



Gujarat State Petronet Ltd.

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GSPL/COMM/2023
03rd November, 2023

Secretary,
Petroleum and Natural Gas Regulatory Board (PNGRB)
1st Floor, World Trade Centre
Babar Road
New Delhi- 110001

Sub: Public Notices issued by PNGRB regarding:

- (a) **Application for laying, building and operating a dedicated pipeline for natural gas from ONGC's Gamnewala GCS Jaisalmer, Rajasthan to M/s Exxaro Ceramic Limited, Jaisalmer, Rajasthan under Regulation 19(2) of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008", and**
- (b) **Application for laying, building and operating a dedicated pipeline for natural gas from ONGC's Gamnewala GCS Jaisalmer, Rajasthan to M/s Sten Glass and Ceramics Pvt. Ltd., Jaisalmer, Rajasthan under Regulation 19(2) of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008**

Ref.: PNGRB/Auth/2-NGPL(03)/2023 (P-4316) and PNGRB/Auth/2-NGPL(04)/2023 (P-4317) dated 06.10.2023

Respected Madam,

With reference to above, please find attached herewith GSPL's views at **Annexure-I** for your kind perusal.

Additionally, we would like to participate in the Open House Discussion to be convened by the Board on the aforesaid Public Notice.

Thanking You,

Yours Sincerely

Rupesh Shah
AGM (Commercial)

Annexure-I

GSPL's views on the Public Notices dated 06.10.2023 issued by PNGRB regarding:

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1. At the outset, GSPL submits that the statutory framework established under the PNGRB Act read with the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 ("NGPL Authorizing Regulations") does not allow for or recognize customers laying dedicated pipelines to their respective facilities. In this regard, we also refer to earlier comments submitted to the Hon'ble Board regarding proposals for so-called "dedicated pipeline", on 09.11.2017, 27.04.2018, 29.07.2020, 21.12.2020, and 24.06.2021 which are enclosed as **Annexure-II(Colly)**, and are incorporated by reference.
2. This submission is without prejudice to the writ petition presently pending before the Hon'ble Delhi High Court, *Gujarat State Petronet Limited v PNGRB & Anr.*, WP(C) 5428/2021, which *inter alia* challenges the validity of Regulation 19 of the NGPL Authorizing Regulations.
3. PNGRB may consider permitting development of dedicated pipeline infrastructure **only when there is no authorised entity (natural gas pipeline or CGD network) in proximity, or no common carrier pipeline entity submits interest in developing required infrastructure.** Otherwise, all customers located closer to a source of natural gas would want to develop their own dedicated, captive pipelines, and common carrier transporter's customers would be limited to those located at a considerable distance from the source. This would **defeat the underlying principle of development of common carrier pipelines, and also defeat the policy to develop a viable national gas grid.**
4. Further, allowing dedicated pipelines to be developed by customers themselves will result into shifting of volumes from common carrier to dedicated pipeline infrastructure, thereby decreasing the utilization of common carrier pipelines and leading to higher unified tariff for customers on the national gas grid. A common carrier pipeline connected with multiple sources, including domestic gas sources, is always more reliable than a dedicated pipeline connected to a single source.
5. Under **Regulation 2(f)** of the Authorizing Regulations, a **dedicated pipeline** is **excluded** and makes it clear that it is a **pipeline laid to a specific customer and not by a specific consumer.**
6. Also, **Para 2.1** of MoPNG's Policy for Development of Natural Gas Pipelines and City or Natural Gas Distribution Networks refers to dedicated pipelines as those **laid to supply gas**

to **specific consumers** and further envisages them to originate from regulated pipelines and **not from gas source and neither by a specific customer.**

7. Development of dedicated pipeline by individual customers would result in the creation of a parallel pipeline network and would **jeopardize the development of a nationwide gas grid.**
8. Under **Regulation 19** of the PNGRB Authorizing Regulations, dedicated pipelines can be **converted into Common Carrier**, thus leading to a case where in future these customers may convert such networks in to common carrier, by **bypassing the competitive bidding** route and jeopardizing the viability of common carrier networks developed by authorized entities for serving the public at large.
 - It is clear that such proposals are based on only commercial interests of customers and are detrimental not only to the development of trunk transmission infrastructure but also to the gas market on the whole as it has a domino effect across the chain.
9. The drawback of allowing laying of dedicated pipelines connected to source by customers in spite of availability of common carrier nearby, is **higher tariffs** for markets located **further away from the source** which would ultimately **adversely affect other downstream customers** on the common carrier's network, like State owned Power Plants / IPPs, CGD companies, fertilizers companies and small industrial customers.
10. Under **s.11(a) PNGRB Act**, the function of the Board is to **protect the interest of consumers by fostering fair trade and competition among entities.** However, the provisions related to dedicated pipelines in Regulation 19 do not promote competition and fair trade in any manner. It has to be also considered that an end consumer seeking to lay a pipeline from a source to its premises: (i) cannot be considered as an entity as it does not intend to nor does it undertake the transportation of natural gas as a business or for making available the infrastructure to others, and (ii) such a pipeline is not a "dedicated" pipeline laid to a consumer but instead is a "captive" pipeline laid by a consumer only for its own purposes, which is not permissible under the PNGRB Act.
11. In conclusion, GSPL would like to request the Board to reconsider any dedicated pipeline proposals to be laid directly by the customers. If PNGRB permits customers to lay dedicated pipelines for themselves, the same would result in unfair trade practices interfering with the rights of the entity authorised to lay the common carrier infrastructure, since it makes common carrier networks, **redundant and underutilized.**



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Ref: Public Notice (No. Infra/NGPL/122/Opal/POPL/17) dated 18th October 2017 of Application for "OPaL's dedicated natural gas pipeline from Petronet LNG Terminal, Dahej to OPaL Dahej Petrochemical Complex under Regulation 19(2)"

Dear Madam,

At the outset, it is submitted that any proposal submitted to develop any dedicated natural gas pipeline or any pipeline authorized by the Board as dedicated pipeline is ultra vires to PNGRB Act since PNGRB Act, 2006 does not envisage the development of any new dedicated pipeline in the country.

PROPOSALS FOR DEVELOPMENT OF DEDICATED PIPELINES BY CONSUMERS ARE ULTRA VIRES PNGRB ACT

PNGRB Act is passed by an act of parliament to regulate the development of natural gas pipelines in the country. PNGRB Act recognizes the natural gas pipelines as either common carrier or contract carrier pipelines. Though, the reference regarding pipeline to specific consumer i.e. dedicated pipeline, is made in definition of common carrier pipeline, however the context is only about the pipelines which were already built and not about the development of any new dedicated pipeline. The definition of Common carrier as per the PNGRB Act is as below:

"Sec. 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 authorize from

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GSPL/COMM/2017
9th November 2017

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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
- (ii) Crude oil.....”

Subsequently, Sec. 16, Sec. 17 and Sec. 19 of the PNGRB Act, provides a framework wherein the emphasis on lay, built, operate or expand a common and contract carrier and no entity can lay, build, operate or expand any common or contract carrier without authorization from the Board, however nowhere authorization or permission for dedicated pipeline is written about.

Further, Sec. 20(3) of the PNGRB Act again strengthens the argument by allowing Board to declare a pipeline as common or contract carrier, however power regarding declaring a pipeline or authorizing a pipeline as a ‘Dedicated pipeline’ is not written in the Act.

Under the PNGRB Act framework, the Section mentioning the “Functions of the Board” allows the Board to authorize entities to lay common or contract carrier. Relevant portion of Sec. 11 of the PNGRB Act is reproduced below:

“Sec. 11 (c): authorize entities to –

- (i) Lay, build, operate or expand a common carrier or contract carrier
- (ii) Lay, build, operate or expand city or local natural gas distribution network”

Without prejudice to the various objections stated above, we would also like to submit for the kind consideration of this Hon’ble Board the fact that the Hon’ble High Court of Delhi has in the case of GAIL (India) Limited v. PNGRB &Ors (Judgement dated 11.09.2014 in WP(C) 3698/2013) that struck down the Model GTA Guidelines formulated by this Hon’ble Board, is not limited in scope to only the Model GTA Guidelines and has also held that “there is an inherent difference between the executive functions of the PNGRB and the legislative function of the PNGRB in framing Regulations.”

It was held that PNGRB Act specifically vests the power to notify Regulations that have to be laid before each House of Parliament, while it is in session for a period of thirty (30) days, and once the governing statute vests a specific manner of exercising of a function (i.e. through regulations), the said function cannot be performed otherwise than by regulations. Thus, after this judgement of the Delhi High Court, the PNGRB (Protection of Consumer Interest in respect of Dedicated Pipelines for Natural Gas) Guidelines 2010 cannot be considered valid and also cannot be taken into consideration while considering the said Proposal.

In the entire provision of the Act as mentioned above, nowhere in the Act it empowers PNGRB to allow / authorize by regulation / guideline to lay a dedicated natural gas pipeline. Aforesaid provisos of Act only empower PNGRB to authorize to lay a common and contract carrier.

In view of the above, PNGRB is requested not to entertain any such request of developing dedicated natural gas pipeline infrastructure and also requested to review the existing Reg. 19 of PNGRB Authorization Regulation and Guidelines (Protection of consumer in respect of dedicated pipelines), since the same is ultra vires to the provisos of the PNGRB Act, 2006.

Without prejudice to the specific objections raised above, GSPL would like to highlight the following issues with regards to the said proposal of OPaL:

1. DEVELOPMENT OF INFRASTRUCTURE WITHIN SEZ IS GOVERNED BY SPECIFIC FRAMEWORK OF SEZ ACT, 2005

The proposed dedicated pipeline proposal submitted by M/s OPaL shall take off from Petronet LNG Terminal at Dahej and shall connect the OPaL plant at a distance of 17 Kms. The major portion of the pipeline route shall pass through GIDC corridor / SEZ and the development of infrastructure within SEZ is governed by the specific framework of SEZ Act, 2005. Therefore, GSPL's detailed submission against the proposed dedicated infrastructure within SEZ is as below:

- 1.1. At the onset, it is submitted that The Petroleum and Natural Gas Regulatory Board Act, 2006 ("**PNGRB Act**") does not have any applicability within a special economic zone ("**SEZ**"). The development of infrastructure for / within a SEZ, including gas transmission pipelines within the SEZ, are governed by the specific framework of the Special Economic Zones Act, 2005 ("**SEZ Act**") and PNGRB Act is not applicable within the SEZ. ONGC Petro additions Limited ("**OPaL**"), being located within a Special Economic Zone, i.e. SEZ-1 of the Dahej Industrial Area, cannot seek to itself establish infrastructure connecting the SEZ with the domestic area. The relevant utility infrastructure, including gas transmission pipelines, are provided to units located within the SEZ by the SEZ developer either itself or through other agencies/companies pursuant to an agreement in accordance with the governing framework of the SEZ Act. As has been admitted by OPaL in its application, GSPL has been given the exclusive right to develop and provide a natural gas pipeline infrastructure to units within the said SEZ as a co-developer.

The proposal submitted by OPaL to PNGRB is seeking to develop infrastructure within a SEZ, and the same is not within the jurisdiction of this Hon'ble Board as the development

of infrastructure within a SEZ is governed by the SEZ Act and the relevant SEZ Authority has jurisdiction over the same. The PNGRB Act is not applicable within the SEZ areas.

Under s.3 SEZ Act, the Developer of the SEZ is responsible for providing infrastructure services to units within the SEZ and, under s.9(2) SEZ Act it is the power and jurisdiction of the Board of Approval constituted under the SEZ Act to approve or reject proposals for providing infrastructure facilities in a SEZ. A Co-Developer Agreement dated 27th July 2009 has been signed between Dahej SEZ Limited (the "developer" of the Dahej SEZ), and GSPL, whereunder GSPL has been appointed as the "co-developer" and has been granted the sole and exclusive right with respect to development, operation and maintenance of gas transmission pipeline infrastructure and distribution of gas in the Dahej SEZ for a period of 25 years from the date GSPL is approved as "co-developer" of Dahej SEZ by SEZ Board of Approval, Government of India. In the 36th Meeting of the SEZ Board of Approval, Government of India, dated 5th November 2009, GSPL was approved as a co-developer for the Dahej SEZ. GSPL is, therefore, the exclusive co-developer for developing gas pipeline infrastructure in Dahej SEZ till 2034, and is required to stay invested as such till 2034. The present proposal is thus an attempt to bypass the statutory framework established under the SEZ Act, and is void and cannot be considered by the Hon'ble Board.

Under s. 47 of the SEZ Act, any authority which has been conferred upon any power or is required to discharge any function under any Central or State Act may exercise such powers or discharge such functions in any SEZ under that Act only subject to the provisions of the SEZ Act (emphasis added). Thus, the powers of the PNGRB within the Dahej SEZ are subject to the provisions of the SEZ Act and it is humbly suggested that PNGRB cannot consider any entity other than a developer or co-developer, approved by the Government of India, to establish any gas pipeline infrastructure within a SEZ.

Under s. 51 of the SEZ Act, the provisions of the SEZ Act have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the SEZ Act. Thus, the provisions of the PNGRB Act will be subordinate to the provisions of the SEZ Act, 2005 in relation to SEZs.

OPaL is admittedly a unit established within the SEZ at Dahej and hence is outside the jurisdiction of this Hon'ble Board. The above referenced Public Notice has been erroneously issued and should in fact be withdrawn by the Hon'ble Board. **We believe**

that the Hon'ble Board cannot validly entertain the application by OPaL for its unit located within the SEZ at Dahej and the same must therefore be rejected.

1.2. Furthermore, the Dahej SEZ is also governed by the provisions of the Gujarat Special Economic Zones Act, 2004 ("**Gujarat SEZ Act**"). S.14 of the Gujarat SEZ Act identifies gas distribution network as one of the infrastructure facilities and amenities that is the responsibility of the Developer of the SEZ to develop and provide within the SEZ. S.16(5) of the Gujarat SEZ Act stipulates that "*The Developer or his agent may set up gas distribution system in the Zone*". As has been stated above, GSPL has been appointed as the co-developer for development, operation and maintenance of gas transmission pipeline infrastructure and distribution of gas in the Dahej SEZ. The PNGRB Act is not applicable to areas within the SEZ. OPaL admittedly being a unit established within the SEZ cannot undertake the development of a gas transmission pipeline from an area outside the SEZ to its unit within the SEZ. It is therefore abundantly clear that the present proposal by OPaL is ultra vires and invalid and cannot be considered by the Hon'ble Board.

