

GOVERNMENT OF PAKISTAN
CABINET DIVISION
Islamabad, the 26th May 2007

NOTIFICATION

S.R.O. 458(I)/2007 —In exercise of the powers conferred by section 41 of the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002), the Oil and 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 Oil and Gas Regulatory Authority (Liquefied Natural Gas) Rules, 2007.

(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) “applicant” means the company making the application and includes, in the case of a consortium or joint-venture, each company individually;
- (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) “communication” means the pleadings and any other correspondence with the Authority in connection with the proceedings;
- (d) “consent” includes any licence, lease, right, exemption, approval, concession, permission, sanction, permit, authorization, certification, clearance, privilege, option, entitlement, bene fit or validation;
- (e) “LNG” means Liquefied Natural Gas;
- (f) “LNG Policy” means policy guidelines, relating to LNG, issued by the Federal Government, from time to time, pursuant to section 21 of the Ordinance;
- (g) “LNG Processing” means all that process which is required to convert LNG into RLNG including by use of open rack vaporizers, submerged combustion vaporizers, or heat exchanging vaporizers;
- (h) “LNG Production” means all that process which is required to convert natural gas into LNG including, natural gas

treatment, natural gas liquefaction, LNG storage and LNG filling;

- (i) “LNG Terminal” means fixed or movable facilities, whether located on land or sea, used for loading, unloading, storage and re-gasification of LNG including all ancillary and auxiliary equipment and pipelines;
- (j) “licence” means a licence granted by the Authority in accordance with these rules;
- (k) “motion” means any written or, if so permitted by the Authority, oral application in relation to any matter under these rules;
- (l) “Mtpa “ means million tons per annum;
- (m) “Ordinance” means the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002);
- (n) “pipeline” means all parts of those physical facilities through which LNG, RLNG or natural gas moves, including pipes, valves and other appurtenances attached to pipes, compressor units, refrigeration units, metering stations, regulated stations, delivery stations, holders and fabricated assemblies;
- (o) “pleadings” means the application, the replies to the application and rejoinders;
- (p) “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;
- (q) “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;
- (r) “RLNG” means re-gasified LNG;
- (s) “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;
- (t) “regulated activity” means any one or a combination of more than one activity relating to LNG that requires a licence from the Authority pursuant to the Ordinance, namely: construction of LNG Production Facility, operation of LNG Production Facility, construction of LNG Processing Facility, operation of LNG Processing Facility, construction of LNG Testing Facility, operation of LNG Testing Facility, construction of LNG Storage Facility, operation of LNG Storage Facility, construction of LNG Terminal, operation of LNG Terminal, Transportation of LNG, Filling of LNG,

- Marketing of LNG, Distributing of LNG; and
- (u) “special accounts” means accounts of the licensee maintained in such form as the Authority may require for enabling it to review the licensee’s progress in undertaking a regulated activity.

(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. Licence. —

(1) 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.

(2) The Authority may grant a licence to carry on any regulated activity to such persons, and on such terms, and for such periods, as it may, in accordance with these rules and the LNG Policy, determine:

Provided that a licence granted by the Authority shall be valid for a maximum period of twenty years and in determining the period of a licence, the Authority shall keep in view, inter alia, 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 or renewing a licence to undertake a regulated activity, by filing it with the Registrar along with such fees based on the estimated cost of the project 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 copy of the applicant’s certificate of incorporation;
- (b) attested copies of the memorandum and articles of association of the applicant;
- (c) attested copy of the applicant’s certificate of commencement of

business;

- (d) attested copy of the applicant's latest yearly submission to the Corporate regulator;
- (e) attested copy of the latest audited annual financial statements of the applicant;
- (f) attested copy of the corporate authorizations allowing the submission of the application;
- (g) 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;
- (h) 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;
- (i) details of the technical and financial expertise and resources available for carrying on the relevant regulated activities;
- (j) 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;
- (k) a list of the names and business addresses of the applicant's senior management, including without limitation, departmental and/or divisional heads;
- (l) a concise statement setting forth the methodology to be adopted in undertaking the project including, without limitation, the expected time frame for completing the project and the principle activities to be undertaken;
- (m) 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 a regulated activity, a detailed explanation of each such relationship, including the percentage of voting interest owned, held or controlled;
- (n) 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;
- (o) maps issued or certified by the Survey of Pakistan, drawn to an appropriate scale showing details of area where the project is proposed to be located and the principal geographical features of the said areas;
- (p) a statement setting out complete details of health, safety and

