Annex-I

320/C

गेल (इंडिया) लिमिटेड
(भारत सरकार का उपक्रम-
महारत्न कम्पनी)
GAIL (India) Limited
(A Government of India Undertaking-
A Maharatna Company)

No: GAIL/ND/RA/2014/624

14th August, 2014

To,
Secretary,
PNGRB,
1st Floor, World Trade Centre,
Babar Road,
New Delhi - 110 001

Subject: BID/NGPL/07/20145/1/ETBPNMTPL

Dear Sir,

This is in reference to the subject bid.

GAIL (India) Limited is intending to participate in the subject bid. However, clause 8.2 of Bid document indicates that bidder shall meet all criteria specified in the relevant regulations for authorization of the work.

As per PNGRB regulation 5 sub regulation 6 clause (i), entities submitting the bid shall not have been imposed any penalty under section 28. In this regard, we would like to state that PNGRB in its order dated 26/12/2013, in the case filed by GSPC, has imposed civil penalty on GAIL under section 28. The said order has been challenged by GAIL before APTEL and the same is sub-judice.

Since the matter is sub-judice, we believe that GAIL is eligible for participation for the subject bid, however, we request the Board to provide confirmation on the above at the earliest so that the bidders shall have left enough time for the bid.

Thanking you.

Yours Faithfully,

(N S Parthasarathy)
General Manager (RA)
E-mail: nsp@gail.co.in

CIN: L40200DL1984GOI018976

Website: www.gailonline.com

Annex-II

317/C

गेल (इंडिया) लिमिटेड
(भारत सरकार का उपक्रम-
महारत्न कम्पनी)
GAIL (India) Limited
(A Government of India Undertaking-
A Maharatna Company)

No: GAIL/ND/RA/PNGRB/2014/622

Date: 14th August 2014

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

Subject: **Bidding of "Ennore (District-Chennai, Tamil Nadu) – Thiruvallur (District – Thiruvallur, Tamil Nadu) – Bengaluru (District-Bengaluru Urban, Karnataka) – Puducherry (UT of Puducherry) – Nagapattinam (District-Nagapattinam, Tamil Nadu) – Madurai (District-Madurai, Tamil Nadu), Tuticorin (District-Thoothukudi, Tamil Nadu) NG Pipeline.**

Dear Sir,

This has reference to PNGRB's Public Notice No. EOI/NGPL/BID/7/2014-1/ Addendum -2, dated 30.07.2014 regarding the subject matter. Vide this Public Notice PNGRB has extended the last date of bid submission up to 04.09.2014.

In this regard, the following is submitted:

1. GAIL has encountered several problems in RoU acquisition for pipeline laying under KKBMPL project in the states of Kerala and Tami Nadu. The pipeline laying work is stuck up due to non-acquisition of RoU. Further the matter is sub-judice in the Hon'ble Supreme Court. Bid may be submitted after getting verdict from Hon'ble Supreme Court.

2. With reference to the clarification provided by PNGRB vide its letter Infra/PL/Bid/NGPL/ETBPNMTPL/2014/01 dated 30.07.14, definition of tariff zone provided in Regulation 2(1) (h) of PNGRB Regulations, 2008 does not distinguish between "the point of origin" from "the point of injection" for a pipeline, which is in contravention of its earlier stand before APTEL in Mallavaram – Bhilwara natural gas pipeline case. In this regard, clarification on the tariff zone definition may please be provided before Bid submission.

3. It is also understood that there is no signification progress in setting up of Ennore LNG terminal of IOCL. Even the land acquisition is not completed for Ennore LNG terminal. Therefore, there is uncertainty and it may further delay construction of Ennore LNG terminal.

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In view of the above, we earnestly request you for extension of bid submission date for further 03 months from existing date of 04.09.2014.

Submitted for kind consideration please.

Thanking You

Yours faithfully,

(N S Parthasarathy)
General Manager (RA)
E-mail: nsp@gail.co.in

Annex-III

343/C

गेल (इंडिया) लिमिटेड
(भारत सरकार का उपक्रम-
महारत्न कम्पनी)
GAIL (India) Limited
(A Government of India Undertaking-
A Maharatna Company)

No: GAIL/ND/RA/PNGRB/2014/626

Date: 21.08.2014

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

SUBJECT: Ennore – Thiruvallur – Bengaluru - Puducherry – Nagapattinam – Madurai – Tuticorin Natural Gas Pipeline (ETBPNMTPL) Tender – Pre-Bid Query

Dear Sir,

This has reference to the PNGRB letter No. Infra / PL / Bid / NGPL / ETBPNMTPL / 2014/01 dated. 30.07.2014 in response to our letter No. GAIL / ND / RA / PNGRB / 2014 / 248368/591 dated 10.07.2014 on the subject matter. In this regard, we wish to submit the following, which would require further clarifications:

