

The Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Natural Gas Pipeline as Common Carrier or Contract Carrier) Regulations, 2009

UNION OF INDIA

India

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Rule

THE-PETROLEUM-AND-NATURAL-GAS-REGULATORY-BOARD-GUIDING PRINCIPLES FOR DECLARING OR AUTHORIZING NATURAL GAS PIPELINE AS COMMON CARRIER OR CONTRACT CARRIER) REGULATIONS, 2009

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The Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Natural Gas Pipeline as Common Carrier or Contract Carrier) Regulations, 2009Published vide Notification New Delhi, the 21st April, 2009Petroleum and Natural Gas Regulatory BoardG.S.R. 273(E). - In exercise of the powers conferred by Section 61 of the Petroleum and Natural Gas Regulatory Act, 2006 (19 of 2006), the Petroleum and Natural Gas Regulatory Board hereby makes the following regulations, namely :-

1. Short title and commencement.

(1)These regulations may be called the Petroleum and Natural Gas Regulatory Board (Guiding Principles for Declaring or Authorizing Natural Gas Pipeline as Common Carrier or Contract Carrier) Regulations, 2009.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these regulations, unless the context otherwise requires, - (a) "Act" means the Petroleum and Natural Gas Regulatory Board Act, 2006; (b) "appointed day" means the date of October 1, 2007 when the Central Government notified the establishment of the Petroleum and Natural Gas Regulatory Board; (c) "associate" means a person in relation to the entity - (i) who participates, directly or indirectly or through one or more intermediaries, in the management or control or capital of the entity; (ii) who holds, directly or indirectly, shares carrying not less than twenty six per cent of the voting power in the entity; (iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the entity; or (iv) who guarantees not less than ten per cent of the total borrowings of the entity. (d) "Board" means the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of Section 3 of the Act; (e) "natural gas pipeline" means natural gas pipeline as specified under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008; (2) Words and expressions used and not defined in these regulations, but defined in the Act or in the rules or regulations made thereunder, shall have the meanings respectively assigned to them in the Act or in the rules or regulations, as the case may be.

3. Scope.

- These regulations shall apply to an entity - (a) which proposes to lay, build, operate or expand a natural gas pipeline and has been authorized to do so under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008; (b) which has been laying, building, operating or expanding natural gas pipeline before the appointed day and has been authorized under the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008; or (c) which has been authorized by the Central Government before the appointed day and accepted by the Board for laying, building, operating or expanding natural gas pipeline under the provisions specified in regulation 17 of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008.

4. Objectives for declaring natural gas pipeline as common carrier or contract carrier.

(a) Natural gas pipeline is widely accepted mode of bulk transportation of natural gas from a source to a delivery point over a particular route. The concept of natural monopoly in transportation of natural gas is universally accepted in view of its capital intensiveness, safety factors and the need for protecting consumer's interests. Therefore, consumer interest is best served by promoting competition, avoiding infructuous investments by optimum utilization of infrastructure of natural gas pipelines. (b) The concept of allowing capacity in a natural gas pipeline to be utilized by any entity on a non-discriminatory basis shall incentivize emergence of independent shippers of natural gas who shall enter into contract carrier or common carrier arrangements with entities owning such

infrastructure for transportation of natural gas which, in turn, shall lead to development of competitive natural gas markets.

5. Contract carrier system for natural gas pipelines.

(a) A contract carrier system implies that the capacity in a natural gas pipeline, over and above the entity's own requirement, shall be available to any other entity subject to the latter entering into a firm contract for transportation of a volume of natural gas for a period of minimum one year, on such other terms and conditions as may be mutually agreed, and subject to the provisions of regulations notified from time to time under the Act and on payment of natural gas pipeline tariff as authorized under the Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008. (b) The contract for transportation of natural gas shall only be for transportation of natural gas and without any obligation as to the sourcing of the natural gas.

