آئل اینڈ گیس
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Oil & Gas
Regulatory Authority

GUARDING PUBLIC INTEREST

No. OGRA-10-3(41)/2020

IN THE MATTER OF NEUTRAL MARKET PRICE UNDER OGRA GAS (THIRD PARTY ACCESS) RULES, 2018

&

Pakistan Gas Network Code

DECISION

July 31, 2023

BEFORE:

Mr. Masroor Khan, Chairman
Mr. Zain-ul-Abideen Qureshi, Member (Oil)
Mr. Mohammad Naeem Ghouri, Member (Finance)

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1. Background

1.1 OGRA Gas (Third Party Access) Rules, 2018 (TPA Rules, 2018) and the Pakistan Gas Network Code (Code) deals third party access regime of gas pipeline inter-alia commercial arrangement and account settlement between the two parties, 'the Transporter' and 'the Shipper', for the delivery of the gas from entry point(s) to the exit point(s). The 'Transporter' under the Rules is a person who constructs and operates the gas pipeline for transmission and distribution of gas through pipeline system while the 'Shipper' means a person who utilizes the pipeline capacity of the transporter under the access arrangement for the transportation of its gas, at the agreed tariff in the access arrangement approved by the Authority.

1.2 Under the access arrangement, the Shipper books a certain amount of pipeline capacity and accordingly arranges the gas volumes to inject at the entry point for delivery by the Transporter at the exit point. For all practical reasons, the volume entered at the entry point and discharged at the delivery point could not be exactly equal at a particular point in time owing to continuous flow, operational challenges and demand supply dynamics in respect of consumers at the transporter's network. Thus, the situation of "System imbalance" emerges inter-alia energy volume over delivered or under delivered by the transporter and accordingly requiring the account settlement in cash or in kind.

1.3 OGRA TPA Rules, 2018 and Code guide to work out the system imbalance (i) on daily basis, (ii) the account settlement of the accumulated imbalances on monthly basis (iii) and the settlement be made through cash transaction. This scheme of gas transportation thus requires specific principle to be laid out based on which the amount representing imbalance could be worked out to settle the transaction on monthly basis.

2. Legal Framework

2.1 The relevant Rules of TPA Rules, 2018

2.1.1 Rule 2(o) of TPA Rules, 2018

"Imbalance" Means the difference between the shipper's delivery quantities for all entry points and the sum of shipper's withdrawal quantity for all exit points after necessary adjustments in accordance with the access arrangement.

"Balancing Charge" as per gas network code means a charge arising as a result of operation of daily discipline or monthly reconciliation process and may comprise either a payment or a charge.

2.2 The relevant Clause of Code

2.2.1 **"Neutral Market Price"** means a neutral wholesale market price that shall be used for in the energy balancing and monthly reconciliation **cash-out charges**.

a) On an annual basis the transporter will prepare the neutral market price statement setting out one or more neutral market prices for use in calculations performed under the network code.

2.2.2 **"Reconciliation of gas"** means Monthly reconciliation of natural gas, in energy terms, showing natural gas received at the entry point, used by the transporter as System Used Gas (SUG), adjustment on account of Transmission Loss (TL) and Line Pack (LP), delivery at the exit point(s) and any excess quantity delivered to the shipper or any balance undelivered natural gas of the shipper left with the transporter.

2.2.3 **"Shippers cumulative imbalance quantity"** means the sum of the shipper imbalance quantity over all days in the current calendar month adjusted for any previous intermediate reconciliations during that month.

2.2.4 **"Capacity Overrun"** As per Pakistan Gas Network Code, Capacity Overrun occurs when a shipper flows gas in excess of its contracted capacity at the entry point or exit point on a day.

2.2.5 **"Daily Discipline"** Article 3.7 of the Pakistan Gas Network Code lays down the procedures to be adopted for Positive and Negative imbalances.

3.10 Neutral Market Price

(a) The transporter will prepare and keep under review a technical methodology for determining one or more neutral market prices for approval by the Authority.

(b) On an annual basis the transporter will prepare the neutral market price statement setting out one or more neutral market prices for use in calculations performed under the network code.

(c) For the avoidance of doubt a neutral market price may be an absolute figure in Rupees or refer to an algorithm under which the prevailing neutral price can be quickly and easily determined.

(d) The statement will be provided to the Authority for approval in a timely fashion.

(e) For the purposes of the Code the methodology should take account of but not be limited by:

   i. *Notified Prices published by the Authority;*
   ii. *The proportions of gas from different sources that may be expected to be delivered to the transportation system; and*
   iii. *National or International Indices of fuels such as natural gas, LNG or fuel oils.*

3. Role and Responsibility of Transporter viz SNGPL & SSGCL

3.1.1 As evident from the above, Article 3.10 of Pakistan Gas Network Code, implies the responsibility of the Transporter for preparation and submission of the technical methodology for determining one or more Neutral Market Price. The scope of such methodology has also been given in Article 3.10 (e) as mentioned above.

