

PART II

Statutory Notification (S.R.O)

Government of Pakistan

CABINET DIVISION

**NATURAL GAS REGULATORY AUTHORITY
(NGRA)**

NOTIFICATION

Islamabad, the 26th February, 2002

S.R.O. (I)/2002 — In exercise of the powers conferred by section 34 of the Natural Gas Regulatory Authority Ordinance, 2000 (I of 2000), the Natural Gas Regulatory Authority, with the approval of the Federal Government, is pleased to make the following rules, namely: —

PART I

PRELIMINARY

1. Short title and commencement. — (1) These rules may be called the Natural Gas Regulatory Authority (Licencing) Rules, 2002.

(2) They shall come into force at once.

2. Definitions. — (1) In these rules, unless there is anything repugnant in the subject or context,—

- (a) “annual turnover of the licensee” means the actual turnover less amounts representing, Sales Tax, Gas Development Surcharge and other such charges, levies, duties, taxes, or cesses imposed by the Federal Government, and the cost of natural gas;
- (b) “application” means an application made to the Authority in accordance with the provisions of these rules for obtaining a licence from the Authority;
- (c) “BTU” means British Thermal Unit;
- (d) “category of retail consumer” means a category of retail consumer designated as such by order of the Federal Government from time to time;

- (e) “common carriage” means the obligation to transport, on a non-discriminatory basis, for a fee or any other basis approved by the Authority of natural gas, through the pipe lines of a licensee;
- (f) “consent” includes any licence, lease, right, exemption, approval, concession, permission, sanction, permit, authorization, certification, clearance, privilege, option, entitlement, benefit or validation;
- (g) “communication” means the pleadings and any other correspondence with the Authority in connection with the proceedings;
- (h) “correct meter” means a meter that registers the amount of natural gas passing through it to an accuracy of plus two percent or such other accuracy as the Authority may from time to time determine and the Authority may determine different accuracies for different types of meters;
- (i) “MMCF” means million cubic feet;
- (j) “MMCFD” means million cubic feet per day;
- (k) “main” means a distribution line that serves as a common source of supply of natural gas for more than one service line;
- (l) “meter” means an instrument for measuring and indicating or recording the volume of natural gas that has passed through it;
- (m) “motion” means any written or, if so permitted by the Authority, oral application in relation to any matter under these rules;
- (n) “Ordinance” means the Natural Gas Regulatory Authority Ordinance, 2000 (I of 2000);
- (o) “open access” means the non-discriminatory access, for a fee or any other basis approved by the Authority, to transmission or distribution facilities;
- (p) “pipe” means any pipe or tubing used in the transportation of gas, including pipe type holders and the expression “piping” shall be construed accordingly;
- (q) “pipeline” means all parts of those physical facilities through which natural gas moves during transmission, including pipes, valves and other appurtenances attached to pipes, compressor units, metering stations, regulated stations, delivery stations, holders and fabricated assemblies;
- (r) “pleadings” means the application, the replies to the application and rejoinders;

- (s) “proceedings” means the process beginning with the filing of an application and ending when the Authority makes its final determination and includes the process of a review by the Authority of its final determination;
- (t) “project” means transmission, distribution or sale of natural gas through a specified route or in a geographical area, where the applicant proposes to build the requisite pipelines and other infrastructure;
- (u) “psig” means pounds per square inch gauge;
- (v) “register” means the record maintained by the Registrar wherein shall be entered the title and number of all applications and communications in such manner and with such details as the Authority may, from time to time, direct;
- (w) “Registrar” means a person designated as such by the Authority to register and record the receipt of communications and applications submitted to the Authority, and to perform such other duties under these rules as may, from time to time, be assigned by the Authority;
- (x) “regulatory accounts” means accounts of the licensee maintained in such form as the Authority may require for enabling it to obtain all relevant information for determining licensee’s total revenue requirement for each financial year and to establish or vary any tariff;
- (y) “service line” means a distribution line that transports natural gas from a main to
 - (i) a consumer’s meter or the connection to a consumer’s piping, whichever is further downstream; or
 - (ii) the connection to a consumer’s piping if there is no consumer meter;

(2) The words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Ordinance.

PART II

LICENCING OF REGULATED ACTIVITIES

3. Criteria for ensuring functions. - (1) In exercising its functions the Authority shall, as far as practicable, look after the interests of the consumers and the licensees along with the nation as a whole.

(2) A licence may be restricted by the category of regulated activity, area of operation, period of authorization and such other terms as the Authority may determine.

(3) The Authority may grant exclusive or non-exclusive licences to carry on any regulated activity to such persons, and on such terms, in respect of such areas or between such places and for such periods, as it may, in accordance with these rules, determine:

Provided that a licence granted by the Authority shall be valid for a maximum period of thirty years and in determining the period of a licence, the Authority shall keep in view the investment to be made by the applicant.

4. Application for a licence. - (1) Any company incorporated inside or outside Pakistan may submit an application to the Authority for obtaining a licence to undertake a regulated activity, by filing it with the Registrar along with such fees as the Authority, may, from time to time, determine.

(2) An application filed under sub-rule (1) shall be made in the format specified in Schedule-I to these rules, clearly specifying the information required therein.

