

PETROLEUM AND NATURAL GAS REGULATORY BOARD

NOTIFICATION

NEW DELHI, _____

G.S.R.- In exercise of the powers conferred by section 61 of the Petroleum and Natural Gas Regulatory Board Act, 2006 (19 of 2006), the Petroleum and Natural Gas Regulatory Board hereby makes the following regulations, to further amend the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 namely:-

1. Short title and commencement.

- (1) These regulations may be called the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Amendment Regulations, 2010.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Amendment of regulation 5.

In the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008 (hereinafter called the principal regulations), in regulation 5, -

(a) in sub-regulation (6), -

(i) in clauses (b) and (c), -

(A) for the words "hydrocarbon pipeline", wherever these occur, the words "hydrocarbon steel pipeline" shall be substituted;

(B) in the Explanation, for the words “one year” at two places, the words “three years” shall be substituted.

(ii) In clause (e), -

(A) in the table, in header of column (3), the brackets and asterisk mark shall be omitted.

(B) for the footnote with asterisk mark (*), the following shall be substituted, namely:-

“(i) The calculations for combined networth shall be done as per Method-1 of Schedule K in case the entity or its promoters are companies incorporated under the Companies Act, 1956, or Method-2 of Schedule K for other categories of entities.

(ii) The promoters undertaking in the form of letter of comfort stating that promoter’s contribution in the project shall be infused in a phased manner as per the project financing schedule must accompany the application in the format given in the application-cum-bid document.”;

(b) In sub-regulation (7), in clause (a), the following shall be inserted at the end, namely -

“and Feasibility Report (FR) and the feasibility report submitted by the entity shall follow the guidelines provided for the same in the Application-cum-Bid document and shall result in a minimum IRR on capital employed from the regulated tariffs (network tariff and compression charges) as specified in the Application cum Bid document. The entity shall ensure that the quotes in the financial bid are within permissible variation as specified in the Application-cum-Bid document, of the values considered in the FR”.

(c) In sub-regulation (8), for the words “date”, the words “date and time” shall be substituted.

3. Amendment of regulation 7.

In regulation 7 of the principal regulations, the following sub-regulation shall be added, namely : -

“(4) For bid evaluation purpose, network tariff and compression charges shall be considered only after the exclusivity period for exemption from the purview of common carrier or contract carrier only. The network tariff and compression charges to be charged within this exclusivity period shall be the average of quoted values from 6th -10th year, or 90% of 6th year quoted values, whichever is lower and shall also be indicated in the financial bid for indicative purpose.”.

4. Amendment of regulation 10.

In regulation 10 of the principal regulations, for sub-regulation (1), the following shall be substituted, namely :-

“(1) The selected entity shall be issued a letter of intent (LOI) to grant authorization upon finalization of the bid. The entity shall be required to furnish Performance Bank Guarantee within 15 days of issue of LOI and complete such other formalities as may be directed by the Board. Upon furnishing the Performance Bank Guarantee and completion of other formalities, the authorization shall be granted to the selected entity in the form of Schedule D”.

5. Amendment of regulation 11.

In regulation 11 of the principal regulations,

(a) in sub-regulation (1), -

- (i) after the words “firm natural gas supply agreement”, the words “or Heads of Gas supply Agreement (HOA/ Memorandum of Understanding (MOU) for gas supply with natural gas producer/ marketer” shall be inserted;
- (ii) for words “ninety days”, the words “one hundred and twenty days” shall be substituted;

(b) for sub-regulation (3), the following shall be substituted, namely :-

“(3) The authorized entity shall obtain the financial closure of the project from a bank or financial institution alongwith firm natural gas supply agreement within a period of one hundred and eighty days from the date of grant of authorization.” ;

(c) in sub-regulation (4), -

(i) for the words, “one hundred and twenty days”, the words “one hundred and eighty days” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely :-

“Provided further that financial closure shall mean a legally binding commitment of equity holders and debt financiers to provide or mobilize funding for the first phase of the CGD project which should not be less than ninety percent of the project cost to be incurred for the first five years of the CGD network.”.

6. Amendment of regulation 12.

In regulation 12 of the principal regulations, the following proviso shall be inserted, namely :-

“Provided that in case flow of natural gas in the designated transmission pipeline is delayed for a period beyond three months from the scheduled date as indicated and is also later than the date CGD network is ready to take gas for reasons not attributable to the authorized CGD entity selected through the bidding process, the Board may extend the exclusivity period for exemption from the purview of common carrier or contract carrier by a period corresponding to the difference in the actual and scheduled natural gas flow in the transmission pipeline serving the authorized geographical area or the date when CGD network is ready to take gas, whichever is less, after assessing the reasons for such a delay. In such a case, the year-wise targets in

respect of inch-km and domestic connection as well as schedule of levying network tariff and compression charges shall also be shifted accordingly by the Board. Further, the exclusivity period for laying, building or expanding the CGD network as stipulated shall also be extended by the same period. For the purpose of monitoring progress of committed targets, the same shall be pro-rated in the effected years.”.

