

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT)	CASE NO.
FILING OF DELTA NATURAL GAS COMPANY,)	2021-00140
INC.)	

ORDER

On March 25, 2021, Delta Natural Gas Company (Delta) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1), requesting that the Commission grant confidential treatment for an indefinite period for certain information that is contained in its Quarterly Gas Supply Clause filing, specifically, the identity of each supplier of natural gas to Delta.

LEGAL STANDARD

The Commission is a public agency subject to Kentucky Open Records Act,¹ which requires that all public records “be open for inspection by any person, except as otherwise provided by KRS 61.870 to KRS 61.884.² The exceptions to the free and open examination of public records should be strictly construed.³ The party requesting that the materials be granted confidential protection has the burden of establishing that one of the exemptions is applicable.⁴ KRS 61.878(1)(c)(1) provides an exception to the requirement

¹ KRS 61.870 through 61.884.

² KRS 61.872(1).

³ KRS 61.878.

⁴ 807 KAR 5:001, Section 13(2)(c).

for public disclosure of records that are “generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

DISCUSSION AND FINDINGS

In support of its petition, Delta argued that the filing contains sensitive commercial information, the disclosure of which would injure Delta’s ability to negotiate future gas supply contracts at advantageous prices and, thereby, minimize the price of natural gas to its customers, and would unfairly advantage Delta’s competitors for both gas suppliers and retail gas load. Delta claimed any impairment of its ability to obtain the most advantageous price possible from natural gas producers and marketers will necessarily erode Delta’s competitive position vis-a-vis other energy suppliers that compete in its service territory, as well as other LDCs with whom Delta competes for new and relocating industrial customers. Delta cited a previous Commission decision granting a request for confidential protection this information in Delta’s gas cost adjustment filings.⁵

Having considered the petition and the material at issue, the Commission finds that gas supply contract information is generally recognized as confidential or proprietary; 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. Delta’s petition for confidential treatment is granted.

⁵ Case No. 2019-00364, *Electronic Purchased Gas Adjustment Filing of Delta Natural Gas Company, Inc.*(Ky. PSC Nov. 6, 2019), Order.

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 an indefinite period 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. Delta 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, Delta 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 Delta 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 Delta to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman

Commissioner

ENTERED
JUN 03 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



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