

DEPARTMENT of ENERGY

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*Rules and Regulations
Governing the Transmission, Distribution
and Supply of Natural Gas*

TABLE OF CONTENTS

		Page
PART I	GENERAL PROVISIONS	
Rule 1	Title and Scope	1
Rule 2	Declaration of Policy	2
Rule 3	Responsibilities of the DOE and ERC	3
Rule 4	Measurement of Natural Gas	3
Rule 5	Definition of Terms	4
PART II	STRUCTURE AND OPERATION OF THE NATURAL GAS INDUSTRY	
Rule 6	Transmission Pipelines	7
Rule 7	Distribution Pipelines	7
Rule 8	Transmission- and/or Distribution-related Facilities	8
Rule 9	Supply	9
Rule 10	Open Access	9
Rule 11	Permits	10
Rule 12	Application for Permits	12
Rule 13	Standards for Construction, Operation and Safety	14
Rule 14	Rights in Respect of Land and Property	18
PART III	NATURAL GAS INDUSTRY PRICING	
Rule 15	Natural Gas Pricing	19
Rule 16	Price Schedules	20
Rule 17	Promotion of Competition	21
PART IV	FINAL PROVISIONS	
Rule 18	Reporting	20
Rule 19	Offenses and Penalties	24
Rule 20	Force and Effect	25
ANNEX 1	DOCUMENTS TO ACCOMPANY APPLICATION FOR PIPELINE PERMIT	26
ANNEX 2	ACCESS CONDITIONS FOR NATIONAL INFRASTRUCTURE PIPELINES AND TRANSMISSION RELATED FACILITIES	31
ANNEX 3	RULES OF PRACTICE AND PROCEDURE OF THE DOE FOR HEARING APPLICATIONS	34

**Rules and Regulations
Governing The Transmission, Distribution
and Supply Of Natural Gas**

Pursuant to Section 5 (a), (c) and (e) of Republic Act (RA) No. 7638 creating the Department of Energy (DOE), otherwise known as the “Department of Energy Act of 1992; RA No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001; Sec. 3 of Executive Order (EO) No. 172 creating the Energy Regulatory Board, as amended by RA No. 9136; Section 20 of RA No. 8479, otherwise known as the “Downstream Oil Industry Deregulation Act of 1998; Section 18f of Presidential Decree (PD) No. 87, otherwise known as “The Oil Exploration and Development Act of 1972”, as amended; Commonwealth Act 146, otherwise known as “The Public Service Law”; RA No. 387, otherwise known as “The Petroleum Act of 1949”; and in accordance with Book IV, Chapter 2, Section 7 of the Revised Administrative Code of 1987, and in accordance with Department Circular No. 95-06-006, entitled “Policy Guidelines on the Overall Development and Utilization of Natural Gas in the Philippines” and dated June 15, 1995, the Department of Energy in consultation with appropriate government agencies hereby issues, adopts and promulgates the following rules and regulations.

PART I – GENERAL PROVISIONS

The succeeding rules and regulations shall include the general provisions to be followed in respect of the Transmission, Distribution and Supply of Natural Gas.

RULE 1. TITLE AND SCOPE

Section 1. Title.

These rules shall be known and cited as the “Rules and Regulations Governing the Transmission, Distribution and Supply of Natural Gas”. It shall be hereinafter referred to as the Rules.

Section 2. Scope.

These Rules apply to the development and operation of the Natural Gas industry including:

- (a) The responsibilities of the DOE and its relation with other government agencies, and the responsibilities of the private participants in the Natural Gas industry; namely Contractors under Service Contracts, Gas Transmission Companies, Gas Distribution Companies, s, third party transporters of Natural Gas, Suppliers, Gas End-users or any person, entities or associations that may be authorized by the DOE to engage in the Transmission, Distribution or Supply of Natural Gas;

- (b) The transportation and utilization of Natural Gas as an indigenous energy resource;
- (c) The importation of Natural Gas and its transportation whether as LNG or via cross-border Pipeline;
- (d) The Transmission and Distribution of Natural Gas whether by Pipeline that is part of Petroleum Operations under a Service Contract, as a Franchise, or as a Pipeline Concession; and
- (e) The Supply of Natural Gas to Gas End-Users or entities which resell gas to Gas End-Users.

Section 3. Applicability of PSC Revised Order No. 1.

The provisions of the Revised, Order No. 1 of the then Public Service Commission (PSC), approved on November 27, 1941, particularly Chapter III pertaining to "Industrial Public Services", is no longer applicable to the Transmission, Distribution, or Pricing of Natural Gas conducted in compliance with these Rules.

RULE 2. DECLARATION OF POLICY.

Section 1. Declaration of Policy

Pursuant to the general provisions of the Department of Energy Act, it is hereby declared the policy of the State:

- (a) To promote the role of Natural Gas as an environment-friendly and economically efficient source of energy for the country by creating conditions for the establishment of a Natural Gas industry that serves the interests of the broad variety of Gas End-users, Gas Transmission and Distribution Pipeline Companies, Third Party Transporters, Suppliers and other persons or entities who are parties to Gas Sale and Purchase Contracts.
- (b) To facilitate the participation of the private sector in the Natural Gas industry; the State will primarily confine itself to policy direction and regulation, but may engage in strategic activities that will catalyze the development of the Natural Gas industry and enhance economic benefit to the people.
- (c) To promote competition by ensuring that the development and operation of Pipelines and Transmission Related Facilities are subject to open and non-discriminatory access to all Natural Gas industry participants with due regard to economic viability;
- (d) To ensure compliance with international safety standards and with Philippine environmental and other laws and regulations.

RULE 3. RESPONSIBILITIES OF THE DOE AND ERC

Section 1. Responsibilities of the DOE.

Consistent with the Department of Energy Act, the DOE shall continue to exercise its powers and functions as the policymaking body for the energy sector. In addition, the DOE shall have the overall responsibility of supervising the development of the Natural Gas Industry and regulation of the construction, and operation of Natural Gas Pipelines and Transmission- and Distribution-Related Facilities, specifically through:

- (a) the granting of Permits for the construction of Pipelines and Transmission- and Distribution- related Facilities, and
- (b) the supervision of the construction and operation of Pipelines that are part of Petroleum Operations under the terms and conditions of Service Contracts.

Section 2. Responsibilities of ERC.

These Rules recognize the following powers and functions of the ERC:

- (a) Consistent with the ERB Charter as amended by the Electric Power Industry Reform Act of 2001 including the reorganization of the ERB into the Energy Regulatory Commission (ERC), the ERC shall have the responsibility of regulating the Pricing for the Transmission, Distribution and Supply of Natural Gas through the approval of Price Schedules and Rate Orders.
- (b) Consistent with Section 20 of the Oil Industry Deregulation Act, which amended Section 3 of the ERB Charter, the ERC shall, upon proper notice and hearing, fix and regulate the rate of schedule or prices of piped gas to be charged by duly franchised gas companies which distribute gas by means of underground pipe system."
- © Consistent with the intents and purposes of the Electric Power Industry Reform Act of 2001, the ERC shall after public hearing, determine whether take-or-pay charges, minimum bill payments or similar fixed obligations contained in Gas Sales and Purchase Contracts or Pipeline transportation contracts can be recovered from Gas End-users or Electric Industry Participants .

RULE 4. MEASUREMENT OF NATURAL GAS

Section 1. Measurement of Natural Gas.

Unless otherwise approved by the DOE:

- (a) The volume of Natural Gas will be measured in cubic feet under standard conditions specified in Section 2 below and all reporting will be in units of one thousand cubic feet (MCF);

- (b) The energy value of Natural Gas will be measured in British Thermal Units (BTU) and all reporting will be in units of one million BTUs (MMBTU).

Section 2. Standard Conditions.

The standard conditions for purposes of these Rules shall be on the basis that the Natural Gas is saturated with water vapor at 60 degrees Fahrenheit under a pressure equivalent to that of 30.00 inches of mercury at 32 degrees Fahrenheit, under standard gravitational force (980.665 centimeters per second squared).

