

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF NAVITAS KY)
NG, LLC FOR AN ALTERNATIVE FILING) CASE NO. 2024-00252
PURSUANT TO 807 KAR 5:076)**

APPLICATION FOR REHEARING

Navitas KY NG, LLC (“Navitas KY”), by counsel and pursuant to KRS 278.400, hereby applies for rehearing of the Commission’s Order entered herein on March 26, 2025 (the “Order”).

In support of this application, Navitas KY states as follows:

On July 31, 2024, Navitas KY gave notice to the Commission of its intention to file an application for an Alternative Rate Filing pursuant to 807 KAR 5:076. Following a series of subsequent filings, Navitas KY’s application was accepted by the Commission on September 18, 2024. Thereafter, Commission Staff propounded a series of requests for information, to which Navitas KY responded, ultimately culminating with the Commission entering the Order which wholly denied Navitas KY’s application for rate relief.

KRS 278.400 provides an opportunity for a party to timely ask the Commission to revisit an earlier determination and “...correct any material errors or omissions, or to correct findings that are unreasonable or unlawful.”¹ The Commission is empowered to “change, modify, vacate or affirm its former orders, and make and enter such order as it deems necessary.”² Navitas KY requests rehearing and the Commission’s reconsideration of its Order, as described herein.

¹ KRS 278.400; Case No. 2022-00216, *Electronic Application of Bluegrass Water Utility Operating Company, LLC For a Certificate of Public Convenience and Necessity for the Installation of Monitoring Equipment and for a Corresponding Limited Waiver of Daily Inspection Requirements*, Order (Ky. PSC Sep. 8, 2023).

² KRS 278.400.

Introduction

The impetus of this application for rehearing focuses on the requirements of KRS 278.030, which, as observed by the Commission in its Order, provides Navitas KY the “right to receive fair, just and reasonable rates for services,” as well as demands that Navitas KY provide services which are “adequate, efficient and reasonable.”³ The complete and outright denial of any rate relief in favor of Navitas KY⁴ does not comport with these statutory requirements, challenges Navitas KY’s ability to carry on in a safe and sound manner, and harms the rural customers of Eastern Kentucky that deserve the option of natural gas service.

In the Order, the Commission denied the rates and charges proposed by Navitas KY based on a lack of “sufficient evidence” upon which the Commission could determine fair, just and reasonable rates pursuant to KRS 278.030(1). In particular, the Commission chiefly took issue with (i) Navitas KY’s revenue requirement calculations based on its 2023 Annual Report; (ii) Navitas KY’s allocation methodology vis-à-vis its sister entities and its service company, Navitas Utility Corporation; and (iii) Navitas KY’s proposed rate design, specifically including its proposed customer charges and block usage rate structure, customer classifications, and proposal to change its billing unit measurements from Mcf to Ccf. Navitas KY will address each of these matters herein, and in so doing, seeks to clarify various aspects of the information and documentation filed in support of its proposed rate adjustment, as well as underscore its willingness to continue to work with the Commission and its Staff in support of both the utility and its customers.

³ See Order, at 20; see also KRS 278.030(1)-(2).

⁴ Notably, the Commission also denied Navitas KY the opportunity to fully recover costs it undoubtedly incurred in connection with purchased gas, basically for the whole of 2024. See, e.g., Case No. 2023-00428, *Electronic Purchased Gas Adjustment Filing of Navitas KY NG, LLC*, Order (KY. P.S.C. October 31, 2024).

Ultimately, and as more fully detailed below, Navitas KY prays simply that the Commission permit the interim adjustment of the clearly-outdated, woefully-insufficient residential and commercial rates presently in place for Clinton County customers. As noted by the Commission in its Order, these rates have gone unchanged since at least 2011,⁵ and likely have been in place for well over two decades. Raising these rates to align with those charged in Johnson County and Floyd County will create a single general service rate structure reflecting a monthly customer charge rate of \$15.00 and a usage base rate of \$8.60 per Mcf. Navitas KY will also commit to commencing another rate case before the end of calendar year 2025, and will therein implement the direction received by the Commission in this matter to achieve fair, just and reasonable rates that will allow the provision of adequate, efficient and reasonable service.

Discussion

Navitas KY believes rehearing is appropriate for multiple reasons and seeks to address the primary issues raised by the Commission in its Order. Beginning first with matters of rate design, Navitas KY acknowledges the Commission’s “encourage[ment]” of a consistent standard in billing unit reporting within Kentucky and accepts retaining a Mcf billing unit of measurement as opposed to Ccf.⁶ While this change was proposed to allow unity with operations in other jurisdictions in which Navitas KY’s sister entities provide service (one of which does not permit Mcf billing units), it is not an imperative, nor a matter which should stand in the way of reasonable rate relief in this matter.

A second rate design issue raised by the Commission in its Order concerns its fear of rate class subsidization. The Commission rejected Navitas KY’s proposed customer charges and block usage rates because, at least in part, “Navitas KY failed to provide the Commission with a [cost of

⁵ Order, at 5.

⁶ See Order, at 17.

service study, or “COSS”] to determine the relative costs of providing service to each class.”⁷ It bears repeating that Navitas KY filed this case under 807 KAR 5:076, not as a general rate case pursuant to 807 KAR 5:001, Section 16, and no COSS is required in light of Navitas KY’s small size.⁸ As a result, a COSS is plainly not required to be filed with an alternative rate adjustment, *see Ryan v. Pa. Life Ins. Co.*, 123 S.W.3d 142, 144 (Ky. 2003) (“This rule of statutory construction ‘holds that to express or include one thing implies exclusion of the other, or the alternative.’”), and attempts to establish rules or requirements outside of properly-promulgated regulations are generally null, void, and unenforceable. KRS 13A.130.