1.3. Without prejudice to the above objections, we would also like to submit for the kind consideration of the Hon'ble Board that even assuming but not conceding that the PNGRB Regulations could be made applicable to the application submitted by OPaL, it is submitted that the proposal submitted by OPaL is also *ultra vires* the framework for dedicated natural gas pipelines as provided under PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 ("**PNGRB NGP Authorizing Regulations**") and the said proposal cannot be validly considered for implementation by the Hon'ble Board if it is erroneously considered to be applicable. In this regard, it is submitted more specifically as follows:

2. CONCERNS WITH OPAL'S PROPOSAL IN VIEW OF OPAL BEING AN EXISTING CUSTOMER OF A COMMON CARRIER NETWORK AND NOT AN ENTITY

2.1. The applicant, namely ONGC Petro additions Limited, is not an "entity" but in fact owns a petrochemical complex. Thus, under applicable law the applicant is a company that owns a petrochemical complex and is a consumer of natural gas and not an entity that is engaged in or intends to engage in the business of transportation of natural gas through pipelines. The Feasibility Report submitted by OPaL to the Hon'ble Board itself specifies that OPaL has established a captive power plant (CPP) for supporting power and steam requirement for its petrochemical complex in the Special Economic Zone at Dahej, Dist. Bharuch, Gujarat and that it needs to secure supply of RLNG for its own consumption.

- 2.2. Since the Applicant is a “petrochemical complex”, it cannot be considered as an “entity” under the PNGRB Act, 2006. This is because the term “entity” as defined in S. 2(p) of PNGRB Act, 2006 is specifically limited to mean a company that is **engaged in or intending to be engaged in** “*refining, processing, storage, transportation, distribution, marketing, import and export of petroleum, petroleum products and natural gas including laying of pipelines for transportation of natural gas or laying building, operating or expanding a city or local natural gas distribution network or establishing or operating a liquefied natural gas terminal.*” It is clear from the definition of “entity” under the PNGRB Act, 2006 that the same company cannot lawfully claim to be both.
- 2.3. This is made clear by the various submissions of OPaL itself wherein it has specifically stated that it intends to lay the pipeline for securing supply of RLNG for its own purposes. It is therefore a consumer of natural gas and cannot be the entity applying to lay a dedicated natural gas pipeline.
- 2.4. The provision of Regulation 19(2) of the PNGRB NGP Authorizing Regulations, is clearly limited to and only enables and contemplates an “entity” to lay build operate or expand a dedicated pipeline to transport natural gas to a specific customer.
- 2.5. The applicant in the present proposal under consideration is admittedly a customer of GSPL.
- 2.6. Since the applicant OPaL does not meet the basic requirement of being an “entity” under the PNGRB Act, 2006, the proposal submitted by OPaL not only fails to meet all the requirements of a valid proposal but is also ultra vires the PNGRB NGP Authorizing Regulations and hence cannot be considered.
- 2.7. **Furthermore, it should be duly considered that the said proposal is for an interconnection of a consumer (i.e. OPaL) with a gas source (Petronet LNG Terminal), which cannot be undertaken unilaterally by a customer of an existing common carrier network.**
- 2.8. Without prejudice to the preliminary objections and submissions above, even assuming but not conceding that the said application by OPaL can be considered to be a valid proposal within the framework of the PNGRB NGP Authorizing Regulations, it is our submission that the said proposal submitted by OPaL cannot be granted approval for the following reasons:

3. CONCERNS WITH OPaL'S REASON FOR DEVELOPMENT OF DEDICATED PIPELINE – DEFEATS THE PURPOSE OF DEVELOPMENT OF COMMON CARRIER INFRASTRUCTURE

3.1. The Feasibility Report submitted by OPaL, as a part of its application under Regulation 19(2) to the PNGRB, states that the need and basis for the proposed dedicated pipeline is:

"...The plant output will adversely affect in the absence of adequate RLNG supply which will have an adverse effect on the operating margins and consequently on financial performance.

*Installing a dedicated Pipeline from PLL header till OPaL will **eliminate recurring expenses** payable towards Gas transmission Services. It will also ensure uninterrupted RLNG supply."*

3.1.1. The root cause of customers proposing to develop such dedicated pipelines is that customers closer to source are trying to eliminate recurring expenses of tariff determined and approved by the PNGRB as per the provision of its Tariff Regulations and not due to capacity constraints. In fact, such customers perceive developing own dedicated pipeline from a nearby source as economically lucrative than paying recurring tariff charges which are same for them vis-à-vis a customer located at 300 kms from the source.

In view of the same, the Board is requested to solve the problem of tariff regulation through suitable amendment in tariff regulations, i.e. to solve this anomaly instead of allowing such proposals which shall defeat the primary objective of Board to develop nation-wide common carrier/ contract carrier pipelines. The following options may be considered in this regard:

3.1.1.1. Instead of zonalization of tariff over zones of 300 kms, tariff based on per km contractual path may be determined.

3.1.1.2. Revenue of the entity at 12% post tax return on capital employed may be capped by the regulator and the Transporter may be allowed to determine tariff for its customers.

4. PROPOSAL VIOLATES REGULATORY INTENT OF REG. 19 OF PNGRB AUTHORIZATION REGULATION

4.1. Further, it is submitted that such submission by OPaL clearly violates the Regulatory intent of Reg. 19 2 (b) and (c) of PNGRB Authorization Regulation. The specific Regulatory provision is stated below:

“(b) Board may web-host details of the proposed dedicated pipeline seeking comments of general public with a view to ascertain whether, instead of a dedicated pipeline, the public interest would be better served if a natural gas pipeline is laid, built, operated or expanded;

“(c) in case, based on the examination of the comments received, the Board is of the view that instead of a dedicated pipeline natural gas pipeline would better serve the public purpose it may advise the entity appropriately within thirty days of the receipt of the information from the entity; “

On the contrary, to benefit a single customer it shall cause:

- Increase in sharing the infrastructure cost among the remaining customers by increasing the tariff and shall not be in national interest.
- Public inconvenience in laying unnecessary pipeline infrastructure.
- Safety concern due to several pipelines in same corridor and may cause impediment at time of disaster management.

4.2. It may also be noted that pipeline development is a utility function which works on a common principle of sharing infrastructure. The said proposal of OPaL defeats the very intent of the same.

It may be noted that such instances of developing a dedicated infrastructure is not common in other infrastructure sectors.

PNGRB is requested to review its Regulations related to dedicated pipelines in order to ensure that any customer already connected to a common carrier pipeline, having sufficient capacity to cater the customer's requirement, should not be allowed to develop any dedicated infrastructure. Only in cases where the pipeline infrastructure is not available or pipeline entity denies to develop the required infrastructure then only the Regulatory provisions get activated otherwise allowing duplicate infrastructure shall only result in infructuous investment and shall be against the national interest.

- 4.3. OPaL is already connected to the GSPL’s pipeline network, and is clearly only seeking to avoid/ eliminate recurring expenses for gas transmission through the GSPL pipeline network. This is not a recognized or valid reason for laying dedicated pipeline under the framework of the PNGRB Act, and the PNGRB NGP Authorizing Regulations. A customer is not permitted to lay a dedicated pipeline from the gas source to itself only to avoid payment of tariff for pipeline transmission. Notwithstanding anything stated above, it may be noted that the existence of a dedicated pipeline from Petronet LNG Terminal will not in itself assure uninterrupted RLNG supply.

The reason provided by OPaL, violates the specific mandate to PNGRB under section 20(5) of the PNGRB Act wherein it has been mandated that the Board shall be guided by objectives of, *inter alia*, avoiding infructuous investments and if OPaL is permitted to lay a dedicated pipeline in this case it will result in infructuous investment as OPaL is already connected to the authorized pipeline network of GSPL.

5. PROPOSAL FROM OPaL INSPITE OF GSPL OFFERING LONG TERM CAPACITY

- 5.1. GSPL further submits that initially GSPL offered a five - year long term capacity tranche (CT) to OPaL in August 2017, but based on OPaL’s request, GSPL offered a new CT for two years. However, OPaL is now delaying signing long term CTs and has instead sought the permission of this Hon’ble Board to lay its own pipeline to a source of a RLNG (i.e. PLL’s Petronet LNG Terminal).

6. PROPSOSAL DOES NOT FALL UNDER DEDICTED PIPELINE PROVISION

- 6.1. A consumer is not entitled to lay its own pipeline directly to the source of natural gas when it is already connected with a common carrier natural gas pipeline network.
- 6.2. Under the definition of “natural gas pipeline” given in Regulation 2(f) of the PNGRB NGP Authorizing Regulations dedicated pipeline “*laid to transport gas to a specific customer to meet his requirement and not for resale*” has been excluded from the definition of “natural gas pipeline”. This makes it clear that only when a pipeline is laid to a *specific consumer*, and not by a *specific consumer* that it would be considered as “dedicated pipeline” and would not need to follow the procedure for natural gas pipeline after the appointed date, as prescribed under the PNGRB Act read with the PNGRB NGP Authorizing Regulations. This is necessary in order

to protect the integrity of authorizations granted by the Hon'ble Board for laying of natural gas pipelines and also in light of the specific provisions of s.16 PNGRB Act that prohibit the laying, operation and maintenance of natural gas pipelines after the appointed date, except with the prior authorization of the Hon'ble Board.

7. PNGRB IN ITS ORDER REJECTED THE PROPOSAL OF LAYING DEDICTED PIPELINE PARALLEL TO EXITING COMMON OR CONTRACT CARRIER

7.1. We strongly believe that laying of a parallel pipeline infrastructure not only renders the existing infrastructure and investment therein infructuous, but is also a waste of national resources. The same was also held by this Hon'ble Board in its order dated 15.06.2010 in the matter *M/s Shyam industries & Others Vs GAIL* (PNGRB Judgement dated 25th May 2011) wherein relating to an issue of a customer wanting to develop an alternate to an existing dedicated pipeline, the Hon'ble Tribunal (on page 53 of the Judgement) held "*....Since this infrastructure has already been created by GAIL, to suggest that the consumer can resort to alternate suppliers without using the infrastructure already created would require the consumer to duplicate the infrastructure the cost of which he has paid many times over which is not only cost additive, but also an infructuous investment that is neither in the interest of the consumers nor in the national interest.*"

8. JEOPARDIZING DEVELOPMENT OF A NATIONWIDE GAS GRID

8.1. Development of parallel pipelines just to provide direct connectivity to customers to sources would jeopardize development of common carrier infrastructure for customers that are located further downstream from the source. Such actions would result in imposition of disproportionate and higher costs on downstream customers who are away from the source.

8.2. If OPaL's Proposal is considered then all customers that are located in proximity to a source of natural gas would want to develop their own pipeline to connect to source / third party pipeline and this would result in a common carrier transporter having to connect only such customers that are located at a considerable distance, thereby defeating the underlying principle of development of common carrier pipelines and would jeopardize development of common infrastructure for far-

reaching areas (away from the source). In such circumstances, the only way a transmission company can *then* sustain its common carrier network business model, is by charging higher tariffs for markets located further away from the source, which would ultimately adversely affect other customers on the Transporter's network, like State owned Power Plants / IPPs, CGD companies, fertilizers companies and industrial customers.

- 8.3. The Hon'ble Board will also have to duly consider that GSPL has developed and is maintaining its existing pipeline network, which is duly authorized in accordance with framework of PNGRB Act and applicable law. The proposal from OPaL is effectively duplicating the existing pipeline connectivity without any justification for an actual requirement for the same other than to render the GSPL pipeline infructuous and to avoid/ eliminate recurring expenses for gas transmission.
- 8.4. We would humbly submit for the kind consideration of the Hon'ble Board that the Government of India, vide notification dated 20.12.2006 has issued a Policy for Development of Natural Gas Pipelines and City or Local Natural Gas Distribution Networks ("said Policy"). One of the objectives of the said Policy is to enable the development of a nation-wide natural gas pipeline grid and an efficient industry structure. The said Policy (vide Para 2.1) also clearly states that it is applicable to "dedicated pipelines laid to supply gas to specific consumers". This further emphasizes that a dedicated pipeline can only be one laid by a pipeline company to a consumer and not one by a consumer itself. In Para 2.2 the said Policy stipulates that one of the objectives of the Hon'ble Board shall be to select entities to lay pipelines in a transparent and objective manner with a view to facilitating investments in the sector and protecting the interests of the consumers. It is humbly submitted that the present proposal submitted by OPaL is detrimental to investments in the pipeline sector and does not in any manner protect the interests of consumers. It is submitted that the said Policy requires the Hon'ble Board to take into account an industry wide view and "interests of consumers" and not only one particular consumer.
- 8.5. It is further submitted for due consideration of this Hon'ble Board that, if individual consumers are allowed to lay so called "dedicated pipelines" themselves, it would make development of a nationwide gas grid unviable and result in also making sections of already laid pipelines redundant and under-utilized. It is submitted that the Hon'ble Board may duly consider and be guided by the said Policy issued by the Government of India while considering the proposal submitted by OPaL.

- 8.6. As quoted by OPaL in its DFR that the installation of dedicated pipeline is being explored to ensure uninterrupted plant operations and reliability of transmission of natural gas. It is submitted that a common carrier pipeline connected with multiple sources including domestic gas sources is always more reliable than a dedicated pipeline connected to a single source.
- 8.7. Allowing dedicated pipelines shall result into shifting of volumes from common carrier to dedicated pipelines thereby decreasing the utilization of common carrier pipelines. Since, the return for common carrier is determined considering 75% of capacity, any diversion of volumes shall not reflect into the divisor and therefore reducing the return due to reduction in volumes and as a result transporter shall be penalized.

