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S? No 48  
30-8-2019

GGL/C&M/2019-20/036  
August 26, 2019

To,  
**Ms. Vandana Sharma,**  
Secretary,  
Petroleum and Natural Gas Regulatory Board ("PNGRB/Board")  
First Floor, World Trade Centre, Babar Road,  
New Dehli-110 001.

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**Sub.:** Comments on PNGRB proposed amendment to the PNGRB (Determination of Natural Gas Pipeline Tariff) Regulations, 2008

**Ref.:** 1. PNGRB further extension of time period for submission of comments vide Public Notice no. PNGRB/COM/2-NGPL Tariff(3)/2019 dated August 20, 2019  
2. PNGRB Public Notice dated August 02, 2019

Dear Madam,

At the outset Gujarat Gas Limited ("GGL") would like to thank the Honorable Board for granting extension of time for submission of comments based on the criticality and sensitivity of the subject matter. In this regards please find below our comments/ inputs on the PNGRB Public Notice dated August 02, 2019 for the kind consideration of the Honorable Board:

1. Under the PNGRB Act, the powers of the PNGRB to determine tariff are governed by the specific framework established under S.22 r.w. S.11(e)(ii) PNGRB Act. S.11 (e)(ii) PNGRB Act specifically vests the PNGRB with the function of regulating by regulations "transportation rates for common carrier or contract carrier". S.22 PNGRB Act specifically stipulates that "Subject to the provisions of this Act, the Board shall lay down, by regulations, the transportation tariffs for common carriers or contract carriers or city or local natural gas distribution network and the manner of determining such tariffs."

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2. Thus it is clear that under the PNGRB Act, tariff is to be determined in relation to common carrier or contract carrier. Under S. 16 PNGRB Act there is a prohibition from laying building, operating or expanding any pipeline as a common carrier or contract carrier without obtaining authorization under the PNGRB Act. The only exception is to entities that were already laying, building, operating or expanding any pipeline as common carrier or contract carrier immediately before the appointed date, which entities are deemed to have such authorizations, subject to the provisions of Chapter IV of the PNGRB Act. S.17(1) of the PNGRB Act stipulates that *"An entity which is laying, building, operating or expanding, or which proposes to lay, build, operate or expand, a pipeline as a common carrier or contract carrier shall apply in writing to the Board for obtaining an authorization under this Act :Provided that an entity laying, building, operating or expanding any pipeline as common carrier or contract carrier authorised by the Central Government at any time before the appointed day shall furnish the particulars of such activities to the Board within six months from the from the appointed day."*

3. S. 2(j) PNGRB Act defines "common carrier" to mean: *"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".*

4. In exercise of the powers under S.61 PNGRB Act, the PNGRB has formulated the PNGRB (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 ("**NGP Tariff Regulations**"). The framework for tariff determination under the NGP Tariff Regulations reflects the statutory framework provided under the PNGRB Act and stipulates that natural gas pipeline tariff would be determined in respect of specific natural gas pipelines which are covered by the NGP Tariff Regulations. The pipelines governed by the NGP Tariff Regulations are: (i) those that were authorized by the



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Central Government before the PNGRB Act came into force, (ii) those that were laid, built, operated before the appointed day and have been then authorized by PNGRB and (iii) those that were initially laid as dedicated pipelines and then converted into natural gas pipelines. The NGP Tariff Regulations are based on a divisor that is based on the capacity determined for the relevant natural gas pipeline under the Petroleum and Natural Gas Regulatory Board (Determining Capacity of Petroleum, Petroleum Products and Natural Gas Pipeline) Regulations, 2010 ("NGP Capacity Regulations"). Furthermore, under the NGP Capacity Regulations, capacity is determined for each specific natural gas pipeline as authorized by PNGRB.

5. From a review of the above provisions of PNGRB Act, it is clear that the present legal framework governing gas transportation pipelines provide for authorization of specific pipelines and tariff determination can occur for each of the authorized pipelines separately.
6. In addition to the above, determination of transportation tariff on a combined basis for 2 or more inter- connected Natural Gas Pipeline ("NGPL") would lead to cross-subsidization of cost for such NGPL wherein higher Capital Expenditure ("Capex") has been incurred as compared to the actual volume of natural gas being transported through that NGPL thereby making the pipeline infrastructure under- utilized resulting into higher transportation tariff for such NGPL. The powers enshrined to the Honourable Board under clause (a) of sub- section (2) of Section 22 of the PNGRB Act mentions:

*".....the Board shall be guided by the following, namely:-*

*the factors which may encourage competition, efficiency, economic use of the resources, good performance and optimum investments;....."*

hence it is important that underutilization of certain NGPL is not burdened over other inter-connected NGPL thereby increasing the transportation tariff for the customers using only one of the inter- connected NGPL.

7. Determination of transportation tariff on combined basis would also lead to imposing higher tariff on customers that are nearer to the source and are connected with the main transmission pipeline section. Whereas the combined pipeline network shall



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result into charging additional tariff for the pipeline section which the customer is actually not utilizing.

8. In the interest of public at large it is suggested that the Honourable PNGRB takes a broader view on the proposed amendment for determination of transportation tariff on combined basis as the proposed amendment needs to ensure that there is no discrimination being done with the end customers either being located nearer to the source or located farther from the source.
9. For the proposed amendment to the tariff regulations, the PNGRB Act would need to be amended and the NGP Tariff Regulations as well as the NGP Capacity Regulations would need to be amended.
10. Further, it is also recommended that the applicability of the proposed amendment should be done on prospective basis i.e. Based on the authorization awarded by the Honourable Board for such interconnected pipelines.

We trust that the Honourable Board shall find our observations/ views useful in formulating regulations for the overall development of the natural gas industry and we shall be happy to provide any further clarifications should they be required by your good office in this regards.

Thanking you,

**For Gujarat Gas Limited**

Maqsood Shaikh

**Executive Vice President- Commercial & Marketing**