NAVITAS
COMPANIES

July 29, 2019

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COMMISSION

ATTN: Nancy Vinsel, Esq.
Gwen Pinson, Executive Director
Public Service Commission
Commonwealth of Kentucky
211 Sower Blvd.
Frankfort, Kentucky 40601

RE: Data Request Responses of Navitas KY NG, LLC
Case No. 2019-00241

Dear Ms. Vinsel:

Please find enclosed the Data Request Responses prepared by Thomas Hartline for Navitas KY NG, LLC. The enclosures include all schedules and attachments referenced in the body of the Responses. Enclosed are five hard copies and two electronic copies.

Should you have any questions please do not hesitate to contact me at (714) 242-4064 or via email at vnovak@navitasutility.com. Thank you.

Sincerely,

Vanessa Novak

Vanessa Novak, Esq.
Navitas Utility Corporation

Enclosures: Responses (5 hard copies; 2 electronic copies)

RECEIVED
JUL 31 2019
PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED GAS ADJUSTMENT FILING OF NAVITAS KY NG, LLC	))	**CASE NO. 2019-00241**

RESPONSES TO COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO NAVITAS KY NG, LLC

1) Provide electronic versions of option 1 and option 2 of Navitas' Gas Cost Recovery (GCR) report containing the supporting calculations used to compute the GCR in Excel spreadsheet format with all formulas intact and unprotected, and with all columns and rows accessible.

   Answer: Files transmitted electronically.

2) Refer to the Cover Letter filed by Navitas.

   a) Explain in detail why Navitas is modifying the calculation of its GCR rate.

      Answer: The modification to the calculation of the GCR in one instance involves removing the pro rata share of the customer charge in the rates ordered by the Tennessee Regulatory Authority and substituting a flow charge ordered by the Federal Energy Regulatory Commission.

      There is no modification in the other instance.

   b) Define the abbreviation TRA.

      Answer: TRA stands for Tennessee Regulatory Authority. That agency has recently changed its name to Tennessee Public Utilities Commission.

   c) State why Navitas believes the TRA flow rate is the correct calculation to use in its GCR report instead of the FERG flow rate.

Answer: In 2017 Navitas applied for and on June 15th received a Section 7(f) order (Docket No. CP17-171-000). This order states in part:

For the reasons stated above, approval of Navitas-Kentucky's request for a section 7(f) service area determination is granted as requested. The service area determination will relieve Navitas-Kentucky of Commission regulations otherwise applicable to the enlargement or extension of its facilities within the service area and the transportation of gas in interstate commerce within the service area.

Navitas-Kentucky requests to be treated as an LDC for the purposes of section 311 of the NGPA and the Commission has previously held that section 7(f) companies should be treated as such. Although Navitas-Kentucky will own pipeline facilities that cross the Kentucky-Tennessee border, it will operate as an LDC within its service area.

Navitas-Kentucky also requests a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and NGPA. The requested waivers are consistent with those previously granted in similar circumstances and are granted in this proceeding. No regulatory gap will exist because Navitas-Kentucky will remain subject to the accounting, reporting, and other rules and regulations of the Kentucky PSC. There is no need to duplicate on the federal level requirements already imposed on Navitas-Kentucky by the state regulatory agencies.

Pursuant to 18 CFR 375.308, it is ordered that:

(A) Navitas-Kentucky is granted a service area determination under section 7(f) of the NGA, as described herein and more fully in the application.

(B) Navitas-Kentucky is determined to be an LDC for purposes of section 311 of the NGPA.

(C) Navitas-Kentucky is granted a waiver of reporting and accounting requirements, as well as other rules and regulations under the NGA and NGPA that are ordinarily applicable to natural gas companies.

(D) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order pursuant to 18 C.F.R. § 385.713.

In accordance with this order, Navitas KYNG, LLC, as an LDC, should be governed by state regulatory agencies.

3) Provide a copy of the supporting documentation for the TRA flow rate. Explain why the TRA flow rate is applicable to the calculation of Navitas' quarterly gas cost recovery rate.

Answer: Please see attached TRA order.

The gas Navitas KYNG provides to customers is shipped in from Tennessee. The Navitas KYNG pipeline connects to the Navitas TNNG pipeline. Even though B&W Pipeline does not physically take the gas across the border, B&W Pipeline is nonetheless shipping gas they know to be destined to cross state lines. Thus, to be in compliance with FERC rules the TRA ordered B&W Pipeline to get FERC approval of the flow portion of the B&W Pipeline tariff. As with other third-party transportation costs this flow charge is recoverable in the gas cost recovery

4) Refer to Navitas' GCR report, Option 1, Schedule 2, Expected Gas Cost (EGC) calculation sheet.

   a) Explain in detail how the TRA flow rate affects the calculation of Navitas' EGC.

      Answer: Option 1, Schedule 2 is predicated on the recognition of the TRA ordered rates. The B&W Pipeline tariff portion of the expected gas cost is a pro rata portion of the customer charge plus a flow charge. Kentucky has historically flowed approximately 85% to 95% of the total gas used by the Byrdstown, TN / Albany, KY Navitas service area. Thus, the expected gas cost calculation is $13,897 x 90% plus the flow charge of $0.3081 per MCF. The total annual B&W Pipeline portion of the expected gas cost is $180,216.23 or $1.8434 per MCF

   b) Explain what the B&W flow column is representing and how the values in the column were calculated.

      Answer: The B&W flow column is the value of the TRA ordered flow charge times the volume in MCF for each of the preceding twelve months.

5) Refer to Navitas' GCR report, Option 1, Schedule 4, Actual Adjustment (AA) calculation sheet.

   a) Explain in detail how the TRA flow rate affects the calculation of Navitas' AA.

      Answer: The TRA flow rate adds a new charge of $0.3081 per MCF to the gas sold to Kentucky customers.

6) Provide a copy of the supporting documentation for the FERC flow rate. Explain why the FERC flow rate is applicable to the calculation of Navitas' quarterly gas cost recovery rate.

Answer: Please see attached FERC application.

If it is determined that the B&W Pipeline FERC ruling supersedes the Navitas FERC order, then the flow rate represents a third-party transportation cost which is recoverable and part of the quarterly gas cost.

7) Refer to Navitas' GCR report, Option 2, Schedule 2, EGC calculation sheet.

   a) Explain in detail how the FERC flow rate affects the calculation of Navitas' EGC.

      Answer: The FERC flow rate adds a new charge of $2.7172 per MCF to the gas sold to Kentucky customers.

   b) State why the B&W pipeline column was left blank.

      Answer: The contemplated rate from FERC has no customer charge component, thus this column is zeroed out. The blank column was left in for clarity and uniformity.

   c) Explain what the B&W flow column is representing and how the values in the column were calculated.

      Answer: The B&W flow column is the value of the FERC flow charge of $2.7172 times the volume in MCF for each of the preceding twelve months.

8) Refer to Navitas' GCR report, Option 2, Schedule **4, AA** calculation sheet.

   a) Explain in detail how the FERC flow rate affects the calculation of Navitas' AA.

      Answer: The FERC flow rate adds a new charge of $2.7172 per MCF to the gas sold to Kentucky customers. It also removes the pro rata share of the customer charge.

9) Refer to the B&W pipeline referenced throughout Navitas' GCR report.

   a) Explain how Navitas utilizes the B&W pipeline.

      The B&W Pipeline is the sole link to supply of gas to the Byrdstown, TN and Albany, KY Navitas service area. Navitas obtains approximately 2/3 of its gas commodity from the Spectra East Tennessee Pipeline which has a connection point to the B&W Pipeline. The remaining 1/3 of the gas supplied to customers is from the wells owned by the shareholders of the B&W Pipeline that feed into the B&W Pipeline.

b) Explain how the transportation cost associated with the B&W pipeline is determined.

Answer: B&W Pipeline supplies a monthly invoice which has historically been based on rates set by the TRA. Until recently B&W billed for the customer charge as well as the Tennessee portion of the flow charge.

c) Explain how the TRA flow rate and FERC flow rate is applicable to the B&W pipeline as used by Navitas.

Answer: Based on our Section 7(f) FERC order, Navitas believes the TRA Order applies to our operations. The FERC order states Navitas will be regulated by the local jurisdiction. As such we believe the customer charge and the TRA flow charge applies.

There is a reasonable argument that the B&W Pipeline does not cross state lines and thus should not even be regulated by FERC, rather it is clearly the Navitas pipeline that crosses state lines and should be the controlling factor at FERC. In fact, the B&W Pipeline operated for decades without issue being solely regulated by the TRA.

Respectfully Submitted by:
Thomas Hartline
Navitas KY NG, LLC

Gas cost recovery rate calculation

Period	Filing date (on or about)	Reporting Months	Effective date (& 1st forecast month)
	31-Mar	November December January	1-May
X	30-Jun	February March April	1-Aug
	30-Sep	May June July	1-Nov
	31-Dec	August September October	1-Feb

Schedule I
Gas Cost Recovery Rate Summary

Component	
Expected Gas Cost (EGC)	6.8415
+ Refund Adjustment (RA)	-
+ Actual Adjustment (AA)	0.9241
+ Balance Adjustment(BA)	(0.1116)
= Gas Cost Recovery Rate	$ 7.6540

A. Expected Gas Cost Calculation	
Total EGC	$ 668,856.76
/ Twelve months sales	97,765
EGC	$ 6.8415

B. Refund Adjustment Calculation	
Refund Adjustment for reporting period	-
+ Previous quarter RA	-
+ Second previous quarter RA	-
+ Third previous quarter RA	-
+ Other cost adjustments	
= Refund Adjustment	$ -

C. Actual Adjustment Calculation	
Actual Adjustment for reporting period	(0.0230)
+ Previous quarter AA	0.9224
+ Second previous quarter AA	0.1235
+ Third previous quarter AA	(0.0987)
+ Other cost adjustments	
= Actual Adjustment	$ 0.9241

D. Balance Adjustment Calculation	
Balance Adjustment for reporting period	(0.0130)
+ Previous quarter BA	(0.0306)
+ Second previous quarter BA	(0.0866)
+ Third previous quarter BA	0.0186
= Balance Adjustment	$ (0.1116)

Schedule II
Expected Gas Cost

Supplier or NYMEX	Twelve months 2017 - 2018	Known prior year average sales in MCF	MCF/MMBtu (from supplier)	Prior year purchases in MMBtu	Forecasted price per MMBtu	Converted price per MCF	Subtotal forecasted purchases
Petrol	January	10446	1.0660	11,135	4.51	4.81	50,268.87
Petrol	February	11084	1.0670	11,827	4.51	4.82	53,390.15
Petrol	March	11282	1.0710	12,083	4.51	4.83	54,549.55
Petrol	April	9205	1.0650	9,803	4.51	4.81	44,256.24
Petrol	May	6926	1.0660	7,383	4.51	4.81	33,328.43
Petrol	June	5347	1.0630	5,684	4.51	4.80	25,658.03
Petrol	July	4758	1.0650	5,067	4.51	4.81	22,875.69
Petrol	August	5362	1.0660	5,716	4.51	4.81	25,803.83
Petrol	September	5897	1.0670	6,292	4.51	4.82	28,403.62
Petrol	October	6753	1.0680	7,212	4.51	4.82	32,557.94
Petrol	November	10082	1.0660	10,748	4.51	4.81	48,518.86
Petrol	December	10624	1.0640	11,304	4.51	4.80	51,029.31
		97,765		104,254			470,640.53

