

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 11, 2012

IN RE:

PETITION OF NAVITAS TN NG, LLC FOR A
GENERAL RATE INCREASE

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DOCKET NO.
12-00068

ORDER ON AUGUST 20, 2012 STATUS CONFERENCE

This matter came before the Hearing Officer of the Tennessee Regulatory Authority ("TRA" or the "Authority") during a Status Conference held on August 20, 2012, to consider any pending requests for intervention and *pro hac vice* admission, entry of a Protective Order, and to establish a procedural schedule to completion.

RELEVANT BACKGROUND

Navitas TN NG, LLC ("Navitas") is a natural gas local distribution company under the jurisdiction of the Authority that serves the communities of Jellico and Byrdstown, Tennessee, and the County of Fentress, Tennessee. On July 2, 2012, Navitas filed a *Petition for an Adjustment to Its Natural Gas Rates and Approval of Revised Tariffs* ("*Petition*") requesting a general rate increase of approximately \$390,000 annually.¹ Navitas proposes to implement its proposed rate increase in four annual increments.² Following its initial filing, Navitas supplemented the docket file with information necessary to enable the review and analysis of its *Petition* on July 3, 2012 and August 7, 2012.

On July 6, 2012 the Consumer Advocate and Protection Division of the Office of the Attorney General of the State of Tennessee ("Consumer Advocate") filed a *Petition to Intervene*

¹ *Petition*, p.4, ¶ 8 (July 2, 2012).

² *Id.* at ¶ 9.

in the proceedings. On August 10, 2012, a *Notice of Status Conference* was issued setting a Status Conference immediately following the Authority Conference on August 20, 2012.

AUGUST 20, 2012 STATUS CONFERENCE

The Status Conference began as noticed immediately following the conclusion of the Authority Conference in the Hearing Room on the Ground Floor of the Tennessee Regulatory Authority at 460 James Robertson Parkway, Nashville, Tennessee. The parties in attendance were as follows:

For Navitas:

Klint W. Alexander, Esq., Wyatt, Tarrant & Combs, LLP, 2525 West End Avenue, Suite 1500, Nashville Tennessee 37203, and via telephone, **Thomas Hartline**, President & Treasurer, Navitas Utility Corporation, 3186 – D Airway Avenue, Costa Mesa, CA 92626; and

For the Consumer Advocate:

John J. Baroni, Esq. and Charlena Aumiller, Office of the Attorney General, Consumer Advocate and Protection Division, 425 5th Ave. N, John Sevier Building, P.O. Box 20207, Nashville, TN 37243.

Petition to Intervene

In its *Petition to Intervene*, the Consumer Advocate seeks intervention in the docket in accordance with Tenn. Code Ann. § 65-4-118, which authorizes the Consumer Advocate to intervene in proceedings in order to represent the interests of Tennessee consumers. In its *Petition to Intervene*, the Consumer Advocate seeks intervention in order to investigate the need for the adjustment of rates sought by Navitas and the potential impact of such adjustment on Tennessee consumers. Further, the Consumer Advocate states that it can protect the public interest only by participating in this proceeding. Navitas did not file an objection in the docket file and, during the Status Conference, indicated that it did not oppose the Consumer Advocate's request to intervene.

Upon the foregoing, the Hearing Officer found that the legal rights and interests of Tennessee consumers may be determined in this proceeding, the Consumer Advocate's petition

is timely, and that its intervention will not impair the orderly and prompt conduct of these proceedings. Therefore, the Hearing Officer granted the Consumer Advocate's *Petition to Intervene*. At this time, there are no other petitions to intervene pending in the docket.

Applications for Pro Hac Vice Admission

On July 18, 2012, Navitas filed a letter requesting permission for the *pro hac vice* admission of attorneys Ron Comingdeer and Mary Kathryn Kunc. During the Status Conference, the Hearing Officer informed Navitas' local counsel that requests for *pro hac vice* admission must be made in accordance with Tenn. Comp. R. & Reg. 1220-1-2-.04(7), which incorporates by reference Rule 19 of the Tennessee Supreme Court. As the request was not properly filed, the Hearing Officer, in accordance with the rules of the Authority, declined to consider the requests for admission until they are accompanied by the requisite motion, affidavits, and documentation.

Protective Order

On August 17, 2012, Navitas and the Consumer Advocate jointly filed a proposed protective order for use in the docket. During the Status Conference, the parties affirmed their agreement as to the format and content of the protective order proposed for the docket. On August 21, 2012, the Hearing Officer entered a Protective Order in the docket file that is materially identical to the protective order proposed by the parties.

Statutory Deadline & Procedural Schedule

In its delegation of authority, made during the Authority Conference on August 20, 2012, the panel directed that the Hearing Officer should rule as to what date the statutory six-month deadline began to run on the *Petition*. During the Status Conference, the Hearing Officer noted that with Navitas' supplemental filing of information on August 7, 2012, which contained certain required and necessary rate schedules, the *Petition* was reasonably complete so as to permit

Authority Staff to begin its initial review. Upon consideration of the foregoing, the Hearing Officer ruled that the commencement date of the six-month statutory deadline in this docket is August 7, 2012.

In light of the fact that the parties had not yet had an opportunity to discuss and reach agreement concerning the parameters of a procedural schedule, the Hearing Officer, in agreement with the parties, set August 27, 2012 as the deadline by which the parties would file a proposed procedural schedule for the Hearing Officer's consideration.


IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division of the Office of the Attorney General is granted leave to intervene and participate in this proceeding as its interests require and receive copies of any notices, orders or other documents filed herein.

2. In accordance with the rules of the Authority, requests for *pro hac vice* admission will be considered upon a proper filing accompanied by the requisite motion, affidavits, and documentation.

3. For purposes of the commencement of the six-month statutory deadline under Tenn. Code Ann. § 65-5-103, the date upon which the *Petition for an Adjustment to Its Natural Gas Rates and Approval of Revised Tariffs* filed by Navitas in this docket is deemed to be complete and the statute begins to run is August 7, 2012.

4. The parties shall file a proposed procedural schedule for the consideration of the Hearing Officer by August 27, 2012.


Kelly Cashman-Grams, Hearing Officer