



**GUJARAT GAS**

GGLIC&M\2020-21\024

October 14, 2020

To,

**Ms. Vandana Sharma,**

Secretary,

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

1st Floor, World Trade Centre,

Babar Road, New Delhi – 110001

**Sub:** Comments on draft PNGRB (Determination of Transportation Rate for CGD and Transportation Rate for CNG) Regulations, 2020

**Ref:** PNGRB Public Notice no. PNGRB/COM/1-CGD Tariff(1)/2015 dated September 23, 2020

Dear Madam,

This is with reference to the above mentioned PNGRB Public Notice pertaining to submission of views/ comments on the draft PNGRB (Determination of Transportation Rate for CGD and Transportation Rate for CNG) Regulations, 2020.

We appreciate that the Honourable Board is soliciting the views of various entities and other stakeholders on the proposed draft PNGRB (Determination of Transportation Rate for CGD and Transportation Rate for CNG) Regulations, 2020.

It should be appreciated that CGD business is predominantly a retail business in which marketing function is very crucial and critical. Further, the CGD business comprises of very high number of customers, low volumes and not so high credit worthy customers. And these two aspects differentiate CGD business from NGPL wherein the principle of unbundling and open access is of greater importance. Further, the upstream (supply and transmission) risks assumed by the CGD operators are very high in terms of Take or Pay and Use or Pay. Any attempt to introduce open access would tilt the risk reward balance against the CGD operators drastically and shall make the further investments in CGD infrastructure extremely non-rewarding.

Further, in a CGD business wherein different customer segments are being served, it is imperative to have supply security for ensuring un-interrupted gas supply, for which many CGD entities had signed Mid-term & Long terms gas supply contracts. Under the Open Access regime, potential shippers may consider supplying Natural Gas based on Spot Contracts which shall significantly impact the ability of the CGD entities to honor the ToP (Take or Pay) commitment under these gas supply

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contracts. Hence it is requested that the Honourable Board takes due cognizance of the above fact while declaring the CGD network as common carrier or contract carrier.

We understand that a writ petition regarding PNGRB regulations on Exclusivity for City Gas Distribution Network is currently under consideration before the Delhi High Court. We also understand that a status quo order has been passed. Without prejudice to our submissions on the draft regulations, we would like to submit that the Honourable Supreme Court of India in the matter of Civil Appeal No.4910 Of 2015 has, vide its order dated 01.07.2015, already held that the Honourable Board does not have the power to fix network tariff for city or local gas distribution network. Honourable Supreme Court declared the provisions of Petroleum and Natural Gas Regulatory Board (Determination of Network Tariff for City or Local Natural Gas Distribution Networks and Compression Charge for CNG) Regulations, 2008 as ultra vires the PNGRB Act. Further, it is settled principle of law that, something which cannot be done directly under law, cannot be permitted to be done indirectly. The Board may like to consider this aspect of proposed regulations being ultra vires the PNGRB Act, before finalizing the same.

However, without prejudice to the various pending legal issues, GGL would like to submit its comments on the draft regulations as provided in Annexure 1, for the kind consideration of the Honourable Board.

We trust that the Honourable Board shall find our observations helpful in drafting robust downstream natural gas regulations and we would be happy to provide any further clarification should they be required by your good office in this regards.

Thanking You,  
**For Gujarat Gas Limited**

Devendra Agarwal  
**Head- Commercial & Marketing**

**Encl:** Annexure 1- GGL views on the PNGRB proposed draft (Determination of Transportation Rate for CGD and Transportation Rate for CNG) Regulations, 2020

**Annexure-1**

**GGL views on the PNGRB proposed draft (Determination of Transportation Rate for CGD and Transportation Rate for CNG) Regulations, 2020**

