

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR A)	CASE NO.
CERTIFICATE OF PUBLIC CONVENIENCE AND)	2023-00072
NECESSITY TO BID ON A GAS FRANCHISE TO)	
SERVE THE CITY OF CAMARGO, KENTUCKY)	

ORDER

On March 2, 2023, Delta Natural Gas Company, Inc. (Delta) filed its application with the Commission seeking a Certificate of Public Convenience and Necessity (CPCN) to authorize it to bid on a franchise offered by the city of Camargo, Kentucky, for the transmission and distribution of natural gas. Delta provided a copy of Ordinance No. 2023-01, which authorized granting a franchise for the sale and distribution of natural gas within the city of Camargo boundary.¹ Ordinance No. 2023-01 was approved on February 6, 2023, and public notice of the sale of franchise was published on March 23, 2023.²

Sections 163 and 164 of the Kentucky Constitution and KRS Chapter 96 authorize municipal corporations to require public utilities, including non-governmental providers of electricity within the municipal corporations' boundaries, to operate under franchise agreements and to grant utilities the right to use public right-of-way on reasonable and necessary conditions. Under the provisions of KRS 278.020(5), no utility may apply for a

¹ Application, Exhibit A.

² Notice of Publication of Advertisement (filed Mar. 23, 2023).

franchise from any governmental agency until it has obtained a CPCN from this Commission based on our finding that there is a need and demand for the service sought to be rendered.

In light of the city of Camargo's ordinance creating a natural gas transmission and distribution franchise, the Commission determines that there is evidence of a need and demand for natural gas service in the above-mentioned city. Since the Commission's authority in such matters is limited by statute to finding only whether there is a need and demand for the service sought to be rendered, no finding or determination is made as to the qualifications of the bidder, the validity of any of the provisions of the franchises offered by said city, or the manner in which any franchise fee is to be treated for rate purposes.

The Commission directs Delta to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. Delta is granted a CPCN that authorizes it to bid on a franchise offered by the city of Camargo, Kentucky, for the transmission and distribution of natural gas.
2. If Delta is not the successful bidder, Delta shall file with the Commission, within ten days of the award of the franchise at issue, a written notice stating that Delta was not the successful bidder.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

3. If Delta is the successful bidder, Delta shall file with the Commission, within ten days of the award of the franchise at issue, a copy of the executed franchise agreement and a statement disclosing the amount of the initial franchise fee.

4. If Delta is the successful bidder, Delta shall file with the Commission, within ten days of an increase or decrease in the amount of the initial franchise fee set forth in the franchise agreement, documentation setting forth the revised fee.

5. Any documents filed pursuant to ordering paragraphs 2, 3, or 4 of this Order shall reference the number of this case and shall be electronically submitted via the Commission's electronic Tariff Filing System.

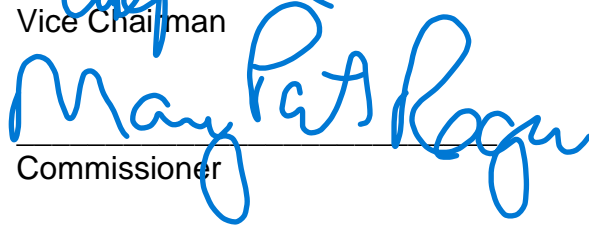
6. This Order shall not be construed as granting a CPCN to construct utility facilities in said city.

7. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


Executive Director

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

*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