

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

IN RE:

INVESTIGATION INTO NAVITAS)	
UTILITY COMPANY'S NOTICE OF)	
PROBABLE SHUT DOWN AND)	DOCKET NO. 19-00084
DISCONTINUATION OF TENNESSEE)	
SERVICES)	

NAVITAS TN NG, LLC BRIEF ON PROPOSALS

Pursuant to this Commission's Order entered September 17, 2019, Navitas TN NG, LLC ("Navitas") hereby submits to the Tennessee Public Utility Commission ("TPUC" or "Commission") herein its Brief on the proposals proffered by the parties.

I. PROCEDURAL HISTORY

- **September 14, 2015** - B&W Pipeline, LLC ("B&W") filed a general rate case, Docket No. 15-00042, wherein this Commission issued a *Final Order Setting Rates* determining that TPUC could assert jurisdiction over rates charged for gas delivered and consumed in Tennessee and that a blanket certificate from FERC would enable TPUC to set rates for all gas delivered by B&W to Navitas, including the gas consumed by customers in Kentucky. TPUC ordered B&W to use this Order and the following rates established for FERC review: a fixed monthly charge of \$13,897 from Navitas, resulting in revenues of \$210,624 to B&W, and a volumetric charge of \$0.30813 per MCF from all customers. TPUC intended that the fixed monthly charge be split pro rata between Tennessee and Kentucky customers.

- **March 28, 2016** - B&W filed a *Petition to Reconsider the Final Order Issued March 10, 2016* which TPUC denied on August 4, 2016 in its *Final Order Denying the Petition for Reconsideration* which was upheld by the Tennessee Court of Appeals on

November 6, 2017.

- **June 15, 2017** - FERC granted B&W's *Application for a Limited Jurisdiction Blanket Certificate of Public Convenience and Necessity Pursuant to 18 C.F.R. § 284.224*.

- **July 17, 2017** - B&W filed its *Compliance Filing* with FERC and sought a new rate of \$5.4235 per Mcf from FERC rather than the rates determined by TPUC in Docket No. 15-00042.

- **March 21, 2019** - B&W filed a unilateral Settlement Agreement with FERC, Docket No. PR17-54-00, with a rate of \$2.7172 per Mcf which FERC approved on May 17, 2019 and made retroactive to July 17, 2017. This Order applied the new FERC rate to interstate customers in Kentucky.

- **September 9, 2019** - Navitas noticed TPUC and the Consumer Advocate of the probable shut down of the Byrdstown-Fentress pipeline resulting in the discontinuation of gas service to customers in Tennessee unless an alternate solution to B&W's FERC Order was presented. In its Notice, Navitas reiterated that it must transport gas through B&W in order to supply its customers in Tennessee and Kentucky and is held captive to B&W's charges. Since Navitas must pass along B&W's transportation charge to its customers and 84 customers in Tennessee would bear the \$13,897 monthly charge, an untenable situation would arise for Navitas and its customers. With winter fast approaching, Navitas would have to immediately advise its customers of this impending spike in cost and suggest the option of finding and securing alternate sources to natural gas whether by propane or conversion to all electric.

- **September 13, 2019** - The Consumer Advocate filed a *Petition to Intervene* and an *Emergency Motion to Revise Monthly Charge in Tariff* in this herein Docket.

- **September 16, 2019** - B&W filed a Proposed Rate Adjustment proposing that this Commission adopt the rate of \$2.7172 per Mcf recently set by FERC for B&W's interstate transportation service which would replace B&W's flat and volumetric charges set by this Commission in Docket 15-00042.

- **September 17, 2019** - Navitas filed its *Response in Support of the Consumer Advocate's Emergency Motion to Fix Revised Monthly Charge in Tariff* on the basis that B&W's FERC rate would subject its customers to pay an excessive amount more than the rates set forth in TPUC's *Final Order Setting Rates*.

- **September 17, 2019** - This Commission held a Status Conference wherein Navitas agreed to continue its gas service and the Commission would hear the matter at the TPUC Conference on October 14, 2019.

II. TPUC HAS JURISDICTION TO REVISE RATES

This Commission has the power to fix just and reasonable rates or charges whenever the commission determines any existing rate or charge to be unjust, unreasonable, excessive, or unjustly discriminatory. Tennessee Code §65-5-101(a). The B&W FERC Order states that the charge to Kentucky customers shall be \$2.7271 per MCF for gas flowed by Navitas to Kentucky customers through the B&W Pipeline. The implication being that the customer charge ordered by the TRA can no longer be shared. Thus, the entire \$13,897.67 monthly charge will fall to the approximately 84 Tennessee customers whose usage from July 1, 2018 to June 30, 2019 was approximately 11,147 MCF. This will nearly triple the commodity cost on customers' bills from an average of \$7.66 per MCF to \$22.18 per MCF. Coupled with the delivery charges, the average Byrdstown residential customer bill will increase to \$36.88 per MCF from \$20.10. Under B&W's proposal, the cost of natural gas

will far exceed the cost of propane or converting to electric for consumers in Tennessee. As such, it is likely that all Tennessee customers served by the B&W Pipeline will switch to alternative sources of energy and the Navitas Byrdstown, Tennessee pipeline would cease to operate. With winter fast approaching, this Commission should immediately revise these unjust, unreasonable, and excessive costs which make natural gas service for customers in Tennessee untenable.