1. It is observed that PNGRB has made an amendment in Clause (A) of ANNEXURE- 1 of the Application-cum-Bid document for the subject pipeline, by which, now no point / location in the tendered pipeline has been specified as the "Originating Point" and as "Termination Point(s)". Non-specification of "Originating Point" and "Termination Point(s)" for the ETBPNMTPL pipeline appears to be singular exception when compared to the cases of all other existing Natural Gas Pipelines and also all other Bid-out Natural Gas Pipelines so far. It may please be mentioned that the extant notified PNGRB Regulation (i.e. 'Explanation' in the extant Tariff Zone Definition) explicitly provide for PNGRB to specify the "Originating Point" and "Termination Point(s)" for every Natural Gas Pipeline. Therefore, dis-continuance of specifying particular points / locations as the "Originating Point" and as "Termination Point(s)", only in the case of the proposed ETBPNMTPL pipeline may please be clarified by PNGRB, since it would have important bearing on quoting of zonal tariffs by bidders.

16, भीकाएजी कामा प्लेस, आर. के. पुरम, नई दिल्ली - 110066 दूरभाष : 26182955 फैक्स : 011-26185941
16, Bhikaiji, Cama Place, R. K. Puram, New Delhi - 110 066 Phone: 26182955 Fax : 011-26185941

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2. Para no.1(B) of the said pre-bid clarification about the "Tariff Zone" appears to be in variance with the extant notified amended Regulation 2 (1) (h) of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2008. In this regard, a detailed note is enclosed herewith. PNGRB may please clarify the variance between the said pre-bid clarification with the extant notified PNGRB Regulation which provides the Tariff Zone definition.

3. Furthermore, it is observed that dis-continuance of specifying the "point of origin" and "End-point(s)" in a Natural Gas Pipeline is also in variance with the latest Approved Regulations issued by PNGRB, namely, the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2014, web-hosted by PNGRB on 04.08.2014, which, u/r 21(2), provide for extension of a Natural Gas Pipeline (in demand centers outside the existing tariff zone) only from the "point of origin" and the "end point" of the pipeline. This variance may also please be clarified by PNGRB.

In this regard, a Detailed Note, along with its Annexure, is submitted herewith. PNGRB is requested to kindly provide the pre-bid clarifications at the earliest.

Thanking You.

Yours faithfully,

(N S Parthasarathy)
General Manager (RA)
E-mail: nsp@gail.co.in

Encl: a/a

Detailed Note on the Ennore – Thiruvallur – Bengaluru - Puducherry – Nagapattinam – Madurai – Tuticorin Natural Gas Pipeline (ETBPNMTPL) Tender – Pre-Bid Query

1. **Dis-continuance of specifying the "Originating Point" and "Termination Point(s)" of a Natural Gas Pipeline in the case of ETBPNMTPL**

(i) In the original Application-cum-Bid document for the ETBPNMTPL, under Clause (a) of the ANNEXURE – 1, 'Ennore' was specified as the "Originating Point" and 'Madurai' and 'Tuticorin' were specified as the 'Termination Point(s)" of the pipeline. Furthermore, 'Bengaluru' was specified as both the "Originating/ Termination Point" of the pipeline. Hence, GAIL, in its pre-bid query (dated10.07.2014) [**Annexure-A** for ready reference], requested PNGRB to clarify regarding specification of 'Bengaluru' as both "Termination / Originating Point", particularly in the context of identifying and sequential numbering of 'Tariff Zones' for the proposed ETBPNMTPL.

(ii) In reply (dated 30.07.2014) [**Annexure-B** for ready reference], PNGRB has amended the Clause (a) of ANNEXURE – 1 of the Application-cum-Bid document. As per the said amended Bid document, Bengaluru is now neither an Originating Point nor a Termination Point of the ETBPNMTPL. Furthermore, vide the said amendment, ETBPNMTPL now does not have any point/location specified as the "Point of Origin (Originating Point)" nor does it have any point/location specified as the "End Point (Termination Point)".

(iii) It is observed that out of the nine (9) numbers of Application-cum-Bid documents invited by PNGRB so far (for development of Natural Gas Pipelines), this is the first and singular case where a tendered pipeline does not have any point/location specified by PNGRB as the "Originating Point" or as "Termination Point(s)".

(iv) Furthermore, even in the cases of all existing (i.e. non bid-out) Natural Gas Pipeline systems (total 20 nos.) in the country, without exception, PNGRB has always specifically solicited entities to indicate the "Originating Point" (located in a particular State or Union Territory) and "Termination Point (s)" (located in a particular State or Union Territory) for each and every pipeline system. A copy of the standard format being issued by PNGRB is enclosed as **Annexure-C** for ready reference. It may be mentioned that, based on the Originating Point and Termination Point (s) so specified, the sequential numbering of the tariff zone(s) are being made for every pipeline system and all customers are being charged the applicable zonal tariffs accordingly only.

