

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR AN)	CASE NO.
ADJUSTMENT OF ITS RATES AND A)	2021-00185
CERTIFICATE OF PUBLIC CONVENIENCE AND)	
NECESSITY)	

ORDER

On September 8, 2021, Delta Natural Gas Company, Inc. (Delta) filed a petition, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for a minimum of five years for Delta’s response to Item Nos. 12 and 23 of the Commission Staff’s Third Request for Information (Staff’s Third Request) and Item Nos. 9(h), 22, 23(b), 33(c), 43(b), and 45(a) of the Supplemental Data Requests of the Attorney General (Attorney General’s Supplemental Request).

In support of its petition, Delta argued that the following responses should be maintained as confidential:

<u>Material</u>	<u>Justification</u>
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- Delta Response - Staff’s Third Request
 - Item No. 12 KRS 61.878(1)(c)(1)
 - Item No. 23 KRS 61.878(1)(c)(1)

- Delta Response – Attorney General’s Supplemental Request
 - Item No. 9(h) KRS 61.878(1)(c)(1)
 - Item No. 22 KRS 61.878(1)(a)
 - Item No. 23(b) KRS 61.878(1)(c)(1)
 - Item No. 33(c) KRS 61.878(1)(c)(1)
 - Item No. 43(b), KRS 61.878(1)(c)(1)
 - Item No. 45(a) KRS 61.878(1)(a)

Having considered the petition and the material at issue, the Commission finds that Delta's petition should be granted, in part, and denied, in part.

The Commission finds that the designated material contained in Delta's response to Item Nos. 12 and 23 of Staff's Third Request and Item Nos. 9(h), 23(b), 33(c), and 43(b) of the Attorney General's Supplemental Request are records that meet the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(c)(1) and 807 KAR 5:001, Section 13 for the reasons set forth in the petition.

The Commission further finds that Delta's petition regarding its response to Attorney General's Supplemental Request Item Nos. 22 and 45(a), to the extent they contain non-executive payroll and employment information, should be granted for the reasons set forth in the petition. However, the Commission finds that the petition, to the extent Item Nos. 22 and 45(a) contain executive compensation information, should be denied because it failed to meet its burden to show that executive compensation is of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy. This Commission has, as it does again here, consistently found that executive compensation information is not entitled to confidential protection because executive salaries may be viewed as relating to utility performance, may provide a measure of accountability and represent a more significant expense in

base rate calculations, thus the public's interests in the utilities executive salary obligations outweigh the privacy interests asserted.¹

IT IS THEREFORE ORDERED that:

1. Delta's September 8, 2021 petition for confidential treatment for Delta's response to Item Nos. 12 and 23 of Staff's Third Request and Item Nos. 9(h), 22, 23(b), 33(c), 43(b), and 45(a) of the Attorney General's Supplemental Request is granted, in part, and denied, in part.

2. Delta's September 8, 2021 petition for confidential treatment for Delta's response to Item Nos. 12 and 23 of Staff's Third Request and Item Nos. 9(h), 23(b), 33(c), and 43(b) of the Attorney General's Supplemental Request is granted.

3. Delta's response to Item Nos. 12 and 23 of Staff's Third Request and Item Nos. 9(h), 23(b), 33(c), and 43(b) of the Attorney General's Supplemental Request shall not be placed in the public record or made available for public inspection for a period of five years or until further order of this Commission.

4. Delta's September 8, 2021 petition for confidential treatment regarding its response to Attorney General's Supplemental Request Item Nos. 22 and 45(a), to the extent they contain non-executive payroll and employment information, is granted.

5. Delta's response to Attorney General's Supplemental Request Item Nos. 22 and 45(a), to the extent they contain non-executive payroll and employment information,

¹ Case No. 2021-00185 (Ky. PSC Jan. 21, 2022), Order at 4, *citing* Case No. 2017-00321, *Electronic Application of Duke Energy Kentucky, Inc. For: 1) An Adjustment of the Electric Rates; 2) Approval of an Environmental Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities and 5) All Other Required Approvals and Relief* (Ky. PSC May 3, 2018), Order at 4-5.

shall not be placed in the public record or made available for public inspection for an indefinite period or until further order of this Commission.

6. Delta's September 8, 2021 petition for confidential treatment regarding its response to Attorney General's Supplemental Request Item Nos. 22 and 45(a), to the extent they contain executive compensation information, is denied.

7. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001, Section 13(9).

8. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Delta shall inform the Commission and file with the Commission an unredacted copy of the designated material.

9. 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, shall have 20 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.

10. The Commission shall not make the requested material for which confidential treatment was granted 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.

11. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.

12. If Delta objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials shall be granted confidential treatment.

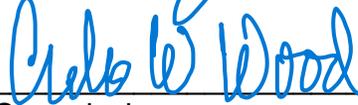
13. Within 30 days of the date of service of this Order, Delta shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

14. The designated material for which Delta's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order to allow Delta to seek a remedy afforded by law.

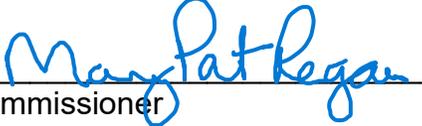
PUBLIC SERVICE COMMISSION



Chairman



Commissioner



Commissioner

ATTEST:



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