(3) An application filed under sub-rule (1) shall be accompanied by —

- (a) attested copies of the memorandum and articles of association of the applicant;
- (b) attested copy of the applicant's certificate of commencement of business;
- (c) attested copy of the latest yearly submission to the Registrar of Companies;
- (d) attested copy of the latest audited annual and unaudited half yearly financial statements of the applicant;
- (e) attested copy of the corporate authorization allowing the submission of the application;
- (f) in the case of an applicant being a subsidiary company, the documents specified in clauses (a) to (d) of this sub-rule, pertaining to its holding company;
- (g) details of the consents required under applicable laws, from persons other than the Authority, for carrying on the relevant regulated activities and the status of such consents;
- (h) details of the technical and financial expertise and resources available for carrying on the relevant regulated activities;
- (i) details of the resources and expertise available to handle emergency situations arising out of natural calamities, accidental or criminal acts or omissions, specifying which such resources are available and which are to be procured;
- (j) a list of the names and business addresses of the applicant's senior management, including without limitation, departmental and/or divisional heads;

- (k) if the applicant or any of its officers or directors, directly or indirectly, owns, controls, or holds ten percent or more of the voting interest in any other person engaged in the production, transmission, distribution, or sale of natural gas, or in any person engaged in the financing, construction, maintenance or operation of such facilities, a detailed explanation of each such relationship, including the percentage of voting interest owned, held or controlled;
- (l) a list of all other applications, petitions or filings filed by the applicant which are pending before the Authority at the time of the filing of this application and which directly and significantly affect this application, including an explanation of any material effect the grant or denial of those other applications, petitions or filings will have on this application and of any material effect the grant or denial of this application will have on those other applications, petitions or filings;
- (m) details of the following market data --
 - (i) an estimate of the volume of natural gas to be transmitted, distributed or sold;
 - (ii) number and consumption details of consumers;
 - (iii) the applicant's total annual peak day natural gas requirement;
 - (iv) total past (if applicable) and expected curtailments of service by the applicant; and
- (n) such other information or documentation as the Authority may, from time to time, require, including without limitation, supplementary information or documentation required by the Authority to clarify the information contained in the application.

(4) In the case of an application for a transmission licence, in addition to the documents specified in sub-rule (3), the application shall be accompanied by. -

- (a) maps issued or certified by the Survey of Pakistan, drawn to an appropriate scale showing details of areas where the transmission facilities are or are proposed to be located and the principal geographical features of the said areas, including without limitation, details of mountains, rivers, streams, roads, buildings or construction and habitation;
- (b) details of the sources and quality of supply of natural gas including forecasts of the available quantity from such sources;
- (c) details of how the applicant proposes to meet the safety and service obligations prescribed by the Authority;

- (d) details of the capacity and estimated throughput, of the transmission facilities, per annum for ten years following the proposed grant of the licence; and
- (e) technical specifications of the transmission facilities (existing and proposed), including without limitation, specifications for the design, construction, operation and maintenance of the facilities.

(5) In the case of an application for a distribution or a sale licence, in addition to the documents specified in sub-rule (3), the application shall be accompanied by.-

- (a) maps issued or certified by the Survey of Pakistan, drawn to an appropriate scale showing the territory within which the applicant wishes to distribute and sell natural gas; details of areas where the distribution facilities are or are proposed to be located giving the principal geographical features of the said areas, including without limitation, details of roads, buildings or construction and habitation; and details of proposed connections and inter-connections with the transmission and distribution facilities of other licensees;
- (b) details of the sources and quality of supply of natural gas including forecasts of the available quantity from such sources;
- (c) details of how the applicant proposes to meet the safety and service obligations prescribed by the Authority; and
- (d) technical specifications of the distribution facilities (existing and proposed) or pipelines for the sale of natural gas, as the case may be, including without limitation, specifications for the design, construction, operation and maintenance of the facilities or pipeline, as the case may be.

(6) In the case of an application for a project, in addition to the documents specified in sub-rule (3), or, as the case may be, sub-rule (4) or (5), the application shall be accompanied by ---

- (a) a description of the project, its purpose and cost, including conceptual engineering design, capacity, location option and preference, as well as all ancillary or related facilities that are proposed to be constructed, owned or operated by the applicant;
- (b) an outline of the anticipated timetable for construction and operation, together with dates by which critical events, including approvals required from other persons, must take place to ensure continued economic viability;

- (c) a description of any new or expanded public works, undertakings or infrastructure that will be entailed by the project, together with an estimate of the costs and necessary completion dates;
- (d) identification and preliminary assessment of any impacts by the project on the environment; proposals for reducing negative impacts and obtaining the maximum benefits from positive impacts; and the cost to the project of implementing the proposals;
- (e) identification of the consumers to be served by the project; and, where the project would expand the area served by an existing licensee, a geographical description of the expanded service area;
- (f) studies or summary statements identifying the need for the project and confirming the technical, economic and financial feasibility of the project, identifying assumptions, sources of data, and alternatives considered (if applicable);
- (g) a study comparing the costs and benefits of the project and alternatives, which estimates the value of all of the costs and benefits of each option or, where not quantifiable, identifies the cost or benefit and states that it cannot be quantified;
- (h) a statement identifying any significant risks to successful completion of the project;
- (i) a statement of the revenue requirement impact of the project and the resulting effect on the tariff chargeable to consumers;
- (j) a description of the applicant's public information and consultation programme, including the names of persons consulted, as well as a summary of the issues and concerns discussed, mitigation proposals explored, decisions taken, and items to be resolved;
- (k) conformed copy of each contract, letter of intent or other agreement for the transmission, distribution or sale of natural gas proposed by the application, indicating the rate to be charged and if no agreements have been made, indicating the basis for assuming that contracts will be executed and that service will be rendered under the terms contemplated in the application;
- (l) a full description of all facilities, other than those covered by the application, necessary to provide the service proposed in the application, the estimated cost of such facilities, by whom they are to be constructed, and evidence of economic feasibility;

