Date: April 23, 2018

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

Subject: Submission on Draft Registration for establishing & operating LNG Terminals Regulations

Dear sir,

This is with reference to the Public Notice issued by PNGRB dated March 28, 2018 regarding Draft Regulations for Registration of LNG Terminals and inviting comments/submission.

We, AGP Karaikal LNG Private Limited ("AGP India"), setting up a liquefied natural gas ("LNG") import, storage, regasification and send out terminal ("LNG Terminal") at Karaikal Port in the Union Territory of Puducherry, India and accordingly informed your office vide our letter dated February 21, 2018. The Project has already achieved significant progress.

Though, we are interested party, however our concerns/submission are in particular applicable to all LNG Terminal developers in India and also to the development of gas infrastructure in general. These concerns are practical in nature and should be viewed accordingly.

Our concerns/submissions are as under –

1. LNG under Open General License and Govt/Regulatory body does not extend any benefit or share any risk with the developers –

   The Govt. opened up LNG import and setting up relevant infrastructure with the intent of passing on both risk and reward to the developers. PNGRB unlike pipelines or CGD does not identify suitable location by bidding route or extend any monetary benefit to fund the project, ensuring Return on Investment to the developers or providing exclusivity to the developers. The developers do everything starting from identifying the right location, developing the market or take various measures for risk mitigation.

   The regas tariff is also free to be decided by the market forces and are not regulated.

2. Small Terminals to support market development will become unviable from day one –

   As you may be aware, today the entire word is moving towards small scale (modular) but quicker solution to reach to the market so that immediate need of
the consumers are met without putting up a big terminal which requires all the agreements and risk mitigation measures on back to back basis. Now a days, even Liquefaction terminals are also planned on modular basis to scale up as and when demand grows rather than putting huge investments on risk from the day one by investing billions of dollars.

It is also well understood that it is becoming increasingly difficult to lay cross country pipelines to transport gas in India and we have witnessed this whereas the big terminals are suffering due to delay in pipelines despite demand being available. Therefore, to meet the demand, small scale terminals can be set up to cater the demand within a limited catchment area which are LNG dark and are not be able to use this fuel despite clear advantage over liquid fuels both in terms of economic and environment.

If a small terminal with a capacity of 1 MMTPA with single storage has to keep 0.50 MMTPA or 20% of its capacity for open access, from the day one it become unviable.

3. Logistic nightmare –

Keeping open access capacity will result in logistic nightmare for a terminal developer. As you are aware, the terminal has various parts i.e. Jetty including unloading facility, storage and Regas facility. Providing jetty access or Regas access is possible however for providing storage access it can only be possible if the terminals set up additional storage facility. Terminals based on FSRU/FSU would have storage only equivalent to one ship load therefore unless the storage is fully empty, open access to other customers can’t be provided. Further, the customers with open access have to buy a full cargo and have to evacuate the volume within days to allow the terminal operator to serve its own customers which requires gas round the clock. Further, price of each cargo is different at different point of time, therefore swapping of quantities is also impractical. It will be near impossible to manage all these with single storage facility.

It is also be the case where the storage is not fully empty due to various reasons whereas a ship has arrived based on schedule already agreed with the customer with open access or vice a versa. In these situations, the demurrage will be too high making logistic management further difficult.

4. Taxation impact –

In some of the states, barter trade is not allowed and accordingly taxed as sell transaction. If in a single storage terminal or FSRU/FSU based terminals, LNG is stored for a particular customer with open access and other customers of the terminal have to be supplied a barter trade will take place which means LNG belonging to a different person will be used to supply to other customers and later will be made good by way of replacing the similar quantity of LNG.
This seems very easy however has huge taxation implication including custom duty. As you are aware, power customers are exempt from custom duty, if LNG bought by a power customer is used to supply other customers on whom custom duty is applicable, it will result in tax avoidance and may result in huge penalties. Apart from this, an accounting issue will also arise due to selling or using of quantities for which there is no corresponding buying or selling entry is available.

Therefore, it is important to have a complete tax study done before such regulations are notified.

5. Project Financing becomes expensive –

Since, LNG terminals are financed on Project Finance basis. Keeping capacity idle would mean more investment in the facility for which no revenue assurance can be provided to the lenders with back to back binding agreements. The investment will not increase proportionately as may be envisaged but increase disproportionately due to reasons explained above and will require additional storage to be created. Storage is most capital intensive among all three components of a LNG terminal. With balance capacity tied up, it will not be possible to assure the lenders with additional capex burden to arrange financing. Which, will finally result in setting up terminals by large MNC on their Balance Sheet strength restricting the competition.

6. Additional cost to the end customers –

Finally, the customers have to pay for the higher capacity, which may not be practically possible to ever use due to various reasons explained above. The developers will be forced to increase the regas tariff to recover the additional investment. This will defeat one of the main aim of PNGRB is to ensure competitive price of gas to the consumers.

We believe that any restrictive practice including increasing the cost of doing business by whatever form make sector unviable for investments. We can take a good example from what happened in United States in 2002 and thereafter forcing authorities to amend the rules.

We humbly submit that as far as Registration requirement is concerned, it is a welcome step but any additional requirement should not be made part of the registration process. We also propose to have a comprehensive dialogue among various stakeholders before such regulations are finalized.

Yours faithfully,
For AGP Karaikal LNG Private Limited

Abhilesh Gupta
Director