

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

In the Matter of:

**ELECTRONIC APPLICATION OF)
NAVITAS KY NG, LLC FOR AN)
ALTERNATIVE RATE FILING) Case No. 2025-00332
PURSUANT TO 807 KAR 5:076)**

MOTION FOR CONFIDENTIAL TREATMENT

Navitas KY NG, LLC (“Navitas” or the “Company”), by counsel and pursuant to 807 KAR 5:001 Section 13 and KRS 61.878, respectfully submits this motion for confidential treatment (“Motion”) with respect to certain information provided in the Responses to Commission Staff’s First Request for Information. The information for which Navitas seeks confidential treatment is hereinafter referred to as the “Confidential Information.” In support of its Motion, Navitas states as follows:

1. Contemporaneously with the filing of this motion, Navitas has filed its Responses to Commission Staff’s First Request for Information and supporting exhibits in the above-referenced matter.

2. Within those Responses, Navitas has provided certain Confidential Information, which is found in the following items:

- a. Response to Request No. 1-6.
- b. The attachments labeled, “CONFIDENTIAL Exhibit PSC 1-7(a) – General Ledger Part 1,” and “CONFIDENTIAL Exhibit PSC 1-7(a) – General Ledger Part 2,” hereinafter referred to as “General Ledgers.”

- c. The attachment labeled, “CONFIDENTIAL Exhibit PSC 1-7(b) Part 1 – Trial Balance,” and “CONFIDENTIAL Exhibit PSC 1-7(b) Part 2 – Trial Balance,” hereinafter referred to as “Trial Balance.”
- d. The attachment labeled, “CONFIDENTIAL Exhibit PSC 1-8 – Insurance Policies,” hereinafter referred to as “Insurance Policies.”
- e. The attachment labeled, “CONFIDENTIAL Exhibit PSC 1-10 – Employee Benefits Invoices,” hereinafter referred to as “Employee Benefits Invoices.”
- f. The attachments labeled, “CONFIDENTIAL Exhibit PSC 1-11 – Employee Information Part 1,” “CONFIDENTIAL Exhibit PSC 1-11 – Employee Information Part 2,” “CONFIDENTIAL Exhibit PSC 1-12 – Employee Benefits Part 1,” and “CONFIDENTIAL Exhibit PSC 1-12 – Employee Benefits Part 2,” hereinafter referred to as “Employee Information.”

3. The information Navitas seeks to protect as Confidential Information includes (i) private financial and proprietary information of Navitas (and other related companies, such as Navitas Utility Corporation and Navitas Assets, LLC, but are unaffected and unaffiliated with this Application), and (ii) private information including that of a personal nature.

I. KRS § 61.878 – Confidential or Proprietary Information

4. Pursuant to KRS 61.687(1)(c)(1), commercial information generally recognized as confidential is protected if disclosure would cause competitive injury and permit competitors to obtain an unfair commercial advantage. 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.”¹ The Commission has routinely relied on this section of the Kentucky Open Records Act to grant confidential protection to third-party documents when disclosure would disadvantage a company.²

5. Pursuant to KRS 61.878(1)(a), the Commission further grants confidential treatment to “records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

a. CUSTOMER INFORMATION

6. A portion of Navitas’s Response to Request No. 1-6 contains information related to individual customers, including individual customer usage data. Disclosing these details would allow Navitas’s competitors, as well as the competitors of Navitas customers, information that could be used to negotiate more favorable terms and to develop marketing strategies. Additionally, providing individual customer usage data would invade the privacy rights of the Navitas customer identified in the Response to Request No. 1-7.

7. Navitas previously sought confidential treatment for customer-specific information similar to that contained in the Response to Request No. 1-6; that motion was granted by the Commission in an Order entered May 9, 2025, in Case No. 2024-00252.³

¹ KRS 61.687(1)(c)(1).

² 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).

³ See *In the Matter of Electronic Application of Navitas KY NG, LLC for an Alternative Rate Filing Pursuant to 807 KAR 5:076*, Case No. 2024-00252 (Ky. PSC May 9, 2025) (“Confidential treatment should be granted for special contract customer usage in the response to Item 7 because disclosure could affect Navitas KY’s ability to obtain other potential special contract partners in the future, disadvantaging Navitas KY compared to its competitors.”).

b. GENERAL LEDGERS

8. The Confidential Information included in the General Ledgers includes certain discrete, private financial information, including Navitas’s account numbers, account balances, debits, and credits from Navitas’s general business checking account. The Confidential Information Navitas seeks to protect in the General Ledgers does not include general terms or general, non-confidential language.

9. The financial information included within the General Ledgers consists of sensitive financial and proprietary information regarding the inner workings of Navitas and its obligations. Information about a company’s detailed inner workings is generally recognized as confidential or proprietary.⁴ The private nature of the information, which includes specific account numbers, transactions, and detailed information respecting the Company’s expenses and outstanding obligations must be maintained to ensure Navitas and its related entities do not experience an imbalance of information with competitors and potential counterparties.⁵ This Confidential Information “if openly disclosed would present an unfair commercial advantage to competitors” of Navitas and it therefore qualifies as protectable confidential information pursuant to KRS 61.878(1)(c)(1).