- (m) a copy of each market survey made within the past three years for such markets as are to receive new or increased service from the project;
- (n) a statement showing the rights of the applicant or any other person to transmit, distribute or sell natural gas in each area covered by the project;
- (o) a statement of the applicant's anticipated cash flow, including provision during the period of construction and the first three full years of operation of the project for interest requirements, dividends, and debt capital retirements;
- (p) a comparative proforma balance sheets and income statements for the period of construction and each of the first three full years of operation, giving effect to the proposed construction and proposed financing of the project;
- (q) any additional data and information which the applicant proposes to rely on showing the adequacy and availability to it of resources for financing the project;
- (r) a detailed estimate of total capital cost of the project, showing the cost of construction by operating units such as compressor stations, main pipelines, laterals, measuring and regulating stations, and separately stating the cost of rights-of-way, damages, surveys, materials, labour, engineering and inspection, administrative overheads, fees for legal and other services, allowance for funds used during construction, and contingencies; including a brief statement indicating the source of information used as the basis for the estimate;
- (s) data on preliminary bids, if any, for the project and recent experienced cost data for facilities of similar character;
- (t) a concise statement setting forth arrangements for supervision, management, engineering, accounting, legal, or other similar services to be rendered in connection with the construction or operation of the project, if not to be performed by employees of the applicant, including reference to any existing or contemplated agreements therefor, together with-
 - (i) a statement showing the affiliation between the applicant and any parties to such agreements or arrangements; and
 - (ii) conformed copies of all construction, engineering, management and other similar service agreements or contracts in any way operative with respect to construction, operation or financing of the project; and

(u) Notwithstanding any thing hereinbefore contained a licensee will not be required to provide the documents and information for expansion or extension of its distribution facilities within the geographical area covered by its licence.

(7) Existing companies may seek exemption from the Authority from the provision of any part of the information or documentation required by sub-rules (3), (4) or (5).

(8) The Registrar shall examine the contents of the application in order to satisfy himself as to the conformity thereof with the provisions of sub-rules (2), (3) and (4) or (5) and, if applicable, sub-rule (6), as the case may be,—

(a) where the application is found to be in conformity with the requirements of these rules, he shall accept the application and endorse thereon a stamp acknowledging the filing along with the number given thereto in the register; or

(b) where the application is found not to be in conformity with the requirements of these rules, he shall as soon as may be, but no later than seven days of filing thereof, return the application to the applicant with directions to amend and resubmit the application in accordance with the provisions of sub-rules (2), (3) and (4) or (5) and, if applicable, sub-rule (6), as the case may be:

Provided that, where an application is resubmitted by the applicant, and the Registrar is not satisfied of the conformity thereof with the requirements of sub-rules (2), (3) and (4) or (5) and, if applicable, sub-rule (6), as the case may be, shall place the application before the Authority for such directions as it may deem necessary, no later than seven days of the date of resubmission thereof by the applicant. The Authority shall not reject an application on the grounds of any defect therein without giving the applicant an opportunity of rectifying the defect within the time specified for the purpose by the Authority.

(9) Any communications filed by a person in connection with the proceedings shall contain his or its, name and address, the subject-matter of the communication and the title of the proceedings, and shall be filed with the Registrar who shall acknowledge receipt thereof either on a copy of the communication or through a written receipt in a format to be determined by the Authority and shall also endorse on the filing receipt the number of the application in connection with which the communication is filed and the number assigned to the communication on the register.

(10) All applications shall be deemed to be filed on the date of acceptance thereof by the Registrar, and where resubmitted in accordance with the provisions of sub-rule (7), on the date the Registrar or the Authority, as the case may be, accepts the filing thereof

and a communication shall be deemed to be filed on the date on which it is filed with the Registrar.

(11) The contents of any communication shall pertain to a single application in respect of which it is filed.

(12) An application or communication shall be signed by the communicator or by one or more of the applicant's or communicator's authorized representatives in their individual names on behalf of the applicant or the communicator.

(13) Any application or communication, wherein any statement of fact or opinion is made by the applicant or the communicator, shall be verified by an affidavit, drawn up in the first person stating the full name, age, occupation and address of the deponent and the capacity in which he is signing, indicating that the statement made therein is true to the best of the knowledge of the deponent, information received by the deponent and belief of the deponent, and shall be signed and sworn before a person lawfully authorized to take and receive affidavits:

Provided that, a communication filed during the course of a hearing may be affirmed in person before the Authority by the person filing the same and where any statement in an affidavit is stated to be true according to the information received by the deponent, the affidavit shall also disclose the source of such information.

(14) An application or communication shall be filed with such number of copies as the Authority may, from time to time, determine.

(15) An application or communication shall be filed for registration during office hours at the principal office of the Authority, or such other office as may be directed by the Authority. An application or communication may be forwarded to the Authority through registered post or courier service. If an authorized agent files an application or communication on behalf of any party, the document authorizing the agent to do so shall be filed along with the application or communication, if not already filed in the record of the case.

5. Admission of application. — (1) As soon as may be, but not later than fourteen days of the date of filing of the application, an application shall be placed before the Authority for appropriate action.

(2) The Authority may call for submission by the applicant of any further supporting communication for the purposes of evaluation of the application for admission, within such time as it may specify. The Authority shall not be required to entertain or admit any application until such supporting communication is furnished.

(3) The Authority may, if a prima facie case for evaluation exists, admit the application for consideration without requiring attendance of the applicant. The Authority shall not pass an order refusing admission without giving the applicant an opportunity of being heard or making a written representation.

(4) In case the Authority admits the application, it may give such orders and directions for the service of notices as it deems appropriate to--

- (a) all persons affected by or interested in the application who in the opinion of the Authority are likely to be affected or interested ; and
- (b) persons who, by reason of their calling or expertise, may be of assistance to the Authority in arriving at a just and informed determination of the proceedings.

(5) The Authority may, if it deems appropriate, direct the advertisement by publication of the title and brief description of the application in any one or more newspapers specified for the purpose by the Authority. Such publication shall also contain a notice of the availability of a copy of the application at the office of the Authority on payment of the fee determined for the purpose by the Authority.

6. Publication and service of notices. — (1) A notice or process issued on the directions of the Authority may be served by the Registrar or the party concerned as the Authority may direct, and the Authority may direct the service to be effected through any one or more of the following modes of service, namely:--

- (a) by hand delivery through a messenger;
- (b) by registered post acknowledgment due ; or
- (c) by publication in a national daily newspaper in the English language and two national daily newspapers in the Urdu language and by advertisement in the electronic media in cases where the Authority is satisfied that it is not reasonably practicable to serve notices in any other manner.

