

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE AND)	CASE NO.
NECESSITY TO CONSTRUCT A PIPELINE TO)	2022-00085
SERVE THE CITIES OF NICHOLASVILLE AND)	
WILMORE)	

ORDER

On March 25, 2022, Delta Natural Gas Company, Inc. (Delta) submitted an application pursuant to KRS 270.020 and 807 KAR 5:001, Section 15, seeking a Certificate of Public Convenience and Necessity (CPCN) for construction of a pipeline to provide a second source of natural gas to Nicholasville and Wilmore in Jessamine County, Kentucky. On April 13, 2022, the Commission granted Delta's motion to incorporate by reference the record of Case No. 2021-00185¹ and Delta's application was deemed filed as of that date.

The Commission issued an Order on May 6, 2022, establishing a procedural schedule for the processing of this case. The procedural schedule provided for, among other things, deadlines for intervention and discovery requests and responses. No party requested intervention in this proceeding. Delta responded to two rounds of discovery from Commission Staff. On July 12, 2022, Delta filed a motion requesting that this matter be submitted for a decision based upon the existing evidence without a hearing. Because

¹ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Jan. 3, 2022).

there are no intervenors in this case and a hearing is not necessary in the public interest, the Commission will adjudicate this case based on the evidence of record without a hearing.

BACKGROUND

Approximately 9,100 Delta customers in the Nicholasville and Wilmore areas are served by a single gas pipeline.² A 10,300-foot portion of this pipeline is four inches in diameter and a 100-foot portion is three inches in diameter.³ Delta stated that high demand during extreme cold weather is exacerbated by this bottleneck and cited to January 2014 when gas pressure of less than one pound per square inch during peak demand nearly resulted in service outages and accompanying safety issues.⁴ Additional safety precautions that would have been required would have included shutting in and locking every service location, checking all regulator stations, pipeline and service line purging, leak surveys, and pilot light re-lighting.

Delta proposed the construction of a 17-mile, 8-inch secondary pipeline that will tap into an interstate pipeline in Garrard County.⁵ The interstate pipeline owner has agreed to this arrangement.⁶ Delta stated the need for this project is two-fold: redundancy and capacity.⁷ Delta maintained that the secondary pipeline will provide a solution to the

² Application at unnumbered page 2.

³ Delta's Responses to Commission Staff's First Request for Information (Responses to Staff's First Request), Item 1(a).

⁴ Responses to Staff's First Request, Item 1(a)-(b).

⁵ Application at unnumbered page 3.

⁶ Testimony of Jonathan Morpew (Morpew Testimony) at 8.

⁷ Morpew Testimony at 2.

bottlenecking issue by increasing capacity and providing a redundancy in the event of failure of the existing pipeline. Delta stated that no other area in its service territory serves as many customers with a single line.⁸ Delta further maintained that it intends to add a new supplier for the secondary line to account for the possibility of supply failure and to take advantage of competing gas costs.⁹ Delta also stated that construction of the secondary pipeline would address future capacity issues caused by growth in Jessamine County.¹⁰ Delta claimed that its customer base for the area served by the existing pipeline has grown 13 percent since 2013.¹¹ The estimated construction cost of the proposed secondary pipeline is \$21,113,417.¹² The estimated annual operations and maintenance cost is \$16,050.¹³ Delta plans to recapture the construction cost in a future rate case.¹⁴

Delta explored alternative projects to address the above concerns. To remedy the bottleneck issue without building a new pipeline, Delta evaluated the construction an 8-inch piping loop around the bottleneck at an estimated cost of \$1,328,466.¹⁵ Delta determined that this would solve the immediate capacity issues but would not address future capacity limitations or the perceived need for a backup pipeline and supply.¹⁶ Delta

⁸ Morphew Testimony at 3.

⁹ Morphew Testimony at 3.

¹⁰ Morphew Testimony at 3.

¹¹ Responses to Staff's First Request, Item 5.

¹² Responses to Staff's First Request, Item 8.

¹³ Morphew Testimony at 6.

¹⁴ Responses to Staff's First Request, Item 14.

¹⁵ Responses to Staff's First Request, Item 1.

