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BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

IN RE:	)	
PETITION OF B&W PIPELINE, LLC	)	**DOCKET NO. 15-00042**
FOR AN INCREASE IN RATES	)	

REPLY OF B&W PIPELINE, LLC

B&W Pipeline, LLC ("B&W") respectfully submits this reply to the briefs filed by Navitas and the Consumer Advocate in opposition to B&W's "Petition for Clarification" concerning the pipeline's rate design.

As discussed in the Petition, the Tennessee Regulatory Authority established the pipeline's annual revenue requirement and then designed rates to collect those revenues from the pipeline's two, current customers, Navitas and Rugby Energy. The Authority allocated the pipeline's revenue requirement between the two customers based on each customer's estimated, proportional use of the pipeline during 2016. In the Petition, B&W does not seek any change in the pipeline's revenue requirement but suggests that, over time, as customers come and go and as each customer's proportional use of the pipeline changes, the allocation of the pipeline's revenue requirement should be periodically adjusted, on a going-forward basis, to reflect those changes.

Navitas and the Consumer Advocate object to the pipeline's request for clarification based on arguments about jurisdiction, procedure and rate design policy. Each of these arguments is addressed below.

Jurisdiction

In announcing its decision, the Authority explained that although the "rates" fixed by the agency applied only to gas consumed in Tennessee, the "rate design" adopted by the agency "is

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based on total throughput volumes for Tennessee and Kentucky." Transcript, at 12. In other words, the Authority's rate design is based not just on gas consumed in Tennessee but on "total throughput," which includes gas consumed in Kentucky.

Navitas argues that B&W (and, by implication, the TRA) cannot legally design rates based on "total throughput" because the agency has no jurisdiction to set rates for gas that is ultimately consumed in Kentucky. Navitas is confusing "rates" and "rate design." The TRA established rates that apply to gas consumed in Tennessee. How those rates are designed is a different issue. As the agency explained, the TRA adopted a rate design which allocates the pipeline's costs to its customers based on each customer's proportional use of the pipeline's total throughput. B&W is simply suggesting that the throughput figures used by the TRA to design rates be updated annually to reflect each customer's actual usage. Such adjustments affect only the pipeline's rate design, not its revenue requirement. Therefore, neither the TRA's rate design nor the annual adjustments suggested by B&W raise any jurisdictional concerns.

Procedure

Navitas objects to B&W's filing because no such filing was authorized by the Hearing Officer and "to accept such a filing...prior to the Authority entering its Order is prejudicial and untimely." Navitas Response, at 1.

B&W has filed a tariff to implement the Authority's decision in this case as the pipeline is entitled to do following the expiration of the nine-month statutory deadline applicable to rate cases. See T.C.A. § 65-5-103. Those tariffs are now in effect.[1]

[1] Following discussions with the TRA Staff, B&W began billing Navitas under the new rates effective January 1, 2016. The bill for January usage was sent to Navitas on February 16, 2016. As of March 8, 2016, Navitas has not paid any portion of it.

In the absence of a written order, however, it is unclear whether B&W's fixed and volumetric charges, which were calculated by the TRA based on anticipated pipeline usage during 2016, should be prospectively adjusted in future years to reflect actual usage. At a meeting with TRA staff members from the legal and accounting divisions, the participants agreed that the pipeline should seek formal guidance from the Authority. Therefore, B&W filed this Petition.

Policy

Finally, both Navitas and the Consumer Advocate raise policy objections to the pipeline's proposed, annual adjustments in the fixed and volumetric charges. The Consumer Advocate states that the pipeline's proposal "seems to be something that was requested by B&W during the hearing" and would "lock in" or "guarantee" collection of the pipeline's total revenue requirement. Consumer Advocate brief, at 2.

Navitas did, in fact, request in its pre-filed testimony a "sale adjustment mechanism" which would have allowed the pipeline to adjust rates to compensate for less (or more) than expected transportation volumes during the prior year. The Authority did not adopt that proposal.

The Consumer Advocate mistakenly believes that the pipeline is once again asking for a sale adjustment mechanism. That is not the case. The Petition asks only that the fixed and volumetric charges be recalculated each year on a going forward basis, beginning in January, 2017, to reflect the prior year's experience. These adjustments would not "lock in" anything but would periodically re-allocate costs among the pipeline's customers based on current information, rather than leaving the allocations permanently tied to the Authority's projected estimate of the number of customers and customer usage in 2016.

For example, the Authority assigned 75% of the pipeline's revenue requirement to a fixed charge and divided the charge between the pipeline's two, current customers based on the TRA's estimate of each customer's projected usage during 2016. What will happen when a new customer requests service or a current customer leaves? How will the fixed charge be allocated? What happens if a customer's relative usage materially changes over time? As these questions illustrate, it makes little sense to design rates based on the TRA's estimate of a customer's proportional use of the pipeline during a single year and not periodically adjust those rates as customers come and go and usage patterns change.

Similarly, the TRA set the pipeline's volumetric charge at $0.3081 per Mcf based on estimated total throughput of 227,861 Mcfs in 2016. What should the rate be in 2017 or 2018? Should the rate be permanently fixed at $0.3018 per Mcf even if actual throughput substantially increases or decreases over time? This is not a theoretical issue. Given that the pipeline's total throughput for 2015 was only 139,625 Mcfs, about two-thirds of the Authority's projected throughput for 2016, it is unlikely that the pipeline will reach its revenue requirement in 2016. Unless the volumetric charge is adjusted in 2017, the pipeline will likely experience continual "shortfalls of revenue due to the volatility of gas usage," the very harm which the Authority sought to "minimize." Transcript, at 12.

Navitas makes a different argument, contending that any adjustment in the pipeline's rates to account for a change in the number of customers or in a customer's proportional usage is "speculative" and "simply an attempt to grant B&W more flexibility to adjust the fixed monthly charge as it applies to Navitas upwards on an annual basis." Navitas brief, at 1.

In view of the pipeline's likely shortfall in revenue from the volumetric charge, B&W's concerns are not "speculative." While Navitas understandably opposes any rate adjustment that will increase the amount Navitas pays to B&W, it is also fair to assume that if additional customers begin using the pipeline and the proportional use by Navitas declines, Navitas will promptly demand a reduction in its share of the pipeline's costs. That is what B&W's proposed adjustments are intended to accomplish.

Conclusion

The TRA has ruled that the pipeline's rates should be designed to maintain "relatively constant" revenues and "minimize" shortfalls due to "the volatility of gas usage." In keeping with that purpose, B&W has suggested an annual rate adjustment process that will, over time, allow the pipeline a reasonable opportunity to earn the revenue requirement set by the agency. The Petition for Clarification should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2016, a copy of the foregoing document was served on the parties of record, via electronic delivery and U.S. Mail, postage prepaid, addressed as follows:

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