

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS)	CASE NO.
ADJUSTMENT FILING OF DELTA NATURAL)	2020-00314
GAS COMPANY, INC.)	

ORDER

On September 25, 2020, 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 treatment for an indefinite period to the identity of the gas suppliers listed in its Quarterly Gas Cost Recovery filing.

The Commission is a public agency subject to Kentucky's Open Records Act, which requires that all public records "be open for inspection by any person, except as otherwise provided by KRS 61.870 to 61.884."¹ The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.² Records which are confidentially disclosed to an agency or required by an agency, may be conform to the exception contained in KRS 61.878(1)(c) which identifies records that are generally recognized as confidential or proprietary as exceptions if public disclosure would allow an unfair commercial advantage.³ In determining whether materials should be exempt from disclosure, the Commission must balance the potential

¹ KRS 61.872(1).

² 807 KAR 5:001, Section 13 (2)(c).

³ KRS 68.878 (1)(c).

harm from disclosure with “the effect of protecting a given document from scrutiny by the public and potential intervenors.”⁴

In support of its petition, Delta states that the designated material contains sensitive commercial information that, if disclosed, would injure Delta’s ability to negotiate future gas supply contracts at advantageous prices. The ability to negotiate allows Delta to obtain the best prices for its customers and limiting that could thereby force Delta’s customers to pay a higher price for natural gas. Delta further asserts that disclosure of the information would permit an unfair advantage to its competitors for both gas supplies and retail gas load causing potentially higher rates for its customers as well.

The Commission finds that ensuring the confidentiality of Delta’s gas suppliers would safe guard Delta’s ability to negotiate and promote competition among Delta’s prospective gas suppliers. To the extent that this minimizes the cost of gas to Delta’s customers serves the public interest. The public interest will also be served by promoting the development of competition between Delta and other energy service providers within Delta’s gas service territory.

Having considered the petition and the material at issue, the Commission finds that the identity of the gas suppliers located in Delta’s Quarterly Gas Cost Recovery filing is generally recognized as confidential or proprietary; it therefore meets the criteria for confidential treatment and is exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c).

IT IS THEREFORE ORDERED that:

⁴ *Southeastern United Medigroup, Inc. v. Hughes*, 952 S.W.2d 195, 199 (Ky. 1997), abrogated on other grounds by *Hoskins v. Maricle*, 150 S.W.3d 1 (Ky. 2004).

1. Delta's petition for confidential treatment is granted.
2. The designated material granted confidential treatment 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.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall be in compliance with 807 KAR 5:001, Section 13(9).
4. Delta shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. 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, Delta shall have 30 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.
6. The Commission shall not make the requested material 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.

By the Commission



ATTEST:

A handwritten signature in blue ink that reads "Linda C. Rudwell". The signature is written in a cursive style and is positioned above a horizontal line.

Executive Director

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