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**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 1, 2012**

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|---|---|---|
| **IN RE:** | ) | |
| | ) | |
| **NAVITAS TN NG, LLC.** | ) | **Docket No. 12-00021** |
| **ACTUAL COST ADJUSTMENT (ACA) AUDIT** | ) | |

## NOTICE OF FILING BY THE UTILITIES DIVISION OF THE TENNESSEE REGULATORY AUTHORITY

Pursuant to Tenn. Code Ann. §§ 65-4-104, 65-4-111 and 65-3-108, the Utilities Division of the Tennessee Regulatory Authority gives notice of its filing of the Navitas TN NG, LLC.'s ACA Audit Report in this docket and would respectfully state as follows:

1. The present docket was opened by the Authority to hear matters arising out of the audit of Navitas TN NG, LLC.'s (hereafter the "Company") ACA filing covering the period January 1, 2011 to December 31, 2011.

2. The Company's ACA filing was received on March 13, 2012, and the Audit Staff (hereafter the "Staff") completed its audit of same on September 27, 2012. The original 180 day deadline for the Staff's completion of the audit was extended to October 16, 2012 by mutual consent of the Company and the TRA Audit Staff as provided in the Purchased Gas Adjustment Rule 1220-4-7-.03(2).

3. On September 27, 2012, the Utilities Division submitted its preliminary ACA audit findings to the Company via e-mail. The Company responded on September 28, 2012 via e-mail and this response has been incorporated into the final report.

4. The Utilities Division hereby files its Report attached as Exhibit A with the Tennessee Regulatory Authority for deposit as a public record and approval of the findings and the recommendations contained therein.

Respectfully Submitted:

Tiffany Underwood
Utilities Consultant
Utilities Division of the
Tennessee Regulatory Authority

## CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October 2012, a true and exact copy of the foregoing has been either hand-delivered or delivered via U.S. Mail, postage pre-paid, to the following persons:

Kenneth C. Hill
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Thomas Hartline, President
Navitas Utilities Corp.
18218 East McDurmott, Suite I
Irvine, CA 92614

Dave Peters
Office of the Attorney General
Consumer Advocate and Protection Division
P. O. Box 20207
Nashville, TN 37202

Ryan McGehee, Esq.
Office of the Attorney General
Consumer Advocate and Protection Division
P. O. Box 20207
Nashville, TN 37202

Tiffany Underwood
Tiffany Underwood

# EXHIBIT A

COMPLIANCE AUDIT REPORT

OF

**NAVITAS TN NG, LLC.**

**ACTUAL COST ADJUSTMENT**

**Docket # 12-00021**

PREPARED BY

**TENNESSEE REGULATORY AUTHORITY**

UTILITIES DIVISION

October 2012

COMPLIANCE AUDIT

**NAVITAS TN NG, LLC.**

**ACTUAL COST ADJUSTMENT**

**Docket # 12-00021**

TABLE OF CONTENTS

## I. INTRODUCTION

The subject of this audit is Navitas TN NG, LLC.'s ("Navitas" or "Company") compliance with the Actual Cost Adjustment ("ACA") and Refund Adjustment ("RA") of the Purchased Gas Adjustment Rule ("PGA Rule") of the Tennessee Regulatory Authority ("TRA" or "Authority").[1] The objective of the audit was to determine whether the purchased gas adjustments, which are encompassed by the ACA, and approved by the TRA for the twelve (12) months ended December 31, 2011, were calculated correctly and were supported by appropriate source documentation.

## II. AUDIT OPINION

The Audit Staff's ("Staff") audit resulted in **four (4) findings.**[2] The net amount of these findings is **$20,110.82 in under-recovered gas costs**. Except for the findings mentioned above, Staff concludes that the Purchased Gas Adjustment mechanism as calculated in the Actual Cost Adjustment appears to be working properly and in accordance with the TRA rules for Navitas TN NG, LLC.