(2) Every notice or process required to be served on, or delivered to, any person may be sent to the person at the address furnished by him for service or at the place where the person or his agent ordinarily resides or conducts business or personally works for gain and where a person is to be served during the course of the proceedings and such person has authorized an agent or representative to represent him in the proceedings, such agent or representative shall be considered duly authorized to accept service of a notice and process on behalf of the person concerned.

(3) In case an applicant does not fulfill the requirements of these rules or directions of the Authority regarding service or publication, the Authority may either reject the application or give such further directions, as it deems fit and proper.

(4) No service or publication shall be deemed invalid by reason only of any defect in the name or description of a person if the Authority is satisfied that such service or publication is in all other respects sufficient.

7. Intervention. — (1) Any interested person who desires to participate in the proceedings may file an intervention request for leave to intervene along with the fees determined for the purpose by the Authority.

(2) The intervention request shall state the name and address of the person filing the same and shall describe the manner in which such person is or is likely to be substantially and specifically affected by any determination in the proceedings. The intervention request shall state the contention of the person making the same, the relief sought and brief particulars of the evidence such person intends to adduce during the course of the proceedings.

(3) The Authority may grant leave to intervene, subject to such conditions, if any, as it may deem appropriate, and it may grant leave to intervene without requiring attendance of the intervener.

(4) The Authority shall not pass an order refusing to grant leave to intervene without giving the intervener an opportunity of being heard or making a written representation. The Authority, while refusing leave to intervene, may direct the person making the intervention request to file such particulars before the Authority as may have been referred to in the intervention request, and such particulars may be taken into account by the Authority in accordance with rule 9 which shall, mutatis mutandis be applicable to such communications.

(5) No intervention request may be filed or acted upon during a hearing unless permitted by the Authority after opportunity for all parties to object thereto, which may be made orally or in writing, as the Authority may direct. If no objection is made, the Authority may decide to accept or reject the intervention request based on the procedural and substantive merits of the intervention request.

(6) No intervention request may be filed or acted upon after the close of evidence in the proceedings.

8. Reply and rejoinder. — (1) Each person to whom a notice of the filing of an application is issued pursuant to clause (b) of sub-rule (4) of rule 5 or any person whose intervention request has been accepted by the Authority, who desires to oppose or support the application may file a reply within fifteen days of the date of service of notice or the date of acceptance of the intervention request, as the case may be, with such number of copies as may be directed by the Authority.

(2) In the event a person referred to in sub-rule (1) does not file a reply, the Authority may decide the application on the basis of, inter alia, the documents and evidence submitted by the applicant.

(3) In the reply, the person filing the same shall specifically admit, deny or explain the facts stated in the application and may also state additional facts which are relevant and necessary for reaching a just and informed decision in the proceedings. The

reply shall be signed, verified and supported by means of an affidavit in the same manner as in the case of the application.

(4) The person filing a reply shall serve a copy of the reply duly attested true copy on the applicant or its authorized representative and file proof of such service with the Registrar at the time of filing the reply.

(5) Where the person filing a reply states additional facts, data or reports, the Authority may allow the applicant to file a rejoinder to the reply within fourteen days of the order of the Authority to this effect.

(6) The procedure specified in this rule for filing of the reply shall also apply to the filing of the rejoinder.

9. Comments and participation. — (1) A person, other than an intervener or a person to whom a notice pursuant to clause (b) of sub-rule (4) of rule 5 has been issued, who intends to file any comments in relation to any proceedings before the Authority, shall deliver to the Registrar a statement of comments.

(2) The Authority may permit such a person to participate in the proceedings, if the Authority considers that the participation of such a person shall facilitate the proceedings and the Authority's decision in the matter. The person filing the statement of comments pursuant to sub-rule (1) shall not be entitled as of right to participate in the proceedings.

(3) The Authority shall take into account the contents of any statement of comments filed pursuant to sub-rule (1) in the final determination. If the Authority deems fit, it may invite written representations by the parties to the proceedings in response to the statement of comments.

10. Hearings by the Authority. — (1) After the filing of the pleadings, the Authority shall examine the same and determine whether a hearing is required to arrive at a just and informed decision. For the purposes of determining the same, the Authority may administer discoveries and interrogatories to any person and may

- a. Issue direction for supply further information; or
- b. Require appearance of any person before it.

(2) If the Authority orders a hearing, it shall fix the date of hearing for the parties to present written or oral arguments on the basis of the pleadings. The Authority may also frame the issues over which the parties may be allowed to address arguments and present evidence before the Authority. In framing the issues, the Authority may exclude one or more issues or matters raised or stated in the pleadings and may include additional issues or matters not raised in the pleadings.

(3) If the Authority determines not to hold a hearing, it shall inform the parties of its decision not later than seven days of such determination. The parties shall, not later than ten days of receiving such notice, file with the Registrar the detailed evidence referred to in the pleadings.

(4) Notice of the commencement of a hearing shall be given at least fourteen days prior thereto, unless the Authority determines, for reasons to be recorded in writing, that a shorter period of notice is in the public interest:

Provided that, once hearing in the proceedings has commenced, notice of the next date of hearing may be of any period determined by the Authority and may be announced by the Authority at the time of adjournment of the hearing or by notice to the parties in accordance with sub-rule (1) of rule 6.

(5) The Authority shall maintain a public listing of all proceedings set for hearing at a place accessible to the general public.

(6) All hearings shall be at the principal office at Islamabad unless a different location is designated in the notice for hearing.

(7) Where, on a date fixed for hearing, any of the parties does not appear, the Authority may either dismiss the application for default of appearance of the applicant or proceed against the party in default *ex parte* and hear and decide the application.

(8) Where an application has been dismissed or decided in default of appearance of a party, the person aggrieved may file a motion, within ten days of the date of such dismissal or decision, seeking a recall of the order passed. The Authority may recall the order on such terms as it considers fit, if it is satisfied that there was sufficient cause for non-appearance of the party.