S.No.	Regulation/ Clause No.	Draft Regulation	GGL views/ suggestions
1.		<p>The draft regulation envisages determination of Transportation rate for CGD networks and Transportation rate for CNG.</p>	<p>As per the definition provided in Section 2(zn) of the PNGRB Act, 2006 the transportation rate is being defined as:</p> <p><i>“ ... "transportation rate", in relation to common carrier or contract carrier or a city or local natural gas distribution network, means such rate for moving each unit of petroleum, petroleum products or natural gas as may be fixed by regulations....”</i></p> <p>Based on the above definitions it is clear that the transportation rate of CGD network shall include rate of moving each unit of natural gas to each consumer segments (included CNG stations) and hence there cannot be a separate transportation rate determined for CNG.</p> <p>CNG station is an integral part of CGD network. Further section 2 (k) clearly defines that the CNG station is a filling station where one or more dispensing units are provided for sale of compressed gas. Hence all costs associated with CNG station viz. dispenser costs, canopy construction cost, MCV costs etc. should also be allowed if the determination of compression charge needs to be done.</p>

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2.	Application	These regulations shall apply, immediately at the end of the period of exclusivity from the purview of common or contract carrier	We submit that a conjoint reading of Sections 11 (e), 20 and 22 of the PNGRB Act, 2006 establishes that declaration of City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier is a pre-requisite legal requirement for the Honourable Board to frame regulations for regulating tariff. The Honourable Board needs to first declare the CGD network as common carrier or contract carrier as per the Guiding Principles for Declaring City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier Regulations. It is requested that the Honourable Board reviews the applicability provisions accordingly.
3.	sub- regulation (1) of Regulation 4	“...An authorised entity to which these regulations apply shall, <b>within 90 days</b> of the these regulations coming into force or <b>within 90 days</b> of declaring...”	The Honourable Board shall appreciate the fact that since this will be the first instance of determination of transportation rate for CGD and CNG which involves various common cost & indirect cost allocation, external review/ verification and relevant approval from Board of Directors hence it is requested that a time period of at least 270 days should be provided for determination of transportation rate for CGD and transportation rate for CNG.
4.	sub- regulation (3) of Regulation 4	interactive spreadsheet calculation model including formulae	The Concept of making available “interactive spreadsheet calculation model including formulae” should be revisited, keeping in view issues associated with the need for maintaining confidentiality of sensitive confidential data pertaining to each entity. We suggest that appropriate disclosure model should be devised based on consensus among CGD entities and the Honourable Board. Further even in case of determination of tariff

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5.	sub- regulation (4) of Regulation 4	“ .....Any entity not satisfied with the rates determined under sub-regulation (1) ....., may file a complaint to the Board.....”.	for NGPL, there is no provision to web-host the interactive spreadsheet calculation model. The Honourable Board is requested to have a uniform approach for CGD entities and NGPL entities related to web-hosting of tariff.
6.	sub- regulation (5) of Regulation 4	Unless otherwise ordered by the Board, the financial adjustment on account of change in the transportation rate for CGD or transportation rate for CNG shall be carried out while determining the transportation rate for CGD or transportation rate for CNG for the year subsequent to Board's order.	It is suggested that the timeline (in line with existing provision of section 25(2) of the Act for preferring complaint and for determination of complaint u/s 25(3) of the Act) should be adhered to.  Since the transportation rate for CGD or transportation rate for CNG needs to be determined by the CGD entity itself hence any financial adjustment on account of any change in the transportation rate can also be done by the CGD entity on suo-moto basis.  Determination of any transportation rate on account of any revision upon Complaint should only have prospective effect.
7.	Sr No. 2 of the Schedule- Methodology for determination of transportation rate for CGD and CNG	The transportation rate shall be calculated based on the “Cost of Service” (COS) methodology1 considering a normative post-tax rate of return of <b>twelve percent</b> on capital employed	The post- tax Rate of Return (RoR) has been reduced to twelve percent (12%) on capital employed whereas as per the earlier tariff regulation it was 14%. The CGD business is spread across various geographies and is also highly capital intensive with volatile demand and hence requires higher remuneration than a Natural gas pipeline. Hence it is suggested that 14% RoR as allowed previously should be continued with.

