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December 9, 2004

Hon. Elizabeth O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40601

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DEC 10 2004
PUBLIC SERVICE
COMMISSION

Re: Delta Natural Gas Company, Inc.
Case No. 2004-00067

Dear Ms. O'Donnell:

We enclose for filing an original and ten (10) copies of the Response of Delta Natural Gas Company, Inc. to the Attorney General's Motion for Rehearing and/or Clarification in the above-captioned case. Thank you for your attention to this matter. Best regards.

Sincerely,



Robert M. Watt, III

Rmw
Cc: Counsel of Record (w/encl.)
Mr. John F. Hall (w/encl.)

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COMMONWEALTH OF KENTUCKY

DEC 10 2004

BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

In the Matter of:

**APPLICATION OF DELTA NATURAL GAS)
COMPANY, INC. FOR AN ADJUSTMENT)
OF RATES)**

CASE NO. 2004-00067

* * * * *

**RESPONSE OF DELTA NATURAL GAS
COMPANY, INC. TO THE ATTORNEY GENERAL'S
MOTION FOR REHEARING AND/OR CLARIFICATION**

Delta Natural Gas Company, Inc. ("Delta") respectfully submits this response to the Attorney General's Motion for Rehearing and/or Clarification herein. The Attorney General objects to the Commission's rationale for its approval of Delta's proposed Gas Technology Institute ("GTI") surcharge and rider. He argues that the Commission should not have relied on Commission decisions in two prior cases that were settled in its finding that the GTI surcharge should be collected as a rider rather than in base rates. The Attorney General's argument is misguided and should be rejected.

The thrust of the Attorney General's argument is that the Commission should not cite its decisions that a rider for the collection of GTI charges by Columbia Gas of Kentucky, Inc. and by Western Kentucky Gas Company is reasonable because the parties to those cases had submitted unanimous settlement agreements to the Commission that contained provisions that the "recommendation and terms of the settlement are to be used only for that case and are not to be offered or relied upon in any other proceeding."

Motion for Rehearing and/or Clarification at 1. It is true that the Columbia agreement

contains a provision similar to the one cited by the Attorney General.¹ The Attorney General's argument fails, however, because the Commission in its order in this case did not cite the settlement agreements for the proposition that a GTI rider is reasonable, but rather its own decision in its orders approving those settlements. In addition, the Columbia settlement agreement, and presumably the Western settlement agreement, expressly provides that it is not binding on the Commission. Thus, the provision that the settlement agreement may not be offered or relied upon in any other proceeding is not binding on the Commission and it is free to offer or rely upon the settlement agreement if it chooses.

Finally, and most importantly, the Motion for Rehearing and/or Clarification should be denied because the Commission's treatment of the GTI rider is substantively reasonable and appropriate without reference to precedent. The reason the charges are to be recovered by way of a rider is that the duration of the GTI payments may be short-lived. When Delta is not making payments to GTI, then the rider will not be utilized. Under the Attorney General's approach in which the GTI payments are part of base rates, the ratepayers will continue to pay rates that include an amount representing the GTI payments until Delta's next general rate case, even if the GTI payments cease.

¹ The undersigned could not find a copy of the Western settlement agreement, so Delta will accept the Attorney General's representation that it contains a similar provision.

For the foregoing reasons, the Attorney General's Motion for Rehearing and/or Clarification should be denied.

Respectfully submitted,

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300 West Vine Street, Suite 2100
Lexington, Kentucky 40507
(859) 231-3000

By Robert Watt
Counsel for Applicant

CERTIFICATE OF SERVICE

This is to certify that the foregoing pleading has been served by mailing a copy of same, postage prepaid, to the following person on this 9th day of December 2004:

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Elizabeth E. Blackford, Esq.
Assistant Attorney General
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