



GUJARAT GAS

GCLIC&M2020-21\028

October 27, 2020

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 draft PNGRB (Access code for City or Local Natural Gas Distribution Networks) Regulations, 2020

Ref: PNGRB Public Notice no. PNGRB/Auth/1-CGD(16)/2020 dated October 06, 2020

Dear Madam,

This is with reference to the above mentioned PNGRB Public Notice pertaining to submission of views/ comments on the draft PNGRB (Access code for City or Local Natural Gas Distribution Networks) Regulations, 2020.

We appreciate that the Honourable Board is soliciting the views of various entities and other stakeholders on the proposed draft regulation with an intent of making the country a natural gas based economy.

The Honourable Board would also appreciate the fact that the CGD business is facing lot of challenges which includes stiff competition from alternate fuels viz. Domestic LPG, propane, bio-gas etc. due to which the customers are not preferring to opt for natural gas connection. In spite of CGD entities taking various marketing initiatives like launching of various schemes for PNG (Domestic) connections and gas back schemes for CNG vehicles, the demand for natural gas has not picked up significantly. Moreover, there are various CGD entities wherein the existing CGD customers having requirement of less than 50,000 scmd are being directly supplied by the transmission pipeline entities thereby making the CGD development project economically un-viable. In turn the CGD entities have to seek legal recourse which further tantamounts to payment of legal fees and other court fees thereby increasing the financial burden of a CGD entity by manifolds.

Further, the various other Technological development like setting up LNG/ L-CNG infrastructure are a welcome move but the same has a direct implication on the pipeline infrastructure laid till date by the CGD entity thereby making the investment made by the CGD entity as infructuous.

In addition to the above, with the on-set of end of Marketing exclusivity period and open access regime at the time when the consumption of Natural Gas in the Energy basket is very limited in India (natural gas accounts for 6% of the country's energy consumption) clearly reflects that the CGD market is yet to mature and once the CGD market evolves over the period of time, the competitive environment shall eventually be welcomed. Further at the time when natural gas market in India in CGD sector is at a nascent stage, the investment made by CGD entities till date will get diluted and which shall eventually de-incentivize the CGD investors.

Further as per Section 20(4) of the PNGRB Act, 2006 read with Schedule-A of the PNGRB (Exclusivity for City or Local Natural Gas Distribution Network) Regulations, 2008 which provides for the "Rationale for allowing exclusivity to lay, build, operate or expand a CGD network" also states that the period of exclusivity largely depend on natural gas demand build- up in that particular Geographical Area (GA) along with various other factors and considering the fact that these factors shall vary from city to city it is all the more important that the assessment of end of exclusivity period takes all this into account before declaring any CGD network as common carrier or contract carrier.

Any attempt to introduce open access regime at this stage would tilt the risk reward balance against the CGD operators drastically and shall make the further investments in CGD infrastructure extremely non-rewarding.

We understand that a writ petition regarding PNGRB regulations on Exclusivity for City Gas Distribution Network is currently under consideration before the Delhi High Court. We also understand that a status quo order has been passed in the said matter. We would also like to submit that the Honourable Supreme Court of India in the matter of Civil Appeal No.4910 of 2015 has, vide its order dated July 01, 2015, already held that the Honourable Board does not have the power to fix network tariff for city or local gas distribution network. The Honourable Supreme Court declared the provisions of Petroleum and Natural Gas Regulatory Board (Determination of Network Tariff for City or Local Natural Gas Distribution Networks and Compression Charge for CNG) Regulations, 2008 as ultra vires the PNGRB Act. Further, it is settled principle of law



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that, something which cannot be done directly under law, cannot be permitted to be done indirectly. The Board may like to consider this aspect of proposed regulations being ultra vires the PNGRB Act, before finalizing the same. Hence it is requested that the Honourable Board takes due cognizance of the above fact while declaring the CGD network as common carrier or contract carrier.

However, without prejudice to the various pending legal issues, GGL would like to submit its comments on the draft regulations as provided in Annexure 1, for the kind consideration of the Honourable Board.

