

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 June 4, 2021,¹ Delta Natural Gas Company, Inc. (Delta) filed an application seeking, among other things, a Certificate of Public Convenience and Necessity (CPCN) to construct an underground natural gas pipeline to provide a second source of supply to Nicholasville. Administrative regulation 807 KAR 5:001, Section 15(2)(d)(2), requires that an application for a CPCN be accompanied by plans, specifications, and drawings of the proposed construction or extension. On page 10 of its application, Delta states that its application does not contain these plans, specifications, and drawings because the proposed line has not yet been fully engineered, and these items are not available at this time. Delta did not file a motion requesting deviation from the requirements of 807 KAR 5:001, Section 15(2)(d). Rather, it merely included a statement in its application indicating that if a deviation should be required, that Delta was respectfully requesting the deviation.²

¹ Delta originally tendered its application on May 28, 2021, but the application was rejected for filing deficiencies. Delta subsequently cured the deficiency and the application was deemed filed on June 4, 2021.

² Application at 10.

The purpose of 807 KAR 5:001, Section 15, is to provide jurisdictional utilities with a comprehensive listing of the elements the Commission expects an application for a CPCN to contain. This allows the Commission adequate information upon which base its decision whether to grant a CPCN for a proposed project. The Commission may permit deviation from the filing requirements in special cases and for good cause shown.³ For the reasons stated below the Commission finds that this is not a special case, that Delta has not shown good cause to permit a deviation from the filing requirements, and that Delta's request should be denied.

Delta states that it sought the CPCN in this proceeding instead of deferring the application for a CPCN until more information was available so that it did not incur significant engineering and acquisition costs before the Commission reviewed and approved the project.⁴ Further Delta states that this approach is beneficial to customers in the event the Commission determines it cannot grant a CPCN.⁵ The Commission finds that this response fundamentally misunderstands the Commission's regulations and the Commission's statutory duty under KRS 278.020 to review CPCN applications. Delta is asking the Commission to approve the construction of a natural gas pipeline without providing the Commission with the engineering plans, specifications, and drawings for that project. When the Commission promulgated its regulations it specifically determined that a review of a CPCN application should include a review of engineering plans, specifications, and drawings of the proposed construction. Delta is asking for a deviation

³ 807 KAR 5:001, Section 22.

⁴ Delta's Response to Staff's Second Request for Information (filed July 28, 2021), Item 15a.

⁵ *Id.*

so that it can delay the cost involved with presenting the Commission with a complete application that conforms to the regulations. The Commission finds this unacceptable.

Delta has not alleged the construction of this project is required to address any urgent need. Nor has Delta presented any facts to support that this CPCN application represents a “special case” in which a deviation from the usual requirements is warranted. The Commission expects Delta and any other jurisdictional utility seeking a CPCN to present to the Commission the engineering plans and specifications for those projects. Further, the Commission expects jurisdictional utilities to acknowledge when a filing requirement has not been expressly met, and to seek a deviation by filing a motion explaining why good cause exists for granting the deviation.

The Commission finds that avoiding or delaying the cost of developing engineering plans and specifications is not good cause to permit a deviation from the filing requirements. IT IS THEREFORE ORDERED that Delta’s request for deviation from the filing requirements found in 807 KAR 5:001, Section 15(2)(d)(2) is denied.

By the Commission



ATTEST:


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