

IN THE MATTER OF

SUI SOUTHERN GAS COMPANY LIMITED
REVIEW PETITION FOR ESTIMATED REVENUE
REQUIREMENT, FY 2009-10

UNDER

OIL AND GAS REGULATORY AUTHORITY
ORDINANCE, 2002 AND
NATURAL GAS TARIFF RULES, 2002

DECISION

August 19, 2009

Before:
Syed Hadi Hasnain, Member (Gas)
Mir Kamal Marri, Member (Finance)

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1. BACKGROUND

- 1.1. Sui Southern Gas Company Limited (the petitioner) is a public limited company incorporated in Pakistan, and is listed on Stock Exchanges at Karachi, Lahore and Islamabad. It is engaged in the business of construction and operation of gas transmission & distribution pipelines, sale of natural gas, air-mix LPG, sale of gas condensate (as by-product), and manufacture & sale of gas meters.
- 1.2. The petitioner had filed a petition under Section 8(1) of the Oil and Gas Regulatory Authority Ordinance, 2002 (the Ordinance) for determination of Estimated Revenue Requirement (ERR) for FY 2009-10 (the said year) on November 29, 2008. The Authority, vide its decision dated May 15, 2009 determined a surplus of Rs. 15,111 million (the amounts have been rounded off to the nearest million here and elsewhere in this document) translating into a decrease of Rs. 38.70 per MMBTU in the average prescribed price w.e.f July 01, 2009.
- 1.3. Being aggrieved by this determination, the petitioner has submitted a review motion (the petition) on June 12, 2009 under Rule 16 of the Natural Gas Tariff Rules, 2002 (NGT Rules) seeking average increase in prescribed price of Rs. 12.49 per MMBTU over and above the current average prescribed price w.e.f July 01, 2009.
- 1.4. The petitioner has submitted the following comparative statement of cost of service:



Table 1 : Comparison of Cost of Service for FY 2009-10 per the petition with ERR

Particulars	Rs. per MMBTU	
	2009-10	
	DERR	The Petition
Units sold (BBTU)	390,508	390,508
Cost of gas sold	241.63	241.64
UFG adjustment per target	(3.45)	(1.30)
Transmission and distribution cost	15.04	18.79
Depreciation	7.79	7.77
Return on net average operating fixed assets	16.84	16.92
Other operating income	(18.72)	(12.20)
Subsidy for LPG Air-Mix Project	0.25	0.25
Cost of service / prescribed price	259.37	271.86
Current average prescribed price	0.00	259.37
Increase requested in average prescribed price		12.49

1.5. The Authority issued a notice of pre-admission hearing on July 01, 2009 to the petitioner.

2. AUTHORITY'S JURISDICTION AND DETERMINATION PROCESS

2.1. The petitioner has invoked the jurisdiction of the Authority under Rule 16 of the NGT Rules, and Section 13 of the Ordinance. Section 13 provides the grounds on which a review petition can be filed, and is reproduced below:-

“13.Review of Authority decision.- The Authority may review, rescind, change, alter or vary any decision, or may rehear an application before deciding it in the event of a change in circumstances or the discovery of evidence which, in the opinion of the Authority, could not have reasonably been discovered at the time of the decision, or (in the case of a rehearing) at the time of the original hearing if consideration of the change in circumstances or of the new evidence would materially alter the decision.”

2.2. The issues brought forward by the petitioner must necessarily be evaluated with reference to the afore-said Section 13 of the Ordinance and meet at least one of the two pre-conditions given therein referring to change in circumstances and new admissible evidence for admission of the motion. Further, the Authority



may refuse leave for review if it considers that the review would not materially alter the decision under review.

3. PROCEEDINGS

3.1. A pre-admission hearing was held on July 14, 2009, at Islamabad, which was participated by the following

Petitioner:

i. Petitioner's team lead by Mr. Azim Iqbal Siddiqui, Deputy Managing Director

3.2. The petitioner was given full opportunity to present its motion for review. The petitioner made submissions in detail with the help of multi-media presentation.

3.3. The petitioner has sought review of the Authority's decision on the following items:-

- (i) Late Payment Surcharge(LPS), Meter Manufacturing Profit (MMP) and Royalty from JJVL
- (ii) Income from Sale of Gas Condensate
- (iii) Un-Accounted For Gas (UFG) Disallowance
- (iv) Adjustment of Gas Internally Consumed (GIC) from Cost of Gas
- (v) Return on Unutilized GoP Grants
- (vi) Prior Year Adjustments on account of Arbitration Expenditure of Habibullah Coastal Power Company (HCPC)
- (vii) Provision for Doubtful debts
- (viii) IT related Capital & Revenue Expenditure
- (ix) Human Resource (HR) Cost Benchmarking
- (x) Advertising Income
- (xi) Notional Income on IAS - 19 provision
- (xii) Fixed Assets Opening Balance Difference



4. DECISION

4.1. Late Payment Surcharge(LPS), Meter Manufacturing Profit (MMP), Royalty from JJVL, Income from Sale of Gas Condensate and UFG Disallowance.