9. **GSPL IS DEVELOPING TIE-IN CONNECTIVITY FROM PLL LNG TERMINAL EXPANSION FACILITY TO MEET INCREASING DEMAND OF RLNG FROM ITS CUSTOMERS**

- 6.1 GSPL vide its letters dated 25th September, 2017 to PNGRB has requested to allow GSPL to lay an tie in connectivity pipeline, so as to off-take RLNG volumes from PLL Dahej Expansion Facility to meet increasing demand of RLNG from its existing & new customers.. This has become more necessary in view of expansion of terminal capacity by PLL from 10 MMTPA to 15 MMTPA in 2016-17 and a further planned expansion of up to 20 MMTPA by the year 2020. In response, PNGRB has already webhosted a Public Notice dated 27th October 2017 seeking comments on GSPL's proposal; therefore the said proposal is under consideration of the Board.
- 6.2 On completion of said Tie-in connectivity, GSPL would be able to cater to the increasing RLNG demand for other Power, Fertiliser, CGD and Industrial segment customers connected to GSPL's Gujarat Gas Grid. Further, for the said Tie-in Connectivity, GSPL has already completed Detailed Engineering Survey (DES) and finalized the RFP document. It may also be noted that GSPL would not be requiring any separate RoU for laying its additional proposed Tie-in Connectivity as the same can be laid within the existing RoU of GSPL.

10. **REQUEST TO PNGRB**

We would therefore submit to the Hon'ble Board, that the proposal submitted by OPaL for a dedicated pipeline from Petronet LNG Limited till its own premises within SEZ at Dahej cannot be considered as a valid proposal in light of the framework of the SEZ Act read with

the Gujarat SEZ Act read with the existing regulatory framework of PNGRB Act read with the PNGRB NGP Authorization Regulations. The said proposal in respect of which the above referenced Public Notice has been issued should be rejected.

This communication is without prejudice to our rights and cannot in any manner be taken as a waiver of any of our rights or be interpreted in any manner prejudicial to our rights.

Yours sincerely,



Ravindra Agarwal

(Group ED-Gas Business)

S.No. 4008



Gujarat State Petronet Ltd.

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GSPL/COMM/2018
27th April, 2018

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

V
2/S
AA(AH) 16-1747
21/5/18
AA(AH)
DDC/AA

Sub: Extension of time period for submission of View / Comments on the TPL proposal for dedicated pipeline from Petronet LNG Re-gasification Terminal, Dahej to Sugen Mega Power Plant, Surat, Gujarat

Ref.:

- PNGRB Public Notice dated 13.04.2018

Respected Madam,


With reference to aforesaid public notice dated 13.03.2018, PNGRB is requested to provide additional time period of **one (1) week** to GSPL for submission of view / comments on the TPL proposal for dedicated pipeline from Petronet LNG Re-gasification Terminal, Dahej to Sugen Mega Power Plant, Surat, Gujarat.

Also, it is requested to provide / upload the route map provided by the TPL along with its said proposal for dedicated pipeline for submission of our comments.

Submitted for your kind consideration please.

With Best regards,

Yours sincerely,


Ravindra Agrawal
Group ED (Gas Business)



S.No-4011

Gujarat State Petronet Ltd.

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

GSPL/COMM/2018
1 May 2018

Ref: Public Notice dated 13.04.2018 of Application of M/s Torrent Power u/Rule 19(2) for Dedicated Pipeline from Petronet LNG Regassification Terminal, Dahej, Gujarat to SUGEN Mega Power Plant, Surat, Gujarat.

Respected Madam,

At the onset we would like to submit for the kind consideration of the Hon'ble Board that the proposal submitted by Torrent Power Limited is ultra vires the framework for dedicated natural gas pipelines as provided under the PNGRB Act read with PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 ("PNGRB NGP Authorizing Regulations") and the said proposal cannot be considered for implementation by the Hon'ble Board under applicable law. In this regard it is submitted more specifically as follows:

1. **Proposed dedicated pipeline invalidates PNGRB Letter of Acceptance issued for dedicated pipeline to DGEN Power Plant**

- 1.1 One of the starting points of the proposed dedicated pipeline indicated in the proposal under Clause 4 of Annexure-A of the proposal is DGEN.
- 1.2 It be noted that DGEN is not a natural gas source but it is a Power Plant operated by TPL which has dedicated pipeline connectivity with PLL Dahej.
- 1.3 Accordingly, natural gas from Starting Point at DGEN is proposed to be made available to Sugem Mega Power Plant (SMPP) through existing PLL, Dahej -DGEN Dedicated pipeline operated by TPL
- 1.4 However, it may be noted that as per PNGRB Regulations, a dedicated pipeline can cater the requirement for a specific consumer i.e. dedicated pipeline shall not cater the natural gas requirement of more than one consumers.
- 1.5 So for supply of natural gas through proposed dedicated pipeline to SMPP by injection of gas at DGEN from PLL, Dahej-DGEN dedicated pipeline, it shall lose its characteristic of a dedicated pipeline and hence shall invalidate PNGRB letter of Acceptance issued for PLL, Dahej-DGEN dedicated pipeline
- 1.6 Accordingly, the proposed dedicated pipeline to SMPP should not be considered by the PNGRB.

2. **Regulation 19 (2)(b) requires development of dedicated pipeline to a specific consumer not having connectivity with pipeline**

- 2.1 The present proposal is for laying a dedicated pipeline from PLL, Dahej to SMPP which already has connectivity from PLL Dahej through GSPL's common or contract carrier natural gas pipeline by a dedicated pipeline laid by GSPL.

- 2.2 While Regulation 19(2)(b) of PNGRB Authorisation Regulation requires PNGRB to *webhost details of the proposed dedicated pipeline seeking comments of general public with a view to ascertain whether, instead of a dedicated pipeline, the public interest would be better served if a natural gas pipeline is laid, built, operated or expanded.*
- 2.3 The aforesaid proviso of PNGRB regulation requires PNGRB to ascertain for laying a dedicated pipeline viz-a-viz a natural gas pipeline to a consumer clearly indicates that such customer does not have gas pipeline connectivity either in form of dedicated pipeline or in form of natural gas pipeline for transportation natural gas.
- 2.4 However, the present proposal by a consumer of natural gas already having a pipeline connectivity from PLL Dahej to its SMPP indicates that the said proposal by TPL for dedicated pipeline is not a valid proposal u/r 19(2)(b) of PNGRB Authorisation Regulation.
3. **The Application is Ultra Vires Regulation 19(2) (a) PNGRB NGP Authorising Regulations. Torrent as a customer of natural gas transmission pipeline entities is seeking a captive pipeline which is not a concept permitted under the PNGRB Act or PNGRB NGP Regulations:**
- 3.1 Regulation 19(2) (a) requires PNGRB for considering the proposal from an entity to lay, build, operate or expand a dedicated pipeline to transport natural gas to a specific consumer...
- 3.2 However, the present proposal of dedicated pipeline u/r 19(2) to lay, build, operate or expand is from a consumer of natural gas to operate its Sugen Mega Power Plant (SMPP) and not from an entity under the Act.
- 3.3 Hence, the proposal of dedicated pipeline is not valid as per the provision of PNGRB Authorisation Regulations and can't be considered.
- 3.4 Under Regulation 19(2) PNGRB NGP Authorising Regulations, the proposal for dedicated pipelines has to be submitted by an entity to transport natural gas *"to a specific customer"*. The provision of Regulation 19(2) PNGRB NGP Authorising Regulations does not allow for and neither does it contemplate the specific customer itself submitting a proposal for laying a dedicated pipeline itself for its own purposes. This is further elaborated in the definition of "natural gas pipeline" in Regulation 2(1)(f) PNGRB NGP Authorising Regulations wherein it is specifically stated that the term "natural gas pipeline" excludes *"(i) dedicated pipeline laid to transport natural gas to a specific customer to meet his requirements and not for resale"* This makes it clear that a dedicate pipeline has to be laid to supply gas to a specific customer for its requirements and hence cannot be one laid by the customer itself. This becomes clear again in Regulation 3(b) PNGRB NGP Authorising Regulations which stipulates that *"These regulations shall apply to an entity -... (b) which proposes or is directed by the Board to convert a dedicated pipeline for supply of natural gas to a specific customer into a natural gas pipeline."* This makes it clear that the concept of a dedicated pipeline is clearly that of a pipeline laid by an entity as a dedicated pipeline for supply of natural gas to a specific customer and the Board has the discretion to direct the same to be treated and converted into a natural gas pipeline from a dedicated pipeline. If the Board allows a customer to itself lay its own dedicated pipeline, then it will be going against its own authority to require such dedicated pipelines to be declared as natural gas pipelines later on.
- 3.5 Regulation 19(1) PNGRB NGP Authorising Regulations makes this even more clear as it stipulates "In respect of dedicated pipelines existing before the appointed day, the following provisions shall apply, namely: (a) entity having dedicated pipeline to transport natural gas to a specific customer before the appointed day shall submit details of the pipeline length, route, capacity and customers served along with the DFR of the project to the Board..." This makes it clear that dedicated pipelines as a

concept are those developed by an entity undertaking business of natural gas pipeline transmission as dedicated pipeline for its customers.

- 3.6 Regulation 19(2) PNGRB NGP Authorising Regulations only reflects and carries on the concept elaborated in Regulation 19(1) PNGRB NGP Authorising Regulations as it stipulates: "(2) In respect of dedicated pipelines proposed to be laid, built, operated or expanded after the appointed day, following provisions shall apply, namely: (a) the entity proposing to lay, build, operate or expand a dedicated pipeline to transport natural gas to a specific customer after the appoint day shall submit details of the pipeline length, capacity and details of the customers served along with the DFR of the project..." This makes it clear that it is an entity already engaged in laying natural gas pipelines or providing natural gas transmission services that can submit a proposal for a dedicated natural gas pipeline for supplying transporting natural gas to a specific customer(s). It therefore cannot be a customer that submits a proposal for laying a pipeline for its own captive use. The concept of captive pipelines is not permissible under the PNGRB Act and the PNGRB NGP Regulations.
- 3.7 It should be noted that the term used across the PNGRB NGP Authorising Regulations is that of "dedicated pipeline" and not a "captive pipeline" or "customer's own pipeline" or "own pipeline". Allowing for an end customer to lay a pipeline for itself is not providing for dedicated pipeline but a captive or own pipeline, which is not a concept recognised either in the PNGRB Act or under the PNGRB NGP Authorising Regulations.
- 3.8 To allow a specific customer to itself lay a dedicated pipeline will negate the viability of authorised natural gas pipeline. The framework of the PNGRB Act read with the PNGRB NGP Authorising Regulations does not contemplate a customer itself laying, operating and maintaining natural gas pipelines. The concept of a "dedicated pipeline" is that of a pipeline laid by an entity authorised to otherwise lay natural gas pipeline laying a dedicated pipeline to transport natural gas to a specific customer to meet his requirement and not for resale. The dedicated natural gas pipeline need not have the natural gas pipeline tariff determined for the specific natural gas pipeline but can be a separate tariff determined between the natural gas pipeline entity and the relevant customer.
- 3.9 Torrent Power Limited is already a customer of the GSPL High Pressure Gujarat Natural Gas Pipeline Network and allowing for it to develop, operate and maintain a natural gas pipeline itself will be ultra vires the framework of the PNGRB Act and the PNGRB NGP Authorising Regulations. In fact, GSPL has already established a dedicated pipeline to the same power station of Torrent Power Limited (i.e. the 1530MW SUGEN Mega Power Plant) and Torrent Power Limited has already a long term Gas Transportation Agreement with GSPL and GSPL, vide its letter dated January 5, 2017, had already expressed its willingness to augment/expand the capacity of the existing dedicated pipeline to meet Torrent Power Limited's requirement if Torrent Power Limited was willing to book capacity under a long term GTA for such additional capacity. Notwithstanding anything stated above, it may also be kindly noted that GSPL pipeline to TPL SMPP has sufficient capacity to meet all the existing requirement of TPL SMPP and expansion if any.
- 3.10 It should also be further considered that an end user/customer of natural gas cannot fall within the scope of the definition of "entity" as defined in s. 2(p) PNGRB Act, 2006. Under s. 2(p) PNGRB Act in order to be an "entity" for the purposes of PNGRB Act, 2006 and regulations thereunder a company has to be "engaged or intending to be engaged in refining, processing, storage, transportation, distribution, marketing, import or export of petroleum, petroleum products and natural gas including laying of pipelines for transportation of petroleum, petroleum products and natural gas, or laying, building, operating or expanding city or local natural gas distribution network or establishing and operating a liquefied natural gas terminal."
- 3.11 This clearly indicates that the entity should either be already engaged or intending to engage, inter alia, in transportation including laying of pipelines for transportation of

natural gas. This does not contemplate an end user laying a pipeline for itself and its own purposes as that will not fall within the scope of a company engaged or intending to be engaged in transportation or laying of natural gas pipelines. Allowing customers to themselves lay pipelines for their own captive consumption is not the intent or scope of the term "entity" under the PNGRB Act, 2006.

