Subject	Minutes of Open House Discussion on Proposed Amendment in NGPL Tariff Regulations
Date & Time of Open House	31^{st} July, 2020, 11:00 Hrs

An open house discussion was held on 31.07.2020, on proposed amendments in Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (NGPL Tariff Regulations), webhosted vide PCD dated 29.06.2020. The meeting was chaired by Chairperson, PNGRB and attended by Member and other officials from PNGRB besides other participants. List of participants is attached as **Annexure 1**.

On the proposed amendment in NGPL Tariff Regulations, comments were received from thirty five stakeholders viz. Adani Gas, Total Adani, BP Exploration Ltd., Clarus Law Associates, Enertech Fuel Solutions, FAI, FICCI, FIPI, GRM, GSFC, GSPL, HPCL, HSEPL, ICF, IGGL, IGS, IGX, IOCL, NTPC, ONGC, OPAL, PIL, RCFL, Systematrix Group, Torrent Gas, Torrent Power, BPCL, RIL, Shell, GAIL, H-Energy, GSPC LNG, DSK legal, Jayant Bhatt and Tishampati Sen. Further, representatives from KPMG, consultants of PNGRB on rationalisation of tariff were also present. Written comments were also webhosted before the Open House.

During the open house, Chairperson welcomed all the stakeholders and appreciated that various categories of stakeholders had submitted their comments and are also participating in the Open House. In order to streamline the discussion, PNGRB grouped the stakeholders in various categories and asked them to explain their comments on the draft regulations: -

A. **Gas Consumers**

1) **Adani Gas**:

- Unification at national level would provide the right impetus for growth which is the intention behind the proposed amendments.
- The proposed amendment might lead to Market distortion in terms of preference of customers with respect to marketers as well pipelines so as to minimize the tariff. The additive pipeline tariff would continue to exist and the total tariff for consumers nearer to pipeline is likely to go up, particularly for Adani Gas Ltd.
- It would be better to devise the structure which takes care of all the pipelines to have level playing for all customers.

2) **Adani Total:**

- Adani Total supported unification and development of zonal tariff; concern is with respect to methodology proposed for tariff determination specifically in the escalation because expected increase in cost/ inflationary impact are already factored in levelized tariff and hence not sure that there should be any separate provision for an escalation in tariff.
- Adani Total suggested integration of not only just cost plus pipelines but also of bid out pipelines. It was stated that all pipelines should fall into same methodology of computation of tariff. It was opined that PNGRB should play a very fundamental role in the determination of zonal tariff.

  PNGRB clarified the following with respect to factoring escalation: -

  There are two options before PNGRB-

  i. The existing system is that tariff is levelized for the economic life of the pipeline i.e. from year one to year 25 and the tariff remains same.

  ii. Alternatively, a model is made in such a way that tariff in first year is low and increases year by year subsequently based on escalation rate.

PNGRB also clarified that the NPV of the tariff in both the options would remain same. The objective was to ask stakeholders whether they would like levelized tariff or some gentle escalation year to year which will be part of tariff calculation.

3) **BPCL**:

BPCL mentioned that the initiative of unified tariff and integration of pipelines is good. As a customer/marketer, BPCL has a view that consumer interest should be taken care. Tariff should not increase as this may dis-incentivise consumers to shift to an alternate fuel. The higher tariff will lead to increase in the price of CNG & PNG and may impact the growth of gas market and hence it may be ensured that the tariff should not drastically increase due to change in divisor. At the same time Interest of Zone 1 consumers should be taken care of.

The Board assured stakeholders that there are two important considerations i.e. a) consumer interest and b) more and more gas consumption which would happen when tariffs are rationalised. At the same time it is also important that new gas infrastructure is developed. PNGRB has to play a balancing role for this.

PNGRB mentioned that it would be seen that because of tariff unification, Zone 1 customers may not be unduly burdened in general and PNGRB will see as to how and to what extent it can be achieved.

4) **Gujarat State Fertilisers & Chemicals Limited (GSFC)**

GSFC expressed that their main concern is that since PIL pipeline is not included in unified Tariff, it will lead to higher price of gas if GSFC transports gas from Andhra Pradesh. As GSFC also procures spot gas from Dahej and Hazira which comes under Zone 1, it is expected that PNGRB will take into cognizance customers who are close to the port and GSFC expected tariff to go up gradually instead of increase immediately.

5) **HPCL**:

HPCL requested to create integrated natural gas pipeline on Pan India basis covering all the pipelines i.e. cost plus and bid out pipelines across all entities. Once integration of pipelines is implemented, it should be assured that shippers need not pay additive tariff even if gas is transported through different pipelines, operated by different operators. The unification should not result into increase in revenue for pipeline operators i.e. it should remain revenue neutral. This would help in the government's initiative of increasing gas utilization.

PNGRB clarified that they also feel that unification on entity level is not an ideal situation. However, considering legal challenges in integrating bid-out pipelines and unification beyond an entity, therefore at this stage, the present proposal has been taken forward. Various legal stakeholders have also advised against including bid out pipeline and pipelines beyond a single entity. Some of them have advised amending the Act itself and some of the other stakeholders have advised that further study needs to be done for integrating all the pipelines including bid out pipelines integration.

PNGRB mentioned that HPCL has referred that there should be cap on zonal tariff, but HPCL has not provided any specific submission. HPCL may like to send submission on same separately.

6) **IOCL:**

PNGRB's intention is good but the same should lead to the intended results. IOCL mentioned that they are playing multiple roles as LNG terminal operator, marketer, consumer and also as transporter. It was submitted that while doing such amendments, care would have to be taken to ensure that pipeline transportation companies should remain revenue neutral.

IOCL as a natural gas consumer is mainly at Eastern & Western coast and they should not be adversely impacted while deciding zonal tariff. The tariff should be framed in an industry and consumer friendly manner including for zone 1.

IOCL stated that the proposed amendment should not discourage new infrastructure projects.

IOCL also suggested for a PSU Transmission System Operator for all the integrated pipelines who can look after for the transportation of the gas in the system.

PNGRB informed that it has taken other initiatives as well to incentivize new infrastructure in pipeline business. Separate regulations are being drafted to bring TSO. Further, regarding revenue neutrality of pipeline entities, revenues may not be affected much. It would also be seen that Zone 1 consumers are not adversely impacted significantly.