7. Amendment of regulation 16.

In sub-regulation (1) of regulation 16 of the principal regulations, for clause (c), the following shall be substituted, namely : –

“in case of failure to take remedial action, the Board may encash the performance bond of the entity equal to percentage shortfall in meeting targets of inch-kms and/or domestic connections. Provided that, the value so encashed would be refunded, if the entity achieves the cumulative targets at the end of exclusivity period for exemption from the purview of common carrier or contract carrier. In case of failure to abide by other terms and conditions specified in these regulations, performance bond shall be encashed as under:

- (i) 25% of the amount of the performance bond for the first default ; and
- (ii) 50% of the amount of the performance bond for the second default:

Provided that the entity shall make good the encashed performance bond in each of the above cases within two weeks of encashment failing which the remaining amount of the performance bond shall also be encashed and authorization of the entity terminated.

- (iii) 100% of the amount of performance bond for the third default and simultaneous termination of authorization of the entity.”.

8. Substitution of Schedule C.

For Schedule C of the principal regulations, the following shall be substituted, namely :-

“Schedule C

[see regulation 5 (7)]

Application-cum-bid for grant of authorization for CGD network

To,
The Secretary,
Petroleum and Natural Gas Regulatory Board, 1st
Floor, World Trade Centre
Babar Lane, Connaught Place, New
Delhi – 110 001.

Sub: Application-cum-bid for grant of authorization for laying, building, operating or expanding city or local natural gas distribution network in the proposed geographical area of ___in the State or Union Territory of __under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand City or Local Natural Gas Distribution Networks) Regulations, 2008

(Attach separate sheets for providing information wherever necessary)

Part-I –General details of the entity and technical details of the project (to be submitted in a properly earmarked, sealed and separate envelope)	
1	Details of the entity
A	Name of the entity
B	Type of firm – Public Limited Company/ Private Limited Company/ Partnership firm/ Proprietorship firm / others (please specify and attach copy of Articles of Association or Partnership deed, etc., as applicable).
C	Date of incorporation and date of commencement of business.
D	Address of registered office.
E	Name, addresses, telephone numbers, e-mails ID of all directors / partners / proprietor (please provide full details with STD Code and Pin Code).

2	Business activities of the entity	
A	Give names of all existing city gas distribution network of the entity, if any, and its installed capacity, capital cost incurred till date, status of start of operations, yearwise gas volumes transported in the network in the past 3 years alongwith details of customers enrolled, distribution network map showing details of existing facilities and future plan and natural gas connectivity details.	
B	Details of tie-up or collaboration with any entity for natural gas supply and marketing.	
C	Details of other business, if any, being carried out by the promoters for the last five years.	
3	Ownership and affiliate details	
A	Details of promoters	
B	Details of all affiliates of the entity mentioning the business relationship between the entity and the affiliates (“affiliate” means as defined in the relevant regulations for affiliate code of conduct).	
C	The entity undertakes to produce all relevant records or documents of itself and its related entities on demand by the Board.	Yes / No
D	Is the entity a company registered under Companies Act, 1956?	Yes / No
E	Is the entity promoted by a company registered under Companies Act, 1956?	Yes / No
F	The entity undertakes to become a company, in case it is not a company at the time of submission of this application-cum-bid, under the companies Act, 1956 on being selected for grant of authorization.	Yes / No
G	Promoters undertaking in the form of letter of comfort stating that their financial contribution in the project shall be converted in to equity share capital within three months of the date of grant of authorization. Enclose the letter of comfort from the promoters.	Yes / No
4	Technical details of the proposed CGD network project	
A	Name of the proposed CGD network project.	