⁴ See, e.g., *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’”).

⁵ See *In the Matter of: Application of Big Rivers Electric Corporation for a General Adjustment in Rates Supported by Fully Forecasted Test Period*, Case No. 2013-00199 (Ky. PSC Nov. 25, 2013), Order (granting confidential treatment for “sensitive internal financial documents, including Big Rivers’ general ledger”); see also *In the Matter of: Electronic Application for Approval of Transfer of a Wastewater Treatment Utility from Pro Man Property Management, LLC to Fox Run Living, LLC; Application for Approval of Transfer from Fox Run Living, LLC to Fox Run Utility, LLC; and Offer to Settle any Violations*, Case No. 2019-00390 (Ky. PSC June 10, 2022), Order (granting confidential treatment to post-closing general ledger and trial balance).

10. Moreover, Navitas's account numbers are entitled to protection pursuant to 807 KAR 5:001, Section 4(10).

c. TRIAL BALANCE

11. The Confidential Information included in the Trial Balance includes certain discrete, private financial information related to certain debits and credits of Navitas. Specifically, the Trial Balance lists specific credits related to Navitas's outstanding loan obligations and debits related to Navitas's internal operations, such as depreciation expense, amortization, employee benefits, and insurance. Navitas seeks protection of all debits and credits in the Trial Balance.

12. The financial information included within the Trial Balance consists of sensitive proprietary information regarding the specific operations of Navitas. The information within the Trial Balance could be used by other competing entities to discover strategic decisions made by Navitas regarding its own systems and operations. Access to this information would allow Navitas's competitors to understand Navitas's operating expenses, investments, and strategic decisions, to Navitas's disadvantage.⁶ The Confidential Information contained in the Trial Balance is not publicly disseminated and public disclosure of this information would place Navitas and its affiliates at a commercial disadvantage with its competitors, and therefore it should be protected as confidential information. KRS 61.878(1)(c)(1).⁷

⁶ See *In the Matter of: Application of Cincinnati Bell Telephone Company for Authority to Increase and Adjust its Rates and Charges and to Change Regulations and Practices Affecting the Same*, Case No. 1994-00335 (Ky. PSC May 23, 1995), Order; *In the Matter of: Electronic Application for Approval of Transfer of a Wastewater Treatment Utility from Pro Man Property Management, LLC to Fox Run Living, LLC; Application for Approval of Transfer from Fox Run Living, LLC to Fox Run Utility, LLC; and Offer to Settle any Violations*, Case No. 2019-00390 (Ky. PSC June 10, 2022), Order (granting confidential treatment to post-closing general ledger and trial balance).

⁷ See also *Marina Management Servs. v. Cabinet for Tourism, Dept. 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").

d. INSURANCE POLICIES

13. The Confidential Information within the Insurance Policies includes information related to the amounts paid to third-parties regarding Navitas’s insurance policies and policy coverage limits. The Confidential Information Navitas seeks to protect in the Insurance Policies does not include general terms or general, non-confidential language.

14. Disclosure of Navitas’s insurance policies could adversely affect Navitas’s ability to effectively negotiate insurance policies in the future.

15. The Commission has previously granted confidential treatment to similar insurance policy information under KRS 61.878(1)(c)(1).⁸ In fact, the Commission granted confidential treatment to similar insurance policy information in Navitas’s last rate case, and should do so again here.⁹

e. EMPLOYEE BENEFITS INVOICES AND EMPLOYEE INFORMATION

16. Exhibit PSC 1-10, Exhibit PSC 1-11 Part 1, Exhibit PSC 1-11 Part 2, Exhibit PSC 1-12 Part 1, and Exhibit PSC 1-12 Part 2 all contain information of a personal nature relating to Navitas Utility Corporation’s employees. Exhibit PSC 1-10 contains invoices and other documents relating to Navitas Utility Corporation’s employee benefits, including insurance coverage for individual employees. Exhibit PSC 1-10 further lists specific employees’ names. Similarly, Exhibit PSC 1-11 and Exhibit PSC 1-12 contain sensitive and personal information relating to the

⁸ See *Application of Kentucky Power Company For: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, Case No. 2014-00396 (Ky. PSC Sept. 16, 2015), Order.

⁹ *In the Matter of: Electronic Application of Navitas KY NG, LLC for an Alternative Rate Filing Pursuant to 807 KAR 5:076*, Case No. 2024-00252 (Ky. PSC May 9, 2025), Order.

employees of Navitas Utility Corporation, such as names, job titles, hours worked, wages, benefits, etc.

17. Navitas respectfully requests that the names of those employees who are not executives be kept confidential pursuant to KRS 61.878(1)(a) and 807 KAR 5:001, Section 4(10).