7) **NTPC:**

NTPC mentioned that competitive delivered gas price (commodity price + transportation + taxes) at power plant burner tip is at US$4-5/MMBtu. With the unified tariff, cost of delivered gas will increase substantially and this will make already struggling gas based power plants unviable.

NTPC gas based power plants are at GAIL's HVJ pipeline. Integration of GAIL's HVJ and DVPL/GREP upgradation pipelines has already substantially increased transportation charges by 79% and hence existing customers should not be burdened for incentivising new consumers.

NTPC also suggested that there should be clear capex and opex norms for cost-plus method which is already adopted by CERC for notifying tariff of power plants. This will increase accountability and efficiency. The Board may consider tariff in a reasonable manner to keep it competitive for power generation.

PNGRB clarified that increase in tariff by 79% was not due to integration but was due to delay in tariff determination as the same is to be applied prospectively though due on retrospective basis. In fact, due to the Integration of HVJ, zone 1 tariff remained same even after a gap of 6-7 years whereas tariff for zone 2 onwards was reduced.

8) **OPAL:**

It was brought out that OPaL is strategically located in port area and very close to LNG terminal. Existing transportation cost itself is very high, approximately 12-14% of RLNG cost as compared to freight cost for other materials. OPaL complimented PNGRB for such an integrated approach, however, it was submitted that the proposed integration to be in a manner so that companies located near to the port region or strategic location should not be additionally burdened. Undoubtedly, proposed approach shall be beneficial for users having a single entity's pipeline, but users transporting gas from multiple entities shall still have to pay additive tariffs.

9) **RCFL:**

RCFL supported the integration of natural gas pipelines scheme which states to develop natural gas infrastructure in far flung areas. However, they expressed their concern for the customers located near the source which may get adversely affected as their tariff will increase. Operations of fertilizers and chemical sector were likely to get affected.

Gas pooling introduced in the year 2015 encouraged indigenous urea production. As per this mechanism, all factors comprising gas cost are fully reimbursed by GOI, one of them, being a gas transportation cost. Any upward revision in gas transportation cost will invariably increase cost of Urea manufacturing and enhance subsidy burden on GOI. The profitability of industry will get affected, so RCFL requested to take a holistic approach to protect the interest of consumers and requested for a detailed study before carrying out the amendments.

10) **<u>Torrent Power</u>:**

It was stated that the current concept of Unified tariff will burden consumers like Torrent Power. At a macro level Torrent brought out three observations:

a) The major gas supply sources are in western region. If unified tariff becomes applicable, industries in the western region will find themselves in a situation which they never factored. Western consumers will be subsidizing the eastern consumers.

b) Each sector like power, fertiliser, CGD sector, etc. has their own cost basis on which they provide services to their consumers. Regulations of power sector are very difficult and it is not easy to get the additional cost cleared from the Regulator.

c) Bundling always brings in inefficiency. Capex and opex models really bring a great deal of transparency and efficiency. Bundling unnecessary will increase cost because when volumes do not go in accordance with increased capacity it would directly burden consumers like Torrent.

In the past, presentation has been given by Torrent Power to the Hon'ble Board on how their tariff cost was increased from Rs. 7 to Rs. 33 per mmbtu from 2012 to 2020. The current proposal to integrate tariff will further intensify this issue.

On the issue of including the bid-out pipelines and bringing in the pipeline of the subsidiary companies, Torrent was against this concept which PNGRB has very well and aptly differentiated. They requested that the consumer should not be further burdened by such proposals.

11) **<u>Torrent Gas</u>:**

Torrent Gas sought clarification on the methodology to be followed while adding new pipelines like JHBDPL mainly on the addition of capex of such new pipeline and consideration of economic life of said pipelines.

Torrent Gas also sought clarification on the rationale of having only two zones for tariff. This would significantly load higher tariff burden for the customers who are closer to the initial part of network and have already set-up their units/project at the particular location based on the competitiveness of gas price including transportation tariff. The economic viability of such units may be severally impacted due to unified tariff decision.

It was suggested that Board should decide the zonal tariff that would help in rationalization of tariff.

B. **Trade Associations**

1) **<u>FICCI</u>:** It was pointed that the customers near source or ports should not be cross subsidising far off customers. FICCI supported distance-based tariff, of about 100-200 km. With unification, consumers near source, will end up subsidising consumers away from the source which is undesirable.

2) **<u>FIPI</u>:** FIPI welcomed PNGRB's initiative to move towards a unified transportation tariff for the gas pipelines in the country. Based on the discussion with their gas member entities, it was submitted that to develop pan India gas market, it is imperative to integrate all existing pipelines along with regional networks irrespective of their ownership.

   Determining Unified/ Pooled tariff of all gas pipelines (including bid out pipelines) may entail certain degree of legal implications. Therefore, it was suggested that a stage wise unification may be helpful in a smoother and timely implementation of the Unified/ Pooled tariff concept:

   In the first phase, the tariff unification/ integration strategy for all the interconnected cross-country and regional network pipelines covered under the tariff regulations may be considered as the starting step.

In the next phase, bid out pipelines may be considered under the uniform tariff depending upon clearance of potential legal issues.

It was brought out that the proposed changes in key tariff determination parameters like volume divisor, zonal apportionment, tariff review periods etc. have been considered differently for different categories of pipelines. It was suggested that all the parameters for the tariff working may be applied uniformly for all the entities covered under the tariff determination regulations, without any discrimination.

3) **<u>Fertiliser Association of India</u>:**

FAI mentioned that existing consumers near the source or port have made certain assumptions while putting up plants and now they would not want cross subsidisation to happen. It was suggested that a viability gap funding may be done to develop the gas infrastructure in the under developed areas instead of burdening the existing customers.

Fertilizer (mainly urea) industry is the major consumer of natural gas in the country. Burden of urea subsidy is about Rs.50-60 thousand crore. Department of Fertilizers should also be consulted in the matter if the delivered cost of gas increases. FAI submitted that the tariff should be distance based. FAI submitted that the integration exercise should not substantially impact the prices and ultimately gas consumption. FAI mentioned that in past they have worked on model GTA with PNGRB but outcome is pending.

