

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE
February 4, 2020**

IN RE:

B& Pipeline, LLC

v.

Navitas TN NG, LLC

Docket No. 20-00004

MOTION TO DISMISS

NAVITAS TN NG, LLC'S MOTION TO DISMISS COMPLAINT OF B&W PIPELINE,

LLC

Navitas TN NG, LLC ("Navitas TN" or "Navitas"), through its counsel of record, hereby submits this Motion to Dismiss the Complaint against Navitas TN. As grounds for this Motion, Navitas TN states to the Commission as follows:

BACKGROUND

1. B&W Pipeline, LLC ("B&W" or "B&W Pipeline") filed a Complaint against Navitas TN NG, LLC on January 8, 2020 for allegedly violating T.C.A. § 65-4-122(b) and § 65-5-104(a)(1) by attempting to bill and collect from B&W charges accrued during the usage period of July 1, 2017 and December 31, 2017 whereby B&W, by its own admission as shown in its Complaint, diverted gas owned by Navitas TN for its own operations.
2. B&W allege the invoices are fictitious.

3. In their Complaint B&W request the Commission open a show cause investigation into Navitas TN, the imposition of substantial penalties, including revocation of Navitas TN's Tennessee certificate and referral to a district attorney general for criminal prosecution.

ARGUMENT

B&W'S Complaint Is Due To Be Dismissed As The Commission Lacks Jurisdiction Over The Subject Matter

1. Under T.C.A. § 65-4-117, TPUC has no power to decide invoice or billing disputes.
2. In the past, B&W Pipeline submitted to Navitas invoices in the amount of nearly \$600,000 for gas delivered in Tennessee and Kentucky based on the retroactive FERC tariff. Subsequently, all parties have acknowledged those invoices were found to be not more than \$330,000 and the matter was considered resolved between the parties. Invoice and billing disputes are common and not grounds for accusations of civil and criminal offenses.

B&W'S Complaint Is Due To Be Dismissed As B&W Has Failed To State A Claim Upon Which Relief Can Be Granted

3. B&W's Complaint is premature. Navitas TN has not gone to collections or else attempted to enforce these invoices.
4. TPUC has no power to refer billing disputes to the District Attorney's Office. B&W's request to the Commission for referral to a district attorney general for criminal prosecution is outside the scope of this matter as a whole and bears no connection to the actual dispute.

5. Requesting the Commission to impose penalties and civil liabilities on Navitas TN is without basis in law. Navitas TN has merely submitted invoices to B&W for regulated natural gas services provided.

WHEREFORE, Navitas TN respectfully requests that:

1. B&W Pipeline's Complaint be dismissed; and
2. The Commission grants such other relief as appropriate.

RESPECTFULLY SUBMITTED,

A handwritten signature in black ink, appearing to read 'H. LaDon Baltimore', is written over a horizontal line.

H. LaDon Baltimore (BPR #003836)

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CERTIFICATE OF SERVICE

The undersigned does hereby certify on this 4th day of February, 2020 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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A handwritten signature in black ink, appearing to read 'H. LaDon Baltimore', written over a horizontal line.

H. LaDon Baltimore