

**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 REQUESTING
Approval to Participate in Alternative) ADDITIONAL INFORMATION
Gas Pilot Program) CONCERNING RECEIPT
) INTERCONNECT AGREEMENT

BY THE CHAIRMAN: 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 receipt interconnect agreements by Piedmont with C2e Renewables NC and Optima KV, LLC, respectively, for delivery of Alternative Gas to Piedmont. 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 stated that it plans to provide Alternative Gas to Piedmont from Optima TH's biogas facility located in Bladen County, North Carolina. Letters supporting Optima TH's application were filed by the Public Staff, Smithfield Foods, Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC.

On August 17, 2018, Optima TH filed its Supplemental Information and Request for Approval of Receipt Interconnect Agreement in the present docket. In summary, Optima TH stated that Optima TH and Piedmont have agreed on the terms by which Optima TH will deliver Alternative Gas to Piedmont's distribution system, and have agreed on provisions regarding possible future Commission changes to Piedmont's Appendix F, the Appendix F pilot program, and the Appendix F Order. Optima TH stated that the Agreement is a proprietary trade secret under N.C. Gen. Stat. § 132-1.2, and it filed the Agreement under seal. Optima TH requested that the Commission approve its application

to participate in the Appendix F Alternative Gas pilot program and the Agreement at the Commission's earliest convenience

On August 24, 2018, Piedmont filed a letter in the present docket acknowledging that the Agreement filed by Optima TH was negotiated with Piedmont and sets forth the terms under which Piedmont is willing to interconnect with Optima TH's biogas facility and receive Alternative Gas from that facility. In addition, Piedmont stated that it does not oppose Optima TH's participation in the Appendix F pilot program, and, in the event that such request is approved by the Commission, Piedmont supports and seeks approval of the Agreement and authorization to act in accordance with the Agreement's terms.

On August 27, 2018, the Commission issued an Order Approving Application with Conditions in the instant docket, approving the participation of Optima TH in the Piedmont Appendix F Alternative Gas pilot program, subject to several conditions, one being approval by the Commission of a Receipt Interconnect Agreement between Optima TH and Piedmont.

The Commission has reviewed the proposed Receipt Interconnect Agreement filed by Optima TH. Based on this review and the record, the Chairman concludes that it will be helpful to the Commission to receive additional information and clarification on certain terms stated in the Agreement. However, as the Agreement was filed under seal by Optima TH, the Commission is constrained from specifying the requested additional information and clarifications in this Order. As a result, Attachment A to this Order provides the specifics of the Commission's request for additional information and clarification. Attachment A will be maintained under seal, but shall be made available to all persons who execute a confidentiality agreement with Optima TH and Piedmont. Optima TH and Piedmont shall file the additional information and clarifications requested in Attachment A on or before thirty (30) days after the date of this Order.

In addition, the Chairman finds good cause to remind Optima TH and Piedmont of the guidelines for filing proprietary information under seal as a trade secret, pursuant to the Public Records Act, N.C.G.S. § 132-1.2, et al. (Act). As noted above, Optima TH filed the entire Receipt Interconnect Agreement under seal, asserting that it is a proprietary trade secret. However, the Chairman is not persuaded that every sentence on every page of the Agreement contains proprietary information. For example, the preamble to the Agreement includes several general statements about the Agreement that do not appear to be proprietary. As a further example, the Agreement incorporates verbatim portions of Piedmont's Appendix F, which is a public document.

In its Order on Public Records Request, issued in Docket No. E-7, Sub 1017 on October 19, 2012, the Commission addressed the filing of 5,033 pages of documents under seal as confidential by Duke Energy Corporation and Progress Energy, Inc. (Applicants). The Commission stated that its review of the documents revealed that only 13.35 percent of the pages marked confidential by the Applicants fully complied with the trade secret confidentiality requirements of the Act, and that of the remaining 4,361 pages

2,929 contained no trade secret information, and 1,432 pages contained only some trade secret information. As a result, the Commission directed that

In the Applicants' future filings in this and all dockets, the Commission expects the Applicants to be more forthright in their assertions as to what documents in fact contain confidential information. In addition, the Commission directs the Applicants to that portion of G.S. 132-6(c) that provides, in pertinent part: "No request to inspect, examine or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information." Thus, it is incumbent on the Applicants to redact from each page filed with the Commission only that information that is exempt from disclosure under the Act.

Order on Public Records Act Request, p. 8.

Based on the Act and the above guidelines, the Chairman finds good cause to direct that Optima TH and Piedmont review their Receipt Interconnect Agreement and refile it as a public document, redacting only those portions that comply with the trade secret guidelines of the Act.

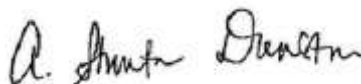
IT IS, THEREFORE, ORDERED as follows:

1. That Optima TH and Piedmont shall file the additional information and clarifications requested in Attachment A on or before thirty (30) days after the date of this Order.
2. That on or before thirty (30) days after the date of this Order, Optima TH and Piedmont shall review their Receipt Interconnect Agreement and refile it as a public document, redacting only those portions that comply with the trade secret guidelines of the Public Records Act.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of September, 2018.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Acting Deputy Clerk

ATTACHMENT A – CONFIDENTIAL INFORMATION