Relevant extracts from the extant notified Tariff Zone definition is reproduced as under:

"Explanation:-

For the purposes of this clause (i.e. Tariff Zone Definition), *the point of origin and the end point in the natural gas pipeline as also the sequential numbering of the tariff zones, as the case may be, shall be as indicated in the letter of authorization or fixation of the natural gas pipeline tariff by the Board."*

In view of the foregoing, it is clear that the extant PNGRB Regulation explicitly provides for PNGRB to specify the "Point of Origin (Originating Point)" and the "End-Point (Termination Point) for each and every natural gas pipeline system, and accordingly. so far, PNGRB has also been specifying the same for all the NG pipeline systems, whether in the case of existing NG pipelines, or in the case of bid-out NG pipelines.

Therefore, dis-continuance of specifying particular points/locations as the "Originating Point" and as "Termination Point(s)", only in the case of the proposed ETBPNMTPL would require clarification from PNGRB, since it would have important bearing on quoting of zonal tariffs by bidders.

2. **Pre-bid clarification by PNGRB (dated 30.07.2014) about the "Tariff Zone" is in variance with the extant notified amended Regulation 2 (1) (h) of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2008 dtd. 19.11.2008**

i. In Para no. 1(B) of the said PNGRB clarification dtd. 30.07.14, it has been stated that the Tariff Zone "definition determines the tariff zones w.r.t. the transportation of natural gas **from each entry point** (i.e. injection point which may or may not be the point of origin as the case may be) **to each exit point** (i.e. re-delivery point, which may or may not be the end point of the pipeline as case may be). In other words, as per this pre-bid clarification, tariff determination hinges upon the principle of levying tariff based upon the distance covered between entry and exit point of a pipeline.

ii. However, it is observed that this pre-bid clarification is in variance with the extant notified amended PNGRB Regulation. If we compare the pre-amended definition of Tariff Zone (dated 06.05.2008) with the amended definition of Tariff Zone (dated 19.11.2008), it will be clear that the length of the tariff zone shall be reckoned from the point of origin (originating point) of the pipeline (and not from the first point of gas injection), and that is the reason why the amended definition has consciously used the expression, "point of origin (originating point)" in place of the expression "entry point" or gas injection point. A comparison of the pre-amended Tariff Zone definition with the extant amended Tariff Zone definition is enclosed as **Annexure-D**. From the comparison of the pre-amended Tariff Zone definition with the extant amended Tariff Zone definition, it will be clear that the zonal tariff concept is not based upon the distance covered between Entry Point and Exit Point of a pipeline

iii. It may be mentioned that the expressions "Entry Point" and "Exit Point" were already defined in the PNGRB Pipeline Access Code Regulations on 17.07.2008. Nevertheless, these expressions i.e. "Entry Point" and "Exit Point" were consciously not used anywhere in the Amended Tariff Zone definition, which was subsequently defined and notified by PNGRB on 19.11.2008. Instead, only the expressions "Point of Origin" and "End point" of the pipeline have been consciously introduced/used in the amended Tariff Zone definition, thereby conveying the point that the length of the Tariff Zone is with reference to the physical points of the pipeline only (and not with reference to the injection/re-delivery points of gas). Similarly, the width of a Tariff Zone is also reckoned from the (physical) surface of the pipeline only (and not with reference to the injection/re-delivery points of gas). Hence, both the length and width of the Tariff Zones are reckoned with

reference to the physical structure of the pipeline only. Thus, there is no basis in the extant PNGRB Regulation to presume that the zonal tariff concept is based upon the distance covered between Entry Point and Exit Point of a pipeline.

iv. In case one presumes the zonal tariff concept is based upon the distance covered between Entry Point and Exit Point of a pipeline, then it will lead to anomalous situations. The same is explained through the following illustration:

