

PART II

Statutory Notification (S.R.O)

GOVERNMENT OF PAKISTAN

CABINET DIVISION

NOTIFICATION

Islamabad, the 14th November, 2002

S. R. O. (I)/2002.- 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:—

1. Short title and commencement. — (1) These rules may be called the Natural Gas Tariff 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 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) “category of retail consumer” means a category of retail consumer designated as such by order of the Federal Government from time to time;
- (c) “communication” means the pleadings and any other correspondence with the Authority in connection with the proceedings;
- (d) “motion” means any written or, if so permitted by the Authority, oral application in relation to any matter under these rules;
- (e) “Ordinance” means the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002);

- (f) “petition” means a petition made to the Authority, in accordance with the provisions of these rules, for determination, modification or revision of a rate of return, total revenue requirement or tariff;
- (g) “pleadings” means the petition, the replies to the petition and rejoinders;
- (h) “proceedings” means the process beginning with the filing of a petition and ending when the Authority makes its final determination and includes the process of a review by the Authority of its final determination;
- (i) “project” means transmission, distribution or sale of natural gas through a specified route or in a geographical area, where the petitioner proposes to build the requisite pipelines and other infrastructure;
- (j) “register” means the register maintained by the Registrar under these rules;
- (k) “Registrar” means a person designated by the Authority to register and record the receipt of pleadings, intervention requests and communications filed with the Authority and to perform such other duties under these rules as may, from time to time, be assigned by the Authority;
- (l) “schedule” means the schedule to these rules; and
- (m) “unaccounted for natural gas” means, in respect of a financial year, the difference between the total volume of metered gas received by a licensee during that financial year and the volume of natural gas metered as having been delivered by the licensee to its consumers excluding therefrom metered natural gas used for self consumption by the licensee for the purposes of its regulated activity; and such other quantity as may be allowed by the Authority for use by the licensee in the operation and maintenance of its regulated activity.

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

3. Charging for regulated activities prohibited without approval. –

(1) No licensee shall charge, for any regulated activity, any fixed or variable amount, in excess of the relevant tariff determined, approved, modified or revised by the Authority in accordance with these rules.

4. Filings. - (1) Any consumer or person interested in the tariff may file a petition with the Authority by filing it with the Registrar along with the fees specified in Schedule II. The Authority may also initiate proceedings suo moto.

(2) Every licensee shall, by the first day of December of each year, file a petition with the Registrar, along with the fees specified in Schedule II, to enable the Authority to determine an estimate of such licensee's total revenue requirement for one financial year, or for a number of financial years, and inform the Federal Government pursuant to these rules. The Authority may, for reasons to be recorded in writing, exempt a licensee from filing a petition required to be filed pursuant to this sub-rule.

(3) Every licensee shall file a petition with the Registrar, along with the fees specified in Schedule II, to enable the Authority to review the total revenue requirement of the licensee for that financial year, after incorporating actual changes in the well-head prices and other relevant factors, and to determine the licensee's revised total revenue requirement for that financial year for the purposes of informing the Federal Government pursuant to these rules.

(4) A petition filed under sub-rules (1), (2) and (3) shall —

- (a) be accompanied by the information specified in the application form as set out in Schedule I;
- (b) save in the case of a project, be accompanied with a comparative table of the existing charges and tariff design and the proposed charges and tariff design, based on the categories of consumers likely to be affected by the proposal along with the consumption patterns of such consumers; and
- (c) be accompanied by such other information or documentation as may be required by the Authority from time to time, including without limitation, supplementary information or documentation required by the Authority to clarify the information contained in the petition.

(5) If the petition relates to a project for which a separate tariff is required to be determined, approved, modified or revised, in addition to the documents specified in sub-rule (4), the petition shall be accompanied by a conformed copy the feasibility report for the project, and—

- (a) a description of the project, its purpose and cost, including 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 petitioner;

- (b) a statement of the revenue requirement impact of the project and the resulting effect on the tariff chargeable to consumers;
- (c) conformed copy of each contract, letter of intent or other agreement for the transmission, distribution or sale of natural gas relating to the project, 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 in the terms contemplated in the petition;
- (d) a full description of all facilities, other than those covered by the project, necessary to provide the service proposed in the project area and the estimated cost of such facilities;
- (e) 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;
- (f) a statement showing the rights of the petitioner or any other person to transmit, distribute or sell natural gas in each area covered by the project;
- (g) a statement of the petitioner's anticipated cash flow, including provision for interest, dividends, and debt / capital requirements, during the period of construction and the first three full years of operation of the project;
- (h) 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;
- (i) 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 above estimate; and
- (j) data on preliminary bids, if any, for the project and recent experienced cost data for facilities of similar character.