(9) The Authority shall declare close of evidence following the submission of all the evidence by the parties. A party shall not present additional evidence after it has closed its evidence nor may any hearing be reopened after having been closed, except upon motion and the showing of good cause. The Authority shall give notice to all parties of its ruling upon such motion.

(10) Where the Authority decides not to hold a hearing, the evidence shall be deemed to have been closed thirty days prior to the expiry of the time prescribed under sub-rule (2) of rule 15.

(11) Notwithstanding the close of evidence in the proceedings, for the purposes of arriving at its final determination, the Authority may administer discoveries and interrogatories to any person and may -

- (a) issue direction for supply of further information; or
- (b) require any person to appear before it.

(12) Where the Authority decides not to hold a hearing, it shall render its final determination in the proceedings on the basis of the pleadings, the evidence filed by the parties and the communications filed by any person.

11. Discovery.- (1) At any stage of the proceedings, the Authority may require any person to produce such documentary or other evidence as the Authority may consider necessary for the purpose of enabling it to conduct a fair hearing or to arrive at a just and informed decision:

Provided that such evidence shall only be used for the purposes of the hearing and shall be kept confidential by the Authority if the person providing the evidence proves, to the satisfaction of the Authority, that it would be detrimental to such person's interests if the evidence is disclosed.

(2) A party to any proceedings may, at any time before the close of evidence, make a motion to the Authority for discovery of any document or other information from any party to the proceedings or from any other person. The motion for discovery shall specify the nature and content of the discovery sought and its relevance to the issues in the proceedings. The Authority may -

- (b) after giving an opportunity of responding orally or in writing, within the time limit specified by it for the purpose, to the party by whom the discovery is sought, reject the motion for discovery if deemed by the Authority to be irrelevant or unnecessary for the purposes of the proceedings or unlikely to be of assistance to the Authority in its decision; or
- (b) after giving an opportunity of responding orally or in writing, as deemed fit by the Authority, within the time-limit specified by it for the purpose, to the party against whom the discovery is sought, accept the same subject to any amendments to the contents or extent of the discovery request in the motion.

(3) Upon the acceptance of a motion for discovery, the Authority shall direct the person from whom the discovery is sought to produce the required documents or information before the Authority within the time-limit directed by the Authority and, upon production as aforesaid, the Authority shall provide a copy thereof to the party making the motion for discovery.

(4) Where the directions for discovery made by the Authority on the motion of a party are not complied with within the time-limit determined for the purpose, the party making the motion for discovery shall immediately bring such failure of discovery to the notice of the Authority. Failure of a party to file a motion to compel discovery in a timely manner may result in a waiver of its right to compel the discovery.

(5) A party which has produced any document, or information in response to a direction for discovery, shall be under a continuing duty to bring to the notice of the

Authority any changes rendering the contents and meaning of any documents or information inaccurate or incomplete and shall amend such documents or information in accordance with the directions of the Authority.

12. Interrogatories. - (1) The Authority may, whether by itself or on a motion made by any party and granted by the Authority, on such terms as it may deem fit, administer written interrogatories to any person. The interrogatories shall state the questions whose answers are sought by the Authority or any party to the proceedings. The Authority shall ensure that the questions stated in the interrogatories are relevant to the issues in the proceedings.

(2) A person to whom interrogatories are administered shall respond thereto within the time-limit specified by the Authority. The response to interrogatories shall be made in writing and shall be filed with the Registrar.

(3) Where interrogatories administered on the motion of a party are not responded to within the time-limit specified for the purpose by the Authority, the party making the motion for interrogatories shall immediately bring such failure of response to the notice of the Authority. Failure of a party to make a motion to compel response to the interrogatories in a timely manner may result in a waiver of its right to compel the response.

13. Transcripts. - (1) The Authority may on its own and shall on a request made by any party in writing at least seven days before the date of a hearing, arrange that the proceedings at the hearing be officially transcribed.

(2) If the hearings are transcribed pursuant to sub-rule (1), a party requesting a copy of the transcript shall pay to the Authority the reasonable cost of preparing the copy.

(3) A correction in the official transcript may be made only to make it conform to the evidence presented at the hearing. A correction in the official transcript agreed to by the parties may be incorporated into the record, if and when approved by the Authority, at any time during the hearing or after the close of evidence:

Provided that no correction in the official transcript shall be incorporated later than ten days from the date of receipt of the transcript by the party seeking the correction.

14. Tentative opinions. - (1) At any stage in a proceeding, the Authority may record, in writing its tentative opinion on the application or any particular issue therein. The purpose of recording such tentative opinion shall be to afford the applicant an opportunity to appraise the prospects of its application and accordingly to consider withdrawal or modification of its application or the evidence adduced by it. The tentative opinion shall contain a statement of reasons and a determination of each issue relevant to such opinion.

(2) Neither the Authority nor the applicant shall be bound, or in any manner be restricted, by a tentative opinion rendered pursuant to sub-rule (1) and nothing recorded in a tentative opinion shall be used in any manner prejudicial to the interests of the Authority or an applicant.

15. Decisions of the Authority. - (1) All orders, determinations and decisions of the Authority shall be taken in writing and shall identify the determination of the Chairman and each member.

(2) The Authority shall decide an application within six months of the date of filing of the application:

Provided that, the Authority may, only for causes beyond its control, extend the said six month period by a further period of one month, provided further that, the Authority shall not extend the time for its final determination in a proceeding beyond an aggregate period of six months. The reasons for such extension in time shall be recorded in writing.

(3) Copies of all orders, determinations and decisions made or issued by the Authority, shall be certified under the signature of the Registrar and the seal of the Authority and shall be made available to any person on payment of such fees as the Authority may, from time to time, determine. Copies of all such orders, determinations and decisions shall be available at the principal office at Islamabad for public inspection free of cost.

