

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DELTA NATURAL GAS)
COMPANY, INC. FOR AN ORDER AUTHORIZING) CASE NO. 95-098
THE PURCHASE AND FINANCING OF THE)
CANADA MOUNTAIN GAS STORAGE FIELD)

O R D E R

This matter arising upon petition of Delta Natural Gas Company, Inc. ("Delta"), filed March 9, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of portions of a purchase agreement on the grounds that disclosure of the information is likely to cause Delta competitive injury, and it appearing to this Commission as follows:

Delta is a Kentucky corporation engaged in the purchase, transportation, and distribution of natural gas. On March 1, 1995, Delta entered into an agreement with Lonnie D. Ferrin to purchase certain interests in real property located in Bell County for the purpose of establishing a gas storage field. In this proceeding Delta seeks approval of the agreement and by separate petition, confidential protection of some of its terms.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to

the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The information sought to be protected consists of the purchase price Delta has agreed to pay for the property, including the amounts of each installment, the terms of certain conditions precedent by which Delta may terminate or postpone performance of the contract, and the terms of certain other obligations, as conditions precedent, which Ferrin must perform prior to the closing of the contract. Disclosure of this information will affect the parties' ability to accomplish the conditions precedent and this will result in increasing the cost of performance, possibly to the point of making their accomplishment too expensive to be concluded. Because of Delta's need to acquire the property, failure to complete the contract will benefit its competitors. Therefore, the information has competitive value and should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The petition to protect as confidential certain portions of the purchase agreement, which Delta has petitioned to be withheld from public disclosure, shall be held and retained by this

Commission as confidential and shall not be open for public inspection until closing.

2. Delta shall within 10 days after closing, notify the Commission and upon such notification, the Commission shall, without further Orders herein, place the agreement in the public record.

Done at Frankfort, Kentucky, this 17th day of May, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director