

JOINT REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION AND THE JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE ON THE IMPLEMENTATION OF THE SWINE FARM METHANE CAPTURE PILOT PROGRAM

INTRODUCTION

On August 31, 2007, the Governor signed into law Senate Bill 1465 (Session Law 2007-523), which, among other things, established the Swine Farm Methane Capture Pilot Program (Pilot Program). The Pilot Program authorizes the Utilities Commission (Commission) and the Department of Environment and Natural Resources (Department) to select up to 50 swine farms to participate in the Pilot Program. If selected, a farm will fully or partially cover or otherwise modify its waste lagoon(s), capture the methane produced, and use the captured methane to generate electricity. Electric public utilities are required “to purchase all electricity generated by the use of captured methane as a fuel by pilot program participants for seven years.” Section 4(d) of S.L. 2007-523 provides further that:

The [North Carolina Utilities] Commission shall set a suggested purchase price that would allow program participants to recover reasonably and prudently incurred capital and operating costs and that would minimize the impact of the pilot program on ratepayers. ... In no event, shall the suggested purchase price ... exceed eighteen cents (18¢) per kilowatt hour.

SUGGESTED ELECTRICITY PURCHASE PRICE

On February 15, 2008, the Commission initiated a proceeding in Docket No. E-100, Sub 115 to determine a suggested purchase price for electricity purchased by electric public utilities pursuant to the Pilot Program.

Based on the record in the proceeding, the Commission issued an order on August 7, 2008, that established a suggested purchase price of 18 cents/kWh. This suggested purchase price was established as the starting price for negotiations between electric public utilities and individual swine farms participating in the Pilot Program that would allow participants to recover reasonably and prudently incurred capital and operating costs and that would minimize the impact of the Pilot Program on ratepayers. In addition, the order stated that because an electric public utility would likely be required under the Pilot Program to pay participants a price in excess of the utility’s avoided

costs, the utility would receive, as part of the purchase price, both the power generated from the swine waste methane and the Renewable Energy Certificates associated with the renewable energy.

PILOT PROGRAM REGISTRATION

The Methane Capture Pilot Program began receiving applications for the program on March 10, 2008. Swine farm owners or operators wishing to participate were asked to complete a simple, online application in order to be considered for the program. In 2008, a total of 218 swine production facilities registered for the program. Of the total registered, 185 operations are owned by Murphy Brown or Murphy Family Ventures and the remaining 33 farms are owned by contract growers.

Only farms served by electric public utilities (i.e., Progress Energy, Duke Energy and Dominion) are eligible to participate in the Pilot Program. Electric membership corporations (EMCs) and municipal utilities do not meet the definition of an electric public utility. As a result, farms served by EMCs or municipal utilities are not eligible to participate in the Pilot Program. There were 170 such farms registered for participation in the Pilot Program.

On August 29, 2008, 46 registered farms were notified of their eligibility to participate in the Pilot Program. The primary criteria for determining eligibility was that they be served by an electric public utility, as previously described.

2009 PILOT PROGRAM UPDATES

In August 2009, one additional farm registered with the Department for participation in the pilot program and was subsequently notified of their eligibility to participate. While there has been considerable interest from producers and technology providers in opportunities for generation of electricity from swine manure, the Department has not received notification from any eligible producers regarding their intent to enter into an agreement with their electric public utility.

For the North Carolina Utilities Commission, no action was required in 2009 relative to the swine farm methane capture pilot program. Further, no proposed electric generators fueled via swine waste requested registration with the Commission pursuant to the State's Renewable Energy and Energy Efficiency Portfolio Standard (Session Law 2007-397).

On August 14, 2009, however, six North Carolina electric power suppliers filed a joint motion with the Commission requesting a one-year delay in the swine waste set-aside

requirement of that law.¹ The set-aside provision requires that, in 2012, 0.07% of the total prior year's North Carolina retail electricity sales be derived from swine waste. The law authorizes the Commission to modify or delay this obligation if the Commission finds that such a modification or delay would be in the public interest and that the electric power supplier making such a request demonstrates that it has made a reasonable effort to meet the obligation. After soliciting comments, the Commission scheduled an evidentiary hearing to receive evidence relative to these issues in mid-December of 2009. In their testimony, several electric power suppliers stated that they are working toward a joint solicitation for electricity derived from swine waste. The Commission is expected to rule on the motion to delay the swine waste set-aside requirement in early 2010.

RESULTS AND RECOMMENDATIONS

Given the lack of activity in the Pilot Program, and the current motion before the Commission requesting a one-year delay in the set-aside for renewable energy derived from swine waste, it appears that the Pilot Program may not provide adequate incentive for producers to capture methane for electricity generation. This situation is exasperated by the dismal economic conditions, and associated economic uncertainty, currently facing the swine industry.

To allow producers adequate time to explore opportunities to participate in the Pilot Program, the legislature should consider extending the deadline for commencement of energy generation from September 1, 2010 to at least 2012. The General Assembly should also consider whether the Pilot Program should be modified to allow producers served by municipal utilities and EMCs to participate.

¹ See Docket No. E-100, Sub 113 via the Commission's web site, www.ncuc.net. The joint motion also requested changes relative to the law's poultry-waste requirements.