COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NAVITAS KY NG, LLC FOR APPROVAL OF TRANSPORTATION AGREEMENT WITH FSR SERVICES, LLC TO CONSTRUCT PIPELINE EXTENSION IN ALBANY, CLINTON COUNTY, KENTUCKY	)))))	CASE NO. 2016-00065

ORDER

On February 1, 2016, Navitas KY NG, LLC ("Navitas") filed its application requesting approval of a special contract ("Transportation Agreement") with FSR Services, LLC ("FSR"). Pursuant to the Transportation Agreement, Navitas is to construct a new two-mile, 6-inch polyethylene pipeline extension to transport and deliver natural gas from its existing Albany, Kentucky, distribution system natural gas pipeline to FSR's truck remanufacturing plant at 368 KY 90 East, Albany, in Clinton County, Kentucky ("FSR Project"). The line will cost an estimated $200,000 and will provide natural gas service to FSR for an initial contract term of ten years. FSR will make a transportation fee pre-payment of $25,000 to Navitas in two installments, with their timing specified in the Transportation Agreement. The pre-payment will be paid back to FSR through a 50 percent discount to the $4.62 per Mcf special contract rate.[1] After the $25,000 pre-payment is extinguished through the 50 percent discount, FSR will then be charged the full $4.62 per Mcf rate, or the tariff rate approved by the Commission, whichever is greater.[2]

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[1] The $4.62 per Mcf rate is equal to Navitas's Residential Base Rate for gas service on page 1 of its tariff.

[2] Application, Exhibit A, Transportation Agreement at 9.

Navitas will procure natural gas to serve FSR, which will pay Navitas's approved Gas Cost Recovery rate for its system supply.[3] Navitas states that the construction of the pipeline will take approximately six months following receipt of all approvals. It does not anticipate needing to obtain any permits for rights-of-way. The FSR Project is to be financed by Navitas's internally generated funds, with no need for external financing.[4] FSR is expected to use approximately 6,700 Mcf on an annual basis, or an average of nearly 560 Mcf monthly, contributing annual revenue of approximately $31,000 at the $4.62 base rate, or $310,000 over the ten-year contract term.[5] The pipeline to which the new extension will be connected, which was constructed to serve Keystone Foods ("Keystone") pursuant to a Certificate of Public Convenience and Necessity ("CPCN") and special contract approved by the Commission in Case No. 2014-00027,[6] has a maximum monthly capacity of 16,000 Mcf. According to the Transportation Agreement, Keystone has priority for 10,833 Mcf per month of available pipeline capacity, but to date the maximum monthly delivery to Keystone has been only 6,711 Mcf.

Navitas states that its existing customers should see no adverse impact on their gas supply or cost as a result of the construction and proposed special contract, and that the addition of gas service at FSR's location in the Albany industrial park could draw in new businesses and jobs to the community. Navitas contends that an

[3] Navitas's response to Commission Staff's First Request for Information ("Staff's First Request"), Item 8.d.

[4] Application at 3, paragraph 8.

[5] Navitas's response to Staff's First Request, Item 5.

[6] Case No. 2014-00027, *Application of Navitas KY NG, LLC for a Certificate of Public Convenience and Necessity for Its Pipeline Construction Work Plan in Clinton County, Kentucky* (Ky. PSC June 20, 2014).

increase in gas delivered through its system could also have the effect of reducing its gas cost and tempering future rate increases.[7] It reports in its application that it has received no opposition to the FSR pipeline project.

Pursuant to 807 KAR 5:011, Section 13, special contracts that establish rates, charges, or conditions of service are subject to the Commission's approval. Navitas requests approval of the FSR Transportation Agreement, but does not believe the FSR Project requires a CPCN. Navitas characterizes the FSR pipeline extension as "limited" in its application, stating that it is "an ordinary extension in the usual course of business," and not subject to the statutory requirements for the issuance of a CPCN.[8] The CPCN requirement iterated in KRS 278.020(1) provides:

> No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

The Commission has also adopted a regulation, 807 KAR 5:001, Section 15(3), which defines "ordinary extensions" that do not require a CPCN as follows:

> Extensions in the ordinary course of business. A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in

[7] Navitas's response to Staff's First Request, Item 7.

