

PETROLEUM AND NATURAL GAS REGULATORY BOARD

NOTIFICATION

New Delhi, the 5th July, 2012

F. No. M(C)/2009.- In exercise of the powers conferred by section 61 of the Petroleum and Natural Gas Regulatory Act, 2006 (19 of 2006), the Petroleum and Natural Gas Regulatory Board hereby makes the following regulations, namely:-

1. Short title and commencement.

- (1) These regulations may be called the Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Petroleum and Petroleum Products Pipelines as Common Carrier or Contract Carrier) Regulations, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these regulations, unless the context otherwise requires,-

(a) “Act” means the Petroleum and Natural Gas Regulatory Board Act, 2006;

(b) “appointed day” means the date of October 1, 2007 when the Central Government notified the establishment of the Petroleum and Natural Gas Regulatory Board;

(c) “affiliate” means a person in relation to the entity—

(i) who participates, directly or indirectly or through one or more intermediaries, in the management or control or capital of the entity;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the entity;

(iii) who appoints more than half of the Board of directors or members of the governing board or one or more executive directors or executive members of the governing board of the entity; or

(iv) who guarantees not less than ten per cent. of the total borrowings of the entity.

(d) “Board” means the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Act;

(e) “Petroleum and petroleum products pipeline” means any pipeline as defined in the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Petroleum and Petroleum Products Pipelines) Regulations, 2010.

(2) Words and expressions used and not defined in these regulations, but defined in the Act or in the rules or regulations made thereunder, shall have the meanings respectively assigned to them in the Act or in the rules or regulations, as the case may be.

3. Scope.

These regulations shall apply to an entity-

- (a) which proposes to lay, build, operate or expand a petroleum and petroleum products pipeline and has been authorized to do so under the relevant regulations for authorizing entities to lay, build, operate or expand petroleum and petroleum products pipelines;
- (b) which has been laying, building, operating or expanding petroleum and petroleum products pipeline before the appointed day and has been authorized under the relevant regulations for authorizing entities to lay, build, operate or expand petroleum and petroleum products pipelines; or
- (c) which has been authorized by the Central Government before the appointed day and accepted by the Board for laying, building, operating or expanding petroleum and petroleum products pipeline under the relevant regulations for authorizing entities to lay, build, operate or expand petroleum and petroleum products pipelines.

4. Objectives for declaring petroleum and petroleum products pipeline as common carrier or contract carrier.

- (a) Petroleum and Petroleum products Pipelines are an efficient, economical and safe mode of bulk transportation of petroleum and petroleum products from a refinery or an installation to a demand centre over a particular route. Therefore, consumer interest is best served by promoting competition, compliance with environmental and safety statutes and avoiding infructuous investments by optimum utilization of infrastructure of petroleum and petroleum products pipelines.
- (b) The concept of allowing capacity in a petroleum and petroleum products pipeline to be utilized by any entity on a non-discriminatory basis through contract carrier or common carrier arrangements with entities laying, building, operating or expanding petroleum and petroleum products pipelines shall lead to development of competitive markets.

5. Contract carrier system for petroleum and petroleum products pipelines.

- (a) A contract carrier system implies that the capacity in petroleum and petroleum products pipeline, over and above the entity's own requirement, shall be available to any other entity subject to the latter entering into a contract for transportation of quantity of petroleum and petroleum products of a mutually agreed quality for a period of minimum one year on such other terms and conditions as may be mutually agreed subject to the provisions of regulations notified from time to time under the Act and on payment of petroleum and petroleum products pipeline tariff as authorized under the Petroleum and Natural Gas Regulatory Board (Determination of Petroleum and Petroleum Products Pipeline Transportation Tariff) Regulations, 2010.
- (b) The contract for transportation of petroleum and petroleum products in petroleum and petroleum products pipeline shall be independent of the activity of marketing of petroleum and petroleum products.

