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February 6, 2020

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PUBLIC SERVICE
COMMISSION

Kent Chandler, Esq., Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

In Re: Docket No. 2019-000430

Dear Mr. Chandler:

In an Order issued in this docket on December 9, 2019, the Kentucky Commission asked Navitas KY to provide documentation to support its request to add a surcharge to each customer's gas bill to cover additional, interstate transportation charges resulting from a rate order issued May 17, 2019 by the Federal Energy Regulatory Commission. In response to the Commission's Order, Navitas KY made a Supplemental Filing on January 17, 2020 to document the company's claim that Navitas KY owes B&W Pipeline \$230,000¹ in additional transportation expenses from July 17, 2017 through January 31, 2019. That total applies only to the July 17, 2017 through January, 2019 period. It does not include any interest charges² nor does it take into account three billing disputes recently raised by Navitas KY.³

The calculations submitted by Navitas KY showing how the company arrived at the total of \$230,000 are shown in "Exhibit G," which was included in the surcharge Application and also in the company's Supplemental Filing. Unfortunately, Exhibit G contains at least three material errors and understates the amount owed to B&W by at least \$7,600 and perhaps as much as \$20,000. I am therefore submitting this letter⁴ to the Commission on behalf of B&W Pipeline to

¹ Order of December 9, 2019 in Docket 2019-000430 at 2.

² See discussion of interest charges at p. 5, *infra*.

³ Although this Commission has no jurisdiction over the three billing disputes (two involve interstate charges and the third is a Tennessee intrastate issue) Navitas KY describes each dispute in the company's surcharge "Application," (paragraphs 28, 29 and 30) implying that the amount owed the pipeline is less than the total requested in the Application. The disputes are frivolous and all were raised only after B&W notified Navitas KY of the new FERC rate. For the Commission's information, I responded to two of these disputes in previous letters that are on file as public comments in Docket 2019-00241. See Letter to Gwen Pinson, August 8, 2019, footnote 4; Letter to Gwen Pinson, August 19, 2019, at 2 and 3; Letter to Gwen Pinson, November 8, 2019 (see the attachment to that letter). The third dispute (discussed in paragraph 30 of the surcharge Application) involves an invoice for \$344,519.49 submitted by Navitas TN to B&W for alleged sales of gas by Navitas TN to B&W between July and December, 2017. B&W has filed a complaint at the Tennessee Commission alleging that no such sales occurred and that Navitas KY fabricated the invoice in retaliation against B&W Pipeline for trying to collect the FERC-approved charges. See TPUC Docket 200004.

⁴ The pipeline will, if requested, submit an affidavit attesting to the accuracy of the numbers presented in this letter.

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assist the agency in determining “the actual amount due [to B&W] for the retroactive gas transportation costs.” Order of December 9, 2019, at 2.

There are at least three, significant error in Exhibit G.⁵ In summary, they are:

- (1) Even though the FERC rate became effective July 17, 2017, Navitas KY has calculated the amount owed to B&W as if the FERC rate were in effect for the entire month of July, 2017. This error impacts the amount owed to B&W by Navitas KY by approximately \$3,600.
- (2) In calculating how many Mcfs of gas were shipped by B&W Pipeline to Navitas KY during this period, Navitas KY disregards the amount delivered to the Albany city gate and uses instead the amount of gas subsequently sold to retail customers in Kentucky. This approach understates by about 1,500 Mcfs the total amount of gas transported by B&W and reduces the amount owed to the pipeline by over \$4,000.
- (3) Each month during this period, the two Navitas companies paid B&W Pipeline a flat, monthly charge of \$13,897 for gas transportation. The Navitas companies allocated the payments between Tennessee and Kentucky, and the amounts allocated to Kentucky and recovered from Kentucky customers offset, in part, the additional amounts owed by Navitas KY for interstate transportation at the FERC rate. The flat charge was established by the Tennessee Commission to pay for gas transportation to both states and should have been allocated between Tennessee and Kentucky based on the amount of gas delivered by B&W to each state. According to Exhibit G, however, the Navitas companies allocated the charge based on how much gas was sold in each state, not on the amount delivered. During the period at issue, this method wrongly allocates over \$13,000 to Kentucky that should have been allocated to Tennessee. If the allocation method shown in Exhibit G is also the method used by Navitas KY to calculate its GCR rates and the Commission’s records show that Kentucky customers have already paid that extra money, B&W will credit that \$13,000 to Navitas KY. If, on the other hand, Navitas KY calculated its GCR rates as it should have done (allocating the flat charge between the two states based on the amounts of gas delivered, not the amounts sold), the figures shown in Exhibit G are incorrect, and Navitas KY owes B&W an additional \$13,000.