- 3.12 In fact the PNGRB Act specifically uses the term "consumer" to refer to customers and end users and distinct term "entity" to refer to companies/persons undertaking laying of natural gas pipelines and providing natural gas transmission services.
 - 3.13 Continuing this distinction between "consumer" and "entity" from the PNGRB Act, the PNGRB NGP Authorising Regulations clearly identify dedicated pipelines to be laid to transport gas "to a specific customer". The two concepts cannot be used interchangeably and a specific customer cannot be considered to be an "entity" for undertaking captive transportation for itself.
 - 3.14 Without prejudice to the submissions above, it is further submitted that Torrent Power Limited is a "generating company" under s. 2(28) Electricity Act, 2003. S. 2(28) Electricity Act, 2003 states that a "generating company" means any company "*which owns or operates or maintain a generating station*". Thus, the business and purpose of Torrent Power Limited is to own, operate and maintain generating stations. The proposal submitted by Torrent Power Limited is in its capacity as a generating company as the application clearly states that it is seeking to build the pipeline to provide operational flexibility to its SUGEN Power Station. The application is not being filed by Torrent Power Limited as an "entity" under PNGRB Act as it is not an application seeking to be engaged in the laying operation and maintenance of natural gas pipeline or transmission of natural gas, instead the application is that of a generating company, as a consumer of natural gas, seeking operational flexibility to have its own captive natural gas pipeline between the DGEN Dahej and its SUGEN Power plant.
 - 3.15 The Applicant is and has filed the application specifically a "generating company" under Electricity Act, 2003, and cannot be considered as an "entity" under the PNGRB Act, 2006. The term "entity" as defined in S. 2(p) of PNGRB Act, 2006 is specifically limited to mean a company that is **engaged in or intending to be engaged in** "*refining, processing, storage, transportation, distribution, marketing, import and export of petroleum, petroleum products and natural gas including laying of pipelines for transportation of natural gas or laying building, operating or expanding a city or local natural gas distribution network or establishing or operating a liquefied natural gas terminal.*" It is clear from reading the Application that it is being filed by a "generating company" under the Electricity Act, 2003 seeking to establish a captive pipeline for operational flexibility of its SUGEN power station and not as an "entity" under the PNGRB Act, 2006 seeking to engage in transportation and laying of natural gas pipelines for transportation of natural gas.
 - 3.16 Furthermore, a company that is a "generating company" under the Electricity Act will be a consumer or customer of a pipeline entity and the present application clearly states that it is already a consumer/customer of GSPL and is instead seeking an additional captive pipeline to give it "operational flexibility" for its SUGEN power plant, which is not a valid consideration for authorisation of a natural gas pipeline or dedicated pipeline under the PNGRB Act and PNGRB NGP Authorising Regulations.
- 4. Under s. 11 PNGRB Act, PNGRB does not have any power or authority to authorise customers/consumers to establish captive natural gas pipelines. Any such approval will be void and ultra vires PNGRB Act.**
- 4.1 The Hon'ble Supreme Court of India in the case of *PNGRB v. IGL (2015)9SCC209*, has held that s.11 PNGRB Act deals with the powers and functions of the Board and other provisions, including the regulation making power under s.61 PNGRB Act, have to yield to it and Section 61 PNGRB Act enables the Board to frame regulations to carry out the purpose of the Act and certain specific aspects have been mentioned

therein. Section 61 has to be read in the context of the statutory scheme. The regulatory provisions, needless to say, are to be read and applied keeping in view the nature and textual context of the enactment as that is the source of power (See para 28 read with Para 44 read with Para 53 of the Supreme Court Judgement).

- 4.2 S. 11 PNGRB Act does not vest any power with the Board to authorise consumers to lay their own captive natural gas pipelines. Section 11(c) PNGRB Act only vests the function with PNGRB to authorise entities to: (i) lay build, operate or expand a common carrier or contract carrier and (ii) lay build, operate or expand city or local natural gas distribution network. There is no power vested with PNGRB to authorise consumers to lay their own captive natural gas pipelines.
 - 4.3 In relation to consumers s.11(a) PNGRB Act stipulates that the Board has to protect the interest of consumers by fostering fair trade and competition amongst the entities. This does not permit authorising consumers to themselves lay captive natural gas pipelines for their own use and render infructuous the substantial investments made by common carrier pipelines to cater to customers' requirements.
 - 4.4 In fact as pointed out by the Hon'ble Supreme Court (while upholding the Delhi High Court judgement and quoting it with approval) Clause (a) of s.11 *"while prescribing protection of interest of consumers limits the same to, by fostering fair trade and competition amongst entities engaged in distributing, dealing, transporting, marketing gas. The function of the Board thereunder is of regulating the inter se relationship of entities under the Act and not to regulate/control the relationship between the entities under the Act and the consumers."* (See Para 27 of Supreme Court Judgement)
 - 4.5 The other power to protect consumer interest is under s.25 PNGRB Act in which PNGRB can admit and look into complaints by any person on matters relating to entities or between entities on any manner arising out of the provisions of this Act, which includes "restrictive trade practices" being adopted by entities. S. 2(z) PNGRB Act defines "restrictive trade practice" to mean *"a trade practice which has or may have the effect of preventing, distorting or restricting competition and in particular which...(ii) tends to bring about manipulation of prices, or conditions of delivery or to effect the flow of supplies in the market relating to petroleum, petroleum products or natural gas or services in such manner as to impose on the consumers unjustified costs or restrictions."*
 - 4.6 None of these powers/functions allows for PNGRB to authorise consumers to lay, operate and maintain captive natural gas pipelines.
 - 4.7 The very concept of captive natural gas pipelines does not exist within the framework of the PNGRB Act and PNGRB does not have the authority to authorise consumers/customers to lay, build, operate and maintain captive natural gas pipelines.
- 5. Reg. 19(2) of "Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008" is in conflict of Torrent Power Limited proposal**
- 5.1 As per clause (c) of Reg. 19(2) of the said Regulation, in case, based on the examination, if Board is of the opinion that instead of a dedicated pipeline, a natural gas pipeline (common carrier) pipeline would better serve the public purpose, it may advise the entity on similar lines.
 - 5.2 It can be unambiguously interpreted that Reg. 19(2) deals with the proposals where customer is not connected with any pipeline and then an entity wishes to lay a dedicated pipeline to a specific customer. However in present case, TPL is already connected with GSPL's HP Gujarat Gas Grid which is a common carrier network.
 - 5.3 The said Reg. does not deal into allowing any entity to lay a dedicated pipeline to a consumer which is already connected with a common carrier.

5.4 Further, under clause (d) of the said Reg., even against the Board's advice if any entity wants to lay a dedicated pipeline to a consumer without having any pipeline connectivity, then Board in discouragement of dedicated pipeline, can on suo-motu basis can issue an expression of interest for a common carrier pipeline.

5.5 Clause (d) further strengthen the argument that the said Reg. deals into only for the customer not having any pipeline connectivity since there is no logical explanation that Board may invite EOI for the development of a common carrier to a customer which is already connected with a common carrier network.

6. The Application of Torrent Power does not meet the criteria and requirements of Regulation 19(2) PNGRB NGP Authorising Regulations and violates s. 20(5) PNGRB Act and has to be rejected.

6.1 Regulation 19(2) (a) PNGRB NGP Authorising Regulations mandates that an application for laying a dedicated pipeline meet the following criteria: (i) the application be submitted by an entity, (ii) the proposal be to lay, build, operate or expand a dedicated pipeline to transport natural gas to a specific customer, (iii) provide details of the pipeline along with details of customers served along with the DFR of the project.

6.2 The present application filed by Torrent Power Limited is clearly not by an entity but by a customer itself and an end consumer. Hence it is an invalid application under Regulation 19(2) PNGRB NGP Authorising Regulations.

6.3 The Application itself states that the SUGEN Power Plant is already connected with GSPL's High Pressure Gujarat Gas Grid and the purpose of the pipeline is for "creating a redundancy option". This is not a valid purpose for laying natural gas pipeline which will only result in making the GSPL pipeline infructuous and redundant and cause loss to GSPL.

6.4 A specific customer cannot have more than one dedicated gas pipeline under the framework of Regulation 19 PNGRB NGP Authorizing Regulations. The language used in Regulation 19(2)(a) of PNGRB NGP Authorizing Regulations is "*the entity proposing to lay, build, operate or expand a dedicated pipeline to transport natural gas to a specific customer*". This makes it clear that there can be only one dedicated pipeline to a specific customer. There is however, provision to expand an existing dedicated pipeline. This is further affirmed by Regulation 19(2)(d) of PNGRB NGP Authorizing Regulations which stipulates "*In case, despite receiving the advice from the Board under clause (c), the entity wishes to lay, build, operate or expand a dedicated pipeline....*" Thus, the valid course of action would be for the existing dedicated pipeline from GSPL High Pressure Network to the SUGEN power plant be sought to be expanded, if required.

6.5 The application is a violation of the specific guidelines stipulated for PNGRB under s 20(5) PNGRB Act which stipulates that the Board shall be guided by the objectives of inter alia avoiding infructuous investments. The proposal being submitted by Torrent Power will result in GSPL's investment in laying, operating and maintaining the pipeline connectivity to SUGEN power Plant infructuous.

6.6 The application clearly states that there is no "customer" for which the so called "dedicated pipeline" is being laid by Torrent Power and clearly therefore it is not a dedicated pipeline but a captive pipeline and is outside the framework of Regulation 19(2) PNGRB NGP Authorising Regulations.

6.7 Furthermore, the Annexure -A to the Application clearly identifies that the intention of Torrent Power Limited is to build a capacity of 6.5 MMSCMD which is far in excess of the 1 MMSCMD of gas that it claims to have contracted from IOCL for its SUGEN plant. It is clear that the intention is to replace the GSPL connectivity and cause high degree of wilful loss to GSPL as the authorised common carrier entity in the region.

- 6.8 Torrent Power Limited in its application is only speaking of ultimate benefit to electricity consumers and not in any manner referring to whether this will benefit in any manner the natural gas pipeline sector in the region. The Hon'ble Board has no jurisdiction in relation to the electricity sector and instead has a statutory function to ensure that there are no infructuous investments in the natural gas sector. The Hon'ble Board, under the PNGRB Act, cannot consider benefit to ultimate electricity consumers as a criteria for determining whether a proposed application under Regulation 19(2) PNGRB NGP Authorising Regulations is valid or not.
- 6.9 It is clear that a captive natural gas pipeline having a capacity of 6.5 MMSCMD will not serve the public purpose and instead a natural gas pipeline having an expanded capacity would better serve the public purpose. GSPL is already connected to the SUGEN Plant and can provide the required expansion in capacity. In fact GSPL has already established a dedicated pipeline to the same power station of Torrent Power Limited (i.e. the 1530MW SUGEN Mega Power Plant) and Torrent Power Limited has already a long term Gas Transportation Agreement with GSPL.
- 6.10 The Torrent Proposal will lead to duplication of gas pipeline infrastructure in the region and such duplication is against the spirit of development of common carrier pipelines, which is a key factor for development of gas grid infrastructure in the country. The development of gas pipeline infrastructure on common carrier basis benefits customers further downstream on the pipeline.
- 6.11 Development of parallel pipelines just to provide direct connectivity of customers to sources would jeopardize development of common carrier infrastructure for customers that are located further downstream from the source and will result in imposition of disproportionate and higher costs on downstream customers. If Torrent's Proposal is considered then all customers that are located in proximity to a source of natural gas would want to develop their own pipeline to connect to source / third party pipeline and this would result in a common carrier transporter having to connect only such customers that are located at a considerable distance, thereby defeating the underlying principle of development of common carrier pipelines and would jeopardize development of common infrastructure for far-reaching areas (away from the source). In such circumstances, the only way a transmission company can *then* sustain its common carrier network business model, is by charging higher tariffs for markets located further away from the source which would then adversely affect other customers on the Transporter's network, like Power Plants, CGD companies and industrial customers.
- 6.12 Furthermore, GSPL dedicated pipeline to Torrent Power Limited's SUGEN power plant has been duly authorized by the Hon'ble Board under Regulation 19 PNGRB NGP Authorisation Regulations vide Letter Ref No. Infra/PL/New/19(1)/GSPL/BAPL/01/15 dated 5th August 2015 and the laying of the pipeline will cause willful loss of revenue to GSPL and wrongfully interfere with the rights of GSPL as an authorised pipeline entity in the region, that is already providing services to the SUGEN power plant.
- 6.13 The Hon'ble Board will also have to duly consider that GSPL had built the dedicated gas transmission pipeline to Torrent Power Limited's SUGEN power plant on the basis of a twenty (20) year Gas Transmission Agreement dated 27.02.2006 ("GTA"), that already has an entry point from the Petronet LNG Limited's Dahej LNG Terminal. The proposal from Torrent Power Limited will essentially render the GSPL dedicated pipeline redundant as: (i) there has been and will be no expansion in capacity of the SUGEN power plant that justifies an additional dedicated pipeline as the volume of gas required by the SUGEN power plant remains the same; (ii) the source of supply will also continue to be the Petronet LNG Limited's Dahej LNG Terminal and will therefore only result in diversion of the gas volumes from GSPL dedicated pipeline to the proposed pipeline and render infructuous the investments made by GSPL in developing the dedicated pipeline for Torrent Power Limited.

6.14 It is humbly submitted for the due consideration of the Hon'ble Board that under the provisions of the GTA with GSPL, Torrent Power Limited had required the development of a spur line and reserved capacity in the spur line upto 194.082 Billion BTU per day until the expiry or termination of the GTA. The present proposal of Torrent Power Limited is hence clearly seeking to render the same infructuous.

6.15 The GSPL dedicated pipeline to Torrent Power Limited's SUGEN power plant has been duly authorized by the Hon'ble Board under Regulation 19 PNGRB NGP Authorisation Regulations vide Letter Ref No. Infra/PL/New/19(1)/GSPL/BAPL/01/15 dated 5th August 2015. The proposal from Torrent Power Limited is effectively duplicating the dedicated pipeline capacity without any justification for an actual requirement for the same. It is humbly submitted that the Hon'ble Board should not permit the due process of its regulations to be misused for defeating existing valid GTAs between an authorized pipeline entity and its customers.

7. Complete details as required u/r 19(2)(a) of PNGRB Authorisation Regulations has not been provided

7.1 Regulation 19(2)(a) of PNGRB Authorisation Regulations required details as mentioned therein, to be submitted along with the proposal of dedicated pipeline. However, the present proposal uploaded on PNGRB website, does not provide the details of (i) route of proposed dedicated pipeline and (ii) Detail Feasibility Report of the project.

7.2 In this regard, it be noted that DFR is the critical document to ascertain the feasibility of any infrastructure project.

7.3 In view of the complete details as required under the Regulations has not been provided, the proposal of dedicated pipeline should be rejected.

8. Objective of laying proposed dedicated pipeline is not in-line with the provisions of PNGRB Authorisation Regulations

8.1 The very purpose of laying dedicated pipeline as has been indicated in the proposal is that SMPP becomes vulnerable with only one source of gas transportation pipeline. To have alternate options for bringing gas for continuous running of the plant, the proposed dedicated pipeline has been proposed.

