To,
Ms Vandana Sharma,
Secretary,
Petroleum and Natural Gas Regulatory Board ("PNGRB/Board"),
1st Floor, World Trade Centre,
Babar Road,
New Delhi – 110001

Sub.: Comments on “OPaL’s dedicated natural gas pipeline from Petronet LNG Terminal, Dahej to OPaL Dahej Petrochemical Complex under regulation 19 (2) of PNGRB (Authorizing entities to lay, build, operate or expand natural gas pipelines) Regulations, 2008"

Ref.: 1) PNGRB Public Notice No. Infra/NGPL/122/Opal/POPL/17 dated October 27, 2017
2) PNGRB Public Notice No. Infra/NGPL/122/Opal/POPL/17 dated October 18, 2017

Dear Madam,

With reference to the abovementioned Public Notice webhosted by the PNGRB with regards to the Application submitted by M/s ONGC Petro additions Limited ("OPaL") to lay, build, operate or expand a dedicated natural gas pipeline ("NGPL") from Petronet LNG ("PLL") Terminal at Dahej to OPaL Dahej Petrochemical Complex under regulation 19 (2) of PNGRB (Authorizing entities to lay, build, operate or expand natural Gas pipelines) Regulations, 2008 ("NGPL Authorization Regulations"), Gujarat Gas Limited ("GGL") would like to place the following observations/ comments for the kind consideration of the Revered Board:

1. As understood from the feasibility report provided in the application by OPaL, the major portion of the proposed pipeline passes through GIDC and SEZ in Dahej Area where the existing PNGRB authorised pipeline grid of M/s GAIL and M/s GSPL are fully operational and transports natural gas in the vicinity. The schematics provided along with the application are also not comprehensive for forming an informed decision on the layout of the existing pipelines in the vicinity.
2. As understood from various government data-banks, the already authorised, commissioned and operational pipeline grid of the said pipeline entities in Dahej area are under-utilised as the capacity utilisation of these networks varies between c. 58-63%. This would only lead to building inherent inefficiencies and waste of scarce resources of the country.

3. It would be imperative to highlight that there are other dedicated pipeline infrastructure authorised by the PNGRB in Gujarat which are also understood to be under-utilised and this being a dedicated infrastructure in not closely monitored as others authorised by the Honourable PNGRB.

In context to above GGL would like to humbly place the following suggestions for granting approvals for laying, building, operating and expanding dedicated pipelines for the kind consideration of the Honourable Board:

1. Any grant of permission for laying a dedicated pipeline may be assessed in context to the existing infrastructure (Pipeline and/or CGD infrastructure as the case may be) within the vicinity and not on standalone feasibility as this would have a direct impact on the capacity utilisation of existing infrastructure and the inefficiencies in the tariff.

2. The existing authorised pipeline infrastructure may be competitively evaluated and accordingly given approval for expansion rather than creating redundant and infructuous assets. This will ensure optimum utilisation of existing assets/infrastructure and bring efficiencies in the tariff.

3. The already authorised dedicated pipelines also needs to be monitored periodically and timelines be stipulated for achieving not less than 75% capacity utilisation failing which the same may be treated by the Honourable Board as common carrier as envisaged in the PNGRB Act, 2006.

We trust the Honourable Board finds our observations/ views useful for the overall development of natural gas sector in the country. We would be happy to provide any further clarifications should they be required by your revered office in this regards.

Thanking you,

For Gujarat Gas Limited

Nitin Patil
Chief Executive Officer
Gujarat State Petronet Ltd.

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Ravindra Agrawal
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The Secretary
Petroleum and Natural Gas Regulatory Board
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Ref: Public Notice (No. Infra/NGPL/122/Opal/POPL/17) dated 18th October 2017 of
Application for “OPaL’s dedicated natural gas pipeline from Petronet LNG Terminal,
Dahej to OPaL Dahej Petrochemical Complex under Regulation 19(2)”

Dear Madam,

At the outset, it is submitted that any proposal submitted to develop any dedicated natural gas
pipeline or any pipeline authorized by the Board as dedicated pipeline is ultra vires to PNGRB
Act since PNGRB Act, 2006 does not envisage the development of any new dedicated pipeline
in the country.