Transportation	Twelve months 2017 - 2018	Spectra (East TN) demand	B&W pipeline	B&W flow	Subtotal forecasted	Total forecasted cost
	August	1,500.00	13,897.67	3,218.35	17,226.25	67,495.12
	September	1,500.00	13,897.67	3,414.98	17,422.88	70,813.03
	October	1,500.00	13,897.67	3,476.11	17,484.01	72,033.56
	November	1,500.00	13,897.67	2,836.07	16,843.97	61,100.21
	December	1,500.00	13,897.67	2,133.78	16,141.68	49,470.11
	January	1,500.00	13,897.67	1,647.33	15,655.24	41,313.27
	February	1,500.00	13,897.67	1,465.94	15,473.84	38,349.54
	March	1,500.00	13,897.67	1,652.03	15,659.94	41,463.77
	April	1,500.00	13,897.67	1,816.77	15,824.68	44,228.29
	May	1,500.00	13,897.67	2,080.55	16,088.45	48,646.39
	June	1,500.00	13,897.67	3,106.31	17,114.21	65,633.07
	July	1,500.00	13,897.67	3,273.18	17,281.08	68,310.39
					198,216.23	668,856.76

divide by sales	97,765
per MCF	$ 6.8415
multiply by allowed purchases (sales / 1)	97,765
Expected Gas Cost	**$ 668,856.76**

Schedule IV
Actual Adjustment

	Third previous quarter			Second previous quarter			Previous quarter			Current quarter		
	Actual			Actual			Actual			Actual		
	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19
Invoices												
Supply												
Petrol & FWM (B&W)	33,853.29	26,790.68	30,909.57	28,256.94	28,169.48	46,962.35	88,667.18	133,392.52	109,754.77	78,824.26	65,804.96	46,009.23
Transportation												
Spectra	1,604.35	1,622.36	1,614.43	1,595.76	1,607.03	1,624.57	1,644.19	1,641.37	1,648.12	1,474.72	1,468.27	1,531.24
B&W	13,267.01	13,403.71	13,349.07	13,257.70	13,357.26	13,467.70	13,562.15	13,656.06	13,637.70	18,414.42	17,836.11	16,763.62
Total cost	48,724.64	41,816.75	45,873.07	43,110.40	43,133.77	62,054.63	103,873.52	148,689.95	125,040.59	98,713.40	85,109.34	64,304.08
Sales in MCF	6,961	6,678	5,672	6,855	6,083	7,301	13,376	13,910	12,228	14,660	12,783	9,302
Cost per MCF	6.9997	6.2619	8.0876	6.2889	7.0911	8.4991	7.7659	10.6894	10.2258	6.7335	6.6580	6.9129
less ECG in effect	7.6224	7.6224	7.6224	6.6455	6.6455	6.6455	6.8630	6.8630	6.8630	6.8250	6.8250	6.8250
Delta	(0.62)	(1.36)	0.47	(0.36)	0.45	1.85	0.90	3.83	3.36	(0.09)	(0.17)	0.09
Monthly cost difference	(4,334.88)	(9,085.63)	2,638.82	(2,444.50)	2,710.52	13,533.84	12,076.78	53,225.62	41,119.82	(1,341.10)	(2,134.63)	817.93
Total cost difference			(10,781.70)			13,799.86			106,422.23			(2,657.80)
divide by 12 months sales			109,244			111,757			115,380			115,380
Actual Adjustment		**Actual Adjustment**	(0.0987)		**Actual Adjustment**	0.1235		**Actual Adjustment**	0.9224		**Actual Adjustment**	(0.0230)
Allocation												
Total B&W line sales	7,292	6,924	5,905	7,186	6,329	7,534	13,707	14,156	12,461	16,501	14,529	10,112
KY%	95%	96%	96%	95%	96%	97%	98%	98%	98%	89%	88%	92%
Byrdstown/Fentress (TN)	3,309	2,461	2,331	3,309	2,461	2,331	3,309	2,461	2,331	18,414	17,463	8,101
Cost												
Petrol	18,415.05	8,512.53	12,988.29	5,915.12	7,469.75	25,190.60	67,080.09	103,945.82	79,876.71	63,312.80	52,742.40	25,548.12
Allocation	17,579.39	8,209.97	12,475.59	5,642.74	7,179.29	24,411.25	65,460.65	102,138.75	78,382.52	56,247.69	46,403.21	23,501.41
Spectra (Enbridge)												
250	1,680.61	1,682.15	1,680.78	1,672.79	1,672.05	1,676.44	1,684.87	1,670.41	1,679.54	1,659.96	1,668.85	1,664.59
Allocation	1,604.35	1,622.36	1,614.43	1,595.76	1,607.03	1,624.57	1,644.19	1,641.37	1,648.12	1,474.72	1,468.27	1,531.24
Cost												
B&W Transport	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67
Flow charge (TRA juris)										4,516.75	3,938.44	2,865.95
Allocation	13,267.01	13,403.71	13,349.07	13,257.70	13,357.26	13,467.70	13,562.15	13,656.06	13,637.70	18,414.42	17,836.11	16,763.62
Sparta (FWM) Supply	17,047.50	19,265.45	19,191.56	23,705.82	21,839.42	23,271.06	23,780.63	31,806.72	31,970.29	25,412.35	22,052.25	24,468.00
Cost	16,273.90	18,580.71	18,433.99	22,614.20	20,990.19	22,551.10	23,206.52	31,253.77	31,372.25	22,576.57	19,401.75	22,507.82
Allocation												

Schedule V
Balance Adjustment

	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
+ under charged - over charged	(60,654.28)	(61,087.10)	(59,498.91)	(66,151.67)	(61,387.79)	(53,512.64)	(29,981.15)	(22,996.80)	(16,127.25)	95,664.07	94,079.97	92,862.40
											->Actual|	|Average->
Sales in MCF	5,672	6,855	6,083	7,301	13,376	13,910	12,228	11,084	11,282	9,205	6,926	5,347
Summary												
3rd Previous Qrtr BA	(0.0605)	(0.0639)	(0.0639)	(0.0639)	0.0052	0.0052	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)
2rd Previous Qrtr BA	(0.0639)	0.0052	0.0052	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186
Previous Qrtr BA	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186	0.0186	(0.0866)	(0.0866)
Current Qrt BA	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186	0.0186	(0.0866)	(0.0866)	(0.0866)	(0.0306)	(0.0306)
	(0.1195)	(0.0675)	(0.0675)	(0.0675)	0.0150	0.0150	0.0150	(0.0768)	(0.0768)	(0.0768)	(0.1071)	(0.1071)
3rd Previous Qrtr AA	0.0040	0.2889	0.2889	0.2889	0.0744	0.0744	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)
2rd Previous Qrtr AA	0.2889	0.0744	0.0744	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)
Previous Qrtr AA	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)	(0.0987)	0.1235	0.1235
Current Qrt AA	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)	(0.0987)	0.1235	0.1235	0.1235	0.9224	0.9224
	0.4227	(0.1936)	(0.1936)	(0.1936)	(0.5812)	(0.5812)	(0.5812)	(0.5321)	(0.5321)	(0.5321)	0.3348	0.3348
	(0.0003) (17.51)	(0.0003) (15.67)	(0.0003) (14.04)	(0.0003) (12.08)	(0.0003) (8.49)	(0.0003) (4.76)	(0.0003) (1.48)	(0.0003) 1.49	(0.0003) 4.52	(0.0003) 6.99		
	(871.77) (0.0085)	(0.0085) (813.46)	(0.0085) (761.71)	(0.0085) (699.60)	(0.0085) (585.82)	(0.0085) (467.49)	(0.0085) (363.47)	(0.0085) (269.18)	(0.0085) (173.21)	(0.0085) (94.90)	(0.0085) (35.99)	(0.0085) 9.50
Third previous qrtr BA AA	0.0040 (145.84)	(145.84)	(145.84)	2,076.78 0.0186	0.0186 1,827.98	0.0186 1,569.23	0.0186 1,341.78	0.0186 1,135.60	0.0186 925.73	0.0186 754.51	0.0186 625.68	0.0186 526.23
Second previous qrtr BA AA	0.2889 (6,847.93)	0.2889 (8,828.21)	0.2889 (10,585.41)	0.2889 (12,694.61)	(12,694.61)	(12,694.61)	(9,885.87) (0.0866)	(0.0866) (8,926.04)	(0.0866) (7,949.02)	(0.0866) (7,151.90)	(0.0866) (6,552.17)	(0.0866) (6,089.16)
Previous qrtr BA AA	0.0744 1,077.35	0.0744 567.32	0.0744 114.74	0.0744 (428.50)	0.0744 (1,423.69)	0.0744 (2,458.64)	0.0744 (3,368.44)	(3,368.44)	(3,368.44)	(3,604.04) (0.0306)	(0.0306) (3,392.12)	(0.0306) (3,228.52)
Balance adjustment BA	0.0554 3,618.20	0.0554 3,238.18	0.0554 2,900.97	0.0554 2,496.21	0.0554 1,754.70	0.0554 983.58	0.0554 305.70	0.0554 (308.77)	0.0554 (934.23)	0.0554 (1,444.53)	(1,444.53)	(1,444.53)
	(61,279.88)	(0.6123) (57,082.38)	(0.6123) (53,357.72)	(0.6123) (48,886.93)	(0.6123) (40,696.68)	(0.6123) (32,179.21)	(0.6123) (24,691.67)	(0.6123) (17,904.64)	(0.6123) (10,996.11)	(0.6123) (5,359.63)	(0.6123) (1,118.89)	(0.6123) 2,155.07
Third previous quarter AA				(10,781.70)	(0.0987) (9,461.61)	(0.0987) (8,088.78)	(0.0987) (6,881.95)	(0.0987) (5,788.03)	(0.0987) (4,674.53)	(0.0987) (3,766.05)	(0.0987) (3,082.54)	(0.0987) (2,554.85)
Second previous quarter AA							13,799.86	0.1235 12,431.20	0.1235 11,038.03	0.1235 9,901.39	0.1235 9,046.21	0.1235 8,385.99
Previous quarter AA										106,422.23	0.9224 100,034.31	0.9224 95,102.67
Actual adjustment AA												

