

## Ref.: Public Notice No. PNGRB/COM/2-NGPL/Tariff (3)/2019 Vol-II Dated 29.04.2020

## GAIL Views w.r.to ANNEXURE-1 of the Public Notice

Reg. Ref. No.	PNGRB Draft Amendments	Observations and Submissions by GAIL	Remarks
2(1) (d) – Definition of Capacity	“Capacity of natural gas pipeline” means the capacity of natural gas pipeline as originally authorized or accepted by the Board under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities for Laying, Building, Operating or Expanding Natural Gas Pipelines) Regulations, 2008 or as subsequently amended under those regulations;”	<p>De-linking the volume divisor from the capacities that will be determined/declared under the PNGRB (Determining Capacity of Petroleum, Petroleum Products and Natural Gas Pipelines), Regulations, 2010, is a welcome step because it will avoid potential frequent changes in the capacity figures.</p> <p>In its place, consideration of capacity as originally authorized or accepted by the Board under the PNGRB (Authorizing Entities for Laying, Building, Operating or Expanding Natural Gas Pipelines) Regulations, 2008, is also a welcome step.</p> <p>However, it is seen that it also separately proposed for exclusion of</p>	<p><u>Reasoning:</u></p> <p>The suggested change would provide continuity to the present capacity figures that have already been considered by PNGRB in the case of all the respective gas pipeline tariff orders issued so far.</p>

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		<p>provisions of regulation 12 and regulation 21 of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 for the purpose of determination of tariff in respect of ‘cost-plus’ natural gas pipelines. Given this, the expression in the last line of this proposed amendment “or as subsequently amended under those regulations” may lead to ambiguities. Therefore, in place of the said expression “or as subsequently amended under those regulations”, the expression “or as considered in the tariff orders issued so far” is suggested.</p>	
2(1) (ea) – Imbalance Management Services	"Imbalance Management Services" shall have the same meaning as given in the Petroleum and Natural Gas Regulatory Board (Imbalance Management Services) Regulations, 2016;	<b>No change</b>	

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5(8) – Schedule-A	Miscellaneous income realizable from a fixed asset included in the capital employed or out of an expense considered as an operating cost, but not including interest income, profit or loss on sale or transfer of any fixed or other asset, shall be netted from the operating cost. Notwithstanding anything provided in any regulations, income realizable from imbalance management services under the relevant regulations of the Board shall also be netted from the operating cost for tariff computations.	The proposed amendment to net off the income realizable from imbalance management services from the operating cost for tariff computations may please be avoided.	Imbalance Management services are provided by Transporters to Shippers to mitigate their demand fluctuations while also incentivizing Transporters to make use of spare pipeline capacity. Removal of such incentive shall adversely affect Shippers and demotivate transporters from offering such services.
6(1)(a) – Schedule A	The volumes of natural gas to be considered as divisor in the determination of the unit natural gas pipeline tariff over the economic life of the project shall be computed on a normative or actual basis, whichever is higher. Volume on normative basis shall be calculated as indicated below:  (a) The divisor for various years of operations of the natural gas pipeline shall be arrived by multiplying the applicable percentage	This is a much awaited amendment because on actual basis pipelines did not witness the prescribed normative utilization levels in the first five years of operations, and in most cases, the prescribed 5 <sup>th</sup> year utilization level of 75% is also not achieved even after 10 years, resulting in returns lower than the returns as provided in regulations.	Since most of the pipelines have already completed 10 years from its first year of operations and are still operating below 50% utilization levels, it would be appropriate if the suggested explanation is added to the proposed

