

Case No. OGRA-6(2)-1(3)/2009-RFRR

IN THE MATTER OF

**SUI NORTHERN GAS PIPELINES LIMITED
MOTION FOR REVIEW OF FINAL REVENUE REQUIREMENT,
FY 2008-09**

UNDER

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

DECISION

December 16, 2009

Before:

Tauqir Sadiq, Chairman
Syed Hadi Hasnain, Member (Gas)
Mir Kamal Marri, Member (Finance)
Dr. M. Ilyas Fazil, Member (Oil)

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1. BACKGROUND

- 1.1. Sui Northern Gas Pipelines Limited (the petitioner) is a public limited company incorporated in Pakistan, and is listed on Stock Exchanges at Karachi, Lahore and Islamabad. It is engaged in the business of construction and operation of gas transmission & distribution pipelines, sale of natural gas and compressed natural gas, and sale of gas condensate (as a by-product).
- 1.2. The petitioner had filed a petition on August 14, 2009 under Section 8(2) of the Oil and Gas Regulatory Authority Ordinance, 2002 (the Ordinance) and Rule 4(3) of the Natural Gas Tariff Rules, 2002 (NGT Rules), for determination of its Final Revenue Requirement (FRR) for FY 2008-09 (the said year) on the basis of the accounts as initialed by its statutory auditors. The Authority, vide its decision dated September 16, 2009 determined a shortfall of Rs. 10,159 million (the amounts have been rounded off to the nearest million here and elsewhere in this document). The Authority allowed an increase of Rs. 3.55 per MMBTU (i.e. Rs. 10,159 million) in the average prescribed price w.e.f July 01, 2008, and directed the petitioner to include remaining shortfall i.e. Rs. 8,226 million in the Review of Estimated Revenue Requirement (RERR) FY 2009-10.
- 1.3. Being aggrieved by this determination, the petitioner has submitted motion for review (the petition) on October 14, 2009 under Rule 16 of NGT Rules seeking average increase in prescribed price of Rs. 4.98 per MMBTU over and above the current average prescribed price w.e.f July 01, 2008.
- 1.4. The petitioner has submitted the following comparative statement of cost of service:



Table 1 : Comparison of Cost of Service for FY 2008-09 per the petition with FRR

| Particulars | Rs. per MMBTU | |
|--|----------------|----------------|
| | FRR | The petition |
| Units sold (BBTU) | 544,544 | 544,544 |
| Cost of gas sold | 277.91 | 277.93 |
| Transmission and distribution cost | 16.09 | 19.63 |
| Depreciation | 9.78 | 9.82 |
| Return on net average operating fixed assets | 14.36 | 14.72 |
| Other operating income | (7.91) | (6.88) |
| Cost of service / prescribed price | 310.22 | 315.20 |
| Current average prescribed price | 310.22 | 310.22 |
| Increase requested in the average | - | 4.99 |

- 1.5. The Authority issued a notice of pre-admission hearing on October 28, 2009 to the petitioner.

2. AUTHORITY'S JURISDICTION AND DETERMINATION PROCESS

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

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

- 2.2. The issues brought forward by the petitioner must necessarily be evaluated with reference to the afore-said Section 13 of the Ordinance and meet at least one of the two pre-conditions given therein referring to change in circumstances and new admissible evidence for admission of the motion. Further, the Authority may refuse leave for review if it considers that the review would not materially alter the decision under review.



3. PROCEEDINGS

3.1. A pre-admission hearing was held on November 24, 2009, at Islamabad, which was participated by the following:

Petitioner:

3.2. Petitioner's team led by Mr. Ibrar Ahmed, Dy. Managing Director.

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

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

- (i) Capitalization of Operating Fixed Assets (Compression and Transmission)
- (ii) Return on Government Grants
- (iii) Human Resource (HR) Benchmark
- (iv) Provision for Doubtful Debts
- (v) Un-accounted for Gas (UFG)

4. DECISION

4.1. Capitalization of Operating Fixed Assets (Compression and Transmission)

4.1.1. The Authority had pended capitalization to the tune of Rs. 1,993 million on account of various Compression and Transmission projects based on the fact that the petitioner undertook these projects without obtaining prior approval and also failed to provide sufficient justification / adequate breakup in support of the said mega projects, despite repeated telephonic and written reminders.

4.1.2. The petitioner has now provided certain information, sought earlier by the Authority, in respect of the pended projects. The Authority observes that the details submitted now by the petitioner should have been provided at the time of original petition, since such details are prepared when these mega projects are envisaged and prior to their commencement. The petitioner,



however, due to its own negligence, failed to provide the said information within the stipulated time. The petitioner was also unable to justify such a major deviation from its planned / budgeted capital expenditure.

4.1.3. In view of above, the Authority observes that the information provided now cannot be construed as "**discovery of new evidence or change in circumstances**", which instigates review of the Authority's decision under Section 13 of the Ordinance. The Authority further notes that in the prevalent pricing framework, major deviations from the original estimates cannot be allowed at the end of the year. *The Authority, therefore, decides not to entertain the information submitted at such a belated stage.*

4.2. Return on Government Grants and Provision for Doubtful Debts

4.2.1. The Authority notes that the petitioner has again contended the above issues, which have repeatedly been discussed by the Authority in its various earlier determinations. Filing of review petitions based on exhaustively discussed and decided issues clearly shows that the petitioner has been trying to agitate with the Authority's determinations. The Authority has always given a conscious thought to the submissions of the petitioner and after analyzing / considering the arguments from all stakeholders, has decided upon these issues in the best national interest. *The arguments advanced now have already been addressed by the Authority; therefore, the admission of the petition based on previously exhaustively discussed issues defies logic.*

4.3. Human Resource (HR) Cost Benchmarking

4.3.1. The Authority observes that it had given due consideration to the submissions of both the gas utilities, and had determined an equitable HR cost benchmark after analyzing the data received from the petitioner as well



as Sui Southern Gas Company Limited.

4.3.2. In view of above, the Authority maintains its earlier decision, and fixes the HR cost benchmark for three years i.e. FY 2008-09 to FY 2010-11.

4.4. Un-accounted for Gas (UFG)

4.4.1. The Authority observes that the petitioner has filed a separate petition to review the UFG benchmarks. During the pre-admission hearing of the instant petition, the Authority showed deep concern and dissatisfaction over the ever-increasing UFG level and, therefore, directed the petitioner to constitute a dedicated technical committee to present the petitioner's stance in this respect. It was further directed that the committee should clearly highlight and substantiate the efforts undertaken by the petitioner to reduce the UFG level, bifurcate UFG between controllable and uncontrollable factors, justify the revision of existing UFG benchmarks and submit a reasonable and rational proposal for new UFG benchmarks for consideration of the Authority.

4.4.2. The Authority, therefore, decides to deliberate on this issue separately and not as part of the instant review.

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

(Syed Hadi Hasnain)
Member (Gas)

(Mir Kamal Marri)
Member (Finance)

(Dr. M.Ilyas Fazil)
Member (Oil)

(Tauqir Sadiq)
Chairman

Islamabad, December 16, 2009