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PUBLIC SERVICE
COMMISSION

NAVITAS KY NG, LLC

April 27, 2018

VIA U.S. MAIL

Gwen Pinson
Executive Director
Kentucky Public Service Commission
211 Sower Blvd
Frankfort, KY 40601

RE: Navitas KY NG, LLC - Letter Requesting Staff Opinion

Dear Ms. Pinson:

I am legal counsel for Navitas KY NG, LLC, a regulated natural gas distributor in Clinton County, Kentucky. Navitas would like to file the enclosed Application for Approval of Long-term Financing Plan for Its Operations in Kentucky. Thank you.

Sincerely yours,



Klint Alexander, Esq.
Navitas KY NG, LLC
1767 Nottage Ct
Laramie, WY 82072
(615) 594-4377

cc: Thomas Hartline
President, Navitas KY NG, LLC
t.hartline@navitasutility.com

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

MAY 01 2018

PUBLIC SERVICE
COMMISSION

APPLICATION OF NAVITAS KY NG, LLC)
FOR APPROVAL OF LONG-TERM)
FINANCING PLAN FOR ITS OPERATIONS)
IN ALBANY, CLINTON COUNTY,)
KENTUCKY)

Case No. 2018-00149

APPLICATION

COMES NOW, Applicant Navitas KY NG, LLC (“Navitas”), by and through counsel, and hereby requests an order by the Public Service Commission (the “Commission”) granting approval of a modification of Navitas’ short-term annual financing plan for its Albany, Clinton County, Kentucky operations pursuant to KRS 278.300.

In support of this Application, Navitas would show unto the Commission as follows:

1. Similar to the structure of many utilities, the Navitas companies are comprised of two sister entities, Navitas Assets, LLC (“NALLC”) and Navitas Utility Corporation (“NUC”). NALLC is a holding company created to retain certain energy assets and the parent company of Navitas KY NG, LLC. NUC is an operating entity primarily engaged in providing necessary support services for the operations of NALLC.

2. Navitas KY NG, LLC (hereinafter referred to as "Navitas") is a Kentucky limited liability company with its principal place of business located at 3186-D Airway Avenue, Costa Mesa, California 92626. A certified copy of the Articles of Organization and Navitas' corporate structure were submitted with the Company's first Joint Application with Gasco Distribution Systems, Inc. for Approval of an Acquisition of Ownership and Control of Gas Utility Systems in 2010 (Case No. 2010-00468). Navitas is in the business of distributing and selling natural gas to residential, agricultural and industrial customers in Albany, Clinton County, Kentucky. At present, Navitas has approximately 125 customers in Kentucky. Its utility operations and its rates,

services, practices and charges in connection therewith are subject to general regulation by the Commission.

3. The Commission has jurisdiction over this matter pursuant to KRS 278.010 *et seq.*, 807 KAR 5:001.

4. In February 2011, the Commission entered an Order approving the transfer of control and authority of Gasco Distribution Systems, Inc.'s gas utility system to Navitas, including the authority to provide utility services deriving from its Certificate of Public Convenience and Necessity, in Albany, Clinton County, Kentucky.

5. On or about January 29, 2014, Navitas tendered an application for a Certificate of Public Convenience and Necessity (“CPCN”), pursuant to KRS 278.020 and 807 KAR 5:001, for the construction of a new 6-inch pipeline to transport natural gas from its Albany, Kentucky distribution system natural gas pipeline to the Keystone Foods chicken processing plant located at 2294 Ky Hwy, 90 East, Albany, Clinton County, Kentucky (hereinafter referred to as the “Keystone Project”).

6. An Order granting Navitas’s Application for a CPCN was entered on June 20, 2014. A true and exact copy of the June 20, 2014 Order is affixed hereto as **Exhibit A**.

7. Pursuant to its Application and the June 20, 2014 Order, Navitas planned to finance the Keystone Project with a short-term construction loan during the build-out of the pipeline, and, thereafter, would roll the construction into a “takeout” loan with a planned 20-year term. The Order instructed Navitas to seek Commission approval for long-term financing pursuant to KRS 278.300 following completion of the project.

8. The Keystone construction pipeline project was completed on January 15, 2015. Since that time, Navitas has been providing natural gas service to the Keystone chicken plant in addition to its 125 residential and commercial customers.

