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Subject: **Views/ Comments on Draft PNGRB(Guiding Principles for Declaring City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2019**

To: "secretary@pngrb.gov.in" <secretary@pngrb.gov.in>

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Date: 11/10/19 07:42 PM

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AGP to PNGRB_ Comments on allowing access to CGD N... (2.4MB)

Dear Madam,

Greetings from AG&P!!!

Please find enclosed our views on the Draft PNGRB (Guiding Principles for Declaring City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2019.

We trust the revered Board finds our views useful for development of robust downstream Regulations. We shall be happy to provide any further clarification should they be required by your good office.

Kind Regards,

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AGPCGD/2019-20/MDO/013

October 11, 2019

To

The Secretary

Petroleum and Natural Gas Regulatory Board ("PNGRB"/ "Board")

First Floor, World Trade Centre,
Babar Road, New Delhi – 110001.

Sub.: Comments on the Draft PNGRB (Guiding Principles for Declaring City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2019

Ref.: PNGRB PCD no. PNGRB/AUTH/7-MIS (3)/2015 dated 22nd August 2019 and 20th September 2019

Dear Madam,

This is in context to the captioned Public Consultation Document ("**PCD**") webhosted by the Honourable PNGRB seeking views/ comments from the stakeholders on the draft PNGRB (Guiding Principles for Declaring City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2019 (hereinafter referred to as "draft Regulations") for developing a holistic and robust downstream Regulations.

AG&P hereby humbly submits its views on the draft Regulations read in conjunction with the Petroleum and Natural Gas Regulatory Board Act, 2006 ("**Act**"); the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 ("**Authorization Regulations**"); the Petroleum and Natural Gas Regulatory Board (Exclusivity for City or Local Natural Gas Distribution Network) Regulations, 2008 ("**Exclusivity Regulations**"); the Petroleum and Natural Gas Regulatory Board (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2011 ("**Access Code Regulations**"); the Petroleum and Natural Gas Regulatory Board (Determining Capacity of City or Local Natural Gas Distribution Network) Regulations, 2015 ("**Capacity Regulations**"); the Petroleum and Natural Gas Regulatory Board (Code of Practice for Quality of Service for City or Local Natural Gas Distribution Networks) Regulations, 2010 ("**QOS Regulations**") for kind consideration of the revered Board:

1. The legislator had distinctly demarcated a city or local natural gas distribution network from the natural gas pipelines under the Act which is depicted unambiguously in the extracts reproduced herein below:



- 2(i) "city or local natural gas distribution network" ("CGD") means an interconnected network of gas pipelines and the associated equipment used for transporting natural gas from a bulk supply high pressure transmission main to the medium pressure distribution grid and subsequently to the service pipes supplying natural gas to domestic, industrial or commercial premises and CNG stations situated in a specified geographical area.
- 2(za) "natural gas" means gas obtained from bore-holes and consisting primarily of hydrocarbons and includes-
 - (i) gas in liquid state, namely, liquefied natural gas and degasified liquefied natural gas,
 - (ii) compressed natural gas,
 - (iii) gas imported through transnational pipe lines, including CNG or liquefied natural gas,
 - (iv) gas recovered from gas hydrates as natural gas,
 - (v) methane obtained from coal seams, namely, coal bed methane, but does not include helium occurring in association with such hydrocarbons;
- 2 (j) "common carrier" means such pipelines for transportation of petroleum, petroleum products and natural gas by more than one entity as the Board may declare or authorise from time to time on a non discriminatory open access basis under sub-section (3) of section 20, but does not include pipelines laid to supply-
 - (i) petroleum products or natural gas to a specific consumer; or
 - (ii) crude oil;

Explanation.- For the purposes of this clause, a contract carrier shall be treated as a common carrier, if -

 - (a) such contract carrier has surplus capacity over and above the firm contracts entered into; or
 - (b) the firm contract period has expired.
- 2 (m) "contract carrier" means such pipelines for transportation of petroleum, petroleum products and natural gas by more than one entity pursuant to firm contracts for at least one year as may be declared or authorised by the Board from time to time under sub-section (3) of section 20;

Based on the above referred definitions of the said Act, it is submitted that a CGD Network is different from a natural gas pipeline ("NGPL"), since NGPL is a trunk/main high pressure pipeline laid to serve customers point to point whereas a CGD network is an interconnected network of pipelines and is built to serve customers in a specified GA at different operating and delivery parameters. Therefore, while



some of the concepts may be applicable across the downstream natural gas value chain but the concept of common or contract carrier is applicable only for trunk pipelines/ NGPL.

