Ref. No PIL/PNGRB/PCD

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

Sub.: Public Consultation Document (PCD) regarding review of tariff under the provisions of Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 for the Natural Gas Pipeline due to change in the Income Tax Rates.

Respected Madam,

This is in reference to PNGRB PCD dated 26th September 2019 seeking comments of stakeholders on the review of natural gas pipeline tariff due to the change in the Income Tax rates. PIL Observations, Issues and suggestion on different points of PCD are detailed below:

1. General Observations: In the Taxation Law (Amendment) Ordinance, 2019, Government has given an option to Domestic Company to pay income – tax rate of 22%, subject to condition that they will not avail any exemption/incentive as described in the ordinance. So, with this amendment, for domestic companies there will be two nominal rate of income tax rate i.e. 22% or 30%. Rate applicable for respective entity will be decided based on the option exercised by the entity.

2. Point 2 Provisions of Tariff Regulations for Tariff Review:
   a. Observations: Any tariff review now done in terms of provision of sub-clause (9) of clause 9 of Schedule A shall also fall under the term “tariff review”.
   b. Issue: It is expected that tariff review due to change in corporate tax rate have an impact of less than 10% but will results in gap of five years for next tariff review. This will impact the pipelines where tariff review is due in next 1-2 years by further delaying the other adjustments.
   c. Suggestions:
      i. Board may combine the adjustments of other parameters which are already occurred or expected to be occurred in near future, which as per regulations required to be adjusted, along with the adjustment of nominal tax rates.
      ii. It is requested that, deliberate this aspect in the open house to bring clarity on the timing of next tariff review in regulations.

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3. **Point 3:**

   a. **Observations:** Amended Income Tax rate is an option which an entity has to decide to avail. Further, in line 7 "in case entity does not opt for lower rate....... it is presumed that effective tax rate of such entity is lower than rate of 25.17%. In such case it is proposed to consider tax rate of 25.17% for grossing up.

   b. **Issues:**

      i. Income Tax Act through this amendment has given an option to entity to decide their option of nominal tax rate within the prescribed time lines. Entities shall need some time to examine the matter thoroughly. Board should therefore provide a reasonable time period to entities to decide the option.

      ii. Regulations provides for nominal tax rates, regardless of what effective tax rate is being paid by entities. The intent of regulations for providing nominal corporate tax rate is to promote and incentivise long gestation cross country pipeline projects.

      iii. It is also submitted that the PIL pipeline is not getting any return and in fact incurring losses, so there is no income tax being paid, not that PIL is paying any lesser taxes, as presumed in PCD.

   c. **Suggestions:**

      i. Board is requested to provide time as provided in tax amendment to the entity to decide the option

      ii. Board is requested to consider the nominal tax rate as exercised by the entity in line with amended tax provisions.

4. Further, as Board is aware in case of PIL pipeline following two events are expected shortly:

   a. As per the APTEL order dated 27th February, 2019 Capacity determination and declaration by PNGRB for the years FY 2012-13 onwards is to be completed by December, 2019.
b. Judgement of APTEL in capacity matter: Hearing in the ongoing capacity declaration matter for FY 2010-11 and FY 2011-12 in APTEL is over and judgement is reserved by the bench which is expected anytime.

c. Therefore, Board is requested to kindly review tariff for PIL pipeline on account of change in Income tax rate clubbing with the outcome of the above two events which are expected shortly.

5. We would like to deliberate above points and share our views in detail by participating in the open house, to be conducted by PNGRB on the subject matter.

Thanking you

Yours faithfully

For Pipeline Infrastructure Limited

[Signature]
Authorised Signatory