

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR)	CASE NO.
APPROVAL OF LOGO DISCLAIMER AND)	2024-00057
NOTICE OF NONREGULATED ACTIVITY)	

ORDER

This matter arises on two petitions filed on March 7, 2024, and on April 10, 2024, by Delta Natural Gas Company, Inc. (Delta), pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for certain documents discussed in further detail below.

MARCH 7, 2024 PETITION

In its petition filed on March 7, 2024, Delta requested confidential treatment for five years for certain information that Delta provided in Exhibit 1 to Delta's Notice of Establishment of Nonregulated Activity and Application for Approval of Disclaimer Language (Notice and Application).

In support of its petition, Delta argued that Exhibit 1 contains a proprietary analysis of potential annual revenues associated with the agreement between Delta and HomeServe USA Repair Management Corp. (HomeServe).¹ Delta stated the analysis is based on over twenty years of data obtained from Delta's parent company, Essential Utilities, Inc. (Essential), regarding customer counts and revenues in other states where

¹ Petition for Confidential Protection (filed Mar. 7, 2024) at 1.

Essential has entered into separate agreements with HomeServe.² Delta asserted that public disclosure of the information in Exhibit 1 would create unfair commercial advantages for competitors of both Essential and HomeServe.³

For this reason, Delta argued that public disclosure is prohibited under KRS 61.878(1)(c)(1), which prohibits public disclosure of records that are confidential or proprietary that, if publicly disclosed, would result in competitive advantage to the discloser's competitors.⁴

Having considered the petitions and the material at issue, the Commission finds that the designated material contained in the March 7, 2024 petition is generally recognized as confidential or proprietary and public disclosure could result in commercial harm to Delta because the designated material, if publicly disclosed, would provide competitors and future vendors with information that could impact future negotiations and could result in higher financing costs for Delta, which in turn impacts ratepayers if the higher costs are recovered in rates.

For this reason, the Commission further finds the designated material in the March 7, 2024 petition meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1) for a period of five years.

² Petition for Confidential Protection (filed Mar. 7, 2024) at 2, footnote 2.

³ Petition for Confidential Protection (filed Mar. 7, 2024) at 2.

⁴ KRS 61.878(1)(c)(1).

APRIL 10, 2024 PETITION

In its petition filed on April 10, 2024, Delta requested confidential treatment for five years for certain information that Delta is providing in response to Commission Staff's First Request for information (Staff's First Request), Item No. 2(a), the Marketing Agreement.

In support of its petition, Delta argued that Exhibit B to the Marketing Agreement between Delta and HomeServe was confidential because it disclosed the compensation structure and terms associated with the Marketing Agreement, and the compensation structure is a result of proprietary negotiations between Delta and HomeServe.⁵ According to Delta, public disclosure of the information in Exhibit B would allow other home repair service companies like HomeServe, and other third-party vendors, to have an unfair commercial advantage when negotiating with Delta.⁶

For this reason, Delta argued that public disclosure is prohibited under KRS 61.878(1)(c)(1), which prohibits public disclosure of records that are confidential or proprietary that, if publicly disclosed, would result in competitive advantage to the discloser's competitors.⁷

Having considered the petitions and the material at issue, the Commission finds that the designated material contained in the April 10, 2024 petition is generally recognized as confidential or proprietary and public disclosure could result in commercial harm to Delta because the designated material, if publicly disclosed, would provide

⁵ Petition for Confidential Protection (filed Apr. 10, 2024) at 1.

⁶ Petition for Confidential Protection (filed Apr. 10, 2024) at 2.

⁷ KRS 61.878(1)(c)(1).

competitors and future vendors with information that could impact future negotiations and could result in higher financing costs for Delta, which in turn impacts ratepayers if the higher costs are recovered in rates.

For this reason, the Commission further finds the designated material in the April 10, 2024 petition meets the criteria for confidential treatment and should be exempted from public disclosure pursuant to 807 KAR 5:001, Section 13, and KRS 61.878(1)(c)(1) for a period of five years.

IT IS THEREFORE ORDERED that:

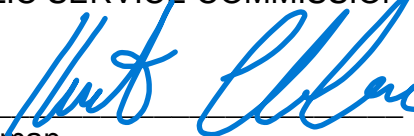
1. Delta's March 7, 2024 petition for confidential treatment is granted.
2. Delta's April 10, 2024 petition for confidential treatment is granted.
3. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for five years or until further order of this Commission.
4. 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).
5. If the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment, Delta shall inform the Commission and file with the Commission an unredacted copy of the designated material.
6. 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.

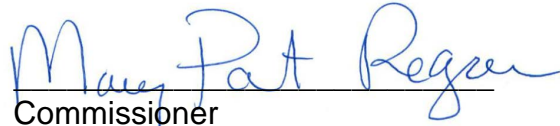
7. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow Delta to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


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