PETROLEUM AND NATURAL GAS REGULATORY BOARD

NOTIFICATION

New Delhi, the ________, 2020

F. No. ________________ — In exercise of the powers conferred by Section 61 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006), the Petroleum and Natural Gas Regulatory Board hereby makes the following regulations to amend the Petroleum and Natural Gas Regulatory Board (Authorising Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008, namely: —

1. Short title and commencement.

(1) These regulations may be called the Petroleum and Natural Gas Regulatory Board (Authorising Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Amendment Regulations, 2020.

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Petroleum and Natural Gas Regulatory Board (Authorising Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008, —

(a) In regulation 5, sub-regulation 6 (b), —

(i) for clause (i), the following clause shall be substituted, namely;

“(i) entity has constructed either hydrocarbon steel pipelines totaling to a length of not less than three hundred kilometers or which by itself or as one of the consortium partners was authorized by PNGRB for development of a CGD network; or"

(ii) for clause (ii), the following clause shall be substituted, namely: —

“(ii) entity has a joint venture with another entity (with at least eleven percent equity holding by that entity) which has constructed either hydrocarbon steel pipelines totaling to a length of not less than three hundred kilometers or entity has a joint venture with another entity (with at least eleven percent equity holding by that entity) which by itself or as one of the consortium partners was authorized by PNGRB for development of a CGD network; or”

(iii) clause (iii) and clause (iv) shall be omitted.
(b) In regulation 5, sub-regulation 6, clause (f), the following shall be added at the end, namely: -

"the company so registered shall comply with the requirement of minimum net worth in respect of the geographical areas under that company as per Regulation 5 (6) (e);"

(c) In regulation 9, sub-regulation (1), following proviso shall be inserted: -

"Provided that the Board may agree on application of an entity declared as successful, which needs to get itself registered as a company under the Companies Act, 2013 within a period of six months from the date of such declaration in accordance with the provisions of clause (f) of sub-regulation (6) of regulation 5 of these regulations, to submit the PBG initially valid for a period of one year. In such case, the PBG shall be renewed, at least three months before expiry of the same, for three years and so on until the period of authorization.

It is clarified that reduction of value of PBG to 40% of initial PBG after 100% achievement of the work programme or on expiry of exclusivity from purview of common carrier or contract carrier, whichever is later shall be applicable to all authorised entities irrespective of the year of authorisation.

(d) In regulation 11, -

(i) clause (1) and clause (2) shall be omitted.

(ii) Clause (3) shall be substituted as below:

"The authorized entity shall achieve the financial closure of the project within a period of two hundred and seventy (270) days from the date of grant of authorization."

(iii) Clause (4) shall be substituted as below:

"The entity shall submit the following to the Board for acceptance of the achievement of the financial closure:

a) The detailed feasibility report (hereinafter referred as DFR) of the project, incorporating inter-alia, component-wise detailed cost of project, year-wise phasing, financing plan and approval of entity’s Board of Directors for the above;

b) In respect of the project cost planned to be funded by equity shares, (i) resolution of the Board of Directors of the authorized entity, (ii) resolution(s) of the Board(s) of Directors of the promoter company(s) committing investment of equity funding for the project, (iii) firm commitment letter from equity or any other fund, in case the project
is proposed to be funded from such fund, and (iv) in case of non-
company promoter, a letter committing investment of equity funding 
for the project, as per the phased source of equity funding proposed 
in the DFR;

c) In respect of the project cost planned to be funded by borrowings, (i) 
firm sanction order(s) from banks/ financial institutions/other 
lender(s), (ii) legally binding loan agreement(s) between the 
authorized entity and promoter(s)/ associate(s)/Director(s) lender(s) 
for Funding through loan from.

d) In respect of the project cost planned to be funded from internal 
accruals of the geographical area or other activities of the authorized 
entity, year-wise projected cash flows of the geographical area or the 
other activities of the authorized entity for the duration of proposed 
funding.

e) Any other document considered relevant by the entity.

(e) In regulation 12, sub-regulation (2), -

(i) After the third proviso, the following proviso shall be inserted, namely;

“Provided further that in respect of those geographical areas which source 
natural gas other than from natural gas pipelines, including from an existing 
LNG terminal, the third proviso shall not be apply.”

(ii) Explanation to sub-regulation (2), shall be numbered as “Explanation 1”, 
and the following explanation shall be inserted after Explanation 1;

Explanation 2: For the purpose of this sub-regulation, the readiness of CGD 
networks shall mean any of the following:
(a) operation of at least one CNG Station within authorized geographical 
area, or
(b) procurement of land for setting up City Gate Station, or
(c) completing laying of steel pipeline at least to the extent of 10% of the 
MWP target for the first year, or
(d) completing laying of MDPE pipeline at least to the extent of 50% of the 
MWP target of steel pipeline for the first year.