9. To simplify its financing plan across all Navitas sister company operations, NUC seeks to alter its current debt structure by transitioning from a single credit line for all operations to separate lines of credit for its operations in Oklahoma, Texas, Tennessee and Kentucky, respectively. In particular, NUC currently holds a \$1.2 million line of credit for all of the company's systems in Oklahoma, Texas, Tennessee and Kentucky. These lines have been used to fund either incidental construction (i.e. – service connections, small line replacements, etc.) or to carry systems through the summer when monthly billing is insufficient to cover operating costs. Navitas KY NG, LLC proposes to have its own line of credit in the amount of \$150,000 for its Albany, Clinton County Kentucky operations. A copy of the original Promissory Note establishing the line of credit is affixed hereto as **Exhibit B**.

10. Navitas does not foresee an impact to the customer. The total available line of credit between all the companies will remain unchanged. The proposed amount for Kentucky should be sufficient to cover any normal and customary shortfalls. The creation of jurisdictional based funds should provide greater transparency in rate case filings. The contingency aspect is generally weather driven. In a normal year, the \$100,000 contingencies should not be utilized; however, in years of mild winter, the utilities do not build up sufficient reserves to cash flow through the summer thus necessitating tapping the line of credit.

11. Approving the new debt structure is in the public interest as it will improve transparency from a regulatory standpoint and have little or no impact on the community or Navitas's operations.

12. Notices and Communications regarding the Application should be sent to:

Thomas Hartline
Navitas Utility Corporation
3186D Airway Avenue
Costa Mesa, California 92626
(714) 242-4064
thartline@navitasutility.com

and

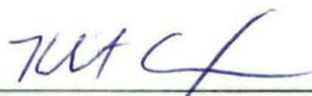
Klint W. Alexander
1767 Nottage Ct
Laramie, Wyoming 82072
(615)594-4377
Klint.alexander10@gmail.com
Counsel for Navitas KY NG, LLC

WHEREFORE, Navitas respectfully requests the Commission to issue an Order:

1. Approving Navitas' proposed financing plan for its Kentucky operations pursuant to KRS 278.300; and
2. Granting such other relief as the Commission may determine to be fair, just and equitable in the premises.

Dated this the 27th day of April, 2018.

Respectfully submitted,



Klint W. Alexander (#88343)
1767 Nottage Ct
Laramie, Wyoming 82072
(615)594-4377
Klint.alexander10@gmail.com
Counsel for Navitas KY NG, LLC

VERIFICATION OF NAVITAS KY NG, LLC

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Thomas Hartline, Secretary of Navitas KY NG, LLC, being duly sworn according to law, makes oath and affirm that I have read the foregoing documentation, know the contents thereof, and that the same is true to the best of my knowledge, information and belief.

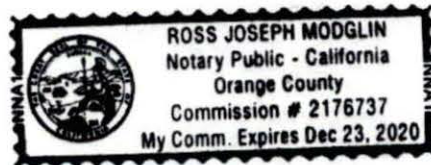

THOMAS HARTLINE

Subscribed and sworn to (or affirmed) before me on this 18th day of April, 2018,
by Thomas Hartline, proved to me on the basis of satisfactory evidence to be
the person(s) who appeared before me.

Notary Public Signature



Notary Public Seal



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of April, 2018, a true and correct copy of the foregoing instrument was deposited in the United States Mail, with postage prepaid, and addressed to the following:

Jennifer Hans, Esq.
Office of the Attorney General
Capitol Suite 11 8
700 Capitol Avenue
Frankfort, Kentucky 40601-3449

Richard Raff, Esq.
Division of General Counsel
Public Service Commission
Commonwealth of Kentucky
21 1 Sower Blvd.
PO Box 6 15
Frankfort, Kentucky 40601

Jeff Derouen, Esq.
Division of General Counsel
Public Service Commission
Commonwealth of Kentucky
21 1 Sower Blvd.
PO Box 6 15
Frankfort, Kentucky 40601



Klint Alexander

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NAVITAS KY NG, LLC FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE AND) CASE NO.
NECESSITY FOR ITS PIPELINE CONSTRUCTION) 2014-00027
WORK PLAN IN CLINTON COUNTY, KENTUCKY)

