

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR)	
AN ORDER AUTHORIZING THE)	CASE NO. 97-264
PURCHASE OF THE ASSETS OF THE)	
ANNVILLE GAS & TRANSMISSION CO.)	

O R D E R

On May 27, 1997, Delta Natural Gas Company, Inc. ("Delta") filed its application seeking Commission approval of its proposed acquisition of the assets of Annville Gas & Transmission Company ("AG&T"). Delta seeks the authority to purchase said assets pursuant to the terms of Delta's and AG&T's Asset Purchase and Sale Agreement (the "Purchase Agreement") dated May 27, 1997. In its application, Delta states that it is also seeking the authority to apply its current rates to AG&T's customers as of the closing date of the proposed transaction between Delta and AG&T.

However, on June 13, 1997, Delta filed with the Commission its Adoption Notice wherein it states that it "adopts, ratifies and makes its own, in every respect . . . all tariffs and supplements containing rates, rules and regulations for furnishing natural gas service at Annville in the Commonwealth of Kentucky, filed with the Public Service Commission of Kentucky by Annville Gas & Transmission Co. of Annville, Kentucky and in effect on the date Delta closes on the purchase of the assets of Annville Gas & Transmission Co. . . ." Moreover, AG&T's filed tariff states that "all service will be provided by special contract."

For the above reasons and because Delta's application does not contain any information concerning the proposed rate change, the Commission finds that the rate issue cannot and should not be decided at this time. This Order will therefore address only the proposed acquisition of assets.

Delta is a Kentucky corporation that purchases, transports and distributes natural gas to Kentucky consumers. It is, therefore, a utility under the jurisdiction of the Commission. KRS 278.010(3)(b) and (c). A certified copy of Delta's most recent Amended and Restated Articles of Incorporation was filed with the Commission on December 28, 1990 in Case No. 90-342.

AG&T is a Kentucky corporation that owns a natural gas pipeline running from an existing interconnection at the TranEx line in Jackson County, Kentucky to the city of Annville in Jackson County, Kentucky. It transports natural gas by said pipeline to and for the public for compensation. AG&T is, therefore, a utility under the jurisdiction of the Commission. KRS 278.010(3)(b) and (c). The Commission takes note of a lease agreement referenced to in Exhibit 1.1(a) between AG&T and Mid-South Electric, Inc. wherein AG&T leased certain transmission facilities to Mid-South. Delta should take this lease into consideration in recording the purchase of the assets.

Pursuant to the terms of the Purchase Agreement, AG&T agrees to sell and transfer to Delta all of AG&T's rights, title and interest in the assets that are described in the agreement, all of which are owned and used in connection with the natural gas transmission and distribution system owned and operated by AG&T. Delta agrees to acquire AG&T's assets by making a cash payment to it and by assuming certain

enumerated liabilities. Finally, the Purchase Agreement states that "[Delta] agrees to build, own, maintain, and operate a natural gas distribution system in the city of Annville Kentucky, and, on an as-needed basis, in the Jackson County Regional Industrial Park." The Jackson County Enterprise Zone ("JCEZ") will pay Delta a "tap fee" in the amount of \$150,000 for costs and expenses related to this construction. The Commission notes that Delta is not seeking a Certificate of Public Convenience and Necessity to construct said utility facilities at this time. Nor does it make a determination as to whether a certificate is required.

Pursuant to KRS 278.020(4), all persons are required to obtain Commission approval prior to the acquisition or transfer of ownership or control of a utility that is under the jurisdiction of the Commission. Furthermore, KRS 278.020(5) prohibits any entity from acquiring control of a jurisdictional utility without prior approval.

The Commission, having reviewed the evidence of record and being otherwise sufficiently advised, finds that KRS 278.020(4) and (5) are applicable to the proposed transaction as described by Delta. Commission approval is therefore necessary. The Commission further finds that the proposed transaction is consistent with the public interest and that it will take place in accordance with law and for a proper purpose. The Commission has previously determined that Delta possesses the financial, technical and managerial abilities to provide reasonable service in Kentucky.

IT IS THEREFORE ORDERED that:

1. The proposed acquisition of the assets of AG&T by Delta is hereby approved.

2. Delta shall notify the Commission within 10 days of the date of closing of the proposed transaction or, in the alternative, shall notify the Commission if the proposed transaction does not occur.

3. Within 10 days of the date of the consummation of the proposed transaction, Delta shall file in its own name the tariff of AG&T adopted by Delta thereof with proper notice for service to the former AG&T customers.

4. This Order shall not be construed as granting a Certificate of Convenience and Necessity to construct utility facilities.

5. Within 10 days of closing, Delta shall file the journal entries reflecting the purchase of the assets in accordance with the Uniform System of Accounts Prescribed for Natural Gas Utilities ("USoA").

6. Within 10 days of the receipt of the "tap fee" from the JCEZ, Delta shall file the journal entries reflecting the receipt in accordance with the USoA.

7. Delta's requests for approval to apply its rates and tariffs to AG&T's customers is hereby denied.

8. Delta's adoption of AG&T's rates and tariffs is hereby approved.

Done at Frankfort, Kentucky, this 27th day of June, 1997.

PUBLIC SERVICE COMMISSION

Linda K. Breathitt
Chairman

EG [Signature]
Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Don Mills

Executive Director