Section 3. Application to the Gas Price.

The approved price for any sale of Natural Gas under Rule 14 applies to the quantity of BTU's determined on the basis of the standard conditions described in Section 2 above. Standard conditions shall apply regardless of the actual delivery pressure and temperature conditions and the actual water vapor content of gas delivered to the Gas End-user.

RULE 5. DEFINITION OF TERMS

As used in these Rules the following terms shall have the following respective meanings:

- (a) "**Bar**" refers to a unit of pressure that is equal to one million dynes per square centimeter;
- (b) "**Department**" refers to the Department of Energy (DOE) which is the government agency created pursuant to RA 7638 whose expanded functions are provide in the Electric Power Industry Reform Act of 2001 (RA 9136);
- (c) "**Department of Environment and Natural Resources**" (DENR) refers to the government agency created pursuant to EO No. 192;
- (d) "**Distribution**" refers to the transport and delivery of Natural Gas by a Pipeline of Pipeline Network meeting the classification of Rule 7;
- (e) "**Energy Regulatory Commission**" refers to the regulatory agency created under the Electric Power Industry Reform Act of 2001;
- (f) "**Franchise**" refers to the right, privilege and authority issued by Congress or a government agency authorized by law to a person, natural or juridical, to engage in the Transmission or Distribution and Supply of Natural Gas within a specific geographical area;
- (g) "**Gas Distribution Company**" refers to an enterprise that has been issued a Franchise by Congress and authorized by the DOE to engage primarily in the Distribution and/or Supply of Natural Gas to Gas End-Users in a specific geographic area.

- (h) “**Gas End-user**” refers to any person, natural or juridical, who consumes or uses Natural Gas for residential, commercial, industrial, transport, and other purposes, and for the Generation of Electricity;
- (i) “**Gas Sales and Purchase Contract**” (GSPC) refers to a contract for the delivery and sale of indigenous or imported Natural Gas by and between a seller, who may be a Contractor under a Service Contract, a Gas Transmission Company, a Gas Distribution Company, a Supplier, an LNG importer, and a buyer, who is either a Gas End-user or person that intends to resell gas to a Gas End-user;
- (j) “**Gas Transmission Company**” refers to an enterprise that has been authorized by the DOE to engage primarily in the Transmission and/or Supply of Natural Gas.
- (k) “**Generation Company**” refers to an enterprise authorized by the ERC to operate facilities for the generation of electricity;
- (l) “**Indicative Transport Tariff**” refers to the nominal charge for the cost of transporting Natural Gas by a National Infrastructure Pipeline either:
 - 1) as a component of the price in a Gas Sale and Purchase Contract; or
 - 2) as the Tariff charged for providing Transmission or Distribution services to a third party;
- (m) “**LNG**” refers to Liquefied Natural Gas;
- (n) “**National Infrastructure Pipeline**” refers to a Pipeline that is-
 - 1) authorized as a Franchise for the Transmission or Distribution of Natural Gas; or
 - 2) authorized as a Pipeline Concession under RA 387; or
 - 3) authorized as a Private Sector Infrastructure or Development Project under R.A. No. 6957 or the “Build-Operate-Transfer” Law ; or
 - 4) constructed as part of Petroleum Operations under a Service Contract; or
 - 5) constructed or operated by a government-owned and controlled corporation; or
 - 6) authorized as Pipelines for Own Use.
- (o) “**Natural Gas**” refers to hydrocarbons, which at atmospheric conditions of temperature and pressure, are in a gaseous phase and which have been identified under either a Service Contract or Gas Sales and Purchase Contract as being primarily Methane with smaller quantities of heavier fractions also being entrained;
- (p) “**Open Access**” refers to the system of allowing any qualified person or entity the use of Pipelines and Transmission- and/or Distribution-related Facilities under the access conditions prescribed in Annex B;
- (q) “**Permit**” refers to an authorization issued by the DOE for the construction, operation, expansion, and modification of a Pipeline for the Transmission or Distribution of Natural Gas and for the construction, operation, expansion, and modification of a Transmission- or Distribution-related Facility;

- (r) "**Petroleum Operations**" shall have the same meaning as contained in PD No. 87;
- (s) "**Pipeline**" refers to pipes and other interconnected facilities operated as an integrated system (including pumping stations, metering stations, valve stations, SCADA systems, storage tanks, pig launching and receiving stations) for transporting Natural Gas from receipt points below the point of interconnection with field and platform-mounted processing plants to delivery points for either Natural Gas processing within the country or export, but does not include pipes and facilities for—
 - 1) returning Natural Gas to a reservoir for pressure maintenance; or
 - 2) transporting Natural Gas that is to be flared or vented; or
 - 3) gathering Natural Gas for transmission to initial processing facilities within a Service Contract area;
- (t) "**Pipeline Concession**" refers to the right, privilege and authority issued under the Petroleum Act of 1949 (RA 387);
- (u) "**Pipeline Network**" refers to Pipelines that are physically interconnected regardless of whether they are under common ownership or operation;
- (v) "**Pricing**" refers to the manner of setting the charge paid by Gas End-users for Transmission or Distribution of Natural Gas, including the energy value of the Natural Gas, or the charge for transportation services to third parties, as the case may be;
- (w) "**Price Schedule**" refers to a statement of the price charged for the Transmission, Distribution or sale of Natural Gas and all contract terms and conditions, service classifications, practices, charges and Tariffs affecting such price;
- (x) "**Public Interest**" refers to matters that have public consequence, and affect the community at large. When one devotes his property to a use in which the public has an interest, he grants to the public an interest in that use, and must submit to be controlled by the public for the common good, in accordance with the requirements and limitations of these Rules, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but so long as he maintains the use, he must submit to the control.
- (y) "**Rate Order**" refers to the charge for the sale of Natural Gas set by the ERC under Rule 14.
- (z) "**Service Contract**" refers to the contract entered into between the Government and a service contractor pursuant to PD 87, as amended. The Service Contract may or may not include the authority to operate Pipeline and Transmission Related Facilities as part of Petroleum Operations;
- (aa) "**Storage Facility**" means any facility designed or adapted for the storage of gas in bulk (whether in liquid state or not) not being a pipe or other conduit for the transport of gas;

- (bb) **“Supplier”** refers to any person or enterprise authorized by the DOE to sell, broker, or market gas transported through Pipelines to Gas End-Users or persons who intend to resell Natural Gas to other Gas End-Users.
- (cc) **“Tariff”** refers to the charge for the Transmission of Natural Gas by Pipeline, including Indicative Tariff, together with the terms and conditions of contracts for transmission service and gas delivery procedures;
- (dd) **“Transmission”** refers to the transport and delivery of Natural Gas by a Pipeline meeting the classification of Rule 6.
- (ee) **“Transmission- and/or Distribution-Related Facilities”** refers to any facility for processing, storing, regassification, interconnection, measurement, or metering that is necessary for the Transmission and Distribution of Natural Gas;
- (ff) **“Unbundled Service”** refers to the Pricing of the energy value of Natural Gas separately from the Tariff charged for Pipeline transportation service.

PART II - STRUCTURE AND OPERATION OF THE NATURAL GAS INDUSTRY

RULE 6. TRANSMISSION

Section 1. Guiding Principle

The Transmission of Natural Gas is a business affected with public interest subject to the permitting authority of the DOE and the ratemaking powers of the ERC.

Section 2. Classification

The transportation of Natural Gas through high-pressure pipeline Systems shall be classified as Transmission. The DOE shall set the standards of the transmission pressure rating that shall distinguish Transmission from Distribution.

RULE 7. DISTRIBUTION PIPELINES

Section 1. Guiding Principle

The Distribution of Natural Gas to Gas End-Users is a business affected with public interest requiring a Franchise. It is subject to the permitting authority of the DOE for a specific geographic area and the ratemaking powers of the ERC.

Section 2. Classification.