Sales History

Sales in MCF		J	F	M	A	M	J	J	A	S	O	N	D	Total
	2007	3,187	5,015	1,657	1,472	961	784	327	400	379	859	1,941	2,359	19,341
	2008	6,960	4,115	3,761	1,428	1,408	637	786	683	851	1,129	3,712	3,441	28,911
	2009	5,621	4,445	3,436	1,575	952	680	726	669	749	1,336	1,726	5,564	27,479
	2010	5,820	6,407	4,116	1,569	999	1,082	771	644	1,097	1,384	1,726	5,564	31,179
	2011	5,820	6,407	2,727	1,673	1,301	1,129	739	877	810	1,253	2,602	3,335	28,674
	2012	5,134	3,661	1,929	1,177	1,253	880	1,046	1,227	1,049	1,813	3,673	2,854	25,694
	2013	6,073	4,304	5,380	2,531	1,603	911	810	1,047	1,051	1,618	2,334	3,906	31,568
	2014	6,465	5,710	3,962	2,176	1,037	999	957	854	969	1,749	3,252	4,410	32,540
	2015	9,046	11,867	13,351	9,115	8,724	6,472	6,062	5,148	5,562	7,939	8,721	7,043	99,050
	2016	11,015	10,109	9,340	7,794	5,474	4,778	4,594	4,462	5,505	5,465	7,363	8,826	84,725
	2017	7,634	6,393	7,774	6,650	3,981	3,459	2,704	4,983	6,437	6,306	10,869	12,716	79,906
	2018	12,306	12,391	13,164	13,164	6,961	6,678	5,672	6,855	6,083	7,301	13,376	13,910	117,861
	2019	12,228	14,660	12,783	9,302	9,488								58,461
Average		10,446	11,084	11,282	9,205	6,926	5,347	4,758	5,362	5,897	6,753	10,082	10,624	97,765
									113,519	113,165	114,160	116,667	117,861	
		117,783												

Period	Filing date (on or about)	Reporting Months	Effective date (& 1st forecast month)
	31-Mar	November December January	1-May
X	30-Jun	February March April	1-Aug
	30-Sep	May June July	1-Nov
	31-Dec	August September October	1-Feb

Schedule I
Gas Cost Recovery Rate Summary

Component	
Expected Gas Cost (EGC)	6.5273
+ Refund Adjustment (RA)	-
+ Actual Adjustment (AA)	1.5141
+ Balance Adjustment(BA)	(0.1116)
= Gas Cost Recovery Rate	$ 7.9298

A. Expected Gas Cost Calculation	
Total EGC	$ 638,143.85
/ Twelve months sales	97,765
EGC	$ 6.5273

B. Refund Adjustment Calculation	
Refund Adjustment for reporting period	-
+ Previous quarter RA	-
+ Second previous quarter RA	-
+ Third previous quarter RA	-
+ Other cost adjustments	
= Refund Adjustment	$ -

C. Actual Adjustment Calculation	
Actual Adjustment for reporting period	0.5669
+ Previous quarter AA	0.9224
+ Second previous quarter AA	0.1235
+ Third previous quarter AA	(0.0987)
+ Other cost adjustments	
= Actual Adjustment	$ 1.5141

D. Balance Adjustment Calculation	
Balance Adjustment for reporting period	(0.0130)
+ Previous quarter BA	(0.0306)
+ Second previous quarter BA	(0.0866)
+ Third previous quarter BA	0.0186
= Balance Adjustment	$ (0.1116)

Schedule II
Expected Gas Cost

Supplier or NYMEX	Twelve months 2018 - 2019	Known prior year average sales in MCF	MCF/MMBtu (from supplier)	Prior year purchases in MMBtu	Forecasted price per MMBtu	Converted price per MCF	Subtotal forecasted purchases
Petrol	January	10446	1.0660	11,135	4.51	4.81	50,268.87
Petrol	February	11084	1.0670	11,827	4.51	4.82	53,390.15
Petrol	March	11282	1.0710	12,083	4.51	4.83	54,549.55
Petrol	April	9205	1.0650	9,803	4.51	4.81	44,256.24
Petrol	May	6926	1.0660	7,383	4.51	4.81	33,328.43
Petrol	June	5347	1.0630	5,684	4.51	4.80	25,658.03
Petrol	July	4758	1.0650	5,067	4.51	4.81	22,875.69
Petrol	August	5362	1.0660	5,716	4.51	4.81	25,803.83
Petrol	September	5897	1.0670	6,292	4.51	4.82	28,403.62
Petrol	October	6753	1.0680	7,212	4.51	4.82	32,557.94
Petrol	November	10082	1.0660	10,748	4.51	4.81	48,518.86
Petrol	December	10624	1.0640	11,304	4.51	4.80	51,029.31
		97,765		104,254			470,640.53

Transportation	Twelve months 2018 - 2019	Navitas custody gas	Spectra (East TN) demand	B&W pipeline	B&W flow	Subtotal forecasted	Total forecasted cost
	January	67%	1,500.00		18,995.96	20,495.96	70,764.83
	February	76%	1,500.00		22,771.84	24,271.84	77,661.99
	March	71%	1,500.00		21,747.59	23,247.59	77,797.14
	April	77%	1,500.00		19,360.43	20,860.43	65,116.67
	May	66%	1,500.00		12,487.74	13,987.74	47,316.17
	June	46%	1,500.00		6,739.85	8,239.85	33,897.88
	July	26%	1,500.00		3,332.90	4,832.90	27,708.59
	August	36%	1,500.00		5,188.57	6,688.57	32,492.40
	September	17%	1,500.00		2,694.70	4,194.70	32,598.31
	October	22%	1,500.00		4,092.08	5,592.08	38,150.02
	November	47%	1,500.00		12,788.27	14,288.27	62,807.12
	December	67%	1,500.00		19,303.42	20,803.42	71,832.73
						167,503.33	638,143.85

divide by sales	97,765
per MCF	$ 6.5273
multiply by allowed purchases (sales / 1)	97,765
Expected Gas Cost	**$ 638,143.85**

Navitas KY NG, LLC

Schedule IV
Actual Adjustment

	Third previous quarter			Second previous quarter			Previous quarter			Current quarter		
		Actual			Actual			Actual			Actual	
	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19
Invoices												
Supply												
Petrol & FWM (B&W)	33,853.29	26,790.68	30,909.57	28,256.94	28,169.48	46,962.35	88,667.18	133,392.52	109,754.77	78,824.26	65,804.96	46,009.23
Transportation												
Spectra	1,604.35	1,622.36	1,614.43	1,595.76	1,607.03	1,624.57	1,644.19	1,641.37	1,648.12	1,474.72	1,468.27	1,531.24
B&W	13,267.01	13,403.71	13,349.07	13,257.70	13,357.26	13,467.70	13,562.15	13,656.06	13,637.70	48,979.66	48,134.49	23,969.49
Total cost	48,724.64	41,816.75	45,873.07	43,110.40	43,133.77	62,054.63	103,873.52	148,689.95	125,040.59	129,278.65	115,407.72	71,509.96
Sales in MCF	6,961	6,678	5,672	6,855	6,083	7,301	13,376	13,910	12,228	14,660	12,783	9,302
Cost per MCF	6.9997	6.2619	8.0876	6.2889	7.0911	8.4991	7.7659	10.6894	10.2258	8.8185	9.0282	7.6876
less ECG in effect	7.6224	7.6224	7.6224	6.6455	6.6455	6.6455	6.8630	6.8630	6.8630	6.8250	6.8250	6.8250
Delta	(0.62)	(1.36)	0.47	(0.36)	0.45	1.85	0.90	3.83	3.36	1.99	2.20	0.86
Monthly cost difference	(4,334.88)	(9,085.63)	2,638.82	(2,444.50)	2,710.52	13,533.84	12,076.78	53,225.62	41,119.82	29,224.15	28,163.74	8,023.81
Total cost difference			(10,781.70)			13,799.86			106,422.23			65,411.70
divide by 12 months sales			109,244			111,757			115,380			115,380
Actual Adjustment		**Actual Adjustment**	**(0.0987)**		**Actual Adjustment**	**0.1235**		**Actual Adjustment**	**0.9224**		**Actual Adjustment**	**0.5669**
Allocation												
Total B&W line sales	7,292	6,924	5,905	7,186	6,329	7,534	13,707	14,156	12,461	16,501	14,529	10,112
KY%	95%	96%	96%	95%	96%	97%	98%	98%	98%	89%	88%	92%
Byrdstown/Fentress (TN)	3,309	2,461	2,331	3,309	2,461	2,331	3,309	2,461	2,331	18,414	17,463	8,101
Cost												
Petrol	18,415.05	8,512.53	12,988.29	5,915.12	7,469.75	25,190.60	67,080.09	103,945.82	79,876.71	63,312.80	52,742.40	25,548.12
Allocation	17,579.39	8,209.97	12,475.59	5,642.74	7,179.29	24,411.25	65,460.65	102,138.75	78,382.52	56,247.69	46,403.21	23,501.41
Spectra (Enbridge)												
250	1,680.61	1,682.15	1,680.78	1,672.79	1,672.05	1,676.44	1,684.87	1,670.41	1,679.54	1,659.96	1,666.85	1,664.59
Allocation	1,604.35	1,622.36	1,614.43	1,595.76	1,607.03	1,624.57	1,644.19	1,641.37	1,648.12	1,474.72	1,468.27	1,531.24
Cost												
B&W Transport	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67	13,897.67			
Petrol volume										10,916.00	10,720.00	5,356.00
Less 10% shipper fuel										1,091.60	1,072.00	535.60
Shipped to KY by Navitas										9,946.21	9,776.85	4,863.31
Flow charge (FERC juris)										27,025.85	26,565.64	13,214.58
Allocation	13,267.01	13,403.71	13,349.07	13,257.70	13,357.26	13,467.70	13,562.15	13,656.06	13,637.70	48,979.66	48,134.49	23,969.49
Sparta (FWM) Supply	17,047.50	19,265.45	19,191.56	23,705.82	21,839.42	23,271.06	23,780.63	31,806.72	31,970.29	25,412.35	22,052.25	24,468.00
Cost	16,273.90	18,580.71	18,433.99	22,614.20	20,990.19	22,551.10	23,206.52	31,253.77	31,372.25	22,576.57	19,401.75	22,507.82
Allocation												