## III. SUMMARY OF COMPANY FILING

The Company submitted its ACA filings on March 13, 2012, covering the period January 1, 2011 to December 31, 2011. There were separate filings for the Jellico Division and the Byrdstown/Fentress Division. The Jellico Division filing reflected a net balance in its ACA account at December 31, 2011, of **negative $117,752.35**, which represents an **over-collection** of gas costs from customers. The Brydstown/Fentress Division filing reflected a net balance in its ACA account at December 31, 2011, of **negative $8,204.09**, which represents an **over-collection** of gas costs from its customers. The tables below provide a summary of each ACA account as submitted by the Company.[3]

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[1] See TRA Rule 1220-4-7. The ACA is more fully described in Section VI.

[2] Refer to Section VIII for a description of the findings.

[3] The negative ending balance of Navitas's Jellico and Byrdstown/Fentress ACA accounts indicate that the Company has over-collected these amounts from its customers as of December 31, 2011. The ACA factors are derived for each division by dividing these amounts by the projected sales volumes for the next twelve (12) months in an attempt to refund these amounts over a twelve month period. See Attachment I and Attachment 2. However, there are timing differences between the close of the audit period and the effective date of a new factor. There is always regulatory lag inherent in the true-up process. Larger companies are capable of calculating ACA factors and implementing them immediately, prior to audit. However, the smaller companies are encouraged to await the results of the Staff's audit before implementing an ACA factor.

**SUMMARY OF THE ACA ACCOUNTS**[4]

**Jellico Division**

| Line No. | | Company (as filed) |
|---|---|---|
| 1 | Beginning Balance at 1/1/11 | ($51,631.36) |
| 2 | **Activity During Current Period:** | |
| 3 | Purchased Gas Costs | 218,614.99 |
| 4 | Gas Costs Recovered | (282,032.67) |
| 5 | Plus Interest | (2,703.31) |
| 6 | **Ending Balance Including Interest at 12/31/11** | ($117,752.35) |

**Byrdstown/Fentress Division**

| Line No. | | Company (as filed) |
|---|---|---|
| 1 | Beginning Balance at 1/1/11 | $5,131.94 |
| 2 | **Activity During Current Period:** | |
| 3 | Purchased Gas Costs | 43,208.76 |
| 4 | Gas Costs Recovered | (56,435.02) |
| 5 | Plus Interest | (109.77) |
| 6 | **Ending Balance Including Interest at 12/31/11** | ($8,204.09) |

## IV. BACKGROUND INFORMATION ON COMPANY

Navitas TN NG, LLC (local distribution company), with its prinicipal place of business at 3186-D Airway Ave., Costa Mesa, California, is a wholly owned subsidiary of Navitas Assets, LLC (parent company), which has its headquarters at 3186-D Airway Ave., Costa Mesa, California. On December 20, 2010, Navitas was awarded its Certificate of Public Convenience when the Authority voted unanimously to approve the transfer of control and authority from Gasco to Navitas, including its authority to provide utility services deriving

[4] A negative number represents an over-recovery (or over-collection) of gas costs, a positive number represents an under-recovery (or under-collection) of gas costs.

from its Certificate of Public Convenience and Necessity in Jellico, Campbell County, Byrdstown, Pickett County and Fentress County, Tennessee and Whitley County, Kentucky.[5]

Navitas is a gas distributor, which provides service to the City of Jellico (Campbell County), City of Byrdstown (Pickett County) and a few customers in Fentress County, all of which are located in northeast Tennessee. It has approximately 550 customers and. In addition to Tennessee, the parent company also operates in Oklahoma, Kentucky and Ohio. Navitas purchases the natural gas used to serve these areas from Spectra Energy, Inc. and B&W Pipeline. Navitas uses EDF Trading North America, LLC to transport the gas.

## V. JURISDICTION AND POWER OF THE TENNESSEE REGULATORY AUTHORITY

Tennessee Code Annotated (T.C.A.) §65-4-104 gave jurisdiction and control over public utilities to the Tennessee Public Service Commission. By virtue of Chapter 305 of the Public Acts of 1995, jurisdiction and control over public utilities was transferred from the Tennessee Public Service Commission to the Tennessee Regulatory Authority (the "TRA" or "Authority") on July 01, 1996. T.C.A. §65-4-104 states that:

> The Authority shall have general supervision and regulation of, jurisdiction, and control over, all public utilities...