(6) The Registrar shall examine the contents of the petition in order to satisfy himself of the conformity thereof with the provisions of sub-rule (4) and if applicable, sub-rule (5), and –

- (a) where the petition is found to be in conformity with the requirements of the aforesaid sub-rules, shall accept the petition and endorse thereon a stamp acknowledging the filing along with the number given thereto in the register; or
- (b) where the petition is found not to be in conformity with the requirements of the aforesaid sub-rules, shall as soon as may be but no later than five days of filing thereof, return the petition to the petitioner with directions to amend and re-file the petition, within a specified time not exceeding fourteen days, in accordance with the provisions of sub-rule (4) and if applicable, sub-rule (5):
Provided that, where a petition is re-filed by the petitioner, and the Registrar is not satisfied of the conformity thereof with the requirements of sub-rule (4) and if applicable, sub-rule (5), the Registrar shall place the petition before the Authority for directions which shall be made by the Authority no later than seven days of the date of re-filing thereof by the petitioner. The Authority shall not reject a petition on the grounds of any defect therein without giving the petitioner an opportunity of rectifying the defect within the time specified for the purpose by the Authority.

(7) Any communication filed by a person in connection with the proceedings shall contain the name and address of the communicator, 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 number of the petition in connection with which the communication is filed and the number assigned to the communication on the register.

(8) All petitions shall be deemed to be filed on the date of acceptance thereof by the Registrar, and where re-filed in accordance with the provisions of sub-rule (6), on the date the Registrar or the Authority, as the case may be, accepts the filing thereof. A communication shall be deemed to be filed on the date on which it is filed with the Registrar.

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

(10) A petition or communication shall be signed by the petitioner or communicator or by one or more of the petitioner's or communicator's authorized representatives in their individual names on behalf of the petitioner or the communicator.

(11) Any petition or communication, wherein any statement of fact or opinion is made by the petitioner 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. 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

(12) A petition or communication shall be filed with such number of copies as the Authority may, from time to time, determine.

(13) A petition 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. A petition or communication may be forwarded to the Authority through registered post or courier service. If an authorized agent files pleadings or communications on behalf of any party, the document authorizing the agent to do so shall be filed along with the pleadings or communication, if not already filed in the record of the case.

5. Admission of petition. — (1) As soon as may be, but no later than fourteen days of the date of filing of the petition, it shall be placed before the Authority for admission.

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

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

(4) In case the Authority admits the petition, 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 petition, 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 petition 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 petition at the office of the Authority upon payment of the fee determined for the purpose by the Authority.

(6) In any publication ordered by the Authority under sub-rule (5), if the petition is by a licensee, the publication shall, in addition to the information directed to be published by the Authority, contain the following information, namely:-

- (a) Total rupee amount of the rate change;
- (b) typical bill impact of the proposed tariff on each category of consumers;
- (c) the telephone number of a representative of the licensee who can be called for further information; and
- (d) if applicable, a statement indicating that the Authority has ordered immediate application of the whole or part of the tariff proposed by the licensee.

(7) The Authority may, while admitting a petition, allow the immediate application of the whole or a part of the tariff proposed by the petitioner, while the proceedings are pending before the Authority, subject to an order for refund for the protection of consumers or an order for satisfactory security to be provided for such refund.

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, namely: —

- (a) by hand delivery through a messenger;
- (b) by registered post with acknowledgment due ; or
- (c) by publication in at least one national daily newspaper in the English language and at least 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 a petitioner does not fulfill the requirements of these rules or directions of the Authority regarding service or publication, the Authority may either dismiss the petition 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 the Authority may deem appropriate. The Authority may grant leave to intervene without requiring attendance of the intervener. 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 communications before the Authority as may have been referred to in the intervention request, and such communications may be taken into account by the Authority in accordance with rule 9 which shall be applicable to such communications mutatis mutandis.

(4) 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 deny the intervention request based on the procedural and substantive merits of the intervention request.

(5) 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 a petition 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 intends to oppose or support the petition 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 petition on the basis of, inter alia, the documents and evidence submitted by the petitioner.

(3) In the reply, the person filing the same shall specifically admit, deny or explain the facts stated in the petition 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 a petition.

(4) The person filing a reply shall serve a copy of the reply duly attested as a true copy on the petitioner or his 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 petitioner to file a rejoinder to the reply within fourteen days of the order of the Authority to this effect. The procedure described 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 its 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; make information directions; or require the appearance of any person.

(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 no later than seven days of such determination. The parties shall, no 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 shall be 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 of the Authority unless a different location is designated in the notice for hearing.

(7) The Authority may allow and fix a time for the presentation of oral arguments or the examination or cross-examination of any witness during the hearing, imposing such limits of time on the argument, examination or cross-examination, as the case may be, as deemed reasonable by the Authority. The parties shall strictly comply with such time limits and no prejudice shall be deemed to have been caused to any party as a result of the refusal of the Authority to allow further time to such party.