PNGRB mentioned that standard GTA is under finalisation for formal public consultation. It was also, clarified that for the upcoming fertiliser plant in Haldia, gas would not necessarily come from the west coast and may come from east coast which may save tariff.

PNGRB asked FAI that whether they have any back up with regard to their comments for increase in subsidy burden in overall context or it is only their apprehension. FAI responded that it is their apprehension. To this PNGRB mentioned that it will take care of the consumers interest.

C. C**onsultants**

1) **GRM**:

GRM submitted the following:

Gradual approach to change in regulations will create aberrations. PNGRB should avoid mid-way tinkering and look at a long term sustainable system. PNGRB has already appointed a consultant to do a comprehensive review of the entire tariff system. Rather than doing a half way thing, PNGRB may bring a unified tariff system on a pan India basis for all pipelines irrespective of ownership.

GRM raised the issue that regulations may be changed in case of any legal issues in integration. GRM does not think that an amendment is required in the Act to facilitate such change. Board is mandated to follow under the PNGRB Act, 2006 which mentions about the Government policy guidelines dated 20/12/2006. Govt. can be requested to amend its policy document to facilitate introduction of the concept of the Unified Tariff for Natural Gas Pipelines, which is in the public interest, if PNGRB feels that there is a legal impediment.

GRM also referred to judicial pronouncements to support, where revision in bid out power tariff for Sasan Super critical thermal power station was upheld by the Hon'ble Supreme Court.

Referring to international practices, they informed that FERC does provide for grand-fathering certain pipeline tariff systems in case of requirement where pipelines has come before the FERC provisions came into effect.

For bid out pipelines, if PNGRB ensures the levelised tariff that they committed at the time of bidding is sacrosanct and retained, integrating them into the pool should not be an issue.

Current zoning is superior to the proposed two zone tariff as it gives the right economic signals. PNGRB should fix zone wise tariffs to avoid pipeline to pipeline competition and instead competition should be in sourcing of gas.

Once there is unified tariff for all pipelines, it could become the basis for bidding for a particular capacity. It would ensure sub-optimal bidding would not happen and robust pipeline systems come with realistic capacity and also unified tariff would not go up by virtue of new pipelines coming in the system.

2) **ICF:**

ICF supports the idea of Unified tariff, however, mentioned that there should not be carve outs for gas pipelines that have bid based tariffs as this would complicate and defeat the purpose of a unified tariff and could distort market development.

Internationally, unified tariffs are applied to network style pipeline systems with less of geographical area, where suppliers can enter the pipeline at many locations. Often the consuming markets draws gas from many locations on the network as well. In such systems there is no obvious linear directional gas flow, rather these systems are characterized by flows in multiple directions. Developing distance-based tariffs for such systems is impossible, thus the unified or postage stamp tariff is an easier and simpler way to recover costs.

On the point of single transmission system operator, it was suggested to look at different models adopted with ownership unbundling, independent system operator or strong compliances in place which help entities not to create market discrimination. In EU gas sector independent system operator is not very successful.

There are also independent transmission operator models where unbundling does not happen, still there are strong regulations and compliances in place which does not allow entities for market distortion.

D. **LNG**

1) **GSPC LNG (GLL):**

GLL stated that it is good initiative taken by Board for the unification of tariff but for existing terminals having more than one pipeline connectivity and running on more than 100% of their capacity level they would be in more advantageous position because of single tariff availability for their consumers. Consumers would prefer those terminals which can transport the gas to their plants through single integrated pipeline system so as to avoid additive tariffs. GSPC LNG is on a GSPL network, so to supply gas to consumers outside Gujarat, there would not be any change for consumers as additive tariff of other pipeline operator would be payable besides GSPL network tariff.

GLL submitted for unification on pan India level rather than entity level.

2) **H-Energy:**

Integration of pipelines is good for the country and the customers. However, in order to develop India as a gas based economy, the integration of pipelines should be implemented for all kind of pipelines (both cost plus and bid out cases) on pan India basis irrespective of the entities/kind of authorization given by PNGRB. As a first step in that direction, entity wise integration of pipeline is a logical step. The model to be adopted should be revenue neutral.

Suggested for appointment of Independent Transmission System Operator (ITSO) for operating the pipeline grid similar to the Europe. This will increase market competition and transparency and ultimately benefit the consumers.

For effective capacity determination, H-energy requested Board to determine the capacity of pipeline individually which are still operating at provisional capacity.

H-energy will not support unrestricted freedom to the pipeline entity to decide zone-wise tariff. There should be a certain specific parameter/guideline to determine tariff for first and second zone.

3) **HPCL Shapoorji Energy Pvt. Ltd. (HSEPL):**

HSEPL brought out that in case Unified tariff is entity based, unit tariff for the customers near the source will likely go up. In case unified tariff for all the pipelines is not possible then status quo is better than the entity based unified tariff. However, the best is pan India unified tariff because it will give opportunities to LNG terminals to come up at various ports rather than putting load on one or two terminals.

4) **Shell**:

Shell supported the implementation of the Unified Tariff as it is in interest of overall gas market development in India. There may be some pain for the customers whose tariff increases and the others are subsidised due to unified tariff, but it is better in the overall interest of the country. They supported unified tariff for all interconnected pipelines for development of new gas markets and pipeline infrastructure. Shell did not support entity wise integration as same may have unintended consequences such as demand destruction etc. Also, regional networks and bid out pipelines be included in unified tariff. However, since bid out pipelines have legal challenges, that can be done in the second phase.

Various models are available, first is having a pool account with two tariff structure, one is for the customer which is uniform and the other for the pool operator who manages the bid-out tariffs based on the bid submission by each pipeline operator. Shell gave example of Mexico in this regard, where one of the pipeline operator is appointed as common operator. In the opinion of Shell, the model may require GOI intervention and cannot be solely done by PNGRB.

Shell requested certain pre-requisites which are Independent System Operator (ISO), implementation of the Affiliate Code of Conduct for segregation of marketing and pipeline activities, amendment to the Pipeline Access Code to permit access on flexible terms (RE / Interruptible access) and standardized GTA terms, and development of National Gas Bulletin Board (NGBB).