ORDER

On January 29, 2014, Navitas KY NG, LLC ("Navitas") tendered an application for a Certificate of Public Convenience and Necessity ("CPCN"), pursuant to KRS 278.020 and 807 KAR 5:001, for the construction of a new 6-inch pipeline to transport natural gas from its existing Albany, Kentucky, distribution system natural gas pipeline to the Keystone Foods ("Keystone") chicken processing plant located at 2294 KY Hwy, 90 East, Albany, in Clinton County, Kentucky ("Keystone Project"). Navitas was notified by letter dated February 10, 2014, that its Application was deficient in that it did not comply with the provisions of 807 KAR 5:001, Sections 15(2)(b), (c) and (d). On February 25, 2014, and May 9, 2014, Navitas responded with additional information. On May 16, 2014, Navitas was notified by letter that its Application was still deficient and that it was again rejected for filing. On June 2, 2014, Navitas cured the remaining deficiencies, and by letter dated June 4, 2014, the Commission accepted the Application for filing as of June 2, 2014. There were no requests for intervention.

On June 10, 2014, Commission Staff ("Staff") met with representatives of Navitas and Keystone in a telephonic Informal Conference ("IC") in order to clarify information

Ex. A -

provided in the Application. The matter now stands submitted for a decision. For the reasons stated below, the Commission will grant Navitas's request for a CPCN.

BACKGROUND

Navitas is a Kentucky limited liability company with its principal place of business located in Costa Mesa, California.¹ In 2011, Navitas received Commission approval to acquire and operate the Gasco Distribution System, Inc. ("Gasco") natural gas utility system providing service in Albany, Clinton County, Kentucky.² It distributes and sells natural gas to approximately 125 residential, agricultural, and industrial customers,³ and pursuant to KRS 278.010(3), is a utility regulated by the Commission.

With its Application, Navitas filed a Transportation Agreement ("Agreement") with Keystone to construct the pipeline for the Keystone Project in exchange for Keystone's commitment to pre-pay \$724,000 of the total \$1.6 million estimated cost of the project. Navitas states that there has been little or no opposition to the Keystone Project, and that prior to filing its Application it met with Albany and Clinton County officials to discuss and obtain their support for the pipeline project.

ANALYSIS

Navitas provided maps, drawings, plans, and bid specifications certified by Bell Engineering of Lexington, Kentucky, with its Application and stated that the construction contractor would be Operator Qualified Certified as a condition of bidding on the

¹ Application at 1.

² See Case No. 2010-00468, *Joint Application of Navitas KY NG, LLC and Gasco Distribution Systems, Inc. for Approval of an Acquisition of Ownership and Control of Gas Utility Systems* (Ky. PSC Feb. 11, 2011).

³ Application at 1-2.

project.⁴ Cleary Construction, Inc. of Tompkinsville, Kentucky ("Cleary") was chosen for the project.⁵ Navitas states that Cleary has been involved in earlier road widening projects in the Clinton County area, and performed work for Navitas's highway relocation.⁶ Navitas confirmed that the capacity of the proposed line is not intended to provide 100 percent of Keystone's energy needs, because Keystone currently uses a mixture of biogas manufactured from its production waste, along with propane and natural gas.⁷ The calculations completed by Bell Engineering⁸ indicate that 20,000 cubic feet per hour ("cfh") can be provided to Keystone with the proposed project while maintaining adequate pressures for all users in their system. Bell Engineering stated that the maximum desired demand load for Keystone is 81,700 cfh.

The project includes the construction of approximately 7.5 miles of 6-inch polyethylene gas main, meeting requirements of Title 49 Pipeline Safety Act, from Albany, Kentucky, city gate (located on Dawson Street between Allen Street and Dalton Road) north along US 127 and KY 90 to the Keystone processing plant. Navitas obtained a Right-of-Way Encroachment Permit from Kentucky Transportation Cabinet, District 8, for all proposed construction within the state rights-of-way. Navitas stated at the IC that all necessary private easements have been obtained.

⁴ *Id.* at 4.

⁵ Contract 594-14-1 Natural Gas Line Extensions Certified as a true and complete tabulation of all bids received by Navitas Utility on May 1, 2014, for the titled project, Bell Engineering.

⁶ *See* Case No. 2012-00114, *Application of Navitas KY NG, LLC for an Order Granting the Issuance of a Certificate of Public Convenience and Necessity* (Ky. PSC May 11, 2012); *See also* Informal Conference Memo (June 16, 2014).

⁷ Informal Conference Memo (June 16, 2014).