Indeed, the intention of the alternative rate adjustment procedure is to allow smaller utilities like Navitas KY to obtain reasonable rate relief without incurring the major costs and disruption that accompany general rate cases. As cost of service studies are beyond the expertise of most small utilities, they require the engagement of a third-party expert at notable expense. However, had the Commission or its Staff indicated earlier in this case that performance of a COSS would be necessary in order for rate relief to be granted, Navitas KY would have pursued that course of action.

The foregoing notwithstanding, both in recognition of the Commission’s assertion that “[t]he best evidence for determining appropriate rate design is a COSS”⁹ and because Navitas KY embraces implementation of cost-based rates, Navitas KY can commit to engaging a third party expert to perform a COSS and will utilize/file that COSS in connection with its next rate case later this year. Importantly, the COSS will not likely find (or even evaluate) any difference in cost of

⁷ Order, at 16.

⁸ *See* 807 KAR 5:001, Section 16(4)(u) (“If the utility provides gas, electric, water, or sewage utility service and has annual gross revenues greater than \$5,000,000, a cost of service study based on a methodology generally accepted within the industry and based on current and reliable data from a single time period.”). No similar requirement is reflected in the regulatory provisions governing alternative rate filings.

⁹ *See* Order, at 19.

service between customers of the same rate class in different counties, so implementation of updated rates for Clinton County customers need not wait until after a COSS is performed; moreover, under the present rates, there is likely an issue whereby Floyd County and Johnson County customers are subsidizing the cost of serving Clinton County customers, which would be avoided if the Commission embraces the proposed standardization of rates.

In addition to matters dealing with rate design, the Commission's Order also identified issues with Navitas KY's proposed revenue requirements. Specifically, the Commission found "that Navitas KY has failed to meet its burden of proof that the allocations from its service company are appropriate for the test year."¹⁰ While Navitas KY included information in its application and in responses to data requests which detailed allocation information, the Commission desired additional evidence describing the basis upon which cost allocations were made and related cost allocation factors.

To be clear, the "Atmos method" referred to in the Order and throughout this matter is, in fact, the Atmos *Kentucky* method, reflective of the allocation practices of Atmos Energy Corporation in connection with its operations in Kentucky and Tennessee (among other states). Navitas KY mistakenly presumed a level of familiarity with this approach and believed the discussion in its application and data request responses was sufficient, particularly because the allocation methodology has been reviewed by two other jurisdictions multiple times, each with no request for an allocation manual. That said, since entry of the Commission's Order, Navitas KY has undertaken development of a cost allocation manual to aid the Commission's appreciation for how expenses are allocated between affiliates. A copy of the manual is attached to this filing, if for no other reason than to demonstrate Navitas KY's commitment to cooperation and compliance.

¹⁰ Order at 10.

Navitas KY intends to submit a copy of the manual alongside additional information in connection with its next rate case.

Finally, the Commission's denial of rate relief in this case was predicated on issues with Navitas KY's 2023 Annual Report. Navitas KY has admittedly struggled with the online submission system and acknowledges that it has had issues with version control, but believes accurate end-of-year financials have been repeatedly included in the submitted Annual Reports (even though they may not have always appeared on the proper lines). It should be noted, however, that Navitas Utility Corporation and its subsidiaries' accounting has been subject to in-depth review numerous times in multiple jurisdictions by subject matter experts, that it conducts a full outside audit annually, and that the Order marks the first time the Commission has raised substantial issues with respect to Navitas KY's accounting practices. The foregoing notwithstanding, on April 8, 2025, Navitas KY submitted an updated 2023 Annual Report, as directed by the Commission and in a manner consistent with the Commission's filing procedures, which reflects accurate financial information conforming as nearly as practicable with the Federal Energy Regulatory Commission uniform system of accounts standards, as required by KRS 278.220. The relief sought on rehearing, however, need not rely on the updated 2023 Annual Report, as there can be no reasonable doubt that the modest, interim relief sought by Navitas KY solely with respect to Clinton County rates is supported by facts of record.

Conclusion

There are numerous reasons why the Commission should reconsider this matter. Perhaps most importantly, when a rate-regulated utility is denied funding necessary for safe and adequate operation, even the largest and strongest utility can suffer catastrophic events. By denying Navitas KY any rate relief whatsoever, it inevitably faces immense challenges that impact not only its own

ability to provide service, but indeed its related entities' operations in other jurisdictions. As discussed at length throughout this matter, there has been considerable inflation since the establishment of existing rates, particularly in Clinton County (last updated before 2011) and in Johnson County (last updated in 2013). Navitas KY is a small company attempting to serve rural areas that larger companies have generally ignored, and wholly denying any relief to Navitas KY is tremendously burdensome. This cannot be considered a fair, just, or reasonable result, and Navitas KY prays for limited relief in order to maintain sufficient resources for safe and reasonable operation.

WHEREFORE, Navitas KY respectfully requests that the Commission grant rehearing, afford Navitas KY the relief prayed for herein, and grant to Navitas KY all other relief to which it may appear entitled.

This 15th day of April, 2025.

Respectfully submitted,

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Certification

I hereby certify that a copy of the foregoing has been served electronically on all parties of record through the use of the Commission's electronic filing system, and there are currently no parties that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, a paper copy of this filing has not been transmitted to the Commission.

/s/ M. Evan Buckley

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