B	Indicate in the maps the charge areas and the extent of the geographical area alongwith sketch of facilities proposed.	
C	Sources of supply of natural gas and capacity tie-up with the natural gas pipeline including connectivity and the details of tie-up phase wise, if any.	
D	Confirm that all applicable technical standards, specifications including safety standards, as specified under the relevant regulations for technical standards and specifications, including safety standards have been considered and complied with in designing the CGD network?	Yes / No
E	Non-refundable Application fee under the regulation 5 (6).	Rs. <_>
	Demand draft or pay order	
	Demand draft or pay order number and date	
	Name of issuing bank and branch	
F	Bid bond	Rs. <_>
	Demand draft/ Pay order/ Bank Guarantee	
	Demand draft/ Pay order/ Bank Guarantee Number and date	
	Name of issuing bank and branch	

Part-II: Financial bid (to be submitted in a separate earmarked sealed envelope) to be opened for those entities qualifying the minimum eligibility criteria and acceptable Feasibility Report under regulation 5 (7)		
A	Present Value (PV) of the Weighted Average Network Tariff Bid for laying, building, operating or expanding the CGD network over the economic life of the project (which is twenty five years from the date of authorization).	<p>PV of the weighted average unit network tariff bid for each year of the economic life of the project using the discount rate of 14% is Rs.<_> per MMBTU</p> <p>Year-wise weighted average unit network tariff bid-</p> <p>Year 6: Rs.< > per MMBTU</p> <p>Year 7: Rs.< > per MMBTU</p> <p>:</p> <p>:</p> <p>Year 25: Rs.<_____> per MMBTU</p>

		<p>Year-wise weighted average unit network Tariff from 1st to 5th year for information only (shall not be considered for bid evaluation) :</p> <p>Year 1: Rs.<_____> per MMBTU</p> <p>Year 2: Rs.<_____> per MMBTU</p> <p>:</p> <p>:</p> <p>Year 5 : Rs.<_____> per MMBTU</p>
B	<p>Present Value (PV) of the compression charge bid for compressing natural gas into CNG for dispensing in the CNG stations of the CGD network over the economic life of the project (which is 25 years from the date of authorization).</p>	<p>PV of the compression charge for CNG bid for each year of the economic life of the project using the discount rate of 14% is Rs.<___> per Kg</p> <p>Year-wise compressed charge for CNG bid -</p> <p>Year 6: Rs.<___> per Kg</p> <p>Year 7: Rs.<___> per Kg</p> <p>:</p> <p>:</p> <p>Year 25: Rs.<_____> per Kg</p> <hr/> <p>Compression Charge from 1st to 5th year for information only (shall not be considered for bid evaluation) :</p> <p>Year 1: Rs.<_____> per Kg</p> <p>Year 2: Rs.<_____> per Kg</p> <p>:</p> <p>:</p> <p>Year 5 : Rs.<_____> per Kg</p>
C	<p>Present Value (PV) of inch-kilometer of steel pipeline bid in the CGD network during the period of exclusivity in terms of exemption from purview of common carrier or contract carrier.</p>	<p>PV of inch-kilometer of steel pipeline bid in the CGD network using the discount rate of 14% is <inch-kilometer></p> <p>Year-wise inch-kilometer bid-</p> <p>Year 1: < > inch-kilometer</p> <p>Year 2: < > inch-kilometer</p> <p>Year 3: < > inch-kilometer</p> <p>etc.</p> <p>(Each year of exclusivity in terms of exemption from purview of common carrier or contract carrier).</p>

D	Present Value of the number of PNG domestic customers bid in the CGD network	<p>PV of the number of PNG domestic connections bid using the discount rate of 14% is <Number></p> <p>Year-wise number of PNG domestic connections bid –</p> <p>Year 1: < > inch-kilometer</p> <p>Year 2: < > inch-kilometer</p> <p>Year 3: < > inch-kilometer etc.</p> <p>(Each year of exclusivity in terms of exemption from purview of common carrier or contract carrier)</p>
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DECLARATION

1. Certified that the above information is true to the best of my / our knowledge and belief and the information and data given in the annexure, attachments, enclosures and calculation sheets accompanying this application-cum-bid are correct, complete and truly stated, and if any statement made herein is found to be incorrect, the application-cum-bid shall be rejected, the application fee and the Bid Bond shall be forfeited and I / We shall be liable to be proceeded against and for punishment under the provisions of the Act.
2. I/ We certify that the above application-cum-bid is the only application-cum-bid submitted and no other application-cum-bid has been or is being submitted separately for this city or local area by me / us.
3. We declare that on issue of letter of intent to grant authorization we shall submit the development plan envisaged for the proposed CGD network, project design and installed capacity of the CGD network along with details of phased-out capital expenditure plans including the projected dates of commencement of operations phase-wise and the details of the activities or targets associated with the completion of the project for approval of PNGRB and grant of authorization
4. We also declare to submit after grant of authorization, all details of the CGD project like DFR (based on which financial approvals are taken), all technical specifications of the project covering full details of pipeline design, pressure, length of network, pipeline diameter, pipeline thickness, route, corrosion protection arrangements, city gate station, natural gas source, tap-off points, main block valves, isolation valves, emergency shutdown valves, odourization facilities, metering arrangements, CNG stations, HSE measures etc.