¹⁶ Responses to Staff's First Request, Item 6.

also contacted other nearby gas companies, namely Columbia Gas of Kentucky and Louisville Gas and Electric Company (LG&E), seeking a more economical tap-in option. However, these companies declined to participate.¹⁷ Regarding alternative pipe size, Delta concluded that the smaller 6-inch diameter pipe would be insufficient to provide the necessary pressure and supply.¹⁸

LEGAL STANDARD

No utility may construct or acquire any facility to be used in providing utility service to the public until it has obtained a CPCN from this Commission.¹⁹ To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.²⁰

“Need” requires:

[A] showing of a substantial inadequacy of existing service, involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed or operated.

[T]he inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.²¹

¹⁷ Responses to Staff’s First Request, Item 11(b).

¹⁸ Responses to Staff’s First Request, Item 2(a).

¹⁹ KRS 278.020(1). Although the statute exempts certain types of projects from the requirement to obtain a CPCN, the exemptions are not applicable.

²⁰ *Kentucky Utilities Co. v. Pub. Serv. Comm ’n*, 252 S.W.2d 885 (Ky. 1952).

²¹ *Kentucky Utilities Co. v. Pub. Serv. Comm ’n*, 252 S.W.2d at 890.

“Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”²² To demonstrate that a proposed facility does not result in wasteful duplication, the Commission has held that the applicant must demonstrate that a thorough review of all reasonable alternatives has been performed.²³ Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.²⁴ All relevant factors must be balanced.²⁵

DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the CPCN should be granted. The capacity issue, caused in part by the bottleneck, is necessary to resolve as growth increases to prevent outages. Redundancy via a second line would be consistent with other Delta infrastructure which uses redundancies to provide adequate capacity if needed in addition to preventing outages. The proposed project also includes the benefits of adding capacity for future growth in a high-growth area and the potential cost savings of having an additional supplier

²² *Kentucky Utilities Co. v. Pub. Serv. Comm 'n*, 252 S.W.2d at 890.

²³ Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005), Order at 11.

²⁴ See *Kentucky Utilities Co. v. Pub. Serv. Comm'n*, 390 S.W.2d 168, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity for the Construction of a 138 kV Electric Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005), final Order.

²⁵ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

competing for business. For these reasons, the redundancy is necessary to ensure “adequate, efficient and reasonable service” as required by KRS 278.030(2).

Although a redundant pipeline is a duplication, the Commission finds that it is not wasteful based on the cost of the project and the benefits set out above. While Delta could alleviate the bottleneck at a lower cost, the long-term solution provides necessary redundancy and capacity for future growth. Duke Energy Kentucky and LG&E were granted CPCNs for similar projects to construct a second supply source to areas experiencing supply issues and customer growth.²⁶ LG&E’s project involved a comparable service area providing gas to 9,500 customers and comparable redundant pipeline cost of \$27.6 million.²⁷

IT IS THEREFORE ORDERED that:

1. Delta’s request for a CPCN for the proposed projects described in its application is granted.
2. Delta shall immediately notify the Commission upon knowledge of any material changes to the project, including, but not limited to, a material increase in costs and any significant delays in construction.
3. Any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.

²⁶ Case 2019-00388, *Electronic Application of Duke Energy Kentucky, Inc. for a Certificate of Public Convenience and Necessity Authorizing the Construction of a Gas Pipeline from Erlanger, Kentucky to Hebron, Kentucky* (Ky. PSC Mar. 27, 2020), Order at 10; Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC June 22, 2017), Order at 34.

²⁷ Case No. 2016-00371, June 22, 2017 Order at 31.

4. Delta shall file with the Commission documentation of the total costs of the projects, including the cost of construction and all other capitalized costs, (e.g., engineering, legal, administrative, etc.) within 60 days of the date that construction authorized under this CPCN is substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for electric utilities as prescribed by the Commission.

5. Delta shall file a copy of the “as-built” drawings, if any, and a certified statement that the construction has been satisfactorily completed in accordance with the plans and specifications within 60 days of the substantial completion of the construction certificated herein.

6. Any documents filed in the future pursuant to ordering paragraph 2 through 5 shall reference this case number and shall be retained in the post-case correspondence file for this proceeding.

7. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Delta’s showing of good cause for such extension.

8. This case is closed and removed from the Commission’s docket.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



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