T.C.A. states further in §65-4-111 that the public utilities are to maintain a Uniform System of Accounts:

> The Authority shall have the power after hearing, upon notice, by order in writing to require every public utility... to keep its books, records, and accounts so as to afford an intelligent understanding of the conduct of its business, and to that end to require every public utility of the same class to adopt a uniform system of accounting. Such system shall conform, where applicable to any system adopted or approved by the Interstate Commerce Commission of the United States. And to furnish annually, or at other times as the Authority may require, a detailed report of finances and operations as shown by said system of accounts.

The TRA responded to T.C.A. §65-4-111 by establishing its own rule 1220-4-1-.11 regarding the uniform system of accounts which public utilities should maintain. The TRA's rule provides:

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[5] In Re: *Joint Petition of Navitas TN NG LLC and Gasco Distribution Systems, Inc. for Approval of Transfer of Control and Authority of Gasco Distribution Systems, Inc.*, Docket No. 10-00220 (December 30, 2010).

> The following uniform system of accounting will be followed by utilities and other companies making periodic reports to the Authority:
>
> 1. For Classes A and B gas companies - Uniform System of Accounts as adopted by the National Association of Regulatory Utility Commissioners as revised June 30, 1972, and any amendments or revisions pertaining thereto.

The TRA received its authority to examine the books and records of public utilities from T.C.A. §65-4-105 which states that the TRA would possess all the other powers conferred on the TRA. T.C.A. §65-3-108 gives the TRA:

> full power to examine the books and papers of the said companies, and to examine, under oath, the officers, agents, and employees of said companies...to procure the necessary information to intelligently and justly discharge their duties and carry out the provisions of this chapter and chapter 5 of this title.

The Utilities Division of the TRA is responsible for auditing those companies under the Authority's jurisdiction to ensure that each company is abiding by Tennessee statutes as well as the Rules and Regulations of the Authority. Tiffany Underwood of the Utilities Division conducted this audit.

## VI. DESCRIPTION OF PURCHASED GAS ADJUSTMENT (PGA) RULE

**Actual Cost Adjustment Audits:**

The PGA Rule can be found in Chapter 1220-4-7 of the Rules of the Tennessee Regulatory Authority. The PGA Rule permits the Company to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers and to assure that the Company does not over-collect or under-collect gas costs from its customers.

The PGA consists of three major components:

1) **The Actual Cost Adjustment (ACA)**
2) **The Gas Charge Adjustment (GCA)**
3) **The Refund Adjustment (RA)**

The ACA is the difference between the revenues billed to customers by means of the GCA and the cost of gas invoiced to the Company by suppliers plus margin loss (if allowed by order of the TRA in another docket) as reflected in the Deferred Gas Cost account. The ACA then "trues-up" the difference between the actual gas costs and the gas costs recovered from the customer through a surcharge or a refund. The RA refunds the "true-up" along with other supplier refunds. For a more complete definition of the GCA and RA, please see the PGA Formula in Appendix A.

Section 1220-4-7-.03(2) of the PGA Rule requires:

> Each year, the Company shall file with the [Authority] an annual report reflecting the transactions in the Deferred Gas Cost Account. Unless the [Authority] provides written notification to the Company within one hundred eighty (180) days from the date of filing the report, the Deferred Gas Cost Adjustment Account shall be deemed in compliance with the provisions of these Rules. This 180-day notification period may be extended by mutual consent of the Company and the [Authority] Staff or by order of the [Authority].

## VII. SCOPE OF AUDIT

To accomplish the audit objective, the Staff conducted in-house audit work, during which the Company's calculations of gas costs incurred and gas costs recovered were examined. The Staff also audited a sample of customer bills to determine if the proper PGA rates and ACA rates were being applied in the Company's calculation of the customers' bills. These bills were selected to be representative of the residential, commercial and industrial customers in each of the Company's service areas. The sample was selected from all twelve months of the audit period.

