

Date: 5th November, 2023

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

Ref: Public Notices dated 06.10.2023 of:

- (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**

Respected Madam,

- 1) We, THINK Gas Ludhiana Private Limited are an authorised entity that has been granted authorisation for the development, operation, maintenance and expansion of city gas distribution network in : (i) Ludhiana District (EAAA), Barnala & Moga Districts Geographical Area (GA 9.53), (ii) Jalandhar District (EAAA), Kapurthala & SBS Nagar Districts Geographical Area (GA 9.54).
- 2) We have reviewed the above referred Public Notices dated 06.10.2023 issued by the Hon’ble Board and are concerned that the said Public Notices have been issued based on applications filed by industrial consumers located within an authorised area for the development, operation, maintenance and expansion of CGD network.
- 3) The Public Notices indicate that the Hon’ble Board is considering applications filed by industrial consumers for laying dedicated pipelines as being valid “applications” to which Regulation 19(2) NGPL Authorisation Regulations apply, even though the details in the application clearly show that: (i) the proposed pipeline is not falling within the definition or scope of “natural gas pipeline” to which NGPL Authorisation Regulations apply, and (ii) the application is for laying a pipeline that will operate at low pressures that under the CGD T4S Regulations, will constitute a pipeline that is part of the CGD network and not a NGPL covered by the NGPL Authorisation Regulation and (iii) is being submitted by a consumers to transport natural gas for their own consumption at their premises, which pipelines are not in the nature of a “dedicated pipeline” but “captive pipelines” for which there is no recognition under the PNGRB Act and regulations. The proposals violate the infrastructure exclusivity vested with



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authorised CGD entities and as such, it is a cause of concern that the Hon'ble Board has considered such an invalid application as being eligible for issuance of a public notice under Reg. 19(2) NGPL Authorisation Regulation, which clearly is not applicable to the said applications. This is a concern for all authorised CGD entities as it constitutes a material change in policy that would undermine the vested exclusivity rights of authorised CGD entities.

- 4) The underlying applications made by industrial consumers for laying a pipeline from a gas source to their premises are for the purposes of transportation of natural gas at low pressure for their own end use/ consumption. This undermines and negates the statutory framework and exclusivity rights vested with authorised CGD entities which forms the bedrock for the viable development, operation, maintenance and expansion of city gas distribution network.
- 5) The concept of dedicated pipeline is that an entity which is otherwise authorised to either lay build operate or expand a natural gas pipeline or CGD network, lays a “dedicated” or “separate” or “specific” pipeline for a particular consumer to meet the consumers specific requirements. Unlike the Electricity Act, 2003 (Refer s.9 Electricity Act and Rule 22 Electricity Rules) under which concept of “captive transmission lines” or “captive power plants” is recognised and specifically regulated, the PNGRB Act and regulations thereunder do not even contemplate the concept of “captive” pipelines being developed by consumers for their own requirements. This is clearly to ensure development of natural gas pipelines only by regulated entities and to guard against infructuous investments.
- 6) The Hon'ble Board is aware that the development of CGD network is a capital intensive industry and in order to enable its viability, infrastructure exclusivity and marketing exclusivity has been vested with authorised CGD entities within their respective authorised area. Regulation 4 of the Petroleum and Natural Gas Regulatory Board (Exclusivity for City or Local Natural Gas Distribution Network) Regulations, 2008 (“ **CGD Exclusivity Regulations**”) stipulates that the rationale for allowing exclusivity to an entity is explained in Schedule A to the regulations. The Public Notices negate the same.
- 7) If the said applications are 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 CGD network having to connect only such customers that are located at a considerable distance, thereby defeating the underlying principle of development of CGD Network of interconnected pipelines and would jeopardize development of CGD network infrastructure for entire authorised areas (away from the source). In such circumstances, the only way a CGD entity can *then* sustain its business model, is by deferring development and investment into pipeline networks. Development of parallel pipelines just to provide direct connectivity of customers to sources would jeopardize development of CGD Network infrastructure for customers that are located further



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downstream from the source and will result in imposition of disproportionate and higher costs on downstream customers who are away from the source.

- 8) The above said Public Notices raise issues that concern the entire CGD industry and are not limited only to two consumers located in one specific geographical area. The Hon'ble Board, by issuing the above said Public Notices has indicated a *prima facie* determination that the Hon'ble Board considers that the said applications are valid applications in terms of Regulation 19(2) of NGPL Authorizing Regulations.
- 9) If the Hon'ble Board, after conducting 12 competitive bidding rounds (1st CGD Bid Round to 11A CGD Bid Round) now changes the policy to allow for consumers to, at their own choice, lay their own captive pipelines, it will render the authorisations for CGD network development unviable. It will also result in multiple infrastructure being developed and result in infructuous investments by authorised entities. Our objections, as the industry body representing authorised CGD entities are elaborated in our submissions hereinbelow.
- 10) In light of the clear statutory framework, the application by a consumers such as Exarro and Sten Glass to themselves lay their own pipeline within the geographical area demarcated and authorised to an entity for development of CGD network undermines vested rights of authorised CGD entities.
- 11) Without prejudice to the below mentioned detailed submissions, we would also like to bring to your attention that the validity of Regulation 19(2) NGPL Authorising Regulations and the PNGRB (Protection of Consumer Interest in respect of Dedicated Pipelines for Natural Gas) Guidelines 2010 is under challenge before Division Bench of Delhi High Court in the matter of *Gujarat State Petronet Limited vs PNGRB (W.P. (C) 5428/2021)* and accordingly we request the Hon'ble Board not to proceed with this Public Notice.
- 12) In light of the above submissions, humbly request that in order to protect the viability of the authorisations that have been awarded through competitive bid processes, the Hon'ble Board ought not to now start enabling industrial consumers to start laying captive natural gas transmission pipelines that have no basis under the applicable statutory framework and such major changes in policy ought to be avoided for the viability and stability of the CGD industry.
- 13) It is therefore humbly requested that the above referenced Public Notices ought to be withdrawn.

Yours sincerely,



Hardip Singh Rai
CEO



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