- environmental policy to be adopted by the applicant in relation to the project;
- (q) details of the sources and quality of supply of LNG including forecasts of the available quantity from such sources;
 - (r) a project implementation plan consisting of —
 - (i) a detailed feasibility report of the project;
 - (ii) 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; and
 - (iii) an outline of the anticipated time table for construction and operation, together with dates on which critical events, including approvals required from other persons, shall take place;
 - (s) 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;
 - (t) a statement identifying any significant risks to successful completion of the project;
 - (u) any data or information which the applicant proposes to rely on showing the adequacy and availability to it of resources for financing the project;
 - (v) 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;
 - (w) a certificate, duly signed by the chief executive of the applicant, stating that the proposed project employs proven technology and, in the case of a licence for an LNG terminal, that the criteria set out in the LNG Policy for selecting the site has been met; and
 - (x) 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) 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) and (3),—

- (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) and (3):

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) and (3), the Registrar shall place the application before the Authority for such directions as it may deem necessary, no later than three 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.

(5) Any communication 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.

(6) 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 (4), 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.

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

(8) 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.

(9) 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.

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

(11) 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) At the request of the applicant, the Authority may issue a certificate certifying the admission of the application and stating the date on which the application was admitted and such certificate shall be signed by the Registrar and shall be issued within fourteen days of the request therefor.

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 one or more national daily newspaper(s) 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 or 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 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, such representations shall be filed by the parties within such time as the Authority may determine.

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 directions for supply of 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 three days of such determination. The parties shall, not later than seven 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 continue the proceedings *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 five 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 twenty one 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, in such form, as specified and considered necessary by the Authority 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 -

- (a) 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, as determined by the Registrar from time to time.

(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 ninety days of the date of admission of the application:

Provided that, the Authority may, on its own only for causes beyond its control or on the motion of any of the parties if such motion is accepted by all the parties to proceedings, extend the said ninety days period by a further period of thirty days, provided further that, the Authority shall not extend the time for its final determination in a proceeding beyond an aggregate period of hundred and eighty days. 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 alongwith such fees, not exceeding one-half of the application fee submitted with the application, as the Authority may determine based on the nature of the review sought. 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 thirty 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 while considering *inter alia* the following, namely: —

- (a) whether the proposals contained in the application conform to the LNG Policy;
- (b) the viability of the sources of supply of natural gas or LNG, as the case may be and the applicant's demonstrated access thereto;
- (c) the technical, administrative, financial and commercial capabilities of the applicant in relation to the regulated activity for which the licence is sought;
- (d) conformity of the proposed project with the prescribed technical standards; and
- (e) medical, law enforcement and fire protection capabilities near the location that can cope with a risk caused by the undertaking of the regulated activity.

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 special 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. 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) if applicable, to supply LNG of the quality and specifications determined from time to time by the Authority after taking into consideration the views of interested persons;
- (iii) to locate, design, construct, operate and maintain its facilities in strict accordance with the standards prescribed by the Authority and in a manner so as not to endanger public health or safety;
- (iv) to strictly follow the requirements of the Pakistan Environmental Protection Act, 1997 (XXXIV of 1997) as amended from time to time;
- (v) not to abandon the undertaking of a regulated activity without the prior written consent of the Authority;
- (vi) to provide, against a fee determined by the Authority, non-discriminatory open access to its facilities, provided spare capacity is available for such access;
- (vii) to provide interconnection to its facilities on mutually agreed terms and conditions, provided spare capacity is available therefore and the interconnection is technically feasible;
- (viii) 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;
- (ix) to maintain an annual programme for maintenance and safety and submit to the Authority details of its implementation;
- (x) to strictly follow the technical standards prescribed by the Authority;