## VIII. ACA FINDINGS

Staff's audit finding totaled a **net under-recovery of $20,110.82**. This is the result of four (4) findings and represents a decrease to the Company's reported over-recovered balance amount of $125,956.44, which when added to the Company's calculated balance, results in a net ending balance in the ACA account of a **($105,845.63) in over-recovered gas costs.**[6] A summary of the ACA account as filed by the Company and as adjusted by the Staff is shown below, followed by a description of the findings.

### SUMMARY OF THE ACA ACCOUNT**:

| Line | | Navitas Combined Filing | Staff Audit Results | Difference (Findings) |
|---|---|---|---|---|
| 1 | Adj. Beginning Balance (January 2011) | ($46,499.42) | ($46,499.42) | $0.00 |
| 2 | Purchased Gas Costs | $261,823.75 | $258,641.99 | ($3,181.76) |
| 3 | Gas Costs Recovered | ($338,467.69) | ($314,922.44) | $23,545.25 |
| 4 | Interest on monthly balances | ($2,813.08) | ($3,065.76) | ($252.68) |
| 5 | Ending Balance (December 2011) | ($125,956.44) | ($105,845.63) | $20,110.81 |

**A number in ( ) is a negative or credit balance which represents an over-collection of gas costs.

### SUMMARY OF FINDINGS:

| | | | |
|---|---|---|---|
| FINDING #1 | Purchased Gas Costs | ($3,181.76) | Over-recovery |
| FINDING #2 | Gas Cost Recovered | $23,545.25 | Under-recovery |
| FINDING #3 | Interest | ($252.68) | Over-recovery |
| FINDING #4 | Non-Monetary Billing Errors | No $$ Effect | |
| | **Net Result** | **$20,110.82** | **Under-recovery** |

6 The ending balance is made up of ($94,415.80) for the Jellico Division and ($11,429.83) for the Byrdstown/Fentress Division.

**FINDING #1:**

**Exception**

The Company overstated its Purchased Gas Costs of its Byrdstown/Fentress Division by $3,181.76.

**Discussion**

The only support originally filed in the ACA for the Purchased Gas Costs was invoices from suppliers for each division. Reviewing the invoices, Staff could not verify that the Company actually paid the gas costs to suppliers. At the request of Staff, the Company provided additional information which showed that the Company's reported invoiced gas costs from B&W was not paid in the audit period. Therefore, Staff removed invoiced gas cost from B&W included in the Company's ACA filing. The effect of this adjustment is a **decrease in the gas costs of $3,181.76.**

**Company Response**

Company agrees with these findings.

**FINDING #2:**

**Exception**
The Company overstated its gas cost recovered.

**Discussion**
The PGA recoveries are calculated by multiplying the sales volumes by the applicable ACA rate. The Company made two errors in calculating its PGA recoveries. First, from January 2011 to April 2011, the Company used incorrect PGA rates. Second, for the months of January, February, March, May, September, October, November and December of 2011, the Company used inaccurate sales volumes. Reviewing the information provided by the Company to document the sales volumes, Staff noted that sales volumes included in the calculation of gas costs did not match sales volumes in supporting documentation. After an inquiry by Staff, the Company explained that the difference in sales volumes was a result of revisions of bills to customers. Therefore, Staff applied the most current sales volumes for those months in its calculation of gas cost recoveries. The result is that the Company reported **$22,360.96 more** in PGA recoveries than it actually received.

The ACA recoveries are calculated by multiplying the sales volumes by the applicable ACA surcharge/(refund) rate. The Company used inaccurate sales volumes for the months of January, February, March, May, September, October, November and December of 2011. Staff applied the most current sales volumes for those months in its calculation of Gas ACA Refunds. The result is that the Company reported **$1,184.29 more** in ACA recoveries than it actually recovered.

The net effect (excluding interest) of Staff's adjustments is a decrease in the Company's reported gas cost recoveries of **$23,545.24 (Under-recovery) applicable to the "Jellico Division"**.

**Company Response**
Company agrees with these findings.

**FINDING #3:**

**Exception**

The Company understated the amount of interest due to customers in the ACA filing by $252.68.