PROPOSALS FOR DEVELOPMENT OF DEDICATED PIPELINES BY CONSUMERS ARE
ULTRA VIRES PNGRB ACT

PNGRB Act is passed by an act of parliament to regulate the development of natural gas
pipelines in the country. PNGRB Act recognizes the natural gas pipelines as either common
carrier or contract carrier pipelines. Though, the reference regarding pipeline to specific
consumer i.e. dedicated pipeline, is made in definition of common carrier pipeline, however the
context is only about the pipelines which were already built and not about the development of
any new dedicated pipeline. The definition of Common carrier as per the PNGRB Act is as
below:

"Sec. 2(j): "common carrier" means such pipelines for transportation of petroleum, petroleum
products and natural gas by more than one entity as the Board may declare or authorize from
time to time on a non-discriminatory open access basis under sub-section (3) of section 20, but does not include pipelines laid to supply -

(i) Petroleum products or natural gas to a specific consumer
(ii) Crude oil …..”

Subsequently, Sec. 16, Sec. 17 and Sec. 19 of the PNGRB Act, provides a framework wherein the emphasis on lay, built, operate or expand a common and contract carrier and no entity can lay, build, operate or expand any common or contract carrier without authorization from the Board, however nowhere authorization or permission for dedicated pipeline is written about.

Further, Sec. 20(3) of the PNGRB Act again strengthens the argument by allowing Board to declare a pipeline as common or contract carrier, however power regarding declaring a pipeline or authorizing a pipeline as a ‘Dedicated pipeline’ is not written in the Act.

Under the PNGRB Act framework, the Section mentioning the “Functions of the Board” allows the Board to authorize entities to lay common or contract carrier. Relevant portion of Sec. 11 of the PNGRB Act is reproduced below:

“Sec. 11 (c): authorize entities to –

(i) Lay, build, operate or expand a common carrier or contract carrier
(ii) Lay, build, operate or expand city or local natural gas distribution network”

Without prejudice to the various objections stated above, we would also like to submit for the kind consideration of this Hon'ble Board the fact that the Hon’ble High Court of Delhi has in the case of GAIL (India) Limited v. PNGRB &Ors (Judgement dated 11.09.2014 in WP(C) 3698/2013) that struck down the Model GTA Guidelines formulated by this Hon’ble Board, is not limited in scope to only the Model GTA Guidelines and has also held that “there is an inherent difference between the executive functions of the PNGRB and the legislative function of the PNGRB in framing Regulations.”

It was held that PNGRB Act specifically vests the power to notify Regulations that have to be laid before each House of Parliament, while it is in session for a period of thirty (30) days, and once the governing statute vests a specific manner of exercising of a function (i.e. through regulations), the said function cannot be performed otherwise than by regulations. Thus, after this judgement of the Delhi High Court, the PNGRB (Protection of Consumer Interest in respect of Dedicated Pipelines for Natural Gas) Guidelines 2010 cannot be considered valid and also cannot be taken into consideration while considering the said Proposal.
In the entire provision of the Act as mentioned above, nowhere in the Act it empowers PNGRB to allow / authorize by regulation / guideline to lay a dedicated natural gas pipeline. Aforesaid provisos of Act only empower PNGRB to authorize to lay a common and contract carrier.

In view of the above, PNGRB is requested not to entertain any such request of developing dedicated natural gas pipeline infrastructure and also requested to review the existing Reg. 19 of PNGRB Authorization Regulation and Guidelines (Protection of consumer in respect of dedicated pipelines), since the same is ultra vires to the provisos of the PNGRB Act, 2006.