(f) In regulation 16, after sub regulation 6, the following clause shall be inserted, 
namely: -
“(7) the procedure for implementing the termination of grant of authorization of CGD network shall be as provided in Schedule G.”

(g) After Regulation 16, following Regulation shall be inserted, namely: -

“16 A. Substitution Right:

(1) Notwithstanding anything contained in these regulations, in case of default in service of debt by the authorized entity supported by debt from banks/financial institutions/other lenders, such lender(s) may notify the same to the Board. The Board shall issue a notice to the defaulting authorized entity to cure the default within a period of 90 days.

(2) In case the authorized entity is unable to cure the default within the stipulated period, the Authorization may be suspended if so desired by the Lender(s). In case of suspension of the Authorization, the Lender(s) may notify the Board and the authorized entity its intention to substitute the authorized entity by a New Entity. The New Entity, will be selected by the Lender(s) for substitution within a period of 90 days after the Lender(s) have notified the Board of its intention to substitute the authorized entity. Board may accept the New Entity proposed by the Lender(s) provided that the New Entity meets the criteria stipulated at Regulation 5(6)(c) to 5(6)(e) for the selection of an entity for the Geographical Area. If the New Entity is accepted by the Board then the process is consummated after execution of an Amendment to the extant Authorization Letter in Schedule D and any other document to replace the authorized entity by the New Entity.

(3) From the time of suspension of Authorized Entity till New Entity takes over the GA (interim period), the Authorized Entity shall continue to carry out the existing operations of the Geographical Area..

(4) All the relevant regulations shall apply mutatis mutandis to the New Entity proposed by the Lender(s) to the Board as it applied to the Authorized entity.

(5) The New Entity shall comply with PNGRB Act, the regulations made thereunder and other terms and conditions of Authorization Letter in Schedule D and shall assume all the liabilities and responsibilities of the authorised entity.

(h) In Schedule G, the referencing regulation shall be substituted as namely: -

“[see regulation 16 (7)]”

(i) for Schedule K, the following Schedule shall be substituted, namely: -
Schedule-K
[See Regulation 5(6)(e)(i)]

Methodology for Computation of Net Worth

<table>
<thead>
<tr>
<th>Serial Number</th>
<th>Type of Entity</th>
<th>Net Worth Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>In case of a Company</td>
<td>As per method 1</td>
</tr>
<tr>
<td>2</td>
<td>In case of Cooperative Society</td>
<td>As per method 1 Mutatis Mutandis</td>
</tr>
<tr>
<td>3</td>
<td>In case of a Joint Venture Company</td>
<td>Consolidated net worth (as per method 1) of those promoter companies shall be considered which provide support through their Corporate Guarantee in the format as specified in Appendix III</td>
</tr>
<tr>
<td>4</td>
<td>In case of a subsidiary company</td>
<td>Consolidated net worth of holding company shall be considered (to be computed as per Method 1), if supported by corporate guarantee from that holding company.</td>
</tr>
<tr>
<td>5</td>
<td>Other entities</td>
<td>As per method 2</td>
</tr>
<tr>
<td>6</td>
<td>Unincorporated consortium or unincorporated joint venture of Companies</td>
<td>As per method 1</td>
</tr>
<tr>
<td></td>
<td>a) Companies</td>
<td>As per method 1</td>
</tr>
<tr>
<td></td>
<td>b) Others</td>
<td>As per method 2 for non-company consortium member(s) and as per method 1 for company consortium member(s).</td>
</tr>
<tr>
<td>7</td>
<td>In case company is promoted by individual promoters</td>
<td>Net worth of the company shall be computed as per Method 1. If supported by the guarantee from the individual promoter(s), net worth of individual promoter(s) shall be included and computed as per Method 2.</td>
</tr>
</tbody>
</table>

Methodology for net worth computation under Method 1:
Net worth shall be computed as defined in clause (57) of section 2 of the Companies Act, 2013.

Methodology for Net Worth Computation under Method 2:
By valuation of assets on the following basis:
1. Investments in the name of the applicant (Detailed list to be enclosed)
   (a) Securities listed and quoted in Stock Exchange
(i) Market value as on ……
(ii) Margin of 30% on market value i.e. (i) above
(iii) Net value of listed securities (i) – (ii)

(b) Unlisted Securities
(i) Value as on …… (Value to be computed as per Note 1. below)
(ii) Margin of 50% on value as per (i) above
(iii) Net value of unlisted securities (i) – (ii)

(c) Other investments like PPF, NSC, bank deposits, company deposits etc., at current value

(d) Total Net Investments = (a) (iii) + (b) (iii) + (c)

