

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 IN)	2022-00295
LINCOLN AND ROCKCASTLE COUNTIES,)	
KENTUCKY)	

ORDER

On August 26, 2022, Delta Natural Gas Company, Inc. (Delta) filed an application pursuant to KRS 270.020 and 807 KAR 5:001, Section 15, seeking a Certificate of Public Convenience and Necessity (CPCN) to construct a natural gas transmission pipeline extension to service unserved portions of Lincoln and Rockcastle counties. No party requested intervention in this proceeding. Delta responded to two sets of requests for information from Commission Staff. On November 2, 2022, Delta requested that this matter be submitted on the written record. This matter stands submitted for a decision based on the written record.

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.¹ To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.²

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

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

“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.³

“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.”⁴ 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.⁵ Although cost is a factor, selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.⁶ All relevant factors must be balanced.⁷

³ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

⁴ *Kentucky Utilities Co.*, 252 S.W.2d at 890.

⁵ 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.

⁶ 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.

⁷ Case No. 2005-00089, *East Kentucky Power Cooperative, Inc.* (Ky. PSC Aug. 19, 2005), final Order at 6.

BACKGROUND

In Case No. 2020-00406,⁸ the Commission approved an Economic Development Extension allowing Delta to tap onto a TC Energy-owned transmission line to provide natural gas to Lincoln and Rockcastle counties, including Lincoln County Industrial Park. The project has been completed and Delta expects gas to be flowing by the end of 2022.⁹ Lincoln County Fiscal Court has asked Delta to extend an additional transmission line that would serve the communities of Crab Orchard, Broadhead, Mt. Vernon, and Renfro Valley.¹⁰ The legislature appropriated \$20 million for Lincoln County to build a pipeline to serve these areas.¹¹ Lincoln County Fiscal Court advertised a request for proposals (RFP) and selected Delta's proposal.¹²

Delta proposed to build 22 miles of eight-inch steel transmission pipeline at an estimated cost of \$19.6 million.¹³ Estimated operation and maintenance costs would total \$5,400 per year.¹⁴ Delta stated it does not expect to claim a depreciation expense due to the contribution from Lincoln County Fiscal Court.¹⁵ The proposal does not include distribution lines—Delta plans to construct these incrementally through 2028,¹⁶ at a total

⁸ Case No. 2020-00406, *Electronic Application of Delta Natural Gas Company, Inc. for Approval of an Economic Development Extension and Regulatory Asset* (Ky. PSC, Apr. 28, 2001), Order.

⁹ Testimony of Jonathan Morpew (Morpew Testimony) at 4.

¹⁰ Application at 3.

¹¹ Application at 3.

¹² Application at 3; Exhibit 1.

¹³ Application at 3.

¹⁴ Application at 5.

¹⁵ Morpew Testimony at 5–6.

¹⁶ Application at 4.

estimated cost of \$11,086,300.¹⁷ Delta estimates adding 2,000 customers, including residences, businesses, schools, and manufacturing facilities.¹⁸

Delta assessed an alternate pipeline route that used primarily public right-of-way, but selected a different, shorter route that reduced cost and allowed for easier access to the pipeline.¹⁹ Delta also considered different sized pipe and plastic pipe but decided that 8" was the minimum necessary size to accommodate current and future needs and that steel pipe was necessary to accommodate required pressure.²⁰ The tap-in location was chosen because it is the closest geographic location to the unserved areas.²¹ Delta considered tapping into its own system in Madison County, but determined that this would not meet pressure or volume requirements.²² Atmos Energy Corporation (Atmos) has a natural gas system in place in Stanford, but Delta was unaware whether Atmos responded to the RFP.²³ Delta did not approach Atmos regarding tapping into its system as it was further from the unserved area than Delta's TC Energy tap-in.

DISCUSSION AND FINDINGS

Having considered the application and all evidence in the record, the Commission finds that the CPCN should be granted. The area is unserved, is designed in part for economic development, and demand is expected from residential, commercial, and

¹⁷ Morphew Testimony at 5–6.

¹⁸ Delta's Response to Staff's First Request (Response to Staff's First Request), Item 12.

¹⁹ Morphew Testimony at 9.

²⁰ Response to Staff's First Request, Item 4.

²¹ Response to Staff's First Request, Item 6.

²² Response to Staff's First Request, Item 6.

²³ Delta's Response to Staff's Second Request, Item 1.

industrial sectors. The Cabinet for Economic Development also identified this corridor for having significant economic potential.²⁴ The legislative appropriation will allow costs assumed by Delta to be limited to any cost overruns plus operations and maintenance expenses, resulting in minimal rate effect on Delta's customers.

Regarding alternate options for serving these communities, Delta assessed other tap-in locations, pipeline routes, and design, and determined that the current proposal was the least-cost reasonable alternative, and the Commission gives considerable weight to the evidence Delta provided in that regard. Alternative material cannot support the needed pressure and alternative size could not meet expected capacity. Alternative routes or tap-in locations are more costly.

For the reasons discussed above, the Commission finds that the construction activities described in Delta's CPCN application reflect need and a lack of wasteful duplication due to absence of reasonable and cost-effective alternatives. Therefore, the Commission finds that Delta's request for a CPCN should be granted. However, in order to protect customers from unforeseen costs, any material deviation from the construction approved by this Order shall be undertaken only with the prior approval of the Commission.

IT IS THEREFORE ORDERED that:

1. Delta's request for a CPCN for the proposed project described in its application is granted.

²⁴ Morphew Testimony at 7.

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.

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 sewer 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 is removed from the Commission's docket.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner

ENTERED
DEC 13 2022
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

*John B Brown
Chief Financial Officer
Delta Natural Gas Company, Inc.
3617 Lexington Road
Winchester, KY 40391

*Mary Ellen Wimberly
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Monica Braun
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Delta Natural Gas Company, Inc.
3617 Lexington Road
Winchester, KY 40391