

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC PURCHASED GAS ADJUSTMENT)	CASE NO.
FILING OF DELTA NATURAL GAS COMPANY,)	2020-00408
INC.)	

ORDER

On December 18, 2020, Delta Natural Gas (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 for redactions from portions of its Quarterly Report of Gas Cost Recovery Rate Calculation also filed on December 18, 2020.¹

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."² In support of its petition, Delta argued for the application KRS 61.878(1)(c)(1), which exempts records that are "[g]enerally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

The redacted material consists of gas supplier names from a list showing volume sold for a specific period. Delta argued that public disclosure would allow its competitors to know the unit price and overall cost of the gas Delta is purchasing from each supplier. This information is valuable to Delta's competitors because it can alert them to the identity

¹ February 2021 GCR Filings (filed Dec. 18, 2020), Feb 21 GCR Combined, GCRFeb 21 (spreadsheet), and NYMEX Feb 21 (spreadsheet) (filed confidentially).

² KRS 61.872(1).

of Delta's low-cost suppliers, and if those supply agreements are more favorable than theirs, they can attempt to outbid Delta for those suppliers, raising prices and hurting its competitive position.

Having considered the petition and the material at issue, the Commission finds that Delta's petition is granted. Competitors could undercut Delta's contracts with gas suppliers if it knew their identities and pricing. The Commission recently found that a sales summary showing gas supplier names, volume, and sales was entitled to indefinite confidential protection.³ The information redacted from Delta's Quarterly Report of Gas Cost Recovery Rate Calculation filed on December 18, 2020, 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)(1).

IT IS THEREFORE ORDERED that:

1. Delta's petition for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order 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 comply with 807 KAR 5:001, Section 13(9).

³ Case No. 2021-00185, *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of Its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 7, 2021(motion filed July 28, 2021)), Order at 4, citing Case No. 2016-00200, *Purchased Gas Adjustment Filing of Valley Gas, Inc.* (Ky. PSC July 27, 2017), Order at 2–3.

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.

PUBLIC SERVICE COMMISSION



Chairman



Vice-Chairman

Commissioner



ATTEST:



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