

JAN 17 2020

PUBLIC SERVICE
COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of:

**NAVITAS KY NG, LLC's APPLICATION) CASE NO. 2019-00430
FOR ALTERNATIVE RATE ADJUSTMENT)**

**SECOND AMENDED PETITION OF NAVITAS UTILITY
CORPORATION FOR CONFIDENTIAL TREATMENT**

COMES NOW Navitas KY NG, LLC ("Navitas"), by and through undersigned
counsel, and hereby submits its Second Amended Petition for Confidential Treatment
pursuant to the Order entered December 20, 2019 by the Kentucky Public Service
Commission (the "Commission"), pursuant to 807 KAR 5:001, Section 13, and KRS
61.878, requesting the Commission to grant confidential treatment to the Audit Report for
certain select materials that warrant confidential treatment.

In support of this Second Amended Petition, Navitas states as follows:

Notification of Information at Issue

1. The Confidential Information in the Audit Report does not include the cover page, table of contents, and the generalized statements on pages 1 and 5 of the audit report.
2. The information Navitas seeks to protect as confidential includes the discrete financial information on pages 2, 3, 4, and is hereinafter referred to as the "Confidential Information".
3. Additionally, regarding pages 6, 7 and 8 of the Audit Report, the information Navitas seeks to protect is the following discrete financial information found on the following pages:

- page 6, subsections (2), (3), and (4)

1 - page 7, subsection (4), lines 2 & 3 and the financial information
2 described in this subsection;

3 - page 7, subsection (6), lines 1 through 5;

4 - page 8, subsection (6), line 2.
5

6 Navitas does not seek to protect the general information provided on
7 the following pages:

8 - page 6, subsection (1);

9 - page 7, subsection (4), lines 1 & 4;

10 - page 7, subsection (5);

11 - page 7, subsection (6), line 6;

12 - page 8, subsection (6), line 1;

13 - page 8, subsection (7).
14

15 Confidential or Proprietary Commercial Information

16 4. The Kentucky Open Records Act exempts from disclosure certain
17 commercial information.¹ To qualify for the exemption and maintain the
18 confidentiality of the information, a party must establish that the material is of a
19 kind "generally recognized as confidential or proprietary, which if openly disclosed
20 would permit an unfair commercial advantage to competitors of the entity that
21 disclosed the records."² The Commission has routinely relied on this section of the
22
23
24
25
26

27
28 ¹ KRS 61.878(1)(c).

² *Id.*

1 Kentucky Records Act to grant confidential protection to third-party documents
2 when disclosure would disadvantage the Company.³

3 5. The Confidential Information in the Audit Report consists of
4 information related to the inner workings of Navitas KY's parent company, Navitas
5 Assets, LLC ("Navitas Assets"). This confidential information includes financial and
6 service usage details of Navitas Assets, LLC, including other companies owned by
7 Navitas Assets, LLC not located in Kentucky, as well as the personal information of
8 Navitas Assets, LLC owners. This information "if openly disclosed would present an unfair
9 commercial advantage to competitors" of Navitas Assets, LLC nationwide, and it therefore
10 qualifies as protectable confidential information pursuant to KRS 61.878(1)(c)(1).
11

12
13 6. This Confidential Information is not publicly available. It would be difficult
14 or impossible for someone to discover this information from other sources. The disclosure
15 of this proprietary information would result in significant or irreparable competitive harm
16 to Navitas' parent company, Navitas Assets LLC, by providing its competitors with non-
17 reciprocal competitive advantage. No public purpose is served by the disclosure of such
18 Confidential Information.
19

20 Timeframe for Confidential Treatment

21 7. Pursuant to 807 KAR 5:001, Section 13(2)(a)(2), Navitas requests that
22 certain, clearly identified portions of the Audit Report described herein be granted
23 confidential treatment indefinitely, subject to future orders of the Commission, due to the
24

25
26
27 ³ See, e.g., In the Matter of Electronic Application of Kentucky Utilities Company for an Order
28 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)

1 sensitive nature of the information at issue. Should the Commission determine that
2 some or all of the material is not to be given confidential protection, Navitas
3 requests a hearing prior to any public release of the information.
4

5 WHEREFORE, Navitas KY NG, LLC respectfully requests that the Commission
6 grant confidential protection to the discrete financial information designated as
7 confidential in this Petition, and for such other and further relief the Commission
8 deems appropriate.

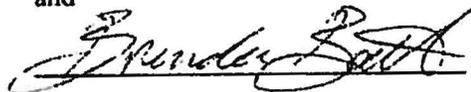
9 One this the 16th day of January, 2019.

10 Respectfully submitted,

11
12 

13 Klint W. Alexander (#88343)
14 Counsel for Navitas KY NG, LLC
15 1767 Nottage Ct
16 Laramie, WY 82072
17 (615) 594-4377
Klint.alexander10@gmail.com

18 and

19 

20 Brenda Bott
21 Regulatory and Compliance
22 Navitas Utility Corporation
23 3186 Airway Ave. Ste. D
24 Costa Mesa, CA 92626
25 (714) 242-4064
26 bbott@navitasutility.com
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th day of January, 2020, a true and correct copy of the foregoing instrument was deposited in the United States Mail with postage prepaid, and addressed to the following:

Gwen Pinson
Executive Director
Public Service Commission
Commonwealth of Kentucky
211 Sower Blvd.
Frankfort, KY 40601

Larry Cook
Office of the Attorney General
Rate Intervention
700 Capitol Ave. Suite 20
Frankfort, KY 40601


Klint W. Alexander