Schedule V
Balance Adjustment

	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	->Actual| May-19	|Average-> Jun-19
	(60,654.28)	(61,087.10)	(59,498.91)	(66,151.67)	(61,387.79)	(53,512.64)	(29,981.15)	(22,996.80)	(16,127.25)	95,664.07	94,079.97	92,862.40
+ under charged - over charged												
Sales in MCF	5,672	6,855	6,083	7,301	13,376	13,910	12,228	11,084	11,282	9,205	6,926	5,347
Summary												
3rd Previous Qrtr BA	(0.0605)	(0.0639)	(0.0639)	(0.0639)	0.0052	0.0052	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)
2rd Previous Qrtr BA	(0.0639)	0.0052	0.0052	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186
Previous Qrtr BA	0.0052	(0.0003)	(0.0003)	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186	0.0186	(0.0866)	(0.0866)
Current Qrt BA	(0.0003)	(0.0085)	(0.0085)	(0.0085)	0.0186	0.0186	0.0186	(0.0866)	(0.0866)	(0.0866)	(0.0306)	(0.0306)
	(0.1195)	(0.0675)	(0.0675)	(0.0675)	0.0150	0.0150	0.0150	(0.0768)	(0.0768)	(0.0768)	(0.1071)	(0.1071)
3rd Previous Qrtr AA	0.0040	0.2889	0.2889	0.2889	0.0744	0.0744	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)
2rd Previous Qrtr AA	0.2889	0.0744	0.0744	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)
Previous Qrtr AA	0.0744	0.0554	0.0554	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)	(0.0987)	0.1235	0.1235
Current Qrt AA	0.0554	(0.6123)	(0.6123)	(0.6123)	(0.0987)	(0.0987)	(0.0987)	0.1235	0.1235	0.1235	0.9224	0.9224
	0.4227	(0.1936)	(0.1936)	(0.1936)	(0.5812)	(0.5812)	(0.5812)	(0.5321)	(0.5321)	(0.5321)	0.3348	0.3348
	(0.0003) (17.51)	(0.0003) (15.67)	(0.0003) (14.04)	(0.0003) (12.08)	(0.0003) (8.49)	(0.0003) (4.76)	(0.0003) (1.48)	(0.0003) 1.49	(0.0003) 4.52	(0.0003) 6.99		
	(871.77) (0.0085)	(0.0085) (813.46)	(0.0085) (761.71)	(0.0085) (699.60)	(0.0085) (585.82)	(0.0085) (467.49)	(0.0085) (363.47)	(0.0085) (269.18)	(0.0085) (173.21)	(0.0085) (94.90)	(0.0085) (35.99)	(0.0085) 9.50
Third previous qrtr BA AA	0.0040 (145.84)	(145.84)	(145.84)	2,076.78 0.0186	0.0186 1,827.98	0.0186 1,569.23	0.0186 1,341.78	0.0186 1,135.60	0.0186 925.73	0.0186 754.51	0.0186 625.68	0.0186 526.23
Second previous qrtr BA AA	0.2889 (6,847.93)	0.2889 (8,828.21)	0.2889 (10,585.41)	0.2889 (12,694.61)	(12,694.61)	(12,694.61)	(9,885.87) (0.0866)	(0.0866) (8,926.04)	(0.0866) (7,949.02)	(0.0866) (7,151.90)	(0.0866) (6,552.17)	(0.0866) (6,089.16)
Previous qrtr BA AA	0.0744 1,077.35	0.0744 567.32	0.0744 114.74	0.0744 (428.50)	0.0744 (1,423.69)	0.0744 (2,458.64)	0.0744 (3,368.44)	(3,368.44)	(3,368.44)	(3,604.04) (0.0306)	(0.0306) (3,392.12)	(0.0306) (3,228.52)
Balance adjustment BA	0.0554 3,618.20	0.0554 3,238.18	0.0554 2,900.97	0.0554 2,496.21	0.0554 1,754.70	0.0554 983.58	0.0554 305.70	0.0554 (308.77)	0.0554 (934.23)	0.0554 (1,444.53)	(1,444.53)	(1,444.53)
	(61,279.88)	(0.6123) (57,082.38)	(0.6123) (53,357.72)	(0.6123) (48,886.93)	(0.6123) (40,696.68)	(0.6123) (32,179.21)	(0.6123) (24,691.67)	(0.6123) (17,904.64)	(0.6123) (10,996.11)	(0.6123) (5,359.63)	(0.6123) (1,118.89)	(0.6123) 2,155.07
Third previous quarter AA				(10,781.70)	(0.0987) (9,461.61)	(0.0987) (8,088.78)	(0.0987) (6,881.95)	(0.0987) (5,788.03)	(0.0987) (4,674.53)	(0.0987) (3,766.05)	(0.0987) (3,082.54)	(0.0987) (2,554.85)
Second previous quarter AA							13,799.86	0.1235 12,431.20	0.1235 11,038.03	0.1235 9,901.39	0.1235 9,046.21	0.1235 8,385.99
Previous quarter AA										106,422.23	0.9224 100,034.31	0.9224 95,102.67
Actual adjustment AA												

		J	F	M	A	M	J	J	A	S	O	N	D	Total
Sales in MCF														
	2007	3,187	5,015	1,657	1,472	961	784	327	400	379	859	1,941	2,359	19,341
	2008	6,960	4,115	3,761	1,428	1,408	637	786	683	851	1,129	3,712	3,441	28,911
	2009	5,621	4,445	3,436	1,575	952	680	726	669	749	1,336	1,726	5,564	27,479
	2010	5,820	6,407	4,116	1,569	999	1,082	771	644	1,097	1,384	1,726	5,564	31,179
	2011	5,820	6,407	2,727	1,673	1,301	1,129	739	877	810	1,253	2,602	3,335	28,674
	2012	5,134	3,661	1,929	1,177	1,253	880	1,046	1,227	1,049	1,813	3,673	2,854	25,694
	2013	6,073	4,304	5,380	2,531	1,603	911	810	1,047	1,051	1,618	2,334	3,906	31,568
	2014	6,465	5,710	3,962	2,176	1,037	999	957	854	969	1,749	3,252	4,410	32,540
	2015	9,046	11,867	13,351	9,115	8,724	6,472	6,062	5,148	5,562	7,939	8,721	7,043	99,050
	2016	11,015	10,109	9,340	7,794	5,474	4,778	4,594	4,462	5,505	5,465	7,363	8,826	84,725
	2017	7,634	6,393	7,774	6,650	3,981	3,459	2,704	4,983	6,437	6,306	10,869	12,716	79,906
	2018	12,306	12,391	13,164	13,164	6,961	6,678	5,672	6,855	6,083	7,301	13,376	13,910	117,861
	2019	12,228	14,660	12,783	9,302	9,488								58,461
Average		10,446	11,084	11,282	9,205	6,926	5,347	4,758	5,362	5,897	6,753	10,082	10,624	97,765
									113,519	113,165	114,160	116,667	117,861	
		117,783												

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 10, 2016

IN RE:	)	
	)	**DOCKET NO.**
PETITION OF B&W PIPELINE, LLC	)	**15-00042**
FOR AN INCREASE IN RATES	)	

FINAL ORDER SETTING RATES

This matter came before Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Robin Morrison of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 14, 2015, for consideration of the *Petition of B&W Pipeline, LLC for an Increase in Rates* filed by B&W Pipeline, LLC ("B&W" or the "Company") on April 2, 2015.

Upon consideration of the entire record, including all exhibits and the testimony of the witnesses, the panel unanimously concluded that the Company had a Revenue Deficiency of $114,118 which should be recovered through increases to the base and volumetric rates.

Background and Travel of the Case

B&W as a public utility is subject to the Authority's jurisdiction. B&W owns a pipeline consisting of approximately fifty miles of natural gas pipeline located inside the State of Tennessee running through Pickett, Morgan and Fentress counties. The pipeline was formerly held by The Titan Energy Group, a subsidiary of Gasco Distribution Systems, Inc. ("Gasco"), an entity that went bankrupt.[1] As a result of the bankruptcy, Gasco's pipeline and local distribution systems were separated. B&W acquired the pipeline portion of Gasco and was granted a

[1] *Application of B&W Pipeline, LLC for a Certificate of Convenience and Necessity*, Docket No. 13-00151, *Order Granting Certificate of Public Convenience and Necessity*, p. 1, (January 8, 2015).

Certificate of Public Convenience and Necessity ("CCN") by the Authority in Docket No. 13-00151. The pipeline and approximately ninety-six (96) oil and gas wells were acquired in 2010.[2] B&W is a wholly owned subsidiary of FIR Energy. B&W is provided administrative and management services from an affiliate, Enrema, LLC ("Enrema").[3] Gasco's former local distribution system operates as a public utility by Navitas TN NG, LLC ("Navitas").

On April 2, 2015, B&W filed the *Petition* requesting approval of a rate increase. B&W's rate prior to this proceeding was $0.60 per Mcf stemming from a contract rate that was in place at the time of acquisition.[4] Based upon the Company's projections, it estimates a net operating loss of $256,111 for the attrition period ending December 31, 2016. Based upon the testimony, methodology and projections employed by B&W, the Company estimates additional revenue of $525,648 is necessary in order to achieve the requested rate of return of 10.12%.[5] In total, B&W's *Petition* sought to increase the rate from $0.60 to $3.69 per Mcf.[6]

During the Authority Conference on April 20, 2015, the panel voted unanimously to convene a contested case proceeding and appoint the Authority's General Counsel or her designee to act as Hearing Officer to prepare this matter for hearing, including establishing a procedural schedule, entering a protective order, and ruling on intervention requests and discovery issues. On April 20, 2015, the Consumer Advocate and Protection Division of the Office of the Tennessee Attorney General ("Consumer Advocate") filed a *Petition to Intervene.* Navitas filed a *Petition to Intervene* on April 28, 2015. The respective interventions of the Consumer Advocate and Navitas were subsequently granted by the Hearing Officer.[7] Following

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[2] *Id.*, at fn. 2 (January 8, 2015); Transcript of Hearing, p. 49 (September 14, 2015).
[3] Transcript of Hearing, pp. 35-36 (September 14, 2015).
[4] Pre-filed Direct Testimony of Rafael Ramon, p. 4 (April 2, 2015).
[5] *Corrected Company Exhibits*, Schedule 1 (May 22, 2015).
[6] *Pre-filed Direct Testimony of William H. Novak*, p. 9 (April 2, 2015).
[7] *Order Granting the Consumer Advocate's and Navitas TN NG, LLC's Petitions to Intervene* (May 29, 2015).

the submission of discovery and pre-filed testimony pursuant to a procedural schedule, the parties prepared for a hearing.

<u>The Hearing</u>

A Hearing on this matter was held on September 14, 2015, as noticed by the Authority on September 4, 2015. Participating in the Hearing were the following parties:

<u>B&W Pipeline, LLC</u> – Henry M. Walker, Esq., Bradley Arant Boult Cummings, LLP, 1600 Division Street, Suite 700, Nashville, TN 37203.

<u>Consumer Advocate and Protection Division</u> – Rachel Newton, Office of the Attorney General and Reporter, P.O. Box 20207, Nashville TN 37202-0207.

<u>Navitas TN NG, LLC</u> – Klint Alexander, Esq., Baker Donnelson Bearman Caldwell & Berkowitz, P.C., 211 Commerce Street, Suite 800, Nashville, TN 37201.

