina.¹ Foothills plans to sell Alternative Gas, as defined in the Order, p.1, note 1, to one or more credit-worthy counterparties with direct experience in the transportation, storage, and utilization of Alternative Gas, which are customer(s) receiving service from Piedmont ("Purchaser"). Foothills plans to interconnect with Piedmont Natural Gas Company's ("Piedmont") natural gas pipeline facilities to transport the Alternative Gas to Purchaser.

4. Foothills has informed Piedmont of its intent to file this Application and has been informed that Piedmont has no objection to such filing.

¹ Applicant also notes that in addition to the Foothills Facility, an affiliate of the Applicant is currently in the latter stages of developing, designing, permitting, and financing, and will shortly begin construction on a companion landfill gas-fueled renewable natural gas project located in Person County, North Carolina.

BACKGROUND

5. On December 6, 2016, Piedmont filed a petition in Docket No. G-9, Sub 698 requesting approval of proposed Appendix F, Statement of Alternative Gas Requirements. After receiving comments from intervenors, the Commission issued an Order Requiring Collaborative Meetings, Reports, and Additional Information on May 4, 2017. Piedmont also filed for approval of two receipt interconnect agreements, one with C2e Renewables NC (“C2e”) (Docket No. G-9, Sub 699) and the other Optima KV, LLC (“Optima KV”) (Docket No. G-9, Sub 701) both of which were approved by the Commission with conditions on May 10, 2018. On October 26, 2017, Piedmont filed a revised Appendix F, amended to reflect discussions during the collaborative process. On October 31, 2017, the Public Staff filed the final report provided for in the Commission’s May 4, 2017 Order.

6. The Commission’s June 19, 2018 Order made specific revisions to Appendix F and created a Pilot Program for a period of three (3) years during which Piedmont will report to the Commission “regarding the impact of Alternative Gas on its system operations and, ultimately its customers.” Order, p. 5. The Commission ordered that “the C2e and the Optima KV projects shall be allowed to participate in the pilot program and the additional Alternative Gas Suppliers shall be allowed to participate in the pilot program upon a showing to the Commission that any such project will aid in the information and data sought to be gathered through the pilot program.” Order, p. 17. The Commission provided the following guidance for applications to be in the Pilot Program: “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 Commission.” Order, p. 5. The information and data sought by the

Commission includes general information concerning the potential impacts of receiving Alternative Gas on Piedmont's customers, as well as information documenting daily quantity, heat content, and Wobbe numbers for the gas provided to Piedmont by Alternative Gas suppliers. Order, p. 18.

7. On July 12, 2018, Optima TH, LLC, a North Carolina limited liability company and an affiliate of Optima KV ("Optima TH"), filed an Application for Approval to Participate in Pilot Program (Docket No. G-9, Sub 726) with the Commission. On July 13, 2018, the Commission's Public Staff submitted a letter to the Commission confirming that it had no objection to Optima TH's participation in the Pilot Program. On August 27, 2018, the Commission approved Optima TH's participation in the Pilot Program.

REQUEST FOR APPROVAL TO ENTER PILOT PROGRAM

8. Foothills respectfully requests approval to participate in the Pilot Program and submits that its project in Caldwell County will be "useful in gathering information and data sought by the Commission." Foothills is different from the three Alternative Gas projects currently included in the Pilot Program, namely Optima KV, C2e and Optima TH, and will be useful in gathering information and data sought by the Commission for the following reasons.

9. The Alternative Gas produced from Foothills Facility will be injected into Piedmont's facilities at a location agreed upon by Foothills and Piedmont (midstream on a large capacity transmission line), which will accommodate the year-round production volume from the Foothills Facility, without impacting Piedmont customers' quality of service. The Foothills product gas composition (which is different from that of those projects already in the Pilot Program) 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 and adjust to, assist, cooperate with or support Piedmont in operating its existing transmission system. The Foothills project will provide further data to monitor and evaluate an additional receipt point, to allow Piedmont “to ensure that no customers are adversely impacted as Alternative Gas receipt points are added.” *See* Order, p. 11.

10. In addition, the Foothills project generates Alternative Gas using different feedstocks and a different process than the Alternative Gas suppliers already approved for participation in the Pilot Program. Gas generated by the Foothills project is derived only from municipal solid waste. The two original projects in the Pilot Program (Optima KV and C2e) convert animal wastes or a combination of animal wastes and food processing facility wastes to Alternative Gas. The Alternative Gas generated by the Optima TH project utilizes food processing facility wastes. The inclusion of a project with a feedstock derived exclusively from landfill gas will provide information and data from a source that is not currently available on the Piedmont system.

11. Landfill gas is an important potential source of Alternative Gas in North Carolina. North Carolina currently has 32 operating landfill gas-to-energy projects, and the potential exists to develop at least a dozen more.² Information and data concerning this source of Alternative Gas will be especially valuable to the Commission and to Piedmont as more landfill gas projects seek to sell Alternative Gas to Piedmont.