The transportation of Natural Gas through low-pressure Pipeline systems shall be classified as Distribution.

Section 3. Pipeline Networks.

Interconnected systems of Pipelines may be utilized for Distribution and will be authorized so long as they are authorized as condition of Pipeline Permit.

Section 4. Obligations of Gas Distribution Companies

Gas Distribution Companies shall have the obligation to develop and maintain an efficient system to supply Natural Gas at the reasonable request of Gas End-users within a specific geographic area including:

- (a) The installation of pipes where the connection to the Gas End-user is within _____ meters (25 years) of the Distribution Pipeline; or
- (b) Increasing the capacity of existing Distribution Pipelines.

Section 5. Economical Connection.

In circumstances where the Gas Distribution Company can demonstrate to the satisfaction of the DOE that it is not economical to make such a connection, the DOE to determine that:

- (a) The connection to the End-user be delayed until the market demand for Natural Gas justifies installing the pipe; or
- (b) The Gas End-user should make a contribution in aid of installation; or

Section 6. Ownership of Gas Distribution Companies

Subject to these Rules, and other provisions of Philippine law concerning the ownership and operation of businesses affected with Public Interest and prohibition of monopolies and combinations in restraint of trade, there will be no limitations on Service Contractors, Gas Transmission Companies, Suppliers and Gas End-Users or or their Affiliates holding any interest, directly or indirectly in a Distribution Pipeline.

The DOE may encourage legal or ownership separation between business interests subject to the DOE determination of the need to promote competition as provided for under Rule ____.

RULE 8. TRANSMISSION- AND/OR DISTRIBUTION-RELATED FACILITIES

These Rules shall apply to all Transmission- and Distribution-related Facilities that the DOE determine to be an essential part of Transmission or Distribution regardless of ownership or responsibility for operation, including but not limited to the following:

- a) Natural gas processing plants;
- (a) Facilities for interconnecting Pipelines;
- (b) Pipeline metering stations;
- (c) LNG terminals and regassification facilities;
- (d) Storage facilities; and
- (e) CNG-refilling stations.

RULE 9. SUPPLY

Section 1. Guiding Principle

For the purposes of these Rules, the Supply of Gas to End-Users is a business affected with Public Interest. It is subject to the permitting authority of the DOE for a specific geographic area and the ratemaking powers of the ERC.

Section 2. Application

The Supply of Natural Gas transported through Pipelines to Gas End-Users or persons and/or entities intending to resell gas to Gas End-Users may be undertaken by the following:

- (a) Gas Transmission Companies;
- (b) Gas Distribution Companies
- (c) LNG Importers
- (d) Independent Suppliers

Service Contractors may be allowed to engage only in the Supply of gas that it produced from its Service Contract area.

The DOE shall set the criteria to determine the qualifications of independent Suppliers, which shall include, among other requirements, a demonstration of their technical capability, financial capability, and their creditworthiness.

RULE 10. OPEN ACCESS

Section 1. Open Access Obligation

Operators of National Infrastructure Pipelines and Transmission- and/or Distribution-related Facilities excluding those constructed and operated for the sole use of the owner are obligated under these Rules to provide open and non-discriminatory access to third party users which may include Service Contractors, Suppliers and Gas End-Users, with

due regard to the economic viability of the operation of such facilities. Such operators shall negotiate in good faith with third-party users the provision and terms of access in accordance with Annex 2.

Section 2. Modification of Open Access Obligation.

As a condition of a Pipeline Permit for a National Infrastructure Pipeline or Transmission Related Facility, the DOE may determine that implementation of Open Access may be deferred where:

- (a) It can be demonstrated that such deferment is necessary to enable the efficient planning of the infrastructure and aggregation of the initial demand necessary to justify investments in the Pipeline or Transmission- and/or Distribution-related Facilities.
- (b) It is in the interest of the Gas End-users served by the National Infrastructure Pipeline or Transmission Related Facility to ensure stability of supply.

In either case, the DOE shall not defer implementation of Open Access for a period longer than three (3) years for Transmission Pipelines and five (5) years for Distribution Pipelines from the date the Permit was issued. The DOE may determine that implementation of Open Access should be accelerated in the interest of competition.

RULE 11. PERMITS

Section 1. Requirement for a Permit.

No person shall undertake the construction, operation and maintenance, expansion, extension, or modification of a Pipeline for Transmission or Distribution of Natural Gas or undertake the construction, operation and maintenance, expansion, extension or modification of any Transmission- and Distribution-related Facility unless a Permit has been issued by the DOE.

Section 2. Permits to be Non-Exclusive.

Permits will be non-exclusive unless:

- (a) The Permit is intended to be exclusive by the express terms of Pipeline Concession, or Franchise related to the Permit; or
- (b) Where the Secretary of Energy has determined that it is in the public interest for a specific market or area to be serviced by a single Pipeline or Transmission- or Distribution-related Facility.

In the case of Subsection (b) above, the DOE will issue a Permit to the Applicant whose Pipeline or Transmission-/Distribution-related Facility is determined to best meet the Policy Declaration made in Rule 2.

Section 3. Pipeline Route.

A National Infrastructure Pipeline shall be constructed according to a route that will provide the greatest benefit to Gas End-users that can be identified at the time the Application is submitted. Before issuing a Pipeline Permit, the DOE may require a National Infrastructure Pipeline to present feasibility studies for alternative routes or options for expansion along the proposed route based upon requests for the supply or transport of Natural Gas from Service Contracts, Gas Distribution Companies, Suppliers, and Gas End-users.

Section 4. Conditions of the Permit

It shall be a condition of each Permit that the holder of the Permit:

- (a) Shall not engage in undue discrimination by:
 - (1) making or giving any undue preference or advantage to any person;
 - (2) subjecting any person to undue prejudice; or
 - (3) maintaining any unreasonable difference in Tariffs, service, facilities, or in any other respect either between individual Gas End-users or as between classes of service for Transmission or Distribution.

- (b) Where the DOE has determined that the demand for Natural Gas justifies the investment, the Permit holder shall modify the Pipeline by:
 - (1) making an interconnection with another Pipeline; or
 - (2) increasing the capacity by installing compression in the case of a Transmission Pipeline.

- (c) Comply with other conditions on which the Pipeline Permit is issued in order to achieve the Declaration of Policy under Rule 2 including:
 - (1) standards for quality, odorization, energy value and pressure; and
 - (2) testing of equipment for accuracy and safety.

Section 5. Petroleum Operations.

Pipelines that are constructed as part of Petroleum Operations under Service Contracts shall be used only to transport the Natural Gas produced by the Service Contractor from the initial processing plant located within the Service Contract area to the point of delivery to the first-hand Gas Buyer or End-User. The Service Contractor shall secure a Permit to construct and operate such pipelines.

The Secretary of Energy may determine that for purposes of economies of scale or other strategic reasons Pipelines under Service contracts may be built with spare capacity in which case such spare capacity shall be subject to open and non-discriminatory access by third-party users.

Section 6. Own-Use Permits

The DOE may grant an Own-Use Permit for Pipelines and Storage facilities that are constructed and operated exclusively to satisfy the needs of the applicant. Own-use Permits for Pipelines shall be granted for a specific capacity and defined route. Own-Use Permits for Storage Facilities shall be granted for a specific location and capacity. Only final users may apply for Own-Use Permits.

Holders of Own-Use Permits are subject to compliance with safety standards under Rule 14 as well as environmental and all other relevant laws and regulations

Section 7. Fees

The Department shall prescribe and collect fees relevant to the supervision and regulation of every Pipeline and Transmission- and Distribution-related Facilities that have been granted a Pipeline Permit.

Section 8. Abandonment of Pipelines and Transmission- and Distribution-related Facilities

No Pipeline or Transmission- and Distribution-related Facilities for which a Permit has been issued shall abandon or withdraw from service without obtaining prior authorization from the DOE.

Section 9. Duration of Permit.

