

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

In the Matter of:

ELECTRONIC ALLEGED FAILURE OF)	
NAVITAS KY NG, LLC TO COMPLY)	Case No.
WITH KRS 278.030, KRS 278.180(1),)	2025-00010
KRS 278.274, COMMISSION ORDERS,)	
AND ITS GAS COST RECOVERY TARIFF)	

RESPONSE TO COMMISSION ORDER

Navitas KY NG, LLC (“Navitas KY”), by counsel, hereby responds to the Order of the Kentucky Public Service Commission (the “Commission”) entered in the above-referenced matter on February 3, 2025 (the “Order”).

The Commission’s Order directs Navitas KY to submit a written response to each allegation contained in the Order. Navitas KY is alleged to have violated KRS 278.030, KRS 278.180(1), KRS 278.274, referenced Commission orders, and Navitas KY’s Gas Cost Recovery (“GCR”) tariff in connection with seven (7) alleged “actions regarding calculation of [Navitas KY’s] GCR filings....”¹ Navitas KY generally denies any violation, willful or otherwise, and specifically responds as follows to each of the seven (7) alleged actions and related alleged violations.

- *Allegation 1: Navitas KY included expenses not related to the purchase or transportation of natural gas in its GCR filings.* Navitas KY denies that it included expenses not related to the purchase or transportation of natural gas in its GCR filings. Although the Order does not identify the specific expenses alleged to be in violation, it

¹ Order, at 1 (internal citation omitted).

appears to relate to amounts paid to Kinetrex (related to the purchase of liquefied natural gas) and Russmar Utility Management (related to ensuring the safe transport and delivery of natural gas via pressure monitoring). Navitas KY believes these expenses reflect necessary and prudent costs incurred in direct connection with, and as a component of, the purchase and safe transportation of gas to customers. These payments and related data were identified by Navitas KY throughout its GCR filings, over the course of numerous years, and the Commission approved GCR rates reflecting these payments without issue, feedback, or discussion. That said, Navitas KY acknowledges that the Commission's Final Order in Case No. 2023-00428 (entered October 31, 2024) concluded that "[o]peration, maintenance, compliance, and inspection" expenses are not to be included in the GCR, and also addressed LNG-related equipment purchases (though it remains somewhat unclear whether the rental or included use of equipment necessary for transportation and delivery of LNG is appropriately recovered through the GCR). Notably, amounts paid to Kinetrex continue to be examined for recovery and were recently a subject of Commission Staff's First Request for Information in pending Case No. 2024-00401. Navitas believes this allegation is at least premature and anticipates further instruction from the Commission.

- *Allegation 2: Navitas KY used Expected Gas Cost (EGC) rates that were not supported by sufficient data and were significantly in excess of actual gas costs.* Navitas KY denies that it used EGC rates that were not supported by sufficient data, and instead asserts that it employed reasonable discretion to determine its expected gas costs based on its industry knowledge, historic data, and other related inputs. Navitas KY was not

aware that the Commission expected or required expected gas costs to be based on gas purchases which occurred in the prior 12-month period, consistent with the fact that the expectations or requirements of the Commission regarding the GCR mechanism are generally not set forth with particularity in statute, regulation, or elsewhere. Navitas KY also notes that EGCs are, by their nature, estimates, which if incorrect are addressed fully through the GCR process. Navitas intends to follow the Commission's guidance regarding calculation of EGCs, and further requests that the Commission inform Navitas KY of any unwritten or internal rules or practices it expects or requires in connection with the GCR mechanism.

- *Allegation 3: In the final Order for Case No. 2020-00396, Navitas KY was ordered to refund GCR overcollection to customers of the utility and that they should be "solely responsible for the refund," but may have passed the cost of the refunds on to customers through rates in contravention of the Order, its GCR tariff, and KRS 278.274. Navitas KY denies that it has passed the cost of the refunds on to customers through rates, and the basis for this unfair and inaccurate allegation remains unclear to Navitas KY. While the imputed cost of natural gas acquired by Navitas KY from B&S Oil has been requested, this pass through to customers via the GCR mechanism, and the potential corresponding decrease in amounts owed Navitas KY by B&S Oil, does not mean that customers are "footing the bill" or otherwise being held responsible for the B&H and Johnson County Gas refunds (i.e., they are only paying for gas received). The customer is indifferent to the source of the molecule of natural gas so long as they are paying the same cost, or in this instance less, for the commodity. Essentially, the allegation is that the gas is somehow tainted due to the involvement of a particular producer (despite the*

fact that the Commission set up specific rules for that “tainted” producer to sell gas to the system at prices calculated to be greater than the amount imputed by Navitas).