4.1.1. The Authority notes that the petitioner has again contended the above issues, which have repeatedly been discussed & decided by the Authority. The Authority has always given a conscious thought to the submissions of the petitioner and after analyzing / considering the arguments from all stakeholders, has decided upon these issues in the best national interest. The arguments advanced now have already been addressed by the Authority, therefore, the admission of the petition based on previously discussed issues defies logic.

4.2. Adjustment of GIC from Cost of Gas

4.2.1. The petitioner has stated that the Authority had not adjusted 32 MMCF on account of GIC in the cost of gas. On scrutiny of the data, the Authority observes that GIC has been correctly computed and no adjustment is required on this account.

4.3. Return on Unutilized GoP Grants

4.3.1. The Authority observes that the matter of return on Government grants has been exhaustively discussed in its decision dated May 15, 2009. The intent of such Government grants is to extend the T&D Network to uneconomic areas, thereby benefiting the consumers at large. Hence the income earned on this score is “operating income” being different from the return on company’s own deposits. Accordingly Ministry of Finance / GoP, has now advised the petitioner and its sister utility i.e; Sui Northern Gas Pipelines Limited, to maintain separate Assignment Accounts for this purpose.

4.3.2. In view of the above, the Authority maintains its earlier decision, and includes return from Government grants as operating income.



4.4. Prior Year Adjustments on account of Arbitration Expenditure of Habibullah Coastal Power Company (HCPC)

4.4.1. The scrutiny of the record / details provided by the petitioner reveals that the petitioner is bound to inform HCPC within the time specified in the Gas Supply Agreement in case of short gas supply. It appears that the petitioner had failed to inform HCPC in accordance with the agreement, since ICC International Court of Arbitration also announced completely one sided decision in favour of HCPC on December 01, 2008.

4.4.2. The Authority observes that the petitioner had admitted in writing as well as in public hearing held on April 15, 2009, in respect of DERR for the said year, that the Gas Supply Agreement is inequitable as it contains inherent weaknesses and disparities, obligating it to supply minimum quantity of 21 MMSCF of gas per day.

4.4.3. In view of the above, it is evident that the said expenditure is not a normal legal expenditure, and has arisen due to sheer negligence on part of the petitioner. The Authority, therefore, maintains its earlier decision in this respect.

4.5. Provision for Doubtful debts

4.5.1. The Authority notes that the provision for doubtful debts has been increasing despite Authority's earlier repeated directions. The estimated high level of provision for the said year points to continued lack of action to evolve effective mechanism to ensure timely recovery of bills.

4.5.2. In view of above, the Authority maintains its earlier decision, and directs the petitioner to take all possible steps to introduce effective recovery mechanism.

4.6. IT related Capital & Revenue Expenditure

4.6.1. The Authority observes that the arguments of the petitioner are, in essence, repetition, and the Authority has already taken those into account while



determining DERR for the said year. The Authority, therefore, maintains its decision on this account.

4.7. Human Resource (HR) Cost Benchmarking

4.7.1. The Authority, in its DERR for FY 2009-10, had already informed both the gas utilities that the new benchmark has been introduced on provisional basis. This benchmark will be finalized after carrying out consultative sessions, prior to the issuance of Final Revenue Requirement (FRR) for the said year. Therefore, there is no point in filing review against HR benchmark, since the same is yet to be finalized by the Authority.

4.8. Advertising Income & Notional Income on IAS-19 Provision

4.8.1. The petitioner has requested to treat said incomes as non-regulated activities, since these are not directly related to the petitioner's core business of transmission, distribution and sale of natural gas.

4.8.2. The Authority notes that issue of treating advertising income & notional income on IAS -19 provision as non-operating incomes, was neither brought up by the petitioner at the time of submission of its petition for ERR for the said year nor in any review of ERR, hence the principle of estoppel is applicable. These incomes were classified as operating incomes in all earlier petitions by the petitioner, and the arguments advanced this time are only groundless.

4.8.3. In view of the above, the Authority disagrees with the petitioner's contention and, therefore, maintains treatment of advertising income and notional income on IAS -19 provision as operating income.



4.9. Fixed Assets Opening Balance Difference

4.9.1. The petitioner had included Rs. 144 million pertaining to air-mix LPG assets in the opening balance of net operating fixed assets claimed for the said year. The Authority had, however, adopted the closing balance of the net operating fixed assets determined at the time of RERR for FY 2008-09 i.e. Rs. 42,524 million as an opening balance for the said year.

4.9.2. The Authority agrees with the petitioner's treatment in view of the policy guidelines issued by the Federal Government on Air-Mix LPG, CNG or LNG based pipeline distribution projects undertaken by the petitioner, however, computational adjustment on this account will be made at the time of determination of FRR for the said year.

4.10. In view of the foregoing, the Authority refuses leave for review to this motion under Rule 16(2) of Natural Gas Tariff Rules, 2002, subject to para 4.9.2 above.

(Mir Kamal Marri)
Member (Finance)

(Syed Hadi Hasnain)
Member (Gas)

Islamabad, August 19, 2009