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

Sub: Views on PNGRB Tariff amendment proposal

Ref.:

- i. PNGRB Public Notice dated 02.08.2019

Respected Madam,

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

Thanking You,

Yours Sincerely

Ravindra Agrawal
Group ED (Gas Business)

Views on Public Notice for proposal to amend the PNGRB (Determination of Natural Gas Pipeline Tariff) Regulations, 2008

1. Issue of additive tariff

One of the basic objectives behind these amendments, read along with the recent Public Consultation document for tariff review of DBNPL and CJHPL, is to avoid issue of additive tariff. In this regard, it may be noted that guidance provided to PNGRB u/s 22 of PNGRB Act, 2006 for determining the transportation tariff of a common or contract carrier does not prescribe any objective "to avoid issue of additive tariff".

Integration of tariff at 'entity level' shall distort the market since tariff to gas suppliers and customer on other pipelines would still be additive.

Thus, the concept of integrated tariffs cannot be limited to only interconnected pipelines of a single entity and will need to be based on interconnected pipelines of different entities, developed under different authorization regulations, also agreeing to have an integrated tariff determined.

The said principle should be applied uniformly to integrate tariff of all natural gas pipelines operating in India.

- Since PNGRB has proposed to avoid additive tariff to reduce tariff burden on customers located farther from source, it shall actually become applicable to customers that may be located on pipeline owned by entities other than GAIL.
- If the current proposal is pursued on standalone basis, it would be serving interest of customers located in certain Geographical Areas only on GAIL's network .

We suggest that there is a need to review this issue of additive tariff on a comprehensive basis and a wide public consultation (*as was earlier carried out by PNGRB for Integrated Authorisation for unified /pooled tariff*) be carried out, so that other stakeholders are not adversely impacted (unintentionally), including (including different operators – bid out, non bid-out), bid out pipelines else the customers served through such pipelines would have to pay additive tariff.

2. Deter new investments

As noted vide our earlier letter dated August 19, 2019 any decision to consider integration of pipelines of incumbent would affect the competitiveness of already bid out pipelines like MBPL and BJSPL or even Dadri-Panipat natural gas pipeline, as these pipeline would be serving customers based on additive tariff while GAIL's pipeline would have single tariff.

We would like to reiterate that such kind of changes to regulations which may be beneficial to certain set of customers or existing entity may take away level playing field being provided by PNGRB and it may further deter private and non-private entities investing in pipeline

development in view of regulatory uncertainties. Such regulatory uncertainty may also deter competition among entities.

Moreover, we believe that these proposed amendments shall create entry barriers for bid out pipelines, as once implemented, no new player will be able to bid for pipelines as existing player can develop a spur line and load the costs onto a larger customer base, thereby ensuring that competition is practically non-existent.

3. Proposed amendment shall discourage competition among the entities

- i. One of the guidance specified u/s 22(2) of PNGRB Act empowering Hon'ble Board for Tariff Determination is **"the factors which may encourage competition"**.
- ii. However, proposed amendments to Tariff Regulation for determination of transportation tariff on a combined basis for two or more inter-connected natural gas pipelines shall lead to monopoly in India of GAIL, who only has most of the inter-connected natural gas pipelines.
 - Thereby, affecting the tariff competitiveness position of bid out pipelines.
 - Leading to no new natural gas pipelines being in a position to compete with the existing pipeline and thereby discouraging competition among the entities.
- iii. Hence, PNGRB may review the proposed amendment for Tariff determination which is not in-line with the guidance of encouraging competition among the entities provided in the Section 22 of the Act.

4. Legal Issues with determination of transportation tariff on a combined basis

Fostering Fair Trade and Competition

The specific function vested with the Hon'ble Board under s. 11(a) PNGRB Act is to "*protect the interest of consumers by fostering fair trade and competition amongst the entities*". However, the proposed amendment regarding determination of transportation tariff on a combined basis does not in any manner foster fair trade or competition but will have the effect of only benefiting GAIL, as the largest incumbent pipeline operator with the maximum number of interconnected pipelines and make other pipelines unviable.

The interests of consumers can be protected specifically by fostering fair trade and competition amongst the entities.