⁸ Application, Phase 2 Study and Final Report by Bell Engineering.

The Agreement pursuant to which Navitas will deliver gas to Keystone provides for an initial term of 20 years, with automatic one-year renewals thereafter. Keystone will make a transportation fee pre-payment of \$724,000 to Navitas in three installments, with their timing specified in the Agreement. The pre-payment will be paid back to Keystone through a 50 percent discount to Navitas's \$3.62 per Mcf tariffed commercial rate. The resulting \$1.81 per Mcf transportation rate was calculated to extinguish the pre-payment after Navitas has delivered 400,000 Mcf to Keystone. Navitas informed staff during the IC that it estimates that deliveries to Keystone will average 100,000 Mcf per year. The Agreement includes a commitment from Keystone that its volumes will not be less than 3,000 Mcf monthly or 36,000 Mcf annually. After the \$724,000 pre-payment is extinguished through the 50 percent discount, Keystone will then be charged the full tariffed rate. With regard to the natural gas to be delivered to Keystone, Navitas states that it will be supplying Keystone's gas at the same Gas Cost Adjustment rate as all other customers.⁹

Navitas will be the owner and operator of the pipeline upon its completion. It estimates the total cost of an additional employee to operate the pipeline following the completion of construction to be approximately \$100,000.¹⁰

Based on information in the Application, and as confirmed by Navitas at the IC, Navitas will finance the project with a short-term construction loan during the build out of the pipeline. Thereafter it will roll the construction loan into what it refers to as a "take-

⁹ Informal Conference Memo (June 16, 2014).

¹⁰ Application at 4.

out” loan. With a planned 20-year term, the “take-out” loan will represent long-term financing which will require Commission approval pursuant to KRS 278.300.¹¹

LEGAL STANDARDS

Navitas’s request for approval of the Keystone Project, including its construction of a new pipeline, is pursuant to KRS 278.020(1), which provides, in relevant part, that:

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 services enumerated in KRS 278.010 . . . 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.

807 KAR 5:001, Section 15(2), provides in part:

New construction or extension. Upon application for a certificate that the present or future public convenience or necessity requires, or will require, the construction or extension of any plant, equipment, property, or facility, the applicant, in addition to complying with Section 14 of this administrative regulation, shall submit with its application:

- (a) The facts relied upon to show that the proposed construction or extension is or will be required by public convenience or necessity.

To obtain a CPCN, the utility must demonstrate a need for such facilities and an absence of wasteful duplication.¹²

¹¹ According to Navitas’s Application, this financing structure received Commission approval during its acquisition of the Gasco assets in 2011 in Case No. 2010-00468. However, this is incorrect as ordering paragraph 5 of the Commission’s Order in that case stated, “The scope of Commission approval herein shall not be construed to include accounting or ratemaking implications. . . nor does it represent approval of any indebtedness Navitas KY may have incurred.”

¹² *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 252 S.W.2d 885 (Ky. 1952).

“Need” requires:

[a] showing of a substantial inadequacy of existing service involving a consumer market sufficiently large to make it economically feasible for the new system or facility to be constructed and operated.

...

The inadequacy must be due either to a substantial deficiency of service facilities, beyond what could be supplied by normal improvements in the ordinary course of business; or to indifference, poor management or disregard of the rights of consumers, persisting over such a period of time as to establish an inability or unwillingness to render adequate service.¹³

“Wasteful duplication” is defined as “an excess of capacity over need” and “an excessive investment in relation to productivity or efficiency, and an unnecessary multiplicity of physical properties.”¹⁴ To demonstrate that a proposed facility does not result in wasteful duplication, we have held that the applicant must demonstrate that a thorough review of all alternatives has been performed.¹⁵ Selection of a proposal that ultimately costs more than an alternative does not necessarily result in wasteful duplication.¹⁶

The Commission finds that Navitas’s request for a CPCN for construction of the Keystone Project does not duplicate any existing facilities and is necessary in order for

¹³ *Id.* at 890.

¹⁴ *Id.*

¹⁵ See Case No. 2005-00142, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity for the Construction of Transmission Facilities in Jefferson, Bullitt, Meade, and Hardin Counties, Kentucky* (Ky. PSC Sept. 8, 2005).