A Permit shall be valid for a duration of up to 25 years with potential to be extended for up to an additional 25 years or the remaining economic life of the Pipeline or Transmission- and Distribution- related Facility, whichever is less. The Permit is deemed *ipso facto* revoked if the pipeline fails to commence operation within two (2) years from the date it is issued or if it fails to operate continuously for two (2) years.

RULE 12. APPLICATION FOR PERMITS

Section 1. Application Required.

Unless otherwise disqualified by law, any person or entity seeking a Permit to construct, maintain or operate a Pipeline or to convert an existing Pipeline Concession to a Pipeline Permit (?) for the Transmission or Distribution of Natural Gas shall file an Application, consisting of an original and two (2) certified true copies with the DOE.

In case of an Application to convert a Pipeline Concession to a Permit, a copy of the Pipeline Concession Deed and a statement of the facts relied upon by Applicant to show that the proposed conversion can be accomplished according to the standards for safety, reliability and protection of the environment contained in these Rules.

Section 2. Contents of the Application.

All applications shall be made in writing, verified, and must contain the information described in Annex 1 to these Rules.

Section 3. Application Fee.

The Applicant shall pay the Department a non-refundable fee for the processing and hearing of its application. The fee shall be set according to a schedule established by the DOE and notified to the Applicant.

Section 4. Confidential Information.

The Applicant may confer with the DOE on the procedures for limiting the disclosure of confidential or commercially sensitive information.

Section 5. Defective Application.

The DOE will inform the applicant in writing of the deficiencies of the application, if any, either in form or substance, or if it is incomplete as to certain data and requirements within seven (7) days of receipt of the application. The Applicant shall attend to the corrections or deficiencies within thirty (30) days from receipt of such notice. If the Applicant fails to supply the required corrections or remedy the deficiencies within the said period, the DOE may decide whether the application is to be deemed to have been withdrawn and that all documents shall be returned to the applicant.

Section 6. Notice of Filing.

The DOE shall determine whether the application is complete and in order within seven (7) days of the receipt of the additional submissions from the applicant. Thereafter, the DOE shall conduct the initial evaluation of the application within 20 days and if found to be satisfactory both in form and in substance, the DOE shall issue a Notice of Filing and shall cause the same to be published, at the expense of the applicant, in one (1) newspaper of general circulation in the Philippines at least one (1) week before the scheduled hearing.

Section 7. Opposition/Intervention.

Within the time fixed in the Notice of Filing, any person, whose right may substantially be affected by the application, may contest the issuance of a Permit by filing with the DOE a written opposition under oath or a motion for intervention attaching a sworn petition for intervention and serving a copy on the applicant at its registered place of business in the Philippines.

Section 8. Proof at Hearing

At the hearing, compliance with the provisions of Section 6 of this Rule must be shown before the introduction of evidence. If no person appears to contest the Application, the DOE may consider the Application and supporting information and render a decision on the merits. Conversely, if the Applicant, except for good cause shown, fails to appear and fully substantiate its Application on the date set for hearing, such failure will

constitute a ground for the rejection of the Application and termination of the proceedings.

Section 9. Decision to Issue a Pipeline Permit.

The DOE shall only issue a Pipeline Permit after it has made the following determination:

- (a) The construction of the Pipeline or Transmission- and/or Distribution-related Facility is consistent with the policy declaration contained in Rule 2;
- (b) The applicant will have the technical capability and financial resources to comply with the conditions under which the Permit is issued;
- (c) The manner in which the Pipeline is owned and operated will not lead to unfair competition or restrain trade in the Transmission, Distribution or Supply of Natural Gas; and
- (d) Except when the Pipeline or Transmission- and/or Distribution-related Facility is intended for Own-use, the Applicant has submitted access conditions that comply with these Rules.

Section 10. Decision on Application.

The DOE shall enter a written decision on whether the Application is to be issued or denied within 45 days after the conclusion of the Hearing. The decision shall contain separate findings of fact and law as well as any conditions under which the Pipeline Permit is issued.

Section 11. Hearing and Appeal.

The hearing on the application, including, the mode and period for appeal of any decision, order or ruling of the DOE, shall be conducted in accordance with the Rules of Practice and Procedure Before Department of Energy as found in Annex 3.

RULE 13. STANDARDS FOR CONSTRUCTION, OPERATION AND SAFETY.

Section 1. Conduct of Operations.

When issuing a Permit, all Pipelines and Transmission- and Distribution-related Facility shall be constructed and operated (including design, manufacture, testing, maintenance, repairs, alterations and extensions) in accordance with all applicable requirements of Parts 191 and 192 of the United States Department of Transportation (USDOT), Title 49, U.S. Code of Federal Regulations, (49 CFR 192), as amended or other internationally-accepted standards as the DOE may approve. Before construction is commenced, the Permit holder shall submit to the DOE the names of all testing authorities and other inspection services or contractors to be employed in quality surveillance of materials and

fabrication and shall confirm that such testing authorities and inspection services meet the requirements of the USDOT or such other requirements as the DOE may approve in the e Permit.

Section 2. Impact on Public Infrastructure.

The DOE shall require the applicant to submit f construction plans showing the location of all Pipelines and Transmission – and Distribution-related Facilities and their operating pressures and/or other relevant technical specifications to the governmental agencies responsible for any bridges, roads, harbors, streams, rivers and coastal waterways that will be crossed within sixty days before construction commences.

Section 3. Pipeline Design Standard.

When issuing a Pipeline Permit, the design standard for Pipelines shall conform to the requirements of Section 8 of the ANSI/ASME B31 Code of Pressure Piping (ASME B31.8) or other internationally-accepted standards as the DOE may approve. Engineering drawings and profiles of the as-built Pipeline shall be submitted to the DOE within 60 days of commissioning.

Section 4. Pipeline Testing.

Where a test is required to be carried out under these Rules or as a condition of the Pipeline Permit the result of the test shall be recorded and certified to the satisfaction of the DOE and will be carried out as follows:

- (a) Where practicable at least seven days notice shall be given to the DOE of any proposed hydrostatic or flow efficiency tests; and
- (b) All test certificates referred to in this section and all radiographs shall at all times be readily available to an inspector and shall not be destroyed or otherwise disposed of except with the permission in writing of the DOE.

Section 5. Signs.

Signs or markers, in accordance with the standards designated in Section 3, shall be erected and maintained:

- (a) At each abrupt change of direction of the Pipeline;
- (b) At each point where a Pipeline crosses the boundary of a road;
- (c) At each side of a river or harbor crossing;
- (d) At intervals not exceeding 500 meters where the Pipeline parallels a road, within or immediately adjacent to the road easement;
- (e) At each point at which the Pipeline crosses a significant service including, but not limited to, telecommunications and electric power cables, major Pipelines,including

water Pipelines, and sewers and buried storm water drains; and at intervals not exceeding ___ kilometers;

- (f) Pressure testing of a Pipeline using air, as the testing medium shall not be commenced until the signs required by this section is erected.

Section 6. Construction and Operational Reporting.

The Permit holder shall submit to the DOE a written report on the construction, expansion, extension and operation of the Pipeline and/or the Transmission- and/or Distribution-related Facility during each six-monthly period ending on the thirtieth day of June or the thirty first day of December in each year and shall submit such report within one month of the end of the period to which the report relates. A report shall contain:

- (a) Such information on the construction and operation of the Pipeline as the DOE may require;
- (b) Particulars of all persons employed by the Pipeline Permit holder or his contractors in the construction or operation of the Pipeline;
- (c) The information necessary for the compilation of accident frequency rates, accident severity rates and accident mean duration rates relative to the class of work being performed by such employees; and
- (d) During the construction of the Pipeline and/or Transmission- and Distribution-related Facility, the Pipeline Permit holder shall submit a monthly progress report to the DOE. The Permit holder shall report to the DOE any emergency situations and action taken or to be undertaken within 24 hours.

Section 7. Discontinuation of Operations.

