PETROLEUM AND NATURAL GAS REGULATORY BOARD

NOTIFICATION

New Delhi, the ____ , 2016

F. No. _______ 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 City or Local Natural Gas Distribution Networks as Common Carrier or Contract Carrier) Regulations, 2016.

(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 the associated person; 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) "City or Local Natural Gas Distribution Network" or "CGD Network" means any network as defined in the PNGRB Act, 2006 and the relevant notified Regulations;

(f) "Common carrier capacity" means the extra capacity in a CGD network for open access on cumulative basis at all entry points made available by the CGD entity for transporting natural gas through contract(s) for a period of less than one year;

(g) "Contract carrier capacity" means the extra capacity in a CGD network for open access on cumulative basis at all entry points made available by the CGD entity for transporting natural gas through contract(s) for a period of minimum one year;

(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.


These regulations shall apply to an entity laying, building, operating or expanding the City or Local Natural Gas Distribution Network under the provisions of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008.

4. Objectives for declaring City or Local Natural Gas Distribution Networks as common carrier or contract carrier.

(a) City or Local Natural Gas Distribution Network is an efficient, economical and safe mode of distribution of natural gas from a main trunk pipeline to a particular geographical area through pipelines. 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 City or Local Natural Gas Distribution Network.
(b) The concept of allowing capacity in a City or Local Natural Gas Distribution Network to be utilized by any entity on open access on a non-discriminatory basis through common carrier or contract carrier arrangements with entities laying, building, operating or expanding City or Local Natural Gas Distribution Network shall lead to development of competitive markets.

5. Common carrier or Contract carrier system for City or Local Natural Gas Distribution Network.

(a) A common carrier system implies that the capacity in a CGD network, over and above the use for the entity’s own requirement but within the limit specified under Regulation 3(1) of the Petroleum and Natural Gas Regulatory Board (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2011, shall be available to an entity subject to the latter entering into a contract for transporting quantity of natural gas 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 applicable transportation tariff/rates.

(b) A contract carrier system implies that the capacity in City or Local Natural Gas Distribution Network, over and above the use for entity’s own requirement but within the limit specified under Regulation 3(1) of the Petroleum and Natural Gas Regulatory Board (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2011, shall be available to any other entity subject to the latter entering into a contract for transportation of quantity of natural gas 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 applicable transportation tariffs/rates.

(c) The capacity in a CGD network for open access on cumulative basis at all entry points shall be twenty percent of the capacity of the CGD network or the quantity of gas flowing in the CGD network whichever is higher and when such extra capacity in a CGD network touches ten percent limit, then, the entity shall raise this capacity to twenty percent. The Board may on a suo motu basis and after following the due process of public consultation may ask an authorized entity to build extra capacity on such time lines and other terms and conditions as may be specified by the Board.
(d) The extra capacity available, as provided in sub-regulation (c) of Regulation 5, in a CGD network at any given point of time can be allocated as common carrier capacity or contract carrier capacity or both. However, the same shall be allocated to any other entity seeking booking of the same on a non-discriminatory “first-come-first-served” basis.

(e) The contract for transportation of natural gas in City or Local Natural Gas Distribution Network shall be independent of the activity of marketing of natural gas.

Explanation- For the purpose of these regulations, entity laying, building, operating or expanding a common carrier CGD network shall have the right of first use for its own and its affiliate’s requirement and shall be limited to the right of first use. Such right of first use shall not be deemed to be preferential access.

6. General principles for common carrier or contract carrier capacity.

(a) Entity laying, building, operating or expanding City or Local Natural Gas Distribution Network shall publish the common capacity or contract carrier capacity available in the CGD network on its website and follow the procedure specified in the relevant regulations on access conditions for CGD network.

(b) Entity laying, building, operating or expanding City or Local Natural Gas Distribution Network shall allocate the common carrier 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.

7. 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.

