

COURT-I

Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)

Appeal No. 298 of 2013

Dated: 22nd July, 2016

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. B.N. Talukdar, Technical Member (P&NG)**

In the matter of:

**Gujarat Gas Ltd.
Near Parlimal Garden, Ellisbridge
Ahmedabad - 380006**

... Appellant

Versus

**Petroleum & Natural Gas Regulatory Board
1st Floor, World Trade Centre
Babar Road
New Delhi – 110001**

... Respondent

Counsel for the Appellant(s) : Mr. Apoorva Mishra
Mr. Janmali M

Counsel for the Respondent(s) : Mr. Prashant Bezboruah
Ms. AparnaVohra

ORDER

1. The instant Appeal challenges the Provisional Initial Unit Natural Gas Pipeline Tariff Order ("**Provisional Tariff Order**"), dated 04.09.2013

passed by the Petroleum and Natural Gas Regulatory Board (“**Board**”) on various grounds, *inter-alia* alleged wrongful interpretation of certain provisions of the Petroleum and Natural Gas Regulatory Board Act, 2006 (“**PNGRB Act**”) and the relevant Regulations besides factual challenges. Some broad heads of challenge in this Appeal include but are not limited to matters related to date of applicability of transportation tariff (already decided by this Tribunal in Appeal No. 222 of 2012), Volume Divisor, Inflation Rate and Unaccounted Gas Loss (related to metering and venting) etc.

2. During the course of hearing of this Appeal, we re-emphasized the factual position that the Tariff Order under challenge is only provisional and is yet to be finalized. We suggested that all the contentions raised by the Appellant could be presented before the Board at the time of finalization of the tariff and the Board would consider the same independently without being influenced by the view already taken by it in the impugned order. That would expedite finalization of the Provisional Tariff Order and the Appellant would have the liberty to challenge the final order issued by the Board before this Tribunal if it so desired. We also made it clear that all rights and contentions of the Appellant would be kept open. We adjourned this appeal to enable counsel to get in touch with their respective clients.

3. It gives us great satisfaction to note that response of the counsel was very positive and their respective clients have also shown a positive and pragmatic approach. Counsel for the Board, on instructions from the Board, submitted that the Board shall complete the process of finalization of the Provisional Tariff Order as per the Regulations of the Board and all

submissions of the Appellant and the stakeholders would be considered with open mind without being influenced by the view already taken in the impugned order. In view of this pragmatic and reasonable approach shown by the Board, which we highly appreciate and in view of the fact that the counsel for the Appellant has also graciously agreed to our suggestions, with the assistance of the counsel and after taking into account the inputs furnished by their respective clients, we pass the following order without expressing any opinion on the merits of the case and keeping all questions of law raised by the Appellant and the contentions of all parties open.

- (a) The Board shall complete the process of finalization of the Provisional Tariff Order and pass the final order in accordance with the prevailing Tariff Regulations.
- (b) In this process, the Board shall consider all submissions / re-submissions including challenges of the entity against the findings/observations/conclusions/ calculations in the Provisional Tariff Orders. Such detailed submissions/ re-submissions shall be made by the entity in writing before the Board within 60 days from the date of this Order.
- (c) All submissions before the Board would be considered on merits with an open mind, uninfluenced by the view already taken, and should not be rejected on the ground that the Board has already taken a view on the same in the Provisional Tariff Order.

- (d) For finalization of Tariff, the Board shall inform the Appellant about the pending data and information required, if any, within 30 days from the date of this order, and the Appellant shall provide the same immediately within 180 days of being called upon to provide the necessary data.
- (e) The Board shall then, within 21 days of the pending data and information being provided by the Appellant, issue a detailed Public Consultation Document (PCD), inviting comments/ suggestions from all stakeholders including consumers within 21 days and hold an open house hearing to hear all the stakeholders within 7 days thereafter.
- (f) Copies of all comments / suggestions received in the Public Consultation exercise shall be furnished to the pipeline owning entity (GGL) within 7 days who shall then submit its response within 30 days of receipt thereof.
- (g) Before the final determination, the Board shall hear the Appellant and the other stakeholders first and thereafter grant the Appellant a full opportunity of hearing. The hearing shall be concluded within 21 days from the date of receipt of response from the Appellant on the comments/ suggestions received in the Public Consultation exercise.
- (h) The Board is expected to consider the matter independently without being influenced by the view already taken by it in the

Provisional Tariff Order. However, if after independently considering the matter, the Board takes a view similar to the one taken in the Provisional Tariff Order, then this would not be held against the Board.

- (i) The Board shall complete the process within 15 months from the date of this Order and pass a speaking and reasoned Order. In the meantime, the Provisional Tariff already fixed shall continue to apply and thereafter the Final Tariff shall be applicable as per prevalent tariff regulations.
- (j) All questions of law and submissions of the Appellant are left open and they would be entitled to challenge the Final Tariff Order in accordance with law.
- (k) The timelines suggested above for operationalizing the proposed scheme for tariff finalization is with a view to completing the process within a reasonable period, on an expeditious basis. The timelines have been jointly worked out by the counsel of the Appellant and the Respondent based on inputs from their respective clients.

4. The Appeal is disposed of in terms of the above order. In view of the disposal of the Appeal, interim applications, if any, stand disposed of.

5. Before parting, we again express our appreciation of the efforts made by counsel for the parties and the parties to enable us to pass the present

order, which in our opinion, would expedite the finalization of the Provisional Tariff Order and would not in any manner, affect the right of the parties to challenge the Final Tariff Order, if they so desire.

(B.N. Talukdar)
Technical Member (P&NG)

(Justice Ranjana P. Desai)
Chairperson

Ts/jps