(8) Where, on a date fixed for hearing, any of the parties does not appear, the Authority may either dismiss the petition for default of appearance of the petitioner or proceed against the party in default and hear and decide the petition.

(9) Where a petition 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.

(10) 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.

(11) 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) or (3) of rule 15, as may be applicable to a particular petition.

(12) 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; make information directions; or require the appearance of any person.

(13) 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.

(14) The Authority may appoint one or more days during the course of the proceedings for the participation of the general public in the proceedings in an informal manner.

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 proceedings 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, as deemed fit by the Authority, 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 of its own and shall on a motion 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 the tentative opinion of the Authority on the petition or any particular issue therein. The purpose of recording such tentative opinion shall be to afford the petitioner an opportunity to appraise the prospects of his petition and accordingly to consider withdrawal or modification of his petition or the evidence adduced by him. 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 petitioner 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 a petitioner.

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 a petition, filed pursuant to sub-rules (1) and (2) of rule 4, within five and one half months of the date of filing of the petition:

Provided that the Authority may, only for causes beyond its control, extend the aforesaid five and one half months period by a further period of one month:

Provided further that, the Authority shall not extend the time for its final determination in such proceedings beyond an aggregate period of six months. The reasons for such extension in time shall be recorded in writing.

(3) The Authority shall decide a petition, filed pursuant to sub-rule (3) of rule 4, within three months of the date of filing of the petition:

Provided that the Authority may, only for causes beyond its control, extend the aforesaid three months period by a further period of fifteen days:

Provided further that the Authority shall not extend the time for its final determination in such proceedings beyond an aggregate period of three months. The reasons for such extension in time shall be recorded in writing.

(4) 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 determine from time to time. Copies of all such orders, determinations and decisions shall be available at the principal office of the Authority for public inspection free of cost.

16. Review. — (1) Within thirty days of the final determination in the proceedings by the Authority, a party may file a motion for review of such final determination. A motion 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 motion. The Authority shall act upon a motion for review within fourteen days of receipt of such motion unless it gives notice to the parties, in writing, that a longer period of time shall be required and specifies the additional period of time necessary to consider the motion.

(2) The Authority may refuse leave for review if it considers that the review would not result in the withdrawal or modification of the final order, determination or decision of the Authority.

(3) The Authority may grant leave for review on such conditions and upon the payment of such fee as the Authority deems appropriate, including without limitation, conditions pertaining to any limits on time or additional evidence proposed to be presented in the review.

17. Evaluation criteria. — (1) All petitions filed under these rules shall be evaluated by the Authority on the basis of and in accordance with the following criteria, namely —

- (a) In order to minimize economic distortions, tariffs should reflect the average cost of service of each licensee, except where otherwise provided under the policy guidelines of the Federal Government;
- (b) tariffs should clearly identify any inter-class or inter-region subsidies resulting from the policy guidelines of the Federal Government and should be set in a manner so as to provide such subsidies transparently;
- (c) tariffs should include a mechanism to allow licensees a benefit from and penalties for failure to achieve, benchmarks set by the Authority through yardstick regulation for, inter-alia and without

- limiting the generality of such regulation, capacity utilization, operation and maintenance costs and unaccounted for natural gas;
- (d) tariffs should be determined in a manner which promotes continued reasonable investment in equipment, facilities and research and development for qualitative and quantitative improvement in the provision of regulated activities;
 - (e) tariffs should be determined in a manner that takes into account the covenants contained in agreements, relating to regulated activities, with international institutional lenders;
 - (f) tariffs should be determined on the basis of a return on assets, however, the Authority may, after consultation with licensees and the Federal Government, determine tariffs on the basis of other regimes, including without limitation, return on equity, and tariffs may be determined on the basis of disparate regimes for different types of licensees;
 - (g) tariffs should be determined in a manner that protects consumers against monopolistic and oligopolistic pricing;
 - (h) tariffs should generally be determined taking into account a rate of return as provided in the licence, prudent operation and maintenance costs, depreciation, government levies and, if applicable, financial charges and cost of natural gas;
 - (i) while determining the value of a licensee's fixed assets in operation, the value of assets funded wholly or partially, on a non-refundable basis, by a person other than the licensee, should be excluded to the extent of such contribution;
 - (j) only such capital expenditure should be included in the rate base as is prudent, cost effective and economically efficient;
 - (k) depreciation of a licensee's assets should be allowed on the basis of their useful life as may be determined, from time to time by the Authority;
 - (l) tariffs should be comprehensible and should explicitly state each component thereof;
 - (m) tariff should be set to facilitate the sending of appropriate price signals regarding the relative abundance or scarcity of supply of the relevant regulated activity; and

(n) tariffs should keep in view the cost of substitute or alternate sources of energy.