- *Allegation 4: Navitas KY made numerous spreadsheet errors in its GCR filings, including in eight cases over the past five years.* Navitas KY denies it has made numerous spreadsheet errors in its GCR filings, including in eight cases over the past five years. This allegation has been raised and addressed multiple times, including in response to Item 1 of Commission Staff’s Third Request for Information in Case No. 2023-00428. There, Navitas KY stated as follows: “Navitas KY has reviewed its GCR rate report filings and acknowledges the Commission has identified errors or matters requiring adjustment on a number of occasions (approximately eleven of the most recent twenty final orders indicated a necessary correction). While certain of these issues were minor (e.g., during one period of time spanning roughly a dozen GCR rate reports, a one-cent difference accounted for the “error” – five times minus one-cent, six times plus one-cent), Navitas recognizes it must take care in preparing filings. Navitas KY is a very small but complex company serving rural customers, and is continually trying to improve. Navitas appreciates that Kentucky’s quarterly GCR process helps minimize the implications of errors and ensure they are rectified quickly.”² Navitas remains committed to continuous improvement, but certainly denies any willful violation of law or order in connection with alleged errors or rounding differences contained in previous filings.

² See Case No. 2023-00428, Response to Commission Staff’s Third Request for Information, Item 3-1 (filed March 29, 2024).

- Allegation 5: Navitas KY failed to file with the Commission all required annual reconciliations of monthly surcharge collections and reimbursement required in Case No. 2019-00430; Allegation 6: Navitas KY failed to provide the Commission with tracker updates and notice that recovery of acquisition-related costs had been fully recovered by surcharges in its quarterly GCR rate report filings cover letter, as required in three cases.* Navitas KY denies these allegations and asserts substantial compliance. In particular this is borne out by the Commission's own knowledge of the ongoing balance(s). Navitas KY has made an effort to include in all of its GCR filings updated information regarding the status of surcharges and refunds, and it does not believe the Commission or Navitas KY's customers have been without the pertinent information.
- Allegation 7: Navitas KY filed GCR filings that were late and/or included proposed effective dates that did not correspond with the first of each calendar quarter period in violation of its GCR tariff or were filed with less than 30 days' notice from the proposed effective date in violation of KRS 278.180(1).* Navitas KY denies these allegation and asserts substantial compliance. Navitas KY was under the impression that it needed to file thirty (30) days prior to implementation, and in doing so would comply with KRS 278.180(1) and its tariff. Since Navitas KY bills on the 7th of each month, it has often filed on one of the first few days of the month preceding proposed implementation, believing it was in compliance. Navitas KY now understands the expected or required filing date to be no later than the first of the month preceding each calendar quarter, and it will file on or before that day (absent extraordinary circumstances and a motion seeking deviation supported by good cause).

In addition to the above responses to the allegations contained in the Commission's Order, Navitas KY further desires to underscore that its focus has been and remains the provision of safe, reliable, cost-effective service to its customers. Navitas KY is not a large operation, but it has always endeavored to ensure its small, largely-rural customer base has the option of natural gas service, particularly because larger companies refuse to or are otherwise uninterested in making the effort. Navitas KY acknowledges its imperfections and is working to improve its processes and submissions to align with the Commission's wishes; Navitas KY, again,³ welcomes the opportunity to sit down with Commission Staff and discuss any and all issues, believing that reasonable discussion will benefit all parties and hopefully bring to a conclusion the recurring, intense castigation to which it has been subject.

WHEREFORE, Navitas KY respectfully requests that this proceeding and each of the alleged violations be dismissed as premature, unsupported, insufficiently described, and/or lacking willfulness by Navitas KY, as required under KRS 278.990.

This 3rd day of March, 2025.

Respectfully submitted,

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³ See, e.g., Navitas KY's Motions for Informal Conferences filed in Case Nos. 2023-00428, 2024-00079, 2024-00308, 2024-00184, 2024-00401, none of which have been granted (or otherwise addressed).

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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