

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

In the Matter of:

**ELECTRONIC PURCHASED GAS ADJUSTMENT)
FILING OF NAVITAS KY NG, LLC)**

**CASE NO.
2024-00401**

MOTION FOR CONFIDENTIAL TREATMENT

Navitas KY NG, LLC (“Navitas KY”), by counsel, hereby moves the Kentucky Public Service Commission (the “Commission”), pursuant to KRS 61.878 and 807 KAR 5:001 Section 13, to grant confidential protection to certain documents provided in connection with its Response to Commission Staff’s First Request for Information in the above-styled matter (the “RFI”). In support of this Motion, Navitas KY states as follows:

1. Contemporaneously with the filing of this Motion, Navitas KY has filed its Response to the RFI in the above-referenced matter.

2. As part of its Response, Navitas KY has provided certain documents for which Navitas KY seeks confidential protection. These documents consist of (i) an Excel file containing all monthly invoice total prices and all monthly invoice total volumes with supplier name and transaction included (the “Table”), as requested in Item 1-3, and (ii) contracts for the purchase of liquefied natural gas between Navitas KY and Kinetrex (the “Contracts”), as requested in Item 1-1(d). The documents contain proprietary commercial information (collectively, the “Confidential Information”).

3. Navitas KY seeks confidential protection for the entirety of the Confidential Information, primarily in light of the pervasive nature of the proprietary and confidential information contained in each document. The Table is replete with pricing and volume information

involving business transactions of private parties in a competitive marketplace. The Contracts contain financial information and memorializes a sensitive business transaction between private parties in a competitive marketplace; moreover, the Contracts are, by their terms, subject to confidential treatment by the parties thereto. In light of these facts, Navitas KY requests that each document remain unavailable to the general public, as contemplated by 807 KAR 5:001 Section 13(2)(a)(3)b.

4. Copies of the Confidential Information, marked “CONFIDENTIAL”, are submitted concurrently with this Motion by email to PSCED@ky.gov with a read receipt. Because confidential treatment is sought for the entirety of these documents, a redacted copy of each has not been filed or uploaded to the public docket. To the extent required, Navitas KY requests permission to deviate from the filing requirements of 807 KAR 5:001 Section 13, pursuant to 807 KAR 5:001 Section 22.

5. If and to the extent a Confidential Information becomes publicly available because it is no longer competitively sensitive, Navitas KY will inform the Commission in writing and seek to have its confidential status removed. 807 KAR 5:001 Section 13(10)(b).

I. Discussion

6. The Confidential Information is entitled to confidential treatment pursuant to KRS 61.878(1)(c)(1), which protects “records confidentially disclosed to an agency or required by an agency to be disclosed to it, 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.” 807 KAR 5:001 Section 13(2)(a)(1).

7. As noted above, the Table includes sensitive pricing and volume information, and it is retained by Navitas KY as confidential business information. If potential competitors or other suppliers enjoyed ongoing, unrestricted access to the Table, Navitas KY's ability to fairly negotiate terms with counterparties in the marketplace would be negatively impacted, ultimately resulting in a negative impact to customers.

8. As noted above, the Contracts memorialize sensitive business transactions between private parties and is retained by Navitas KY as confidential business information. The sensitive nature of the Contracts is evidenced by the Contracts themselves, as each contains restrictions and obligations regarding confidentiality. If Navitas does not honor these obligations, or if competitors had access to the Contracts, Navitas KY's ability to negotiate in similar instances would be negatively impacted. Further, the Contracts are a product of Navitas KY's business strategies and, if competitors had access to the Contracts, they could discern these strategies.

9. As identified herein, the public disclosure of the Confidential Information will inevitably inure to the benefit of Navitas KY's potential counterparties and competitors, which would gain valuable, non-public information about Navitas KY's business. Information such as this is generally recognized as confidential or proprietary.¹

¹ See, e.g., Case No. 2021-00278, *Electronic Purchased Gas Adjustment Filing of Navitas KY NG, LLC*, Order (Ky. PSC Aug. 16, 2022); *Hoy v. Kentucky Indus. Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995) ("It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is 'generally recognized as confidential or proprietary'"); *Marina Management Servs. v. Cabinet for Tourism, Dep't of Parks*, 906 S.W.2d 318, 319 (Ky. 1995) (unfair commercial advantage arises simply from "the ability to ascertain the economic status of the entities without the hurdles systemically associated with the acquisition of such information about privately owned organizations"); Case No. 2019-00115, *In the Matter of: Electronic Application of Grayson County Water District for a Deviation from Meter Testing Requirements of 807 KAR 5:066, Section 16(1)*, Order (Ky. P.S.C. September 19, 2019) (granting confidential protection for proprietary product produced by a third party that was not available to the general public/required membership to obtain and was generally recognized as confidential).

10. The Confidential Information is not publicly available, is not disseminated within Navitas KY except to those employees and professionals with a legitimate business need to know and act upon the information, and is not disseminated to others without a legitimate need to know and act upon the information. Further, and as noted above, the Contracts contain express limitations on public disclosure.

II. Time Period

11. Navitas KY requests that the Confidential Information reflected in the Table remain confidential for a period of five (5) years, as the public disclosure of the proprietary and confidential information contained in the Table could be used to the Navitas KY' competitive disadvantage through that time. After the expiration of this period, it appears likely the information in the Confidential Information will be sufficiently dated as to no longer present risk to Navitas KY. Navitas requests that the Contracts remain confidential indefinitely, as the Contracts' terms requiring confidentiality are not time-limited.

III. Conclusion

12. Based on the foregoing, the Confidential Information is entitled to confidential protection. If the Commission disagrees, then the Commission should hold an evidentiary hearing to protect Navitas KY's due process rights and to supply the Commission with a complete record to enable it to reach a decision with regard to this matter. *See Utility Regulatory Com'n v. Kentucky Water Service Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

WHEREFORE, Navitas KY respectfully requests that the Commission classify and protect as confidential the Confidential Information.

This 28th day of February, 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

Counsel to Navitas KY NG, LLC