We trust that the Honourable Board shall find our observations helpful in drafting robust downstream natural gas regulations and we would be happy to provide any further clarification should they be required by your good office in this regards.

Thanking You,
For Gujarat Gas Limited

Devendra Agarwal
Head- Commercial & Marketing

Encl: Annexure 1- GGL views on the PNGRB proposed draft (Access code for City or Local Natural Gas Distribution Networks) Regulations, 2020

GGL views on the PNGRB draft (Access code for City or Local Natural Gas Distribution Networks) Regulations, 2020

Key observations:

S. No.	Subject matter	GGL views/ suggestions
1.	Exclusivity period	<p>Section 20(4) of the PNGRB Act, 2006 states <i>“The Board may decide on the period of exclusivity to <u>lay, build, operate or expand</u> a city or local natural gas distribution network for such number of years as it may by order, determine in accordance with the principles laid down by the regulations made by it, in a transparent manner while fully protecting the consumer interests.”</i></p> <p>As per the above definition the Act nowhere defines/ provides for 2 separate exclusivity periods i.e. Marketing and Infrastructure exclusivity hence ideally there should be only one period defined i.e. for laying infrastructure as well as marketing of natural gas, which should be for the entire economic life of the Project/Authorization (i.e. for 25 years).</p>
2.	CNG as an integral part of the CGD network	<p>Section 2 (i) of the PNGRB Act, 2006 defines city or local natural gas distribution network as follows:</p> <p>"city or local natural gas distribution network" means an interconnected network of gas pipelines and the associated equipment used for transporting natural gas from a bulk supply high pressure transmission main to the medium pressure distribution grid and subsequently to the service pipes supplying natural gas to domestic, industrial or commercial premises and CNG stations situated in a specified geographical area.</p> <p>Further, Section 2 (k) of the PNGRB Act, 2006 defines that the CNG station as a filling station where one or more dispensing units are provided for sale of compressed gas. This clearly states that CNG station is an integral part of CGD network.</p> <p>Further, the above matter is presently being heard at Punjab and Haryana High Court in the matter of Jatinder Moudgil v. Union of India & Ors. (CWP 13490 of 2008) where in the Board has taken a view that CNG station is an integral part of CGD network.</p>

S. No.	Subject matter	GGL views/ suggestions
		This is without prejudice to our submission made earlier in the related matter.
3.	Transportation rate for CGD network	As per the scheme of the PNGRB Act, 2006, CNG is an integral part of the CGD networks and also as per Section 22 of the PNGRB Act, 2006, the transportation tariff has to be fixed for the city or local natural gas distribution network. Therefore, there is no basis for a separate transportation rate determination process for CNG. Hence there shall be only one "Transportation rate for CGD network".
4.	Cancellation of exclusivity	In case the authorized CGD entity has reached all the charge areas as stipulated in the Grant of Authorization issued by the PNGRB, then in such case if the shipper requests to lay additional infrastructure then the authorized entity should be given first right of refusal to either build incremental network or meet gas requirement of the shipper in any manner viz. Cascade or truck mode. Further in such cases the CGD entity's exclusivity whether in whole or part thereof, should not be cancelled.
5.	System Use Gas (SUG), Lost and Unaccounted for Gas (LUAG)	The Honourable Board shall appreciate the fact that CGD network is not similar to Natural Gas Pipeline since there are multiple number of joints and sections which increases the chances of leakage. Hence it should be the responsibility of the shipper to provide gas to the authorized CGD entity for SUG and LUAG.
6.	Cherry picking	The regulation needs to be framed in such a way which discourages cherry picking of customer segments. The existing draft regulation shall lead to making the overall CGD development project as economically unviable which will eventually leave the Authorized Entity for serving Domestic PNG segment only.

