

Ref: HEGMPL/OTM/MKT/2019/26
August 18, 2019

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

Subject: Determination of Natural Gas Pipeline Tariff Amendment Regulations, 2019

Dear Madam,

This is with reference to the Public Notice dated 02.08.2019 seeking comments/views from all concerned on the proposed draft amendments to the "Tariff Regulations".

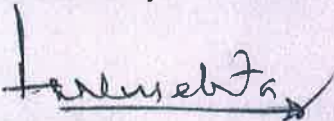
In this regard, we would like to draw your kind attention on previously published Public Consultation Paper (reference no. Infr/NGPL/125/Integration/01/17) dated 28th September, 2017 on Integrated Authorization for Unified / Pooled Tariff.

H- Energy is of the view that the above referred Public Consultation Paper on Integrated Authorization for Unified / Pooled Tariff and the recently published Tariff Amendment Regulations, 2019 are on similar subject.

Accordingly, please find attached our previously submitted comments on Integrated Authorization for Unified / Pooled Tariff for ready reference. (A copy of the said letter dated 29th November, 2017 is attached for your ready reference).

In addition to the said letter, our additional observations are enclosed as **Annexure I** for your kind consideration.

Thank you.
Yours faithfully,


Hiren Mehta
General Manager - Marketing



Encl: as above

V
21/8
JAP (RUT)
21/8
21/8
ADRAJ

Annexure I

As per the draft Regulation 4A proposed vide the said amendment, it is not clear who can initiate the proposal for determination of transportation tariffs on a combined basis for two or more inter connected Natural Gas pipelines. i.e whether PNGRB can sou motu initiate such proposal or the proposal can be initiated by any of the stakeholder as per the objectives mentioned in proposed Regulation 4 A or the scope to initiate such proposal is only limited to the entity owning the Natural gas pipeline.

Further, H-Energy would also like to understand the procedure or process involved for initiating such proposals. We are of the view a standard format for such proposals should be made part of the amendment regulation.

Aravind



Ref: HEGMPL/OTM/2017/14

Date: 29th November, 2017

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

Sub: Comments on Public Consultation Paper bearing Reference No. Infr/NGPL/125/Integration/01/17 dated 28th September, 2017 on Integrated Authorization for Unified/Pooled Tariff ("The Paper")

Dear Madam,

This is with reference to aforesaid subject matter for which PNGRB sought the views and comments on the unification of natural gas pipelines. Please find our views and comments as given below,

1. In benefit to all stakeholders, It is prudent to execute the unification of all the inter-connected cross-country natural gas pipelines of all the entities, including bid-out pipelines i.e. option 10(iii) in The Paper. If the unification of pipelines will be done at the level of entity, then the consumers who are connected through pipelines of two separate entities will be forced to pay transportation tariff to two separate entities, which will be higher than the current transportation tariff.
2. It may be imperative to note that The Government has taken the following steps to make India a gas based economy :
 - Development of gas sources either through domestic gas exploration & production activities or through building up facilities to import Natural Gas in the form of LNG.
 - Development of gas pipeline infrastructure and secondary distribution network.
 - Development of gas consumption markets like Fertilizer, Power, Transport and Industries etc.

In order to make India, a gas based economy the Hon'ble Board must resolve two fundamental issues viz. (a) Effective unbundling of operations and (b) Declaring CGD network as common carrier or contract carrier at the same time of unification of all the inter-connected cross-country natural gas pipelines of all the entities, including bid-out pipelines. We request to refer the Annexure 1 for details regarding this matter.



Further, the unified tariff has been proposed by GAIL to receive 12% return (as per relevant regulation) on its pipelines. However, the lower revenue generation on transmission business is due to GAIL's bundled services of marketing and transportation to its customers for protecting its gas marketing interest. Therefore, the Hon'ble Board is requested to implement effective unbundling of operations prior to implementation of the unification of the pipelines tariff.

3. The unification of all pipelines will result into significant increase in transportation tariff for consumers who are nearer to source. In this case, there exist significant risks that such customers either will opt for dedicated pipeline route, if feasible, or may switch to alternate fuels. Therefore, the Board is requested to secure interest of such customers as well as gas transportation companies by facilitating them to access to other competitive source of RLNG supplies so that they may be able to neutralize the increase in transportation tariff.
4. The entity has compared the proposed unification of pipelines with the model currently been followed in Power Sector. Power market in India is at a highly matured level in comparison to Natural Gas market. Power sector is well unbundled wherein generation, transmission, trading and distribution business are legally separated. Provisions of open access are splendidly operating in the market which are still lacking in Natural Gas sector.