Without prejudice to the specific objections raised above, GSPL would like to highlight the following issues with regards to the said proposal of OPaL:

1. DEVELOPMENT OF INFRASTRUCTURE WITHIN SEZ IS GOVERNED BY SPECIFIC FRAMEWORK OF SEZ ACT, 2005

The proposed dedicated pipeline proposal submitted by M/s OPaL shall take off from Petronet LNG Terminal at Dahej and shall connect the OPaL plant at a distance of 17 Kms. The major portion of the pipeline route shall pass through GIDC corridor / SEZ and the development of infrastructure within SEZ is governed by the specific framework of SEZ Act, 2005. Therefore, GSPL’s detailed submission against the proposed dedicated infrastructure within SEZ is as below:

1.1. At the onset, it is submitted that The Petroleum and Natural Gas Regulatory Board Act, 2006 ("PNGRB Act") does not have any applicability within a special economic zone ("SEZ"). The development of infrastructure for / within a SEZ, including gas transmission pipelines within the SEZ, are governed by the specific framework of the Special Economic Zones Act, 2005 ("SEZ Act") and PNGRB Act is not applicable within the SEZ. ONGC Petro additions Limited ("OPaL"), being located within a Special Economic Zone, i.e. SEZ-1 of the Dahej Industrial Area, cannot seek to itself establish infrastructure connecting the SEZ with the domestic area. The relevant utility infrastructure, including gas transmission pipelines, are provided to units located within the SEZ by the SEZ developer either itself or through other agencies/companies pursuant to an agreement in accordance with the governing framework of the SEZ Act. As has been admitted by OPaL in its application, GSPL has been given the exclusive right to develop and provide a natural gas pipeline infrastructure to units within the said SEZ as a co-developer.

The proposal submitted by OPaL to PNGRB is seeking to develop infrastructure within a SEZ, and the same is not within the jurisdiction of this Hon'ble Board as the development
of infrastructure within a SEZ is governed by the SEZ Act and the relevant SEZ Authority has jurisdiction over the same. The PNRGB Act is not applicable within the SEZ areas.

Under s.3 SEZ Act, the Developer of the SEZ is responsible for providing infrastructure services to units within the SEZ and, under s.9(2) SEZ Act it is the power and jurisdiction of the Board of Approval constituted under the SEZ Act to approve or reject proposals for providing infrastructure facilities in a SEZ. A Co-Developer Agreement dated 27th July 2009 has been signed between Dahej SEZ Limited (the “developer” of the Dahej SEZ), and GSPL, whereunder GSPL has been appointed as the “co-developer” and has been granted the sole and exclusive right with respect to development, operation and maintenance of gas transmission pipeline infrastructure and distribution of gas in the Dahej SEZ for a period of 25 years from the date GSPL is approved as “co-developer” of Dahej SEZ by SEZ Board of Approval, Government of India. In the 36th Meeting of the SEZ Board of Approval, Government of India, dated 5th November 2009, GSPL was approved as a co-developer for the Dahej SEZ. GSPL is, therefore, the exclusive co-developer for developing gas pipeline infrastructure in Dahej SEZ till 2034, and is required to stay invested as such till 2034. The present proposal is thus an attempt to bypass the statutory framework established under the SEZ Act, and is void and cannot be considered by the Hon’ble Board.

Under s. 47 of the SEZ Act, any authority which has been conferred upon any power or is required to discharge any function under any Central or State Act may exercise such powers or discharge such functions in any SEZ under that Act only subject to the provisions of the SEZ Act (emphasis added). Thus, the powers of the PNRGB within the Dahej SEZ are subject to the provisions of the SEZ Act and it is humbly suggested that PNRGB cannot consider any entity other than a developer or co-developer, approved by the Government of India, to establish any gas pipeline infrastructure within a SEZ.

