

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NATURAL GAS TRANSPORTATION CONTRACT)	
BETWEEN DELTA NATURAL GAS COMPANY,)	CASE NO.
INC. AND SIPPLE BRICK, INC.)	89-267

O R D E R

This matter arising upon petition of Delta Natural Gas Company, Inc. ("Delta") filed August 30, 1989 and supplemented on October 6, 1989, pursuant to 807 KAR 5:001, Section 7, for confidential protection of a contract filed for approval with this Commission on the grounds that public disclosure will result in competitive injury, and it appearing to this Commission as follows:

Delta has entered into a contract with Sipple Brick, Inc. ("Sipple") for the transportation of natural gas to Sipple's manufacturing facility. Sipple is a manufacturer of brick and until recently has relied upon coal for most of its heating requirements in its kilns. To encourage Sipple to convert from coal to natural gas, Delta agreed to a discounted transportation rate over a long-term period. Delta contends that disclosure of the terms and rates negotiated with Sipple may encourage its other customers who are capable of using alternative fuels to threaten to leave Delta's system unless they are offered the same low rates.

Delta has also transmitted to the Commission a request by Sipple that the contracts be kept confidential. Sipple states that energy is a significant part of its manufacturing costs and due to the competitive nature of its business, transportation rates paid by Sipple should be kept confidential.

807 KAR 5:001, Section 7, protects information as confidential only when it is established that disclosure will result in competitive injury to the party from whom the information was obtained. To prevent public disclosure, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Although energy costs may be a major component of Sipple's overall manufacturing costs, the petition does not demonstrate how public disclosure of this one component would be of significant competitive value to its competitors. Therefore, the information cannot be treated as confidential on Sipple's petition.

It is also unlikely that disclosure of the injury will cause Delta competitive injury. Although as a transporter and supplier of natural gas, Delta competes with suppliers of alternative fuels, in this case coal, the only information it is seeking to protect is the price it is charging for its service. While competitors could use this information to price their own services and products, knowledge of this information in an open market would not impair Delta's ability to compete and should not give

its competitors an unfair advantage. Therefore, the information should not be treated as confidential on Delta's petition.

This Commission being otherwise sufficiently advised,

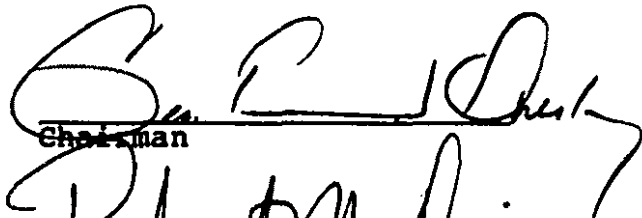
IT IS ORDERED that:

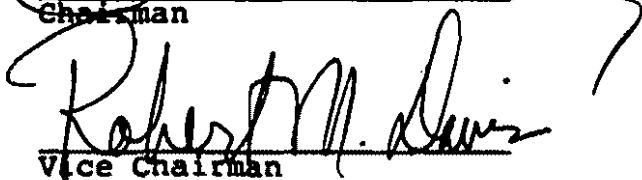
1. The petition of Delta for confidential protection of the rates and terms of the natural gas transportation contract submitted for approval between Delta and Sipple be and is hereby denied.

2. The information sought to be protected shall be held and retained by the Commission as confidential for a period of five working days from the date of this Order, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 8th day of December, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director