Upon request of the Consumer Advocate and without the objection of any party, the panel took administrative notice of Docket No. 13-00151.[8] At the Hearing, the panel heard testimony from witnesses Hal Novak and Rafael Ramon, on behalf of the Company, Ralph Smith on behalf of the Consumer Advocate and Thomas Hartline on behalf of Navitas. Cross-examination of Dr. Christopher Klein, a witness on behalf of the Consumer Advocate's proposed rate of return, was entered into the record without the need for Dr. Klein to offer testimony at the hearing.[9]

In addition, members of the public were given the opportunity to present comments to the panel. No members of the public sought recognition to do so.

<u>Post-Hearing Filings</u>

At the direction of the panel, the Consumer Advocate and B&W filed post-hearing briefs on September 30, 2015 and October 9, 2015, respectively, concerning B&W's Hinshaw status and the extent of the Authority's jurisdiction to set rates. On October 7, 2015, the TRA Staff

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[8] Transcript of Hearing, pp. 6-7 (September 14, 2015).
[9] *Id.* at 12, 110.

issued data requests to B&W and Navitas concerning throughput volumes.[10] B&W filed a response on October 15, 2015 and Navitas filed a response on October 21, 2015. After the filing of the data responses, the parties further informed the hearing officer that they did not seek to make additional argument or request further cross-examination of the evidence.[11]

B&W filed an *Unopposed Motion to Postpone Decision Until December Conference,* which stated that the parties required additional time to continue settlement negotiations and requesting the Authority to wait to make a decision until the Authority Conference scheduled for December 14, 2015.[12] In its motion, B&W agreed to waive for another thirty (30) days the six month deadline set forth in Tenn. Code Ann. § 65-5-103(b)(1), which authorizes a public utility to place proposed rates into effect, subject to certain conditions, six months after the filing of a petition to increase rates.

FINDINGS AND CONCLUSIONS ON JURISDICTION AND B&W'S HINSHAW STATUS

The Authority has jurisdiction to set the rates of public utilities operating in the State of Tennessee.[13] B&W is a public utility which was granted a CCN by the Authority in Docket No. 13-00151.[14] B&W's pipeline is approximately fifty miles long and runs through Pickett, Morgan and Fentress counties within the borders of the State of Tennessee. The northern end of the pipeline ends just south of the Kentucky border near Byrdstown, Tennessee.[15] The gas transported by B&W's pipeline is received and delivered within the State of Tennessee. However, during the course of the hearing, testimony from the parties and responses to questions

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[10] *TRA Third Data Request to B&W Pipeline, LLC* (October 7, 2015); *TRA Third Data Request to Navitas TN LG, LLC* (October 7, 2015).
[11] *Order* (November 16, 2015).
[12] *Unopposed Motion to Postpone Decision Until December Conference* (October 26, 2015).
[13] Tenn. Code Ann. §§ 65-4-101(6); 65-4-104; 65-5-101, *et seq.*
[14] *Application of B&W Pipeline, LLC for a Certificate of Convenience and Necessity*, Docket No. 13-00151, *Order Granting Certificate of Public Convenience and Necessity* (January 8, 2015).
[15] *Post-Hearing Brief of B&W Pipeline, LLC* (October 9, 2015). A map attached to the Company's post-hearing brief shows the location of the pipeline.

by the TRA Staff indicated that a portion of the gas B&W delivers to Navitas is ultimately consumed in the State of Kentucky.[16]

The Federal Energy Regulatory Commission ("FERC") has jurisdiction over interstate pipelines, with exceptions.[17] A pipeline is exempt from FERC regulation if it meets the "Hinshaw" standards pursuant to 15 U.S.C. § 717(c). To qualify for Hinshaw status, a pipeline must be subject to state regulation, receive all of its out-of-state gas from persons within or at the boundary of a state and such gas *must be ultimately consumed within the state.*[18] Congress has concluded such pipelines are matters primarily of local concern, and so are more appropriately regulated by pertinent state agencies, such as the TRA, rather than FERC.[19]

As a result of information arising during the hearing that B&W might not qualify for Hinshaw status, the panel requested that the parties file post-hearing briefs concerning B&W's Hinshaw status and the Authority's jurisdiction to set the rates of B&W.[20] In post-hearing filings, the Consumer Advocate and B&W agreed that B&W is not a Hinshaw pipeline; however, both contend that the Authority may assert jurisdiction as to rates charged for the gas delivered and ultimately consumed in Tennessee pending FERC's consideration of blanket certificate pursuant to 18 C.F.R. § 284.224.[21]

While B&W both receives and delivers natural gas within the borders of the state; however, the record reflects that a large portion of the gas B&W delivers is ultimately consumed beyond Tennessee's borders. Thus, the panel finds that B&W is not a Hinshaw pipeline. Nevertheless, upon examination of FERC's regulatory framework, application of 15 U.S.C.

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[16] Transcript of Hearing, pp. 100-102, 108-109, 134-136, 177 (September 14, 2015).
[17] 15 U.S.C. § 717 *et seq.*
[18] 15 U.S.C. § 717(c). (emphasis added).
[19] *Id.*
[20] Transcript of Hearing, p. 193 (September 14, 2015).
[21] *Post-Hearing Brief of B&W Pipeline, LLC* (October 9, 2015); *Post-Hearing Brief of the Consumer Advocate*, (October 9, 2015). Navitas did not file a post-hearing brief and did not assert a position on whether B&W was a Hinshaw pipeline.

§ 717(c) and applicable federal regulations, specifically 18 C.F.R. § 284.224, the panel finds that the Authority has the jurisdiction to set a rate under traditional rate-making principles that applies to all gas that is delivered to B&W's customers that is ultimately consumed within Tennessee.

Therefore, the panel concludes that as B&W is not a Hinshaw pipeline, the Company must address its status with FERC, specifically by applying for an Order No. 63 certificate exemption pursuant to 18 C.F.R. § 284.224.[22] A FERC Order 63 certificate would allow B&W to acquire Hinshaw-like status with FERC and thus authorize the TRA to set rates for all of the gas delivered by B&W to Navitas, including for those volumes consumed by customers in Kentucky. As part of the application for a blanket certificate, B&W shall utilize this Order and the rate established herein for FERC for review.

CRITERIA FOR JUST AND REASONABLE RATES

In setting rates for public utilities, the Authority balances the interests of the utilities subject to its jurisdiction with the interests of Tennessee consumers, i.e., it is obligated to fix just and reasonable rates.[23] The Authority must also approve rates that provide regulated utilities the opportunity to earn a just and reasonable return on their investments.[24] The Authority considers petitions for a rate increase, filed pursuant to Tenn. Code Ann. § 65-5-203, in light of the following criteria:

1. The investment or rate base upon which the utility should be permitted to earn a fair rate of return;
2. The proper level of revenues for the utility;
3. The proper level of expenses for the utility; and

[22] B&W indicated it has consulted with FERC and acknowledged that the Company needs to obtain a blanket certificate under 18 C.F.R.§ 284.224. *Post-Hearing Brief of B&W Pipeline, LLC*, at 3, fn. 5 (October 9, 2015).
[23] Tenn. Code Ann. § 65-5-201 (2015).
[24] *See Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 43 S.Ct. 675 (1923).

4. The rate of return the utility should earn.

Applying these criteria, and upon consideration of the entire record, including all exhibits and the testimony of the witnesses, the panel made the following findings and conclusions.

CONTESTED ISSUES

A number of aspects of the proposed rate increase were contested by the intervening parties. Based on the evidence in the record and the Authority's own expertise, the panel considered the arguments and positions of the parties, summarized here, and made the following determinations.

A. Revenues/Gas Volumes

The Company's total throughput for the attrition period of 169,861 Mcfs included actual test period transportation throughput for Navitas of 60,411 Mcfs, B&W's anticipated throughput for B&W's affiliates of 47,450 Mcfs, and B&W's anticipated throughput for Navitas's two additional customers of 62,000 Mcfs. The Company's throughput produced revenue of $101,917 for the attrition period.

The Consumer Advocate's throughput calculation of 212,628 Mcfs includes 47,450 Mcfs for B&W's anticipated transportation volumes for B&W's affiliates, 45,178 Mcf for Navitas's provided throughput for its current customers and 120,000 Mcfs for Navitas's projected throughput for the two new customers. The source of Navitas's throughput projections utilized by Mr. Smith were provided as a response to the Authority's July 17, 2015 data request.[25] The Consumer Advocate's throughput produced revenue of $127,577 for the attrition period.

Based upon the evidence in the record, the panel determined that the pipeline's rates should include all throughput that is transported across the pipeline and not just Navitas's gas sold to customers. Neglecting to include the total transported throughput would understate

[25] Transcript of Hearing, p. 113 (September 14, 2015).

B&W's revenues, resulting in higher rates to customers. Therefore, the panel concluded that the proper throughput for Navitas's current customers should be based on Navitas's test period transportation throughput provided by B&W, rather than the sales volumes provided by Navitas. Further, the record supports B&W as the source for best determining the throughput for B&W's affiliates that will occur during the attrition period ending December 31, 2016. Likewise, Navitas is the best judge of anticipated throughput for Navitas's two additional customers. Therefore, the panel adopted transportation throughput for Navitas's current customer base of 60,411 Mcfs, B&W's estimated affiliate throughput of 47,450 Mcfs, and Navitas estimated throughput of 120,000 Mcfs for the two additional customers. This determination results in a total of 227,861 Mcfs and revenues of $136,717 for the twelve months ending December 31, 2016.

B. Allocation of Operator Fees from Enrema to the regulated operations of B&W – Operations and Maintenance Expense

B&W has no employees of its own. Rather, Enrema (an affiliate of B&W) provides administrative and management functions for which it allocates an operator fee "that is proportionate with the time and resources devoted to conducting these activities."[26] B&W advocates an allocation of 50/50 between regulated and non-regulated operations of B&W.[27]

Navitas expressed concern with the $273,000 allocation to B&W from Enrema and the retention of 50% of this allocation by B&W, which focused on the basis of the allocation and that it does not result in B&W subsidizing its affiliates.[28]

The Consumer Advocate's witness, Mr. Smith, asserted the 2011 contract between Enrema and B&W outlining the allocation methodology is no longer applicable based on B&W's

[26] *Id.* at. 27-28.
[27] *Id.* at 36.
[28] Pre-Filed Testimony of Thomas Hartline, p. 3 (August 11, 2015).

response to discovery requests indicating portions of the agreement are no longer in effect.[29] Additionally, Mr. Smith testified that B&W was acquired by FIR Energy investing $5.7 million in B&W with funds from MI Energy and, in turn, MI Energy investing $16 million in larger gas and oil projects in Tennessee. Therefore, Mr. Smith asserts that an allocation of something less than 50% of the $273,000 allocation would be more appropriate. He calculates the regulated portion of the operator fee as 20% ($54,600) of the allocation from Enrema.[30] Mr. Smith points out that the majority of revenue and net margins have come from B&W's oil and gas operations rather than from Navitas for gas transportation service.[31] The Consumer Advocate did not provide any numerical calculation or any other documentation to support a 20% allocation factor, but instead listed reasons for adopting less than 50% allocation of the operator fee.