Under s. 51 of the SEZ Act, the provisions of the SEZ Act have effect notwithstanding anything inconsistent contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the SEZ Act. Thus, the provisions of the PNRGB Act will be subordinate to the provisions of the SEZ Act, 2005 in relation to SEZs.

OPaL is admittedly a unit established within the SEZ at Dahej and hence is outside the jurisdiction of this Hon’ble Board. The above referenced Public Notice has been erroneously issued and should in fact be withdrawn by the Hon’ble Board. We believe
that the Hon'ble Board cannot validly entertain the application by OPaL for its unit located within the SEZ at Dahej and the same must therefore be rejected.

1.2. Furthermore, the Dahej SEZ is also governed by the provisions of the Gujarat Special Economic Zones Act, 2004 ("Gujarat SEZ Act"). S.14 of the Gujarat SEZ Act identifies gas distribution network as one of the infrastructure facilities and amenities that is the responsibility of the Developer of the SEZ to develop and provide within the SEZ. S.16(5) of the Gujarat SEZ Act stipulates that "The Developer or his agent may set up gas distribution system in the Zone". As has been stated above, GSPL has been appointed as the co-developer for development, operation and maintenance of gas transmission pipeline infrastructure and distribution of gas in the Dahej SEZ. The PNGRB Act is not applicable to areas within the SEZ. OPaL admittedly being a unit established within the SEZ cannot undertake the development of a gas transmission pipeline from an area outside the SEZ to its unit within the SEZ. It is therefore abundantly clear that the present proposal by OPaL is ultra vires and invalid and cannot be considered by the Hon'ble Board.

1.3. Without prejudice to the above objections, we would also like to submit for the kind consideration of the Hon'ble Board that even assuming but not conceding that the PNGRB Regulations could be made applicable to the application submitted by OPaL, it is submitted that the proposal submitted by OPaL is also ultra vires the framework for dedicated natural gas pipelines as provided under PNGRB (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 ("PNGRB NGP Authorizing Regulations") and the said proposal cannot be validly considered for implementation by the Hon'ble Board if it is erroneously considered to be applicable. In this regard, it is submitted more specifically as follows:

2. CONCERNS WITH OPAL'S PROPOSAL IN VIEW OF OPAL BEING AN EXISTING CUSTOMER OF A COMMON CARRIER NETWORK AND NOT AN ENTITY

2.1. The applicant, namely ONGC Petro additions Limited, is not an "entity" but in fact owns a petrochemical complex. Thus, under applicable law the applicant is a company that owns a petrochemical complex and is a consumer of natural gas and not an entity that is engaged in or intends to engage in the business of transportation of natural gas through pipelines. The Feasibility Report submitted by OPaL to the Hon'ble Board itself specifies that OPaL has established a captive power plant (CPP) for supporting power and steam requirement for its petrochemical complex in the Special Economic Zone at Dahej, Dist. Bharuch, Gujarat and that it needs to secure supply of RLNG for its own consumption.
2.2. Since the Applicant is a “petrochemical complex”, it cannot be considered as an “entity” under the PNGRB Act, 2006. This is because the term “entity” as defined in S. 2(p) of PNGRB Act, 2006 is specifically limited to mean a company that is engaged in or intending to be engaged in “refining, processing, storage, transportation, distribution, marketing, import and export of petroleum, petroleum products and natural gas including laying of pipelines for transportation of natural gas or laying building, operating or expanding a city or local natural gas distribution network or establishing or operating a liquefied natural gas terminal.” It is clear from the definition of “entity” under the PNGRB Act, 2006 that the same company cannot lawfully claim to be both.

2.3. This is made clear by the various submissions of OPaL itself wherein it has specifically stated that it intends to lay the pipeline for securing supply of RLNG for its own purposes. It is therefore a consumer of natural gas and cannot be the entity applying to lay a dedicated natural gas pipeline.

2.4. The provision of Regulation 19(2) of the PNGRB NGP Authorizing Regulations, is clearly limited to and only enables and contemplates an “entity” to lay build operate or expand a dedicated pipeline to transport natural gas to a specific customer.

