

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS	)	CASE NO.
ADJUSTMENT FILING OF DELTA NATURAL	)	2021-00246
GAS COMPANY, INC.	)	

ORDER

On June 18, 2021, Delta Natural Gas Company, Inc. (Delta), filed a petition, pursuant to 807 KAR 5:001, Section 13, and all other applicable law, requesting that the Commission grant confidential treatment for an indefinite period to the identity of the gas suppliers listed in its Quarterly Gas Cost Recovery filing.

In support of its petition, Delta states that the designated material contains sensitive commercial information that, if disclosed, would injure Delta's ability to negotiate future gas supply contracts at advantageous prices, which would thereby force Delta's customers to pay a higher price for natural gas. Delta further asserts that disclosure of the information would permit an unfair advantage to its competitors for both gas supplies and retail gas load.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."<sup>1</sup> The exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.<sup>2</sup> The

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<sup>1</sup> KRS 61.872(1).

<sup>2</sup> See KRS § 61.871.

party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.<sup>3</sup> In determining whether materials should be exempt from disclosure, the Commission must balance the potential harm from disclosure with “the effect of protecting a given document from scrutiny by the public and potential intervenors.”<sup>4</sup>

Having considered the petition and the material at issue, the Commission finds that the identity of the gas suppliers located in Delta’s Quarterly Gas Cost Recovery filing 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).

IT IS THEREFORE ORDERED that:

1. Delta’s petition for confidential treatment is granted.
2. The designated material granted confidential treatment shall not be placed in the public record or made available for public inspection until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall be in compliance 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.

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<sup>3</sup> 807 KAR 5:001, Section 13 (2)(c).

<sup>4</sup> *Southeastern United Medigroup, Inc. v. Hughes*, 952 S.W.2d 195, 199 (Ky. 1997), abrogated on other grounds by *Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004).

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.

By the Commission



ATTEST:

A handwritten signature in blue ink, appearing to read "Linda C. Bidwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

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