6. Common carrier system for natural gas pipelines.

(a) A common carrier system implies that the capacity in a natural gas pipeline, over and above the entity's own requirement and capacity allocated on a contract carrier basis, shall be available to any other entity subject to the latter entering into a contract for transporting volume of natural gas normally for a period of less than one year, on such other terms and conditions as may be mutually agreed, and subject to the provisions of regulations notified from time to time under the Act and on payment of natural gas pipeline tariff as authorized under the Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008: Provided that if the common carrier capacity is not fully utilized, the entity may contract the same for a period of one year or more. Explanation. - For the purpose of these regulations, entity laying, building, operating or expanding a common carrier or contract carrier natural gas pipeline shall have right of first use for its own and its associates' requirement and shall be limited to the right of first use. Such right of first use shall not be deemed to be preferential access. (b) The contract for transportation of natural gas shall be only for transportation of natural gas and without any obligation as to the sourcing of the natural gas. (c) Common carrier capacity available in natural gas pipeline at any given point of time shall be allocated to any entity seeking booking of the same on a non discriminatory "first-come-first served" basis. (d) In case common carrier capacity is not available in a natural gas pipeline at any given point of time and another entity seeks booking of the same for a period of less than one year, the request shall be accommodated by following the procedure set out in regulation 12 of the Petroleum and Natural Gas Regulatory Board (Access Code for Common Carrier or Contract Carrier Natural Gas Pipelines) Regulations, 2008 and as amended from time to time. (e) When the extra capacity in a natural gas pipeline to be provided on a common carrier basis is less than thirty three per cent of the sum of the capacity requirements of the entity and the firmed up contracted capacity with other entities, the same will be made available - (i) on expiry of firm contracts, or (ii) by way of expansion of capacity in the natural gas pipeline: Provided that when the common carrier capacity is less than ten per cent of the sum of the capacity requirements of the entity and the firmed up contracted capacity with other entities, the Board may on a suo motu basis and after following the due process of public consultation require an entity to build extra capacity on such time lines and other terms and conditions as may be specified by the Board.

7. General principles for common or contract carrier capacity.

(a) Entity laying, building, operating or expanding natural gas pipeline shall publish the common carrier or contract carrier capacity available in a natural gas pipeline on its website and follow the procedure as per the relevant provisions of the Petroleum and Natural Gas Regulatory Board (Access Code for Common Carrier or Contract Carrier Natural Gas Pipelines) Regulations, 2008. (b) Entity booking the capacity may be allowed to assign or trade the capacity in the open market based on such terms and conditions as may be specified by the Board under the relevant regulations to be framed by the Board for the same relating to fostering fair trade and competition amongst entities. (c) Entity laying, building, operating or expanding natural gas pipeline shall allocate the common carrier or contract carrier capacity available on a transparent basis by maintaining a record of the applications received and the basis of allocation.

8. Verification of own requirement and capacity allocated on a contract carrier basis.

- The entity shall specify the details of its own requirement and the capacity allocated on a contract carrier basis which shall be verified from time to time by the Board as required.

9. Determination of contract carrier or common carrier capacity in natural gas pipeline.

- The common carrier or contract carrier capacity in respect of natural gas pipeline covered under - (a) clause (a) of regulation 3 shall be determined as per the basis provided in clause (j) of sub-regulation (6) of Regulation 5 of the Petroleum and Natural Gas Regulatory Board (Authorizing Entities to Lay, Build, Operate or Expand Natural Gas Pipelines) Regulations, 2008 and as approved by the Board as per the basis specified in the relevant regulations for determining the capacity of the natural gas pipeline; (b) clause (b) of regulation 3 shall be as approved by the Board as per the relevant regulations for determining the capacity of the natural gas pipeline and clause (c) of regulation 3 shall be as authorized by the Central Government or as approved by the Board as per the relevant regulations for determining the capacity of the natural gas pipeline.

10. Declaring of existing pipeline for transportation of natural gas as a common or contract carrier.

(1) If the Board is of the opinion that it is necessary or expedient to declare an existing pipeline for transportation of natural gas as a common or contract carrier, - (a) it may give wide publicity of its intention to do so by inviting objections and suggestions within a period of not less than three weeks from the date of invitation; (b) the Board may also provide the entity owning the natural gas pipeline an opportunity of being heard within a minimum notice period of fifteen days from the close of the invitation for objections and suggestions. (2) After considering the objections and suggestions received and after hearing the entity owning the natural gas pipeline under sub-regulation (1), the Board may declare the pipeline as a common or contract carrier subject to such terms and

conditions as it may fix.(3)Notwithstanding anything in sub-regulation (1) and sub-regulation (2), the entity may, on a suo motu basis, apply to the Board seeking, declaration of a natural gas pipeline as a common or contract carrier and the Board after giving an opportunity of hearing to the entity, may, within a period of fifteen days from the receipt of such an application, declare the relevant natural gas pipeline as a common or contract carrier on such terms and conditions as it deems fit.

11. Miscellaneous.

(a)Entity laying, building, operating or expanding natural gas pipeline and entity booking capacity in natural gas pipeline shall abide by the relevant provisions specified under the Petroleum and Natural Gas Regulatory Board (Access Code for Common Carrier or Contract Carrier Natural Gas Pipelines) Regulations, 2008 and other relevant regulations.(b)If any dispute arises with regards to the implementation of any of the provisions of these regulations, the decision of the Board shall be final.