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8.	Sr. No. 3(1)(d) of the Schedule	Capital expenditure on last mile connectivity (LMC) in case of domestic consumers shall be netted off against the refundable security deposit collected by the CGD entity	It is suggested that the capital expenditure on last mile connectivity (LMC) in case of domestic consumers should not be netted off against the refundable security deposit collected by the CGD entity as the Security deposit is refundable to the customer at the time of termination/ disconnection whereas the infrastructure so laid by the CGD entity for that particular customer cannot be removed completed i.e. internal pipe and tubing, excess flow check valve- cum- isolation valve etc. and moreover at the time of termination/ disconnection there may not be any useful life of the asset left. Hence such asset cannot be put to any use thereafter.
9.	Sr. No. 3(3) of the Schedule	The Gross Fixed Assets shall be equal to their actual historical cost of acquisition (including the cost of any subsequent replacement or improvement or modification but excluding the component of interest cost on loans capitalised) or that normatively assessed by the Board, whichever is lower.	Each CGD network is unique and may vary in technical specifications. Hence it is not suggested to consider the normative Gross Fixed Assets as the CGD entity has already incurred the cost based on their technical specifications which may be different than the minimum benchmark. It is recommended to consider the actual historical cost incurred by the authorised entity at that instance.
10.	Sr. No. 3(4) of the Schedule	Normative Working Capital shall be equal to thirty days of normative operating cost (excluding depreciation) and eighteen days' transportation rate receivables.	As we understand it is the sum total of thirty days normative operating cost and eighteen day's transportation rate receivable.

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S.No.	Regulation/ Clause No.	Draft Regulation	GGL views/ suggestions
11.	Sr. No 4 of Schedule- Operating costs		<p>The definition of Operating Costs needs to also include the cost of operation and maintenance of the Last Mile Connectivity (LMC) components as the authorised entity is required to not only develop but also needs to ensure proper upkeep and maintenance of the infrastructure so laid till the suraksha hose of the domestic PNG connection.</p> <p>The operating cost needs to also include the line loss volumes as in a CGD network the line loss value is higher on account of leakages, third party damages to CGD network, meter tampering, meter inaccuracies etc. CGD network is not similar to Natural Gas Pipeline since there are number of joints which increase the chances for leakage. Further, majority of the CGD network is created using MDPE pipelines which are prone to damages and increases the volume loss.</p>
12.	Sr No. 4 of the Schedule	Items excluded from operating costs	<ol style="list-style-type: none"> <li>1. The costs associated with promotional activities/schemes for PNG Domestic and CNG Stations including donations, sponsorship and CSR activities should be included as the authorised CGD entity are required to ensure achievement of MWP even after marketing exclusivity period is over.</li> <li>2. The proposed draft regulation should also include the cost of obtaining Right of Usage (RoU)/ (Right of Way) RoW/ PESO permissions and any other payment made to the Municipal authorities/ local bodies and any other statutory payment towards RoU charges for development of CGD network.</li> </ol>

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			<p>3. The Honourable Board is also requested to consider the cost related to legal matters arising out of disputes between entity and shipper, entity and customer or on account of any damages done by third party or customers to the entities network.</p>
13.	Sr. No. 4(2) of Schedule	<p>Operating costs required in the operation and maintenance of common infrastructure in the CGD network and CNG, shall be computed on an actual basis or based on a normative assessment by the Board, whichever is lower.</p>	<p>Operating costs varies from GA to GA hence it may not be correct to consider the normative operating cost as the CGD entity has already incurred the cost which may be different than the minimum benchmark.</p>
14.	Sr. No. 4(2)(viii)(a) of Schedule	<p>for pipelines, where depreciation shall be calculated based on useful life of 30 years on SLM basis with residual value of 5%.</p>	<p>In case of Pipeline network assets, the residual value of the assets should be considered as Zero instead of 5% as the underground pipeline is not feasible to be removed, economically unviable to extract physically from CGD Area at the end of life of the assets. <b>Hence, residual value of the Pipeline network assets should be considered as Zero.</b></p>
15.	Sr no 5 of the Schedule	<p>Volumes to be considered in determination of transportation rate for CGD and CNG</p>	<p>The proposed draft regulation provides for considering the actual volumes of natural gas (including the volume of natural gas transported by pipelines till the CNG compressor) transported in the CGD network and actual volume of natural gas compressed as CNG during the corresponding period is to be used as volume divisor. Any change in actual volume flow shall impact the realisation for the CGD entity and may even lead to cross-</p>