The Company proposes that operating fees should be allocated 50/50 between B&W's regulated and unregulated businesses providing that this allocation percentage is proportionate with the time and resources devoted to conducting these activities. B&W is invoiced monthly for $22,750 by Enrema for operating fees and allocates $11,375 to the pipeline. In rebuttal pre-filed testimony, Mr. Novak submitted a schedule listing the components and allocation factors determining the $11,375 operating fee that is assigned to the pipeline. Mr. Novak asserts the labor and benefit costs are allocated to the utility based on each individual's estimated time spent on the utility's business.

While the Company provided invoices from Enrema to B&W, the Company never provided any other documentation to demonstrate what makes up the amount on the invoices. Information and supporting evidence for allocation factors for each expense was requested; however, the Company did not provide time cards, work orders, pay stubs or any other evidence to support the allocation factors that it used in deriving the pipeline's monthly operating fee. The

[29] Pre-Filed Direct Testimony of Ralph C. Smith, p. 21 (August 11, 2015).
[30] *Id.* at 21-22.
[31] Pre-Filed Supplemental Direct Testimony of Ralph C. Smith, p. 22 (August 24, 2015).

Company's support for the allocation percentages was that the factors were based on each employee's estimation of time spent on regulated utility business.

Upon consideration, the panel finds that it is reasonable to determine that allocation factors supported by some evidence are more appropriate than relying simply on an individual party's opinions and judgment. The Company provided a schedule listing the components that make up operating fees and the allocation factors for assigning the components to the pipeline. The Company allocated the labor and benefit costs based on estimated time spent on the utility's business. The Consumer Advocate relied on its professional judgment and opinions to arrive at its allocation factors. While salary and wage rates, time reports or other documentation could have further supported the amount of labor and benefits allocated to the pipeline, the panel concludes that the Company's estimate is, at this time and under the circumstances of this case, the best supported estimate in the record.

Therefore, the panel voted to set the allocation factor for operating fees at 50%, resulting in Operating Fees of $136,500 annually. The panel cautioned the Company that in future cases it should file allocation factors with more supportive documentation, rather than relying solely on employee's judgments. Absent such additional support, the panel noted that future requests for recovery of operator fees may be disallowed.

C. Rate Base

The primary contested issue concerning rate base centered on whether to allow the inclusion of B&W's acquisition cost of $2,633,085 in rate base calculations, as proposed by the Company. B&W acquired the pipeline and ninety six (96) oil and natural gas wells for $2,633,085 from Gasco's bankruptcy proceeding in 2010. The Company had no records for the net book value of the pipeline, but rather recorded the acquisition price as plant in service.[32]

[32] Transcript of Hearing, p. 115 (September 14, 2015).

According to the Company, because the seller would not sever the pipeline from the wells, B&W had to take the wells in order to get the pipeline; therefore B&W assigned none of the acquisition cost to the wells. B&W estimated the value of the producing wells to be $60,943 and the net liability of capping the inactive wells to be $29,845.[33]

Mr. Ramon testified that when Enrema acquired the pipeline it was not buying a company, but instead was buying an asset that had the potential to work in conjunction with the existing plan of developing gas and oil.[34] Mr. Ramon testified that while reversing the flow on the pipeline (to flow gas produced by B&W affiliates back to Spectra for sale on the open market) was not an objective at the time of purchase, it was an alternative.[35] B&W believes it made a good business decision in purchasing the pipeline for $2.6 million because it is less than the cost to build one.[36] Mr. Ramon further testified that the Company became aware after the purchase that approximately 40 to 50 of the wells had already been plugged or handed over to the landowners. Further, only thirteen (13) of the wells are currently producing oil or gas.[37]

In addition, the Company supported its acquisition cost with an independent analysis performed by Bell Engineering.[38] The Bell analysis estimates the 2013 replacement cost of the pipeline to be $12,885,858 and the undepreciated costs are $6,559,308, which far exceeds the acquisition cost included in rate base. Even if this amount is depreciated back to the pipeline's construction date, its replacement value still exceeds the amount included in rate base.[39] Although the analysis is based upon a 2013 replacement value, Mr. Novak argues that even if one discounts this undepreciated market value by 3% back to the construction date, the

[33] Pre-Filed Rebuttal Testimony of William H. Novak, pp. 2-4 (August 17, 2015).
[34] Transcript of Hearing, pp. 46-47 (September 14, 2015).
[35] *Id.* at 43-44.
[36] *Id.* at 53.
[37] *Id.* at 60-61.
[38] Pre-Filed Rebuttal Testimony of William H. Novak, WHN Rebuttal-2 (August 17, 2015).
[39] *Id.*

discounted replacement cost value to construction date of $2,863,070 exceeds the acquisition cost utilized by the Company in this case.[40]

Navitas noted that 100% of the purchase price is attributed in B&W's rate case to the pipeline although other assets, including wells, were included in the transaction. Mr. Hartline asserts that there is no sound economic basis for spending $2 million on a pipeline that earns $20,000 annually.[41] Therefore, a substantial portion of the purchase price is and should be attributed to the other assets purchased in the transaction.[42] Mr. Hartline testified that the Bell Engineering report was an inappropriate basis to support inclusion of the acquisition costs as replacing the pipeline today would be uneconomic in the rural area the pipeline services.[43]

In the pre-filed testimony of Mr. Smith, the Consumer Advocate proposed to exclude from Plant in Service the pipeline purchase cost and, instead, treat it as an Acquisition Adjustment because B&W failed to provide reliable information on the original cost of the pipeline.[44] Mr. Smith explains that any amount paid for utility plant in excess of the utility's original costs are referred to as "Goodwill" or Acquisition Premium, and not allowed recovery in rates because it is not used or useful in the provision of utility service. Disallowance of Goodwill or Acquisition Premium discourages companies from marking up the cost of assets used to provide utility service through the transfer or selling to different owners. Mr. Smith states that B&W was unable to provide the original cost, and the pipeline cost was not available from the books of Gasco (the seller) or the property tax information on file for Gasco. He determined from the responses to data requests that B&W did acquire 96 oil and gas wells along with the pipeline and that B&W determined the net value of these wells to be a negative $29,845

[40] *Id.* at 4.
[41] Pre-Filed Testimony of Thomas Hartline, p. 3 (August 11, 2015).
[42] *Id.*
[43] Transcript of Hearing, p. 170 (September 14, 2015).
[44] Pre-filed Testimony of Ralph C. Smith, pp. 18-19 (August 11, 2015).

due to the cost of capping inactive wells. Therefore, none of purchase price was assigned by B&W to the wells.

From B&W's 2012 trial balance, Mr. Smith ascertained that there was a gross profit of $182,582, which included $19,729 for gas transportation and $162,853 from oil and gas sales and royalties. Thus, according to Mr. Smith, of the revenues generated by the pipeline, 11% were from transportation service and 89% from oil and gas sales and royalties. The wells in question have since been transferred to a B&W affiliate, Rugby Energy, LLC, and are operated by another affiliate, Enrema, which is the same affiliate charging B&W an annual operator fee. Because of the gross profit in 2012 and the transfer taking place between two affiliates with the same ownership, Mr. Smith questions the lack of compensation for the wells. For these reasons, the Consumer Advocate removed the acquisition amount of $2,597,285 from Plant in Service and left only the $437,715[45] as the cost of the pipeline. This represents the amount spent by B&W for safety improvements after B&W acquired the pipeline.[46] Removing this amount from Plant in Service results in a reduction of the attrition year mid-point accumulated depreciation by $568,367 for a total rate base reduction of $2,028,918 related to the cost of the pipeline.

In response to data requests from Authority Staff, Navitas provided records from the previous owner of the pipeline, including a 2008 tax return.[47] During the hearing, Mr. Smith addressed the 2008 federal income tax return, stating that the reported pipeline assets at the end of 2008 were $854,926 as plant – depreciable assets. The tax return reported accumulated depreciation of $703,017 as of December 31st, 2008 and a land asset reported in the amount of $68,538. The reported tax year depreciation was $22,564, which is representative of a depreciable life of approximately 38 to 40 years; reasonable for a gas pipeline. Mr. Smith points out the return was prepared by a CPA and signed by an officer of the Company and as such,

[45] B&W Data Response to CAPD 1-5 (June 18, 2015).
[46] Pre-Filed Direct Testimony of Ralph C. Smith, pp. 9-19 (August 11, 2015).
[47] Navitas Response to TRA Data Requests of August 24, 2015, Exhibit A (September 8, 2016).

appeared to be the most reasonable and reliable information available on the value of the pipeline.[48]

With respect to Gasco's 2008 tax return, Mr. Novak responded that the affiliate IRS PBA code listed is for mineral extraction. Therefore the return is not really applicable in this case because it does not represent a value for the pipeline. Rather it represents a value for the oil and gas wells.[49] Mr. Smith was cross-examined regarding the IRS PBA codes noted by Mr. Novak. Mr. Smith noted that Schedule L of the return lists these as depletable assets, and a pipeline or building should be classified as depreciable assets. Therefore, the tax return is applicable and if one carries the amount out through the midpoint of the attrition year, it would be almost zero ($17,182) as the Consumer Advocate proposed. Mr. Smith agrees that either zero or $17,182 would be an acceptable cost of the pipeline at the midpoint of the 2016 attrition year.[50]

Mr. Novak asserts that the Consumer Advocate has ignored the data provided by the Company and the State of Tennessee's tax assessment of the pipeline when he disallows the acquisition cost of the pipeline in his analysis. The tax assessment relied upon by the Company reported to the State of Tennessee as the cost of the pipeline in exact and equal amounts in each county the pipeline operates within, which Mr. Smith questions. Mr. Smith points out that the previous owner had a total assessment of $756,000, with $976 assessed in Fentress County, $227,660 in Pickett County and the remainder in Campbell County, including Jellico.[51] Mr. Smith notes that the tax assessment is prepared by the Company and requires information regarding B&W's last rate case. In sum, the Consumer Advocate contends that the tax assessment relied upon by the Company is an unreasonable basis to support the inclusion of the acquisition price in rate base.

[48] Transcript of Hearing, pp. 119-121 (September 14, 2015).
[49] *Id.* at 71-73.
[50] *Id.* at 122-128.
[51] Supplemental Direct Testimony of Ralph C. Smith, pp. 17-18 (August 24, 2015).

According to Mr. Novak, if Mr. Smith's directive for "burden of proof" were adopted, B&W would have never purchased the pipeline out of bankruptcy since there were no cost records available.[52] Mr. Novak refers to FERC instructions for recording utility plant in which it states that an estimate of the original cost can be used to determine the cost basis of the plant. He states that it is B&W's best estimate that the pipeline cost is $2,633,085.[53]

During the hearing, the Company acknowledged that there is "no clear evidence of what rate base ought to be" and that rate base at this point is a question of policy and fairness.[54] There is no persuasive evidence that suggests that including the entire purchase price is in the public interest. Under the circumstances of this case, the most reasonable determination is based upon information that is related to the actual cost of the plant when it was constructed. Based on the evidence in the proceeding, the panel finds that including the pipeline at the original cost, rather than the acquisition cost, is the solution that is most fair to both customers and B&W.