If the DOE determines that a condition exists in any segment of the Pipeline and/or Transmission- and Distribution-related Facility, which may endanger life or, property, it may direct in writing that the segment or facility be taken out of operation or that such other precautions be taken as are approved to ensure safety. The Permit holder shall promptly comply with the direction of the DOE.

Section 8. Discharge of Substances From Pipelines.

Where any hazardous material or substance is discharged from the Pipeline and/or Transmission- and Distribution-related Facility, the Permit holder shall take such steps as are necessary to:

- (a) Safeguard human life;
- (b) Minimize the loss of the substance from the Pipeline;
- (c) Minimize the pollution of the surrounding environment by such substance; and shall, as soon as possible, report the escape to the DOE;

After a discharge of any Natural Gas or hazardous materials or substances from a Pipeline and/or Transmission- and Distribution-related Facility has been stopped and any necessary repairs completed, the Permit holder shall promptly submit a written report within 48 hours, with appropriate documentation, to the DOE, with a copy to the DENR, containing the following information:

- (1) the time and place of the discharge;
- (2) the approximate quantity of Natural Gas discharged;
- (3) the damage to the Pipeline and/or the environment that resulted from the discharge and/or ignition of Natural Gas;
- (4) the conditions that caused or contributed to the discharge or ignition;
- (5) the methods adopted to carry out repairs;
- (6) the circumstances generally relating to the discharge and its control; and
- (7) steps taken to minimize the chances of such circumstances recurring.

Section 9. Corrosion Records.

The Permit holder shall keep records of the control of corrosion of the Pipeline and/or Transmission- and Distribution-related Facility, and shall submit such records to the DOE .

Section 10. Onshore Pipeline Abandonment.

Abandonment of a Pipeline shall meet the following requirements:

- (a) The line shall be depressurized and purged of all flammable gases and fluids;
- (b) Filled with clean fresh water;
- (c) Operations performed to prevent the entrapment of fluid pressure within the line whether from hydrostatic head or other causes;
- (d) All risers shall be cut off at the line burial level;
- (e) All open accesses into the line shall be covered with a material that will prevent internal access to the Pipeline; and
- (f) The right of way shall be cleaned of debris and returned to as close to original condition as possible.

Section 11. Submarine Pipeline Abandonment.

A submarine Pipeline may be abandoned in place if, in the opinion of the DENR the Pipeline will not present a hazard to marine navigation, fishing and other marine uses; and

- (a) The Pipeline shall be depressurized, flushed and filled with seawater;
- (b) Any riser shall be cut off at the sea floor and the ends of the line shall be properly plugged; and

- (c) Where a Pipeline comes to shore, the Pipeline will be cut off at a distance from the shore or at a depth below sea level as recommend by the DENR.

Section 12 . Compliance with Environmental and Other Laws and Regulations.

All Pipelines shall conduct their activities and operations consistent with all environmental and other laws of the Philippines, including the provisions of rules and regulations and compliance plans developed to implement such laws.

RULE 14 . RIGHTS IN RESPECT OF LAND AND PROPERTY

Section 1. Entry on Land and Acquisition of Easements.

The holder of a Permit shall secure the right to enter upon private and public land whether through a Pipeline Concession or Franchise and to obtain an easement for the construction, operation and maintenance of Pipelines and Transmission- and/or Distribution-related Facilities.

Section 2. Exercise of Rights.

The right to enter upon public and private land as conferred by a Pipeline Concession or Franchise shall be exercisable upon the issuance of a Permit as to any land that is to be occupied by the Pipeline or Transmission- and/or Distribution-related Facilities along with any other improvements required for safety of Transmission and Distribution of Natural Gas. The construction, operation and maintenance of the Pipeline or Transmission and/or Distribution-related Facilities shall be conducted in a manner that does not interfere with the existing use of land to any greater extent than is reasonably necessary for the exercise of the rights issued under the Pipeline Concession, Franchise and these Rules. Any damage to improvements or land resulting from the entry shall be repaired to the practicable extent possible or compensation paid.

Section 3. Entry on Land for Temporary Operations.

Where it is stipulated in the conditions of the Pipeline Permit, the Pipeline Permit holder shall secure the right to enter on any land to perform temporary operations related to surveys, and transmission of personnel and materials.

Section 4. Notice to landowners.

Notwithstanding Section 2, no Permit holder may enter on land to conduct temporary operations unless at least 15 days prior written notice has been given to the owners and to the occupants , if any, and such notice shall include:

- (a) The date of intended entry;
- (b) The type and duration of the temporary operations;

(c) A copy of the Pipeline Permit; and

(d) A contact address and telephone number in the Philippines of the Permit holder.

Every person who enters private or public land under these Rules and Regulations shall produce a copy of the Permit, if requested by the owners or the occupants of the land.

Section 5. Compensation for Entry and Easements.

The Pipeline Permit holder shall compensate the owners and occupants of the land for any damage to improvements, trees, water supply, crops, or for the deprivation of the use and enjoyment of the land resulting from an entry made under these Rules and Regulations. The Permit holder shall petition the appropriate judicial body of the city or province where the land is situated to determine the adequacy of compensation in order for the Permit holder to use and occupy the land needed for construction, operation, maintenance, expansion, or modification of the Pipeline and/or Transmission- and Distribution-related Facility, as well as temporary operations, pending final determination of which shall include the reasonable value or rental of the land and compensation for any unrepaired damage resulting from the use or occupation.

Section 6. Temporary Injunction.

A Permit holder who has complied with the requirements of these Rules and Regulations that has been obstructed, by the owners or the occupants of the land, or by any other person, may apply to the appropriate judicial body of the city or province where the land is situated for an order restraining any actions that are obstructing the construction, operation, or maintenance of the Pipeline.

PART III – NATURAL GAS INDUSTRY PRICING

The succeeding rules and regulations shall govern the manner for approving and regulating the Price Schedules for the Transmission, Distribution or sale of Natural Gas.

RULE 14. NATURAL GAS PRICING

Section 1. Scope.

These Rules shall apply to any person or enterprise that engages in:

- (a) The Transmission of Natural Gas for sale to a Gas End-user or a Gas Distribution Company; or
- (b) The Distribution of Natural Gas for sale to Gas End-users; or
- (c) The sale of Natural Gas where a third party arranges transportation by a Transmission Pipeline or Distribution Pipeline

Section 2. Just and Reasonable Standard

The rates and prices in respect of the Transmission, Distribution or Supply of Natural Gas shall be “just and reasonable” taking into account the classifications and terms for service under the Tariff or provisions of a Gas Sales and Purchase Contract.

Section 3. Unbundled Service

Notwithstanding the provisions of Gas Sale and Purchase Contract, the Indicative Tariff for Transmission or Distribution of Natural Gas submitted to the DOE shall be calculated on the basis of Unbundled Service. In order to enable the ERC to determine that Natural Gas is being priced on the basis of Unbundled Service, the seller may be required to either submit an independent audit or implement such accounting and reporting systems as are necessary to allow a proper allocation of costs, or expenses for all Natural Gas sales whether or not there are effective competitive energy alternatives for that market.

RULE 16. PRICE SCHEDULES

Section 1. Approval of Prices Schedules.

No person shall engage in the Transmission, Distribution or sale of Natural Gas without a Price Schedule that has been approved by the ERC.

Section 2. Application for Price Schedule Approval.

The Application for approval of Price Schedule submitted to the ERC is deemed to require the submission of the following information:

- (a) The volume of Natural Gas transported or distributed;
- (b) The price of Unbundled Service for each delivery point;
- (c) Pricing policies and methodologies;
- (d) Costs and cost allocation policies and methodologies;
- (e) Renal charges for meters or fittings;
- (f) Charges for use of Transmission Related Facilities
- (g) Capacity of the Pipelines used for Transmission and/or Distribution and the methodology for measuring capacity; and
- (h) Competitive energy alternatives to Natural Gas.

Section 3. Price Schedules in Markets with Competitive Energy Alternatives.

