

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	CASE NO.
NATURAL GAS COMPANY, INC. FOR AN)	2024-00346
ADJUSTMENT OF GAS RATES)	

ORDER

On November 25, 2024 and December 9, 2024, Delta Natural Gas Company, Inc. (Delta) filed petitions, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential protection for items provided in its application for a general rate adjustment and several responses to Commission Staff's First Request for Information (Staff's First Request), as discussed more fully below.

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 Exceptions to the free and open examination of public records contained in KRS 61.878 should be strictly construed.² The party requesting that materials be treated confidentially has the burden of establishing that one of the exceptions is applicable.³ KRS 61.878(1)(c)(1) provides an exception to the requirement for public disclosure of records that are "generally recognized as confidential and proprietary, which if openly disclosed would permit an unfair commercial

¹ KRS 61.872(1).

² See KRS 61.871.

³ 807 KAR 5:001, Section 13(2)(c).

advantage to competitors of the entity that disclosed the records.”⁴ KRS 61.878(1)(a) which protects certain private information from disclosure.

NOVEMBER 25, 2024 PETITION

Delta was required to file information as part of its application labeled, in this case, as Tab 55, Tab 60, and Tab 66. In its November 25, 2025 petition, Delta requested confidential treatment for certain items contained in each of those tabs. In support of its petition, Delta argued that Tab 55 contained customer names in that document should be given confidential treatment pursuant to KRS 61.878(1)(a).⁵ Delta requested that the salary received by the president from an unregulated affiliate contained in Tab 60 be given confidential treatment pursuant to KRS 61.878(1)(a).⁶ Lastly, Delta argued that Tab 66 also contained customer names and other information that should be given confidential treatment pursuant to KRS 61.878(1)(a).⁷

Having considered the petition and the material at issue, the Commission finds that Delta’s petition should be granted in part and denied in part. The Commission finds that the designated material contained in Delta’s Tabs 55 and 66 are records that meet the criteria for confidential treatment and should be exempted from public disclosure pursuant to KRS 61.878(1)(a), KRS 61.878(1)(c)(1), and 807 KAR 5:001, Section 13 for an indefinite period. Tab 55 contains customer names and Tab 66 customer names as well as information that would have resulted in a commercial disadvantage to Delta should the

⁴ KRS 61.878(1)(c)(1).

⁵ Delta’s Petition for Confidential Treatment (Petition) (filed Nov. 25, 2025).

⁶ Petition.

⁷ Petition.

information have been released. The Commission further finds that the request for confidential treatment should be denied for the information highlighted in Tab 60. The Commission has previously held that information related to executive compensation is not entitled to confidential protection.⁸ Delta argued that this compensation was a result of work outside of Delta; however, executive compensation includes items beyond a base salary. Although this is compensation from an unregulated entity, the entity is an affiliate of Delta. As an affiliate, the company's business is interconnected with Delta. Therefore, highlighted information in Tab 60 does not meet the criteria for confidential treatment and should not be exempted from public disclosure pursuant to KRS 61.878(1)(a) and 807

⁸ The Commission has a long precedent of not granting confidential treatment for executive compensation. See Case No. 2012-00221, *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates* (Ky. PSC Sept. 11, 2013); Case No. 2014-00371, *Application of Kentucky Utilities Company for an Adjustment of its Electric Rates* (Ky PSC Jan 20, 2016); Case No. 2015-00418, *Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky PSC Aug. 31, 2016); Case No. 2017-00321, *Electronic Application of Duke Energy Kentucky, Inc. For: 1) An Adjustment of the Electric Rates; 2) Approval of an Environment Compliance Plan and Surcharge Mechanism; 3) Approval of New Tariffs; 4) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 5) All other Required Approvals and Relief* (Ky. PSC June 12, 2018); Case No. 2018-00294, *Electronic Application of Kentucky Utilities Company for an Adjustment of its Electric Rates* (Ky. PSC Oct. 8, 2019); Case No. 2018-00295, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates* (Ky. PSC Oct. 8, 2019); Case No. 2019-00268, *Application of Knott County Water and Sewer District for an Alternative Rate Adjustment* (Ky. PSC Dec. 3, 2019); Case No. 2019-00271, *Electronic Application of Duke Energy Kentucky, Inc. for 1) An Adjustment of the Electric Rates; 2) Approval of New Tariffs; 3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and 4) All other Required Approvals and Relief* (Ky. PSC May 4, 2020); Case No. 2020-00290, *Electronic Application of Bluegrass Water Utility Operating Company, LLC for an Adjustment of Rates and Approval of Construction* (Ky. PSC Dec. 27, 2021); Case No. 2020-00349, *Electronic Application of Kentucky Utilities Company for an Adjustment of Electric Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of a One-Year Surcredit* (Ky. PSC Dec. 7, 2021); Case No. 2020-00350, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity to Deploy Advanced Metering Infrastructure, Approval of Certain Regulatory and Accounting Treatments, and Establishment of One-Year Surcredit* (Ky. PSC Dec. 7, 2021); Case No. 2021-00183, *Electronic Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates; Approval of Depreciation Study; Approval of Tariff Revision; Issuance of a Certificate of Public Convenience and Necessity; and Other Relief* (Ky. PSC Oct. 5, 2021); Case No. 2021-00185, *Electric Application of Delta Natural Gas Company, Inc. for an Adjustment of its Rates and a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 8, 2021).