**Discussion**

Staff recalculated interest based upon audit findings #1 to #2. The result was an **increase to reported interest due to customers of $252.68** for both divisions.

**Company Response**

Company agrees with these findings.

**FINDING #4:**

**Exception**

The Company billed customers rates that are not supported by its tariff for its Jellico and Byrdstown Divisions.

**Discussion**

During this audit, Staff noted that the Company used an unapproved ACA rate to bill its Jellico and Byrdstown/Fentress Division. For January 2011 through April 2011, the Company billed Jellico customers a surcharge of $0.4473 per MCF instead of the tariff rate of a refund of $1.3618 per MCF. For February, March, and April 2011, the Company billed Byrdstown/Fentress customers a rate of $1.7308 per MCF instead of the tariff rate of $1.3065 per MCF. For October 2011, the Company billed Byrdstown/Fentress customers a rate of $1.3065 per MCF instead of the tariff rate of $0.8063 per MCF.

The Company also billed incorrect PGA rates for both divisions. At the August 1, 2011 Authority Conference, the Authority ruled in favor of a Settlement Agreement filed in Docket No. 11-00060 between the Company and the Consumer Advocate in Navitas's emergency rate filing. The Authority approved to remove the $3.50 per MCF of Navitas's base rate customer charge.[7] Navitas filed a tariff in compliance with the Authority's decision, and the tariff become effective on August 1, 2011. However, Navitas continued to bill its customers $3.50 per MCF of base rate customer charge for August 2011 through December 2011.

Although the Company used incorrect rates to bill customers, the ACA filing included recoveries based on the amount the Company actually billed and received. Therefore, several of the findings above are non-monetary for this audit. However, Staff opines that the Company must bill customers according to its tariffed rates in the future.

**Company Response**

The Company would like to extend and clarify the record on this particular issue.

In total, the Company charged the correct tariff, thus the non-monetary finding. However, these findings are an issue with the presentation of the tariff components.

Company agrees with these findings.

[7] *In Re: Navitas TN NG, LLC for Emergency Relief for Natural Gas Rates,* Docket No. 11-00060, *Order*, Exhibit A (December 1, 2011).

## IX. CONCLUSIONS AND RECOMMENDATIONS

Staff reviewed the gas costs and recoveries of Navitas TN NG, LLC. for the twelve (12) month period ended December 31, 2011. Based on the filing as shown in Section VIII, the **net balance** in the refund due customers account (ACA Account) as of December 31, 2011 should be a **negative $94,415.80 for the Jellico Division and a negative $11,429.83 for the Byrdstown/Fentress Division.** This means that as of December 31, 2011 the Company had over-collected from both its Jellico and Byrdstown/Fentress customers. In order to refund the Jellico and the Byrdstown/Fentress balance, the correct ACA adjustment factor to be applied to customer bills in the **Jellico Division** is a **negative $0.2384 per MCF** (see Attachment 1), and the correct ACA adjustment factor to be applied to customer bills in the **Byrdstown/Fentress Division** is a **negative $0.1672 per MCF** (see Attachment 2).

**Staff recommends that these factors be implemented beginning with the Company's December 2012 billing and should stay in effect until new factors are calculated and approved in Navitas' next ACA filing covering the period January 1, 2012 through December 31, 2012.**

**Staff also recommends that Navitas should file its next ACA filing with the Authority no later than March 1, 2013 in the new format provided by Staff. The beginning balances for the Jellico and Byrdstown/Fentress filings will be the balances noted above. To support its Purchased Gas Costs Navitas should file information providing proof of payment: checkstubs, bank statements or letter from supplier.**

**APPENDIX A**

**PGA FORMULA**

The computation of the GCA can be broken down into the following formulas:

$$\text{Firm GCA} = \frac{D + DACA}{SF} - DB + \frac{P + T + SR + CACA}{ST} - CB$$

$$\text{Non-Firm GCA} = \frac{P + T + SR\ \ CACA}{ST} - CB$$

where

GCA = The Gas Charge Adjustment in dollars per Ccf/Therm, rounded to no more than five decimal places.

D = The sum of all fixed Gas Costs.