Whenever an Application submitted under Section 2 of this Rule demonstrates that effective competitive energy alternatives exist in a particular market, the ERC may

approve a Price Schedule that is market-based. A market-based Price Schedule shall be fixed either through negotiation between buyer and seller as a provision of a Gas Sale and Purchase Contract, or under a Rate Order adopted by the ERC where there is no Gas Sale and Purchase Contract.

Section 4. Prices Schedule in Markets without Competitive Energy Alternatives.

The ERC shall adopt a Rate Order for the energy value of Natural Gas sold to Gas End-users in markets without effective competitive energy alternatives. The Rate Order shall be determined in accordance with the regulation of the Return on Rate Base for Public Utilities taking into consideration the Policy Declaration under Rule 2.

Section 5. Price Schedules for Transmission and Distribution

Price Schedules for the Transmission or Distribution of Natural Gas shall include two-part Tariffs for throughput as well as the reservation of Pipeline capacity.

RULE 17. PROMOTION OF COMPETITION

Section 1. Conditions for Promoting Competition.

Pursuant to its mandate and the Declaration of Policy under Rule 2, and in order to prevent unjust and unreasonable discrimination the DOE may determine that due to:

- (a) The lack of effective competitive energy alternatives to Natural Gas; and
- (b) The dominance of an enterprise, including a government-owned and controlled corporation, in the production, Transmission or Distribution or sale of Natural Gas has resulted in a natural monopoly in a specific market; or
- (c) Any person, including a government-owned or controlled corporation has engaged in conduct or practices which the DOE determines to have been unduly preferential or unjustly discriminatory, in restraint of trade or unfair competition;

it is necessary to promote competition in the Transmission, Distribution or Supply of Natural Gas.

Section 2. Orders to Promote Competition.

Where the DOE makes a determination under Section 1 of this Rule, it may encourage specific measures to promote competition within a market including:

- (a) Transfer of ownership or management of Pipelines or Transmission- and Distribution-related Facilities;
- (b) Revaluation of assets included in the rate base of Public Utilities;
- (c) Assignment of interests in Gas Sale and Purchase Contracts;

- (d) Renegotiation of the provisions of Gas Sale and Purchase Contracts or arrangements for access to Pipelines or Transmission Related Facilities.

Section 3. Fuel Cost Passthrough

Notwithstanding the DOE's determination of a competitive energy alternative under Rule 14, a Gas or Electric Distribution Utility or other Electric Power Industry Participants may not pass through to its own customer tariffs its Purchased Natural Gas Cost (PNGC) unless it obtains prior approval from the DOE of each of the Gas Sales and Purchase Contracts to which it is a party. Consistent with usual practice in regard to other Public Utilities, the DOE shall review each Gas Sale and Purchase Contract and any relevant supporting documents. Subject to the DOE determination of the reasonableness of the contracts, the ERC may issue an order determining whether the price of Natural Gas is just and reasonable.

Section 4. Non-disclosure of Certain Gas Purchase Contracts Provisions.

Gas Purchase and Sale Contracts filed with the DOE are subject to public disclosure requirement, however, any participant in the Natural Gas industry may request non-disclosure of those portions of Gas Sale and Purchase Contracts as are necessary to protect the confidentiality of specific commercial provisions.

PART IV. FINAL PROVISIONS

RULE 18. REPORTING

Section 1. Pipelines.

To assure compliance with these rules and regulations, every Pipeline company shall comply with the following reporting requirements:

- (a) Initial report. - Within thirty (30) days of commencing to transport Natural Gas on behalf of a third-party, a Gas Transmission Company or Gas Distribution Company shall submit to the DOE, a written report signed under oath by a senior official of the company containing the following information:
- 1) The exact legal name of the third party for whom transportation service was provided including the identity, title, mailing address, and phone number of the person or persons with whom to communicate about the transmission arrangement;
 - 2) A description of the transportation service, including:
 - (i) The dates of commencement and projected termination of the transportation service;
 - (ii) The estimated total and maximum daily quantities of Natural Gas to be transported;
 - (iii) The points between which the Natural Gas is to be transported (i.e., barangay, town, and province) of the original source and the location (i.e., barangay, town, and province) of the ultimate delivery point of the gas; and

(iv) The Tariff approved by the ERC.

- 3) If transportation is provided to a Gas End-user that is located in the service area of a Franchise, a statement that the Gas Transmission Company or Gas Distribution Company has notified the holder of the Franchise in writing prior to commencing the transportation.
- (b) Subsequent Reports. - A Pipeline that files an Initial Report shall amend that report to reflect any material change with pertinent transportation arrangement. Any changes in the Initial Report shall be submitted in writing to the DOE, , within thirty (30) days of the material change, and shall be signed under oath by a senior official of the Gas Transmission Company or Gas Distribution Company
- (c) Annual Report. Not later than March 31 of each year, each Pipeline shall submit an annual written report to the DOE, containing, for each category of transportation service (except storage) provided during the preceding calendar year, the following information:
- 1) The docket number assigned to the transaction by the DOE;
 - 2) List of Gas End-users connected to the Pipeline;
 - 3) Total volumes sold to Gas End-users and transported for third parties;
 - 4) Interruption of service by date; and
 - 5) Total revenues received for the services provided.

The DOE may require more frequent gas supply and sales reports and business development plans as it may deem necessary.

- (d) Notification of Termination. Not later than thirty (30) days following the termination of any transportation arrangement (except storage) authorized under these rules and regulations, the Pipeline shall submit to the DOE, a statement in writing, containing the following information:
- 1) The docket number assigned to the transaction by the DOE with the date when the transaction was terminated;
 - 2) A statement certifying that the service was provided under the terms and conditions previously prescribed in that docket.

Section 2. Sales

- (a) Initial Report: Within sixty (60) days after commencing deliveries of Natural Gas under a sale effected pursuant to these rules and regulations, the seller engaging in the sale of Natural Gas shall submit an initial written report to the DOE. The report shall be signed under oath by a senior official of the company and will contain the following information:
- (1) The exact legal name of the seller and buyer and mailing address of the person or persons to whom communications regarding the sale should be addressed;
 - (2) A description of the sale, including:
 - (i)The dates of the commencement and anticipated termination of the sale;
 - (ii)The estimated total and daily quantities (in MMBtu's)of Natural Gas; and
 - (iii) The Unbundled Service price.

- (3) A statement whether the sale is subject to interruption to the extent that the Natural Gas is required to enable the seller involved to provide adequate service to other Gas End-users at the time of shortages.
- (b) Subsequent Report: If any significant change occurs with respect to the information given in Section 1 above, the seller shall submit to the DOE, under oath, appropriate amendments to its initial report signed by a senior official of the company.
- (c) Extension Report: Not less than ninety (90) days prior to the expiration of a Gas Sales and Purchase Contract, a seller or buyer seeking an extension of the period set forth in the contract shall submit to the ERC, an extension report under oath signed by a senior official, stating:
 - (1) Current information concerning any matters required to be reported under Paragraph (a) above; and
 - (2) The proposed terms of the extension.
- (d) Annual Report: Not later than March 31 of each year, each person that engages in the sale of Natural Gas shall submit an annual written report to the ERC, copy furnished the DOE, containing the following information for the preceding calendar year:
 - (1) Total volumes sold to Gas End-users and third parties who intend to on-sell to Gas End-users; and
 - (2) Total revenues received for the sales.
- (e) Notification of Termination: Not later than thirty (30) days following the termination of any arrangement for the sale of Natural Gas authorized by the ERC, the enterprise shall submit a statement in writing, containing the following information:
 - (1) The docket number assigned to the transaction by the DOE with the date when the transaction was terminated;
 - (2) A statement certifying that the sales were made provided at the rate and conditions previously prescribed in that docket.

RULE 19. OFFENSES AND PENALTIES

Section 1. Offences.

Any person that violates:

- (a) any Section of these Rules;
- (b) a condition of a Pipeline Permit; or
- (c) an order of the DOE,

shall have committed an offense under these Rules.

Section 2. Enforcement of Rules.