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	<p data-bbox="432 269 989 412">utilization for the year, as per the table below, with seventy five per cent of the capacity of natural gas pipeline:</p> <table border="1" data-bbox="394 539 947 1417"> <thead> <tr> <th data-bbox="394 539 657 704">Year of natural gas pipeline operations</th> <th data-bbox="657 539 947 704">Percentage utilization</th> </tr> </thead> <tbody> <tr> <td data-bbox="394 704 657 773">First</td> <td data-bbox="657 704 947 773">30%</td> </tr> <tr> <td data-bbox="394 773 657 841">Second</td> <td data-bbox="657 773 947 841">35%</td> </tr> <tr> <td data-bbox="394 841 657 909">Third</td> <td data-bbox="657 841 947 909">40%</td> </tr> <tr> <td data-bbox="394 909 657 977">Fourth</td> <td data-bbox="657 909 947 977">45%</td> </tr> <tr> <td data-bbox="394 977 657 1045">Fifth</td> <td data-bbox="657 977 947 1045">50%</td> </tr> <tr> <td data-bbox="394 1045 657 1114">Sixth</td> <td data-bbox="657 1045 947 1114">60%</td> </tr> <tr> <td data-bbox="394 1114 657 1182">Seventh</td> <td data-bbox="657 1114 947 1182">70%</td> </tr> <tr> <td data-bbox="394 1182 657 1250">Eight</td> <td data-bbox="657 1182 947 1250">80%</td> </tr> <tr> <td data-bbox="394 1250 657 1318">Ninth</td> <td data-bbox="657 1250 947 1318">90%</td> </tr> <tr> <td data-bbox="394 1318 657 1417">Tenth and subsequent years</td> <td data-bbox="657 1318 947 1417">100%</td> </tr> </tbody> </table>	Year of natural gas pipeline operations	Percentage utilization	First	30%	Second	35%	Third	40%	Fourth	45%	Fifth	50%	Sixth	60%	Seventh	70%	Eight	80%	Ninth	90%	Tenth and subsequent years	100%	<p data-bbox="1010 326 1518 516">It is understood that the revised normative ramp-up percentages is intended to provide relief to the aforesaid issue.</p> <p data-bbox="1010 602 1518 797">Accordingly, it is suggested that, for removal of any ambiguity, the following explanation may be suitably added in the proposed amendment:</p> <p data-bbox="1010 821 1518 1284">“Explanation: Notwithstanding anything provided in any extant regulation, the aforesaid percentage utilizations will be applied from the date of coming of the pipeline within the purview of tariff regulations (i.e. from 20.11.2008), or from the first year of operation of the pipeline, whichever is later.”</p> <p data-bbox="1010 1317 1518 1455">Furthermore, in case of implementation of project in phases, the proposed ramp-up percentages</p>	<p data-bbox="1539 269 1892 516">amendment so as to ensure the actual relief for the pipelines. Otherwise it will not provide the intended benefit.</p>
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		may be considered from the respective phase-wise commissioning of the pipeline.	
6 (1) (b), 6(1) (c) and 6(1) (d)- Schedule A	Deleted	6 (1) (b) and 6(1) (c) - Schedule A <b>may be deleted.</b> However, clause 6(1)(d) may either be retained without any time limit or extended for next 5 years, i.e. with effect from 01.04.2020 to 31.03.2025.	The dispensation under clause 6(1)(d) has been provided keeping in mind that due to addition of any new source, the actual utilization of the pipeline may not automatically increase. Further, even if actual utilisation increases and same is higher than the normative volumes then in any case such higher volume is considered for tariff determination, and therefore, the interest of consumer remains protected.  In view of the above, ideally, it may be

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			<p>appropriate to keep this provision without any time cap as the same is taken care of by extant regulatory provisions as explained above.</p> <p>Alternatively, in the proposed amendment, it may please be extended for next 5 years, i.e. with effect from 01.04.2020 to 31.03.2025.</p>
<p>New insertion : 6(3) – Schedule A</p>	<p>Notwithstanding anything provided in any regulations, 350 working days shall be considered in a year for the purpose of tariff determination under these regulations.”</p>	<p>It is submitted that <b>345</b> working days may be considered in a year for the purpose of tariff determination under these regulations.</p>	<p>The extant Access Code Regulations provide a planned maintenance of 10 days to the Transporter. Based on equitable principles, 10 days maintenance may also be provided to Shipper/customer in line with industry practices.</p>

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Clause 7- Schedule A: Economic Life	Notwithstanding anything provided in any regulations, economic life of the pipeline shall be considered as thirty years for the purpose of tariff determination under these regulations. <b>Any replacement of the pipeline, either in full or in part before the completion of the aforesaid economic life, shall be considered for tariff determination if prior approval of the Board has been obtained for such replacement.</b> In case, the natural gas pipeline has been authorized for more than thirty years or its authorisation has been subsequently extended beyond thirty years or is in operation beyond thirty years, the DCF model for the tariff computation would be made for the entire period of authorization or operation till the next tariff review, including the extended period.”	It is requested that a separate regulation may be introduced in the NGPL Authorizing Regulations specifying the details to be submitted by the entity along with the guidelines for consideration of such replacement requests for facilitating the approval process by the Board.  Furthermore, any minor replacement, say within 10% of the pipeline length etc., may be allowed based on the information/details to be submitted by the entity.	
Clause 8- Schedule A	The entity shall submit for the Board’s approval <b>within such time as may be fixed by the Board,</b> the calculations in respect of apportioning of the unit natural gas pipeline tariff over all the tariff zones during the economic life of the project in the form specified under regulation 5, by	Zonal apportionment of the levelized natural gas pipeline tariff by the respective pipeline entity is a key determinant in not only tariff revenue realization but also for ensuring affordability/competiveness of gas in	

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	<p>following the methodology as specified under sub-regulations (a), (b) and (c) regulation 7 of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Laying, Building, Operating or Expanding Natural Gas Pipelines) Regulations, 2008 except that:</p> <p>(a) There shall be no requirement of bidding while following such methodology;</p> <p>(b) No weightage shall apply to such apportionment of the unit natural gas pipeline tariff over different tariff zones; and</p> <p>(c) The entity shall use its own numbers in determining such appointment.</p> <p><b>(2) In case the entity fails to submit the information within such time, the Board may apportion the unit natural gas pipeline tariff over various tariff zones as per the last zonal tariff apportionment in respect of that pipeline or in any other manner as may be deemed fit by the Board.</b></p>	<p>the relevant market. Accordingly, the present regulations providing for the fixation of said zonal apportionment by the pipeline entity may please be retained.</p> <p>In any case, entities have generally been submitting the respective zonal apportionments to PNGRB within the specified timelines of the respective tariff orders.</p> <p>Therefore, it is requested that the proposed amended Clause 8(2) of Schedule –A <b>may please be deleted.</b></p>	



