

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
ESSENTIAL UTILITIES, INC., LDC FUNDING,)	
LLC, LDC HOLDING LLC, PNG COMPANIES LLC,)	CASE NO.
AND DELTA NATURAL GAS COMPANY, INC.)	2021-00283
FOR APPROVAL OF AN INDIRECT CHANGE OF)	
CONTROL OF DELTA NATURAL GAS)	
COMPANY, INC.)	

ORDER

On August 9, 2021, Essential Utilities, Inc. LDC Funding, LLC LDC Holding LLC; PNG Companies LLC; and Delta Natural Gas Company, Inc. (Joint Applicants) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for five years for responses to Commission Staff's First Request for Information (Staff's First Request), Item 2.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ In support of the motion, Joint Applicants argued the application of KRS 61.878(1)(c)(1), which exempts records that are "[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

¹ KRS 61.872(1).

Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³

Joint Applicants' response to Staff's First Request, Item 2, is a slideshow presentation used by Joint Applicants in discussion of proposed corporate restructuring, including new business entity names. Joint applicants sought confidential treatment for this document, stating that the slideshow is an internal document containing confidential internal corporate strategy that would disadvantage Joint Applicants if publicly disclosed.

Having considered the motion and the material at issue, the Commission finds that Joint Applicants' motion is granted. The Commission generally grants confidential treatment for internal business strategies under KRS 61.878(1)(c)(1).⁴ The corporate restructuring slideshow contains internal business strategies. Joint Applicants have an interest in keeping potential affiliate business names confidential so as not to be used by competitors. The designated material is generally recognized as confidential or proprietary and would unfairly advantage Joint Applicant's competitors if disclosed. It therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. Joint Applicants' motion for confidential treatment is granted.

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

⁴ See Case No. 2016-00370, *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC Dec. 12, 2018), Order at 3, 5.

2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for five years or until further Order of this Commission.

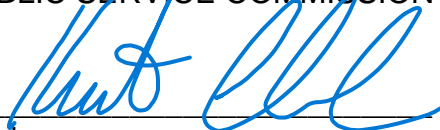
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

4. Joint Applicants shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.

5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, Joint Applicants shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If Joint Applicants is unable to make such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Joint Applicants to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


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