12. Foothills already has entered into a binding landfill gas purchase and sale agreement and site lease agreement with the owner and operator of the host landfill, supplying 100% of the gas feedstock to be utilized by the Foothills Facility. Similarly, Foothills has substantially agreed-upon terms, and is in final contract negotiations with Purchaser. Foothills

² U.S. EPA, Project and Landfill Data by State, *available at* <https://www.epa.gov/lmop/project-and-landfill-data-state>.

and Piedmont have engaged in extensive negotiations and are close to reaching an agreement in principle on the terms of a Receipt Interconnect Agreement, although a final agreement has not been signed. An injection point for the Alternative Gas has been selected at a location in Connelly Springs (Burke County), North Carolina, and Piedmont is undertaking engineering studies to confirm that the receipt of the volume of gas to be produced by Foothills is technically feasible at this location (Piedmont has already confirmed this segment of its transmission pipeline as being technically feasible for such injection). The advanced delivery status of Foothills means the Commission and Piedmont are likely to have a project that is operational and gathering information early within the three (3) year Pilot Program, providing a more comprehensive set of data in support of the program.

13. Based on the design specifications of the project, Foothills will fully comply with the requirements of the Appendix F as included in Piedmont's August 20, 2018, compliance filing (as may be further amended in response to the Commission's Order of October 1, 2018), by a significant margin.

PUBLIC POLICY CONSIDERATIONS

14. In addition to the Foothills project's usefulness in gathering information and data sought by the Commission in the Pilot Program, there are several public policy reasons to approve Foothills's participation.

15. First, Purchaser supports Foothills' participation because it plans to purchase the biogas in order to meet and comply with certain obligations under the EPA Renewable Fuels Standard and the policies of the State of North Carolina encouraging generation of renewable energy, and (specifically) the inclusion of Alternative Gas as a component of its renewable energy portfolio mix.

16. Second, the Foothills project will invest approximately \$30 million in Caldwell County, and specifically the Town of Lenoir. Lenoir is a small community in a Tier 2 County, which will benefit from economic development to increase the local tax base, provide jobs, and support the local service industry. The Foothills project has the support of and will have a positive effect on Caldwell County and Lenoir.

17. Finally, Foothills has invested considerable time, energy and resources in the Foothills project in anticipation of construction. Further delay of this project would cause economic harm not just to Foothills, but also to subcontractors, vendors and other businesses in North Carolina. As the Commission stated in its May 4, 2017 Order in Docket No. G-9, Sub 698 and restated in the Order, p.4, if use of the natural gas distribution system “can be done while holding natural gas customers harmless, then every effort should be made to accommodate interconnections with Alternative Gas providers.”

CONCLUSION

For all of the foregoing reasons, Foothills respectfully requests that the Commission find that its participation in the Pilot Program will be useful in gathering information and data sought by the Commission and expeditiously approve Foothills’ participation in the Pilot Program.

Respectfully submitted, this the 4th day of January, 2019.

KILPATRICK TOWNSEND & STOCKTON LLP

By: 

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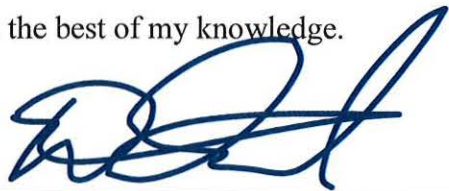
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| Application of Foothills Renewables LLC |) | |
| For Approval to Participate in Pilot Program |) | VERIFICATION |
| in Docket No. G-9, Sub 698 |) | |

I, David R. Wentworth, being first duly sworn, depose and say that I am President of Foothills Renewables LLC, and in such capacity, I have read the foregoing Application to Participate in Pilot Program and know the contents thereof, and by my signature below verify that the contents are true and correct to the best of my knowledge.

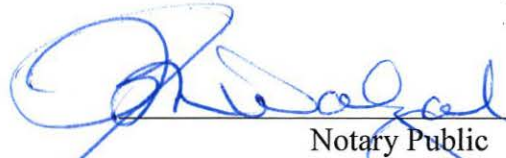


David R. Wentworth

Deschutes County, Oregon

Signed and sworn before me this day by David R. Wentworth

Date: January 04, 2019



Notary Public

My Commission Expires: May 10, 2019



CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing APPLICATION FOR APPROVAL TO PARTICIPATE IN PILOT PROGRAM upon the following parties by electronic mail as follows:

Christopher Ayers, Esq.
Executive Director - NC Public Staff
Chris.Ayers@psncuc.nc.gov

Elizabeth Culpepper
NC Public Staff - Legal Division
Elizabeth.culpepper@psncuc.nc.gov

This the 4th day of January, 2019.



Benjamin L. Snowden