(4) Within thirty days of the final determination in the proceedings by the Authority, a party may file an application for review of the final determination. An application for review shall specify the grounds on which review is sought by the party. Parties to the proceedings shall be afforded a reasonable opportunity to respond to a motion for review, orally or in writing as deemed fit by the Authority. The Authority may, in its discretion, convene a conference or hearing to discuss the case. The Authority shall take action on an application for review within fourteen days of receipt of such application unless it gives notice to the parties, in writing, that a longer period of time will be required and specifies the additional period of time necessary to consider the motion.

PART III

EVALUATION OF THE APPLICATION

16. Evaluation of the application. - (1) The Authority shall evaluate an application made under rule 4 while considering, interalia, the following, namely:

- (a) the technical, administrative and financial capabilities of the applicant in relation to the regulated activity for which the licence is sought;
- (b) the viability of the sources of supply of natural gas;
- (c) if applicable, the effects of the proposed project on other transmission, distribution or storage facilities;

- (d) the methods and procedures proposed to be adopted for operating and maintaining the transmission, distribution or other related facilities;
- (e) the technical specifications of the proposed transmission, distribution or other related facilities;
- (f) the basis for potential demand for the transmission, distribution or sale of natural gas;
- (g) in the case of a project;
 - (i) the capital costs of the project;
 - (ii) the avoidance of duplication with other pipelines; and
 - (iii) the assessment of economies of scale.
- (2) To evaluate applications filed under rule 4 of these rules the Authority may perform investigations, collect necessary information, consult the Federal Government and Provincial Governments and local authorities, and generally take any measure or action it considers necessary to decide whether or not to allow such application.

PART IV

LICENCE CONDITIONS

17. Transfer or assignment of licences. - No licence shall, without the prior written approval of the Authority, be assigned or transferred. The Authority shall act on request for approval by a licensee within ninety days thereof unless for reasons to be recorded in writing, the Authority determines that it is not in the public interest to do so. It shall be the licensee's obligation to provide the Authority all information required by it for the purposes of approval of a transfer or assignment of the licence.

18. Accounting requirements. - (1) In addition to the statutory accounts which the licensees are required to keep under any law for the time being in force, all licensees shall maintain, keep, preserve and submit to the Authority, audited yearly regulatory accounts.

(2) The Authority may require licensees to have the accounts specified in sub-rule (1) further audited, at the cost of the Authority, by an auditor appointed by the Authority and licensees shall afford such auditors all facilities and provide them with all information required by them for the proper execution of such audit.

19. Tariff for individual regulated activities.- (1) No licensee shall charge for any regulated activity any fixed or variable amount in excess of the relevant tariff the Authority may, from time to time, approve and publicized by the licensee in the print and electronic media or provide service on terms and conditions other than those approved by the Authority from time to time in accordance with the Natural Gas Regulatory Authority (Tariff) Rules, 2002.

(2) No licensee shall, without prior written authorization of the Authority, charge any category of retail consumer, for the supply of natural gas, any sale price or minimum charge other than the sale price or minimum charge, as the case may be, notified by the Federal Government for such category of retail consumer pursuant to Section 19 of the Ordinance.

(3) The criteria for approval and modification of tariffs for regulated activities shall include:

- (a) provision for the protection of consumers against monopolistic and oligopolistic pricing;
- (b) a licensee's cost on research, development and capital investment programme;
- (c) provision of reasonable returns to the licensee to attract investment for the quantitative and qualitative improvements of regulated activities;
- (d) encouragement and reward of efficiency;
- (e) sending of appropriate price signals regarding the relative abundance or scarcity of supply of natural gas for a regulated activity;
- (f) minimizing economic distortions, and
- (g) keeping in view the costs of alternate or substitute sources of energy.

20. Obligations of licensees. - All licensees shall be required –

- (i) to comply with all laws, rules and regulations pertaining to or relevant, to the undertaking of the regulated activity for which a licence is granted to it;
- (ii) to supply natural gas of the quality and specifications determined from time to time by the Authority after taking into consideration the views of interested persons;
- (iii) to refrain from exercising discrimination against or showing undue preference towards any consumer, producer of natural gas or any class of consumers or producers;

- (iv) not to interrupt its service to its consumers in order to comply with its contractual obligations owed to another licensee or for compliance with a direction issued by the Authority under these rules or any other reason which is not the fault of, or is not attributable to, the licensee unless the contract between the licensee and a consumer expressly provides for the same;
- (v) to provide transmission or distribution service or make sales of natural gas to all persons who meet the eligibility criteria laid down by the Authority on the basis of the policy guidelines issued by the Federal Government in this behalf.

Provided that if the Authority agrees with the licensee that it is not financially viable for the licensee to provide transmission or distribution service or make sales of natural gas in a particular area unless the Federal Government makes special financial arrangements with the licensee, the licensee shall not be obliged to provide transmission or distribution service or make sales of natural gas in the said area unless the required financial arrangements are made by the Federal Government; if the licensee does not provide such service, the Authority may allow other persons to compete for a licence to provide such service as a project through a bidding process prescribed by the Authority;

Provided further that if the licensee proves to the satisfaction of the Authority that demand cannot be met on account of limited quantity of natural gas at the source of supply, the licensee shall not be obliged to provide transmission or distribution service or make sales of natural gas;

- (vi) to provide to the Authority such information in respect of its business activities, capital expenditure proposals, expansion programmes and any other matter relevant for the exercising of any of its powers by the Authority, in such form, and within such time as the Authority may, in writing, reasonably require in accordance with the provisions of its licence;
- (vii) to enter into all contracts on an arm's length basis and not to enter into any contract or other arrangement with any of its associated companies except with the prior written approval of the Authority;
- (viii) to refrain from entering into or amending any supply contract unless it is in a format approved by the Authority;
- (ix) to refrain from entering into or amending any supply contract of a quantity greater than five MMCFD of natural gas unless it has been approved by the Authority;

