

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF DELTA NATURAL GAS)	CASE NO.
COMPANY, INC. FOR AN ADJUSTMENT OF)	2010-00116
RATES)	

ORDER

On August 27, 2010, Delta Natural Gas Company, Inc. (“Delta”) moved the Commission for approval to deviate from the hearing notice requirements of 807 KAR 5:011, Section 8 (5). For the reasons set forth below, Delta’s motion is granted in part and denied in part.

On July 13, 2010, the Commission set this proceeding for hearing on August 31, 2010¹ and directed Delta to publish notice of the hearing pursuant to KRS 424.300. KRS 424.300 requires newspaper publication of rate change hearings to be in accordance with Commission regulations. 807 KAR 5:011, Section 8(5) provides that notice of rate change hearings must be published in “a newspaper of general circulation in the areas that will be affected one (1) time not less than seven (7) nor more than twenty-one (21) days prior to the hearing.” Delta states in support of its motion that it timely contacted the Kentucky Press Association to arrange for notice prior to August 24, 2010 in the 26 newspapers in Delta’s service area. It states that of the 26 newspapers, three local newspapers did not meet the publication requirements – *Flemingsburg Gazette* published one day outside the required notice period; *Irvine*

¹The hearing, at which Delta and the Office of the Attorney General appeared, was held on August 31 and September 1, 2010 as ordered.

Citizen Voice and Times published two days outside of the notice period and *Clay City Times* failed to publish any notice. Delta argues that, despite these publication deficiencies, the Commission should find that Delta substantially complied with the notice requirements since timely notice was provided in the majority of the newspapers in its service area, including the *Lexington Herald-Leader*.

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that 807 KAR 5:011, Section 14, provides us with the authority to grant a deviation from the notice requirements of 807 KAR 5:011, Section 8(5) upon a showing of good cause. We find that, while Delta's notices of hearing in the *Flemingsburg Gazette* and the *Irvine Citizen Voice and Times* were printed out of time, the notices should be considered in substantial compliance and, as such, good cause has been shown to grant the deviation with regard to those notices. The Commission finds that good cause has not been shown with regard to the failure of any notice being published in the *Clay City Times*. The publication requirements of KRS 424.300 and 807 KAR 5:011, Section 8, ensure that the public has an opportunity to become aware of rate hearings conducted by the Public Service Commission. As the Commission has previously held,² a significant percentage of Kentucky's population lives in rural areas and receives its information on current events from its local newspaper. The failure of one newspaper to publish timely notice impairs the public's right to be informed of a rate hearing. Therefore, the Commission finds that Delta's rate hearing should be

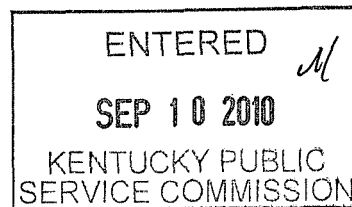
² See Case No. 2008-00285, An Examination of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 2007 Through April 30, 2008; and Case No. 2008-00286, An Examination of the Application of the Fuel Adjustment Clause of Louisville Gas and Electric Company from November 1, 2007 Through April 30, 2008 (Ky. PSC Nov. 6, 2008).

reconvened and Delta should provide notice of the new hearing date in the *Clay City Times*.

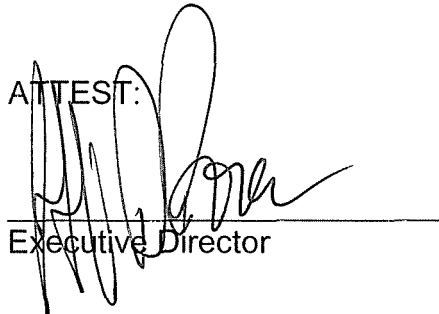
IT IS THEREFORE ORDERED that:

1. Delta's motion for approval to deviate from the notice of hearing requirements is granted in part and denied in part as set forth herein.
2. Delta's August 31, 2010 hearing in this matter shall resume on September 30, 2010 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, for the purpose of receiving public comment.
3. Delta shall cause notice of the September 30, 2010 hearing to be published in the *Clay City Times* in accordance with KRS 424.300 and 807 KAR 5:011, Section 8(5).
4. The official record of this proceeding shall be by video only.

By the Commission



ATTEST:


Executive Director

Paul D Adams
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

John B Brown
Chief Financial Officer
Delta Natural Gas Company, Inc.
3617 Lexington Road
Winchester, KY 40391

Honorable Robert M Watt, III
Attorney At Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KY 40507-1801