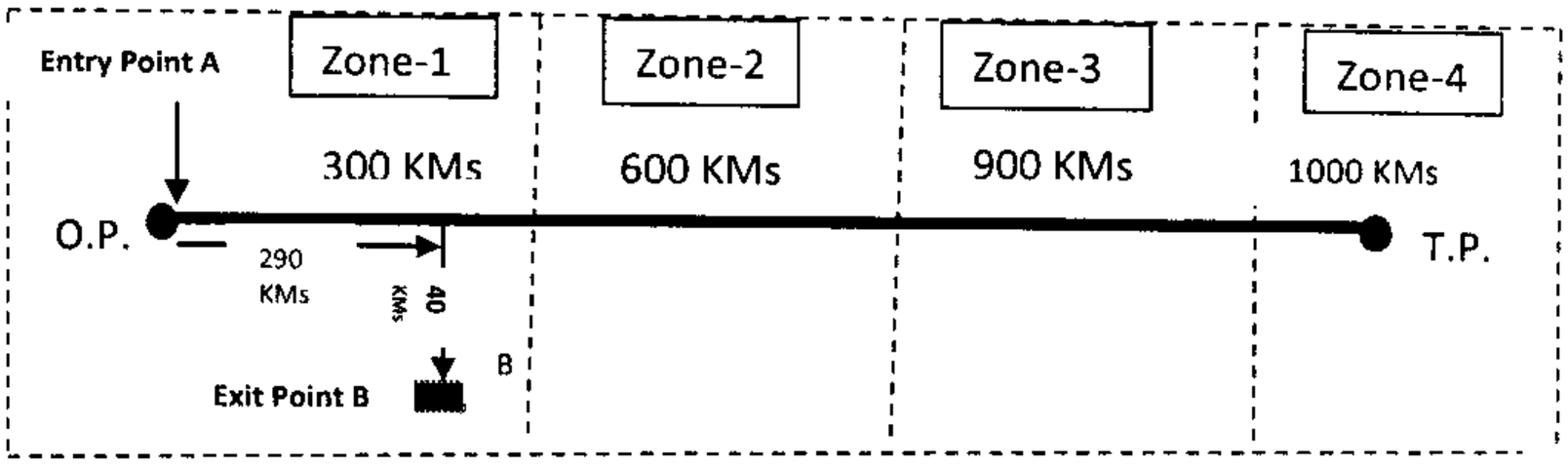

Illustration not to scale

O.P. = Originating Point, also happens to be the Entry Point A.
T.P. = Termination Point
Exit Point = Point B falling in Zone-1

Distance between Entry Point (A) and Exit Point (B) = 290 KMs + 40 KMs
= 330 KMs

In the above illustration, there is a Natural Gas Pipeline of length of 1,000 Kms from the point of origin (originating point) till the end-point (termination point) of the pipeline.

As per the extant amended definition given in the Regulation 2 (1) (h) of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2008, this pipeline would have four Tariff Zones (length of 300 Kms X width of 50 kms each).

Say, a customer is located at Point B. The Point B is located at a width of 40 kms measured from the length of 290th km (reckoned from the point of origin) of the pipeline. As per his contract, natural gas is injected in Point A, which happens to be the Originating Point. Hence, as per the said extant notified Regulation, this customer falls in the Zone -1 of the pipeline and therefore, only Zone-1 tariff should be charged to the said consumer.

However, as per the pre-bid clarification provided by PNGRB vide letter dated 30.07.2014, zonal tariff shall have to be based upon the distance covered between entry and exit point of a pipeline. In the above illustration the total distance covered between entry point (A) and exit point (B) is 290 kms + 40 kms = 330 Kms. Going by this pre-bid clarification, then Zone-2 tariff should be charged to the said customer.

Hence, PNGRB's pre-bid clarification dated 30.07.14 is clearly in variance to the definition provided in the Regulation 2 (1) (h) of PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2008 dated 19.11.08.

v. Furthermore, as stated earlier, the extant PNGRB Regulation defining the Tariff Zone explicitly provides for PNGRB to specify the "Point of Origin (Originating Point)" and the "End-Point (Termination Point) for the purpose of identification and sequential numbering of the Tariff Zones. In contrast, the extant PNGRB Regulation (Pipeline Access Code Regulations, 2008) defining the Entry Point and Exit Point clearly provide for the Transporter and Shipper to agree among themselves the Exit Point from where gas will be withdrawn from the natural gas pipeline. As such, the set of expressions "Entry Point" and "Exit Point" are not the same as the set of expressions "Originating Point" and "Termination Point", and therefore, they cannot be inter-changeably used in place of each other. The set of expressions "Entry Point" and "Exit Point" are clearly with reference to the point of injection / withdrawl of natural gas (commodity). In contrast, the set of expressions "Originating Point" and "Termination Point(s)" refers only to the physical points of the pipelines (infrastructure). This aspect has been elaborated in detail vide our earlier letter dated 10.07.2014, by reproducing the exact interpretations provided by the Hon'ble APTEL in its order dated 06.02.2012.

Therefore, regarding the Tariff Zone, the variance between the pre-bid clarification dated 30.07.14 and the Regulation 2 (1) (h) of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2008 dated 19.11.08 would require clarification from PNGRB, since it would have important bearing on quoting of zonal tariffs by bidders.

3. **Dis-continuance of specifying the "Point of Origin" and the "End Point(s)" in the proposed ETBPNMTPL is also not consistent with the latest Approved Regulations called the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2014, web-hosted by PNGRB on 04.08.2014**

i. Amended Regulation 21(2) (i) of the said Regulation is reproduced as follows:

> ***"21 (2): Extension of a natural gas pipeline:***
>
> *(i) The entity may extend the authorized length of the natural gas pipeline up to ten per cent. or 50 kilometer whichever is lower* ***from the point of origin*** *or* ***the end point*** *in the demand centres outside the existing tariff zone and shall submit to the Board the full particulars, map of all facilities including justification for the proposal and seek prior authorization from the Board".*

ii. The above newly introduced Approved Regulations henceforth provides for extension of a natural gas pipeline in the demand centres outside the existing tariff zone also, but this new provision is allowed only from the "Point of Origin" or from the "End Point" of the natural gas pipeline.

iii. However, since there is no point/location specified as the "Point of Origin" or as the "End Point" in the amended Clause (a) of ANNEXURE-1 of the Application-cum-Bid Document of the proposed ETBPNMTPL, there is no clarity as to how the proposed provision for extension of a pipeline as provided in the Approved Amendment Regulations, 2014, will be applicable to the proposed ETBPNMTPL.

