

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 7, 2016

IN RE:

**PETITION OF B&W PIPELINE, LLC
FOR AN INCREASE IN RATES**

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**DOCKET NO.
15-00042**

ORDER DENYING THE PETITION FOR CLARIFICATION

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Robin Morrison of the Tennessee Regulatory Authority (the “Authority”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on March 14, 2016, for consideration of the *Petition for Clarification* filed by B&W Pipeline, LLC (“B&W” or the “Company”) on February 24, 2016.

BACKGROUND AND THE *PETITION FOR CLARIFICATION*

On April 2, 2015, B&W filed the *Petition of B&W Pipeline, LLC for an Increase in Rates*. The Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) and Navitas TN NG, LLC (“Navitas”) intervened and participated fully in the proceedings. On September 14, 2015, the panel held the hearing on the merits on B&W’s requested rate increase.

On December 14, 2015, the panel deliberated the merits of B&W’s petition to increase rates. With respect to the rate design, Chairman Hilliard made the following motion:

With regard to rate design, since B&W supplies a small amount of gas, it is preferable to design rates where revenues remain relatively constant and shortfalls of revenues due to the volatility of gas usage are minimized. Designing rates whereby the majority of revenues are generated from a fixed charge would best accomplish these two goals. For these reasons, I move to adopt a rate design comprised of recovering 75 percent of the necessary

revenue requirement through a fixed monthly charge of \$13,897 to Navistar and \$3,655 to B&W Intercompany Transportation, resulting in \$210,624 in annual revenues from the fixed charge.

These charges are based upon the percentage of Mcfs used by each customer relative to the total amount of Mcfs transported. The total throughput of 227,861 Mcfs is comprised of Navistar's Mcfs of 180,411 and B&W Intercompany Mcfs of 47,450.

Collection of the remaining revenue requirements of \$70,211 should be collected from a volumetric charge of \$0.3081 per Mcfs from all customers. Adoption of this recommend -- recommended rate design results in an effective rate per Mcfs -- Mcf of one point --\$1.23248.¹

The panel voted unanimously to adopt Chairman Hillard's motion.²

Following the deliberations and decision of the hearing panel but before the issuance of a final order, B&W filed its *Petition for Clarification* on January 24, 2016. In the *Petition for Clarification*, B&W asserts that the Authority did not address how the fixed customer and volumetric charges should be calculated if there is a change in customers or in a customer's usage.³ As such, B&W proposes a tariff which would recalculate both fixed and volumetric rates annually to ensure that the Company recovered a fixed revenue requirement of \$280,835.

In response, the Consumer Advocate contended that the hearing panel's decision did not authorize an annual rate adjustment mechanism.⁴ Navitas made a similar argument and further objected to the filing of the petition by B&W as premature until the Authority issued a final order.⁵ On March 10, 2016, the Authority issued the *Final Order Setting Rates* ("Final Order"). Among other determinations, the *Final Order* addressed the hearing panel's decision with respect to rate design, as follows:

The panel did not adopt the rates or rate design proposals of either B&W or the other intervening parties. B&W supplies a small amount of gas and it is preferable to design rates where revenues remain relatively constant and

¹ Transcript of Authority Conference, pp. 27-28, (December 14, 2015).

² *Id.* at 28.

³ *Petition for Clarification*, p. 2 (February 24, 2016).

⁴ *Consumer Advocate's Response to Petition for Clarification*, p. 2 (March 2, 2016).

⁵ *Navitas TN NG, LLC's Response to B&W Pipeline, LLC's Petition for Clarification*, p. 2 (March 1, 2016).

shortfalls of revenues due to the volatility of gas usage are minimized. Just and reasonable rates should give the utility the opportunity to achieve the rate of return set by the Authority. Under the specific circumstances of this case, designing rates whereby the majority of revenues are generated from a fixed charge would best accomplish these goals.

For these reasons, the panel adopts a rate design comprised of a fixed monthly charge of \$13,897 to Navitas and a fixed monthly charge of \$3,655 to B&W's other customer, affiliate Rugby Energy, LLC. In addition, the panel adopts a volumetric charge of \$0.3081 per Mcf from all customers going forward. The adoption of this rate design results in an effective rate per Mcf of \$1.23248.⁶

During the Authority Conference on March 14, 2016, the hearing panel considered B&W's *Petition for Clarification*.

FINDINGS AND CONCLUSIONS

B&W's *Petition for Clarification* presupposes that the Authority's determination should allow B&W to unilaterally adjust rates in order to collect a fixed revenue requirement of \$280,835 annually. To that end, the Company now essentially proposes a mechanism that would allow it to annually adjust rates to ensure its collection of such revenue.

Nothing in the record supports an interpretation of the hearing panel's verbal ruling or its *Final Order* that would authorize the Company to unilaterally adjust rates on an annual basis to ensure B&W collected a specific amount of revenue. In a rate case, the Authority does not set a fixed revenue requirement to which a utility is entitled to a guaranteed recovery. Rather, the Authority establishes rates in order for a public utility to have the opportunity to achieve a reasonable rate of return.⁷

In establishing rates in this docket, the panel was mindful that the Company could experience volatility due to changes in customer usage. Rates were designed accordingly, whereby the bulk of the Company's revenue is generated through fixed monthly charges, thereby alleviating a portion of the risk of volatility. However, the decision of the hearing panel did not

⁶ *Final Order Setting Rates*, pp. 21-22 (March 10, 2016).

⁷ See *Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 43 S.Ct. 675 (1923).

authorize an annual true-up mechanism tied to the revenue requirement in this docket, as proposed by B&W. Therefore, upon due consideration, the paneled voted unanimously to deny B&W's *Petition for Clarification* and ordered the Company to file tariffs consistent with the decision of the Authority.

IT IS THEREFORE ORDERED THAT:

1. The *Petition for Clarification* filed by B&W Pipeline, LLC is denied.
2. B&W Pipeline, LLC shall file tariffs with the Authority consistent with the *Final Order* in this matter.

Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Robin Morrison concur.

ATTEST:



Earl R. Taylor, Executive Director