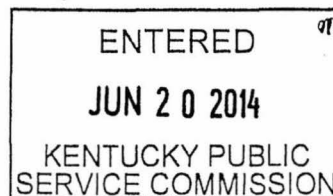
¹⁶ See *Kentucky Utilities Co. v. Pub. Serv. Comm’n*, 390 S.W.2d, 175 (Ky. 1965). See also Case No. 2005-00089, *Application of East Kentucky Power Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Construct a 138 kV Transmission Line in Rowan County, Kentucky* (Ky. PSC Aug. 19, 2005).

Navitas to have the ability to transport and sell natural gas to Keystone for its processing plant. Based upon the record and being otherwise sufficiently advised, the Commission finds that a CPCN for construction of the pipeline should be approved and that, no later than 90 days after the completion of the project, Navitas should file with the Commission a statement of the actual costs of the construction. Prior to incurring any long-term financing related to this project, pursuant to KRS 278.300, Navitas is required to seek Commission approval.

IT IS THEREFORE ORDERED that:

1. Navitas is granted a CPCN for the construction project set forth in the Application.
2. The Agreement between Navitas and Keystone is reasonable and is approved.
3. Navitas shall, no later than 90 days after the completion of the project, file with the Commission a statement of the actual costs of the construction.
4. Navitas shall not incur any long-term indebtedness associated with this project without applying to the Commission for approval pursuant to KRS 278.300.
5. Any documents filed pursuant to ordering paragraph 3 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:


Executive Director

Case No. 2014-00027

Klint W Alexander
P.O. Box 190613
Nashville, TENNESSEE 37219

Thomas Hartline
Secretary
Navitas KY NG, LLC
3186-D Airway Avenue
Costa Mesa, CA 92626

REVOLVING LINE OF CREDIT LOAN L PROMISSORY NOTE
(NOTE L)

\$250,000.00

Effective December ____, 2017

FOR VALUE RECEIVED, NAVITAS KY NG, LLC, a Kentucky limited liability company (hereinafter referred to as the "Borrower"), unconditionally promises to pay to the order of BANK 7 ("Lender"), at 1039 NW 63rd Street, Oklahoma City, OK 73116, or at such other place as may be designated in writing by the holder of this promissory note, the principal amount not to exceed TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00), together with interest thereon at the rate hereinafter specified:

INTEREST RATE. Interest shall accrue on the outstanding principal balance of this Note at the Bank7 Prime Rate (currently at 6.75%) (the "Note Rate"); provided that at no time shall the Note Rate be less than 6.0%. Interest on this Promissory Note shall be calculated on the daily outstanding principal balance computed on the basis of a 360 day year for twelve (12) months of thirty (30) days each. The Bank7 Prime Rate means that annual rate of interest as determined by Lender in its sole discretion. Each change in the Bank7 Prime Rate shall become effective without notice (which notice is hereby waived) on the date of change.

PAYMENT TERMS. Beginning January 15, 2018, and on the fifteenth (15th) day of each month thereafter, Borrower shall pay Lender payments of interest only. Borrower may borrow funds under the Note, repay such funds, and reborrow at any time or from time to time, from the date hereof to and including twenty (20) days prior to the Maturity Date or an Event of Default, whichever is earlier. Advances under the Note may not at any time exceed the face amount of the Note. All advances requested under the Note shall be in accordance with the terms of the First Amended and Restated Loan and Security Agreement dated December ____, 2017. All sums due under this Note shall be paid in full on the Maturity Date of November 15, 2018.

DEFAULT INTEREST: Any sum not paid within ten (10) days of when due shall bear interest at a rate of six percent (6%) per annum greater than the per annum interest rate prevailing on this Note at the time the unpaid amount came due, but in no event at a rate less than twelve percent (12%) per annum.

The Lender's records of advances and repayments will be prima facie evidence of the amount owed by the Borrower to the Lender with respect to this Note, in the absence of manifest error.

All payments made upon this Note shall be applied first to the outstanding accrued interest, if any, through the date of payment and the balance, if any, to the principal balance due and owing under this Note.

Borrower agrees that if, and as often as, this Note is placed in the hands of an attorney for collection or to defend or enforce any of the Lender's rights hereunder or under any

instrument securing payment of this Note, Borrower shall pay the Lender its reasonable attorneys' fees and all court costs and other expenses incurred in connection therewith.

