



October 27, 2020

To
The Secretary,
Petroleum & Natural Gas Regulatory Board,
1st Floor, World Trade Centre,
Babar Road,
New Delhi – 110001

Subject: Draft PNGRB (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2020

Ref: PNGRB public notice no. PNGRB/Auth/1-CGD(16)/2020 Dated 6 Oct 2020

Dear Madam,

We refer to the abovementioned draft regulations on Access Code for CGD networks and would like to respectfully submit as follows.

The PNGRB Act provides for '*...establishment of PNGRB to regulate..... so as to protect the interest of consumers and entities engaged in specified activities....*'. As you are well aware the very fabric of the said regulatory framework exists such that it intends to ensure that the interests of both, customers and authorized entities are balanced very well. In light of the same, we hope you will appreciate that as you endeavor to usher in the CGD open access regime, the delicate balance between the incumbent CGD entities and customers / shippers is maintained, and there is reasonable protection extended to CGD entities as well as gas pipeline entities who have incurred / committed material investments for creation of gas infrastructure, based on the assurances provided by the PNGRB Act.

We have submitted our views on the draft Guiding Principles for Declaring CGD as common carrier or contract carrier regulations vide letter dated 11 Oct 2019, and we request the Hon'ble Board to take cognizance of the same. The key submissions are summarized as under.

1. The issue, whether CNG stations are part of CGD network or not, is still sub-judice and you will appreciate that the authorized entities have been entrusted with

Adani Gas Limited
Heritage Building, 8th floor,
Ashram Road, Usmanpura,
Ahmedabad-380014
Gujarat, India
CIN: U40100GJ2005PLC046553

Tel +91 79 2754 1988
Fax +91 79 2754 2988
info@adani.com
www.adani.com

responsibility of developing the CNG station infrastructure to cater to the transportation sector in India. Allowing other entities to set-up CNG stations (including dispensers) within such authorized GA's would be a gross infringement on the interests of CGD entities and against the very understanding under which such CGD entities have bid and been authorized geographical areas. It may be appropriate to usher in the open access regime in CGD only upon bringing judicial clarity on the relevant matters of exclusivity regulations, CNG stations etc.

2. In terms of CGD networks, the infrastructure exclusivity requirement is central to the regulatory framework and the same need to necessarily be preserved in all respects. The infrastructure exclusivity needs to ensure that access and management of CNG dispensers, meters etc. amongst other all infrastructure, is limited to the authorized CGD entity.
3. In terms of the provisions of PNGRB Act, it would be pertinent to have review of legal veracity of the proposal to allow other entity to lay, build, operate or expand network within an authorized GA, to ensure that there are no entanglements in future.
4. While reviewing the Draft access Code, we came across several items and areas which we felt would allow 3rd party marketeers and shippers to 'Cherry Pick' customers, and thus endeavor to be opportunistic and endeavor to serve a very select customer type or population. Since such actions by 3rd party marketeers and shippers would be against the very fabric and essence of the Access Code, we request that the Code be examined and reviewed from this lens as well.
5. Further, the declaration of CGD network as common / contract carrier, open access regime, transportation rate and capacity determination / webhosting, service level obligations of shipper and CGD entity, shortfall and other charges as applicable etc. are complex and intertwined subjects. We therefore most humbly recommend that the PNGRB may consider constituting a Focused Group with representatives from the CGD industry and subject matter experts to examine all operational & commercial aspects and submit their recommendation to the PNGRB to enable a well thought through formulation of regulations. Based on the report of the focused group, the Hon'ble Board may take a holistic view on the overall regulatory regime and take appropriate decision on the regulations. We would be happy to be part of and contribute to such a Focused Group in any and all ways as may be guided by the PNGRB.

adani

Gas

6. Notwithstanding the above, detailed regulation wise comments on the draft regulations are submitted as **Annexure 1** attached herewith.

We thank you for the opportunity to provide our suggestions and request for a favorable consideration by the Hon'ble Board.

Thanking you and assuring you of our best attention at all times.

Yours sincerely,
For Adani Gas Ltd.

K. D. Rawal

(Authorized Signatory)



Encl: As above

Adani Gas Limited
Heritage Building, 8th floor,
Ashram Road, Usmanpura,
Ahmedabad-380014
Gujarat, India
CIN: U40100GJ2005PLC046553

Tel +91 79 2754 1988
Fax +91 79 2754 2988
info@adani.com
www.adani.com

Clause-wise Comments on Draft CGD Access Code Regulations

1. Regulation 2(f) "CNG exit point capacity"

Comments:

- We request the hon'ble Board to kindly clarify the purpose for defining and stipulating webhosting homogenous zones.