6. Common carrier system for petroleum and petroleum products pipelines.

- (a) A common carrier system implies that the capacity in a petroleum and petroleum products pipeline, over and above the entity's own requirement, shall be available to an entity subject to the latter entering into a contract for transporting quantity of petroleum and petroleum products of a mutually agreed quality for a period of less than one year, on such other terms and conditions as may be mutually agreed, and subject to the provisions of regulations notified from time to time under the Act and on payment of petroleum and petroleum products pipeline transportation tariff as authorized under the Petroleum and Natural Gas Regulatory Board (Determination of Petroleum and Petroleum Products Pipeline Transportation Tariff) Regulations, 2010:

Provided that if the common carrier capacity is not fully utilized, the entity may contract the same for a period of one year or more, subject to the stipulation that in case another entity seeks booking of the same for a period of less than one year, the request shall be accommodated after pro-rating the same from the common carrier capacity already contracted to other entities for a period of one year or more:

Provided further that pro-rating the common carrier capacity shall not exceed ten per cent of the total common carrier capacity.

Explanation- For the purpose of these regulations, entity laying, building, operating or expanding a common carrier or contract carrier petroleum and petroleum products pipeline shall have right of first use for its own and its affiliates' requirement and shall be limited to the right of first use. Such right of first use shall not be deemed to be preferential access.

- (b) The contract for transportation of petroleum and petroleum products in a petroleum and petroleum products pipeline shall be independent of the activity of marketing of petroleum and petroleum products;
- (c) Common carrier capacity available in petroleum and petroleum products pipeline at any given point in time shall be allocated to any other entity seeking booking of the same on a non-discriminatory “*first-come-first-served*” basis.
- (d) When the extra capacity in a petroleum and petroleum products pipeline to be provided on a common carrier basis is less than twenty five percent of the sum of the capacity requirements of the entity and the firm up contracted capacity with other entities, the same will be made available - (i) on expiry of firm contracts, or (ii) by way of expansion of capacity in the petroleum and petroleum products pipeline:

Provided that when the common carrier capacity is less than ten percent of the sum of the capacity requirements of the entity and the firm up contracted capacity with other entities, the Board may on a *suo motu* basis and after following the due process of public consultation require an entity to build extra capacity on such time lines and other terms and conditions as may be specified by the Board.

7. General principles for common or contract carrier capacity.

- (a) Entity laying, building, operating or expanding petroleum and petroleum products pipeline shall publish the common or contract carrier capacity available in the petroleum and petroleum products pipeline on its website and follow the procedure specified in the relevant regulations on access conditions for petroleum and petroleum products pipeline.
- (b) Entity laying, building, operating or expanding petroleum and petroleum products pipeline shall allocate the common or contract carrier capacity available on a transparent basis by maintaining a record of the applications received and the basis of allocation and also publish the information on its website as per Annexure-1.

8. Verification of own requirement and capacity allocated on a contract carrier basis.

The entity shall specify the details of its own requirement and the capacity allocated on a contract carrier basis which shall be verified from time to time by the Board as required.

9. Determination of contract carrier or common carrier capacity in petroleum and petroleum products pipeline.

The common carrier or contract carrier capacity in respect of petroleum and petroleum products pipeline covered under,-

- (a) clause (a) of regulation 3 shall be determined as per the basis provided under the relevant regulations for authorizing entities to lay, build, operate or expand petroleum and petroleum products pipelines and as approved by the Board as per the basis specified in the relevant regulations for determining the capacity of the petroleum and petroleum products pipeline;
- (b) clause (b) of regulation 3 shall be as approved by the Board as per the relevant regulations for determining the capacity of the petroleum and petroleum products pipeline and clause (c) of regulation 3 shall be as authorized by the Central Government or as approved by the Board as per the relevant regulations for determining the capacity of the petroleum and petroleum products pipeline.

10. Declaring of existing pipeline for transportation of petroleum and petroleum products as a common or contract carrier.