8. Determination of common carrier or contract carrier capacity in City or Local Natural Gas Distribution Network.

(a) The common carrier or contract carrier capacity in respect of City or Local Natural Gas Distribution Network shall be determined as per the provisions under
Regulation 3(1) of the Petroleum and Natural Gas Regulatory Board (Access Code for City or Local Natural Gas Distribution Networks) Regulations, 2011 and as approved by the Board as per the basis specified in the relevant regulations for the Petroleum and Natural Gas Regulatory Board (Determining Capacity of City or Local Natural Gas Distribution Network) Regulations, 2015;

(b) Pending declaration of capacity by the Board (under capacity determination regulations), the capacity as submitted by the entity shall be defined as capacity of the network for determining common carrier capacity.

9. Declaration of existing CGD network as a common carrier or contract carrier.

(1) If the Board is of the opinion that it is necessary or expedient to declare an existing City or Local Natural Gas Distribution Network as a common carrier 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 three weeks from the date of invitation;

   b) the Board shall also provide the entity owning the City or Local Natural Gas Distribution Network an opportunity of being heard within a minimum notice period of fifteen 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 City or Local Natural Gas Distribution Network under sub-regulation (1), the Board may declare the CGD network as a common carrier or contract carrier subject to such terms and conditions as it may fix.

(3) If the Board has given the wide publicity of its intention to do so by inviting objections and suggestions before the notification of these regulations and acted as per the provisions of the PNGRB Act, 2006, these regulations shall be applicable to the existing City or Local Natural Gas Distribution Network, subject to their declaration as a common carrier or contract carrier prior to notification of these regulations.

(4) Nothing in these guiding principles shall bar the Board from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provision of these guiding principles.
10. Miscellaneous.

(a) The Board shall endeavor to complete the process of declaring or authorizing a City or Local Natural Gas Distribution Network as common carrier or contract carrier along-with the process for authorizing a City or Local Natural Gas Distribution Network or accepting Central Government authorization City or Local Natural Gas Distribution Network under the relevant regulations for authorizing entities to lay, build and operate City or Local Natural Gas Distribution Network.

(b) Entity laying, building, operating or expanding City or Local Natural Gas Distribution Network and entity booking capacity in City or Local Natural Gas Distribution Network shall abide by the provisions specified under relevant regulations on access conditions for City or Local Natural Gas Distribution Network and other relevant regulations.

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

(d) If any dispute arises with regards to the implementation of any of the provisions of these regulations, the decision of the Board shall be final.

(Upamanyu Chatterjee)
Secretary
Format for maintaining records of applications for booking and allocation of capacity in CGD network by entity laying, building, operating or expanding City or Local Natural Gas Distribution network.

[See regulation 6 (b)]

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<td>1</td>
<td>Docket number allotted to application for booking of capacity in City or Local Natural Gas Distribution Network</td>
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<td>2</td>
<td>Date and time of receipt of application</td>
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<td>3</td>
<td>Mode of receipt of application and date of confirmation issued by the entity</td>
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<td>4</td>
<td>Total capacity in CGD network at each of the entry/exit point (in MMBTU)</td>
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<td>5</td>
<td>Own capacity requirements of the entity laying, building, operating or expanding City or Local Natural Gas Distribution Network (in MMBTU) as declared by the entity before the commencement of the financial year and communicated to the Board</td>
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<td>6</td>
<td>Common carrier or contract carrier capacity available in CGD network (in MMBTU) at all entry/exit point(s) before the date of receipt of the City or Local Natural Gas Distribution Network application for booking of capacity</td>
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<td>7</td>
<td>City or Local Natural Gas Distribution Network allocated to the applicant entity (in MMBTU) over the time period at each of the entry/exit point in the City or Local Natural Gas Distribution Network along with the details of the point of injection of compressed natural gas In case the capacity allotted is lower than the capacity requested, specific reasons for the same to be recorded</td>
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<td>8</td>
<td>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</td>
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<td>Date of entering into a contract for booking of capacity in the City or Local Natural Gas Distribution Network</td>
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<td>Capacity available in City or Local Natural Gas Distribution Network after each capacity contracted</td>
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<td>Actual quantity delivered against the capacity contracted</td>
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