In lieu of considering the Net Fixed Assets (NFA) as proposed in the amendment, it recommended the Net Project Cashflows (NCF) for approval of tariffs of the constituent pipelines from the date of inception of the respective pipelines till the date of determination of the first Unified Tariff.

On the comment of NFA vs NPV, PNGRB clarified that it meant NPV only. On point of pre-requisites, PNGRB mentioned that it has already webhosted the exchange regulations and is in the process of drafting other regulations which may cover some of the pre requisites mentioned, which otherwise also will be required.

E. **Domestic Gas Producers**:-

1) **<u>BP</u>:**

In order to fully achieve the GOI objective for development of competitive gas market, it is imperative to integrate all pipelines. Restricting this amendment to only two entities will lead to market distortions.

By not including all the pipelines in the integrated pipeline system, the proposed Unified tariff regime inadvertently incentivizes LNG over East coast gas producers. Proposed amendment creates entry barrier, hamper competition and investment opportunity. This amendment affects tariff competitiveness of bid out pipeline and discourages new investment.

Fair, transparent and non-discriminatory access to pipeline infrastructure is important so as to ensure low gas price to end consumers.

BP is comfortable to adopt status quo rather than to adopt sub-optimal model. An optimal solution is needed as soon as possible to support market development.

2) **ONGC:**

ONGC supported unification/integration of all pipelines including bid out pipelines for development of gas market and infrastructure in the country, which would be the ideal situation for the development of gas infrastructure.

Since bid out pipelines have to be paid tariff as per their bid, any excess collected from consumers as unified tariff can be retained as "Pipeline Development Fund" to be maintained by PNGRB. In case of viability gap for future pipeline, this fund can be utilized.

As per proposed amendment unified tariff will be determined by Board generally after every 3 years. It was proposed that unified tariff be determined by PNGRB each financial year based on volumetric utilization of each integrated pipeline or addition of new pipeline to the system by the entity or any parameter impacting the determination of unified tariff with a significant change.

Yearly review should be applicable to all natural gas pipelines including the ones which are not part of integrated natural gas pipeline system.

3) **RIL:**

RIL favoured unification on pan India basis or retain status quo because intention of proposed unified tariff is to ensure that there will be equitable distribution of gas across the country, however, if it is done at entity level than there will be unintended outcome as it will favour few sections of the customers who are at the farther end of the pipeline. Further, it will benefit only few terminals which are connected with these pipelines network. Therefore, it is not appropriate to have a regulation which favours few entities, few customers and few terminals.

There could be some legal challenges for any model that might be chosen by the Board. If an optimal solution is not derived due to some legal challenges than this sub-optimal solution remains with the industry for a long time.

RIL proposed that PNGRB may evaluate 'pooling of tariff' for interconnected pipeline across the country, based on the existing levelized tariff determined for each common carrier or contract carrier and expected gas flow in these pipelines. This would ensure that customer will pay single tariff and there will be no advantage or disadvantage to any seller.

The Board then put forth the observation before RIL and other stakeholders that in both the cases i.e. proposed integration or pan India integration, the tariff for the customers who are near the source will increase.

RIL agreeing to the statement said that the cost for customers will increase in any case of unification, but if it would happen at national level, it is justified as it would not benefit any particular section of stakeholders.

4) **IGS:**

IGS supported PNGRB's initiative of unified tariff as it will minimise additive tariffs and increase the gas market. However, it was stated that they do not support entity level unification as it would lead to market distortion and unintended consequences. Gas production from east coast as well as supply from the terminals in Gujarat which are not connected to proposed integrated pipelines would continue to have additive tariff. The entities whose tariff are proposed to be unified are currently either directly or through their affiliates marketing about 80% of gas in the country. It would lead to consolidation of market power.

IGS would request PNGRB to have proper sequence of these regulation so that unintended consequences may be avoided.

IGS supported unification for all the interconnected cost plus pipelines across India at the first stage. There could be legal implication in bringing the bid-out pipeline hence, bid out pipelines could be included in second phase.

On the issue of Zone-wise tariff, to protect customers who are closer to the source of gas, PNGRB could consider Zone 1 tariff which could be lower by x percent compared to Zone 2 tariff.

F. **Natural Gas pipeline Entities**

1) **GAIL**:

Unified tariff will aid overall development of gas market and Government's vision of gas based economy in the country. The need of the hour is to balance the interest of individual customer with the overall gas market in general.

Entity wise unification is welcomed as a first step and country wide unification as the second one. GAIL endorsed the two zone tariff that is suggested by PNGRB. GAIL also mentioned that it has submitted comments mainly with details of the calculation of tariff. The individual capacities of the pipelines which are not connected to a source should be dealt differently as compared to the pipeline that are connected to a source.

PNGRB asked GAIL to provide rationale for unification at entity level. GAIL submitted that as a first step entity wise unification may be done as it along with one more entity owns majority of the pipeline infrastructure in the country. If unification is done at entity level then it will be good for the consumers across the country and they will be benefitted uniformly to a large extent.

PNGRB highlighted that competitors of GAIL mentioned that GAIL has major stakes in transportation as well as marketing and unification would further consolidate GAIL's position as a major dominant player. It has also been conveyed that some stakeholders mentioned that since we do not have a robust mechanism of unbundling/access, as prevalent globally, it will be against their commercial interest. It has also been brought out that the proposed integration will not be in the interest of customers which are very near to the source of gas. PNGRB asked GAIL to respond to these observations/ concerns of some stakeholders.

GAIL mentioned that as stated by PNGRB, the overall unification will be largely revenue neutral to the entities, however, unification will lead to development of gas based economy. Addressing concerns on the apprehension of the customers near the source being a major comment from the consumers, GAIL mentioned that in case of unification of HVJ, GAIL has kept the zone 1 tariff unchanged. GAIL will not be proposing any significant increase in zone 1 tariff for any of the pipelines than what is existing.

In place of four zones, two zones are proposed in the integrated pipeline system, in such case, tariff of zone 2 is expected to be weighted average of existing tariffs of the zone 2 onwards. In such case, overall tariff to industry consumers like fertilisers, power, etc. which are present at different locations (i.e. far end, middle and start of the pipeline) may not be affected as higher tariff in one zone shall be compensated by lower tariff in other zone.

