
Draft

**Regulations for
Exclusivity for
City or Local
Natural Gas
Distribution
Networks**

Petroleum & Natural Gas Regulatory
Board, New Delhi

November 15, 2007

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NOTIFICATION

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PETROLEUM AND NATURAL GAS REGULATORY BOARD

In exercise of the powers conferred by clause (q) of sub-section (2) to 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-

1.1 These Regulations may be called The Petroleum and Natural Gas Regulatory Board (Exclusivity for City or Local Natural Gas Distribution Network) Regulations, 2007.

1.2 These Regulations shall come into force on the date of their publication in the Official Gazette.

2. Definition

2.1 In these Regulations, unless the context otherwise requires-

2.1.1 “Act”, means the Petroleum and Natural Gas Regulatory Board Act, 2006;

2.1.2 “Appointed Day” means the date of October 1, 2007, when the Central Government notified the establishment of the Petroleum and Natural Gas Regulatory Board, 2007.

2.1.3 “Board” means the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of Section 3 of the Act;

2.2 All other words and expressions used herein but not defined shall have the same meanings respectively assigned to them in the Act.

2.3 Unless defined herein or in the Act, the provisions of the General Clauses Act, 1897 as amended from time to time shall apply to these Regulations.

3. **Scope**

3.1 These regulations shall apply to an entity which is laying, building, operating or expanding, or which proposes to lay, build, operate or expand a city or local natural gas distribution network (hereinafter referred to as CGD Network) as per the provisions in the Regulations Authorizing Development of City or Local Natural Gas Distribution Networks.

4. **Rationale for allowing Exclusivity**

The Rationale for allowing exclusivity to an entity is enclosed as **Annexure-A**. This Annexure A only explains the rationale for allowing exclusivity to entities for laying, building, operating or expanding CGD Networks and is not part of this Regulation. Therefore, it does not have any legal force and should not be quoted or relied upon while interpreting this Regulation.

5. **Types of Exclusivity**

5.1 Exclusivity for laying, building and expansion of CGD Network

5.1.1 The Board may consider allowing entity exclusivity for laying, building and expanding of CGD Network over the economic life of the project subject to the following terms & conditions-

5.1.1.1 The CGD project consisting of a network of pipelines and other allied equipments and facilities is normally expected to have an

economic life of 25 years. During such period of time, the authorized entity is required to carry out further expansions required through pipeline capacity building and CNG infrastructure as well as carry out replacements and upgradation of assets & facilities as & when necessary in order to maintain the network system integrity at all times including keeping it abreast of technical advancements. The requirement for investment in pipelines and other allied equipments may emerge either to meet the entity's own requirements or other entities requirements post-exclusivity period as per clause 5.2 below. The entity shall therefore, be required to meet this obligation besides complying with the service obligations as per clause 6 below.

5.1.1.2 The economic life of the project shall commence from -

i) In case an entity proposes to lay, build or expand a CGD Network after the appointed day-

The date of grant of authorization to the entity by the Board as per the Regulations Authorizing Development of CGD Networks.

ii) In case an entity is laying, building or expanding CGD Network before the appointed day-

The entity should have either an authorization from the Central Government before the appointed day or an authorization from the Board as per the Regulations Authorizing Development of CGD Networks. For such an entity, the economic life of the CGD Network project shall

commence from the start-up date of the commencement of physical activities of laying, building or expanding the CGD Network.

5.1.1.3 At the end of the economic life of the project, issue of allowing further extension of the period of exclusivity or not may be considered by the Board, and on such terms and conditions, as it may deem fit at that point in time.

5.1.1.4 Non-compliance to the provision of clause 5.1.1.1 shall be dealt through levy of penalty and termination of the exclusivity period as per the provisions of clause 7. The Board reserves the right to allow any other entity to take up the activities of laying, building or expanding and/ or replacement of assets & facilities in the city or local natural gas distribution network in terms of the provisions in clause 7.