It is expressly understood that time is of the essence of this Note, and if the Borrower shall fail to pay, within ten (10) days of when due (the "Grace Period"), any amount payable under the provisions of this Note or fail to perform any other obligation to the Lender, or upon the occurrence of an Event of Default under the Agreement such event shall constitute a default hereunder (any of the foregoing being hereinafter referred to as "Default"). Upon Default (i) this Note and all other liabilities together with all accrued but unpaid interest hereon and thereon, at the option of the Lender, and without notice, demand or presentment, or notice of intent to accelerate to the Borrower or any other person or party, may be declared, and thereupon immediately shall become, due and payable; and (ii) the Lender may exercise, from time to time, any and all other rights, remedies and recourses now or hereafter existing in equity, at law, herein or under the Agreement, any other Loan Documents between Borrower and Lender, by virtue of statute or otherwise, including but not limited to, all rights and remedies available to it under the Uniform Commercial Code as in effect from time to time in the State of Oklahoma as the Lender may elect, and the right to foreclose any and all liens and security interests securing this Note. Notwithstanding anything herein or in the Agreement to the contrary, this Note and all other liabilities of Borrower to Lender, at the option of Lender, may be accelerated, without notice or demand of any kind in the event Borrower fails to make when due any payments to Lender as required herein or in the Agreement.

At any time additional payments may be made to be credited to principal. Monthly payments shall not be reduced as a result of any prepayments.

The invalidity, or unenforceability in particular circumstances, of any provision of this Note shall not extend beyond such provision or circumstances, and no other provision of this instrument shall be affected thereby.

Borrower expressly stipulates and agrees that it is the intent of Borrower and Lender at all times to comply with applicable state law or applicable United States federal law (to the extent that it permits Lender to contract for, charge, take, reserve, or receive a greater amount of interest than under state law) and that this section shall control every other covenant and agreement in this Note and the other Loan Documents. If the applicable law (state or federal) is ever judicially interpreted so as to render usurious any amount called for under the Note or under any of the other Loan Documents, or contracted for, charged, taken, reserved, or received with respect to the Note, or if Lender's exercise of the option to accelerate the maturity of the Note, or if any prepayment by Borrower results in Borrower's having paid any interest in excess of that permitted by applicable law, then it is Borrower's and Lender's express intent that all excess amounts theretofore collected by Lender shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to Borrower), and the provisions of the Note and the other Loan Documents immediately shall be deemed reformed and the amounts thereafter collectible hereunder and thereunder reduced, without the necessity of the execution of any new documents, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder or thereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the loan proceeds evidenced

by the Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Note until payment in full so that the rate or amount of interest on account of the Note does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the Note for so long as the Note is outstanding. Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, it is not the intention of Lender to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

This Note, to the extent of the full face amount hereof, evidences indebtedness of Borrower to Lender. This Note is issued by the Borrower as part of a commercial transaction and no part of this loan is for a personal use.

Borrower hereby consents to the jurisdiction and/or venue of any state district court, or federal district court within the State of Oklahoma, as Lender may elect with respect to any action involving this Note.

BORROWER HEREBY VOLUNTARILY, AND KNOWINGLY, IRREVOCABLY, AND UNCONDITIONALLY, WAIVES ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN THE BORROWER AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS NOTE OR ANY RELATED LOAN DOCUMENT.

Borrower stipulates and agrees that the Lender may, at its sole discretion, assign this Note to any such person it may select, upon such terms and conditions as it may deem appropriate, and that such assignee shall thereafter become the holder of this Note and shall be entitled to enforce all rights, remedies, and other benefits which shall or may inure to the benefit of the Lender.

Borrower further stipulates, represents, and agrees that this instrument evidences the valid, enforceable, and binding obligation of the Borrower to the Lender in accordance with the terms and provisions hereof, without any defense (as of the date of this Note) to the enforcement thereof, whether denominated as affirmative defense, offset, counterclaim, or otherwise, and whether at law or in equity. Borrower hereby waives all defenses (existing as of the date of this Note and/or based upon acts or omissions occurring prior to the date of this Note) to the enforcement of this Note.

IN WITNESS WHEREOF, Borrower has executed this _____ day of December, 2017, and made effective as of the date first above appearing.

“BORROWER”

NAVITAS KY NG, LLC, a Kentucky limited liability company

By: **NAVITAS UTILITY CORPORATION**, a Nevada corporation, its Manager

By: 

THOMAS E. HARTLINE, President