2.5. The applicant in the present proposal under consideration is admittedly a customer of GSPL.

2.6. Since the applicant OPaL does not meet the basic requirement of being an “entity” under the PNGRB Act, 2006, the proposal submitted by OPaL not only fails to meet all the requirements of a valid proposal but is also ultra vires the PNGRB NGP Authorizing Regulations and hence cannot be considered.

2.7. Furthermore, it should be duly considered that the said proposal is for an interconnection of a consumer (i.e. OPaL) with a gas source (Petronet LNG Terminal), which cannot be undertaken unilaterally by a customer of an existing common carrier network.

2.8. Without prejudice to the preliminary objections and submissions above, even assuming but not conceding that the said application by OPaL can be considered to be a valid proposal within the framework of the PNGRB NGP Authorizing Regulations, it is our submission that the said proposal submitted by OPaL cannot be granted approval for the following reasons:
3. CONCERNS WITH OPaL’S REASON FOR DEVELOPMENT OF DEDICATED PIPELINE - DEFEATS THE PURPOSE OF DEVELOPMENT OF COMMON CARRIER INFRASTRUCTURE

3.1. The Feasibility Report submitted by OPaL, as a part of its application under Regulation 19(2) to the PNGRB, states that the need and basis for the proposed dedicated pipeline is:

"...The plant output will adversely affect in the absence of adequate RLNG supply which will have an adverse effect on the operating margins and consequently on financial performance. Installing a dedicated Pipeline from PLL header till OPaL will eliminate recurring expenses payable towards Gas transmission Services. It will also ensure uninterrupted RLNG supply."

3.1.1. The root cause of customers proposing to develop such dedicated pipelines is that customers closer to source are trying to eliminate recurring expenses of tariff determined and approved by the PNGRB as per the provision of its Tariff Regulations and not due to capacity constraints. In fact, such customers perceive developing own dedicated pipeline from a nearby source as economically lucrative than paying recurring tariff charges which are same for them vis-à-vis a customer located at 300 kms from the source.

In view of the same, the Board is requested to solve the problem of tariff regulation through suitable amendment in tariff regulations, i.e. to solve this anomaly instead of allowing such proposals which shall defeat the primary objective of Board to develop nation-wide common carrier/contract carrier pipelines. The following options may be considered in this regard:

3.1.1.1. Instead of zonalization of tariff over zones of 300 kms, tariff based on per km contractual path may be determined.
3.1.1.2. Revenue of the entity at 12% post tax return on capital employed may be capped by the regulator and the Transporter may be allowed to determine tariff for its customers.

4. PROPOSAL VIOLATES REGULATORY INTENT OF REG. 19 OF PNGRB AUTHORIZATION REGULATION
4.1. Further, it is submitted that such submission by OPaL clearly violates the Regulatory intent of Reg. 19 2 (b) and (c) of PNGRB Authorization Regulation. The specific Regulatory provision is stated below:

"(b) Board may web-host details of the proposed dedicated pipeline seeking comments of general public with a view to ascertain whether, instead of a dedicated pipeline, the public interest would be better served if a natural gas pipeline is laid, built, operated or expanded;

(c) In case, based on the examination of the comments received, the Board is of the view that instead of a dedicated pipeline natural gas pipeline would better serve the public purpose it may advise the entity appropriately within thirty days of the receipt of the information from the entity;"

On the contrary, to benefit a single customer it shall cause:

- Increase in sharing the infrastructure cost among the remaining customers by increasing the tariff and shall not be in national interest.
- Public inconvenience in laying unnecessary pipeline infrastructure.
- Safety concern due to several pipelines in same corridor and may cause impediment at time of disaster management.

4.2. It may also be noted that pipeline development is a utility function which works on a common principle of sharing infrastructure. The said proposal of OPaL defeats the very intent of the same.