PNGRB asked GAIL to address concerns of some entities like GSPL that unification for cost plus pipelines pan India/unification entity wise would impact their competitive position and companies like GAIL would further consolidate their position, particularly in those areas where pipelines of more than one pipeline entities are in existence. GAIL was asked to present their views on GSPL's observation subject to verification of the facts as mentioned by GSPL.

GAIL mentioned there are only two or three points in the country where two pipelines are reaching/converging so it is not a generic problem but a specific problem. It may be taken as special cases and can be examined and addressed separately. Presently, such points are in Haryana, Punjab, Gujarat and Maharashtra and that too in limited areas.

Further, GAIL mentioned that tariff regulations which were applicable to individual pipelines should be applicable to the unified tariff once authorisation is done for the interconnected pipelines. Tariff fixation can follow the authorisation. GAIL will be actively supporting integration and expansion of the market, which will be in the interest of all the stakeholders. In such case the customers will have the option to choose the suppliers and suppliers can make their supplies to the entire gamut of consumers irrespective of their locations and the pipeline supplier can provide their service in the entire country. Unified tariff can go a long way in achieving such objectives.

Additionally, on issues of competitive position being changed because of unification of tariff on entity basis, GAIL submitted that, today also there are sets of consumers who are having more than one connectivity and the tariff situation is in play there. So there are consumers which are getting benefit of the lower tariff from the two sets of connectivity. Most importantly, in case of cost plus pipeline(s), tariff has been changing and would continue to change irrespective of individual pipeline/ integrated pipeline system so integration is not to change the competitive positions. Therefore, there is a need to take balanced approach. Only trying to say that some particular markets would have competition and situation will change, would not be correct for the overall development of the market and gas based economy in the country. GAIL also mentioned that national integration will be even better step if a system can be found out.

PNGRB asked GAIL if it has any specific reason for entity level integration. To this GAIL mentioned that they have no opposition as such for unification of tariff across all entities.

2) **<u>IGGL</u>**:

IGGL mentioned that it is mandated to lay 1,650 kms of pipelines for connecting eight north eastern states. IGGL will be receiving gas from Barauni-Guwahati pipeline. IGGL appreciated and strongly supported the idea of unification of tariff. IGGL submitted that Barauni-Guwahati pipeline should also be considered an integrated part of Jagdishpur – Dhamra pipeline. IGGL will be receiving gas either from Dhamra or through HVJ and if additive tariff is there, gas will be unaffordable to all consumers in North east states. IGGL further mentioned that ideally unification should happen at national level but they do understand the practical issues. As a first step, unification at an entity level is a good beginning to increase natural gas contribution to the energy basket and increase the capacity utilisation of the pipelines.

PNGRB clarified that Barauni–Guwahati pipeline is already a part of Jagdishpur-Haldia pipeline as it has been awarded as an extension of the existing Jagdishpur-Haldia pipeline.

3) **<u>GSPL</u>**:

GSPL requested an independent detailed study which can prove that the exercise of unification is being proposed for the benefit of customers and not to put any pipeline entity at a advantageous or disadvantageous position, GSPL submitted that if zone 1 tariff will not increase and Pipeline Company will remain revenue neutral then who is going to take the burden/benefit of removing this additive tariff.

GSPL mentioned that it supports distance based tariff and not the postal tariff method. GSPL requested the Board to consider revising zone of 300 kms and shorten the zone so that tariffs are more reflective of cost of service and distance involved. This is important for Gujarat where industries have been set up because of the locational advantage being near the source. In case of distance based tariff the advantage can be retained.

It was brought out that they have seen several proposals of dedicated pipelines which have been presented to the Board and one of the reasons for such proposals as they understand is that tariff within 300kms zone seems to be higher and customers feel they are cross subsidising.

GSPL along with JV partner is constructing largest bid out pipeline in the country. The pipeline is in very advanced stage of construction. The bids were invited by the Board and there were certain prevailing market conditions based on which bid were submitted. Now if we start changing the constituents of the market for cost plus pipelines and further no change can be made for the bid out pipelines, it will send negative signal to the investors in future for doing pipelines through bid out route. Regulatory stability will have to be maintained so that market is not distorted against the bid out pipelines.

GSPL mentioned that the proposed action should not lead to disadvantage or do away with the competitive market. It was pointed out that if there is unified pipeline of a dominant player in the industry and if they are allowed under the current regulation to lay spur line, it will socialise the cost in the network and all future pipelines will be developed by same entity and no player will be able to compete with that entity because other entities will have additive tariff whereas dominant player can lay spur line and charge a non-additive tariff. Thus, in GSPL's opinion, unification would affect the future development of infrastructure.

With reference to the point mentioned by LNG terminals, GSPL submitted that LNG terminals coming up on the Saurashtra coast in Gujarat are connected to GSPL pipeline and gas will be flowing to rest of India apart from Gujarat, so the current proposal of entity level unification is not avoiding additive tariff for lot of stakeholders. This will make LNG terminals uncompetitive as the investments were made considering the prevailing market conditions. If proposed regulatory intervention is made as suggested, it will impact the investments made by those operators. GSPL is also an equity shareholder in the terminal.

Unification before unbundling will favour market for the dominant entity. GSPL also submitted that alternate tariff model like entry-exit may also be examined. It was mentioned that as a consultant has already been appointed by PNGRB who is working on alternate models it would be better to wait for outcome and then go for comprehensive reform rather than a piecemeal reform. GSPL suggested to maintain status quo and not change the competitive position of LNG terminals, pipelines (bid out or cost plus).

4) **PIL**:

PIL mentioned that they support nationwide unification of tariff as it would develop the market and would be a win-win situation for everybody. The integration at entity level will not help in achieving the desired results. Having waited for so long, PNGRB should go for the integration in one go. With TSO being planned and gas exchange in operation it will need nationwide unification. Though there are legal hurdles, however, in case all stakeholders are in agreement for unification at national level, legal hurdles can be overcome.

PIL has brought out that there should not be any discrimination in tariff determination principles among the entities/pipelines, as it neither is the intent of the Act or the regulations. Unification can be done at consumer level also and this can be explained in detail and discussed separately by way of a subcommittee of transporters and consumers.