ANNEX 1

DOCUMENTS TO ACCOMPANY APPLICATION FOR PIPELINE PERMIT

All Applications for Pipeline Permits shall be accompanied by such documents as are applicable and relevant, in the form of exhibits, including but not limited to the following:

- (a) A certified true copy of Applicant's articles of incorporation and by-laws, if the Applicant is a corporation;
- (b) A list of the names and business addresses of Applicant's officers and directors, or similar officials, if the Applicant is not a corporation;
- (c) If the Applicant or any of its officers or directors, directly or indirectly, owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting shares of any person or organized group of persons engaged in production, transmission, distribution, or pricing of Natural Gas, or of any person or organized group of persons engaged in the construction or financing of such enterprises or operations, a detailed explanation of each of the above relationships, including the percentage of voting strength represented by such ownership of shares. If any person or organized group of persons, directly or indirectly, owns, controls or holds with power to vote, 10 percent or more of the outstanding voting securities of Applicant a detailed explanation of each such relationship;
- (d) A certified true copy of the Applicant's Environmental Compliance Certificate;
- (e) A certified true copy of Applicant's Pipeline Concession or Franchise or charter where the Applicant is a government-owned or controlled corporation;
- (f) A certified true copy of the Applicant's Service Contract where the costs of the Pipeline will be claimed as Operating Expenses;
- (g) A geographical map of suitable scale and detail showing:
 - 1) Location, length, and capacity of the Pipeline;
 - 2) Location and size (rated horsepower) of compressor stations; and
 - 3) Location and designation of each point of connection of proposed facilities with Gas End-users and Franchises showing communities and Customers taking delivery of more than 10,000 cubic feet of gas in any calendar month; and
 - 4) Whether the locations designated in 3) are to be served at wholesale or retail, and gas fields, or other sources of gas supply.
- (i) A flow diagram showing daily design capacity reflecting conditions with proposed facilities in operation, including:
 - 1) Diameter, wall thickness, and length of pipe proposed to be installed;
 - 2) Size, type and number of proposed compressor units, horsepower required, horsepower proposed to be installed, quantity of gas to be used as fuel, suction and discharge pressures, and compression ratio;
 - 3) Pressures and volumes of gas at the main line inlet and outlet connections at each compressor station;
 - 4) Pressures and volumes of gas at each entry and exit point at the beginning and terminus of the proposed Pipeline;

- 5) Maximum deliveries which Applicant's proposed Pipeline would be capable of achieving under most favorable operating conditions with utilization of all facilities with and without compression.
- (j) A description of engineering design data to support the diagrams above mentioned and the proposed project, which explain:
- 1) Assumptions, bases, formulae, and methods used in the development and preparation of such diagrams and accompanying data;
 - 2) A description of the pipe and fittings to be installed, specifying the diameter, wall thickness, yield point, ultimate tensile strength, method of fabrication, and methods of testing proposed;
 - 3) When a Pipeline is to be looped by construction of a parallel Pipeline, the length and size of the pipe in each loop;
 - 4) Type, estimate of recoverable reserves (Proved, Potential and Probable), deliverability of wells and capacity of processing plants and their location, indicating which 'of such facilities are owned or operated by Applicant, and those facilities where access is to be obtained from others, giving their names and addresses;
 - 5) If the daily design capacity shown in subsection (j) is predicated upon an ability to meet each customer's maximum contract quantity on the same day, explain the reason for such coincidental peak-day design. If the design day capacity shown in subsection (j) is predicated upon an assumed utilization factor, state that factor and explain its derivation.
- (k) A statement by Applicant describing:
- 1) The Service Contract areas accessible to the Pipeline that contain sufficient existing or potential gas supplies for the initial and subsequent stages of a proposed development project associated with the construction or extension, and of the Pipeline; and
 - 2) How the Service Contract areas are to be connected to the Pipeline;
- (l) The proposed route of the Pipeline together with:
- 1) A map showing surface land-use and occupation;
 - 2) A list of the names of the landowners; and
 - 3) A copy the proposed access agreement or easements to be entered into with the landowners;
- (m) A system-wide estimate of the quantity of Natural Gas and rate of delivery during each of years of the Pipeline's full operation as well as the period when the Pipeline and Transmission Related Facilities are used for commissioning and build up of delivery, together with:
- 1) Names and locations of Gas End-users, showing the number of residential, commercial, firm industrial, interruptible industrial, and other types of customers and the names and locations of each firm and interruptible Gas End-user whose estimated consumption totals 10,000 MCF or more in any calendar month or 100,000 MCF or more per calendar year together with an explanation of the end use to which each of these industrial customers will put the gas;
 - 2) Applicant's total annual and peak day or hourly gas requirements by classification of service in subsection (1) above, divided as follows: requirements:
 - (i) for each Gas Distribution Franchise where Natural Gas is sold by Applicant at retail;

- (ii) for each buyer under a Gas Sale and Purchase Contract;
 - (iii) for all main line direct industrial Gas End-users; and
 - (iv) Pipeline use and unaccounted for gas, for both the Applicant and each buyer under a Gas Sale and Purchase Contract;
 - 3) Explanation and derivation of basic factors used in estimating future requirements, and full details concerning all other sources of gas supply available to Applicant and to each of its Gas End-users;
 - 4) Certified true copy of each contract, letter of intent or other agreement for the transmission of Natural Gas proposed by the Applicant with the Indicative Tariff. If no agreements have been made, the basis for assuming that contracts will be consummated and that service will be rendered under the terms contemplated in the Application.
- (n) If it is assumed that proposed customers in new areas or firm and interruptible direct industrial customers whose estimated consumption totals 10,000 MCF or more in any calendar month or 100,000 MCF or more in any calendar year, will convert from other fuels to Natural Gas, state the basis for such assumption and include a study showing estimated cost of converting customers' facilities to Natural Gas. The study should indicate the number of customers of each of the other fuels who Applicant anticipates will convert to Natural Gas and the current cost of fuel to be displaced compared to the cost of Natural Gas on an equivalent Btu basis;
- (o) A detailed estimate of total capital cost of the Pipeline and Transmission Related Facilities for which Application is made, showing cost of construction by operating units such as compressor stations, main Pipelines, laterals, measuring and regulating stations, and separately stating the compensation for of right-of-way, landowner damages, surveys, materials, labor, engineering and inspection, administrative overhead, fees for legal and other services, allowance for funds used during, construction, and other contingencies. Include a brief statement indicating the source of information used as the basis for the above estimate. If not otherwise stated, submit data on preliminary bids, if any, for the proposed facilities and recent experience cost data for facilities of similar character;
- (p) Plans for financing the proposed facilities for which the Application is filed, together with:
- 1) A detailed description of Applicant's outstanding and proposed securities and liabilities, showing amount (face value and number), interest or dividend rate, dates of issue and maturity, voting privileges, and principal terms and conditions applicable to each;
 - 2) The manner in which Applicant proposes to dispose of securities by private sale, competitive bidding or otherwise; the persons, if known, to whom they will be sold or issued together with letters of intent, if any, and if not known, the class or classes of such persons;
 - 3) A statement showing for each proposed issue, by total amount and by unit, the estimated sale price and estimated net proceeds to the Applicant;