It may be noted that such instances of developing a dedicated infrastructure is not common in other infrastructure sectors.

PNGRB is requested to review its Regulations related to dedicated pipelines in order to ensure that any customer already connected to a common carrier pipeline, having sufficient capacity to cater the customer's requirement, should not be allowed to develop any dedicated infrastructure. Only in cases where the pipeline infrastructure is not available or pipeline entity denies to develop the required infrastructure then only the Regulatory provisions get activated otherwise allowing duplicate infrastructure shall only result in infructuous investment and shall be against the national interest.
4.3. OPaL is already connected to the GSPL's pipeline network, and is clearly only seeking to avoid/eliminate recurring expenses for gas transmission through the GSPL pipeline network. This is not a recognized or valid reason for laying dedicated pipeline under the framework of the PNGRB Act, and the PNGRB NGP Authorizing Regulations. A customer is not permitted to lay a dedicated pipeline from the gas source to itself only to avoid payment of tariff for pipeline transmission. Notwithstanding anything stated above, it may be noted that the existence of a dedicated pipeline from Petronet LNG Terminal will not in itself assure uninterrupted RLNG supply.

The reason provided by OPaL, violates the specific mandate to PNGRB under section 20(5) of the PNGRB Act wherein it has been mandated that the Board shall be guided by objectives of, *inter alia*, avoiding infructuous investments and if OPaL is permitted to lay a dedicated pipeline in this case it will result in infructuous investment as OPaL is already connected to the authorized pipeline network of GSPL.

5. PROPOSAL FROM OPaL INSpite OF GSPL OFFERING LONG TERM CAPACITY

5.1. GSPL further submits that initially GSPL offered a five - year long term capacity tranche (CT) to OPaL in August 2017, but based on OPaL's request, GSPL offered a new CT for two years. However, OPaL is now delaying signing long term CTs and has instead sought the permission of this Hon’ble Board to lay its own pipeline to a source of a RLNG (i.e. PLL’s Petronet LNG Terminal).

6. PROPOSAL DOES NOT FALL UNDER DEDICATED PIPELINE PROVISION

6.1. A consumer is not entitled to lay its own pipeline directly to the source of natural gas when it is already connected with a common carrier natural gas pipeline network.

6.2. Under the definition of "natural gas pipeline" given in Regulation 2(f) of the PNGRB NGP Authorizing Regulations dedicated pipeline “*laid to transport gas to a specific customer to meet his requirement and not for resale*” has been excluded from the definition of “natural gas pipeline”. This makes it clear that only when a pipeline is laid *to a specific consumer*, and not *by a specific consumer* that it would be considered as “dedicated pipeline” and would not need to follow the procedure for natural gas pipeline after the appointed date, as prescribed under the PNGRB Act read with the PNGRB NGP Authorizing Regulations. This is necessary in order
to protect the integrity of authorizations granted by the Hon’ble Board for laying of natural gas pipelines and also in light of the specific provisions of s.16 PNGRB Act that prohibit the laying, operation and maintenance of natural gas pipelines after the appointed date, except with the prior authorization of the Hon’ble Board.

7. **PNGRB IN ITS ORDER REJECTED THE PROPOSAL OF LAYING DEDICITED PIPELINE PARALLEL TO EXITING COMMON OR CONTRACT CARRIER**

7.1. We strongly believe that laying of a parallel pipeline infrastructure not only renders the existing infrastructure and investment therein infructuous, but is also a waste of national resources. The same was also held by this Hon’ble Board in its order dated 15.06.2010 in the matter M/s Shyam industries & Others Vs GAIL (PNGRB Judgement dated 25th May 2011) wherein relating to an issue of a customer wanting to develop an alternate to an existing dedicated pipeline, the Hon’ble Tribunal (on page 53 of the Judgement) held “....Since this infrastructure has already been created by GAIL, to suggest that the consumer can resort to alternate suppliers without using the infrastructure already created would require the consumer to duplicate the infrastructure the cost of which he has paid many times over which is not only cost additive, but also an infructuous investment that is neither in the interest of the consumers nor in the national interest.”