- (x) to refrain from entering into or amending any contract material to a regulated activity with a producer of natural gas unless it has been approved by the Authority;
- (xi) to locate, design, construct, operate and maintain its facilities in strict accordance with the technical and other standards prescribed by the Authority and in a manner so as not to endanger public health or safety;
- (xii) to strictly follow the requirements of the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997);
- (xiii) to submit to the Authority for approval, a consumer service manual setting out the rights and obligations of the licensee viz-a-viz all its consumers;
- (xiv) to measure volumetrically, using correct meters and invoice consumers their consumption of natural gas in terms of BTU;
- (xv) not to abandon any facility or pipeline resulting in a discontinuance by it to provide transmission or distribution service or make sales of natural gas without the prior written consent of the Authority;
- (xvi) to lay, within a specified time, pipelines in a particular area covered in its licence;
- (xvii) to mark with conspicuous signs the place where a pipeline enters, leaves or crosses a road, railway, river, canal, waterway or other area of public use;
- (xviii) to seek prior approval of the Authority for any expansion of its transmission facilities of a capacity of twenty five MMCFD or more;
- (xix) to ensure prudence, cost effective, and economic efficiency in its capital expenditure programme;
- (xx) to provide, for a fee determined by the Authority, non-discriminatory open access to its transmission or distribution facilities, provided spare capacity not being used by it is available;
- (xxi) to provide interconnection to its transmission or non-exclusive distribution facilities on mutually agreed terms and conditions, provided spare capacity not being used by it is available and the interconnection is technically feasible;

- (xxii) to extend and expand its transmission or distribution facilities at the request of a person provided that it is technically feasible and apportionment of the cost is agreed;
- (xxiii) to obtain and maintain current insurance, from an insurer or syndicate approved by the Authority, to cover all liabilities that may arise from the undertaking of the regulatory activity;
- (xxiv) to publish information regarding available capacity and capacity not contracted for;
- (xxv) to abide by such conditions as the Authority may prescribe regarding safety of humans beings, animals and property;
- (xxvi) to maintain an annual programme for maintenance and safety and submit to the Authority details of its implementation;
- (xxvii) to, in the case of distribution licensees, provide or procure to be provided, at the option of consumers, leak control services;
- (xxviii) to strictly follow the standards for performance and quality of service laid down by the Authority;
- (xxix) not to, without the prior approval of the Authority, through a sale or pledge of, or mortgage or charge over, any of its assets (except for securing repayment of a loan or other financing facility obtained in the normal course of business) or by contract or otherwise, render itself incapable of performing any of its obligations under the licence;
- (xxx) to take all necessary actions to ensure the continuous and uninterrupted use of any part of the sold, pledged, mortgaged or charged assets;
- (xxxi) not to allow any change in its ownership or controlling interest without the prior approval of the Authority; and
- (xxxii) to require their auditors to owe the same fiduciary duty to the Authority as is owed to them and to allow the disclosure by the auditors of any and all information required by the Authority through direct bi-lateral communication between the auditors and the Authority.

21. Revocation of licences. -- Notwithstanding anything contained in these rules or a licence, the Authority may revoke a licence in the public interest where:-

- (a) the licensee commits a willful and prolonged contravention of these rules or its licence; or

- (b) the licensee, in the opinion of the Authority, is unable to or is likely to be unable to discharge the obligations imposed on it under these rules or by its licence; or
- (c) when services provided by the licensee are interrupted without any reasonable explanation or authorization of the Authority:

Provided that, if it is in the public interest to do so, instead of revoking the licence, the Authority may permit the licence to remain in force with such amendments or such terms and conditions as it deems appropriate:

Provided further that the Authority shall not pass an order revoking or amending a licence without issuing a notice to the licensee and giving the licensee an opportunity of being heard and making a written representation.

22. Relocation of facilities.- The Authority may direct a licensee to relocate any facility or pipeline if in its opinion it is in the public interest to do so:

Provided that, save in a public emergency, prior to making such an order the Authority shall provide all affected parties an opportunity of filing motions in support of or in opposition to the proposed order:

Provided further that the prudent costs of such relocation shall be allowed in the tariff.

PART V

MODIFICATION OF LICENCES

23. Modification on the licensee's request. - (1) If a licensee requires any modification of any term or condition of its licence, it may make an application to the Authority by filing it with the Registrar along with such fees as the Authority may, from time to time, determine.

(2) An application filed under sub-rule (1) the Registrar shall within three days of receipt thereof endorse thereon a stamp acknowledging the filing along with the number given thereto in the register. Rules 4 to 5 shall apply, mutatis mutandis, to such an application and it shall be determined by the Authority accordingly:

Provided that the time limit prescribed in sub-rule (2) of rule 14 shall be restricted in the case of such an application to three instead of six months.

24. Modification without a request from the licensee. - (1) The Authority may initiate the process of modification of the terms and conditions of a licence without a request from the licensee if the Authority determines, for reasons to be recorded in writing, that it is in the public interest to do so.

(2) After the Authority has initiated the licence modification process, it would be processed in the manner specified in sub rule (2) of rule 24:

Provided that the Authority shall be required to hold a hearing in accordance with the provisions of rule 9 to determine whether and to what extent a modification of a licence is required in the public interest which modification shall be consistent with sub-rule (1) of rule 4.

PART VI

MISCELLANEOUS

25. Seal of the Authority. - (1) There shall be a seal of the Authority which shall remain in the custody of the Registrar.

(2) The seal of the Authority shall be affixed by the Registrar on all licences, orders, determinations, decisions or communications made, notices issued or certified copies granted by the Authority.

26. Effect of irregularity in proceedings.- No proceedings shall be invalid by reason of any defect or irregularity unless the Authority, on an objection taken by any party, determines that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for declaring so, and the Authority may, in such an event, make such orders as it deems appropriate for the rectification of such defect or irregularity.