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	<p>(3) No adjustment shall be made by the entity with the customers for any over-achievement or under-achievement in the recovery of the natural gas pipeline tariff by the entity due to the volumes actually transported in different tariff zones being different than the volumes considered by the entity for apportioning the unit natural gas pipeline tariff for each of the tariff for zones during-</p> <p>(a) the period of initial unit natural gas pipeline tariff;</p> <p>(b) the first five and consecutive years after the end of the initial unit natural gas pipeline tariff; and</p> <p>(c) the period between any two consecutive tariff reviews.”</p>		
<p>Clause 11 insertion after Clause 10</p>	<p>Escalation in Tariff: The DCF model for tariff computation shall provide for an annual increase in levelized tariff at the rate of <b>XX%</b>. Accordingly, zonal tariff would also increase year-</p>	<p>In this regard the pipeline entity may be given the option of applying escalated tariffs wherever considered necessary in view of market</p>	

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– Schedule A	by-year at the same rate.”	affordability consideration etc., In cases where such option is availed, the Board may like to fix the upper- cap of escalation percentage beyond which the pipeline entity cannot escalate its annual tariffs.  This upper-cap may based on the WPI Data published by Govt. of India.	

**GAIL Views w.r.to ANNEXURE-2 of the Public Notice**

<b>Reg./Clause Ref. No.</b>	<b>Existing Regulation</b>	<b>Proposed Amendment by PNGRB</b>	<b>GAIL's Views and Submissions</b>
5(2) (b) of Schedule A – System Use Gas	Fuel (including the cost of natural gas and the natural gas pipeline tariff not recovered on the volume of system-use natural gas consumed in the natural gas pipeline);	Fuel (including the cost of <i>system-use</i> natural gas and pipeline tariff thereon, <i>relevant to the volumes considered as divisor for tariff determination</i> );	GAIL agrees to the proposed amendment.
Regulation 12 & Regulation 21 – Authorization Regulations	Suggestions of the stakeholders are sought regarding exclusion of provisions of regulation 12 and regulation 21 of Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 for the purpose of determination of tariff in respect of ‘cost-plus’ natural gas pipelines (except in case of Jagdishpur-Haldia-Bokaro-Dhamra-Barauni-Guwahati pipeline, where the pipeline has already been allowed for capacity expansion based on the acceptance of applicability of Regulation 12 by		In respect of the natural gas pipelines coming under the purview of tariff determination regulations, any cross-reference to its tariff related provisions in the other Regulations, including the said regulation 12 and regulation 21 of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008, may be better avoided so as to remove unnecessary ambiguities in this regard.  Further, any Regulation must necessarily have a uniform

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	<p>pipeline entity) and also on whether or not to treat interconnection between two natural gas pipelines as extension/ expansion/ tie in.</p>		<p>application and cannot have discriminatory provision for excluding a particular pipeline like JHBDPL as other entity's pipelines may have also been allowed for capacity expansion under Regulation 12.</p> <p>At present there are no known cases of treatment of inter-connection of two common/contract carrier natural gas pipelines (as provided u/r 11 of Access Code Regulations) as cases of extension/ expansion/ Tie-in line.</p>
<p>Clause 10(1) – Schedule A of Tariff regulations</p>	<p>Adjustment shall be carried out in the final unit natural gas pipeline tariff determined under sub-clause (5) of clause 9 on a year-to-year basis by the entity with the customers considering actual volumes in any of the first five years of natural gas pipeline operation when</p> <p>a) The actual volumes are higher</p>		<p>Set-off for the lower actual volumes in comparison with Normative Volumes in any financial year during economic life may be allowed to the extent of impact of higher actual volumes passed on in any of the year (<i>not restricted to 5 or 10 years</i>) over the entire economic life of the pipeline.</p>

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	<p>than the normative volume considered as divisors for determination of final unit natural gas pipeline tariff on the basis specified in item (a) of sub-clause (1) of clause 6; or</p> <p>b) The actual volumes are higher than the normative volume considered as divisors for determination of the final unit natural gas pipeline tariff on the basis specified in item (a) of sub-clause (1) of clause 6 but are lower than that considered for determination of final unit natural gas pipeline tariff.</p>		
<p>Clause 10(2) – Schedule A of Tariff regulations</p>	<p>When the actual volumes are lower than the normative volumes in any of the first five years of natural gas pipeline operations, a set-off of the impact of such lower volumes shall be permitted.</p>		

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	Such set-off shall be allowed only to the extent of impact of higher actual volumes passed on in any of the first five years and the balance set-off, if any, shall be carried over to subsequent years, but not beyond the first five years of natural gas pipeline operation, to be allowed for adjustment only in case there are higher actual volumes.”		

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