8.2 However, Regulation 19 (2) of PNGRB Authorisation Regulation does not provide for laying dedicated pipeline to consumer to have redundancy.

8.3 Accordingly, the proposed dedicated pipeline should not be considered by the PNGRB.

9. As per past precedence of TPL, the intent of laying dedicated by it is to make existing GSPL's common or contract carrier redundant and investment infructuous

9.1 GSPL in the past had laid a common or contract carrier pipeline to transport natural gas from PLL Dahej to Torrent's DGEN power plant in Dahej.

9.2 However, later TPL based on PNGRB approval to have redundancy for gas transportation to its power plant, has developed its own dedicated pipeline from PLL, Dahej to DGEN.

9.3 Subsequently, after developing its own dedicated pipeline which was to have redundancy, has never transported natural gas through GSPL's common or contract carrier pipeline connectivity from PLL Dahej to DGEN power plant and have transported natural gas through its own dedicated pipeline infrastructure to DGEN.

a. Thereby making GSPL's common or contract carrier pipeline and not its own dedicated pipeline, redundant.

- 9.4 This resulted in the investment made by GSPL to develop pipeline to DGEN infructuous and burdening other customers of GSPL's common or contract carrier.
- 9.5 Similar would be the case in the present scenario, GSPL infrastructure to Sugem would become redundant and investment made in it would be infructuous.

10. Existing Regulatory framework deter consumers near gas sources to transport natural gas through common or contract carrier viz-a-viz dedicated pipeline


- 10.1 The present Regulatory Framework to fix uniform transportation Tariff for 300 kms has been discouraging customers near the gas sources to having transportation service from a common or contract carrier viz-a-viz dedicated pipeline.
- 10.2 GSPL in this regard vide letter dated 22nd January, 2018 to PNGRB (copy attached at **Annexure-I**) has requested to review its Transportation Tariff Recovery methodology by abandoning existing Zonal Transportation Tariff methodology and allow transporter to charge absolute distance based tariff i.e. Transportation Tariff shall be recovered from customers per km distance basis from Entry point to Exit point.
- 10.3 GSPL's above proposal shall not only lead to the development / utilisation of common or contract carrier viz-a-viz dedicated pipeline but also protect the interest of consumers far from the natural gas sources.
- 10.4 Accordingly, GSPL reiterates its request made vide aforesaid letter dated 22nd January, 2018 to allow transporter to charge absolute distance based tariff i.e. Transportation Tariff shall be recovered from customers per km distance basis from Entry point to Exit point.

We would therefore submit to the Hon'ble Board, that the proposal submitted by Torrent Power Limited for a PLL Dahej-SUGEN dedicated pipeline cannot be considered as it is not a valid proposal under the existing regulatory framework of PNGRB Act read with the PNGRB NGP Authorization Regulations and any grant of authorization based thereon would not be a valid authorization under the present regulatory framework. The said proposal in respect of which the above referenced Public Notice has been issued should be rejected.

Considering the proposal of dedicated pipeline shall have impact on the business of GSPL, we also humbly request PNGRB to provide an opportunity to GSPL to make a brief presentation on its above submission for consideration of Hon'ble Board

With Best Regards,

Yours Sincerely



Ravindra Agrawal
Group ED (Gas Business)



Dr. T. Natarajan, IAS
Joint Managing Director

Annexure - I

Gujarat State Petronet Ltd.

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GSPL/COMM/2018
22nd January 2018

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

Sub: Review of Transportation Tariff recovery model for common or contract carrier natural gas pipeline in view of proposal from customers for dedicated natural gas pipelines considered by the PNGRB

Ref.:

- i. GSPL submission to PNGRB vide letter dated 9th November, 2017 on OPAL's proposal for dedicated pipeline
- ii. GSPL presentation to PNGRB dated 12th July, 2017 on impact of PNGRB Regulation in the development of natural gas pipelines
- iii. GSPL submission to PNGRB vide letter dated 1st February, 2017 on TPL's proposal for Sugem dedicated pipeline
- iv. GSPL submission to PNGRB vide letter dated 8th November, 2011 on Torrent Power Ltd.'s (TPL's) proposal for DGEN dedicated pipeline

Respected Madam,

GSPL has been operating its Gujarat Gas Grid pipeline network authorized by the PNGRB in the State of Gujarat on Common or Contract carrier basis for transportation of natural gas by the Shippers / Customers from natural gas sources to customer exit points.

As obligated under Clause g or Schedule J of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 (Authorization Regulations) to provide connectivity to the consumer within a tariff zone in a natural gas pipeline, GSPL has provided connectivity to such customers by laying new gas pipeline from authorized common or contract carrier to various customers, including ONGC Petro Additions Limited (OPAL), Torrent (DGEN), Torrent (Sugem) etc. within the Tariff Zone.

However, customers i.e. OPAL, Torrent (DGEN) and Torrent (Sugem) whose plants are located nearer to natural gas sources i.e. PLL, Dahej and are already having connectivity with GSPL's Gujarat Gas Grid have proposed & some have developed dedicated natural gas pipelines connecting natural gas sources directly to their plant in order to avoid payment of Zonal Transportation Tariff approved by the PNGRB for GSPL's network.

The said action of customers situated near to gas sources for directly laying dedicated pipeline has arisen due to such dedicated pipeline being a cost effective gas transportation option viz-à-viz obtaining transportation service through common or contract carrier gas pipeline with Zonal Tariff recovery concept.

Also, similar proposal for laying dedicated pipelines may come up in future before PNGRB from customers whose plants are located nearer to PLL, Dahej Terminal (like IOCL Koyali Refinery) and are already connected with GSPL's network in order to avoid payment of Zonal Transportation Tariff.

The proposal being considered by the PNGRB for allowing laying dedicated natural gas pipelines by the customers may result in the following:

- i. Investment in sections of GSPL's Common or Contract Carrier laid to such customers becomes unviable.
 - a. Leading to waste of national resources incurred in laying such common or contract carrier pipeline.
- ii. Volumes considered by the PNGRB as divisor for tariff determination of GSPL's pipeline shall be shifted to customer owned dedicated pipeline
 - a. Same shall lead to loss of transportation revenue, thereby preventing realization of Regulation mandated 12 % post-tax return to GSPL.
- iii. Increase in the cost of transportation tariff for the customers located farthest to the natural gas sources, as customers proposing dedicated natural gas pipeline nearer to the gas source would not utilize GSPL network thereby decreasing volume divisor for transportation tariff determination.

In fact, Regulation 11(3) of PNGRB Authorization Regulations prevents GSPL to charge applicable Tariff on a non-discriminatory basis, that is, without any premium or discount, from all customers.

- i. Thereby preventing GSPL to offer any discount in the Zonal transportation tariff to customers located nearer to gas sources, so as to ensure that GSPL remains competitive to customer's cost of dedicated natural gas pipeline.

The above has led to GSPL being unable to offer a competitive tariff to avoid shift of customers from GSPL's network to customer owned dedicated pipelines.

Accordingly, PNGRB is requested to consider the following proposal to address the above issues faced by GSPL:

- a. PNGRB may either disallow laying of dedicated pipeline by the customers already having connectivity with existing common or contract carrier or capacity being made available as per regulations;
- b. Review tariff regulation by regulating the revenue earned by the Authorized entity instead of Transportation Tariff.
 - i. Authorized entity shall be allowed to fix transportation tariff which shall be recovered from consumers on non-discriminatory basis or:
- c. Review Transportation Tariff recovery methodology by abandoning existing Zonal Transportation Tariff recovery methodology and allow absolute distance based tariff i.e. Transportation Tariff shall be recovered from customers per km distance basis from entry point to exit point.

- i. This shall provide competitive tariff on non-discriminatory basis for availing transportation service through common or contract carrier to customers located nearer to the gas sources viz-a-viz cost of availing transportation service through dedicated natural gas pipeline owned by customer.

Submitted for your kind consideration please.

We shall be grateful to provide any other details as required by the PNGRB in this regard.

With best regards,

Yours sincerely



(Dr. T. Natarajan)



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Date: 26th July 2020

Ravindra Agrawal
Group Executive Director
(Gas Business)

The Secretary

Petroleum and Natural Regulatory Board
1st Floor, World Trade Centre
Babar Road
New Delhi – 110001

Subject: Suggestions / Views / Comments of the Stakeholders on the proposed draft amendment to NGPL Tariff Regulations (entity level Integration of Pipelines) referred below

Ref: PNGRB Public Notice PNGRB/COM/2-NGPL/Tariff (3)/2019 Vol-II dated 29.6.2020

Respected Madam,

We refer to the above Public Notice through which the Hon'ble Board has proposed entity level integration of interconnected Pipelines and unification of Tariff.

We have reviewed the draft proposed amendment and have prepared detailed comments which are attached with this letter. The comments are in two parts – 1) Our detailed stand to entity level integration of pipelines – **Annexure 1** 2) Comments in Tabular Format on the proposed draft amendments – **Annexure 2**.

We have highlighted in the past that equitable treatment of the bid out pipelines and the cost plus pipelines is essential to attract future investments in new infrastructure Projects proposed through bidding and also for development of gas transmission sector. The current entity level integration does not offer a solution to bring both pipelines (cost plus and bid out) at par. In fact, in our considered view, it will make bid out pipelines uncompetitive.

We, therefore request Hon'ble Board to take a holistic view on the subject and plan for pan-India integration of all the pipelines.

We have given our views on these draft proposed amendments from the view point of a Transporter / Pipeline Operator who may otherwise face challenging times if proposed amendments are implemented in their current form. We hope that Hon'ble Board shall consider our comments in the right perspective and reconsider the current proposal.

With Best Regards,

Yours Sincerely,

Ravindra Agrawal
Group ED (Gas Business)

PNGRB Public Notice dated 29.06.2020 regarding Amendment to Tariff Regulations to incorporate provisions related to Integrated Natural Gas Pipeline System & related matters

1) OBJECTIVE OF CURRENT PROPOSAL

- a. The objective of the proposal of same transportation tariff to all customers across the country is not achieved, as **Bid out pipelines, regional networks and pipelines developed by Private entities are left out** of unification/Integration process.
- b. Major focus is on integration of a few cost plus pipelines of GAIL. The same impact competing pipelines like MBPL (GAIL pipelines and MBPL compete in the markets of Haryana and Punjab).
 - i. For Bid out pipelines, there are no reforms (relief) in this proposal and hence it results in lack of level playing field. Regulations are revisited from time to time for cost plus pipelines, providing relief in some form or the other, but in so far as bid out pipelines are concerned, nothing has been done.
 - ii. For bid out pipelines the tariff are fixed throughout the economic life and even zonal tariff flexibility is not provided.
- c. This would make the bid out pipeline uncompetitive and natural gas unaffordable for the customers along the bid out pipeline.
 - i. We propose to have a sunset clause for bid out pipeline tariff to ensure level playing field.

2) CONCERNS ON ADDITIVE TARIFF

- a. It is an assumption that the transportation cost of gas from the sources in West coast will cause huge increase in the delivered cost of gas to the customers on JHBDPL.
- b. The premise of additive tariff of multiple pipelines is influenced by short term factors as Indian peninsula has a long coast line and gas is produced in both West (Mumbai Offshore, Cambay Basin) and East coast of India (KG Basin, CBM blocks) and LNG terminals (although they were initially developed on West coast) are also being developed in East coast, namely Ennore LNG terminal (commissioned), Dhamra LNG Terminal (expected to be synchronous with completion of final phase of Urja Ganga pipeline), and few more LNG terminals are also planned at Kakinada, Gangavaram, Haldia.
 - i. Current map of the gas flow in India is attached as **Annexure-I** to this note
- c. In the medium term (next 2- 3 years), gas produced & imported on East coast would be competitive and flow to East and North-eastern gas markets. It is unlikely that gas from Kochi / Dabhol would flow to Orissa or even gas from Dahej would flow to those markets (Orissa, West Bengal) as existing terminals are operating at 100% utilization and would continue to serve the gas markets already being served.
 - i. New LNG terminals and new domestic gas (including gas from CBM gas fields) from East coast shall flow to nearby markets which shall ensure cost competitive and efficient transmission services.
 1. A Map of the likely gas flow in India in the coming 2 to 3 years is attached as **Annexure-II** to this note
- d. The concept of additive tariff, i.e. gas from West coast to East coast markets (flowing to West Bengal) through multiple pipelines is, therefore only a short term phenomenon

as gas pipelines, including Kakinada- Srikakulam–Angul, once completed shall cater to gas demand in markets in Orissa, West Bengal from domestic gas of KG Basin.

- i. Kakinada- Srikakulam is on verge of completion, the pipeline from Srikakulam–Angul shall be completed in 2 years.
- e. In next two years or so, Dhamra Terminal is likely to be completed and accordingly, gas from Dhamra will flow in JHBDPL (and not from West Coast).

The additive tariff issue shall not - exist in both the above cases as gas from nearest source will flow into the market resulting in cheaper delivered gas to customers on JHBDPL.

- f. By unification of the pipelines, the decision of the customer gets influenced as he may take the gas from the West Coast only. This distorts the market.
 - i. KG Basin Gas, Gas from Ennore and Dhamra terminals will cater to the markets in South India, East and North East states, thereby the assumption that only unification can get cheaper gas to newer markets may not be correct.
- g. Moreover, the tariff unification policy may also create competitive disadvantage for new LNG terminals being developed on the East coast as with Unified tariffs, the old / existing terminals in the West Coast may be more competitive.
- h. The market forces should decide the most efficient route of transportation of gas as also based on cost competitiveness. Historically it is been observed that the demand is catered through the near-by gas sources (the LNG terminals in west coast cater to the demand of Western- Northern India, similarly the LNG terminals (Ennore and Kochi in South India cater to the demand in that region

3) ECONOMICS OF GAS USAGE

Uniformity in tariff will not ensure uniformity in delivered price of Natural Gas across the country.