2. Regulation 2(k) "entry point"

Comments:

- The definition may require to be reworded to clear the ambiguity as it seems to suggest an STPL or any pipeline as entry point.

3. Regulation 2 – allocation, scheduled quantity, nominated quantity

Comments:

- For avoidance of confusion in the terminology, it is suggested to adopt the following terminology from the gas pipeline business.
 - Booked quantity – quantity contracted as per the agreement.
 - Nominated quantity – quantity requested for transportation by shipper.
 - Scheduled quantity – quantity confirmed for transportation by authorized entity.
 - Allocated quantity – quantity actually metered / delivered by/to the shipper at entry/exit points.

4. Regulation 3 Application

Comments:

- The authorized entity may be stipulated to provide non-discriminatory access to the common carrier capacity but not the total capacity. The proviso may please be amended suitably.

5. Regulation 4 Capacity Declaration

Comments:

- It is suggested that capacity booking should be commenced after capacity determination is done and transportation rate has been determined. Without clarity on both these matters, the webhosting may serve little purpose.
- 4(1) – The capacity determination regulations stipulate annual capacity determination. So, whether the same capacity should be declared, or it should be simulated & determined and then declared within 90 days of declaring as common carrier? And there will be monthly update by 10th of the next month giving details as of last date of preceding month? The above may please be clarified.
- 4(2) – The capacity should be based on what has been declared by the entity and approved by PNGRB for the year and not based on actual volumes flown as the same is basis various operational parameters which may not remain the same in the future period. However, in case the maximum volume is considered, the same should be ascertained as average of maximum volume transported for at least a month in the last 12 months or so to verify technical capability to transport on a safe and sustainable basis and not just an instance on a given day.
- 4(2&3) – It is submitted that the basic requirement is to provide 20% of capacity on common carrier basis. If the same has been provided and booked by shippers, the required stipulations have been met and there should not be any need for expansion / upgradation of capacity. Expansion for creating extra / idle capacity will lead to infructuous investment.
- 4(4) – The proposed Code provides adequate timelines for booking of capacity by shippers. Stipulating 90 days no-booking period before the un-booked capacity can be utilized by authorized entity will lead to underutilization of the capacity, losing an opportunity to serve any customer, not to mention the commercial loss on account of the same. It is submitted that if capacity is not booked, the same should automatically be usable by incumbent authorized entity.

6. Regulation 5 Capacity Booking

Comments:

- We would like to humbly submit that as per our assessment, not only does the proposed stipulations require a better clarity to ensure no conflicting timelines, but also it is to be noted that the capacity booking process as currently envisaged has very restrictive timelines, which are not possible to implement and deliver by the authorized entity. It is proposed that the following may also be included as a matter of discussion and recommendation by the Focused group:
 - Process and timelines and period of capacity determination, declaration & booking

- Stabilization period for existing and new customers and with reference to contract duration
- Webhosting of technical details and network parameters
- Disclosure of confidential information of registered entities, capacity booked and other important parameters

7. Regulation 6 Expansion of availability of gas in GA

Comments:

- 6(1) – The concept of infrastructure exclusivity for the authorized entity is deeply embedded in the very spirit, fabric, essence and framework of the PNGRB Act. The terms and conditions regarding authorization and exclusivity, including the technical conditions of reaching charge areas, adequate size and extent (of network) to meet customer demand etc. have been provided in the inherent regulations itself and hence any related terms and provisions etc., would necessarily need to be addressed by due amendments in the aforesaid regulations.
- 6(1) – It is absolutely imperative that the proposed provisions for open access regime do not, in any way whatsoever, infringe upon the assurance of infrastructure exclusivity provided to authorized entities. These entities have invested and committed to material infrastructure creation and development and arranged financing from internal / external parties, based on the aforesaid assurance.
- 6(2) – Notwithstanding the above, the proposal to allow new entity to service through cascade, truck or any other mode will open a pandora box of alternate modes and services, bypassing the huge investment and extensive network established by gas pipelines, CGD authorized entities and it can lead to disastrous implications for all entities who invested heavily in creating such infrastructure. The new entity should create the network for the area in the GA where it is planning to offer gas supplies and also should necessarily have interconnection with CGD network of entity to enable gas supplies and also that its full capacity should be considered on common carrier basis.
- 6(4) – The clarification should also cover supplies through cascade, trucks, RLNG tankers etc. to ensure no bypassing of the extensive network of pipelines and CGD networks. The same may be allowed only if the customer is having requirement of >50K scmd.