Brookfield is investing in gas transportation and looking to invest more along with other global players, GOI is also looking for investment in infrastructure projects and this juncture if signals are going that entity wise benefits are going to specific pipelines with the other transporters having no advantage as they will have additive tariff. This will dampen spirits of private and global investors.

With regards zonal tariff, PIL suggested that transporter should be given freedom to fix zonal tariff but the zones should be uniform for all. Alternatively, in larger interest, PNGRB may fix the zonal tariff.

PIL suggested that cost of service is better model in evolving network world over and that’s why in many countries, they moved from DCF to Cost of Service method. PIL also suggested to go for nationwide unified tariff with zonal tariff which may be followed by Entry Exit.

PNGRB sought the views of PIL on the comments from some legal firms and others stakeholders which mentioned that unification is not possible across entities and not even for the bid out pipelines. PNGRB advised PIL to submit a separate note on how legal challenges can be overcome for nationwide unification.

5) **IGX**:

IGX submitted that the transportation methodology plays key role in development of competitive and liquid gas market and also enable leveraging in the gas trading especially when PNGRB has already come out with the draft gas exchange regulations.

To have competitive gas market place, the tariff should not be route dependent and therefore a nationwide unification or an entry exit tariff model would be the ideal solution. IGX is also cognisant of the challenges as has been highlighted in the forum in feasibility of implementation and legality of unification.

Given this context IGX proposes a single unified tariff without any zonal distribution i.e. without identifying any single point of injection, since it discriminates one supply source from another, even if they are in vicinity. Unified tariff without any zonal distribution will help to create competitive market.

Mentioning the important perspective from electricity side, key objective one has to keep in mind is that the tariff design should take care of distance sensitivity and it should not have pancaking effect.

It was submitted that unified tariff may not have distance sensitivity. Therefore, in their view an entry exit tariff methodology takes care of distance sensitivity and also avoid pancaking effect.

In case PNGRB feel that the study on rationalisation has some time, in the meantime unified tariff is good to go. However, if the study has only a month or so then the recommendation from the consultant can be looked into. If the consultant recommends entry exit then the same can be implemented, otherwise IGX is ok with the unified tariff as PNGRB proposed.

PNGRB enquired IGX officials the reason why some of the countries which had adopted entry exit tariff in past are now again changing it. IGX mentioned that countries like UK, Spain may have entry exit tariff or unified tariff which does not make much difference as these are not exactly as large as India. In case of India implication of the unified tariff may be large and entry exit tariff may give the results as in case of the current methodology of zonal tariff.

G. L**aw Firms**

1) **Clarus Law Associates**:

Although PNGRB Act does not provide for regulation of an integrated pipeline system or a unified tariff, because of the manner in which it is structured right now, however, there is no prohibition in the Act from an integrated system being developed by authorised common carriers. There is no prohibition on a contractual system emerging between authorised common carriers to integrate their pipelines operationally or through cost sharing contractual mechanisms.

A light regulation would be needed to enable and recognise such contractual framework and give flexibility to the parties entering into such an arrangement which can include short term as well as long term customers as well to undertake cost sharing, creating a LLP or entering into a joint operating arrangement by which they can pool their costs and come up with a contractually agreed tariff which customers agree.

The Act is not prohibiting and there is a flexibility for authorised common carriers to enter into such arrangements. There is no ban/legal challenge for bid out pipelines to enter into such an arrangement because it is specific on the RFP and bid framework which was submitted. The tariff is specific to common carrier tariff and there is inherent flexibility for contractual arrangements to be entered into.

PNGRB asked clarus if say there are two pipeline entities A & B, with a tariff of INR 20 and INR 30 respectively for an overlapping route where the entities decided through an understanding that tariff charged to the consumer would be INR 25. Sharing of revenue would be in the same ratio i.e. INR 20 and 30 multiplied by volume. With this entities become revenue neutral but customers will not be revenue neutral. Will Act allow that or a regulation can be made which makes subsidisation /cross subsidisation possible by such arrangement.

Clarus Law responded that Act provides flexibility to the Board to come up with regulations in consumer interest and at the same time encourage the flexibility for contractual arrangements that support overall unification of pipeline operations.

PNGRB asked whether Clarus Law have any example if Joint Operation System/LLP/JV exist for pooling of tariff purpose.

Clarus Law responded that it would have to develop specifically under the PNGRB framework. Clarus has not come across provision of allowing cross subsidisation under a pooling system. Since Indian legal system framework requires specific solutions and this is demand of the sector, it can be implemented with a light regulation which can be provided under the enabling framework of the PNGRB Act and it may result in a faster rollout and avoid litigation.

PNGRB also asked if it will lead to tax burden as it will add one more layer in the system. Clarus law responded that it would require some support from government for tax neutrality but Clarus Law would have to study exact tax implication and structure the contract accordingly.

On tax issues PIL mentioned that from direct tax perspective, there should not be any problem, but for indirect taxes, in GST some circular may be required from government / GST council.

2) **DSK Legal**:

DSK Legal submitted that their views are limited to the specific regulation put up in the public domain for which public consultation process has been initiated. The present submission is limited to the legal issues that has been put forth.

DSK Legal mentioned that Integrated natural gas pipeline systems has statutory backing emanating from the Act and regulations framed thereunder. There seems to be no problem on the concept part. Referring to section 2(j) definition of the term common carrier which starts "*common carrier means such **pipelines***” and here the word used are such pipelines mentioned in plural. At times, there can be situation where more than one pipeline can constitute common carrier pipeline.

This Hon'ble Board being a creation of statute and the regulations framed thereunder, more than commercial feasibility, the first question to be considered would be whether the proposed way forward is keeping the mandate of the Act and the regulations framed thereunder.

Referring to Section 19, "*Grant of authorisation:- When, either on the basis of an application for authorisation for laying, building, operating or* ***expanding*** *a common carrier or contract carrier*". The word expanding envisages situation where there can be more than one pipeline and system is sought to be expanded. Statute provides that there can be a situation that allows to expand the given system.

