

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA NATURAL)	
GAS COMPANY, INC. FOR AN ADJUSTMENT OF)	
ITS RATES AND A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY)	2021-00185

ORDER

On January 12, 2022, Delta Natural Gas Company, Inc. (Delta) filed a motion, pursuant to KRS 278.400, for clarification of the Commission’s January 3, 2022 final Order in this proceeding (Final Order) that, among other things, approved a general rate increase and ordered modifications to the Stipulation and Recommendation (Stipulation) between Delta and the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General). Although filed as a motion for clarification, the pleading is in the nature of an application for rehearing and will be addressed as such.

The Attorney General did not file a response to Delta’s motion for rehearing. This matter now stands submitted for a decision.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when “the

evidence presented leaves no room for difference of opinion among reasonable minds.”¹
An Order can only be unlawful if it violates a state or federal statute or constitutional provision.²

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

DELTA’S MOTION FOR REHEARING

Delta requested rehearing on two issues regarding modifications to the Stipulation. Delta also requested clarification on one issue regarding its Conservation/Efficiency Program Cost Recovery Component (CEPRC) rate.

Adjustment to Utilize Rate Base Instead of Capitalization

Delta’s application was filed using capitalization to calculate the return portion of base rates. The Final Order modified the Stipulation to reduce Delta’s revenue requirement by \$208,375, to use rate base to calculate Delta’s base rates. Delta claimed that the revenue requirement in the Stipulation is based on rate base because the Stipulation and supporting testimony states that the revenue requirement is calculated using rate base. Delta argued that the revenue requirement in the Stipulation is already computed utilizing rate base and as such the Commission’s adjustment double-counted

¹ *Energy Regulatory Comm’n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

² *Public Service Comm’n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm’n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

the effect, and erroneously reduces Delta's revenue requirement by \$208,375. Delta requested that the Commission rehear the Final Order and eliminate the modification regarding the use of rate base, as this adjustment was fully captured in the Stipulation.

Nicholasville Pipeline Rights-of-Way (ROWs)

The Final Order included a modification to the Stipulation to remove ROWs for the proposed Nicholasville Pipeline because Delta withdrew its CPCN request due to filing deficiencies. Delta argues that the adjustment, a rate base reduction of \$1,084,251 and a revenue requirement reduction of \$103,374, was erroneous because it used the test-period ending balance and not the 13-month average, which is appropriate for forecasted test periods. Delta stated that it provided a post-hearing data request response that calculated the revenue requirement reduction necessary to remove the Nicholasville Pipeline ROW based on the 13-month average, a base rate reduction of \$541,850 and a revenue requirement reduction of \$49,358. Delta requested rehearing to correct this adjustment.

Resetting CEPRC Rate to Zero

Delta's CEPRC recovers the costs of its efficiency and conservation programs, which were discontinued in Case No. 2018-00029.³ Delta's current CEPRC is \$0.09180/Mcf, to recover the remaining lost sales from prior programs. Delta's tariff on file with the Commission at the time it filed its application in this proceeding stated that the rate would reset to zero when new base rates were implemented. Delta requested

³ Case No. 2018-00029, *Electronic Investigation of the Reasonableness of the Conservation/Energy Efficiency Program of Delta Natural Gas Company, Inc.* (Ky. PSC June 28, 2018).

clarification of the Final Order that the CEPRC can be reset to \$0/Mcf for residential customers. Delta did not raise this issue during the proceeding.

DISCUSSION AND FINDINGS

Adjustment to Utilize Rate Base Instead of Capitalization

The Commission finds that Delta has established good cause to grant rehearing to allow for additional discovery on whether the Stipulation requires modification to properly account for the difference between rate base and capitalization.

Nicholasville Pipeline ROWs

The Commission finds that Delta has established good cause to grant rehearing to allow for additional discovery on the correct adjustment to remove the Nicholasville Pipeline's ROWs.

Resetting CEPRC Rate to Zero

The Commission finds that clarification should be granted on this issue. In Case No. 2018-00029, the Commission ordered:

Delta is authorized to continue to file its CEPRC annually to recover any lost revenues and authorized incentives associated with any Commission-approved DSM program consistent with KRS 278.285. Recovery of lost revenues will be reset to zero on the effective date of the adjustment of base rates in Delta's next base rate case and shall not exceed claimed savings over the life of the specific DSM measure.⁴

The Commission finds that Delta's tariff in effect at the time of this rate application, and the finding from Case No. 2018-00029 both state that Delta's CEPRC would be reset to \$0/Mcf upon Delta's "next" rate filing, so therefore, as of the effective date of the rates approved in this proceeding the CEPRC is set to \$0/Mcf.

⁴ *Id.* at 7.

The Commission, on its own motion, finds that a procedural schedule should be established for the orderly processing of this case. A procedural schedule is set forth in the Appendix to this Order.

IT IS THEREFORE ORDERED that:

1. Delta's motion for rehearing is granted.
2. Delta's motion for clarification is granted.
3. The procedural schedule set forth in the Appendix to this Order shall be followed.
4. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085⁵ regarding filings with the Commission.
5. The Commission does not look favorably upon motions for continuance. Accordingly, motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.
6. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

⁵ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

By the Commission

ENTERED
JAN 27 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2021-00185

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2021-00185 DATED JAN 27 2022

All rehearing requests for information to Delta
shall be filed no later than 02/08/2022

Delta shall file responses to rehearing requests for
information no later than..... 02/18/2022

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