5.2 Exclusivity from the purview of common carrier or contract carriage

5.2.1 The Board may consider providing exclusivity to an entity proposing to lay, build, operate or expand a CGD network for a period of five years subject to the conditions that the entity meets the service obligations as stipulated under clause 6 below.

5.2.2 In case an entity is laying, building, operating or expanding a CGD Network before the appointed day and has been authorized by the Central Government or is authorized by the Board under the **Regulations for Authorizing Development of CGD Networks**, the period of exclusivity shall be –

- a) Three years in case the entity has been operating for three years or more before the appointed day.
- b) Five years in case the entity has been operating for less than three years before the appointed day.

5.3 Specific Performance Bond

Entity laying, building, operating or expanding a CGD network before the appointed day and authorized by the Central Government for such activities shall be required to furnish to the Board, a specific Performance bond linked to allowing of exclusivity and equal to the amount decided as per clause 4.3.1 of the Regulations for Authorizing Development of City or Local Natural Gas Development Networks.

6. **Service Obligations**

6.1 The entity allowed exclusivity under clause 5.2 shall have to comply with the following service obligations during the exclusivity period-

6.1.1 In respect of an entity proposing to lay, build, operate or expand a CGD Network after the appointed day and which has been authorized by the Board as per the Regulations Authorizing Development of City or Local Natural Gas Distribution Networks, the entity shall be obligated to -

- a) provide domestic PNG connections as per the bid, and
- b) lay/ build steel pipeline as per the inch-kilometer bid

The physical achievement shall be monitored by the Board on a half-yearly basis against the targets at 6.1.1 a) and 6.1.1 b) above by prorating the same over the exclusivity period allowed¹.

c) Reach all charge areas or wards through pipelines of adequate size to meet the demand of the consumers in these charge areas or wards.

d) Provide PNG domestic connectivity on demand to any consumer within a distance of 25 meters of the steel belting pipeline or the PE pipeline at no extra charge.

6.1.2 In respect an entity laying, building, operating or expanding a CGD Network before the appointed day and which has been either authorized by the Central Government or by the Board under the Regulations for Authorizing Development of City or Local Natural Gas Distribution Network, the entity shall be obligated to-

a) achieve the targets in respect of providing PNG domestic connections and laying/ building steel pipeline inch kilometer as per clause 6.1.1 a) & b) above as set by the Board at the levels derived based on the successful bids of similar placed cities or local areas in terms of the population as per the census of India 2001 or in the absence of such similarly placed cities or areas, the cities which come closest to these cities or areas in terms of population by suitable extrapolation or interpolation.

The physical achievement shall be monitored by the Board on a half-yearly basis against the targets at 6.1.1 a) and 6.1.1 b) above by prorating the same over the exclusivity period allowed

¹ For example, an entity which has bid for 1 million PNG domestic connections over the exclusivity period of five years must complete 50,000 PNG domestic connections per six month period.

- b) Reach all charge areas or wards through pipelines of adequate size to meet the demand of the consumers in these charge areas or wards.
- c) Provide PNG domestic connectivity on demand to any consumer within a distance of 25 meters of the steel belting pipeline or the PE pipeline at no extra charge.

6.1.3 Post-exclusivity period (i.e. beyond the period of exclusivity allowed under clause 5.2)

The entity shall be obligated to-

- a) continue to expand the network of pipelines by increasing the penetration within all charge areas based on the demand for PNG domestic, besides laying requisite infrastructure for adequate availability of CNG and at adequate pressure in the CGD network. The requirement could emerge out of entity's own requirement or that of other entities, which may use the CGD network post-exclusivity.
- b) allow the use of the CGD network either as a common carrier or as a contract carriage to any entity on a non-discriminatory basis as per the provisions in the **Regulations for Declaring a CGD Network as a Common Carrier or Contract carriage**, subject to-
 - i) payment of network tariff;
 - ii) availability of capacity in the pipeline network;