In view of the above, the above three points would require pre-bid clarification by PNGRB, since they would have important bearing over the bidding consideration by bidders.

Annex-A 337/C

गेल (इंडिया) लिमिटेड
(भारत सरकार का उपक्रम
एक नवरत्न कम्पनी)
GAIL (India) Limited
(A Government of India Undertaking
A Navratna Company)

No: GAIL/ND/RA/PNGRB/2014/248368/591

Date: 10.07.2014

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

SUBJECT: **Ennore – Thiruvallur – Bengaluru Puducherry – Nagapattinam – Madurai – Tuticorin Natural Gas Pipeline (ETBPNMTPL) Tender – Pre-bid Query**

Dear Sir,

This has reference to the "Application – cum – Bid Document" invited by PNGRB for the subject Pipeline.

2. In this regard following are observations:

(i) Ennore has been mentioned "Originating Point" and Madurai & Tuticorin have been mentioned as "Termination Point". However, Bengaluru has been mentioned both as "Termination / Originating Point".

(ii) In Mallavaram – Bhopal - Bhilwara – Vijaipur Natural Gas Pipeline, which was challenged by GAIL before Appellate Tribunal (APTEL) and at that time PNGRB submitted to APTEL in an Affidavit under Para 10 (E-F) as follows:

"..... The reference to the words Originating point and the termination point as given in the documents refers to the pipeline and not the gas as such....."

Relevant page of the affidavit is enclosed as **Annexure-A.**

(iii) APTEL vide Judgment in Appeal No. 205 of 2010 dated 06.02.2012, under Para 52 stated as follows:

".....point of origin as referred to in Regulation 2008 has not been defined either in the Act or in the Regulation of the bid documents. Therefore, the Originating Point as referred to in the bid documents only refers to the point from where the pipelines will begin. Similarly, the termination point mentioned as end point as referred to in Regulation 2008 has also not been

defined either in the Act or in the Regulation or bid documents. Hence, the termination point as referred to in the bid documents only refers to the point where the pipeline will end. Thus, neither originating point nor terminating point can mean injection point....."

and finally Hon'ble APTEL concluded under Para 90 (2)(b) of the Judgment that-

"From the perusal of the Regulations framed by the Board and clarifications issued by the Board for various queries, it is clear that the originating point and termination point with respect to pipelines refers to the construction of the physical pipeline only"

(iv) APTEL has also observed under Para 92 (a) that-

"The Petroleum Board has not clearly mentioned or defined the concept of originating point and terminating point in their bid documents....."

Relevant pages of the APTEL Judgment are enclosed as **Annexure-B**.

3. Thus, two things are clear from the above judgment of APTEL in Mallavaram – Bhopal - Bhilwara – Vijaipur Natural Gas Pipeline that-

(i) APTEL has already, under Para 52 of the APTEL Order, settled that "..... *neither originating point nor terminating point can mean injection point....."*

(ii) Unless aforesaid interpretation by the APTEL is overturned by any other higher Judicial Court, the aforesaid interpretation stays for all the cases.

4. In view of the foregoing, the classification of the Bengaluru as "Origination Point" as well as "Termination Point", is leading to confusion particularly in respect of identification and sequential numbering of "Tariff Zone" of the proposed ETBPNMTPL pipeline. Therefore, PNGRB is requested to please issue necessary clarifications / amendment to the Tender.

Submitted for kind consideration please.

Thanking You

Yours faithfully,

(N S Parthasarathy)
General Manager (RA)
E-mail: nsp@gail.co.in

Annexure A 335/C
(34)

6/12/10

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. OF 2010

GAIL (INDIA) LTD. APPELLANT

VS

PETROLEUM & NATURAL GAS REGULATORY BOARD & ORS. RESPONDENTS

1.	REPLY ON BEHALF OF RESPONDENT NO 1 WITH AFFIDAVIT	1-12
2.	VAKALATNAMA	13-14

06.12.2010

RESPONDENT NO.1

THROUGH

ANITA SAHANI ADVOCATE
363 LAWYERS' CHAMBER
DELHI HIGH COURT
NEW DELHI-
9810113256

same is contrary to the well setteled principals of selection of bidders through tender as laid down by the Hon'ble courts. Reliance on the judgments quoted by the appellant is completely misplaced and the same are not applicable to the present facts and circumstances of the case. The answering respondent reserves its right to refer to the law applicable to the facts and circumstances of the present case.

B to D. Grounds B to D as stated are wrong and are denied. It is denied that there is any deviation from the tender conditions or the same are contrary to any provisions contained in the tender documents by the respondent consortium. It is reiterated that the technical bid was awarded to both the bidders and on the opening of the financial bid, the same has been found to be lower than the appellant's bid.