- a. By implementing unified tariff (*or even without doing so*), Pipeline Developer will not be in a position to assure that the delivered price of gas at each and every customer along integrated pipelines will remain uniform across respective zones.
 - i. GSPL humbly submits that Uniformity in transportation tariff does not entail uniformity in delivered Natural Gas price across the country, as the **transportation tariff forms a small part of the delivered gas price**
- b. Such integration will only further strengthen the dominant position of the incumbent
 - i. Unification will allow the incumbent gas player to exert increasing dominance by developing greater control over the import terminals, pipelines and customers
 - ii. Unless the issue of unbundling (separation of marketing and transmission functions) is addressed, focussing on allied matters like integration will hardly result in any significant gain.
- c. There is no documented report or study which has been carried out which states that there shall be assured development of gas based industries / economy in Central and North east India by unification of transmission tariff.
- d. Transmission cost constitutes around 8-15% of the delivered gas in most cases, however, for Fertiliser Units on JHBDPL, the cost of Gas will be the major factor for increased cost of final product.

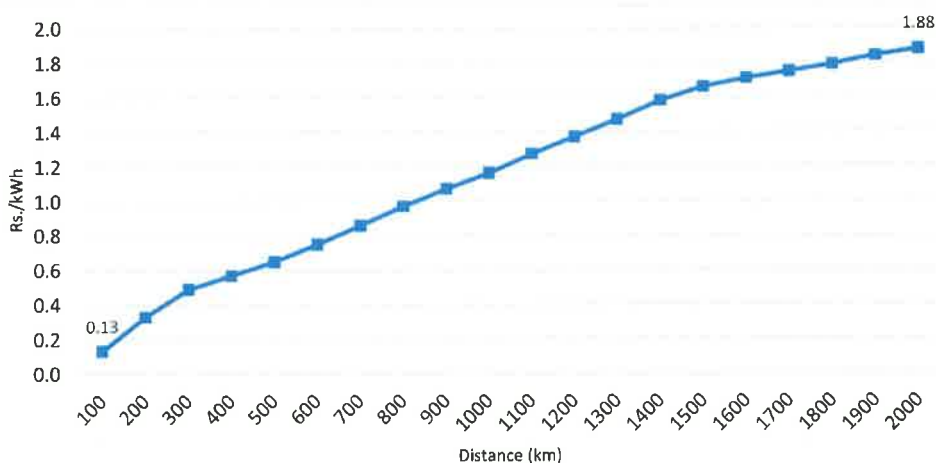
- e. If customers in the northern and eastern markets will opt for cleaner fuels like NG on the basis of lower transmission tariff only (as appears to be the objective of integration and unification of tariff), then customers located near the source also may probably switch to alternate fuels if there is an increase in transmission tariff from the current rates.
- f. Unification **impact** on natural gas **competitiveness** vis-à-vis alternate fuels
 - i. Tariff unification would make gas uncompetitive in coastal regions which have little coal being produced.
 - ii. While in eastern India, which has plenty of coal available, gas would not be a competitive form of energy and hence gas as commodity may be a loser across various geographies in the long term.
- g. Hon'ble Board had received lot of representations in 2017 wherein customers near to the sources had quantified the quantum of loss as well as loss of business viability.
 - i. Thus conversion of one set of customers will be at the cost of losing existing customers to polluting/alternate fuels.
- h. Further, going back to postalized system of tariffs may not be suitable at this stage of gas market development and will not be in the larger interest of Indian gas market. In fact, international experience shows that gas markets typically move from 'Postage stamp' tariffs to 'Zonal tariffs' to other more mature models.
 - i. *In fact, abolishment of postalized tariff system and shift to distance based zonal tariff was the first reform accomplished by PNGRB after coming into existence.*

It is therefore felt that a holistic approach is more important than approaching the issue on piece-meal basis.

4) TARIFF METHODOLOGY

- a) Transmission tariff is always a function of distance. The further you are from the source, the higher the tariff.
 - a. For instance, coal reaching Gujarat has higher transportation cost and hence higher cost of electricity is paid by local residents. Figure below shows the transportation cost of coal versus distance.

Figure 10: IR's freight rate per tonne for coal propagated to electricity (Rs. /kWh)



Note: This assumes a specific coal consumption of 0.63 kg/kWh.

Source: IR freight circular for coal applicable on August 24, 2016.

- b) GSPL humbly submits that, petroleum product pipeline tariff is also determined based on distance and even the railway freights are distance based.
- c) Such proposed Unification would encourage undesirable development of dedicated pipelines in coastal states, especially in Gujarat, which shall severely affect the utilization levels of existing natural gas pipelines.
 - a. The same shall lead to a situation where customers in Gujarat shall cross subsidize the cost for the customer located at the farther end.
- d) Further, with respect to the proposal of two zones, GSPL submits that the, existing regulation should be retained and depending on the market dynamics, entity can increase the tariff in subsequent zones by 1% or even lower.
- e) It is worth mentioning that, India has moved away from similar equalization policies in the past i.e. the Freight Equalization Policy of 1952 wherein the industry could be set up anywhere across India and the transport of minerals would be subsidized by the Central Government.

5) SUPPORT TO URJA GANGA NETWORK

- a) GoI already provided required support for the pipeline (implemented by GoI enterprises) which are not viable & further support in the form of unification shall adversely affect the existing customers nearer the gas source and distort the markets (existing customer closer to source may either lay dedicated pipelines or switch to alternative polluting fuels like pet coke, coal, furnace oil)

GAIL has been provided with the following incentives to develop the JHBDPL network:

- i. Viability gap funding / partial capital grant at 40% (Rs. 5,176 crore) of the estimated capital cost of Rs. 12,940 crore
 - ii. CGDs en-route are allotted on nomination basis
 - iii. GAIL has sought exclusivity in the form of no competing pipelines or dedicated pipelines on the region enroute
 - iv. GAIL has exclusive access to all the domestic sources and LNG terminals.
 - v. GAIL is given exclusive access to anchor demand of Fertilizer plants & Refineries along the pipeline
- b) Apart from various benefits already made available to JHBDPL, the same is now proposed to be included in Integrated Pipeline System thereby further reducing the tariff for this section while loading its cost on to other sections having high demand / volume / customer connectivity.
 - c) One alternate way of developing gas markets in rural areas / hinterlands of our Country is by way of Government intervention in the form of financial support (one time support) to the developer. This shall help in reducing the costs to an extent and also not impact existing customers by way of increasing existing tariffs.
 - a. This will ensure that existing markets and economic rationales of gas usage in the country are not substantially affected.

6) BID OUT v/s COST PLUS PIPELINES

- a) GSPL humbly submits that in 2007, the Ministry of Petroleum and Natural Gas had issued Expression of Interest and authorised following pipelines to GAIL:
- 1) Dabhol Bangalore pipeline
 - 2) Dadri Bawana Nangal Pipeline
 - 3) Chainsa Gurgaon Jhajjar Hisar Pipeline
 - 4) Jagdishpur Haldia Pipeline
 - 5) Kochi Kanjirkod-Bangalore - Mangalore pipeline
- b) All these pipelines were developed after separately carrying out market and risk assessment, knowing fully well that additive tariff provision will be applicable.
- c) It is evident that between Bid out and Cost plus pipelines, Cost plus pipelines have the least risk as they have **assured post tax returns**. However, no change is proposed with regards to tariff for Bid out pipelines, in spite of the fact that these pipelines are developed on a competitive bidding basis with inherent risks, including change in competitive scenario (non-development of a given anchor load / source).
- a. Such decisions without considering the holistic picture will have a serious impact on future participation for new bid out pipelines.
 - b. It has been our consistent representation before the Hon'ble Board that all cost plus and bid out pipelines should be brought at par at one time to ensure level playing field for all the participants.

Thus, PNGRB is required to play a proactive role of bringing bid out pipelines at par with cost plus pipelines (through enabling and level playing regulatory provisions), thus working towards reducing the inbuilt inefficiencies in the gas transmission industry .

7) DEVELOPMENT OF NATIONAL GAS GRID

- a) The purpose of a National Gas Grid is also to remove regional imbalance and provide access of natural gas to both domestic as well as industrial users throughout the country.
- a. For such holistic development, India will require additional 15,000 kms of gas pipelines and substantial investments too.
- b) Currently, Nation-wide grid of $\approx 17,000$ kms is available and with pipelines under construction being authorised, gas grid would become $\approx 32,000$ kms
- a. Currently, the entire focus is on National highways / grids and City Gas Distribution, while the Country needs more State Gas Grid / highways, as State Gas Grid is critical to harness the development NGG and CGD
 - b. Length and investment for State highways would be around 3 to 4 times than that of National Highways, requiring an investment of approx. Rs. 50,000 ~ 60,000 crores
 - i. Gujarat's Gas grid is a classic example of how important a developed State-wide gas grid is critical for the purposes of increasing natural gas consumption and its share in energy mix.
 - c. It is not possible for one entity to single-handedly manage the development of pipeline infrastructure in the country and it is becoming very crucial to encourage private investments and incentivize development of infrastructure and for the same it is important that Regulations incentivize investments by way of enabling policies.

8) HIGHER TARIFFS FOR EXISTING MARKETS

Apportionment of levelised tariff in two Zones will result in higher tariff for the customers in areas near sources, mainly Gujarat.

- a. These proposals have a direct bearing on HVJ tariffs for sections including Gujarat region and is more of a cross subsidisation mechanism to make various cost plus pipelines across the country viable with no benefit to other pipeline operators.
- b. Power Sector (Gas based IPPs will become uncompetitive vis-à-vis power from other States and coal based power plants), Industries & CGDs in Gujarat will be adversely affected
- c. The choice of factory / industry location takes into consideration various factors like sops from State Government / Central Government, proximity to markets, availability of other resources, skilled labour etc. For such customers who have opted to set up industries away from gas sources,
 - i. Cost of gas would not have been a criteria in finalising the location.
 - ii. Similarly those industries which have gas as a major cost component have opted for setting up plants closer to the source.
 1. These industries will be now severely affected and may become uncompetitive
 - iii. Since these decisions are based on market based mechanism, the same shall not be altered.
- d. Any change, which increases the cost of gas to industries near to the source will have reverse impact of their becoming uncompetitive.

Therefore, we submit that promotion of the competitive market should be the focus and market forces should be allowed to come into play

9) ANALOGY WITH POWER SECTOR TRANSMISSION

In Power Sector, Tariffs for Inter State Transmission Customers is not unified and vary for different entry and different exit points. National Load Dispatch Centre (NLDC) shall publish the Point of Connection (POC) Charges for different Entry (Injection) and Exit (Withdrawal) Points on Quarterly basis.

10) OTHER EXPERT VIEWS FROM EARLIER REPORTS/STUDIES.

- a. Following are the excerpts from the **Final Report of the Inter-ministerial Committee on Policy for pooling of Natural Gas Prices and Pool Operating Guidelines** submitted by a committee under the chairmanship of **Dr. Saumitra Chaudhuri**, Member, Planning Commission (in 2011):

“35.1 On the other hand, there is a strong and persuasive case that location and scale economics must not be excessively distorted through a scheme for across-the-board freight equalization. The danger is that the cross-subsidies then get embedded in otherwise irrational and inefficient location choices for large-scale users. And that the cost of these otherwise irrational location choices has then to be borne by the system at large to its perpetual detriment.

35.3 Therefore, the Committee is of the view that while regional demand patterns and actual costs of pipeline construction and transportation should adequately enter into the framework of determination of pipeline tariffs, so should an effort be made to ensure that

small users in outlying locations are not subject to prohibitive tariffs. The regulator is the appropriate agency to take a call on this based on actual data on both costs and the geographical distribution of demand loads.”

- b. Following are the excerpts from a Study on Common Pool Price Mechanism for Natural Gas in the country submitted by Mercados Energy Markets India Pvt. Ltd. to M/s GAIL (in 2010):
- “While we appreciate the motive for pooling of transportation charges, we do not favour the same for several economic and practical reasons:*
- ***Pooling of transportation charges will reduce the economic signals and result in misallocation of economic resources:*** *Since only the gas tariffs would be pooled while the other economic inputs would not be, the pooling would result in wrong pricing decisions, causing an economic loss to the country;*
 - ***Pooling could result in stranded assets:*** *Once the pooling mechanism is done away with it, the manufacturing assets established would become uncompetitive. It would also result in stranding of the pipeline investments as a consequence. Since pooling is only a transition mechanism this would be inadvisable;*
 - ***Gas transportation charges are a relatively small component of the delivered costs:*** *The transportation costs are typically only about 20 – 25% of the costs. Hence commodity pooling has a far greater impact;*
- c. As regard the transmission pricing system and pooling of the tariffs, in the large countries comparable to India, we have seen no evidence of transmission price pooling. In the United States, all pipelines have distinct tariffs. Canada follows a similar approach. In China, the transportation tariff is principally determined by the distance.
- d. In none of the countries analysed there is any evidence of pooling of transportation tariff. Each pipeline or pipeline system has a unique tariff, that is either common or is segmented. Most of the developed countries have Open Access Transmission Tariff for the pipeline systems

11) VIEWS OF PNGRB ON EARLIER UNIFICATION PROPOSAL.

PNGRB in its Statutory Tariff Order dated 19th April, 2010 has rejected the proposal of integration of Authorization and unification of Tariff for HVJ-GREP-DVPL and DVPL-GREP Up-gradation pipeline

- a. PNGRB in its Tariff Order dated 19th April, 2010 decided to disallow merging the authorization of HVJ-GREP-DVPL (Old pipeline) and DVPL-GREP Up gradation (Newly commissioned pipeline) as an integrated pipeline network. Further, PNGRB in its aforesaid order also disallowed proposal for unification of Transportation Tariff for the said pipelines citing following reasons mentioned below:
- a. Up-gradation pipeline i.e. DVPL-GREP Up gradation (Newly commissioned pipeline) shall primarily serve the new customers load.
 - b. Merger of Up-gradation cost with that of the existing network leads to a substantially higher tariff for the existing customers.