8. Regulation 7 Provision of Access to third party CNG/L-CNG stations

Comments:

- As submitted earlier, the network exclusivity (infrastructure creation, development, operations and services) by the authorized entity is unequivocally provided and established by the regulatory framework under PNGRB Act. Therefore, there should be no doubt whatsoever that along

these same lines, all infrastructure in a CNG station or an L-CNG station including compressor, high pressure pump, dispenser and allied equipment, facilities etc. would automatically qualify as being covered under infrastructure exclusivity, created and managed by the authorized entity.

- Notwithstanding the above, it would be necessary to establish Standard Operating Procedures (SOP's) to very clearly establish and articulate the service standards, rights and responsibilities of authorized entities and shippers. This is required to ensure that any and all disputes arising due to ambiguities related to 'unable to meet the requirements of third party' are completely avoided.
- Further, while there is strict condition for the authorized entity to establish additional compressor in 180 days, such reciprocity condition should also be applicable on the shipper, to ensure meeting the desired customer demand and service.

9. Regulation 8 Obligations of shipper and authorized entity

Comments:

- 8(4) – the proposed provision stipulates that the authorized entity shall be supplier of last resort for the domestic customers in case of default by any shipper. However, unless the customer is registered with the CGD entity, the gas supplies may not be possible to resume immediately. Also, the aspects of gas quantity reconciliation and recovery from the defaulting shipper would also need to be addressed in the access arrangement. Further, to provide deterrent to such shippers, there should be provisions for the defaulting shippers in terms of penalties to be levied and/or blacklisting from taking up gas marketing in the GA for a specified period.
- 8(9) – As submitted, the infrastructure creation, development, operations & services need to be continued to be with the authorized entity only. Thus, meter reading service for all customers must also continue to be the responsibility of the authorized entity. The CGD entity would charge the shipper/s for the meter reading services and any other services that may be required for shipper and/or its customer.

10. Regulation 11 Nomination, scheduling, metering, allocation & billing

Comments:

- 11(3) – It is submitted that if the metering error limits & accuracy are laid down subsequently by Board, the same shall lead to substantial changes and incurrance of costs for CGD entity. Hence, it should be allowed to be mutually agreed between the parties.

11. Regulation 12 Gas accounting and reconciliation

Comments:

- 12(1) – Reconciliation of the actual and assumed quantities for D-PNG and small commercial / industrial customers is an issue which needs to be deliberated by the Focused group to due to the complexities involved.

12. Regulation 13 Charges

Comments:

- 13(1) – Proposed provision is “The shipper shall pay to the authorized entity the following charges for using its CGD network or compression facility, namely”.
- For bringing clarity, the suggested provision is “The shipper shall pay to the authorized entity the following charges for using its CGD network and / or compression facility (as applicable), namely”.
- The charges list should also include charges for meter reading as proposed in regulation 8(9) and the hourly rate deviation charges as proposed in regulation 17 and penal charges if any.

13. Regulation 16 System Imbalance charges

Comments:

- 16(8) – It is suggested that instead of escrow account to be maintained by PNGRB and amount to be credited by CGD entities, and then seeking withdrawal which would be netted off from the credits in the subsequent period, the CGD entities may be allowed to account the receipts for such charges separately and the same may be allowed to be utilized for natural gas adoption campaign, safety and environmental training for employees, customers, contractors, carrying out assignments that aid in increasing efficiency, reduce wastage, adoption of improved technologies and such other developmental activities.

Comments on Schedule I – Access Arrangement

14. Clause 3 Shippers registration

Comments:

- The regulations should provide eligibility criteria for the registration to ensure that only the credible entities carry out the gas marketing activity.

15. Clause 4 obligations of shipper and authorized entity

Comments:

- Please refer comments at Sr.no. 9.

16. Clause 8 System integrity, discipline and grid management.

Comments:

- The nomination should be done on D-1 day for the quantities required on D day (or the subsequent days if it is for more than 1 day nomination). The intra-day nomination may be allowed to be submitted on the D day, which may be accepted on reasonable endeavor basis by authorized entity.
- It is suggested to include timelines for intra-day nomination submission for the sake of clarity and standardization in SOP.

17. Clause 10 Authorised entity's shortfall charges

Comments:

- Since the authorized entity is providing the transportation and / or compression services to the shipper, the shortfall charges should only be a small percentage of the applicable charges for the services rendered and should not be an absolute number. The same can be included in the deliberations by Focused group.

18. Clause 11 Invoicing and payment

Comments:

- The invoicing by authorized entity should be made standard (fortnightly) and the invoice should be raised within 2 working days.
- The shipper should make payment in 4 working days after sharing of invoice by authorized entity.