Detailed observations:

S.No.	Regulation/ Clause No.	Draft Regulation (2020)	GGL views/ suggestions
1.	Reg 2(1)(e)- definition of “CNG exit point”	Provided that the CNG exit point shall terminate at tubing connection or union where compressor exit is connected to dispenser and at filling nozzle in case it is connected to CNG cascade of the shipper <u>or any other point available in the high pressure pipeline</u>	<p>Honourable Board is requested to provide clarity on how the compressor exit point will be connected to high pressure pipeline. Further we believe that the CNG exit point will be applicable for mother stations only.</p> <p>The CGD network is technically not capable of off-taking natural gas at a pressure more than 49 barg from the high pressure pipeline.</p> <p>Further, CNG station is an integral part of CGD network.</p> <p>This is without prejudice to our submission made earlier in the related matter.</p>
2.	Reg 2(1)(f)- definition of “CNG exit point capacity”	Provided that the authorised entity shall from time to time define a homogenous zone upfront and the same shall be displayed on its website;	<p>A homogenous area as defined in Regulation 2(1)(c) of the PNGRB (Access Code for Common Carrier or Contract Carrier Natural Gas Pipelines) Regulations, 2008 means <u>a part of the pipeline within which the gas of similar specifications including calorific value is received or delivered</u> over a specified time period;</p> <p>A homogenous zone is difficult to be defined for a CGD network as there are multiple entry points and multiple supply sources due to which comingled gas shall be available in the CGD network.</p> <p>The Honourable Board is requested to provide the criteria to determine the Homogenous Zone for CGD network.</p>
3.	Reg 2(1)(n)- definition of “exit point”	“.....for domestic piped natural gas (PNG), the exit point shall be the suraksha hose of the individual consumer;....”	<p>The Honourable Board is requested to clarify the determination of exit point capacity at suraksha hose of the individual customer.</p> <p>It is requested that the Honourable Board provide clarity as to whether exit point capacity at individual Domestic connection is to be determined which is practically a gargantuan/ mammoth task in itself.</p>

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			It is requested to retain the exit point definition for domestic customer as per the existing regulation.
4.	Reg 2(1)(ze) - definition of "shipper"	means a consumer or a marketer or any other entity who intends to utilize the capacity in the CGD Network;	The Honourable Board is requested to provide definition of a consumer. Further it is recommended that any shipper seeking access to CGD network should first register with the PNGRB.
5.	Reg 3	The regulations apply to an authorized entity on being declared common carrier or contract carrier....	It is humbly submitted that the proposed Access Code Regulations for access as well as the guiding principle for open access are ultra vires the provisions of PNGRB Act. The Act does not provide for separate exclusivity periods for marketing and for infrastructure laying purposes. As per Section 20 (4) of PNGRB Act, the exclusivity is to lay, build, operate or expand a city or local natural gas distribution network. There is no basis for having two separate exclusivity regimes with two different durations. The exclusivity period has to be same for laying infrastructure as well as marketing, which is for the entire economic life of the Project/Authorization (25 years).
6.	Reg 3(b)(iii)up to compressor exit point in case of CNG stations. However, if CNG compressor is installed by the shipper, then shipper shall receive the gas at CNG Compressor entry point.	The shipper should not be allowed to install the compressor as compressor are an integral part of CGD infrastructure and the Authorized CGD entity has the infrastructure exclusivity hence installation of compressor by a shipper shall be breach of infrastructure exclusivity. Moreover, even if the shipper is allowed to install the compressor then the same should be considered as a common carrier and contract carrier and access should be allowed to the authorised entity. The Honourable Board is requested to clarify the methodology of determination of transportation rate for such instances. The Honourable Board is also requested to provide clarity as to how the measurement of gas transported shall be carried out.