- c. Consultant appointed by the PNGRB after studying international experience opined that tariff for the expansion pipeline should be computed separately.
- d. Existing customers cannot be unfairly burdened with rolled-in cost and consequential higher tariffs.
- e. It is an accepted practice in infrastructure to apportion costs of shared common facilities whenever required.
- f. US regulator, i.e. FERC, have consistently held that cost of expansion should be paid for by the new customers unless the rolled-in costs of expansion result in lowering of the Tariff for all.
- g. Clubbing the costs of expansion, apart from subsidization of incremental volumes and customers by the existing customers, lead to wrong price signals and distorts capacity creation.
- h. Accordingly, considering above and the overall interest of the customers, PNGRB decided that Transportation Tariff of existing pipeline with that of newly commissioned up-gradation pipeline shall be determined separately.

For the second time as well PNGRB did not consider proposal for Integration of Authorization and unification of Tariff for HVJ-GREP-DVPL and DVPL-GREP Up-gradation pipeline

- a. PNGRB vide public notice dated 07.01.2015 initiated public consultation and invited comments on the aforesaid proposal for Integration of Authorization and unification of Tariff for HVJ-GREP-DVPL and DVPL-GREP Up-gradation pipeline. However, PNGRB decided not to move forward / on the proposal of unification of Tariff and integration of Authorization.

12) LEGAL ISSUES

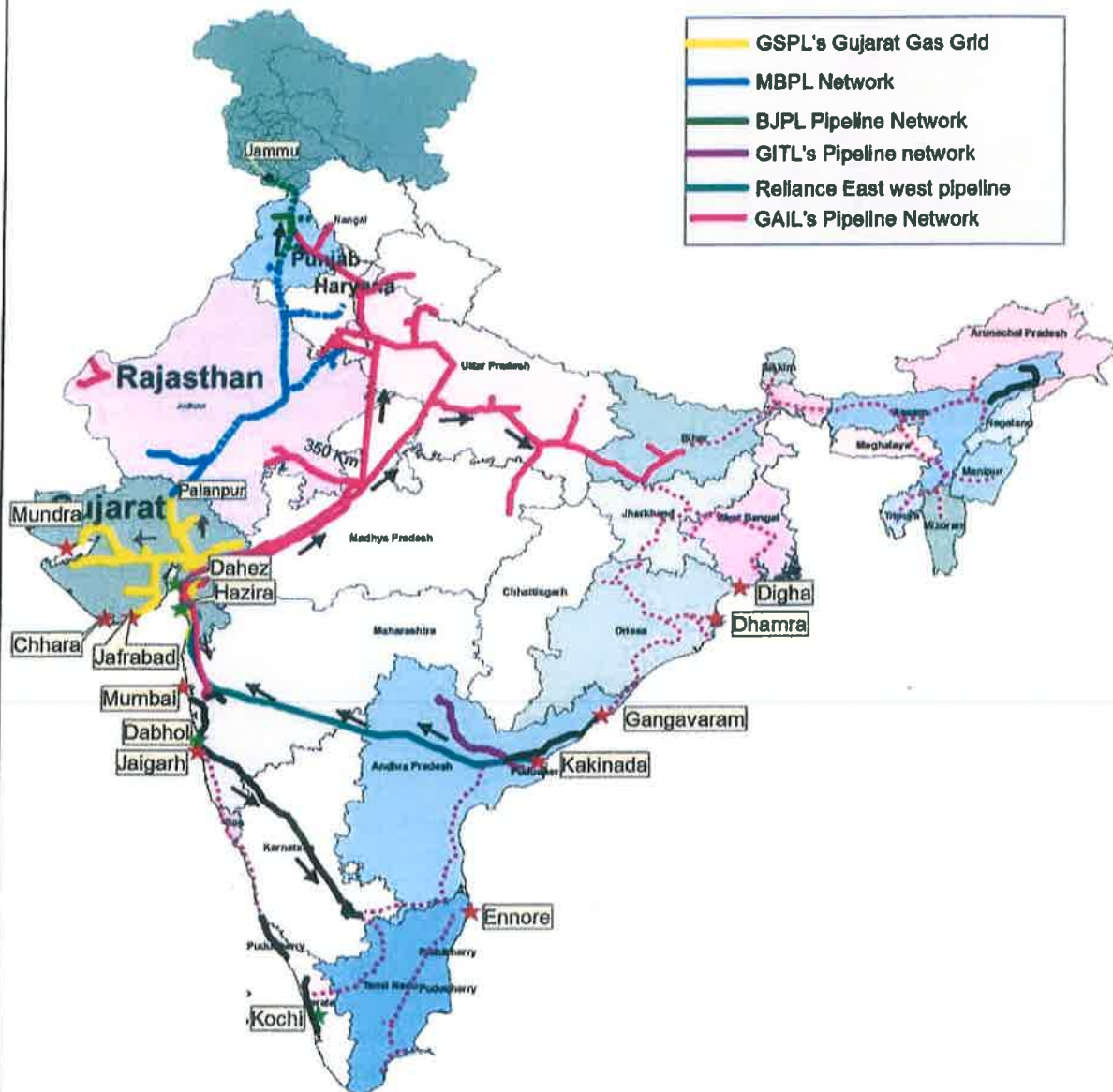
- a. The current proposal in this form may face legal hurdles as the objective of same tariff for all the customers on pan India basis is not met as bid out pipelines, regional networks and pipeline developed by private entities are left out of the process and the customers on these pipelines may take legal recourse, in the event the transportation tariff anomalies.
- b. The same tantamount to change in terms and conditions of authorizations due to change in law situation
 - d. When Bid out pipelines were awarded, there was no proposal of unification of transportation tariff of existing interconnected pipelines and therefore the resultant loss of level playing field significantly impacts viability of bid out pipelines.

13) GSPL STAND ON UNIFICATION

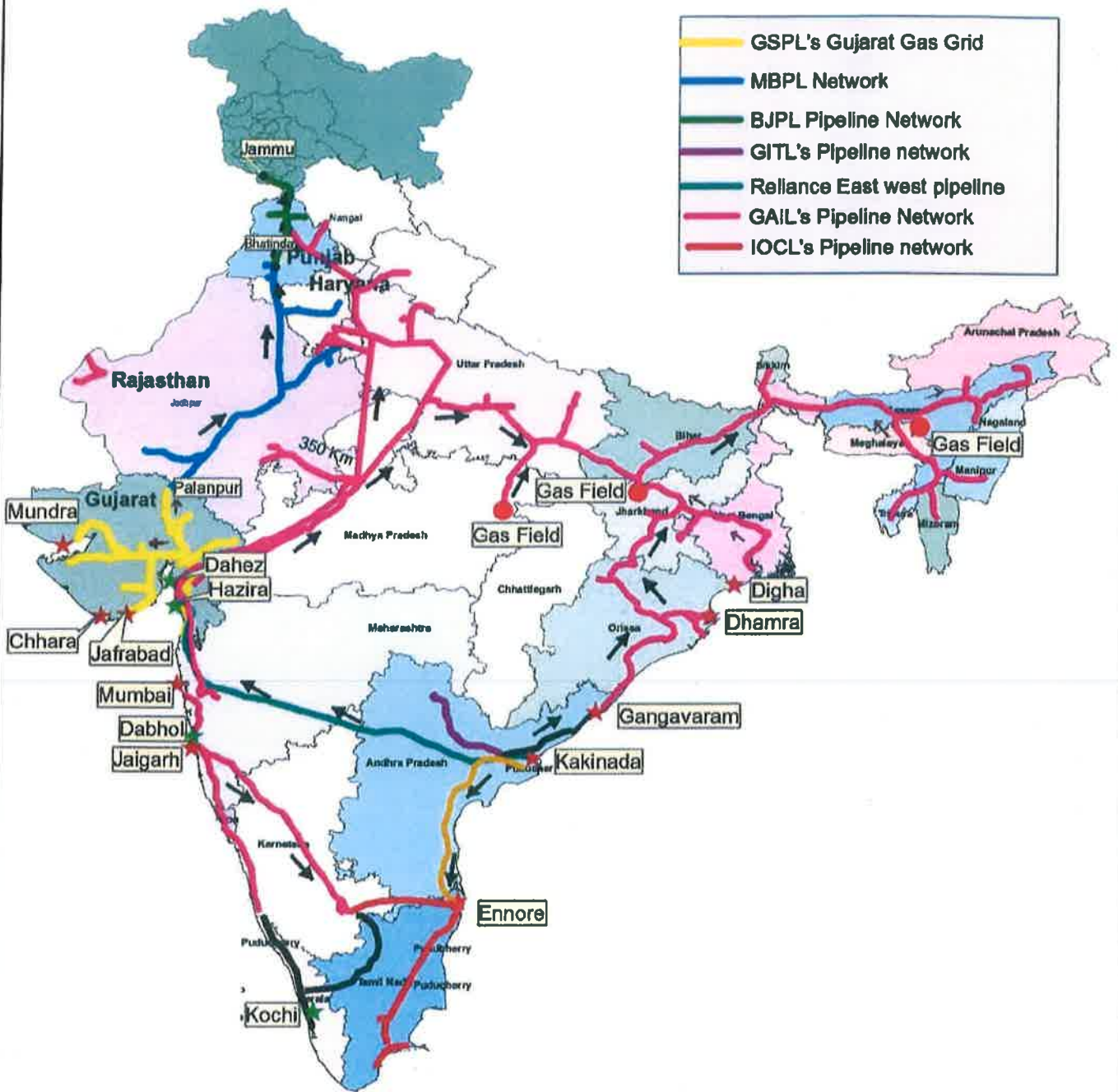
- a. GSPL has been regularly submitting its views that integration or unification of pipelines should always be approached holistically and not on piece-meal basis or entity level basis.

- i. Unification of tariff should be done considering existing as well as upcoming pipelines, including bid out pipeline to provide a level playing field to pipeline developer as well as customers across India.
- b. Current proposal of entity level integration will still result in additive tariff to customers at various locations across the country. Since the objective is to remain unbiased, the integration of cost plus and bid out pipelines of all pipeline operators should be examined from legal point of view and integration should be approached.
- c. GSPL humbly submits that in order to ensure that there is real competition both in transmission and marketing, first unbundling of marketing and transmission activities like the one undertaken by Power Sector is the need of the hour.
- d. Finally, it is our belief that certain pipelines which have low volumes and hence are not earning 12% post tax return (similar to the case of bid out pipelines) is entirely a business risk of the Company which has set up these pipelines.
- e. So a commercial decision going wrong should be treated equitably for cost plus and bid out pipelines.

Current Gas Flow in India



Gas Flow in India after 2 to 3 years



ANNEXURE 2

PNGRB Public Notice dated 29.06.2020 regarding Amendment to Tariff Regulations to incorporate provisions related to Integrated Natural Gas Pipeline System & related matters

Notwithstanding our Objection to the principle of 'Unification' currently proposed, here are our point wise comments.

Amendment Proposed	GSPL Comments
<p>Addition of new Regulation after Regulation 4:</p> <p>“4A. Determination of Unified Tariff in respect of Integrated Natural Gas Pipeline System”</p> <p>(1) The Board may, either on the application of an entity authorized to lay, build, operate or expand more than one interconnected natural gas pipelines to which these regulations apply or on its own, determine by order the unified tariff in respect of its entire integrated natural gas pipeline system in accordance with the provisions of these regulations;</p> <p>Provided that any such application made by the entity shall cover all its present and future interconnected natural gas pipelines to that integrated natural gas pipeline system, and such application once made shall not be withdrawn.</p> <p>“Integrated Natural Gas Pipeline System” of an entity means all the interconnected natural gas pipelines to which these regulations apply. The list, of such integrated natural gas pipeline systems and the natural gas pipelines constituting each such system, is given in the Part 1 of Schedule B. “Unified Tariff” means the unit rate of tariff for the Integrated Natural Gas Pipeline System (excluding statutory taxes and levies) in rupees per million British Thermal Units (Rs. /MMBTU) for transportation of natural gas.</p>	<ul style="list-style-type: none"> ● Determination of Unified Tariff by the Board on its own, without entity application, will lead to multiple issues, including legal hassles. <ul style="list-style-type: none"> ○ Determination of tariff needs to be in consultation with the entity and in line with data provided by the entity ● The option of going for integrated pipeline or retaining the current status should be left to the entity. If the entity does not desire to integrate its pipeline, Board should allow the status quo for such operators.

<p>Addition of new Schedule after Schedule A: Contains list of Pipelines proposed to be unified</p>	<ul style="list-style-type: none"> • Exclusion of regional networks and bid out pipelines from the list shall not help the Board achieve its basic objective of unified tariff across the country. • The list should include Bid out pipelines also which are already interconnected with other Pipelines.
<p>Part 2 – Clause 2.2 Subsequent Unified Tariff shall be determined by the Board generally after a gap of three complete financial years from the date first Unified Tariff applies</p>	<ul style="list-style-type: none"> • We request it to be determined after a gap of five years as per current practice.
<p>Part 2 – Clause 2.3 The Board may, if it deems necessary, determine the subsequent tariff to apply from an earlier date, if a new natural gas pipeline of the same entity is connected to the integrated natural gas pipeline system or any parameter impacting the determination of Unified Tariff undergoes a significant change</p>	<ul style="list-style-type: none"> • Since the tariff will be calculated on Discounted Cash Flow basis, it is proposed that it should be taken up along with the next tariff review to be done after 3 Financial years (we propose 5 Financial years)
<p>Part 2 – Clause 3.1 Capacity of the integrated natural gas pipeline system to be considered for the purpose of determination of the Unified Tariff shall be the summation of the capacities of constituent natural gas pipelines, as specified under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities for Laying, Building, Operating or Expanding Natural Gas Pipelines) Regulations, 2008; provided that the actual quantity of natural gas transported through more than one such pipelines shall be deducted in respect of the second and subsequent pipelines</p>	<ul style="list-style-type: none"> • GSPL would like to understand if the deduction will be only in case of physical flow or also for contractual flow. We believe any such deduction should be made only for Physical flow & not for Contractual flow. • Initially gas will flow from west coast only as terminals are currently under development in the east coast. Once the terminals develop on east coast, gas will flow from East coast as well, then the volume divisor shall increase. We request clarification in view of the above.
<p>Part 2 – Clause 3.2 Provided further that the capacity of natural gas pipeline is respect of entity authorized by the Central Government for laying, building, operating or</p>	<ul style="list-style-type: none"> • Does this mean that the yardstick for consideration of capacity shall be different for entities authorised by Central Govt. and otherwise?