E-F. Grounds E F as stated are wrong and are denied. The interpretation given to the provisions of the tender documents is completely wrong and the same is not tenable. The reference to the words Originating point and the termination point as given in the documents refers to the pipeline and not the gas as such. It only suggests that the pipeline will originate at one point and terminate at another however the gas in the same pipeline can be carried from any side or on the way from any points. None of the documents or the regulations support the singular/uni directional flow of gas to be carried through the said pipeline, as misunderstood by the appellant herein. The interpretation of the appellant is therefore completely misplaced and unsupported in the facts and circumstances. Rest of the Para is argumentative and shall be responded at the time of hearing before the learned Tribunal.

G. Para G as stated is wrong and is denied. It is denied that the terminating point was considered as originating point after the bidding event was over on 15.7.2010 as alleged by the appellant. It is reiterated that as per the bid document of the appellant itself, the concept had been clear and it mentions "the pipeline could take natural gas injection from several sources thereby forming a ring network". In view of the stand of the appellant itself the allegations are false and misleading. The allegation with regard to the Gas find only at the KG basin is very myopic and restrictive and leaves no room for the situation, when the Gas is found in other areas, along the route, at any point in time. It is denied that allowing Bhilwara or Vijaipur as Originating point would frustrate the very purpose for which the

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No.205 of 2010

Dated: 06 Feb, 2012
Present: **Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson,**
Hon'ble Mr.M.B. Lal, Technical Member (P&NG),

Appeal No.205 of 2010
I.A. No.280 of 2010

GAIL (India) Limited,
GAIL Bhavan,
16, Bhikaji Cama Place,
New Delhi-110 066

... Appellant(s)

Versus

1. Petroleum and Natural Gas Regulatory Board,
   1st Floor, World Trade Centre,
   Babar Road,
   New Delhi-110 007

2. Gujarat State Petronet Limited,
   GSPC Bhavan, Behind Udyog Bhavan,
   Sector-11, Gandhinagar,
   Gujarat-382 011

3. Indian Oil Corporation Limited,
   3079/3, J.B. Tito Marg,
   Sadiq Nagar, New Delhi-110049

4. Hindustan Petroleum Corporation Limited,
   7th Floor, North Tower,
   Scope Minar,
   Laxmi Nagar, Delhi-110092

point refers to the point at which the gas is injected at the beginning of the pipeline i.e. the starting point for gas flow. If we accept that 'originating point' refers to the first point of injection of gas, then 'terminating point' would as a corollary, refer to the terminal or last point of gas flow. In the notice inviting Expression of Interest for participating in GAIL's pipeline projects by Government of India, the term Originating point refers to the first gas injection point and this has been the practice for several years in the past.

52. As indicated above Section 19 of the Act, contemplates the laying of pipelines from one point to another point since originating point has been merely mentioned as a point of origin. This point of origin as referred to in Regulation 2008 has not been defined either in the Act or in the Regulation of the bid documents. Therefore, the Originating Point as referred to in the bid documents only refers to the point from where the pipelines will begin. Similarly, the termination point mentioned as end point as referred to in Regulation 2008 has also not been defined either in the Act or in the Regulation or bid documents. Hence, the termination point as referred to in the bid documents only refers to the point where the pipeline will end. Thus, neither originating point nor terminating point can mean injection point. As a matter of fact, the injection point can be in the pipelines

provisions of the Act and also the relevant regulations notified by the Board.

(b) From the perusal of the Regulations framed by the Board and clarifications issued by the Board for various queries, it is clear that the originating point and termination point with respect to pipelines refers to the construction of the physical pipeline only. If the concept of one injection point is accepted, then it would destroy very purpose of common gas grid infrastructure which links various sources of supply to various customers at various locations on the pipelines which would enable efficient use of natural gas from any source along the pipeline. Therefore, the contention of the Appellant that the Respondent Board made substantial deviation in the specifications of the pipeline after the bids were submitted, has no basis.

(3) The next issue is in relation to the introduction of condition subsequent to the bid to the effect that bidders shall be required to create 33% of the capacity for their own use. According to the Appellant, the modification has been made by the Petroleum Board through letter dated 8.10.2010 and as such the same

(a) The Petroleum Board has not clearly mentioned or defined the concept of originating point and terminating point in their bid documents. This has created confusion whether pipeline is unidirectional or bidirectional. Both the kind of pipelines are in practice. Therefore, the Board could have specified it in tender documents clearly to have created an understanding among the bidders.

(b) The Board has not clarified the above concept before inviting or opening the financial bid if they missed to explain the same in the tender documents. In that event, the Board could have given all the bidders some time for resubmission of the bids as this concept largely affect the operating philosophy of pipelines and thereby bids.