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7.	Proviso no. (iii) to Reg 3(b)(iii)	compressor exit point shall include the filling nozzle and CNG measurement facilities.	We believe that the compressor exit point is the same as CNG exit point. However as stated in the comment on definition of CNG exit point, the CNG exit point needs to be amended and should not be at the compressor.
8.	Reg 4(1)- Capacity Declaration	Authorised entity shall, within 90 days of declaration of its CGD network, as common carrier or contract carrier, determine in accordance with applicable regulations and declare by publishing on its website the entry point capacity, the exit point capacity, the CNG exit point capacity for open access at all entry points and exit points and the capacity at DPRS level for PNG and capacity at mother stations (Cascade filling capacity) for CNG	The Honourable Board shall appreciate the fact that since this will be the first instance of declaration of a CGD network as common carrier or contract carrier hence it is requested that a time period of at least 180 days should be provided for determining and declaration of capacity.
9.	Reg 4(2)- Capacity Declaration	The capacity in a CGD network for open access on cumulative basis at all entry points shall be at least twenty percent of the capacity of the CGD network or the maximum quantity of gas that has flowed in the CGD network <u>even for a period of one day</u> in the past whichever is higher. If such open access capacity in the CGD network falls below ten percen..... so as to restore the open access capacitywithin a period of six months from the date it has fallen below ten	<p>The Honourable Board is requested that capacity in a CGD network for open access should not be based on a single day peak utilization. Instead it is recommended such abnormal trend should be excluded for determining the open access capacity.</p> <p>The expansion of capacity may involve laying of reinforcement which is subject to receipt of statutory permissions and the timelines depends upon the type of permissions.</p> <p>The Honourable Board is requested to provide clarity that in case the entire capacity on the CGD network including CGD own use and common carrier capacity is full (i.e. 100% of the CGD network capacity is booked) then in such case would the CGD entity be required to build further capacity in the CGD network.</p>

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		percent.	Further, as per Section 21 of the PNGRB Act the authorized entity has the right of first use on the capacity. It is the “remaining capacity” that is to be shared on a common carrier or contract carrier basis. Enforcing creation of extra capacity which has the potential to remain unutilized/ underutilized would result in wasting of precious investment which can be utilized for any other purpose for the overall development of the CGD network.
10.	Reg 4(3)- Capacity Declaration	The Board may on suo motu basis.....direct an authorised entity to expand capacity....	Since the provisions in the draft regulation already specifies for availability of capacity for open access, there seems to be no need for the Honourable Board to direct an authorised entity to expand the capacity of the CGD network on suo motu basis.
11.	Reg 4(4)	An authorised entity shall not utilise open access capacity in its CGD network for own requirement except with respect to such part of extra capacity for which booking has not been received from any shipper for a consecutive period of ninety days.	An authorised entity should be allowed to use the open access capacity in its CGD network for own requirement for the part of such extra capacity which has not been booked by a 3 rd party shipper during a particular month. This shall ensure efficient utilization of CGD infrastructure.
12.	Reg 5(1)- Capacity booking	The authorised entity shall, within 21 days of declarations of its CGD network as common carrier or contract carrier.....	It is proposed to rephrase the same as within 21 days of declaration entry point and exit point capacity.
13.	Reg 5(3)- Capacity booking	The sum of the requested entry points MDQ shall not be less than 500 MMBTU, and the off take at any exit point shall not be less than 50 MMBTU per day.	<p>The open access regime for CGD network will be for the first time. Hence during the initial few years, the minimum requested entry point MDQ should be greater than or equal to 1000 MMBTU along with supply to Domestic customers with a minimum volume of 50 MMBTU.</p> <p>The regulation needs to be framed in such a way which discourages cherry picking of customer segments. The existing draft regulation shall lead to making the overall CGD development project as economically unviable which will eventually leave the Authorized Entity for serving Domestic PNG segment only.</p>