- iii) injection/ removal of natural gas does not adversely alter the composition of natural gas in the CGD network beyond permissible specifications;
- iv) technical feasibility of granting access with respect to pressure, temperature & composition of the natural gas to be injected / removed;
- v) hydraulics of the pipeline system in the network is not adversely affected;
- vi) safety of pipeline operation in the network is not adversely affected;
- c) provide PNG connectivity on demand to a domestic consumer of any entity within any charge area, at no extra cost, provided the distance from the metering unit in case of an individual residence or the metering units in case of a cluster of residences in a housing block or a group housing society to the nearest point in the network is/ are not more than 25 meters.
- d) provide PNG connectivity on demand to non-domestic consumers of other entity, at no extra cost, provided the distance to the nearest point of connectivity is not more than 25 meters.
- e) provide PNG connectivity on demand to consumer of any entity beyond 25 meters of the pipeline at a reasonable cost. The Board may intervene on a specific complaint from any domestic consumer on the proposal of the entity for levy of higher than a reasonable charge for providing pipeline connectivity and if the proposed

charge is found to be not reasonable, the Board may direct the entity to provide connectivity at the charge decided by it.

7 Cancellation of Exclusivity

7.1 The exclusivity allowed under clause 5.1 to an entity

- a) either proposing to lay, build, operate or expand a CGD network after the appointed day and which has been authorized by the Board or
- b) laying, building, operating or expanding a CGD network before the appointed day and which has been authorized by the Central Government or the Board under the Regulations for Authorizing Development of City or Local Natural Gas Distribution Network

shall be terminated in case the entity either refuses or fails to lay, build or expand the CGD network to meet the natural gas demand requirements including the requirements of other entities allowed to use the CGD network post exclusivity provided under clause 5.2. Non-compliance with the provisions under clause 6 above, as may be applicable for laying, building or expanding activities, may also result in cancellation of the exclusivity.

7.2 The procedure with regards to the termination of exclusivity under clause 7.1 is as under-

- i) The Board shall issue a notice to the entity for the default (i.e., not meeting the obligation to lay, build and expand the CGD network, and any other applicable obligations under clause 6 above due to reasons not beyond the reasonable control of the entity) and allow it a reasonable time to fulfill its obligations under these Regulations.

- ii) No penalty shall be levied in case remedial action is taken by the entity within the specified period to the satisfaction of the Board.
- iii) In case of failure to take remedial action or for a continuing default, the Board, after issuing two notices with a gap of one month each, shall encash the performance bond furnished by the entity as per the requirements of the Regulations for Authorizing Development of CGD Networks or the specific performance bond furnished by the entity as per clause 5.2.4 above. In such a situation, the entity shall lose its exclusivity. The entities authorized under the Regulations for Authorizing Development of City or Local Natural Gas Distribution Networks shall also have to replenish the performance bond within 30 days failing which their authorization will also be terminated.
- iv) Any entity losing its exclusivity allowed under clause 5.1 above will also automatically lose its exclusivity under clause 5.2.

7.3 The exclusivity allowed under clause 5.2 to an entity

- a) either proposing to operate a CGD network after the appointed day and which has been authorized by the Board, or
- b) operating a CGD network before the appointed day and which has been authorized by the Central Government or the Board under the Regulations for Authorizing Development of City or Local Natural Gas Distribution Network

shall be terminated in case the entity fails to comply with the service obligations under clause 6.1.3 (c) to (e) above.