S.No.	Regulation/ Clause No.	Draft Regulation	GGL views/ suggestions
16.	Sr no 6(2) of the Schedule	Notwithstanding anything contrary elsewhere in these regulations, the Board may direct the authorised entity to determine the rates anytime including but not limiting to the following circumstances, and the authorised entity if so directed shall carry out the direction of the Board	The authorised entity should also be allowed to undertake the determination activity even without the direction of the Board in case of any unforeseen changes in the parameters of transportation rate determination.
17.	Attachment 1- Year wise Fixed Assets and Depreciation- Summary	Non-Regulated Assets (Full details to be given in a separate statement)	Attachment 1 requires the entity to provide details of the non-regulated assets. The same needs to be excluded since the same is of no use in the overall determination of transportation rate.
18.	Attachment 1(f) and 1(g)	Calculations for Transportation Rate of CGD and Calculations for Transportation Rate of CNG	The Honourable Board is requested to clarify whether determination of transportation rate for CGD and CNG is on three year rolling basis?
19.	Attachment 1 (h)	Format of Auditor's Certificate	The Honourable Board should provide the flexibility of getting the certification of such cost and financial data from a firm of Chartered Accountant/ Cost Accountant with requisite competency rather than restricting it to Statutory Auditors. In

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S.No.	Regulation/ Clause No.	Draft Regulation	GGL views/ suggestions
20.	Point no. 1 of Attachment 2	Definition of a fixed asset and treatment in the determination of transportation rates for CGD and CNG	<p>case of a Government Company, the Statutory Auditors are appointed by Comptroller and Auditor General (CAG) office.</p> <p>A fixed asset in a CGD network should also allow for Capital Work in Progress and capital inventory as the CGD entity has already incurred such cost during the year for development of CGD network.</p>
21.	Point no. 3 of Attachment 2	Fixed asset declared as commissioned but not deployed in operations of the CGD network shall not be considered.	<p>The Honourable Board is suggested to consider all capital employed irrespective of its start of operations. In some cases, entity is unable to start operations on account of delay in obtaining permissions from certain authorities.</p>
22.	Point no. 4 of Attachment 2- Treatment of line-pack volume in pipelines in a CGD network	The value of the line-pack volume shall be derived by multiplying the volume of line-pack by the average cost of natural gas at the CGS station at the time of commissioning of the pipeline(s) in the CGD network.	<p>CGD development project is executed in phases/ sections. Further considering the vast geography of the projects, it will be difficult to establish the time of commissioning of a particular pipeline section. It is recommended to consider the cost of natural gas as of today.</p>
23.	Other observations- LNG infrastructure		<p>With the involvement of new technology for development of CGD network, it is also requested to include the capital cost and operating cost of LNG facilities used for converting liquid state natural gas to gaseous state under the common infrastructure of the CGD network. In addition, the capital cost and operating cost associated with CNG cascades for distributing through virtual pipeline should also be included.</p>

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24.	Other observations		<p>The provision allowing filing of complaints merely on dissatisfaction with the transportation rates will result in high number of disputes and multiple complaints being filed will lead to more uncertainty and result in multiple complaints. This will not achieve the objective of providing certainty in transportation rate.</p>
25.	Other observations		<p>The Open Access regime to be implemented should be done in phased manner/ sequentially so the CGD network for which the marketing exclusivity period is over first should be declared as Common carrier or Contract carrier first and subsequently other CGD network to be opened up thereafter.</p>
26.	Other observation		<p>Unified Tariff mechanism for CGD network can also be evaluated similar to the one being proposed for Natural gas transmission pipelines, the same shall be beneficial for CGD entities that have interconnected pipeline network across contiguous Geographical Areas.</p>

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