- 4) An itemized statement of estimated expenses, fees, and commissions to be paid by Applicant in connection with each proposed issue;
 - 5) A statement showing whether the consent of any holder of any security is necessary for the issuance of additional securities proposed, and whether, as to the proposed issue of securities, a like restriction is to be made applicable to any securities issued thereafter;
 - 6) A statement of anticipated cash flow, including provision during the Period of construction and the first three (3) full years of the Pipeline's capital requirements including interest and dividends;
 - 7) Statement showing, over the life of each issue, the annual amount of securities which Applicant expects to retire through operation of a sinking fund or other termination of the obligation;
 - 8) A balance sheet and income statement (12 months) of most recent date available;
 - 9) Certified true copies of all agreements, contracts, mortgages, deeds of trust, indentures, agreements for the advance purchase of materials or supplies or to render services at a discounted Tariff in return for Applicant's securities, underwriting agreements, and any other agreements or documents of a similar nature;
 - 10) Certified true copies of all reports, letters or other documents, submitted by Applicant to underwriter, insurance companies, or others regarding financing, including economic and financial feasibility studies, forecasts of earnings, and other similar financial or accounting reports, statements or documents;
 - 11) Certified true copies of all Applications and supporting exhibits, registration statements, or other similar submissions, if any, to the Securities and Exchange Commission, including all supplements, changes or modifications of the above;
 - 12) Any additional data and information upon which the Applicant proposes to rely in showing the adequacy and availability to it of resources for financing the Pipeline and transmission related facilities.
- (q) A concise statement setting forth arrangements for supervision, management, engineering, accounting, legal or other similar services that will not be performed by employees of the Applicant, including references to any existing or contemplated agreement to be entered into in connection with the construction or operation of the Pipeline together with:
- 1) A statement showing any affiliation between Applicant and any parties to such agreements or arrangements referred to in paragraph (d) above;
 - 2) Certified true copies of all construction, engineering, management and similar service agreements in any way operative with respect to construction, operation, or financing of the Pipeline or related facilities.
- (r) Depreciation rates to be established, the method of determination and their justification; and

- (s) The Indicative Tariff as well as any Tariff for which an approval will be sought from the ERC, with an explanation of the methodology used. The methodology shall clearly show whether such rates result from negotiation, cost of-service determination, competitive factors or others, and shall give the nature of any studies which have been made in connection with the Tariff structure. Such statement shall further be accompanied by supporting data showing:
- (1) System cost of service for the first calendar year of operation after the proposed facilities are placed in service;
 - (2) An allocation of such costs to each particular service classification, with the basis for each allocation clearly stated;
 - (3) The proposed rate base and rate of return;
 - (4) Operating expenses segregated functionally by accounts;
 - (5) Depreciation; and
 - (6) Taxes with the basis upon which they have been computed.
- (t) Proforma copies of contracts to be entered into with third parties for the Transmission or Distribution of Natural Gas, including any code of operations or transmission policy.

ANNEX 2.

ACCESS CONDITIONS FOR NATIONAL INFRASTRUCTURE PIPELINES AND TRANSMISSION- AND/OR DISTRIBUTION-RELATED FACILITIES

National Infrastructure Pipelines and Transmission Related Facilities will provide the DOE with the following information in respect of conditions for third party access:

- (a) The technical and economic feasibility of transporting Natural Gas for third-parties by using spare capacity, if any, or expanding the rated capacity of the Pipeline taking into consideration:
 - 1) The extent, production profiles and composition of proved, probable and potential Natural Gas reserves within adjacent Service Contract areas that are technically and economically feasible for connection to the Pipeline during the remaining term of the Pipeline Permit.
 - 2) The potential to establish interconnections with other Pipelines and Pipeline Networks along the route.
 - 3) The location of delivery points to be installed for Gas End-users along the Pipeline's route.
 - 4) The Pipelines and Transmission Related Facilities that are to be included within the scope of the access conditions.
- (b) The requirement for third parties to enter into agreements that include a procedure for good faith negotiation and consultation between the parties prior to the DOE issuing the Pipeline Permit that:
 - 1) Describes the type of service (transmission, gathering, processing, treatment, line-pack, balancing and etc.) that is to be provided to third parties.
 - 2) Determines the priority for allocating spare capacity and developable capacity (auction, first-come-first-served, foundation user and etc.) among users where the rated capacity is not adequate to transport the Natural Gas.
 - 3) Provides information (maps, calculations and etc.) about the location and capacity of the Pipeline.
 - 4) Places reasonable conditions such as the reservation of capacity, minimum volumes, location and construction of receipt points and delivery points, direction of transmission, quality specifications, and schedules for nomination.
 - 5) Describes the relationship, if any, between transmission agreement with users and other contracts (sale and purchase, lifting, unit development, Natural Gas agreement, gas agreement) which have been or will be entered into by
 - 6) the Pipeline Permit holder.
 - 7) Informs a third party whether the Pipeline and Transmission Related Facilities will be operated by affiliates of the Pipeline Permit holder or other persons under a management or technical assistance contract.
 - 8) Informs a third party whether they are expected to acquire equity in the enterprise that holds the Pipeline Permit in conjunction with their entitlement for access. The information shall include a

description of the conditions for admission to and exit from the organization allows users to transfer all or part of their entitlement under partial or complete assignments subject only to reasonable standards for obtaining consent from the Pipeline Permit holder.

- 9) Describes the procedure for a users to cause the Pipeline to analyze the technical and commercial feasibility for expansion of rated capacity for Natural Gas producers, or for the installation of new entry points or delivery points including the method for financing such expansion and the manner in which spare capacity would be allocated between the users and the Pipeline Permit holder.
 - 9) Responds to the user's request for access within a specific time frame.
 - 10) Protects the disclosure and use commercially sensitive information exchanged by the parties.
 - 11) Furnishes regular reports to users on Pipeline efficiency and reliability as well as spare capacity and developable capacity of the Pipeline.
- (c) Contain conditions of service as part of the Tariff that are not unfairly discriminatory towards third parties including:
- 1) The route of the Pipeline, location of receipt points and delivery points;
 - 2) Requirements, if any, for billing, payment, insurance and Indemnification for establishing credit; and,
 - 3) Adjustments for blending Natural Gas with different compositions; and
 - 4) Quality standards for the transmission of Natural Gas or Natural Gas products either in a common stream or discrete batches; and
 - 5) Arrangement for users to finance the cost of installing new receipt points or delivery points.
 - 6) The type of services (gathering, measurement, compression / pumping, fuel, line-pack, treatment, balancing, storage) that are provided to the Users.
 - 7) The duration of the user's entitlement to access and conditions under which the transmission agreement will expire or can be terminated.
 - 8) The manner in which the access arrangements and agreements for transmission service be reviewed and how are changes to either documents can be initiated by either the Pipeline Permit holder or the user.
 - 9) The manner in which changes in the ownership or control of the Pipeline resulting from asset sales, or share transfers by merger or takeover should be disclosed to the users.
- (d) Disclose the costs that the Pipeline seeks to recover from the third party through a Tariff that:
- 1) Separates charges for operating costs and return on investment; for each class of service described in Subsection 4(B)(I) and
 - 2) Clarifies the methodology (Fixed-Variable, Modified Fixed-Variable, Levelized, Profit Sharing, etc.) used to determine the Tariff in a manner that is transparent to the DOE and any third party.
 - 3) Provides an Indicative Tariff that applies the above methodology

for calculating the cost of any service; and

- 4) Adjusts differences between the volume of Natural Gas received by the Pipeline and the volume of Natural Gas delivered based upon quality and composition where the Natural Gas is commingled and delivered in a common stream.
 - 5) States whether the Tariff provides for support for repayment of financing through the inclusion of such measures as Minimum Bill or Ship-or-Pay obligations.
 - 6) Reviews, not less than biennially, the impact of such factors as the undepreciated value of the Pipeline due depreciation or investment in new facilities in relation to the cost of service for new users.
- (e) Identifies any Transmission Related Facilities that are integral to transmission by the Pipeline.
- (f) Provides a procedure for the resolution of disputes between the Pipeline and users that may arise either during negotiation or performance of transmission services agreements by referring the matter for hearing before the DOE including any preliminary procedures for conciliation or mediation irrespective of whether the disputants are in privity of contract.
- (g) Contains the terms and conditions of all agreements to be entered into between the users and the Pipeline including:
 - 1) Proforma transmission services contracts; and
 - 2) Security bonds or Letters of Credit; and
 - 3) Pipeline operating and nomination procedures.
- (h) A Pipeline may not impose any minimum volume requirements for transmission service without first filing an Application with, and obtaining an approval from, the DOE authorizing the imposition of reasonable minimum volume requirements.