4. SNGPL (The Transporter) Perspective

4.1.1 SNGPL vide its letter dated 25-3-2021 has made submission regarding the Neutral Market price and stated that under Third Party Access regime it is necessary that Neutral Market price be developed and used in balancing calculations / monthly reconciliation after approval of the Authority under Article 3.10(d) of Code. SNPGL submitted that there are two types of imbalances in this regard which are mentioned below:

4.2 Positive Imbalance

4.2.1 M/s SNGPL has submitted that for positive imbalance (excess input by the shipper and less off take by the shipper's consumers during a balancing period) Neutral Market Price should be the latest weighted average indigenous gas purchase price determined by the Authority in respect of the period wherein such imbalance takes place based on the following justifications:

There is a Tier 1 (indigenous gas) and Tier 2 (RLNG) market in which SNGPL (Transporter) is dealing and if the Shipper use less gas than its input (that has been assumed to be Tier 2 gas i.e.RLNG) then the Transporter has to sell the excess quantity to its domestic consumers on indigenous gas price rather than on RLNG rates as the company has no storage facility in hand to store excess volume that can be used by the shipper whenever required.

The transporter is facing demand and supply gap which increases manifold in winter season due to rising demand of domestic consumers and same is mitigated by diverting RLNG to domestic consumers on indigenous gas rates.

4.3 Negative Balance

4.3.1 For Negative imbalance (less input by the Shipper and more off take by Shipper's consumers during the imbalance period) Neutral Market price will be the latest RLNG Price determined by the Authority for RLNG consumers of the Transporter in respect of the period wherein such imbalance takes place based on the following justification:

The transporter is purchasing indigenous gas and RLNG to meet demands of existing consumers rather than to cater the requirements of Shipper from their supplies. If shipper used more gas than its input then indigenous gas rates cannot apply as the company is not in a position to supply indigenous gas supply to the shipper owing to the fact that the transporter is already facing shortage of indigenous gas supply which is being mitigated by importing RLNG.

4.3.2 SNGPL further stated that a settlement account may be established so that any imbalance amount may be parked for distribution among the shippers if any amount is left on this account at year end after meeting all costs which the transporter may suffer during balancing operations. This will ensure that neither Shipper nor Transporter derives any benefit from the imbalance charges rather it is to be used as deterrence against undue benefit/ loss to any party in line with the spirit of Rule 8 (6) of TPA Rules 2018.

4.3.3 SNGPL further requested to approve the Neutral Market Price in line with the applicable provisions of the TPA Rules, 2018, and Code enabling company to proceed. SNGPL further highlighted that there is huge gap between indigenous gas price and cost of RLNG and if the risk of SNGPL is not covered properly than this may lead to bankruptcy of the company.

5. Conduct of Meeting / Consultative session

5.1. In order to receive input/comments of all relevant stakeholders and finalize the matter of 'Neutral Market Price' under TPA Rules, 2018 for Gas pipelines and Code, a consultative session was held on 14th June, 2023 at OGRA Head Office.

5.2. A large number of the participants joined the session and made extensive discussion on the issue. Some stakeholders also sent written submissions as well. The participating stakeholders are listed down as under;

1. Sui Northern Gas Pipelines Limited
2. Sui Southern Gas Company Limited
3. Pakistan LNG Limited
4. Energas (Pvt) Limited
5. Tabeer Energy (Pvt) Limited

6. Shell Energy Pakistan Company
7. Universal Gas Distribution Limited
8. Gaseous Distribution Co Ltd
9. Trafigura Pakistan (Pvt) Ltd
10. Pak Arab Fertilizer Ltd
11. K- Electric Ltd
12. Pakistan Gas Port Ltd
13. Vitol Resources Pakistan (Private) Ltd.

6. Suggestions / Views of Stakeholders

6.1. The comments offered by the shareholders during consultative session and in writing through mail/email, are summarized as under;

6.2. **SNGPL**

6.2.1 SNGPL reiterated its stance as given in Para 4 above.

6.3. **SSGCL**

6.3.1 SSGCL informed the participants that it has no comments to offer, however, it supports the stance of SNGPL.

6.4. **Pakarab Fertilizers Limited**

6.4.1 The Transporter under the current practice collects balancing charges from the Shipper for excess off takes at RLNG rate whereas the domestic gas price is used for lower off takes. This approach clearly results in rate advantage to the Transporter and a disparity between the two price levels is contrary to the TPA Rule 8(6). The principle laid down in the TPA Rules, 2018 essentially requires that the transporter must not unduly gain from its role in the system balancing and application of charges overruns. The company has requested that single Neutral Market Price calculations of balancing charges for excess and lower off takes be determined.

6.5. **Universal Gas Distribution Company (UGDCL) (Pvt) Ltd**

6.5.1 The gas price spread in respect of indigenous gas and RLNG is unusually wide in Pakistan and may affect the shipper's financial model adversely as price of RLNG is six times the price of local gas. Further, the gas pipelines network of both sui companies is not operating at desired / healthy pressures. Therefore, they are unable to deliver gas at the desired pressures most of the time. Such constraint makes operation of relevant clauses of code regarding charges / penalties impossible since periods / duration /nature of constraints are practically challenging to be worked out and mutually agreed to. These factors need specific attention while deliberating on operation of TPA Rules, 2018 and Code.