8. **JEOPARDIZING DEVELOPMENT OF A NATIONWIDE GAS GRID**

8.1. Development of parallel pipelines just to provide direct connectivity to customers to sources would jeopardize development of common carrier infrastructure for customers that are located further downstream from the source. Such actions would result in imposition of disproportionate and higher costs on downstream customers who are away from the source.

8.2. If OPaL’s Proposal is considered then all customers that are located in proximity to a source of natural gas would want to develop their own pipeline to connect to source / third party pipeline and this would result in a common carrier transporter having to connect only such customers that are located at a considerable distance, thereby defeating the underlying principle of development of common carrier pipelines and would jeopardize development of common infrastructure for far-
reaching areas (away from the source). In such circumstances, the only way a transmission company can then sustain its common carrier network business model, is by charging higher tariffs for markets located further away from the source, which would ultimately adversely affect other customers on the Transporter's network, like State owned Power Plants / IPPs, CGD companies, fertilizers companies and industrial customers.

8.3. The Hon'ble Board will also have to duly consider that GSPL has developed and is maintaining its existing pipeline network, which is duly authorized in accordance with framework of PNGRB Act and applicable law. The proposal from OPaL is effectively duplicating the existing pipeline connectivity without any justification for an actual requirement for the same other than to render the GSPL pipeline infructuous and to avoid/ eliminate recurring expenses for gas transmission.

8.4. We would humbly submit for the kind consideration of the Hon'ble Board that the Government of India, vide notification dated 20.12.2006 has issued a Policy for Development of Natural Gas Pipelines and City or Local Natural Gas Distribution Networks ("said Policy"). One of the objectives of the said Policy is to enable the development of a nation-wide natural gas pipeline grid and an efficient industry structure. The said Policy (vide Para 2.1) also clearly states that it is applicable to "dedicated pipelines laid to supply gas to specific consumers". This further emphasizes that a dedicated pipeline can only be one laid by a pipeline company to a consumer and not one by a consumer itself. In Para 2.2 the said Policy stipulates that one of the objectives of the Hon'ble Board shall be to select entities to lay pipelines in a transparent and objective manner with a view to facilitating investments in the sector and protecting the interests of the consumers. It is humbly submitted that the present proposal submitted by OPaL is detrimental to investments in the pipeline sector and does not in any manner protect the interests of consumers. It is submitted that the said Policy requires the Hon'ble Board to take into account an industry wide view and "interests of consumers" and not only one particular consumer.

8.5. It is further submitted for due consideration of this Hon'ble Board that, if individual consumers are allowed to lay so called "dedicated pipelines" themselves, it would make development of a nationwide gas grid unviable and result in also making sections of already laid pipelines redundant and under-utilized. It is submitted that the Hon'ble Board may duly consider and be guided by the said Policy issued by the Government of India while considering the proposal submitted by OPaL.
8.6. As quoted by OPaL in its DFR that the installation of dedicated pipeline is being explored to ensure uninterrupted plant operations and reliability of transmission of natural gas. It is submitted that a common carrier pipeline connected with multiple sources including domestic gas sources is always more reliable than a dedicated pipeline connected to a single source.

8.7. Allowing dedicated pipelines shall result into shifting of volumes from common carrier to dedicated pipelines thereby decreasing the utilization of common carrier pipelines. Since, the return for common carrier is determined considering 75% of capacity, any diversion of volumes shall not reflect into the divisor and therefore reducing the return due to reduction in volumes and as a result transporter shall be penalized.

