

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF RATES OF DELTA) CASE NO.
NATURAL GAS COMPANY, INC.) 90-342

O R D E R

This matter arising upon petition of Delta Natural Gas Company, Inc. ("Delta") filed March 5, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of the financial statements of its subsidiaries filed as a part of Delta's response to Item 5 of the Attorney General's Data Request of February 6, 1991 on the grounds that public disclosure of the information is likely to cause Delta substantial competitive injury, and it appearing to this Commission as follows:

In response to Item 5 of the Attorney General's Data Request dated February 6, 1991, Delta has filed the financial statements of four of its subsidiaries, namely Delta Resources, Inc., Delgasco, Inc., Enpro, Inc. and Deltran, Inc. Delta Resources, Inc. buys natural gas and resells it to Delta's on-system customers and to Delta for system supply. Delgasco, Inc. buys natural gas and resells it to Delta Resources and to off-system customers. Enpro, Inc. owns natural gas production properties and sells the natural gas produced to Delta for system supply. Deltran, Inc. was formed to engage in future interstate pipeline projects, but is currently inactive. Delta maintains that these

subsidiaries engage or were formed to engage in unregulated and competitive business activities, and that the information contained in the financial statements would be of competitive value to competitors of the subsidiaries.

The information sought to be protected is known by only a small percentage of Delta's employees. Delta has never disclosed financial information about its subsidiaries and carefully guards its confidentiality.

807 KAR 5:001, Section 7, protects information as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, 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.

Delta Resources, Inc., Delgasco, Inc., and Deltran, Inc. either engage or were formed to engage in activities that are unregulated and highly competitive. Competitors of these subsidiaries could use their financial statements to determine pricing strategies of the subsidiaries which, in turn, would place such competitors in an advantageous position vis-a-vis the customers of the subsidiaries. Thus, disclosure of the information is likely to cause Delta and these subsidiaries competitive injury, and should be protected.

According to the petition, Enpro, Inc., unlike the other subsidiaries, sells its products to Delta, its parent, and therefore has no competition. Thus, its financial statement is not entitled to protection from public disclosure.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The financial statements of Delta Resources, Inc., Delgasco, Inc. and Deltran, Inc. filed in response to Item 5 of the Attorney General's Data Request of February 6, 1991, which Delta has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.


2. Delta shall, within 10 days of the date of this Order, serve edited copies of the financial statements with the confidential material obscured upon all parties of record.

3. The petition for confidential protection of the financial statement of Enpro, Inc. be and it is hereby denied.


4. The financial statement of Enpro, Inc. shall be held as confidential and proprietary for a period of five working days from the date of this Order at the expiration of which time it shall be placed in the public record.

Done at Frankfort, Kentucky, this 26th day of March, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director