7.4 The procedure with regards to the termination of exclusivity under clause 7.3 is as under-

- i) The Board shall issue a notice to the entity for the default (i.e., for not meeting the service obligations for operating the CGD network and any other applicable obligations under clause 6 above due to reasons not beyond the reasonable control of the entity) and allow it a reasonable time to fulfill its obligations under these Regulations.
- ii) No penalty shall be levied in case remedial action is taken by the entity within the specified period to the satisfaction of the Board.
- iii) In case an entity does not meet the obligations as per clause 6.1.1 a) & b) above, its further expansion plans for supplying natural gas to CNG stations and/ or non-domestic PNG customers will be allowed only after it achieves the physical performance as per the bid.
- iv) In case of failure to take remedial action or for a continuing default, the Board, after issuing two notices with a gap of one month each, shall encash the performance bond furnished by the entity as per the requirements of the Regulations for Authorizing Development of CGD Networks or the specific performance bond furnished by the entity as per clause 5.2.4 above. In such a situation, the entity shall lose its exclusivity. The entities authorized under the Regulations for Authorizing Development of City or Local Natural Gas Distribution Networks shall also have to replenish the performance bond within 30 days failing which their authorization will also be terminated.

8 Miscellaneous

If any dispute arises with regards to the interpretation of any of the provisions of these regulations, the decision of the Board shall be final. Further, the Board may at any time effect appropriate modifications in these regulations.

Rationale for allowing exclusivity to lay, build, operate or expand a CGD network (as per Clause 4 of the Regulations for Exclusivity for City or Local Natural Gas Distribution Networks)²

- 1 Exclusivity,
 - a) for laying, building or expansion of the CGD network during the economic life of the project, and
 - b) in terms of an exemption from the purview of the contract carriage or common carrier for a limited period of time

is envisaged with a view to facilitate the development of a planned and integrated CGD network with appropriate priorities for end-use of natural gas as also the network spread besides providing incentive to the entity for investing in such project.
- 2 Exclusivity as per 1 a) above may be necessary to facilitate the development and operation of an integrated network by a single entity as per the prescribed technical standards, specifications including safety standards. This would also obviate multiple digging-up of lanes, roads, etc. in the municipal/ geographical area of authorization.
- 3 Exclusivity as stated at 1 b) above may be necessary due to the following reasons-
 - a) During the initial phase of the development of city or local natural gas distribution network, there would be a need to have a close synchronization between the development of requisite infrastructure and the ramp-up in the natural gas volumes for different end-consumers in different areas. It is expected that the development of the city or local natural gas distribution

² This Annexure A only explains the rationale for allowing exclusivity to entities for laying, building, operating or expanding CGD Networks and is not part of this Regulation. Therefore, it does not have any legal force and should not be quoted or relied upon while interpreting this Regulation.

network would be quicker, if the same is guided by entity's own plan (who is responsible for meeting various service obligations) rather than the expectation of other potential marketers of natural gas in the network. Also, it would be more practical for the Board to deal with one entity (rather than multiple entities) for the strict compliance of the stipulated service obligations for the entity in the initial period.

b) During such limited period of exclusivity, the authorized entity could be made directly responsible for meeting the desired service obligations, viz., achieving maximum PNG domestic connections, etc.

c) Besides such an approach is also likely to incentivize investments in this capital intensive business.

4 Ideally, while the exclusivity as per 1 a) above should be for the economic life of the project, the exclusivity as per 1 b) would depend upon various factors, viz., the projected natural gas demand build-up in the city or local area (which in turn would depend upon the key drivers for demand in that city or local area, such as, level of industrial/ commercial activity, vehicular population and conversion of vehicles in to CNG, potential domestic PNG customers, consumer preferences, price of alternative fuels, etc.), geographical spread & population, projected capital cost of the project, investment climate, etc. However, considering that these factors would vary from city to city, a credible assessment of exclusivity period based on these factors may not be always practical. Thus, it is proposed that the period of exclusivity at 1 b) above may be limited to five years for cases where an entity proposes to lay, build, operate or expand a CGD network. However, where an entity is laying, building, operating or expanding a CGD Network before the appointed day and has been authorized by the Central Government or is authorized by the Board under the Regulations for Authorizing Development of CGD Networks, the period of exclusivity shall be for three years (if the entity has

been operating for three years or more before the appointed day) or five years (if the entity has been operating for less than three years before the appointed day).

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