To,
Ms. Vandana Sharma,
Secretary,
Petroleum and Natural Gas Regulatory Board ("PNGRB/Board"),
First Floor, World Trade Centre,
Babar Road, New Delhi-110 001


3. GGL letter no. GGL/C&M/2017-2018/046 dated November 30, 2017

Dear Madam,

This is with reference to the above mentioned Public Consultation Document ("PCD") webhosted by the Honourable PNGRB pertaining to M/s GAIL (India) Limited’s HVJ-GREP-DVPL [HVJ] & DVPL/GREP Upgradation [HVJ Upgradation] natural gas pipeline network.

In this regards, Gujarat Gas Limited ("GGL") would like to submit its comments/ views on the PCD PNGRB/M(C)/65-Vol.-II dated November 29, 2018 for the kind consideration of the Honourable Board:

1. At the outset, GGL would like to mention that M/s GAIL (India) Limited had mooted a Public Consultation Paper No. Infra/NGPL/125/Integration/01/17 dated 28th September 2017 whereby GAIL had proposed for unified/ pooled/ integrated tariff structure whereby GGL vide its letter reference #3 dated November 30, 2017 along with other natural gas industry stakeholders had provided their views/ comments.

2. The PNGRB Act, 2006 ("Act") empowers the Honourable PNGRB to determine tariff governed by the specific framework established under s.22 read with s.11 (e) (ii) PNGRB Act. s.11 (e) (ii) PNGRB Act specifically vests the PNGRB with the function
of regulating by regulations "transportation rates for common carrier or contract carrier". S.22 PNGRB Act specifically stipulates that "Subject to the provisions of this Act, the Board shall lay down, by regulations, the transportation tariffs for common carriers or contract carriers or city or local natural gas distribution network and the manner of determining such tariffs." s. 22(2) PNGRB Act specifically stipulate the factors that shall necessarily guide the Board in determination of the transportation tariffs. The proposal submitted in the instant case by GAIL violates each and every factor stipulated in s.22(2) PNGRB Act and more specifically:

a. "factors which may encourage competition, efficiency, economic use of the resources, good performance and optimum investments";
b. safeguard consumer interest and at the same time recovery of cost of transportation in a reasonable manner;
c. "the principles rewarding efficiency in performance";
d. the connected infrastructure such as compressors pumps, metering, units, storage, and the like connected to the common carriers or contract carriers;
e. bench marking against a reference tariff calculated based on cost of service, internal rate of return, net present value or alternate mode of transport and f. policy of the Central Government applicable to common carrier, contract carrier and city or local distribution natural gas network."

3. Thus it is clear that under the PNGRB Act, tariff is to be determined in relation to common carrier or contract carrier and which also clarifies that the concept of "Integrated tariff" is outside the contours of the statutory framework and cannot be considered by the Honourable PNGRB under the PNGRB Act, 2006 and in light of the judgment of the Honourable Supreme Court in the case of PNGRB v. IGL [(2015)9SCC209].

4. Even if the proposed integration is considered under regulation 12 of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008, the tariff should be set to ensure compliance with regulation 12 (2) of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008.

5. In exercise of the powers under s.61 PNGRB Act, the PNGRB has formulated the PNGRB (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 ("NGP Tariff Regulations"). The framework for tariff determination under the NGP Tariff Regulations reflects the statutory framework provided under the PNGRB Act and stipulates that natural gas pipeline tariff would be determined in respect of specific natural gas pipelines which are covered by the NGP Tariff Regulations. The pipelines governed by the NGP Tariff Regulations are: (i) those that were authorized...
by the Central Government before the PNGRB Act came into force, (ii) those that were laid, built, operated before the appointed day and have been then authorized by PNGRB and (iii) those that were initially laid as dedicated pipelines and then converted into natural gas pipelines. Under the mechanism provided in the NGP Tariff Regulations the divisor is based on the capacity determined for the relevant natural gas pipeline under the Petroleum and Natural Gas Regulatory Board (Determining Capacity of Petroleum, Petroleum Products and Natural Gas Pipeline) Regulations, 2010 ("NGP Capacity Regulations"). Furthermore, under the NGP Capacity Regulations, capacity is determined for each specific natural gas pipeline as authorized by PNGRB.

6. From review of the above provisions of PNGRB Act, it is clear that the present legal framework governing gas transportation pipelines provide for authorization of specific pipelines and tariff determination can occur for each of the authorized pipelines separately.

7. It is also imperative to note that GAIL has obtained authorization for its various pipelines separately as distinct specific pipelines. There is presently no legal basis to support the GAIL Proposal where it is seeking to claim that its various pipelines that have received authorization separately should now be treated as "interconnected cross country natural gas pipelines".

8. In order for the GAIL Proposal to be considered as a valid tariff proposal, the PNGRB Act would need to be amended and the NGP Tariff Regulations as well as the NGP Capacity Regulations would also need to be amended.

9. It is also submitted that if the GAIL Proposal for integrated tariff structure is considered it would eradicate competition not only in gas transmission but also from gas marketing to areas served only by GAIL pipelines.

10. Introduction of an "integrated tariff structure" and recognition of an "integrated cross country pipeline system" being operated by GAIL as an entity that is engaged in marketing and transportation will immediately result in a situation where inefficiencies and underutilization of pipelines would unduly burden the tariff onto consumers for the infrastructure the consumer is not connected and does not use. It will also make abuse of dominant position and adoption of restrictive trade practices that much more likely.

GGL as a responsible industry stakeholder would like to place its unequivocal and unambiguous objection in context to GAIL’s Proposal for an Integrated Tariff Structure
for a nascent developing natural gas economy and also which is ultra vires the mandated legislation.

We trust the Honourable Board finds our submission in order and we would be happy to provide any further clarifications should they be required by your good office.

Thanking you,
For Gujarat Gas Limited

[Signature]

Maqsood Shaikh
Senior Vice President- Commercial & Marketing