93. Both these aspects as referred to above require consideration of the Board. Of course, we have decided this case on the strength of both bid documents and Regulation. However, the Petroleum Board is directed that in future they should make all attempt to keep the tender out of such conceptual ambiguity without giving any room for confusion, while maintaining competitive bid won by Gujarat State Petronet Limited (R-2) in this case.

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Annexure-B

पेट्रोलियम एवं प्राकृतिक गैस विनियामक बोर्ड
Petroleum and Natural Gas Regulatory Board
प्रथम-तल, वर्ल्ड ट्रेड सेंटर, बाबर रोड, नयी दिल्ली - 110001
1st Floor, World Trade Centre, Babar Road, New Delhi – 110001

No.: Infra/PL/Bid/NGPL/ETBPNMTPL/2014/01 30.07.2014

To

All Prospective Bidders

Sub: Clarifications related to Ennore-Thiruvallur-Bengaluru-Puducherry-Nagapattinam-Madurai-Tuticorin Natural Gas Pipeline (Bid No.: BID/NGPL/07/2014/1/ ETBPNMTPL)

Sir,

Further to the clarifications issued on 25.04.2014, as per the query received from M/s GAIL (India) Limited vide letter dated 10.07.2014 (Annex-I) related to the bids invited for development of Ennore-Thiruvallur-Bengaluru-Puducherry-Nagapattinam-Madurai-Tuticorin natural gas pipeline, apart from the provisions under Clause 17.4.2 and Clause 17.4.3 of the Application cum Bid Document, following additional clarifications are being issued:

(A) Clause (a) of ANNEXURE-1 of the Application cum Bid Document has been amended and may now be read as:

a) **Route of the Main Trunk Pipeline (tentative):**
Ennore – Thiruvallur - Bengaluru - Puducherry – Nagapattinam - Madurai - Tuticorin

(B) As far as contours and sequencing of tariff zones are concerned, definition of tariff zone provided in Regulation 2(1) (h) of the PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 does not distinguish between "the point of origin" from "the point of injection" for a pipeline. This definition determines the tariff zones w.r.t. the

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transportation of natural gas from each entry point (i.e. injection point which may or may not be the point of origin as the case may be) to each exit point (i.e. re-delivery point, which may or may not be the end point of the pipeline as the case may be).

2. The above clarifications shall constitute a part of the Application-Cum-Bid Document and shall be duly signed and submitted along with the bid document by the authorized signatory of the bidder.

Yours faithfully,

10/2/2014

(K. Rajeswara Rao)
OSD (R)

Encl: As above

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d. the Petroleum and Natural Gas Regulatory Board(Technical Standards and Specifications including Safety Standards for Natural Gas Pipelines), Regulations, 2009;

e. the Petroleum and Natural Gas Regulatory Board (Access code for common carrier or contract carrier natural gas pipelines) Regulations, 2008;

f. the Petroleum and Natural Gas Regulatory Board (Affiliate code of conduct for entities engaged in marketing of natural gas and laying, building, operating or expanding natural gas pipeline) Regulations, 2008;

g. the Petroleum and Natural Gas Regulatory Board (Determining capacity of Petroleum, Petroleum products and Natural Gas Pipeline) Regulations, 2010

h. the PNGRB Act and any other regulations notified by the Board from time to time , as may be applicable.

10. The entity shall comply with any other term or condition which may be notified by the Board in public interest, from time to time.

11. You are requested to confirm your acceptance in the space provided below and return the same in original.

Yours faithfully,

Ratan P Watal

RATAN P WATAL
Secretary, PNGRB
Official Seal

Dated: 13/12/10

Copy to: Joint Secretary (M)
Ministry of Petroleum & Natural Gas
Shastri Bhavan,
New Delhi-110001

Acceptance of Final Terms and Conditions

I / We hereby agree to the final terms and conditions issued by the Board vide letter ref. <_____ _____> dated <_____> and agree to comply with the same subject to which I / We have been issued acceptance letter for laying, building, operating or expanding natural gas pipeline along the route from the originating station <_____> in the State or the Union Territory of <_____> to the terminating station <_____> in the State or the Union Territory of <_____>.

Date:
Place:

Signature of the Entity or Authorized Signatory
Name and Official Seal

Annexure-D

Amendment in Tariff Zone Definition – A Comparison

S.No	Element	Old Definition	Amended Definition	Remarks
		Definition u/r 2(1) (h) of PNGRB Authorisation Regulations, 2008, notified w.e.f. 06.05.2008 "tariff zone" means the zone-	Revised Definition u/r 2(1) (h) of PNGRB Authorisation Amendment Regulations, 2008, notified w.e.f. 19.11.2008 "tariff zone" means the zone-	
1.	**Length**	(i) of a length of three hundred kilometers along the route of the natural gas pipeline; and	*(i)* of a length of three hundred kilometers **each** along the route of the natural gas pipeline from ***the point of origin*** till ***the end point***: Provided that the last zone of the natural gas pipeline may be of a length of three hundred kilometers or less; Provided further that any natural gas pipeline of a length less than three hundred kilometers shall be counted as a zone; and	Important Change (w.r.t. "Length") : 300 kms measured from ***the point of origin*** till ***the end point.*** In pre-amended version it was w.r.t. first injection point of gas; If the intent in amended version were to continue with reference to gas injection, then the expressions "entry point" / "exit point" would have been explicitly used. However, the expressions "point of origin" and "end point" have been consciously introduced in the amendment regulation.
2.	**Width**	(ii) a corridor along the natural gas pipeline with a width of upto ten percent of the total length of the natural gas pipeline without including the length of the spur lines or fifty kilometers measured from the nearest point on the surface of the natural gas pipeline on both sides of the natural gas pipeline whichever is lower:	(ii) a corridor along the natural gas pipeline with a width of up to ten percent of the total length of the natural gas pipeline without including the length of the spur lines of fifty kilometers measured from the nearest point on the surface of the natural gas pipeline on both sides, and including the point of origin and the end point of the natural gas pipeline, whichever is less and	No change w.r.t. "Width". Width is with reference to the physical structure of the pipeline only and not with reference to the distance travelled by gas.

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S.No	Element	Old Definition	Amended Definition	Remarks
	Proviso	Provided that the natural gas pipeline tariff for transport of natural gas shall be uniform for all the customers located within the zone Provided further that the entity shall supply natural gas to any customer located in the zone subject to the techno-commercial feasibility of laying, building, operating or expanding a new spur line from the natural gas pipeline	Provided that the natural gas pipeline tariff for transport of natural gas from the same source shall be uniform for all the customers located within the zone Provided further that the entity shall supply natural gas to any customer located in the zone subject to the techno-commercial feasibility of laying, building, operating or expanding a new spur line from the natural gas pipeline	Practically no change
3.	First Zone, Second Zone etc	*(a)* the length of the first zone ***shall start from the first point of injection*** of natural gas in the natural gas pipeline and extend to a distance of three hundred kilometers along the natural gas pipeline; *(b)* the length of each of the zones subsequent to the first zone shall be equal to three hundred kilometers; and *(c)* the length of the last zone shall be equal to the balance length in the natural gas pipeline	(a) the first tariff zone ***shall be counted with reference to*** any zone in which the point of injection of natural gas into the natural gas pipelines falls and (b)the subsequent tariff zone or tariff zones, as the case may be, ***shall be counted separately*** on either side along the contractual path for delivery of natural gas in the natural gas pipeline	**Important Change**: As per amendment, first zone does not start from point of injection, but it shall be **counted with reference** to the zone in which gas injection **falls** Subsequent zones are also **counted separately**; If the intent were to charge from each entry point to exit point, based on distance between each entry and exit point, then the wordings would have been Z-1 shall start from each entry point and subsequent zones shall be 300 kms on either side up to each exit point.
4.	**Explanation**	Provided that a distance of ten percent of the pipeline length excluding the spur lines or fifty kilometers, whichever is lower, before the point of origin and after the end point along the natural gas pipeline shall fall within the first tariff zone and the last tariff zone respectively.	For the purposes of this clause, the point of origin and the end point in the natural gas pipeline as also the sequential numbering of the tariff zone or tariff zones, as the case may be, shall be as indicated in the letter of authorization or fixation of the natural gas pipeline tariff by the Board	Entry point and Exit point are decided by entities themselves in contracts. However, origin point and end point to be indicated by PNGRB.

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Annex-IV

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Secretary, pngrb

From: TIKU, RAMESH. KUMAR [TIKURK@INDIANOIL.IN]
Sent: Thursday, August 14, 2014 2:02 PM
To: secretary@pngrb.gov.in
Cc: MAHAPATRA,SS; ZUTSHI, RAJ K. (जुत्शी, राज के.)
Subject: FW: Clarification sought on Bid No. EOI/NGPL/BID/7/2014-1

Secretary

Petroleum & Natural Gas Regulatory Board (PNGRB)
First Floor, World Trade Centre,
Babar Road, New Delhi - 110001
Telephone No.: 011- 23457700
Fax No.: 011 - 23709151

Sir,

The following clarification is sought on Bid No. EOI/NGPL/BID/7/2014-1 for the Ennore–Thiruvallur- Bengaluru - Puducherry– Nagapattinam-Madurai - Tuticorin Natural Gas Pipeline.

The PNGRB (Authorizing Entities to Lay, Build Operate or Expand Natural Gas Pipelines) Amendment Regulations, 2014 web hosted recently specifies that the percentage increase bid that can be bid under provisions of regulation 7, in sub-regulation (1) shall be lower than 100% (under regulation 7(1)(b)) and shall be lower than 50% (under regulation 7(1)(c)).

It may be clarified, whether the percentage increase that can be bid under each of these provisions can be zero percent.

Regards

R.K.TIKU
G.M(Gas)
IOCL, Corporate Office
New Delhi
Cell No 9873255125