Each of these errors is discussed in more detail below.

1. The FERC rate became effective on July 17, 2017. That means the old rate was in effect for sixteen days during that month and the new rate was in effect for fifteen days. Although B&W Pipeline does not have daily records of gas delivered, it does record the amounts of gas

⁵ There is a fourth error that is not material. Navitas KY used \$2.7271 instead of \$2.7172 as the FERC-approved rate.

delivered to Navitas KY and Navitas TN on a monthly basis. Therefore, to calculate the impact of the FERC rate on transportation for Navitas KY during July, 2017, B&W applied the FERC rate to about half (15/31) of the total deliveries to Navitas KY during the month. B&W's meter at the Albany city gate measured 3,173 Mcfs of gas delivered to Navitas KY during the entire month. Half (15/31) of that is 1,535 Mcfs. B&W therefore applied the FERC rate (\$2.7172 per Mcf), to 1,535 Mcfs for a bill (prior to any credit) of \$4,171 for transportation during the partial month.

The amount owed at the FERC rate is offset, however, by whatever Kentucky customers have already paid for interstate transportation during those fifteen days. Therefore, B&W Pipeline credited Kentucky customers with a share of the \$13,897 monthly charge paid by the two Navitas companies to B&W. To determine the Kentucky credit, B&W first calculated that 15/31 of the \$13,897 monthly charge is \$6,724. Second, B&W calculated that in the month of July, 2017, 90.3% of all the gas shipped by B&W for the two Navitas companies went to Navitas KY and 9.7% went to Navitas TN. So, B&W calculated 90.3% of \$6,724, and credited that amount, \$6,072, to Kentucky customers. When the charge at the FERC rate (\$4,171) is offset by \$6,072, the end result is a net credit to Kentucky customers of \$1,901 for those fifteen days in July, 2017. See Exhibit A, attached.

Inexplicably, Navitas KY applied the FERC rate to the entire month of July instead of only half the month. According to Exhibit G, 2,704 Mcfs of gas were sold in Kentucky that month⁶, to which Navitas KY applied the FERC rate of \$2.7271 per Mcf,⁷ for a total charge of \$7,347. Navitas KY then allocated \$12,886⁸ of the flat charge to Kentucky and used that to offset the FERC charges, resulting in a net credit of \$5,539. That credit to customers is about \$3,600 more than the credit calculated by B&W and shown in Exhibit A. This \$3,600 is the difference between applying the FERC rate to the whole month of July, 2017 instead of applying it to July 17 through July 31, 2017.

2. Exhibit G shows the volume of gas which the company used to calculate how much it owes to B&W for shipping gas from July 17, 2017 through January 31, 2019. Exhibit G, however, uses the wrong volumes. Instead of showing the volumes of gas delivered by B&W Pipeline to Navitas KY at the Albany city gate, it shows "KY customer sales" each month during that period and uses those sales volumes to calculate shipping charges owed to the pipeline.⁹ The difference between using volumes delivered and volumes sold increases the amount of gas to

⁶ As explained later in this letter, Navitas KY has also understated the volumes of gas to which the FERC rate applies. As noted above, the total amount delivered to Kentucky in July, 2017 was 3,173 Mcfs. This compares to the amount of gas sold that month in Kentucky, 2,704 Mcfs, which is used in Exhibit G.

⁷ The FERC rate is \$2.7172 not \$2.7271. The rate used in Exhibit G is a mistake.

⁸ As discussed later, Navitas KY uses an allocation factor based on the amount of gas sold in each state, not the amounts delivered.

⁹ The Commission should know that Navitas KY requested and was provided by B&W the volumes of gas delivered to the Albany city gate but chose not to use that information to calculate shipping charges at the FERC rate.

which the FERC rate applies by over 1,500 Mcfs¹⁰ and increases the amount owed to B&W by about \$4,200. *See* Exhibit A.