Further, "***Board forms an opinion*** *that it is necessary or expedient to lay, build, operate or expand a common carrier or contract carrier between two* ***specified points****"*. The specified points can be across the length and breadth of the country. If there is one continuous and connecting line, then most certainly a view can be taken in this regard. In this context, the seven pipelines for which the proposal has been sought for are connecting lines and are also owned by one entity.

Referring to 21 (2) "*Right of first use, etc:- An entity other than an entity authorised to operate shall pay* ***transportation rate*** *for use of common carrier or contract carrier* ***to the entity operating it as an authorised entity***". This is where the commercial balancing is to be done by the Board, as there are competing interests.

Referring Section 22(2), *"Transportation tariff: - For the purposes of sub-section (1), the Board shall be guided by the following, namely:-*

(a) the factors which may encourage competition, efficiency, economic use of the resources, good performance and optimum investments;

(b) safeguard the consumer interest and at the same time recovery of cost of transportation in a reasonable manner;

(c) the principles rewarding efficiency in performance;

(d) the connected infrastructure such as compressors, pumps, metering units, storage and the like connected to the common carriers or contract carriers;

(e) benchmarking against a reference tariff calculated based on cost of service, internal rate of return, net present value or alternate mode of transport;

(f) policy of the Central Government applicable to common carrier, contract carrier and city or local distribution natural gas network.

The above factors are given in the Act and the Board has to decide on the weightage that needs to be given to a particular factor.

In view of definition of common carrier, Section 19, 21(2) and 22 there is no legal bar emanating, rather integrated natural gas pipeline system is a concept which can be derived out of it.

Answering whether Bid out pipeline can be part of integrated natural gas pipeline, DSK mentioned there is no statutory power vested with the Board to fix tariff for bid out pipelines, as PNGRB can only select an entity in an objective and transparent manner. Referring to Section 19(2) "Grant of authorisation:-The Board may select an entity in an objective and transparent manner as specified by regulations for such activities." Keeping this in mind Board framed Regulation 7 of the Authorisation Regulations wherein Board has provided factors with regard to bid out tariffs. Legality of amendments which may come has to be checked with already existing provisions. Board has no power to provide for tariff with regard Bid out pipelines as tariff gets discovered and complete mechanism is put forth in the regulations of 2008. DSK mentioned that there are series of Supreme Court judgements that Bid out tariff is sacrosanct and cannot be interfered with.

Regarding pipelines of subsidiary companies whether the same can be included in the integrated natural gas pipeline system, analysis of Regulation 9 of the Authorisation Regulations is pertinent. There is a process provided on how an entity being authorised can renunciate in favour of another entity. Also, the factors to be considered by the Board are also well laid out. Entity cannot automatically become part of integrated natural gas grid pipeline just because any other entity has renunciated it as there is a separate process which has to be carried out before it becomes part of other entity.

3) **Jayant Bhatt**:

While supporting the arguments of DSK legal it reiterated that as per powers derived from the PNGRB Act and as per authorised regulations 2008, unified tariff can be brought about for the cost plus pipelines but not for the bid out pipelines as that would have effect of undermining the tendering process. Pipelines of subsidiary companies cannot be joined with parent or group companies within provisions of the Act.

4) **Tishampati Sen**:

While supporting the arguments of it DSK Legal and Jayant Bhatt law firms, in addition, it mentioned that while answering the judicial pronouncement on Sasan power made by Member, Mr. Sen mentioned that the argument there was the impossibility to perform and carve out was created to change the tender terms. Disclaimer was that this is on what he recalled and would require to refer to law and judgement.

H. **Other Entities / Stakeholders**

1) **Enertech:**

PNGRB should now consider moving to the regime of entry-exit tariff, for holistic gas market development. The proposed regime would shake up tariffs, and the consumers who had planned their business operations near the gas source to take benefit of lower pipeline tariffs would be severely hurt. This may lead to inconsistency in policy.

PNGRB may continue with the present tariff methodology rather than entity wise integration for the time being. Enertech suggested distance based tariff regime will be better than postage tariff.

2) **Systematix:**

Integration of bid out pipelines as part of the unified tariff, Systematix mentioned that consumers on the bid out pipeline can legally challenge a significantly higher tariff than what was quoted by the bidder on account of integration.

Freedom to operator to choose the zone 1(upto 300 kms) tariff is a progressive step, the range should be stipulated keeping in mind the likely evolution of gas market where multiple sources and exit points especially in the context of significant growth in CGD is leading to a lot of swapping activity (APM gas with LNG / free priced domestic gas), which would mean zone 1 volumes could be significantly higher going forward.

Before concluding PNGRB thanked the participants for their extensive discussions which lasted for more than three hours and asked the participants to have trust in the Board and that whatever Board will do will be for the benefit of the industry at large.

Annexure 1

S.No.	Name	Organisation	Designation
1.	Ms Vandana Sharma	PNGRB	Secretary
2.	Mr. Pankaj Bhutani	PNGRB	Joint Adviser
3.	Mr. K. Kittappa	PNGRB	Joint Adviser
4.	Mr. S.C. Gupta	PNGRB	Deputy Adviser
5.	Mr. Tanweer Akhter	PNGRB	Deputy Adviser
6.	Ms. Harveen Kaur	PNGRB	Assistant Adviser
7.	Mr. Ankur Jain	PNGRB	Assistant Adviser
8.	Mr. V.K. Saxena	PNGRB	Consultant
9.	Mr. Aman Anand	PNGRB	Assistant Consultant
10.	Ms. Neha Jain	PNGRB	Assistant Consultant
11.	Ms. Pallavi Agarwal	PNGRB	Assistant Consultant
12.	Mr. Prateek Gulati	PNGRB	Assistant Consultant
13.	Ms. Pinki Mehra	PNGRB	Assistant Legal Consultant
14.	Ms. Veena Raju	PNGRB	Assistant Legal Consultant
15.	Mr. Ranganathan	GAIL	Director
16.	Mr. Rakesh Kumar Jain	GAIL	ED
17.	Mr. Sanjay Kumar	GAIL	ED
18.	Mr. Joy Banerjee	GAIL	CM (Mktg. RA)
19.	Mr. EVS Rao	PIL	Chief Commercial Officer
20.	Mr. Neeraj Pasricha	PIL	Head Regulatory
21.	Mr. Rajat Gupta	PIL	Regulatory Affairs
22.	Mr. Manoj Pandey	PIL	Regulatory Affairs
23.	Mr. Mohit Raj	PIL	
24.	Mr. Rajesh Mediratta	IGX	Director
25.	Mr. Vikas Guliani	IGX	VP
26.	Mr. Deepak Mehta	IGX	Head-BD
27.	Mr. Ravi Singh	IGX	Lead Strategy
28.	Mr. Prasanna Rao	IGX	
29.	Mr. Saroj Mohapatra	IGX	
30.	Mr. Mritunjay Srivastava	IGX	
31.	Ms. Renu Rana	IEX	Strategy
32.	Mr. Kuntesh Raval	Adani Gas	Head Regulatory