18. Furthermore, Navitas states that the benefits of its employees consist of information of a personal nature and the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.¹⁰

19. In addition, employee benefits information is information of a confidential and proprietary nature regarding Navitas's business. This information is not publicly disseminated, and public disclosure would harm Navitas. If information regarding Navitas's employee benefits is publicly disclosed, competitors could use this information to Navitas's detriment to recruit key employees. Competitor use of this information could consequently result in additional pressure for Navitas to increase compensation and benefits, which could increase operating expenses. The Commission has previously granted confidential treatment to non-executive employee salary and benefits information.¹¹ In fact, the Commission granted confidential treatment to non-executive employee insurance, benefits, and compensation data in Navitas's last rate case.¹²

¹⁰ *In the Matter of: (1) An Adjustment of Electric Rates; (2) Approval of New Tariffs; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; and (4) All Other Required Approvals and Relief*, Case No. 2022-00372 (Ky. PSC Feb. 10, 2023), Order.

¹¹ *See, e.g., In the Matter of: Electronic Application of Water Service Corporation of Kentucky for a General Adjustment of Existing Rates*, Case No. 2018-00208 (Ky. PSC Mar. 8, 2019), Order (granting confidential treatment where "confidential employee compensation information, if disclosed, would enable competitors to attempt to recruit key personnel, and would compromise the Company's position in negotiating employee compensation terms.").

¹² *In the Matter of: Electronic Application of Navitas KY NG, LLC for an Alternative Rate Filing Pursuant to 807 KAR 5:076*, Case No. 2024-00252 (Ky. PSC May 9, 2025), Order.

20. Accordingly, the Confidential Information in Exhibit PSC 1-10, Exhibit PSC 1-11 Parts 1 and 2, and Exhibit PSC 1-12 Parts 1 and 2 should be afforded confidential treatment.

II. THE CONFIDENTIAL INFORMATION IS ENTITLED TO CONFIDENTIAL TREATMENT UNDER KRS 61.878.

21. Consistent with the above discussion, Navitas respectfully requests that the Commission enter an order granting confidential treatment to the Confidential Information contained in Exhibit PSC 1-7(a), Exhibit PSC 1-7(b), Exhibit PSC 1-8, Exhibit PSC 1-10, Exhibit PSC 1-11, and Exhibit PSC 1-12.

22. The Confidential Information described herein 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 Navitas and other Navitas companies, by providing its competitors with non-reciprocal competitive advantage. No public purpose is served by the disclosure of such Confidential Information. KRS 61.878(1)(c)(1).

23. Furthermore, the Confidential Information described herein contains “information of a personal nature” and it therefore qualifies as protectable confidential information pursuant to KRS 61.878(1)(a).

III. TIME PERIOD

24. 807 KAR 5:001 Section 13(2)(a)(2) provides that a motion for confidential treatment shall state the time period for which the material should be treated as confidential and the reasons for this time period.

25. Navitas requests that the names and personal identifiers of Navitas employees contained within Exhibit PSC 1-10, Exhibit PSC 1-11 (Parts 1 and 2), and Exhibit PSC 1-12 (Parts

1 and 2) remain confidential for an indefinite period of time to avoid an unwarranted invasion of the personal privacy of the named employees.

26. Navitas respectfully submits that all other Confidential Information identified herein remain confidential for a period of five (5) years from the date of filing this Motion, which is a reasonable period of time for confidentiality in light of competitive conditions in the utility and financial marketplaces.¹³

IV. REQUEST FOR RELIEF

27. Because this Confidential Information is subject to a pending motion for confidential treatment, the Confidential Information remains confidential until the Commission acts on that motion.¹⁴

28. This Confidential Information is not publicly available, is not disseminated within Navitas 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.

29. If and to the extent the Confidential Information becomes generally available to the public, whether through filings required by other agencies or otherwise, Navitas will notify the Commission in writing.¹⁵

30. If the Commission disagrees with Navitas that the material for which this Motion seeks confidential treatment is exempt from disclosure, it must hold an evidentiary hearing to

¹³ 807 KAR 5:001, Section 13(2)(a)(2).

¹⁴ See 807 KAR 5:001 Section 13(4) (“Pending action by the commission on a motion for confidential treatment or by its executive director on a request for confidential treatment, the material specifically identified shall be accorded confidential treatment.”).

¹⁵ 807 KAR 5:001 Section 13(10)(b).

protect the due process rights of Navitas and permit the opportunity to supply the Commission with a complete record to enable it to reach a decision with regard to this confidentiality request.

31. In compliance with 807 KAR Section 8(3) and Section 13(2)(e), Navitas is filing with the Commission a copy of the Confidential Information, entirely unredacted and with highlighting of the material for which confidential treatment is sought. The unredacted copies are filed under seal pursuant to the instructions regarding confidential filings in the March 24, 2020 Order issued in Case No. 2020-00085; redacted pages of the subject documents are being publicly filed.

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

This the 1st day of December, 2025.

Respectfully submitted,

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Certification

I hereby certify that a copy of this filing 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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