(2) In evaluating a petition, the Authority shall strike a balance, to the extent possible, among the criteria specified in sub-rule (1), in order to optimize the benefits to all persons likely to be affected by the Authority's determination on the petition.

18. Pricing for retail consumers for natural gas — (1) As soon as may be but no later than three days of each determination by the Authority of the total revenue requirement of a licensee, the Authority shall advise the Federal Government the price which should apply to each category of retail consumers for natural gas of that licensee.

(2) The Federal Government shall consider the Authority's determination referred to in sub-rule (1) and as soon as may be but no later than forty days of receiving the same, advise the Authority of the minimum charges and the sale price for each category of retail consumers for natural gas which shall apply in relation to that licensee.

(3) The Authority shall, as soon as may be but no later than three days of receiving the advice from the Federal Government, notify, in the official Gazette, the price applicable to a licensee and the minimum charges and maximum sale prices which that licensee shall be permitted to charge each category of its retail consumers for natural gas.

(4) If the Federal Government fails to advise the Authority within time specified in sub-rule (2) and the price for any category of retail consumers for natural gas determined by the Authority under sub-rule (1) is higher than the most recently notified sale price for each category of retail consumers for natural gas, the Authority shall notify, in the official Gazette, the price as determined by the Authority under sub-rule (1) to be the sale price for said category of retail consumers for natural gas.

(5) No licensee shall charge any consumer, for the supply of natural gas, any sale price or minimum charge other than the sale price or minimum charge notified by the Authority pursuant to these rules and publicized by the licensee in the print and electronic media.

(6) Licensees shall be entitled to charge each retail consumer for natural gas the applicable minimum charges notified by the Authority pursuant to these rules notwithstanding that no gas has been taken by such retail consumer during the period for which such minimum charges are levied.

19. 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 orders, determinations, decisions or communications made, notices issued or certified copies granted by the Authority.

20. Penalty. — (1) Subject to sub-rule (3), any licensee who contravenes materially any provision of the Ordinance, these rules or an order, determination, decision, direction or instruction of the Authority shall be punishable with fine 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 twenty million rupees, whichever is less, and in the case of a continuing contravention with additional fine which may extend to, one-tenth of one per cent 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) Subject to sub-rule (3), any person other than a licensee who contravenes any provision of the Ordinance, these rules, or an order, determination, decision, direction or instruction of the Authority shall be punishable with fine which may extend to five hundred thousand rupees and, in the case of a continuing contravention with additional fine which may extend to one hundred thousand rupees for every day during which such contravention continues after the first contravention.

(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. Prior to imposing a fine, the Authority shall, in writing, require the person liable to be penalized to show cause orally, in person or otherwise, or in writing, as to why the fine may not be imposed.

21. 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, declares 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.

22. Extension of time. — (1) Subject to the provisions of sub-rules (2) and (3) of rule 15, 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 motion before the expiration of the period originally prescribed or previously extended. The Authority shall give notice to all parties of the Authority's determination upon such motion.

SCHEDULE I
[See rule 4(4)]

Application Form

Ref. No. _____

Date: _____

Company Profile

1. Name of the Petitioner:
2. Full address of the Petitioner:
3. The grounds giving rise to petitioner's interest forming the basis of the petition:
4. Number and details of the License:
5. State, in a concise manner, the grounds and facts forming the basis of the petition and the relief or determination sought from the Authority:
6. Summary of evidence giving brief particulars of the data, facts and evidence in support of the petition:
7. List of all other petitions filed by the petitioner which are pending before the Authority at the time of the filing of this petition and which directly and significantly affect this petition, including an explanation of any material effect the grant or denial of those petitions will have on those other petitions:
8. Petition to be accompanied by details of the following market data:-
 - (a) number and consumption details of consumers likely to be affected by the petition;
 - (b) if the petitioner is a licensee, an estimate of the volume of natural gas to be transmitted, distributed or sold;
 - (c) the petitioner's total annual peak day natural gas requirement; and
 - (d) the petitioner's forecast of yearly capital expenditure for five years including the year under evaluation.

SCHEDULE II
[See rule 4(1)(2) and (3)]

1. Application fee for the purposes of sub-rule (1) of rule 4 shall be the following:

| Class of Persons 1 | Fee 2 |
|--|------------------------------|
| (a) Small and Medium Enterprises (SME). | Twenty thousand rupees |
| (b) Other large general industry and power | Seventy five thousand rupees |
| (c) Commercial. | Five thousand rupees |
| (d) Domestic. | One thousand rupees |
| (e) Any other not specified above. | One thousand rupees |
| 2. Application fee for the purposes of sub-rule (2) of rule 4. | Ten hundred thousand rupees |
| 3. Application fee for the purposes of sub-rule (3) of rule 4. | Two hundred thousand rupees |

[No.4/1/2002-RA/OGRA]

Sd/-
(MUHAMMAD ASHRAF)
Deputy Secretary.