DACA = The demand portion of the ACA.

P = The sum of all commodity/gas charges.

T = The sum of all transportation charges.

SR = The sum of all FERC approved surcharges.

CACA = The commodity portion of the ACA.

DB = The per unit rate of demand costs or other fixed charges included in base rates in the most recently completed general rate case (which may be zero if the Company so elects and the Commission so approves).

CB = The per unit rate of variable gas costs included in base rates in the most recently completed general rate case (which may be zero if the Company so elects and the Commission so approves).

SF = Firm Sales.

ST = Total Sales.

The computation of the RA can be computed using the following formulas:

$$\text{Firm RA} = \frac{DR1 - DR2}{SFR} + \frac{CR1 - CR2 + CR3 + i}{STR}$$

$$\text{Non-Firm RA} = \frac{CR1 - CR2 + CR3 + i}{STR}$$

where

| | | |
|---|---|---|
| RA | = | The Refund Adjustment in dollars per Ccf/Therm, rounded to no more than five decimal places. |
| DR1 | = | Demand refund not included in a currently effective Refund Adjustment, and received from suppliers by check, wire transfer, or credit memo. |
| DR2 | = | A demand surcharge from a supplier not includable in the GCA, and not included in a currently effective Refund Adjustment. |
| CR1 | = | Commodity refund not included in a currently effective Refund Adjustment, and received from suppliers by check, wire transfer, or credit memo. |
| CR2 | = | A commodity surcharge from a supplier not includable in the GCA, and not included in a currently effective Refund Adjustment. |
| CR3 | = | The residual balance of an expired Refund Adjustment. |

| | |
|---|---|
| i = | Interest on the "Refund Due Customers" account, using the average monthly balances based on the beginning and ending monthly balances. The interest rates for each calendar quarter used to compute such interest shall be the arithmetic mean (to the nearest one-hundredth of one percent) of the prime rate value published in the "Federal Reserve Bulletin" or in the Federal Reserve's "Selected Interest Rates" for the 4th, 3rd, and 2nd months preceding the 1st month of the calendar quarter. |
| SFR = | Firm sales as defined in the GCA computation, less sales under a transportation or negotiated rate schedule. |
| STR = | Total sales as defined in the GCA computation, less sales under a transportation or negotiated rate schedule. |

**Navitas TN NG, LLC**
**Calculation of the ACA Factor**
**(for Jellico customers)**

| Line No. | Factor to be applied to residential, commercial and industrial customers: | | | |
|---|---|---|---|---|
| 1 | Beginning Balance at 1/1/11 | $ | (51,631.36) | |
| 2 | Purchased Gas Costs | | 218,614.99 | |
| 3 | Gas Costs Recovered | $ | (258,487.42) | |
| 4 | Plus Interest | | (2,912.01) | |
| 5 | Ending Balance Including Interest at 12/31/11 | $ | **(94,415.80)** | |
| 6 | Sales Volumes ** | | 395,996 | MCF |
| 7 | **ACA Factor - surcharge/(refund)**<br>(Line 5 divided by Line 6) | $ | **(0.2384)** | **Per MCF** |

** Historical sales volumes for 12 months ending 12/31/11.

**Attachment 2**

**Navitas TN NG, LLC**
**Calculation of the ACA Factor**
**(for Byrdstown/Fentress customers)**

| Line No. | Factor to be applied to residential, commercial and industrial customers: | | | |
|---|---|---|---|---|
| 1 | Beginning Balance at 1/1/11 | $ | 5,131.94 | |
| 2 | Purchased Gas Costs | | 40,027.00 | |
| 3 | Gas Costs Recovered | $ | (56,435.02) | |
| 4 | Plus Interest | | (153.75) | |
| 5 | Ending Balance Including Interest at 12/31/11 | | **(11,429.83)** | |
| 6 | Sales Volumes ** | | 68,362.00 | MCF |
| 7 | **ACA Factor - surcharge/(refund)**<br>(Line 5 divided by Line 6) | $ | **(0.1672)** | **Per MCF** |

** Historical sales volumes for 12 months ending 12/31/11.