Date :
Place :

Name and Signature of Entity/ Authorized Signatory
Official Seal

Instructions for filling the Application-cum-bid:

1. All entries in the form and annexed documents should be legible with no cuttings.
 2. Details requiring separate statement may be enclosed giving clear reference of the point against which the same is being attached.
 3. All pages of the application-cum-bid and the attachments and statements need to be serially numbered and initialed by the person or official authorized by the entity through a notarized power of attorney.
 4. Any information filled in the application-cum-bid needs to be substantiated by attaching relevant proof of the same.
 5. The entity is required to submit the application cum bid with all enclosures in the manner as specified in the bidding document.
 6. Incomplete application-cum-bid is liable to be summarily rejected.
 7. All quoted figures shall be positive numbers.
 8. The Application cum Bids submitted in response to sub-regulation 5(5), must be accompanied with all enclosures in the manner as specified in the Application cum Bid document, which shall specify in detail the terms and conditions of such bidding.”.
- 9. Amendment of Schedule D.**
- In schedule D of the principal regulations, -
- (a) in para 8, for the words, “one hundred and twenty days” the words “one hundred and eighty days” shall be substituted;
 - (b) in para 9, the words “which is also annexed to this schedule” shall be inserted at the end.

10. Insertion of new Schedule :

After Schedule J, the following schedule shall be inserted, namely:-

**“Schedule K
[See regulation 5 (6) (e) (i)]**

Methodology for Computation of Net worth

Methodology for Networth Computation under Method 1:

Subscribed & Paid up Equity Capital	
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Add: Reserve & Surplus (excluding revaluation reserves)	
Less: Miscellaneous Expenditure not written off	
Less: Reserves not available for distribution to equity shareholders	
Total Net worth	

Methodology for Networth Computation under Method 2:

By valuation of assets on the following basis:

- A. Listed (Quoted) investments in the name of the applicant (at market value)
(Detailed list to be enclosed)
- B. Margin of 30% on market value of listed (quoted) Investments
- C. Net value of listed Investments (A) – (B)
- D. Investments in unlisted (unquoted) companies (as per Note No. 2)
- E. Margin of 50% on (D)
- F. Net value of unlisted Investments (D) – (E)
- G. Other Investments (at cost) like PPF, NSC at current value, Deposits with registered NBFCs, Bank FDs
- H. Total Net Investments (C) + (F) + (G)
- I. Market Value of Land & Building component of the Fixed Assets (Full details of such assets like survey number, Location, address, extent of land & building to be furnished)
- J. Margin on I at 50%
- K. Net value of such fixed assets (I – J).
- L. Debtors not exceeding 3 months + Cash & Bank balance
- M. Current Liabilities
- N. Long term liabilities
- O. Net worth (H + K + L) – (M + N)

Notes: -

1. Valuation of fixed assets for the consideration of net worth would have to be certified by government approved valuers which should not be more than 2 months old on the date of submission of the bid. Only those items of land & building that are in the name of the entity as well as in the possession of the entity shall be included under the head (I) - Land & Building component of the Fixed Assets. Those properties that are leased out by the entity or taken on lease shall not be included for computation of net worth. Fixed Assets other than Land & Building shall not be included for the purpose of computation of net worth.
2. Valuation of unlisted investments would be at "fair value" of the said investment, i.e. the average of the "break up value" and the "earning value". For this purpose: -
 - a) The "break up value" means the equity capital and reserves as reduced by intangible assets and revaluation reserves, divided by the number of equity shares of the investee company.
 - b) The "earning value" means the value of an equity share computed by taking the average of profits after tax as reduced by the preference dividend and adjusted for extra-ordinary and non-recurring items, for the immediately preceding three years and further divided by the number of equity shares of the investee company and capitalised at the following rate: -
 - In case of predominantly manufacturing company, eight percent;
 - In case of predominantly trading company, ten percent; and
 - In case of any other company, including an NBFC, twelve percent;
 - If, an investee company is a loss making company, the earning value will be taken at zero.

(e.g. earning value for an NBFC with capitalisation rate of 12%, is earning per share multiplied by 100/12)
3. Details of items comprising investments, current assets, current liabilities and long term liabilities should be given separately.
4. Current assets should exclude loans to related entities, bad and doubtful debts and debts outstanding for more than 3 months, advance against capital assets, pledged securities / assets, prepaid expenses and also intangible assets."

[F.No. S- Admn/.....]
RATAN P. WATAL, Secy.

Footnote: Principal regulations were notified *vide* GSR No. G.S.R. 196(E) dated 19th March, 2008 and subsequently amended *vide* G.S.R. 800(E) dated 19th November, 2008 and G.S.R. 295(E) dated 30th April, 2009.