

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

In RE:

Navitas TN NG, LLC

Actual Cost Adjustment Audit (ACA)

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DOCKET NO. 17-00027

**RESPONSE IN OPPOSITION TO PETITION TO INTERVENE OR, IN THE
ALTERNATIVE, TO CONVENE A CONTESTED CASE PROCEEDING TO
INVESTIGATE THE PRUDENCE OF GAS PURCHASE BY NAVITAS**

Navitas TN NG, LLC ("Navitas"), files this response in opposition to the Petition of FWM Energy, LLC ("FWM") to Intervene, or in the alternative, to convene a contested case proceeding to investigate the purchase of Navitas. For reasons stated below, the Petition must be denied.

**A. THE COMMISSION LACKS JURISDICTION OVER THE SUBJECT
MATTER AND THE PETITION FAILS TO STATE A CLAIM UPON WHICH
RELIEF MAY BE GRANTED.**

The Commission lacks jurisdiction over the subject matter as required by Commission Rule 1220-1-2-.03(2)(a). There are no statutes or rules authorizing the Commission to consider the prudence of a small utilities gas purchase.

This docket is to consider an annual cost adjustment filing. Consideration of extraneous issues in this docket has no basis in authority nor grant of jurisdiction.

Petitioner fails to state a claim upon which relief may be granted as required by Commission Rule 1220-1-2-.03(2)(e). There are no statutes or rules which authorize the Commission to consider such a claim nor provide any relief requested by Petitioner.

The rule requiring prudence of utility gas purchases applies only to Class A gas companies, those with annual gas operating revenue of two million five hundred thousand dollars (\$2,500,000.00) or more. Rule 1220-04-07-.05(1). Navitas is not a Class A company.

If the Commission had wanted the rule to apply to small gas companies, it would have stated so in the rule. Under rules of statutory and regulatory rule of construction, that which is omitted is not to be included.

There is no basis in law for relief claimed and requested by Petitioner. As a practical matter, what relief, if any, can be granted? None.

Therefore, intervention and the convening of a contested case must be denied.

B. PETITIONER DOES NOT QUALIFY AS INTERVENOR.

T.C.A. §4-5-310(2) requires a Petitioner to qualify as an intervenor. Petitioner does not qualify as such. This docket concerns actual cost adjustment which involves a commission staff audit. No other issue is pertinent in this docket. The rights of Petitioner will not be affected by any actual cost adjustment applied to Navitas.

C. THE PETITION IS NOT IN THE INTEREST OF JUSTICE AND WILL IMPAIR THE ORDERLY AND PROMPT CONDUCT OF THE PROCEEDING.

T.C.A. §4-5-310(a)(2),(3) and (b) permits intervention only if doing so will not impair the interests of justice and shall not impair the orderly and prompt of proceedings.

Here, consideration of the extraneous issue of the prudence of the utility's gas purchases are not in the interest justice and will impair the orderly and prompt conduct of the proceeding. Commission staff has filed their audit and this docket is ready for consideration by the

Commissioners. There must not be any delay for extraneous, unauthorized matters. Denial of intervention is in the best interest of the economy of time and expense for the parties and the Commission. There is no reason to waste the time and resources of all concerned.

D. PETITIONER'S ASSERTIONS ARE DENIED.

1. Navitas denies it did not accept the lowest bid, when in fact, Navitas always accepted the lowest bid.

2. A bid "3% lower" as claimed by FWM is not a true bid which requires a definitive price. If Navitas issued bid requests and knowingly had an actual "3% lower" offer and proposal in the waiting, then Navitas would not be issuing true bids. Instead, Navitas would be opening itself to charges of not acting in good faith and fair dealing as required by law.

3. Navitas purchased gas from other suppliers because FWM could not supply all the gas needed by Navitas.

CONCLUSION

For reasons set forth above, the Commission must deny the Petition to Intervene, or in the alternative, to convene a contested case.

This 18th day of August, 2017.

RESPECTFULLY SUBMITTED,



H. LaDon Baltimore (BPR #003836)

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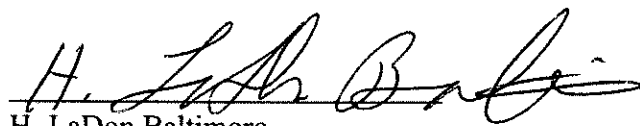
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CERTIFICATE OF SERVICE

The undersigned, H. LaDon Baltimore, does hereby certify on this 18th day of August, 2017, a copy of the foregoing Order was transmitted via electronic mail or United States Mail, first class, postage prepaid to the following:

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