III. CONSUMER ADVOCATE'S PROPOSAL TO UTILIZE THE EFFECTIVE VOLUMETRIC RATE OF \$1.23248 PER MCF FROM TPUC DOCKET 15-00042 AND ITS RECALCULATION TO \$2.06178 PER MCF

Navitas supports the Consumer Advocate's proposal to use TPUC's effective rate of \$1.23248 per Mcf from TPUC's Final Order in Docket 15-00042 which combined both the fixed monthly charge and volumetric charge. Navitas agrees that this rate is fair, just and reasonable in its application and would not be a shock to customers. The application of this rate by the Commission retroactively to the FERC Order date of July 17, 2017 seems reasonable provided that this would supersede any arrearages B&W claims.

Navitas further agrees that the effective rate of \$1.23248 per Mcf could be updated to incorporate B&W's 2018 volumes to achieve an effective rate of \$2.06 per Mcf which this Commission could apply beginning October 1, 2019.

IV. CONSUMER ADVOCATE'S PROPOSAL TO RECALCULATE TENNESSEE JURISDICTIONAL REVENUE REQUIREMENT

Navitas believes that the Consumer Advocate's proposal to recalculate the Tennessee jurisdictional revenue requirement by utilizing the original TPUC revenue requirement adopted in Docket 15-00042, subtracting the revenues from the customers in Kentucky, and assigning the residual difference to Tennessee customers is somewhat tenuous. See below.

V. B&W'S PROPOSAL THAT TPUC ADOPT FERC RATE TO REPLACE

THE CHARGES SET BY THIS COMMISSION

B&W proposes that this Commission adopt the FERC rate of \$2.7172 per MCF to replace B&W's flat and volumetric charges set by this Commission in Docket 15-00042. However, this FERC rate includes B&W's original purchase price of all its assets including the pipeline and 96 oil and natural gas wells; costs that TPUC considered and rejected in Docket 15-00042. In Docket 15-00042, TPUC determined that B&W should generate total annual revenues of approximately \$280,834. Given that the FERC Order changes a portion of the rate structure, it is appropriate to adjust the overall rate structure to realign rates to produce the appropriate revenue. Figures from July 1, 2018 to June 30, 2019 are as follows:

79,362 MCF natural gas purchases from Petrol

69,214 MCF natural gas purchases from Sparta (B&W affiliated field production)

11,147 MCF Tennessee customer sales

118,158 MCF Kentucky customer sales

12,808 MCF pro rata gas deliveries to Tennessee

135,768 MCF pro rata gas deliveries to Kentucky

72,521 MCF pro rata Navitas deliveries to Kentucky

63,247 MCF pro rata Sparta deliveries to Kentucky

If, as B&W initially invoiced in June 2019, all deliveries to Kentucky are tariffed to Navitas at \$2.7172, then B&W's revenue in Kentucky is \$368,909 which exceeds the \$280,834 established in Docket 15-00042. Thus, the appropriate tariff is a customer charge of \$1.00 per month. If, as Navitas contends, the FERC clarification is that only gas deliveries from the East Tennessee Pipeline are tariffed to Navitas at \$2.7172, then B&W's revenue in Kentucky is \$197,054. Thus, the appropriate tariff is \$6.54 $(\$280,834 - \$197,054) / 12,808 \text{ MCF}$).

Navitas agrees with the Consumer Advocate's position that B&W's FERC rate is not an appropriate rate for several significant reasons.

VI. NAVITAS' ALTERNATE TRANSPORTATION PROPOSAL

Navitas proposes that this Commission consider reinstating ARNCO, an independent producer with gas fields in Tennessee, which used to supply gas to Tennessee and Kentucky customers through GasCo. and subsequently Navitas until B&W denied ARNCO access to their pipeline to transport gas to Navitas in 2016. Navitas believes the reintroduction of the ARNCO gas would increase the volume and pressure delivered to its system allowing Navitas to sell more gas and provide more competitive and reasonable prices to its customers.

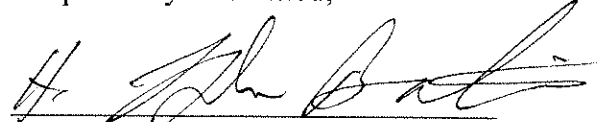
VII. CONCLUSION

In light of the above, Navitas supports the Consumer Advocate's position and proposals.

WHEREFORE, Navitas respectfully requests that this Commission approve the Consumer Advocate's proposals.

Dated: September 27th, 2019

Respectfully Submitted,



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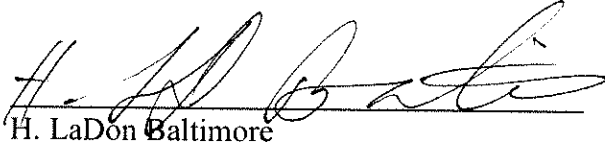
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CERTIFICATE OF SERVICE

The undersigned, H. LaDon Baltimore, does hereby certify on this 27th day of September, 2019, a copy of the foregoing was transmitted via electronic mail or United States Mail, first class, postage prepaid to the following:

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