- (1) If the Board is of the opinion that it is necessary or expedient to declare an existing pipeline for transportation of petroleum and petroleum products as a common or contract carrier,-
 - a) it may give wide publicity of its intention to do so by inviting objections and suggestions within a period of not less than one month from the date of invitation;
 - b) the Board shall also provide the entity owning the petroleum and petroleum products pipeline an opportunity of being heard within a minimum notice period of twenty one days from the close of the invitation for objections and suggestions.
- (2) After considering the objections and suggestions received and after hearing the entity owning the petroleum and petroleum products pipeline under sub-regulation (1), the Board may declare the pipeline as a common or contract carrier subject to such terms and conditions as it may fix.
- (3) Notwithstanding anything in sub-regulation (1) and sub-regulation (2), the entity may, on a *suo motu* basis, apply to the Board seeking declaration of a petroleum and petroleum products pipeline as a common or contract carrier and the Board after giving an opportunity of hearing to the entity, shall, within a period of fifteen days from the receipt of such an application, declare the relevant petroleum and petroleum products pipeline as a common or contract carrier on such terms and conditions as it deems fit.

11. Miscellaneous.

- (a) The Board shall endeavour to complete the process of declaring or authorizing a petroleum and petroleum products pipeline as common or contract carrier along-with the process for authorizing a petroleum and petroleum products pipeline or accepting Central Government authorization for petroleum and petroleum products pipeline

under the relevant regulations for authorizing entities to lay, build, operate or expand petroleum and petroleum products pipelines.

(b) Entity laying, building, operating or expanding petroleum and petroleum products pipeline and entity booking capacity in petroleum and petroleum products pipeline shall abide by the provisions specified under relevant regulations on access conditions for petroleum and petroleum products pipeline and other relevant regulations.

(c) The Board may issue guidelines from time to time relating to the implementation of various provisions of these regulations.

¹[(d) If any question arises as to the interpretation of these regulations, the same shall be decided by the Board.]

RATAN P. WATAL, Secy.
[ADVT.III/4/Exty./188/2012-13]

¹ Subs by Reg. 2, the Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Petroleum and Petroleum Products Pipelines as Common Carrier or Contract Carrier) Amendment Regulations, 2014, for 'sub reg (d) of Reg. 11'. (w.e.f. 01.01.2015)

Annexure-1

Format for maintaining records of applications for booking and allocation of capacity in petroleum and petroleum products pipeline by entity laying, building, operating or expanding petroleum and petroleum products pipeline.

(See regulation 7 (b))

1	Docket number allotted to application for booking of capacity in petroleum and petroleum products pipeline
2	Date and time of receipt of application
3	Mode of receipt of application and date of confirmation issued by the entity
4	Total capacity in petroleum and petroleum products pipeline at each of the tap-off/ delivery point (in MMTPA)
5	Own capacity requirements of the entity laying, building, operating or expanding petroleum and petroleum products pipeline (in MMTPA) as declared by the entity before the commencement of the financial year and communicated to the Board
6	Common carrier or contract carrier capacity available in petroleum and petroleum products pipeline (in MMTPA) at all tap-off/ delivery point (s) before the date of receipt of the application for booking of capacity
7	Pipeline capacity allocated to the applicant entity (in MMT) over the time period at each of the tap-off/ delivery point in the petroleum and petroleum products pipeline along with the details of the point of injection of petroleum and petroleum products. In case the capacity allotted is lower than the capacity requested, specific reasons for the same to be recorded
8	Date of sending the notice of acceptance of applicant entity's request for booking of capacity (in case of part allocation of capacity, with a disclosure of the specific reasons) and the date of acknowledgement of receipt of the notice
9	Date of entering into a contract for booking of capacity in the petroleum and petroleum products pipeline
10	Capacity available in petroleum and petroleum products pipeline after each capacity contracted
11	Actual quantity delivered against the capacity contracted

Foot Note: Principal regulations were notified *vide* F. No. M(C)/2009 dated 05th July, 2012 and amended *vide* F. No. L-MISC/VI/I/2007, dated 01st January, 2015.