

Real Estate Update

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GAS PIPELINE POLICY IN THE PIPELINE & POWER TRADERS TO SHELL OUT BIG BUCKS FOR LICENCE

On the 29th of September, 2003 the Central Government released a draft natural gas pipeline policy that envisages construction of future gas transportation network, based on the common carrier principle. The Gas Authority of India Limited ("GAIL") has been nominated as the coordinator of cross-country gas pipelines, thereunder.

The policy will apply to all fresh pipeline projects that are longer than 100 km in length. Any producer of gas will have the right to sell gas within 100 kms of well-head or land-fall point to consumers directly and lay the pipeline for this purpose, subject to prior permission of the Central Government, which shall regulate transportation of gas until appointment of a regulator under the Petroleum Regulatory Board Bill, 2002. Existing pipelines and projects already approved, such as Reliance Industries' proposed Kakinada-Goa and Jamnagar-Calicut pipelines, fall outside the purview of the new policy.

The salient features of the draft policy are as follows:

- A regulator will be appointed (the "**Regulator**") for regulating transmission, distribution, supply and storage systems for natural gas/liquefied natural gas and to ensure access to the gas pipeline on a non-discriminatory, common carrier principle with a level playing field for all users, under the Petroleum Regulatory Board Bill, 2002 and till such time this is done, the Central Government will function as the Regulator.
- Transportation of all gas will be done through a network of pipelines laid in accordance with authorization granted by the Regulator. The Regulator must grant or refuse an application for authorization to transport gas within 150 days.
- All trunk pipelines for transportation of gas across the country covering more than one state, or pipelines with natural gas pressure of more than the notified level will be built/managed by a company to be notified by the Government and till such is notified, by GAIL.
- All gas pipelines, except captive transmission gas pipelines laid for exclusive use of a large consumer, will be built on the common carrier principle and their capacity will be expanded or an additional pipeline laid, if so desired by the Regulator, to meet the requirement of new players.
- Any producer of gas or other person desirous of transporting gas owned by it, will negotiate with the pipeline owner on mutually agreed terms of transportation.
- The Regulator will approve tariff rates for gas transmission in all cases where gas is transported on the common carrier principle and the users have not finalized tariff with the owners of the pipeline. The tariff for the transmission pipeline and/or for the distribution pipelines would be approved by the Regulator so as to provide a reasonable rate of return to the pipeline company, as decided by the Regulator. This would apply as a cap to enable lower negotiated rates based on market prices.
- The Regulator may issue appropriate directions with respect to operations of any pipeline network existing on the date of this policy or for which any authorization has been granted and the pipeline is yet to become operational, to ensure grid connectivity.
- The Regulator will prepare a long-term plan for the gas pipeline network, which will provide a perspective for the growth of gas pipeline network in various States and across various regions in consultation with the State Governments to enable industrial growth, development of such networks and extensive commercial usage of gas.
- A National Advisory Council consisting of stakeholders of the gas grid system will be created to advise the Government and the Regulator.

The policy envisages GAIL to act, akin to the PowerGrid Corporation in the power sector, as the central network builder and the central coordinator for gas across the country with local and regional load centres to coordinate the distribution at the regional levels. The policy seeks to promote investment in gas pipelines and will provide a policy framework for the systematic development of gas sector.

POWER TRADERS TO SHELL OUT BIG BUCKS FOR LICENCE

The Electricity Act, 2003 ("**Electricity Act**") had permitted private sector players to enter the power trading business subject to procurement by such private parties of a licence in this regard. Section 52 of the Electricity Act entrusts the Central Electricity Regulatory Commission ("**CERC**") with the task of issuing licences to entities planning to take up inter-state electricity trading and also to specify the capital adequacy norms, technical requirements and credit worthiness for undertaking such trading. The CERC has now prescribed an application fee of Rs 0.5 million and an annual licence fee of Rs 2.5 million to be paid by companies planning to foray into the power trading business.

Further, companies planning to foray into the power trading business may be required to bring in a minimum capital of Rs 100 million. According to the power regulator, while the minimum capitalization requirement has been

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proposed at Rs 100 million, this may increase based on the quantum of power to be traded. Accordingly, companies trading between 50 and 100 million units a month might be required to infuse Rs 150 million in the business. Companies trading between 100 and 150 million units a month may have to bring in Rs 250 million. For the 150 and 200 million units a month band, the regulator has prescribed a minimum capital employed criterion of Rs 350 million and for the 200-250 million units a month band, the minimum capital employed criterion has been set at Rs 500 million.

Before the coming into force of the Electricity Act, 2003, power trading was not a distinct licensed activity and there were no capital or licence fee norms, as Power Trading Corporation had a monopoly over the power trading business. But now, since other players can enter the business through a licensing regime, the regulator has set the conditions to ensure that power traders can cover the financial liability arising out of the maximum trade transacted by them. The entities will also have to intimate the regulator before they can trade more than what is prescribed in the original licence.

Apart from the financial conditions placed by the regulator, technical standards for prospective traders have also been set. Not only are they be required to understand the market and the operations of the system, they should also be able to conduct commercial transactions. Traders should further be capable of communicating with business partners and system operators by installing adequate communications facilities.

Under the new norms, three forms of trading contracts have been envisaged, namely long-term bilateral contracts, short-term forward trading contracts and spot trading contracts.

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