2. Sub-clause (d) and (e) of the Section 11 of the Act further classifies the applicability of procedures for declaring the pipelines as common or contract carrier and those of providing access for pipeline and CGD:

".....(d) declare pipelines as common carrier or contract carrier;

(e) regulate, by regulations,-

(i) access to common carrier or contract carrier so as to ensure fair trade and competition amongst entities and for that purpose specify pipeline access code;

(ii) transportation rates for common carrier or contract carrier;

(iii) access to city or local natural gas distribution network so as to ensure fair trade and competition amongst entities as per pipeline access code;...."

3. As per sub-section (1) of Section 20 of the PNGRB Act, "Declaring, laying, building, etc., of common carrier or contract carrier and city or local natural gas distribution network":

".....(1) If the Board is of the opinion that it is necessary or expedient, to declare an existing pipeline for transportation of petroleum, petroleum products and natural gas or an existing city or local natural gas distribution network, as a common carrier or contract carrier or to regulate or allow access to such pipeline or network, it may give wide publicity of its intention to do so and invite objections and suggestions within a specified time from all persons and entities likely to be affected by such decision..."

It may be construed from the aforesaid provisions of the Act, that the concept of common or contract carrier is only linked with the petroleum, petroleum products and natural gas pipelines whereas the provisions for regulating or allowing access is applicable to natural gas pipelines and to laying, building, operating or expanding any city or local natural gas distribution network.

4. The stupendous efforts demonstrated during the 9th and 10th bid round in successfully awarding substantial geographic areas in a record time has brought significant fame to India in global arena and has also provided conducive environment for foreign investment participation. The continued encouragement to the sector shall positively enable in achieving the Honourable Government of India's vision to make India, a natural gas based economy. The transparency in the processes and the fairness in the provisions of the enshrined statute and the regulations made thereunder reposes trust of all the participating stakeholders.

5. CNG Stations:

Section 2(i) and 2(za) of the Act read in conjunction clearly defines CGD as an integral and holistic set of infrastructure comprising of CNG stations (online and daughter booster); pipelines; associated equipment; etc. to supply natural gas, whether in liquid or gaseous state, across all set of customers viz. industrial, domestic, commercial and CNG. Any effort to delineate the CNG stations from the CGD network shall vitiate the very intention of the statute as well as the purpose of including the CNG station as an integral part of bid conditions to encourage investment in 9th and 10th bid round. Therefore, Regulation 12 of the draft Regulations which intends to exclude CNG Stations out of the purview of infrastructure exclusivity shall grossly defeats the purpose of the bids including the quotes submitted for transportation rate of CGD network and CNG compression with a 10% weightage respectively. However, only the CNG dispensing facilities shall be open for any third party beyond marketing exclusivity period for each of the authorized GAs.

Since, both the transportation rates are applicable beyond marketing exclusivity, the bidding entity factors the revenues that may accrue during the entire economic life for the volume sale of PNG as well as CNG on the network and the volume of gas compressed in CNG stations for the entire authorized area, while making a decision on the committed infrastructure development in the first eight years of the marketing exclusivity.

Any deviation shall be contrary to the Grant of Authorization issued by the Honourable Board under the Authorisation Regulations read with Exclusivity Regulations in addition to conflicting the provisions of the Act.

6. Guidelines for allowing access to a CGD network: It is humbly placed that the regulations lays down the guidelines/ basis on which a CGD network, upon the expiry of its marketing exclusivity, may be taken up for the allowing access through the pre-determined public consultation process as per the extant Regulations.
7. We humbly submit that the amendments that may be proposed in the Access Code Regulations separately may also emphasise on obligating the third party seeking access to fulfil the service obligations as per relevant PNGRB regulations to foster fair trade and competition including monitoring the third party.
8. Regulation 11: Sub-Regulation (1) of Regulation 11 of the draft Regulations proposes to grant authorization to any person to lay infrastructure within the contour of the authorised GA before the conclusion of infrastructure exclusivity which shall unduly cause gross inconvenience to the bidder.





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Any amendment in the Statute or by-law adversely impacting the premises and conditions under which the informed decision of submission of the bids were taken, among others considering the returns on investments for the entire economic life as per Exclusivity Regulations, for development of network and compression facilities (including online and daughter booster facilities) for 25 years by an entity shall jeopardize the commercial interest thereto.

In addition, sub-clause (b) of clause (2) of the Section 22 of the Act states:

"....safeguard the consumer interest and at the same time recovery of cost of transportation in a reasonable manner;...."

The aforesaid provisions of the Act intends to safeguard the interest of the consumer as well as the CGD entities by ensuring the recovery of cost of transportation in a reasonable manner. The proposed Regulation in this context would encourage cherry picking of lucrative customers across the authorized GAs by the third party entity hindering integral and uniform development of CGD network in the authorized GAs.

We trust the Honorable Board finds our views useful for development of robust downstream regulations. We shall be happy to provide any further clarification should they be required by your good office.

Thanking you,
For AGP CGD India Private Limited

PPG Sarma
Director