2. Land and building component of the fixed assets (full details of such assets like survey number, location, address, extent of land & building to be furnished)
(i) Market value (to be computed as per Note 2. below)
(ii) Margin of 50% on (i) above
(iii) Net value of such fixed assets (i) – (ii)

3. Debtors outstanding for not more than 3 months + cash and bank balances

4. Current Liabilities

5. Long term liabilities

6. Net worth = 1.(d) + 2.(iii) + 3. – (4. + 5.)

Notes:

1. Valuation of unlisted securities would be at “fair value” of the said securities, i.e. the average of the “break-up value” and the “earning value” and for this purpose:
   a. the “break-up value” means the paid-up equity share capital and all reserves created out of the profits and securities premium account as reduced by the accumulated losses, deferred expenditure and miscellaneous expenditure not written off as per the latest audited balance sheet, but not including reserves created out of revaluation of assets, write-back of depreciation and amalgamation, divided by the number of equity shares of the investee company.
   b. the “earning value” means the value of an equity share computed by taking the average of profits after tax as reduced by the preference dividend and adjusted for extraordinary and non-recurring items, for the immediately preceding three years and further divided by the number of equity shares of the investee company and capitalised at the following rate, namely:
      i. In case of predominantly manufacturing company, eight percent;
      ii. In case of predominantly trading company, ten percent;
      iii. In case of any other company, including an NBFC, twelve percent; and
      iv. If, an investee company is a loss-making company, the earning value will be taken at zero.

2. Valuation of fixed assets for the purpose of net worth shall be certified by Government approved valuers as per Companies (Registered Valuers and Valuation) Rules, 2017. The valuation shall not be more than 6 months old on the date of submission of the bid. Further,
the valuation shall be capped at Circle Rate. Only those items of land and building that are in the name of the entity or proprietor shall be included under the head at sl. No. 2 above i.e. Land and building component of the fixed assets. Those properties that are taken on lease shall not be included for computation of net worth. Fixed assets other than Land and Building shall not be included for the purpose of computation of net worth.

3. Details of items comprising investments, current assets, current liabilities and long-term liabilities shall be given separately.

4. Current assets should exclude loans to related entities, bad and doubtful debts and debts outstanding for more than 3 months, advance against capital assets, pledged securities or assets, prepaid expenses and also intangible assets.

5. Valuation of properties will be net of encumbrances with details of loan and other encumbrances, if any. Details of encumbrances, including ‘nil’ encumbrance, shall be supported by a certificate by the entity.

6. Company includes limited, private limited and limited liability partnerships (LLP).

7. In case the bidder is supported by an equity fund, net-worth shall be lower of assets under management of the equity fund and the amount of support by a legally binding document for supporting the entity to achieve the work program.

8. In case of a bid submitted by a consortium, net worth of only those consortium members would be considered which have at least 11% stake in the consortium. Provided that, when the Consortium is converted into a company registered under the Companies Act, 2013 as required by regulation 5(6)(f) of the CGD Authorisation Regulation, such member(s) should hold not less than 11% shareholding in the company and shall continue to hold not less than 11% shareholding in the company till exclusivity from the purview of common carrier or contract carrier.

9. In case an entity bids for more than one GA and if the net worth of the bidder as calculated by PNGRB is lower than the cumulative net worth required as per Regulation 5(6)(e) of CGD Authorization Regulations, then the bidder shall be considered to be qualified for certain GAs in the following order, unless specified otherwise by the bidder: First the GA having the highest population amongst the GAs bided by the entity. Thereafter, GA(s) bided by the entity would be considered in the same sequence as these are appearing in List of GAs open for bidding published by PNGRB, provided the remaining net worth of the bidder is more than the minimum net worth requirement of the GA at next serial number else GA at subsequent serial number and so on shall be considered. This process shall continue till net worth of the bidder as calculated by PNGRB is available.
10. Any certificate submitted along with the bid certified by a Chartered Accountants shall be considered only if accompanied by the Unique Document Identification Number (UDIN) generated on the UDIN portal of The Institute of Chartered Accountants of India.

11. In case of bidding by unincorporated consortium, cross investment/ holding amongst the consortium partners will not be counted for the purpose of net worth evaluation.

12. If the net worth criteria is fulfilled considering assets of any person other than a company, an affidavit should also be enclosed along with the net worth certificate, that all the assets considered in the net worth certificate are free from any encumbrance/ charge/ lien/ liability and are owned and are in absolute control/ possession of that person. Wherever there is any encumbrance/ charge/ lien/ liability, the outstanding amount of loan/ liability shall be reduced from the value of the asset against which such loan/ liability exists. Further, any Income Tax demand/ liability against the entity/ consortium partner(s) should also be reduced from the assets, while calculating the net worth.

VANDANA SHARMA, Secy.

[ADVT.______________________]