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August 19, 2004

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PUBLIC SERVICE  
COMMISSION

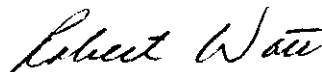
Hon. Elizabeth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40601

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

Dear Ms. O'Donnell:

We enclose for filing a Motion for Deviation from Rule and Response to Motion to Strike Rebuttal Testimony on behalf of Delta Natural Gas Company, Inc. in the above-captioned case. These pleadings were tendered to the Commission and the parties at the hearing in this case yesterday, but I was not sure if they made it into the record. 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  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DELTA NATURAL GAS )  
COMPANY, INC. FOR AN ADJUSTMENT ) CASE NO. 2004-00067  
OF RATES )

\* \* \* \* \*  
RESPONSE TO MOTION TO  
STRIKE REBUTTAL TESTIMONY

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Delta Natural Gas Company, Inc. ("Delta") respectfully submits this response to the Motion of the Attorney General to strike the rebuttal testimony of John B. Brown and W. Steven Seelye. The Attorney General claims that certain of the information contained in the rebuttal testimony had not been previously filed by Delta and that, therefore, the rebuttal testimony should be stricken. The nature of rebuttal testimony is to submit new evidence about issues raised in the direct testimony of the intervenors' witnesses. It is not a valid complaint to say that rebuttal evidence is not contained in direct testimony, exhibits or filing requirements or that a witness had not previously performed a calculation. Indeed, if that were the case, the rebuttal testimony would be subject to criticism for being repetitive. Therefore, the Attorney General's Motion to Strike should be denied.

The Attorney General first argues that evidence regarding Delta's Sarbanes-Oxley compliance accounting expenses is improperly tendered. He refers to John B. Brown's rebuttal testimony that Delta has incurred an added \$111,617 of Sarbanes-Oxley expense during the first six months of 2004 and evidence that Delta is accruing expenses of \$13,100 per month for Sarbanes-Oxley expenses for 2004. Delta originally sought

recovery of the test year level of Sarbanes-Oxley expenses. In discovery, Delta acknowledged that certain of those expenses were non-recurring expenses. The Attorney General's witness, Robert J. Henkes, recommended that the non-recurring expenses be removed for ratemaking purposes. It is Delta's position that the test year level of Sarbanes-Oxley compliance expenses is representative of such expenses on a going-forward basis, even though certain specific expenses were non-recurring. The evidence offered by Mr. Brown in his rebuttal testimony simply supports Delta's position that the test year level of such expenses is representative of the going-forward level of expenses and should be fully recovered.

The Attorney General's second issue is similar to the first one. Mr. Henkes argues that a certain non-recurring expense booked in Computer Expense should be excluded for rate making purposes. Again, it is Delta's position that the total test year level of Computer Expense is representative of such expenses on a going forward basis, even though a particular expense was non-recurring. Mr. Brown supports that position by setting forth evidence of the 2004 budget for Computer Expenses in his rebuttal testimony.

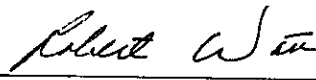
The Attorney General's third issue involves Exhibit 2 to the rebuttal testimony of W. Steven Seelye regarding Mr. Henkes's proposed customer growth adjustment. The Attorney General complains that Exhibit 2 is inappropriate because the Attorney General requested production of a similar calculation in its data request AG 1-32 and Delta did not produce it because it had not performed the calculation at that time. Delta did not propose a customer growth adjustment, so, naturally, it had not performed the requested calculation or assembled information for such calculation. When Mr. Henkes performed

the calculation and presented it in his direct testimony, Mr. Seelye responded in his rebuttal testimony with a properly performed calculation.

The rebuttal testimony of both Mr. Brown and Mr. Seelye is perfectly appropriate in all respects. It offers new evidence and calculations that directly rebut evidence and calculations offered by the Attorney General in his direct testimony. That is the purpose of rebuttal testimony. It is not a valid complaint to say that rebuttal testimony contains evidence not contained in direct testimony, exhibits or filing requirements or that it contains a calculation not previously performed. The Attorney General's Motion to Strike should be denied.

Respectfully submitted,

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Lexington, Kentucky 40507  
859-231-3000

By   
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Counsel for Delta Natural Gas  
Company, Inc.

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing pleading has been served by hand delivering a copy of same to the following persons on this 18<sup>th</sup> day of August 2004:

Dennis Howard, II, Esq.  
Elizabeth E. Blackford, Esq.  
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