S.No.	Name	Organisation	Designation
33.	Ms. Prakshi Varshney	Adani Gas	
34.	Mr. Satinderpal Singh	ATPL	Chief Executive Officer
35.	Mr. Bhavesh Vaghela	ATPL	Senior Lead
36.	Mr. Anjani Kumar	ATPL	Head - LNG Marketing
37.	Mr. Chirag Kotecha	ATPL	Head – LNG Marketing
38.	Mr. Manoj Srivastava	OPAL	President
39.	Mr. AB karmakar	OPAL	Head MM
40.	Mr. Arup Jhampri	OPAL	
41.	Archana Kumar	OPAL	Deputy Manager, MM
42.	Mr. Rajendra Parakh	OPAL	GM Finance
43.	Mr. Bhojveer Singh	ONGC	SE
44.	Mr. Vinay Ganatra	RIL	Head – Gas Sales
45.	Mr. Amit Mehta	RIL	Head – Gas Business
46.	Mr. Kesher Sumeet	RIL	
47.	Mr. Ravindra Aggarwal	GSPL	ED
48.	Ms. Amrita Modi	GSPL	Manager Commercial
49.	Mr. Shailendra Singh	GSPC	GM- Commercial
50.	Mr. Ravi Patel	GSPC	Deputy Manager
51.	Mr. Nihar Bhat	GGL	
52.	Ms. Shalini Dubey	NTPC	Manager
53.	Mr. Prasanna Kumar	NTPC	ED- Fuel Mgmt.
54.	Mr. Kishore Kumar Hota	NTPC	Additional GM
55.	Mr. Debesh Kumar Padhi	NTPC	Officer
56.	Mr. Hiren Mehta	H-Energy	AVP
57.	Mr. Jigish Mehta	Torrent Power	ED
58.	Mr. Arun Modi	IGGL	Chief Executive Officer
59.	Mr. P. Sudhahar	BPCL	CGM
60.	Mr. Nitin Yadav	BPCL	Sr Manager
61.	Mr. Deepak Malik	BPCL	
62.	Mr. Dilip Patnaik	HPCL	Gas Division
63.	Mr. Chinmoy Tikader	HPCL	Officer Natural Gas
64.	Mr. Utpal Maru	IGS	Chief Commercial Officer
65.	Ms. Seema Phatnani	IGS	Sr Manager
66.	Mr. Jay Prajapati	Enertech Fuel	BD
67.	Mr. Manish Seth	Enertech Fuel	
68.	Mr. Ankit Gupta	ICF	Consultant
69.	Mr. Gurpreet Chugh	ICF	

S.No.	Name	Organisation	Designation
70.	Chirag Shah	BP	Regulatory Advisor
71.	Mr. Rajeev Kumar	BP	
72.	Mr. Debashish Nanda	IOCL	CGM
73.	Mr. Sujon Bhattacharya	IOCL	
74.	Mr. Chetan Sharadrao	IOCL	
75.	Mr. Alok Roy	IOCL	
76.	Mr. Dipankar Saha	IOCL	
77.	Mr. K S Rao	HSEPL	Jt Director
78.	Mr. Saurabh Rampal	HSEPL	
79.	Mr. Manish Dhir	HSEPL	
80.	Mr. Vivek Pandit	FICCI	Asst Sec General
81.	Mr. T.K. Sengupta	FIPI	Director
82.	Mr. Sujay Sarkar	FIPI	
83.	Mr. S. Nand	FAI	Dy. DG
84.	Mr. M Goswami	FAI	
85.	Mr. Rajiv Bakhshi	GRM Hospitality	Sr Consultant
86.	Mr. Vijay Duggal	GRM Hospitality	
87.	Mr. Ashwani Dudeja	SHELL	Country Head
88.	Mr. Gautham Babu Dasari	SHELL	
89.	Mr. Piyush Joshi	Clarus Law Associates	Partner
90.	Mr. Ravi Prakash	DSK Legal Law Firm	Advocate
91.	Ms. Iti Aggarwal	DSK Legal Law Firm	
92.	Mr. Sivasankaran	Systematix	Inst. Research
93.	Mr. Varatharajan	Systematix	
94.	Mr. Kishan Mudhra	Systematix	
95.	Mr. Tishampati Sen	Law Firm	Advocate
96.	Mr Jayant Bhatt	Law firm	Advocate
97.	Mr. Nayantara Sharma	Law Firm	Chambers of Jayant Bhatt
98.	Mr. Mohit Dagar	Law Firm	Associate
99.	Mr. Brian Withington	KPMG	
100.	Mr. Nigel	KPMG	
101.	Ms. Tanmeet Thukral	KPMG	
102.	Mr. Debra	KPMG	
103.	Mr. Nikhil Moghe	KPMG	
104.	Mr. Anurag Gupta	KPMG	
105.	Mr. Vikrant Kumar	KPMG	
106.	Mr. Laxmikant Bugade	Torrent Gas	

S.No.	Name	Organisation	Designation
107.	Mr. Utkarsh Bhatt	Torrent Gas	
108.	Mr. Naresh Poddar	Torrent Gas	
109.	Mr. A.K. Dogra		
110.	Mr. Ankur Sangani	RGPL	
111.	Mr. B.K. Gupta		
112.	Mr. Praveen Rai	FIPI	
113.	Ms. Aayushi Aggarwal	PIL	
114.	Mr. Pankaj Pd Mishra	RGPL	
115.	Mr. Arun Palande	RCF	
116.	Ms. Akshita Mishra		