- (xi) to provide periodic reports as required by the Authority from time to time in the form and format specified by it;
- (xii) not to, without the prior written 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;
- (xiii) to take all necessary actions to ensure the continuous and uninterrupted use of any part of the sold, pledged, mortgaged or charged assets;
- (xiv) not to allow any change in its ownership or controlling interest without the prior written approval of the Authority;
- (xv) to require its 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 bilateral communication between the auditors and the Authority;
- (xvi) if applicable, to ensure that its LNG terminal is surrounded by safety zones meeting the industry standards set forth in safety codes issued by the National Fire Protection Association of the United States of America;
- (xvii) to ensure all consents required from any person, other than the Authority, in relation to the undertaking of the regulated activity remain valid and are complied with; and
- (xviii) not to undertake any modification or expansion of the project unless approval of the Authority has been obtained by making an application at least six months prior to the realization of any such modification or expansion.

20. 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 fails to achieve financial closing within the period specified in the LNG Policy; or
- (b) in the opinion of the Authority, the licensee has failed to adhere

- strictly to the project implementation plan submitted along with the application or any amendment subsequently incorporated therein with the prior approval of the Authority; or
- (c) the licensee commits a willful and prolonged contravention of these rules or its licence; or
 - (d) the licensee, in the opinion of the Authority, is unable to or is likely to be unable to undertake the regulated activity in accordance with these rules or its licence; or
 - (e) when the undertaking of the regulated activity is interrupted by a licensee 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.

21. Completion and Commissioning. --- The continuation of all licences shall be contingent upon approval by the Authority of the completion and successful commissioning of the project.

PART V MODIFICATION OR RENEWAL OF LICENCES

22. 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, not exceeding the fee paid by the licensee alongwith the application for the licence, as the Authority may, based on the nature of the required modification, on a case to case basis, 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 and 5 shall apply, *mutatis mutandis*, to such an application and it shall be determined by the Authority accordingly.

23. 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 21:

Provided that the Authority shall be required to hold a hearing in accordance with the provisions of rule 10 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 3.

24. Renewal of Licences. --- A licensee shall apply for the renewal of its licence at least six months prior to the expiry thereof. Rules 3, 4 and 5 shall apply, *mutatis mutandis*, to such an application and it shall be determined by the Authority accordingly. The Authority may renew a licence on such terms and conditions as it may deem appropriate in accordance with these rules.

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, certificates, 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) No licensee shall contravene or fail to comply with any provision of the Ordinance, rules, regulations, or the terms and conditions of a licence or an order, determination or decision of the Authority. Subject to sub-rule (3), any licensee who commits such contravention shall be punishable with fine for each contravention or failure to comply, which may extend to one-quarter of one per cent of the annual turnover of the licensee in the most recent complete financial year or fifty million rupees, whichever is less.

(2) In case of a continuing contravention or failure to comply the licensee shall be punishable with additional fine 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 or failure continues after the instance.

(3) 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 or failure. 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.

(4) Without prejudice, provisions of sub-rule (1) to (3) shall not be in derogation to any other action that may be taken against the licensee.

29. Fee.- In addition to the fees specified in these rules, a licensee shall be required to pay the fee for the grant, renewal, extension or assignment of a licence, in accordance with the provisions of Schedule-II to these rules.

30. Appeal from decisions of delegates.- Within thirty 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 ninety days of receipt thereof unless for reasons to be recorded it holds that it is not in the public interest to do so.

31. Appointment of Independent Consultant.--- (1) In relation to each application or licence, the Authority may appoint a firm of international repute which shall assist the Authority in —

- (i) determining whether an application fulfils the requirement of these rules;
- (ii) determining whether the project has been successfully commissioned in accordance with project implementation plan submitted along with the application or any amendment subsequently incorporated therein with the prior approval of the Authority; or
- (iii) determining whether the licensee is complying with the requirements of the Ordinance, these rules, regulations, standards prescribed by the Authority, the terms and conditions of its licence or the project implementation plan submitted by it along with the application or any amendment subsequently incorporated therein with the prior approval of the Authority.