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			<p>Further, the intent of the open access is to increase the usage of Natural Gas across various segments. It is recommended that the shipper should also be required to connect a minimum of 500 new domestic connections and accordingly the MWP target for PNG (Domestic) connections should be reduced from the Authorized entity's target to that extent.</p> <p>For equitable distribution of volume, the Honourable Board should allow the CGD entity to supply natural gas to shippers/ customers having requirement of more than 50,000 scmd, provided the same is within operating capacity of the CGD Network subject to compliance with Regulation 8(7) of the draft regulation.</p>
14.	Reg 5(6)	The authorised entity shall publish information on entry points capacity, exit points capacity and CNG exit points capacity on the city or local natural gas distribution network of an authorised area, on its website by 15th of each month for the succeeding month on a continuous basis	The Honourable Board is requested to align the timeframe provided at Regulation 4(1) of the proposed draft regulation.
15.	Reg 6(1)- Expansion of availability of Natural gas	authorised entities are required to reach all charge areas or wards in the authorised area through pipelines of adequate size to meet the demand of the consumers in these charge areas or wards. In case authorised entity fails to meet the requirement as per the provisions of the exclusivity Regulations, Board shall cancel the infrastructure exclusivity either for the full area or part area as the case may be.	<p>The Honourable Board is requested to provide the definition of Wards whereas the authorised GA map only provides for Charge Area.</p> <p>We believe that reach of Charge Area using distribution by truck mode / cascade will also be considered while determining the achievement of reach of charge area.</p> <p>As per the proposed regulation a consumer situated at far- flung locations may raise a request for supply of natural gas and the CGD entity would be at an obligation to lay such pipeline infrastructure to connect such customers which would be economically un-viable proposition for the CGD entity given the uncertainty in demand and duration of the demand.</p>

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			<p>Moreover, if the infrastructure exclusivity is cancelled then accordingly the MWP targets shall be reduced to that extent for that Authorized entity. The PBG amount shall also need to be revised accordingly.</p> <p>Further Section 23 of the Act allows PNGRB to only cancel or suspend authorization.</p>
16.	Reg 6(2)	<p>.....then such shipper may either supply through cascade/truck mode or may submit an application to the Board for laying the required pipeline or associated facilities.....</p>	<p>The Act does not contemplate any nomination based authorization, but the said Regulation 6(2) has potential to allow cherry picking without going through bidding process. The Board may like to consider to review this aspect.</p> <p>In case any shipper is willing to sell gas in that part area then the shipper should be required to lay pipeline infrastructure as allowing flexibility to supply through cascade/truck mode to the supplier reflects differential treatment wherein the authorized CGD entity is mandated to lay pipeline infrastructure to reach all charge areas.</p> <p>Further, in case the infrastructure exclusivity is cancelled for the authorised entity, then accordingly the MWP targets needs to be proportionately reduced to that extent for that Authorized entity. Further, it is also requested that the PNGRB should provide clarity with regards to the obligations of the shipper in terms of MWP, once the whole or part GA has been awarded to the shipper through the bidding route. The shipper shall also need to provide for the PBG to that extent.</p> <p>The draft regulation allows the shipper to supply through cascade / truck mode without the need to apply to Honourable Board for the same. It is proposed that supply by any mode by a shipper should be as per the provision of Section 19 of the PNGRB Act.</p>
17.	Reg 6(2)(ii)	<p>..... the existing authorised entity shall provide interconnection with such approved applicant's pipeline or associated facilities with the common</p>	<p>The shipper should be also required to provide undertaking for complying with all relevant technical standards and quality of service standards as application to the authorized CGD entity as per the format provided under the CGD bid rounds.</p>

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		<p>carrier or contract carrier CGD network. Such additional pipeline or associated facilities that are interconnected with the existing CGD network shall also be deemed to be common carrier or contract carrier and open to use by third parties including the authorised entity.</p>	<p>Clarification is also required in case there is no interconnection of applicant's pipeline with that of the CGD network and in such case whether such disconnected facilities shall also be treated as a common carrier or contract carrier. Additionally, the transportation rate for such common carrier and contract carrier needs to be determined as per the determination of transportation rate regulations.</p>
18.	Reg 7(1)- Provision of Access to third party CNG/L- CNG stations	<p>An authorised entity whose CGD network has been declared as a common carrier, shall allow any shipper to install CNG/L-CNG Station within the authorised area of its CGD network and provide access to the shipper. If the online compressor forming part of the authorised entity's CGD network is unable to meet the requirements of the third party CNG/L-CNG station installed by shipper within the authorised area, then such third party entity establishing the CNG station may request the authorised entity to install additional compressor facilities to meet the requirements of the third party CNG/L-CNG station(s). If the authorised entity is unable to establish and commence operation of such additional compressor facilities within a period of one hundred and eighty days from the date of request for such additional compressor facilities, then the concerned shipper may install its own compressor facilities which shall also</p>	<p>As per the definition of CNG Station specified in the PNGRB Act, 2006 CNG station is an integral part of the CGD network. The provision as stated under the proposed Regulation is contrary to the provisions of the Act.</p> <p>Further, the issue of determination whether CNG Station is part of CGD Network is sub judice before the Hon'ble Punjab and Haryana High Court in the matter of Jatinder Moudgil v. Union of India & Ors. (CWP 13490 of 2008).</p>

