

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR AN)	CASE NO. 2024-00346
ADJUSTMENT OF RATES)	

PETITION OF DELTA NATURAL GAS COMPANY, INC.
FOR CONFIDENTIAL PROTECTION

Delta Natural Gas Company, Inc. (“Delta”), hereby petitions the Kentucky Public Service Commission (“Commission”) pursuant to 807 KAR 5:001, Section 13 and KRS 61.878(1) to grant confidential protection for the items described herein, which Delta seeks to provide to comply with 807 KAR 5:001, Section 16(8)(b), 807 KAR 5:001, Section 16(8)(m), and 807 KAR 5:001, Section 16(8)(g).

Confidential Personal Information – Customer-Identifying Information (KRS 61.878(1)(a))

1. The Kentucky Open Records Act exempts from disclosure certain private and personal information.¹ Tab 55 provides a jurisdictional rate base summary in compliance with 807 KAR 5:001, Section 16(8)(b) and provides documents containing customer-identifying information. Tab 66 provides schedules containing revenue summaries in compliance with 807 KAR 5:001, Section 16(8)(m) and one of these schedules includes customer-identifying information. The identification of specific customers is personal information that should not be in the public domain. Because information in Tab 55 and Tab 66 identify specific customers, Delta requests through this petition that the Commission protect the confidential portions of the documents from public disclosure.

¹ KRS 61.878(1)(a).

2. The Commission has previously granted confidential protection to similar customer-identifying information.²

Confidential Personal Information – Compensation Information (KRS 61.878(1)(a))

3. The Kentucky Open Records Act exempts from disclosure certain private and personal information.³ The Kentucky Supreme Court has characterized “one’s income” as “intimate” information of a private nature.⁴ At Tab 60 and in compliance with 807 KAR 5:001, Section 16(8)(g), Delta’s application provides the “executive compensation by title,” which reveals the compensation of its president, including a portion of compensation that is not included as an expense in base rate calculations. Delta is not seeking confidential protection for the executive compensation included in rates. It is only requesting confidential treatment for the portion of compensation that pertains to non-regulated affiliates that is **not** included in rates. Disclosure of this information would invade the privacy rights of the individual named. This personal and private information is not in the public realm. Delta’s executive, therefore, has a reasonable expectation that his compensation is personal and private information to the extent that the compensation is not included in rates. Disclosure would constitute an unwarranted invasion of his personal privacy in contravention of KRS 61.878(1)(a).

4. The Commission has previously denied confidential protection to executive officer compensation information on the basis that “salaries are included as an expense in base rate calculations” and are “subject to public dissemination of regulatory filings,” the information

² See, e.g., *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of its Rates and a Certificate of Public Convenience and Necessity*, Case No. 2021-00185, Order at 8 (Ky. PSC Mar. 16, 2022) (granting indefinite confidential protection to customer-identifying information contained in Tabs 55 and 66 of Delta’s application); *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-000221, Order at 1-2 (Ky. PSC July 25, 2013) (granting indefinite confidential protection to materials containing customer names, account numbers, and usage information for customers served under All Electric School rate schedule).

³ KRS 61.878(1)(a).

⁴ *Cape Pub’ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008).

should not be entitled to confidential protection.⁵ Such reasoning, however, is not applicable in the current request because the salary or benefit information for Delta’s president for which protection is sought is not included in base rate calculations and is not subject to public disclosure.⁶ Because Delta requests confidential protection only for the executive salary and benefits to the extent that they are not included in base rate calculations, granting confidential protection to this limited information accords with KRS 61.878(1)(a).

Confidential Information Subject to this Petition

5. The information for which Delta is seeking confidential treatment is not known outside of Delta, its consultants with a need to know the information, and the Company’s counsel, is not disseminated within Delta except to those employees with a legitimate business need to know and act upon the information, and is generally recognized as confidential and proprietary information in the utility industry.

6. Delta will disclose the confidential information, pursuant to a confidentiality agreement, to intervenors with a legitimate interest in this information and as required by the Commission.

⁵ *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2012-00222, Order Regarding Request for Confidential Treatment at 2 (Ky. PSC Sept. 11, 2013). *See also Application of Kentucky-American Water Company for an Adjustment of Rates*, Case No. 2015-00418, Order at 2 (Ky. PSC Aug. 31, 2016) (finding “that KAWC’s executive salaries are an expense in the rate base calculations” and holding that “such salary compensation is not entitled to confidential protection”); *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates*, Case No. 2014-00371, Order Regarding Request for Confidential Treatment at 1-2 (Ky. PSC Jan. 20, 2016) (denying confidential protection for executive salary information for the same reasons as Case No. 2012-00222 and noting that “[m]ovant has not offered any argument to depart from this precedent”); *An Adjustment of Gas and Electric Rates of Louisville Gas and Electric Company*, Case No. 90-158, Order (Ky. PSC Sept. 7, 1990) (“Since LG&E seeks to recover through its rate structure the compensation in salaries paid to its executive employees, LG&E customers have a right to know whether the salaries and compensation paid to such employees are reasonable.”). *See also* Case No. 2018-00294, Order (Ky. PSC Oct. 8, 2019); Case No. 2018-00295, Order (Ky. PSC Oct. 8, 2019).

⁶ Delta acknowledges that the Commission denied its request for confidential treatment of executive compensation information in its prior rate case. *See* Case No. 2021-00185, Order at 6-7 (Ky. PSC Mar. 16, 2022). However, this request does not seek confidential protection of the same information; instead, it only seeks protection of executive compensation information to the extent that the information is not included in base rate calculations.

7. If the Commission disagrees with this request for confidential protection, it must hold an evidentiary hearing (a) to protect Delta's due process rights and (b) to supply the Commission with a complete record to enable it to reach a decision with regard to this matter.⁷

8. Pursuant to 807 KAR 5:001, Section 13(2)(b), for Tabs 55, 60, and 66, which are not entirely confidential, Delta is filing with the Commission one electronic copy that identifies with redactions the information for which confidential protection is sought. In accordance with the Commission's March 24, 2020 and July 22, 2021 Orders in Case No. 2020-00085, Delta will provide unredacted copies noting the confidential information with highlighting to the Commission. Access to the confidential information will be provided to intervenors upon request pursuant to a confidentiality agreement.

WHEREFORE, Delta Natural Gas Company, Inc. respectfully requests the Kentucky Public Service Commission grant confidential protection for the information described herein.

Dated: November 25, 2024

Respectfully submitted,



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⁷ *Utility Regulatory Commission v. Kentucky Water Service Company, Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on November 25, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.

Marcia H. Braun

Counsel for Delta Natural Gas Company, Inc.