The panel further finds that the 2008 tax return of Gasco Distribution Systems, Inc. and Subsidiaries provides the most sound support for the prior owner's original cost and the value of the pipeline at the time of acquisition. Therefore, the panel concludes that B&W's Plant in Service include $923,364 as the original cost of the pipeline, which includes the prior owner's original cost of plant of $854,826 and land of $68,538. Further, including $923,364 as the original cost of the pipeline, along with $437,715 of uncontested additions since B&W's acquisition, as well as uncontested land, structures and intangible property of $119,842, results in total Plant in Service of $1,480,921. Finally, the panel further adopts Accumulated Depreciation of $919,975 which includes accumulated depreciation of $854,826 related to the original pipeline acquired by B&W and $65,149 of accumulated depreciation related to the new additions.

<u>D. CCN Costs & Rate Case Expense</u>

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[52] Pre-Filed Rebuttal Testimony of William H. Novak, p. 6 (August 17, 2015).
[53] *Id.* at 5.
[54] Transcript of Hearing, pp. 183-184 (September 14, 2015).

The Company included $74,383 of costs associated with obtaining a CCN as part of the Company's $86,383 total Professional Services Expense, which are included in Operation & Maintenance Expense.

Mr. Smith testified that the majority of the legal and professional fees included in the operating expenses of the Company were primarily related to B&W obtaining its CCN. Therefore, these costs benefit more than one period and should be capitalized and amortized over a period of time. For this reason, Mr. Smith proposed the $74,383 be capitalized and amortized over a 20 year period. This reduces operating expenses for the attrition period by $70,664 and increases rate base by the unamortized amount of $68,959.[55] The Consumer Advocate further states that the test year expenses will not be incurred annually by B&W and should be removed from the test period expense and amortized over an appropriate period, such as the period benefitted by the CCN or the useful life of the CCN.

Mr. Smith asserts that the useful life could be viewed as the period that B&W would be providing gas pipeline transportation service. The depreciation rate B&W is using suggests a life for the pipeline of 30 years, and a case could be made for amortizing the CCN over the same term. Mr. Smith contends that the CCN has a benefit to the Company beyond that of a rate case filing cycle, but provides no support for amortizing such costs for 20 years other than his professional judgment.[56]

Mr. Novak states that the Company recognized the entire balance as an expense because deferring the expenses first requires approval from the Authority, which was not received. Mr. Novak testifies that the Company does not object to capitalizing and deferring the CCN costs if the TRA approves this; however, the Company objects to the 20 year recovery period proposed

[55] Pre-Filed Direct Testimony of Ralph C. Smith, pp. 22-23 (August 11, 2015).
[56] Pre-Filed Supplemental Direct Testimony of Ralph C. Smith, pp. 22-24 (August 24, 2015).

by Mr. Smith. Mr. Novak states that there is no analysis supporting the 20 year period, the costs are the same type incurred in the preparation of a rate case, and the costs should be amortized over a period no longer than 60 months.[57]

Upon consideration, the panel finds that the CCN is effective during the life of the Company, and the costs associated with obtaining the CCN are incurred one time and are non-repetitive. Nonrecurring CCN costs provide a benefit beyond the year of incurrence and for a public utility expenses for CCN proceedings are not recurring annual expenses. For this reason, CCN costs are not normally expensed in the year of incurrence, but rather are deferred and recovered over a specified period of time. Additionally, allowing CCN costs to be included in the test year O&M expenses would effectively allow the Company to continue to recover these costs year after year until such time as another rate case occurs. Therefore, the panel finds that inclusion of the total CCN costs in O&M expenses is unreasonable and that they should be removed from O&M expenses.

Generally, deferral of CCN costs are authorized by the Authority only after a company requests such treatment and is granted permission to do so. Although B&W did not ask for deferral of its CCN costs at the time it obtained its CCN, no party is opposed to establishing a deferral account at this time with amortization over a specified period of time. The circumstances in this rate case are unique. Until recently B&W has not been under this Authority's regulation and this is B&W's first rate case filing with the Authority. The Company has limited experience managing a regulated utility and appears to have been unaware that the Company should request that CCN costs be deferred for recovery in future periods. Further, disallowing the deferral of these costs could cause a financial burden under the circumstances of this case.

[57] Pre-Filed Supplemental Rebuttal Testimony of William H. Novak, p. 13 (September 3, 2015).

Therefore, the panel concludes that the costs related to B&W obtaining a CCN are similar to the type of expenses incurred when preparing for a general rate case and should be amortized over the same period as Rate Case Expense, which the Company and Consumer Advocate have proposed for recovery over a five (5) year period. Rate Case Expense, however, should optimally be amortized over the period between Rate Cases. Since there is no history from which to estimate the frequency of the Company's rate filings, the panel concludes that the Rate Case Expense should be amortized over three years. The annual Rate Case Expense will be $20,000. Likewise, the CCN costs should be amortized over three years. For these reasons, the panel approved the removal of $74,383 associated with obtaining the Company's CCN from expenses; such costs are deferred and recovered through rates over the same time period as the Company's deferred rate case expense, i.e., three years. Allocating the Company's $74,383 of CCN costs over 3 years results in annual expense of $24,794. Accounting for the CCN costs in this manner results in the average deferred CCN balance of $61,986 being included in B&W's rate base for the attrition period. Further, the Deferred Rate Case Expense included in Rate Base will be $50,000.

F. Operating Expenses

As discussed previously herein, B&W's operating expenses were adjusted by reducing the Professional Services expenses by the CCN costs which were placed in calculations of the Company's rate base. One year of amortized CCN costs and depreciation expense were restated to reflect the panel's decision regarding plant in service and the three year amortization of CCN and Rate Case Expense.

In addition, the panel concludes that is reasonable to remove bank fees incurred by the Company for overdrafts, totalling $36, from B&W's operating expenses in the attrition year.[58]

[58] B&W Response to TRA Staff Data Request #2, Q. 10 (September 3, 2015).

Further, the panel concludes it is reasonable for B&W's expense of Taxes Other Than Income be reduced for taxes that were not attributable to the activities of the regulated pipeline.[59] Therefore, the panel adopts Operating Expenses of $223,635.

G. Rate of Return

The Company proposed a capital structure of 100% equity and a return on equity of 10.12% based on an average of the return on equity approved by the Authority for Atmos Energy Corporation, Chattanooga Gas Company and Piedmont Natural Gas Company.[60] Regarding cost of capital, the Consumer Advocate presented the pre-filed testimony of Dr. Christopher Klein, recommending an 8.5% overall return with that return consisting entirely of an equity return.[61] Dr. Klein's pre-filed testimony asserts that the overall cost of capital should be set to provide a return on debt and stock comparable to alternative investments of similar risk. He concurs that B&W is 100% equity financed, and therefore, the only debt consists of intercompany no-interest loans.

Although B&W contested Dr. Klein's proposed rate of return through the pre-filed rebuttal testimony of Mr. Novak, at the hearing the Company determined it would not cross examine Dr. Klein and that the Company would accept an 8.5% overall rate of return. [62] Based on the agreement of the parties, the panel voted to adopt an 8.5% overall return on rate base as the Company's authorized rate of return and finds the 8.5% overall return to be within the zone of reasonableness in this particular case.

H. Revenue Deficiency

[59] *Id.*, Q. 11-12 (September 3, 2015).
[60] Pre-filed Direct Testimony of Hal Novak, p. 8; Schedule 6 (April 2, 2015).
[61] Pre-Filed Direct Testimony of Christopher C. Klein, Ph.D., p. 5 (August 11, 2015).
[62] Transcript of Hearing, p. 12 (September 14, 2015).

The panel's previous findings and conclusions results in a revenue deficiency for the twelve months ending December 31, 2016 of $144,118.

I. Rate Design

Using its calculated attrition period revenue deficiency and proposed rate of return, B&W proposes a rate design equivalent to the revenue generated from a rate increase of $3.00 from the current $.60 Mcf rate to $3.69 Mcf.[63] Based on the Consumer Advocate's calculated revenue deficiency of $37,651 and a total revenue requirement of $165,228, Mr. Smith recommends a monthly fixed charge of $5,000 for Navitas and $1,440 for B&W's affiliated customers. Then using estimated throughput of 212,628 Mcf for calculating the volumetric rate, the Consumer Advocate asserted that the rate should be set at $.41 Mcf.[64]

The Company opposes the proposed adjustments of the Consumer Advocate and request to increase revenues by $525,648 for a total revenue requirement of $627,565. Due to the disagreement between the parties on throughput and usage and because these factors have a material impact on earnings, Mr. Novak recommended that the Authority adopt a Sales Adjustment Mechanism ("SAM"). The SAM methodology trues up actual sales volumes to those adopted by the Authority. Any over or under recovery is refunded or surcharged to the customers over the next twelve month period.[65]

To initiate this proposal, Mr. Novak suggested the Authority adopt a daily demand rate structure. Under this methodology, the total revenue requirement of $627,565 is divided by 365 days to determine a daily billing rate of $1,719. This daily billing rate is allocated to B&W's two customers based on their previous years' usage with only the allocation recalculated each year (the daily rate would remain constant until the next rate case). Based on the throughput forecast of 210,235 Mcf with Navitas transporting 180,411 Mcf, Navitas would be allocated 86%

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[63] *Id.* at 94.
[64] Pre-Filed Direct Testimony of Ralph C. Smith, pp. 24-25 (August 11, 2015).
[65] Pre-Filed Rebuttal Testimony of William H. Novak, pp. 19-20 (August 17, 2015).

of the billing rate ($1,571), and B&W's pipeline affiliates would be allocated 14% ($240).[66] Mr. Novak stated that B&W does not know how the proposed rate design would affect individual customers because they do not have the volumes for each of these customers. He does believe that the information is available for this calculation from reports on file with the Authority.[67]

Mr. Hartline testified the rate increase sought by B&W will harm Navitas and its customers and could result in making the end user rates uncompetitive with alternative energy sources.[68] He cites, as an example, the largest customer of Navitas currently pays $0.92 per ccf which includes gas cost and the current $0.06 per ccf rate of B&W. This customer has secured a propane contract for approximately $1.08 per ccf. Mr. Hartline testified that a simple math calculation demonstrates that any rate increase above $0.16 per ccf or $1.60 per Mcf ($1.08 less $0.92) will result in Navitas being unable to compete with the propane alternative.[69]

The Consumer Advocate expressed its concern regarding the proposed rate increase of B&W and the potential rate shock to customers. Mr. Smith reiterates Mr. Hartline's concerns regarding the loss of a customer to propane use if such an increase is granted. In the alternative, Mr. Smith proposes to recover the Consumer Advocate's projected revenue requirement of $154,776 (deficiency of $27,199 and current revenue of $127,577), through a combination of fixed and volumetric charges. The Consumer Advocate proposes a fixed charge of $5,000 for Navitas and $1,440 for B&W affiliates, producing annual revenue of $77,280. The remaining $77,496 should be recovered through a $0.36 volumetric rate.[70]

The panel did not adopt the rates or rate design proposals of either B&W or the other intervening parties. B&W supplies a small amount of gas and it is preferable to design rates where revenues remain relatively constant and shortfalls of revenues due to the volatility of gas

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[66] *Id.* at 20-21.
[67] Transcript of Hearing, p. 103 (September 14, 2015).
[68] Pre-Filed Testimony of Thomas Hartline, p. 2 (August 11, 2015).
[69] *Id.* at 4.
[70] Pre-Filed Direct Testimony of Ralph C. Smith, pp. 24-25 (August 11, 2015).

usage are minimized. Just and reasonable rates should give the utility the opportunity to achieve the rate of return set by the Authority.[71] Under the specific circumstances of this case, designing rates whereby the majority of revenues are generated from a fixed charge would best accomplish these goals.