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		be deemed to be common carrier or contract carrier and open to use by third parties including the authorised entity.	
19.	Reg 8(4)- Obligations of shippers and authorized entity And Schedule- I point no. 4(f)	Authorised Entity (AE) shall act as supplier of last resort for the domestic customers in case of any default by any shipper.	AE to be allowed to charge for any obligation performed by AE on behalf of shipper and also to provide supply to Domestic PNG on Reasonable Endeavour basis. The Honourable Board is also requested to impose penal provisions in case the shipper defaults on its obligations with respect to supplying Natural Gas to consumers.
20.	Reg 8(9)	In case of PNG domestic connection, shipper shall be responsible for meter reading and <u>shall pay the meter reading charges to the authorized entity <i>[in case the meter reading is carried out by the AE on behalf of the shipper.]</i></u>	<p>The regulation needs to be rephrased and to allow meter reading to be carried out by AE on behalf of shipper for Domestic PNG segment. Similarly, the same provisions need to be aligned in PNGRB (Code of Practice for Quality of Service for City or Local Natural Gas Distribution Networks) Regulations, 2010 ("CGD QoS regulations") and to also include shipper's obligations.</p> <p>The current provisions may lead to confusion amongst consumers since the meter reading is in scope of AE whereas the billing will be done by the shipper.</p>
21.	Reg 8(9)	Both authorised entity and shipper shall comply.....	<p>The Honourable Board is requested to include that the shipper needs to comply with all relevant PNGRB regulations rather than only the CGD QoS regulations as proposed in the draft regulations.</p> <p>The applicability section of all CGD regulations needs to include the applicability to the shipper in addition to AE.</p>
22.	Reg 13Transportation Rate for CNG.....	<p>As per the definition provided in Section 2(zn) of the PNGRB Act, 2006 the transportation rate is being defined as:</p> <p>"... "transportation rate", in relation to common carrier or contract carrier or a city or local natural gas distribution network, means such rate for</p>

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			<p>moving each unit of petroleum, petroleum products or natural gas as may be fixed by regulations....”</p> <p>Based on the above definitions it is clear that the transportation rate of CGD network shall include rate of moving each unit of natural gas to each consumer segments (including CNG stations) and hence there cannot be a separate transportation rate determined for CNG.</p>
23.	Reg 18- System Use Gas (SUG), Lost and Unaccounted for Gas (LUAG)	<p>The authorised entity shall absorb SUG and LUAG, if any, and shall not pass on any liability on this account to the shipper:</p> <p>Provided that the authorised entity shall be free to arrange the SUG and LUAG from any source.</p>	<p>It should be the responsibility of the shipper to provide gas to the authorized CGD entity for SUG and LUAG.</p> <p>In case the shipper is unable to provide gas, the authorized CGD entity shall be free to charge to the shipper the price at which the gas is sourced by the authorized CGD entity for ensuring uninterrupted supply of natural gas to the end customers.</p>
25.	Reg 25- Repeal		<p>Since PNGRB has clubbed the CGD Access code and access arrangement guidelines in the proposed draft Access Code, 2020, accordingly CGD Access arrangement guidelines, 2014 (Approved guidelines) also needs to be repealed.</p>
26.	General observation		<p>The CGD Access code has to be aligned with the PNGRB (Transportation rate for CGD and CNG).</p> <p>Further the Honourable Board is requested to clarify whether the Last Mile Connectivity deposit shall be paid by the consumer to the AE or to the shipper.</p>