

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

JOINT ELECTRONIC APPLICATION)	
OF NAVITAS KY NG, LLC, JOHNSON)	
COUNTY GAS COMPANY, AND B&H)	CASE NO. 2020-00396
GAS COMPANY FOR APPROVAL OF)	
ACQUISITION, TRANSFER OF)	
OWNERSHIP, AND CONTROL OF)	
NATURAL GAS UTILITY SYSTEMS)	

**AMENDED PETITION OF NAVITAS KY NG, LLC, JOHNSON COUNTY GAS
COMPANY, AND B&H GAS COMPANY FOR CONFIDENTIAL TREATMENT**

COMES NOW Navitas KY NG, LLC ("Navitas"), Johnson County Gas Company ("JCG"), and B&H Gas System ("B&H"), by and through undersigned counsel, and hereby submits its Amended Petition for Confidential Treatment pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting the Commission to grant confidential treatment to parties Responses to the Commission's First Request for Information, Response to Question 11(a).

On January 29, 2021, the Applicants submitted a Petition for Confidential Treatment whereby the Parties requested that the Commission grant confidential treatment to parties Responses to Question 8(g), Question 11(a), Question 24, and Question 25. In its' Petition, Navitas sought guidance from the Commission on how to proceed with the confidential material in Response to Question 11(a). The Commission having provided guidance, the Applicants now provide this Amended Petition for Confidential Treatment for the purpose of providing certain Confidential Information as part of their Response to Question 11(a).

Notification of Information at Issue

Response to Question 11(a)

1. The Applicants request that the entirety of the document be treated as Confidential Information including pages 2-68 of the PDF document, but not including the cover page on page 1 of the PDF. Navitas has an agreement with the creator of this document to not publish the document online. Therefore, in order to not interfere with this agreement, and to protect this work product from the harm the agreement is intending to avoid, the Applicants request that the Commission find that the entire document is Confidential information.

Confidential or Proprietary Commercial Information

2. The Kentucky Open Records Act exempts from disclosure certain commercial information.¹ To qualify for the exemption and maintain the confidentiality of the information, a party must establish that the material is of a kind "generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."² The Commission has routinely relied on this section of the Kentucky Records Act to grant confidential protection to third-party documents when disclosure would disadvantage the Company.³

3. This Confidential Information consists of protected work product of a third party with whom Navitas has an agreement with to not publish their work online. This Confidential

¹ KRS 61.878(1)(c).

² *Id.*

³ See, e.g., In the Matter of Electronic Application of Kentucky Utilities Company for an Order Authorizing the Issuance of Securities and Assumption of Obligations and an Order Amending and Extending Existing Authority with Respect to Revolving Line of Credit, Case No. 2018-00153, Order (Ky. PSC Aug. 22, 2018)

Information "if openly disclosed would present an unfair commercial advantage to competitors" of this third party by putting their work product, which is unique to its field of study and produced by a professional in its field, including its content and formatting, and it therefore qualifies as protectable confidential information pursuant to KRS 61.878(1)(c)(1).

4. This Confidential Information is not publicly available. It would be difficult or impossible for someone to discover this information from other sources. The disclosure of this proprietary information would result in significant or irreparable competitive harm to the third-party creator of this document, and potentially subject Navitas to certain legal liabilities for its publication by providing competitors with non-reciprocal competitive advantage and failing to abide by the agreement to not publish this document online. No public purpose is served by the disclosure of this Confidential Information, and such disclosure of this Confidential Information would interfere with an agreement between the documents creator and Navitas.

Timeframe for Confidential Treatment

5. Pursuant to 807 KAR 5:001, Section 13(2)(a)(2), the Applicants request that this DIMP document be granted confidential treatment indefinitely, subject to future orders of the Commission, due to the sensitive nature of the information at issue and the agreement between Navitas and the creator of the document. Should the Commission determine that some or all of the material is not to be given confidential protection, the Applicants request a hearing prior to any public release of the information.

WHEREFORE, Navitas KY NG, LLC Johnson County Gas Company, and B&H Gas System respectfully request that the Commission grant confidential protection to the entirety of

this document for the reasons presented herein, and for such other and further relief the Commission deems appropriate.

On this the 11 day of March, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 11th day of March, 2021, a true and correct copy of the foregoing instrument was deposited in the United States Mail with postage prepaid, and addressed to the following:

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