<p>expanding natural gas pipelines before the appointed day shall be as approved by the Board as per the basis specified in the relevant regulations for determining the capacity of natural gas pipeline</p>	
<p>Part 2 – Clause 4 For the purpose of apportioning Unified Tariff among tariff zones, there shall be two zones. The first tariff zone shall be of three hundred kilometers from the point of injection and the remaining length of the pipeline shall be the second zone. Such apportionment among the two tariff zones shall be proposed by the entity and approved by the Order of the Board, in such a way that the tariff for the second zone shall not be lower than that of the first zone</p>	<ul style="list-style-type: none"> • The existing regulation should be retained and depending on the market dynamics, entity should be free to increase the tariff in subsequent zones by 1% or even lower. Further the entity should be given flexibility to review the zonal tariff after every 12 months / 24 months and reset them as per market dynamics. • If an entity is of the view that Z3, Z4, Z5 etc tariff should be same as Z2 tariff, it can propose so under the current regulations as well and therefore the current regulations should be retained. • Dividing vast / cross country networks in to only two zones shall result in higher tariffs for the customers in areas near sources (substantial volumes) and shall increase the cost of fuel for them, thereby having a reverse impact on their competitiveness

Suggestions / Comments / Views of Stakeholders are invited for discussions during the Open House Meeting on the following:

Views sought on	GSPL Comments
<p>1. As pipeline capacity is planned to be linked to authorised capacity as amended from time to time, we seek your suggestion on how to calculate capacity of Integrated Natural Gas Pipeline System</p>	<ul style="list-style-type: none"> We propose that initially the Capacity should be taken as per Authorisation issued by PNGRB. Subsequently, it should be added for the Constituent pipelines and deducted to the extent of physical flow to subsequent pipelines.
<p>2. Whether integration should be considered only for cost-plus pipelines or Bid out Pipelines can also be included for the purpose of Unified Tariff and suggest proposed methodology for including bid out pipelines and any legal difficulty envisaged therein</p>	<ul style="list-style-type: none"> Since it is entity level integration that is being considered, after five years from the date of commissioning of the Bid out Pipeline, it should be integrated with Cost Plus pipeline and tariff determined as per the Tariff Determination Regulations. The entity who owns the Bid out pipelines had taken business risk in developing a pipeline with no assured returns unlike cost plus pipelines. So similar set of rules to effect unification of bid out pipelines and consequential impact on tariff should be accepted. It is our submission that Unification of tariff should not be done at entity level but it should be done at sector level considering existing as well as upcoming pipelines, including bid out pipelines & regional networks, to provide a single tariff to all the customers across India. There should be no impact of the ownership of pipelines when such single tariff pan India is available to the customers. It is our view that since Board also determines the tariff for pipelines awarded by MoPNG, make changes to Tariff Regulations through Public Consultation process, Board can take a similar stand for the bid out pipelines authorised by it as they are also common carrier pipelines awarded through transparent process.
<p>3. Consequent to the change in NGPL Tariff Regulations, what changes may be required in the corresponding related provisions of other NGPL Regulations. Comments are also sought from the stakeholder for the corresponding changes in the other regulations with reasons along with the proposed draft amendment</p>	<ul style="list-style-type: none"> An enabling statutory framework with required amendments to the PNGRB Act is required to implement the concept.

<p>4. Whether while determining the Unified Tariff, pipelines of subsidiary companies can be included in the Integrated Natural Gas Pipeline System or not and any legal difficulty envisaged therein</p>	<ul style="list-style-type: none"> ● As represented above, we request that effort should be made to ensure that each customer shall have the same tariff irrespective of the number of different pipelines considered for transportation of gas which may be owned by one or more entities. ● Basic Principle Proposed: <ul style="list-style-type: none"> ○ Unification of all pipelines (not entity level) should be carried out. Customer to pay same tariff if it is connected with different pipelines or gas flow requires different combinations of pipelines. Unified tariff shall be reflective of distance and shall not be postal tariffs. ● If a customer pays tariff that is neutral of Pipeline ownership, any excess /deficit revenue earned by the pipeline over the regulated returns should be adjusted through the Pool Mechanism. PNGRB may determine the sharing mechanism to other pipelines from this Pool Account such that pipeline entity shall earn revenue as per their entitlement be it cost plus or bid out pipeline. Eventually this will lead to development of infrastructure across the Country. ● Application of different concepts for different set of pipelines shall distort the market and devoid the players of a level playing field ● Regulations should be set in a manner so as to ensure that every pipeline developer is duly incentivized to expand its network and develop capacities and help India move towards a gas based economy. Having different approaches leads to ambiguities and shall disincentivize new players from investing in gas infrastructure sector. ● The same set of rules as applied to cost plus pipelines for integrations should be applied to Bid out pipelines. There should be a sunset clause of 10 years for Bid out pipelines. After 10 years both cost plus and bid out pipelines should be considered at par. Just as the cost plus pipeline earns an assured return, to ensure that the bid out pipeline is developed along the entire route, the incentive of unification should be offered to the developer. ● As per the current reading of the Act, we are not able to conclude that Board has authority to change the rules / regulations for only Cost plus pipelines and not Bid out pipelines which are infact more at revenue risk.
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<p>5. Whether two-Zone tariff concept may also be applied to other pipelines i.e. cost-plus pipelines other than Integrated Natural Gas Pipeline System. Further, whether to include bid out pipelines also without changing total revenue from the pipeline, which are not part of the Integrated Natural Gas Pipeline System, and any legal difficulty expected therein</p>	<ul style="list-style-type: none"> • Kindly refer to our comments at Part 2, Clause 4. Accordingly we request that the current Regulations regarding zoning should continue.
<p>6. Whether PNGRB should give unrestricted freedom to the entity to decide zone wise tariff or it should be within certain specified parameters as per regulations</p>	<ul style="list-style-type: none"> • The current tariff mechanism proposed is a mix of postalised tariff and distance based tariff. • Instead we suggest to have distance based tariff i.e. Rs. ___ / 10 kms. This would be reflective of the cost of service and the customers near the source will not opt for dedicated pipelines as the tariff would be competitive.



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Ravindra Agrawal
22/12/20
AC (A-2)

GSPL/COMM/2020
21st December, 2020

Secretary,
Petroleum and Natural Gas Regulatory Board (PNGRB)
1st Floor, World Trade Centre
Babar Road
New Delhi- 110001

Sub: Views on PNGRB declaring Duliajan-Numaligarh dedicated pipeline owned and operated by Duliajan Numaligarh Pipeline Limited (DNPL) as a common carrier or contract carrier natural gas pipeline

Ref.: PNGRB's Public Notice No. PNGRB/Auth/2-NGPL(07)/2008 dated **20.11.2020**

Respected Madam,

With reference to above, GSPL would like to state that in accordance with Regulation 19 of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Gas Pipelines) Regulations, 2008 permits PNGRB to convert, either suo moto or on application, a dedicated pipeline for supply of natural gas to a specific consumer, into a natural gas pipeline. Such provision enables the entity laying the dedicated pipeline to bypass the competitive bidding procedure specified for laying of new pipelines.

GSPL objects to this 'automatic conversion of dedicated pipeline into natural gas pipeline' as the same is ultra vires the PNGRB Act, 2006. Section 11 of the PNGRB Act does not contain any provision allowing for "conversion" of one category of pipelines into another.

Moreover, we would like to participate in the Open House Discussion, called by the Board on the comments received from other stakeholders on the aforesaid Public Notice.

Thanking You,

Yours Sincerely,

Ravindra Agrawal

Ravindra Agrawal
Group ED (Gas Business)



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GSPL/COMM/2021
24th June, 2021

Secretary,
Petroleum and Natural Gas Regulatory Board (PNGRB)
1st Floor, World Trade Centre
Babar Road
New Delhi- 110 001

Sub: Views/ Comments on Vedanta's proposal to lay a dedicated Pipeline from Salaya to Vadinar Refinery of Nayara Energy

Ref: Public Notice Ref PNGRB/Auth/2-NGPL(04)/2012 dated 11.06.2021

Respected Madam,

With reference to above, please find attached herewith (Annexure 1), GSPL's views / comments on the subject proposal from Vedanta.

We would like to participate in the Open House Discussion, called by PNGRB on the comments received from other stakeholders on the aforesaid Public Notice.

Thanking You,

Yours Sincerely

Ravindra Agrawal
Group ED (Gas Business)

ANNEXURE-I

COMMENTS TO PUBLIC NOTICE DATED 11.06.2021

The following are our comments in respect of the Public Notice Ref PNGRB/Auth/2-NGPL(04)/2012 dated 11.06.2021:

- 1) **Change in Purpose of Upstream Asset Pipeline:** *The proposed pipeline of 3.25 km does not qualify as a dedicated pipeline to a customer as it is an extension of a 594 km dedicated natural gas pipeline that has been developed as part of the assets of Oilfield development under the Production Sharing Contract RJ-ON-90/1 Block as part of the upstream assets under the Production Sharing Contract dated 15.05.1995 for RJ-ON-90/1 Block under the jurisdiction of DGH. The 594 km pipeline has been developed with its cost being recovered as part of "Cost Petroleum" at the cost of Union of India's share of Profit Petroleum. This Application cannot be considered as a valid application under Regulation 19 NGPL Authorisation Regulation since it is changing the purpose of the existing 594 km pipeline from being a dedicated upstream asset to a common carrier natural gas pipeline which will require authorisation under s. 16 PNGRB Act*

- a. The PNGRB Act and the Regulation 19 of NGPL Authorisation Regulations are not applicable to the 594 km pipeline and nor can it be applicable to an extension of that pipeline by 3.25 km under the PSC. PNGRB Act specifically excludes the production of crude oil and natural gas from its scope and as such the infrastructure developed under PSC is completely outside its scope. The Proposal will result in a change in purpose of the 594 km Barmer to Salaya natural gas pipeline that has been developed and financed as part of the upstream development of the Barmer oil and gas fields and its present purpose is solely to supply natural gas to the generators along the oil pipeline in order to maintain the temperature of the oil pipeline and ensure continued operations of the oil pipeline. The said 594 km natural gas pipeline has not been approved or authorised for the purposes of transporting natural gas for customers offtaking gas from the RJ-ON-90/1 Block.

The proposed dedicated pipeline is not only a 3.25 km pipeline but is in fact, a 594 km + 3.25 km pipeline as it will change the purpose and cost structure of the 594 km pipeline that requires to be approved by DGH. The upstream pipeline is thus excluded under the PNGRB Act.

- 2) **Outside the scope of PSC:**

The natural gas pipeline developed at the cost of Government of India's profit petroleum share under the PSC at a cost of US\$ 1108 million, the cost of which is being recovered from the Government of India's share of the profit petroleum under the PSC, is now proposed to feed dedicated pipeline proposed to be laid under PNGRB Regulations.

The proposal to develop a dedicated pipeline, which is not part of the upstream assets of oilfield but as a separate facility that is governed by PNGRB, is outside the scope of the PSC and the costs permitted to be undertaken by the Operator for implementing the PSC.

- 3) **The Proposal cannot be considered by Hon'ble Board till such time as :**

- (i) The Management Committee ("MC") constituted under Production Sharing Contract RJ-ON-90/1 Block as part of the upstream assets under the Production

Sharing Contract dated 15.05.1995 for RJ-ON-90/1 Block (“PSC”) and the Directorate General of Hydrocarbons (DGH) approves.

- (a) the changing of the purpose of 594 km pre-existing dedicated natural gas pipeline and
 - (b) the conversion of the 594 km to a common carrier or contract carrier pipeline which can be used by the Operator under the PSC.
- 4) The Application suffers from **discrepancies and non-disclosures** of material facts as listed hereunder:
- a) The 594 km pipeline was commissioned for the sole use of transporting gas for heating the oil pipeline, which is built as part of the cost of development of Barmer oil and gas field and forms part of the “Cost Petroleum”.
 - b) the proposal is silent on whether the cost of natural gas pipeline would be determined and excluded from the Cost Petroleum and Government of India refunded the reduction of its Profit Petroleum that has already occurred on this account;
 - c) that approvals are needed from DGH and Management Committee under PSC for changing the purpose of the Mangala Development Pipeline (MDPL) and the current status of the same;
 - d) Information related to the costs to be allocated to the proposed Dedicated Line due to the change in the purpose of the 594 km pipeline, while duly accounting the compensation received from Government of India under the head “profit petroleum”; and
 - e) The proposal does not clarify the capacity of the existing gas line and the actual carrying capacity of the proposed dedicated line. The stated capacity of 0.2 MMSCMD is the volume of gas contracted by the customer in the recent auction conducted by Vedanta. The said gas of 0.2 MMSCMD, is already being transported by the entity authorised by PNGRB. Further the entire gas produced as on date, is transported by the authorised entity and there is no constraint for transportation of gas from the field.
 - f) Authorisation is required from PNGRB for the entire MDPL, since it existed prior to the appointed date under Section 16 of PNGRB Act.
- 5) *Regulation 19 is not applicable:* From the above, we are of the opinion that Regulation 19 of the PNGRB Act cannot be applied to the proposed line of 3.25 kms because
- a. The proposed dedicated line of 3.25 kms originates from an upstream asset which is not covered under the Act or Regulations.
 - b. Even under the existing Authorisation Regulations, there is no provision to authorise a dedicated line originating from an existing dedicated line as it violates the definition of Dedicated line

Conclusion

For the reasons stated above, the application filed by Vedanta for laying a dedicated pipeline from Salaya to Vadinar is outside the scope of the PNGRB Act and cannot be considered as a valid application under Regulation 19 NGPL Authorisation Regulations and should be rejected.