27. Extension of time. --- (1) Subject to the provisions of sub-rule (2) of rule 15 of these rules, the Authority may, for good cause shown, extend any time limit prescribed by these rules or specified by the Authority.

(2) All requests for extensions of the time shall be made by an application made before the expiration of the period originally prescribed or previously extended. The Authority shall give notice to all parties of the Authority's determination on such application.

28. Penalty.- (1) Subject to sub-rule (2), any licensee who contravenes materially any provisions of the Ordinance and the rules shall be punishable with fine which may extend to, one-quarter of one percent of the annual turnover of the licensee in the most recent complete financial year or twenty million rupees, whichever is less, and in the case of a continuing contravention with additional fines which may extend to, one-tenth of one

percent of the annual turnover of the licensee in the most recent complete financial year or two million rupees, whichever is less, for every day during which such contravention continues after the first contravention.

(2) In imposing any fine under these rules, the Authority shall keep in view the principle of proportionality of the fine to the gravity of the contravention. Prior to imposing a fine, the Authority shall, in writing, require the person liable to be affected to show cause orally, in person or otherwise, or in writing, as to why the fine may not be imposed.

29. Fees.- A licensee shall be required to pay the fees for the grant, renewal, modification, extension, assignment, review or re-issuance of a licence, specified in the Schedule-II to these rules.

30. Recovery of Value of Gas Stolen.- Where any person has stolen, unauthorizedly obtained or otherwise used natural gas for which he has not paid, such person shall be liable to pay the Authority the value of the natural gas stolen, obtained or used as may be determined in accordance with regulations made by the Authority for the purpose along with any penalty, not exceeding the value of the natural gas that has been stolen, unauthorizedly obtained or otherwise used, as the case may be determined by the Authority. The Authority shall pass all such payments to the licensee from whom natural gas was stolen, unauthorizedly obtained or otherwise used, after deducting any expenses incurred by the Authority.

31. Entry, inspection and enforcement.- The Authority may authorize any person to enter, inspect or examine any place in which such person has reason to believe that there is any appliance or apparatus used in transmission, distribution or sale or use of natural gas or to take other necessary steps to ensure observance of the provisions of the Ordinance, these rules or regulations of the Authority by consumers, licensees or any other person connected directly or indirectly with transmission, distribution or sale or use of natural gas.

32. Appeal from decisions of delegates.- Within fifteen days of the final decision by a person to whom power has been delegated by the Authority to take decisions on its behalf, a person may file a motion for leave to appeal such final decision. A motion for leave to appeal shall specify the grounds on which the decision is to be appealed. The Authority shall act on such a motion within fourteen days of receipt thereof unless for reasons to be recorded it holds that it is not in the public interest to do so.

PART VII

TRANSITIONAL

33. Deemed licensees. - (1) Within one month of the commencement of these rules, all existing companies shall make applications to the Authority, in accordance with the provisions of these rules, for obtaining licences to carry on regulated activities and shall, at the time of making such application, in addition to the application fee payable by them, pay the annual fee applicable to them at the rate specified in Schedule - II.

(2) The existing companies shall be deemed to be licenced, under the Ordinance and these rules, to carry on regulated activities on the terms and conditions applicable to them on the date these rules come into force, until such time as the Authority has made its final determination on the applications specified in sub-rule (1).

SCHEDULE – I

[see rule 4 (2)]

NATURAL GAS REGULATORY AUTHORITY

Application Form

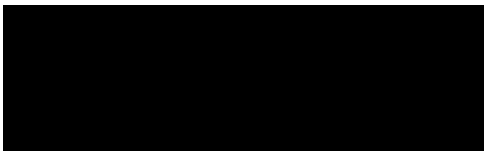
Ref. No. _____

Date: ____ / ____



1. Name of the Company (Applicant):
2. Company's full address along with telephone, fax, e-mail and web details:
3. Name, title and authorized signature of the Company's Chief Executive:
4. Names and addresses of current Directors of the Applicant:
5. Name and address of any person or corporate body with a holding of more than one percent (1%) or more in the Applicant:

Applicant:



1. Regulated Activity for which a licence is sought:

- (a) Transmission Licence _____
- (b) Distribution Licence _____
- (c) Sale Licence _____
- (d) Integrated Licence _____
- (e) Project Licence _____

2. Nature of licence applied for (if exclusive, please provide detailed justifications):

Exclusive _____

Non-Exclusive _____

3. Period for which the licence is sought:

From: Date / Month / Year

To: Date / Month / Year

4. Details of any licence held, applied for, or applied for and refused under the Rules, by the Applicant, or any of the interested parties, or any of their affiliated or related undertakings:

SCHEDULE-II

[See Rules 29 & 33]

1. The following fees shall be payable for the application, grant and renewal of a licence:

(a) The following application fees, payable at the time of filing the application, namely:

- (a) For a transmission licence: Rs. 750,000;
- (b) For a distribution licence: Rs. 500,000;
- (c) For a sale licence: Rs. 500,000;
- (d) For an integrated licence: Rs. 1,000,000; and
- (e) For a project licence: Rs. 1,000,000.

(b). The following annual fees, payable at the time of the grant or renewal of the licence and thereafter yearly, in advance, namely:

S#	Type of Licence	Fee (percentage of annual turnover of the licensee, generated from the licenced regulated activity in the most recent complete financial year
(i)	Transmission	0.5%
(ii)	Distribution	0.5%
(iii)	Sale	0.25%

(iv) Transmission & distribution	0.5% of both transmission and distribution
(v) Transmission, distribution & sale	0.5% of sale
(vi) Transmission & sale	0.5% of sale
(vii) Distribution & sale	0.5% of sale

2. The Authority may, with the approval of the Federal Government, reduce, for any financial year, the fees specified in Para 1 above keeping in view its budgetary requirements and if it is in the public interest to do so.

No. NGRA-1(1)/2002, dated 25-2-2002]

Sd/-
MUNIR AHMED
Chairman.