3. As the Commission is aware, B&W Pipeline and Navitas KY agree that whatever Navitas KY owes under the FERC rate should be offset by “the pro rata portion of a monthly charge of \$13,897.67 already paid.” Order issued December 9, 2019, at 1-2.¹¹ In other words, it is necessary first to calculate the total amount owed each month under the FERC rate of \$2.7172 per Mcf and then deduct from that amount the portion of the \$13,897 monthly charge that was collected from Kentucky customers during the same period.

Since the flat fee was set by the Tennessee Commission as payment to B&W for the pipeline’s transportation charges to both states, the fee should be allocated between Tennessee and Kentucky based on the relative amounts of gas transported by the pipeline to each state. As shown in Exhibit A, B&W determined the total amount of gas delivered each month to both Navitas TN and Navitas KY and then calculated the percentage of the total that was delivered to Kentucky. As shown in Column E of Exhibit A, from 67% to 97% of the gas shipped by B&W for the two Navitas companies was delivered to Navitas KY. As shown in Column G, B&W then applied the monthly percentage to the \$13,897 flat rate and credited that amount to Kentucky customers.

Exhibit G, however, shows that Navitas KY allocated the flat rate based on how much gas was sold to customers in each state, not the amounts delivered. Over the period July 17, 2017 through January 31, 2019, this approach credits more than \$13,000 to Kentucky than the approach used by B&W.¹² If Navitas KY actually collected that \$13,000 through the GCR, the pipeline will credit that amount to Navitas KY. But if the Commission’s GCR records show that Navitas KY did not collect from customers the amounts shown in Exhibit G, then Navitas KY owes an additional \$13,000 to B&W.¹³

¹⁰ Because of leakage and theft, the amount of gas sold to retail customers is less than the amount of gas delivered by the pipeline to the Albany city gate.

¹¹ B&W Pipeline has for some time agreed that the arrearage owed by Navitas KY should be reduced by the amount already paid by Kentucky customers. As B&W explained to the Commission in a letter filed on August 20, 2019 in Case No. 2019-00241 “To the extent . . . that Navitas KY has already passed through to its Kentucky customers charges for interstate gas transportation during this same period, those amounts will offset in part the impact on customers of applying the FERC rate back to July 17, 2017.”

¹² The ratio of gas sold in Kentucky compared to the amount of gas sold in both states is consistently higher than the ratio of gas delivered to Kentucky compared to the amount delivered to both states. This indicates that a higher percentage of gas is lost through leaks and theft *i.e.*, delivered but not sold, in Tennessee than in Kentucky.

¹³ Because of the errors in Exhibit G and the frivolous arguments that Navitas KY has raised to avoid paying the FERC rate, I have no confidence in any representations by Navitas KY concerning amounts collected from Kentucky customers through the GCR. The Kentucky Commission’s records, however, will show the actual, interstate transportation costs collected by Navitas KY each month from its Kentucky customers. If, in fact, Navitas KY used an improper allocation method in the company’s GCR filings and collected from Kentucky customers the amounts shown in Exhibit G under “TRA pro rata share paid,” that means Kentucky customers paid \$13,000 that should have been allocated to customers in Tennessee. Nevertheless, if the Commission confirms that Navitas KY collected the

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Finally, there remains the issue of accumulated interest on the amount owed by Navitas KY for the period at issue in this docket, July 17, 2017 through January 31, 2019. In accordance with B&W's federal tariff and the FERC's rules, B&W is entitled to add interest charges at the FERC-mandated rate to all amounts due since July 17, 2017. The appropriate interest charges cannot be calculated, however, until it has been determined how much Navitas KY owes for gas transportation during this period. Once the Commission has evaluated the evidence presented by Navitas KY and the errors identified by B&W Pipeline, the Commission will presumably decide the amount of the arrearage owed by Navitas KY. Once that amount has been determined, B&W Pipeline will calculate and apply appropriate interest charges at the FERC-approved interest rate.

Please feel free to contact me at hwalker@bradley.com or 615-252-2363 if you have any questions about the information in this letter.