For these reasons, the panel adopts a rate design comprised of a fixed monthly charge of \$13,897 to Navitas and a fixed monthly charge of \$3,655 to B&W's other customer, affiliate Rugby Energy, LLC. In addition, the panel adopts a volumetric charge of \$0.3081 per Mcf from all customers going forward. The adoption of this rate design results in an effective rate per Mcf of \$1.23248.

The rate design adopted by the panel is based upon the entire throughput of volumes transported to Navitas, which includes the volumes sold to Kentucky customers. Though the rate design is based on total throughput volumes for both Tennessee and Kentucky, the Authority's jurisdiction applies only to the gas that is delivered to Navitas that is consumed within the borders of Tennessee. Thus, the volumetric rates set here shall apply only to the gas transported by B&W that is consumed in Tennessee. It is the intent of the Authority, with respect to this decision setting rates, that FERC review, consider and grant B&W's timely application for an Order No. 63 certificate, authorizing the use of the rate set in this Order for all gas transported on B&W's pipeline, whether ultimately consumed in Tennessee or Kentucky.

[71] *See Bluefield Water Works and Improvement Company v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 43 S.Ct. 675 (1923).

SUMMARY OF FINDINGS AND CONCLUSIONS

After the Hearing on December 14, 2015, the panel considered the *Petition*. The panel denied the *Petition* of B&W Pipeline, LLC and set new rates based on the following:

1. A historic Test Period of the twelve-months ended December 31, 2014;
2. An Attrition Period of the twelve months ended December 31, 2016;
3. Plant in service of $1,480,921 with accumulated depreciation of $919,975;
4. Rate Base of $672,932, including amortized rate case and CCN expense for a three year period;
5. A rate of return of 8.50%;
6. Operation Expense of 223,635;
7. Revenues of $136,717;
8. A revenue deficiency of $114,118 at the end of the Attrition Period;
9. A rate design consisting of a fixed monthly charge of $13,897 from Navitas TN NG, LLC and a fixed monthly charge of $3,655 from Ruby Energy, LLC resulting in revenues of $210,624. In addition, the Authority set a volumetric charge of $0.30813 per Mcf from all customers.
10. B&W Pipeline, LLC shall provide a copy of this Order to the Federal Energy Regulatory Commission in the Company's application for a blanket certificate pursuant to 18 C.F.R. § 284.224.
11. The Company shall file tariffs accurately reflecting this decision with an effective date of January 1, 2016.
12. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen days from the date of this Order.

13. Any party aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty days from the date of this Order.

Chairman Herbert H. Hilliard, Vice Chairman David F. Jones and Director Robin Morrison concur.

ATTEST:

Earl Taylor

Earl R. Taylor, Executive Director

159 FERC ¶ 62,297
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

B&W Pipeline, L.L.C. Docket No. CP17-78-000

ORDER ISSUING BLANKET CERTIFICATE OF LIMITED JURISDICTION

(Issued June 15, 2017)

1. On March 17, 2017, B&W Pipeline, L.L.C. (B&W), a Hinshaw Pipeline, filed an application under section 7(c) of the Natural Gas Act (NGA) and section 284.224 of the Commission's regulations for a limited jurisdiction blanket certificate to sell or transport gas in interstate commerce.[1] B&W requests approval of rates and charges based upon its currently-effective rate schedules on file with the Tennessee Regulatory Authority (TRA). For the reasons discussed below, the requested certificate authority is granted and the proposed rate election is accepted subject to the conditions discussed herein.

Background and Proposal

2. B&W, approximately fifty-miles in length, is located entirely within Tennessee and regulated by the TRA. B&W is a Delaware limited liability company authorized to conduct business in the State of Tennessee. B&W was built in sections between 1981 and 1989. B&W initially transported gas from Tennessee gas wells to East Tennessee Natural Gas Company (East Tennessee) for redelivery in interstate commerce. As production declined and other regional market opportunities became available, B&W became a net recipient of gas from East Tennessee, delivering gas to its then affiliate, Gasco Distribution Systems, Inc. (Gasco). Gasco later filed for bankruptcy, and in 2010 B&W's current owners acquired the pipeline and local gas wells, while Navitas[2] acquired Gasco's distribution facilities. B&W continued to transported gas to Navitas, under a then-existing transportation service contract. Upon expiration of the contract B&W sought permission from the TRA to increase rates, but was advised that they needed to

[1] 18 C.F.R. § 284.224 (2016). Section 284.224 authorizes LDCs and Hinshaw pipelines to perform the same types of transactions which intrastate pipelines are authorized to perform under section 311 of the Natural Gas Policy Act (NGPA) and subparts C and D of Part 284 of the Commission's regulations.

[2] For the purpose of this proceeding, Navitas Utilities Corporation (Navitas) includes the two separate distribution companies of Navitas TN NG, LLC (Navitas-Tennessee), and Navitas KY NG, LLC (Navitas-Kentucky).

obtain a Certificate of Convenience and Necessity and limited jurisdiction blanket certificate to sell or transport gas in interstate commerce from the FERC. The TRA noted that approximately one-fourth of the total amount of gas transported on B&W's system is delivered to Navitas-Tennessee and consumed in Tennessee. Approximately three-fourth's of the gas is delivered at a meter located in Tennessee to Navitas-Kentucky, which transports the gas across the Tennessee-Kentucky line to customers in Kentucky.

3. On April 29, 2016, B&W states that it self-reported to the Federal Energy Regulatory Commission's Office of Enforcement that the pipeline has been operating without interstate authority. At the time of purchase, B&W was unaware that it needed to file with the Commission for a Blanket Certificate of Limited Jurisdiction to continue serving Navitas-Kentucky.[3] B&W files this application for a blanket certificate to continue transporting gas from East Tennessee and local wells to Navitas-Kentucky for distribution to local customers in Kentucky. B&W also requests that it be allowed to charge the intrastate rates approved by the TRA for the transportation of all gas on its pipeline, whether the gas is consumed in Tennessee or Kentucky.

4. B&W states that the granting of a blanket certificate will enhance the availability of service to natural gas consumers that have no other source of natural gas in this remote, rural area.

Notice and Intervention

5. Public notice of the filing was issued on March 21, 2017. Interventions and protests were due on or before April 7, 2017. Pursuant to Rule 214 (18 C.F.R. section 385.214 (2016)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

Discussion

6. Approval of the blanket certificate will allow B&W to provide service to Navitas-Kentucky and engage in other transactions of the type authorized by subparts C and D of Part 284 of the Commission's Regulations. B&W's primary role will continue to be that of a state-regulated pipeline. B&W proposes to offer firm service to the extent service can be rendered within the limits of the B&W's operating conditions and facilities. B&W's application meets the requirements of section 284.224 and, accordingly, its proposal is in the public convenience and necessity.

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[3] On April 13, 2017 in Docket No. CP17-171-000, Navitas-Kentucky requested a service area determination pursuant to section 7(f) of the Natural Gas Act. An order on that filing is being issued contemporaneously with this order.

7. Under section 284.224 blanket certificate authority, the rates charged by a Hinshaw pipeline may be determined by: (1) electing rates based upon a state-approved transportation rate schedules for comparable service or the methodology used in designed city-gate rates for sales or transportation service; or (2) submitting proposed rates to the Commission for approval. B&W's chose to make a rate election based upon the rates approved by the TRA. B&W's rate election meets the requirements of sections 284.123 of the Commission's regulations and is deemed to be fair and equitable. Consistent with Commission policy, B&W is required to have its rates reviewed within five years.[4]

8. No new facilities are proposed for construction in the instant application. No environmental assessment or environmental impact statement has been prepared for this application because no environmental impact will be involved with the approval of this project.

Findings:

(A) A blanket certificate of limited jurisdiction is granted under section 284.224 of the Commission's regulations authorizing B&W to engage in the sale and/or transportation of natural gas that is subject to the Commission's jurisdiction under the NGA to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activity by subparts C and D of the Commission's regulations.

(B) The certificate issued by paragraph (A) above and the rights granted thereunder are conditioned upon B&W's compliance with all applicable Commission regulations under the NGA and in particular the general terms and conditions set forth in paragraphs (a) and (e) of section 157.20 of the Commission's regulations. Further, the authorization granted herein is also subject to all the terms and conditions in section 284.224 of the Commission's regulations.

(C) The rate election B&W filed pursuant to section 284.123(b) is accepted. Within 30 days of date of this order B&W must file in eTariff a rate election[5] and

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[4] *Contract Reporting Requirements of Intrastate Natural Gas Companies,* Order No. 735, FERC Stats. & Regs. ¶ 31,310, at P 92, *order on reh'g,* Order No. 735-A, FERC Stats. & Regs. ¶ 31,318 (2010); *see also Hattiesburg Industrial Gas Sales, L.L.C.*, 134 FERC ¶ 61,236 (2011) (imposing a five-year rate review requirement on Hattiesburg Industrial Gas Sales, L.L.C.)

[5] Under section 284.224 blanket certificate authority, the rates charged by an intrastate pipeline may be determined by: (1) electing rates based upon a state-approved transportation rate schedules for comparable service or the methodology used in designed city-gate rates for sales or transportation service; or (2) submitting proposed rates to the Commission for approval.

Statement of Operating Conditions (SOC) as a baseline tariff[6] in accordance with the regulations adopted in Order No. 714.[7]

9. This action is taken pursuant to the authority delegated to the Director, Division of Pipeline Regulation under 18 C.F.R. section 375.307. This action constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. section 385.713.

Sincerely,

Elizabeth Zerby, Acting Director
Division of Pipeline Regulation

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[6] B&W is reminded that after filing its baseline tariff it must continue to make all subsequent SOC and SOC-related filings electronically using eTariff. *Order Establishing Baseline Filing Schedule Starting April 1, 2010*, 130 FERC ¶ 61,228, at P 7 (2010).

[7] *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

Document Content(s)