9. GSPL IS DEVELOPING TIE-IN CONNECTIVITY FROM PLL LNG TERMINAL EXPANSION FACILITY TO MEET INCREASING DEMAND OF RLNG FROM ITS CUSTOMERS

6.1 GSPL vide its letters dated 25th September, 2017 to PNGRB has requested to allow GSPL to lay an tie in connectivity pipeline, so as to off-take RLNG volumes from PLL Dahej Expansion Facility to meet increasing demand of RLNG from its existing & new customers. This has become more necessary in view of expansion of terminal capacity by PLL from 10 MMTPA to 15 MMTPA in 2016-17 and a further planned expansion of up to 20 MMTPA by the year 2020. In response, PNGRB has already webhosted a Public Notice dated 27th October 2017 seeking comments on GSPL’s proposal; therefore the said proposal is under consideration of the Board.

6.2 On completion of said Tie-in connectivity, GSPL would be able to cater to the increasing RLNG demand for other Power, Fertiliser, CGD and Industrial segment customers connected to GSPL’s Gujarat Gas Grid. Further, for the said Tie-in Connectivity, GSPL has already completed Detailed Engineering Survey (DES) and finalized the RFP document. It may also be noted that GSPL would not be requiring any separate RoU for laying its additional proposed Tie-in Connectivity as the same can be laid within the existing RoU of GSPL.

10. REQUEST TO PNGRB

We would therefore submit to the Hon’ble Board, that the proposal submitted by OPaL for a dedicated pipeline from Petronet LNG Limited till its own premises within SEZ at Dahej cannot be considered as a valid proposal in light of the framework of the SEZ Act read with
the Gujarat SEZ Act read with the existing regulatory framework of PNGRB Act read with the PNGRB NGP Authorization Regulations. The said proposal in respect of which the above referenced Public Notice has been issued should be rejected.

This communication is without prejudice to our rights and cannot in any manner be taken as a waiver of any of our rights or be interpreted in any manner prejudicial to our rights.

Yours sincerely,

Ravindra Agarwal
(Group ED-Gas Business)
GAIL/RA/OPaL/PLL-OPaL/Dedicated/2017/337474/1851

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

Subject: OPaL’s dedicated natural gas pipeline from Petronet LNG Terminal, Dahej to OPaL Dahej Petrochemical complex under Regulation 19(2)

Respected Madam,

This has reference to PNGRB Public Notice No. Infra/NGPL/122/Opal/POPL/17 in respect of the subject proposal, vide which public comments have been solicited on the same.

In respect of the above, GAIL views are enclosed as Annexure A.

Thanking you,

Your’s sincerely,

(Manoj Jain)
Executive Director (Mktg.-Gas)
E-mail: manojjain@gail.co.in

Encl: As above
GAIL’s Views: OPaL’s dedicated natural gas pipeline from Petronet LNG Terminal, Dahej to OPaL Dahej Petrochemical complex under Regulation 19(2)

1. OPaL has signed a Gas Transmission Agreement (GTA) with GAIL for gas quantities going up to 1.5 MMSCMD, valid up to 31.03.2027.

2. As per extant regulatory framework, it is a regulatory obligation to provide connectivity to a consumer within a tariff zone in a natural gas pipeline on receipt of a specific request, subject to availability of capacity, techno-economic viability and the consumer undertaking to pay the applicable pipeline tariff.

3. In keeping with its regulatory obligation, as mentioned, GAIL has executed the necessary contractual agreements with OPaL and has already started construction work for providing pipeline connectivity to OPaL. In view of the above, allowing the dedicated pipeline shall lead to infrastructure duplication, which needs to be avoided.

4. In general, promotion of dedicated pipeline needs to be avoided in all cases where the customer is already connected to a Natural Gas Pipeline or where the Natural Gas Pipeline is fulfilling its regulatory obligation by providing connectivity to customers.

5. The larger issue of how to avoid proliferation of dedicated pipelines has been engaging the attention of various stakeholders, including PNGRB, for quite some time. Hence, till such time a judicious larger view is taken by the Board in this regard, PNGRB is kindly requested to hold back processing of this case as well as other similar cases.

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