The present draft regulations are in fact contrary to the specific direction provided in s. 20(5) PNGRB Act in respect of common carrier pipelines which is that "*the Board shall be guided by the objectives of promoting competition among entities, avoiding infructuous investment, maintaining or increasing supplies or for securing equitable distribution or ensuring adequate availability of petroleum, petroleum products and natural gas throughout the country*".

We believe these proposed amendments give an undue advantage to GAIL, by ensuring regulated returns on pipelines that are under-utilized which will limit competition by the entity that do not have such advantage.

As if GAIL integrates its pipelines, it will be in a position to not only review / revise tariffs at regular intervals but also review its zonal tariffs, while tariffs of bid out pipelines will not be allowed to be revised under extant regulations and will have to be retained.

- For e.g. : A customer in Bhatinda offtaking gas from GAIL network, has the flexibility to offtake gas from integrated GAIL Network, tariff of which shall be subject to periodic revisions. However, the same customer who may also be in a position to offtake gas from MBPL pipeline shall not be given the flexibility of reduced / revised tariffs. This changes the entire competitive position of MBPL.

Further, integration of pipeline may result into a situation whereby GAIL can lay new spur line to reach any new market and can replace old existing pipeline. In both the case, cost can be subsidize by integration model, creating a situation where no other entity can compete with GAIL.

- For e.g. If PNGRB bid out any new pipeline to cater some new market and issue Grant of authorisation to any entity for building such pipeline, GAIL can lay a spur-line to reach such market.

Moreover, one of the main risks for consumers in a combined / integrated tariff structure is that the first integrated tariff may show a reduction in overall tariff for consumers that are located at the end of the pipeline network due to combining of capital expenditure. However, in the subsequent tariff revisions, due to additional capital expenditure on account of renovation of expansion of the integrated network, it will result in increase of the tariff.

For example, if GAIL undertakes a renovation of any part of or a substantial portion of the HVJ pipeline (which is due for renovation as it was laid in the 1980s), the integrated tariff will have a massive increase. Moreover, once the tariff of Jagdishpur – Haldia – Bokaro - Dhamra pipeline is merged with HVJ (now Integrated HVJ), as proposed by GAIL vide its proposal of October 2016; the proposed ‘integrated’ pipeline tariff shall further increase (substantially).

The present draft regulations do not limit in any manner the extent or prescribe a maximum percentage by which an integrated tariff could be increased. It is therefore placing the consumers at risk for unprecedented levels of tariff increases as and when older pipelines comprising an integrated network are replaced or upgraded.

Moreover, as was noted by several major Gas Industry players at the time of discussions over the Unified Tariff proposal in September 2017, that **balancing the perspective of all the stakeholders** is required through integration of all the pipelines (both existing and proposed) in order to evolve a unified Pan India tariff approach.

Authorization Issue

Currently, all the pipelines are authorised as separate distinct pipelines as the framework of the PNGRB Act is clear that the transportation tariff under s. 22 PNGRB Act can be determined only for the specific authorised common carrier or contract carrier.

Thus, the Hon’ble Board can only determine an “integrated tariff” after the specific “integrated pipeline network” is authorised as a common carrier or contract carrier.

Thus, until such time as the authorisation for the relevant pipelines is provided as an integrated common carrier or contract carrier network or the pipelines are duly authorised under s.16 PNGRB Act as an integrated pipeline acting as common carrier or contract carrier, merely amending the tariff regulations will not be sufficient.

5. Proposed amendment to be implemented uniformly for all natural gas pipeline

- i. Considering above submission, if the Hon'ble Board decides otherwise to move ahead with the proposed amendment to determine transportation tariff on combined basis for two or more interconnected natural gas pipelines, the following is proposed for consideration of the Board:
 - a. PNGRB may amend Regulation 3 on applicability of Tariff Regulations to natural gas pipeline authorised through competitive bidding u/r (9) of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008.
 - b. PNGRB may consider determining single transportation tariff of entire interconnected natural gas pipelines i.e. both bid out / non-bid out natural gas pipeline, irrespective of being owned by different entity.
 - The above shall be similar to power transmission sector, wherein entire power grid is operated as a single interconnected network.
 - Customers are required to pay entry and exit tariff for transmission of power.

6. PNGRB may also address other significant issues arising from integration

- i. Capacity of merged pipeline shall be less than the sum of the capacity of pipelines before merging.
- ii. Zonalisation of merged / integrated pipeline.