[8] Application at 3, paragraph 8.

> the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

Pursuant to KRS 278.010(3), utility service includes "[t]he transporting or conveying of gas . . . by pipeline to or for the public, for compensation." There is no other gas service in the area available to FSR. Navitas's most current Annual Report on file with the Commission shows net gas utility plant in service of $216,919, so the proposed $200,000 project represents a significant increase in the monetary value of the Navitas system.[9] However, other aspects of the FSR Project such as the pre-payment from FSR, the lack of need for external financing, and the level of incremental revenue contribution over the ten-year contract period alleviate the Commission's concern regarding the capital outlay for the FSR project in comparison to the level of Navitas's net utility plant.[10]

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the proposed construction is needed to serve FSR and will not result in wasteful duplication of facilities. Further, the construction will not result in increased rates to existing customers or involve sufficient capital outlay to materially affect the existing financial condition of Navitas. The additional sales to FSR could

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[9] *Annual Report of Navitas KY NG, LLC. to the Kentucky Public Service Commission for the Calendar Year Ended December 31, 2014* ("*2014 Annual Report*") at 2.

[10] The Commission also recognizes that a relatively small portion of the $1.6 million Keystone Project, for which a CPCN was granted in Case No. 2014-00027, *Navitas KY NG, LLC* (Ky. PSC June 20, 2014), is included in the year-end net gas utility plant balance shown in Navitas's *2014 Annual Report*.

actually serve to strengthen Navitas's financial condition and possibly enable it to delay the filing of its next application for a rate increase.

For these reasons, the proposed construction qualifies under 807 KAR 5:001, Section 15(3), as an extension in the ordinary course of business, and we find the construction to be exempt from the requirement of a CPCN under KRS 278.020(1). In addition, based upon a review of the information provided by Navitas, the Commission finds that the Transportation Agreement with FSR is reasonable and should be approved as filed. Other than the provision for the transportation fee credit to repay FSR for the $25,000 prepayment, FSR will be paying the equivalent of a tariffed rate for service approved by the Commission, and will be reducing the level of excess capacity on the pipeline built to serve Keystone. The Commission notes that Navitas is still required to comply with all applicable safety standards for construction and operation as set out in Title 49 CFR Part 192 and 807 KAR 5:022.

IT IS THEREFORE ORDERED that:

1. The Transportation Agreement between Navitas and FSR is approved.

2. Navitas shall construct the facilities required to serve FSR to meet all applicable requirements as set out in Title 49 CFR Part 192 and 807 KAR 5:022.

3. Navitas shall ensure the facilities are constructed and tested by individuals qualified to perform the work described in the application.

4. Navitas shall notify the Commission one week prior to the actual start of construction, at the 50 percent completion point, and when construction is complete.

5. Navitas shall file a report with the Commission, before the pipeline is placed into service, certifying the maximum allowable operating pressure of the pipeline

and also certifying that the pipeline has been constructed and tested in accordance with the applicable requirements as set out in Title 49 CFR Part 192 and 807 KAR 5:022.

By the Commission

ENTERED

APR 15 2016

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Aaron D. Greenwell

Acting Executive Director

*Klint W Alexander
Baker, Donelson, Bearman, Caldwell & Berkowitz,
Baker Donelson Center
211 Commerce Street, Suite 800
Nashville, TENNESSEE 37201

*Navitas KY NG, LLC
3186-D Airway Avenue
Costa Mesa, CA 92626

*V. Austin Shaver
Baker, Donelson, Bearman, Caldwell & Berkowitz,
Baker Donelson Center
211 Commerce Street, Suite 800
Nashville, TENNESSEE 37201