6.5.2 In addition, various charges are levied by the Transporter on the Shippers under the Code which amounts to unwarranted costs booked on the gas of shippers. For example, there is a renomination charge on the Shipper, however renomination does not inflict any cost to the Transporter. Similarly, underrun / overrun chargers, rescheduling charges, capacity charges increase cost of gas to the Shippers although the same can be avoided.

6.5.3 Balancing may be carried out within 30 days extendable to 60 days. Further, it should be one price for both positive and negative imbalance. However, price for transmission and distribution networks may be established as follows:

i. The single neutral price in the distribution network should not be less than the RLNG price since this does not cause monetary loss to any of the parties. Further, gas to the domestic consumer has been rationed and is only provided during three meal times and completely shut after 10pm till 6am the next day. Rest of the time is reduced / closed.

ii. The single neutral price in the transmission network should be weighted average price of RLNG and local gas.

6.6. **PLL**

6.6.1 M/s PLL has proposed to determine one neutral market price for positive and negative balances as market of Pakistan is not free market structure as in Europe or USA.

6.7. **K-Electric**

6.7.1 M/s K-Electric while sharing its views has stated that it seems that neutral price in the current scenario is actually not neutral as it favours transporters. KE has been of the view that through UFG component shippers should not be penalized and transporters should take concrete measures to control UFG.

6.8. **Tabeer Energy (Pvt) Ltd**

6.8.1 M/s Tabeer Energy has stated that there seems no parity between domestic price, spot price and long-term price. Tabeer Energy suggested that there should be separate mechanism for determination of Neutral price. Further, price determination and regulation of the same should be fixed and be in line keeping in view shippers and transporters interests.

6.9. **Trafigura Pakistan (Pvt) Ltd**

6.9.1 M/s Trafigura Pakistan has proposed that imbalance period should be of six months so that shippers may not be forced / pressurized and will get enough time to adjust the volumes and balance out the same. Further OGRA RLNG price should be adopted as benchmark.

6.10. **GDCL (Pvt) Ltd**

6.10.1 M/s GDCL proposed that there should be one market price for shipper and transporter.

6.10.2 M/s GDCL emphasized that Pakistan is currently undergoing through severe energy crisis. In this scenario there is need to revise rules / regulations so that investment could be attracted and projects could be undertaken. It was criticized that procedural formalities are not business friendly as these take years to fulfil resulting to opportunity loss. Further, there should be harmony between transporters and shippers.

7. Decision of the Authority

7.1.1 The Authority appreciates the input provided by all stakeholders that converged into a constructive debate on diverse perspectives of transporter and shipper. The Authority has considered the submissions made during the consultative session in the light of applicable legal framework.

7.1.2 In view of foregoing, the Authority observes that monthly reconciliation (imbalance charges) be settled with equity, fairness and logic inter-alia balancing the interests of stakeholders. It is further observed that shipper as well as transporters shall be supplying gas to their customers under contractual obligations as agreed by them, therefore any imbalance shall affect both the parties equally. In such a scenario and in all fairness, it would be appropriate that same basis be adopted either the imbalance is positive or negative. Moreover, this arrangement in no case should result as a source of any extra revenue or loss for the transporter or shipper. Therefore, same neutral cost principle be set for all purposes and intents and for all the stakeholders.

7.1.3 The Authority also notes that imbalance charge shall be calculated on the cumulative imbalance quantity exceeding threshold of 10% or 5% of the shipper's booked capacity [10% during summer months and 5% during winter months]. This threshold infact provides a reasonable tolerance limit for adjustment of imbalance quantities owing to operational reasons/constraints. Therefore, one neutral market price to compensate for imbalance after such agreed positive or negative imbalance, shall be equitable and aligned with the methodology which safeguards the interests of both sides and discourages the undue gains to any party. The Authority however further advises the transporter as well as the shipper to maintain the imbalance within the threshold limit as agreed between the parties and prescribed under the codes.

7.1.4 ***In view of the above, the Authority decides that RLNG provisional price of the respective month as determined by OGRA for the relevant transporter shall be set as the Neutral Market Price for the purposes of volume imbalances under the access arrangement as agreed between the transporter and shipper.***

7.1.5 The Authority observes that during the discussion and in the written comments, the stakeholders offered various other comments on different aspects and provisions of TPA Rules and Code. The instant proceedings are relevant to determining Neutral Market price under the TPA Rules, 2018 and Code only. Furthermore, the Authority is of the considered view that the existing framework has been devised after consultation with all stakeholders, and which is proceeding towards the practical implementation. Therefore, any further amendments in the framework may not be constructive without practically testing the existing scheme of law. A collective support from all stakeholders could pave the way to develop the natural gas sector in Pakistan.

7.1.6 In view of above, the issue in terms of Section 3.10 of Gas Network Code is disposed off.

Mohammad Naeem Ghouri
(Member Finance)

Zain-ul-Abideen Qureshi
(Member Oil)

Mr. Masroor Khan
(Chairman)

The Islamabad, July 31, 2023