Sincerely,

BRADLEY ARANT BOULT CUMMINGS, LLP



Henry Walker

Attachment

cc: Klint Alexander
Thomas Hartline
Don Baltimore

higher amounts from its customers through the GCR process, B&W will credit Navitas KY by those amounts and adjust the arrearage accordingly.

EXHIBIT A

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	TRANSPORTED MCFs					TRAs FIXED RATE APPORTIONED		VOLUMETRIC RETROACTIVE CHARGE TO NAVITAS KENTUCKY	ADJUSTED VOLUMETRIC RETROACTIVE CHARGE TO NAVITAS KENTUCKY
	A	B	C (A + B)	D (A / C)	E (B / C)	F	G (F x E)	H (B x 2.7172)	I (H - G)
	TN MCFs	KY MCFs	Total MCFs	% TN	% KY	FIXED RATE	KYs Share	FERC RATE: 2.7172	ADJUSTED BILL
7/17/2017 (Prorated)	165	1,535	1,700	9.70%	90.30%	\$ 6,724.68	\$ 6,072.11	\$ 4,171.78	\$ (1,900.33)
August-17	259	5,193	5,452	4.75%	95.25%	\$ 13,897.67	\$ 13,237.45	\$ 14,110.42	\$ 872.97
September-17	333	6,413	6,746	4.94%	95.06%	\$ 13,897.67	\$ 13,211.65	\$ 17,425.40	\$ 4,213.76
October-17	835	7,716	8,551	9.76%	90.24%	\$ 13,897.67	\$ 12,540.57	\$ 20,965.92	\$ 8,425.34
November-17	1,052	11,584	12,636	8.33%	91.67%	\$ 13,897.67	\$ 12,740.63	\$ 31,476.04	\$ 18,735.41
December-17	3,501	12,773	16,274	21.51%	78.49%	\$ 13,897.67	\$ 10,907.89	\$ 34,706.80	\$ 23,798.91
January-18	4,171	13,361	17,532	23.79%	76.21%	\$ 13,897.67	\$ 10,591.31	\$ 36,304.51	\$ 25,713.20
February-18	1,956	11,303	13,259	14.75%	85.25%	\$ 13,897.67	\$ 11,847.45	\$ 30,712.51	\$ 18,865.06
March-18	5,192	10,625	15,817	32.83%	67.17%	\$ 13,897.67	\$ 9,335.70	\$ 28,870.25	\$ 19,534.55
April-18	1,056	11,254	12,310	8.58%	91.42%	\$ 13,897.67	\$ 12,705.47	\$ 30,579.37	\$ 17,873.90
May-18	582	7,302	7,884	7.38%	92.62%	\$ 13,897.67	\$ 12,871.74	\$ 19,840.99	\$ 6,969.26
June-18	203	6,490	6,693	3.03%	96.97%	\$ 13,897.67	\$ 13,476.15	\$ 17,634.63	\$ 4,158.48
July-18	398	6,692	7,090	5.61%	94.39%	\$ 13,897.67	\$ 13,117.52	\$ 18,183.50	\$ 5,065.98
August-18	1,199	6,092	7,291	16.44%	83.56%	\$ 13,897.67	\$ 11,612.21	\$ 16,553.18	\$ 4,940.97
September-18	407	6,480	6,887	5.91%	94.09%	\$ 13,897.67	\$ 13,076.36	\$ 17,607.46	\$ 4,531.09
October-18	852	9,305	10,157	8.39%	91.61%	\$ 13,897.67	\$ 12,731.89	\$ 25,283.55	\$ 12,551.65
November-18	1,847	12,804	14,651	12.61%	87.39%	\$ 13,897.67	\$ 12,145.64	\$ 34,791.03	\$ 22,645.39
December-18	2,479	14,161	16,640	14.90%	85.10%	\$ 13,897.67	\$ 11,827.22	\$ 38,478.27	\$ 26,651.05
January-19	3,176	13,163	16,339	19.44%	80.56%	\$ 13,897.67	\$ 11,196.22	\$ 35,766.50	\$ 24,570.28
Total	29,663	174,246	203,909	14.55%	85.45%		\$ 225,245.18	\$ 473,462.11	\$ 248,216.93