(2) All costs incurred by the Authority for appointing such a consultant shall be payable, to the Authority, by the applicant or licensee in relation to whom the consultant shall assist the Authority.

32. Inspection and Audit. --- The Authority may carry out periodic or other inspection or technical audit of the project either through its own employees or through third parties. The licensee shall ensure that all necessary access, material and such other facilities are provided to the persons carrying out the said inspection or technical audit as are required by them.

33. Provisional Licence --- (1) For the purposes of facilitating the import of LNG, the Authority shall, upon a written request filed in accordance with the provisions of this rule, by any company incorporated inside or outside Pakistan, grant a provisional licence, for a maximum period of twelve months, to such company to complete all formalities required under these Rules to enable it to apply for a licence for carrying out a regulated activity.

(2) A request filed under sub-rule (1) shall be made in the format specified in Schedule-I to these rules, clearly specifying the information required therein and shall be accompanied by ---

- (a) the documents specified in clauses (a), (b), (c), (d), (e), (f), (g), (h), (i), (k), (m), (n), and (x) of sub-rule (3) of Rule 4; and
- (b) a fee in the sum of five million rupees.

(3) The fee shall be adjustable against the annual fee payable by the company for a licence granted by the Authority for the regulated activity for which the provisional licence is sought.

(4) A request filed under sub-rule (1) 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 statements made therein are 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.

SCHEDULE - I
[see Rule 4 (2)]

OIL AND GAS REGULATORY AUTHORITY
Licence Application Form

Ref: No. _____ Date: __/__/_____

COMPANY PROFILE

1. Name of the Company.
2. Full Street Address, telephone and facsimile numbers, electronic mail address.
3. Name, Title and specimen signatures of the Company's Chief Executive.
4. Names and addresses of Directors of the Company.
5. Name and address of any person or corporate body holding more than one percent interest in the Company.
6. Curriculum Vitae of the key personnel to be deployed in undertaking the regulated activity for which a licence is sought, highlighting their qualifications and work experience

LICENCE SPECIFICATIONS

1. *Regulated Activity for which a licence is sought (please tick the appropriate activity(ies):*
 - (a) LNG Production Facility (Construction)
 - (b) LNG Production Facility (Operation)
 - (c) LNG Processing Facility (Construction)
 - (d) LNG Processing Facility (Operation)
 - (e) LNG Testing Facility (Construction)
 - (f) LNG Testing Facility (Operation)
 - (g) LNG Storage Facility (Construction)
 - (h) LNG Storage Facility (Operation)
 - (i) LNG Terminal (Construction)
 - (j) LNG Terminal (Operation)
 - (k) Transportation of LNG
 - (l) Filling of LNG
 - (m) Marketing of LNG
 - (n) Distributing of LNG

2. Period for which licence is sought: From: __/__/_____ To __/__/_____

3. Details of any licence held, applied for, or applied for and refused under these rules, by the applicant or any of the interested parties or any of their affiliated or related undertakings.

SCHEDULE - II
[See Rules 4 and 29]

1. For an application for a new licence, a fee amounting to one-half of one-hundredth of one percent of the estimated cost of the project as indicated in the project implementation plan submitted by the applicant pursuant to Clause (r) of Sub-Rule (3) of Rule 4.
 2. The fee payable for an application for a renewal of a licence pursuant to Rule 23 shall be one-half of the fee payable for an application for a new licence.
 3. The following annual fees shall be payable at the time of the grant or renewal of the licence, as the case may be and thereafter, yearly in advance, namely:
 - i. one-half of one percent of the gross revenue of the licensee generated from the provision of the licensed regulated activity;
 - ii. one-tenth of one percent of the gross sale revenue of the licensee generated from the supply of LNG and/or RLNG;
 - iii. if a licensee is engaged in the supply of LNG or RLNG and is also undertaking one or more regulated activity(ies), the fees specified in i. and ii. above.
 4. For an extension of a licence, the Authority shall determine the fee based on the nature of the extension, on a case by case basis keeping in view the amount of work required in determining the matter.
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(F. No. 1/2/2006-RA-II/OGRA)

Sd/-
SYED TAHIR ALI SHAH,
Joint Secretary.