If power market is being considered as a benchmark for Natural Gas market, a thorough study of Indian power sector is required. Only one aspect of unification of tariff cannot be picked up and implemented. It is pertinent to mention that the Electricity Act, 2003 provided provisions related to market reforms such as unbundling, unified tariff etc and mechanism for Regulatory Bodies such as CERC, SERCs' to structure Regulations is already well established over last 15 years. It may be noted that Power sector has already resolved and completed its fundamentals issues of unbundling and open access which needs to be addressed in the Natural Gas sector by the Hon'ble Board.

Hence the unification of pipelines cannot be implemented efficiently until the Board is implemented effective unbundling of operations and declaration of CGD network as common carrier or contract carrier post completion of marketing exclusivity period.

5. The extant Regulations do not provide provisions related to access the pipeline capacity on 'Reasonable Endeavor' basis, gas swapping and other flexible terms and conditions etc. The Hon'ble Board must introduce provisions which make access to pipeline capacity more transparent for the gas consumers and other gas marketing entities with flexible entry exit terms. This will also help to

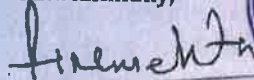


increase the pipeline capacity utilizations which are currently highly underutilized.

6. If JHBDPL is being considered for unified tariff, then all the authorized pipelines of all the entities which are in construction phase must be considered for the unified tariff.

We thank you for soliciting our views and comments on the unifications of natural gas pipelines and we hope that our views and comments would be considered by Hon'ble Board to make final decisions on the subject matter.

Thank you.
Yours faithfully,



Hiren Mehta
General Manager - Marketing



Annexure 1

a) Effective Unbundling of Operations:

- Unbundling of operations is imperative towards fostering an environment of open access and fair competition especially when a third party requires access to a pipeline network to serve its customers. Concept of unbundling was introduced to stop the practice of natural monopolies.
- On the subject matter, MoP&NG notified 'Policy for Development of Natural Gas Pipelines and City or Local Natural Gas' on 20.12.2006. Further PNGRB also notified Affiliate Regulations with an objective that arm's length principle is followed across the industry.
- The Affiliate Regulations were amended in February 2014 and as per amended Regulations, an entity which is engaged in both marketing and transmission of natural gas shall, on/before 31st March 2017 create a separate legal entity so that the activity of transportation of natural gas is carried on by such separate legal entity and the right of first use shall be available to the affiliate of such separate legal entity. As on date, no entity engaged in both marketing of natural gas and transmission business has created separate legal entities as per the relevant extant Regulations.
- Bundled services are extremely restrictive and circumscribe. The clamor for unbundling is certainly an indication of maturity. Gas customers in the present day recognize the benefits of unbundling of operations and are demanding legal separation of transmission and marketing businesses. LNG terminal operating entities, gas marketing companies, Importers, CGD entities and consumers are familiar with the unbundled model and find it extremely useful, manageable and economical.
- In order to protect consumer against abuse of dominant market power, an efficient gas grid with open access for all the players on a non-discriminatory basis should be established. This exercise of unbundling of operations is required to be completed at the earliest by the Board. It is very important for the existing entities to carry out marketing and transmission business through separate legal entities. The introduction of unbundling shall inject an element of transparency and ultimately customers would benefit with the most competitive price. Hence before proceeding for unification of tariff, unbundling should be executed at first.



b) Declaring CGD Network Common Carrier or Contract Carrier

- The declaration of a CGD network as common carrier or contract carrier has been made contingent on notification of the draft regulations "PNGRB (Guiding Principles for Declaring or Authorizing City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2016" which are still not finalized. We request the Board to clarify the timelines for finalization and notification of these Regulations. While the Hon'ble Board has the necessary powers to regulate access to CGD network de hors its status as a common carrier or contract carrier u/s 11(e)(iii) r/w section 20, the CGD entities will continue to deny access to other entities in CGD network taking advantage of the lack of clarity on the issue and in the absence of declaration as common carrier or contract carrier.
- On 21.09.2015, PNGRB had publicly declared its intention to end the exclusivity period of 23 CGD network and invited comments from all stakeholders. It is pointed out that section 20(1) of the PNGRB Act referred in such public notice relates to declaration of existing pipelines or CGD network as common carrier or contract carrier or to regulate access to such pipeline or network. As per extant regulations, no formal process is required to declare the expiry of exclusivity period since the same come to an end by efflux of time. However, without prejudice to the above contentions, it is pointed out that even after 15 months, PNGRB has not yet notified its final decision regarding end of exclusivity period. The incongruity and the ambiguity arising from such proceedings and the delay in declaration of end of exclusivity period and notification of PNGRB (Guiding Principles for Declaring or Authorizing City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2016 is inhibiting competition in the industry.
- Till the time, CGD network is not declared as common carrier or contract carrier whose exclusivity is expired, the aim of unification of tariff in the country will not be that efficient and it will always deter the potential customers to procure gas from new gas suppliers at competitive price.

Thus it is imperative for the Board to implement (a) Unbundling of transmission and marketing business and (b) Declaring CGD network as common carrier or contract carrier, before proceeding for Unified Transmission Tariff.