KAR 5:001, Section 13 because it is part of the total compensation package received by an executive.

DECEMBER 9, 2024 PETITION

In its December 9, 2024 petition, Delta requested confidential treatment for certain items provided in response to Staff's First Request. Delta provided its state and federal tax returns in response to Staff's First Request, Item 18. Delta argued that disclosure of its tax returns is prohibited by KRS 61.878(1)(k) and 26 U.S.C. section 6103(a).⁹ Delta provided its collective bargaining agreement in response to Staff's First Request, Item 37 and argued that disclosure of the agreement would place Delta at a commercial disadvantage generally with competitors as well as in other negotiations.¹⁰ In response to Item 54, Delta provided the Excel versions of the information discussed above in Tabs 55, 60, and 66. Delta argued that, as discussed above, the highlighted information should be given confidential treatment pursuant to KRS 61.878(1)(a).¹¹

Having considered the petition and the material at issue, the Commission finds that Delta's petition should be granted in part and denied in part. The Commission finds that the designated material contained in Delta's response to Item 18 are tax records that meet the criteria for confidential treatment pursuant to KRS 61.878(1)(k); KRS 131.190; 26 U.S.C. Section 6103(a); and 807 KAR 5:001, Section 13 for an indefinite period. The Commission finds the collective bargaining agreement provided in Delta's response to Item 37 should also be given confidential treatment for a period of five years pursuant to

⁹ Petition at 1-2.

¹⁰ Petition at 2-3.

¹¹ Petition at 4-5.

KRS 61.878(1)(c)(1) as disclosure would commercially disadvantage Delta. As discussed in the section related to the November petition, the Commission finds that the highlighted information provided in Delta's response to Item 54, should be confidential except for the executive salary in the Excel file also filed as Tab 60.

IT IS THEREFORE ORDERED that:

1. Delta's November 25, 2024 petition for confidential treatment is granted in part and denied in part.
2. Delta's November 25, 2024 petition for confidential treatment for highlighted information in Tab 55 and Tab 66, is granted.
3. Delta's November 25, 2024 petition for confidential treatment for highlighted information in Tab 60 is denied.
4. Delta's December 9, 2024 petition for confidential treatment is granted in part and denied in part.
5. Delta's December 9, 2024 petition for confidential treatment for Item 18, Item 37, Item 54's Excel files of Tab 55 and Tab 66 is granted.
6. Delta's December 9, 2024 petition for confidential treatment for Item 54, Excel file of Tab 60 is denied.
7. The designated material, Tab 55, Tab 66, Item 18, and Item 54, the Excel files of Tab 55 and Tab 66, 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.

8. The designated material, Item 37, granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for a five-year period or until further order of this Commission.

9. 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).

10. 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.

11. 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.

12. The Commission shall not make the requested material for which confidential treatment was granted 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.

13. The designated material denied confidential treatment by this Order is not exempt from public disclosure and shall be placed in the public record and made available for public inspection.

14. If Delta objects to the Commission's determination that the requested material not be granted confidential treatment, it must seek either rehearing pursuant to KRS 278.400 or judicial review of this Order pursuant to KRS 278.410. Failure to exercise either of these statutory rights will be deemed as agreement with the Commission's determination of which materials shall be granted confidential treatment.

15. Within 30 days of the date of service of this Order, Delta shall file a revised version of the designated material for which confidential treatment was denied, reflecting as unredacted the information that has been denied confidential treatment.

16. The designated material for which Delta's request for confidential treatment has been denied shall neither be placed in the public record nor made available for inspection for 30 days from the date of service of this Order to allow Delta to seek a remedy afforded by law.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director

ENTERED
APR 24 2025 AH
KENTUCKY PUBLIC
SERVICE COMMISSION

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