

DEPARTMENT OF ENERGY

CIRCULAR NO. 2002-08-005

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

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**INTERIM 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, otherwise known as the "Department of Energy Act of 1992, creating the Department of Energy (DOE); Executive Order (EO) No. 66 designating the DOE as the lead agency in developing the Philippine Natural Gas industry; RA No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001; Sec. 3 of Executive Order No. 172 creating the Energy Regulatory Board (ERB), 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 Department Circular No. 95-06-006, entitled "Policy Guidelines on the Overall Development and Utilization of Natural Gas in the Philippines" dated June 15, 1995, the DOE 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 comprise 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**

This Circular shall be known and cited as the "Interim Rules and Regulations Governing the Transmission, Distribution and Supply of Natural Gas". It shall be hereinafter referred to as the Circular.

**Section 2. Scope**

This Circular applies to:

- (a) The transmission and distribution of Natural Gas, whether indigenous or imported, for own-use, by virtue of a Franchise or as a Pipeline Concession;
- (b) The Supply of Natural Gas, whether indigenous or imported, to Customers; and

- (c) The responsibilities of the DOE and its relation with other government agencies, and the role and responsibilities of such private participants in the Natural Gas industry such as Gas Transmission Utilities, Gas Distribution Utilities, operators of Transmission-and/or Distribution-related Facilities, Suppliers, Customers or any Person that may be granted a Permit by the DOE to engage in the Transmission, Distribution or Supply of Natural Gas.

## **RULE 2. DECLARATION OF POLICY**

Pursuant to the general provisions of RA 7638, it is hereby declared the policy of the State to:

- (a) Promote 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 will enable the country to achieve greater energy self-sufficiency and at the same time serve the interests of the broad variety of industry participants including Customers, Gas Distribution Utilities, Gas Transmission Utilities, operators of Transmission- and/or Distribution related Facilities and Suppliers.
- (b) 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) Promote competition by liberalizing entry into the industry and by adopting pro-competition and fair trade measures with due regard to the financial viability of industry participants.
- (d) Ensure compliance with international safety standards and with Philippine environmental and other laws and regulations.

## **RULE 3. RESPONSIBILITIES OF THE DOE**

Consistent with RA 7638, the DOE shall continue to exercise its powers and functions as the policy-making body for the energy sector. In addition, the DOE shall have the overall responsibility of supervising and regulating the development and operation of the Natural Gas industry, through:

- (a) The granting of Permits for the construction, expansion, operation and maintenance and modification of Pipelines and Transmission- and Distribution-related Facilities and for the Supply of Natural Gas to Customers, and
- (b) All other measures allowed under existing laws.

## **RULE 4. MEASUREMENT OF NATURAL GAS**

### **Section 1. Measurement of Natural Gas**

Unless otherwise approved by the DOE and for the purpose of this Circular, the volume and energy value of Natural Gas will be measured according to the relevant standards as developed and maintained by the Organization for Standardization (ISO) and in particular:

- (a) The volume of Natural Gas will be measured in cubic meters under standard conditions specified in Section 2 below and all reporting will be in units of standard cubic meter (SCM);
- (b) The energy value of Natural Gas will be measured in Joules and all reporting will be in joules (J) with a quantity prefix, such as megajoules (MJ), terajoules (TJ), petajoules (PJ), etc., as appropriate.

### **Section 2. Standard Conditions**

Standard conditions for the purpose of this Circular shall mean the conditions of Natural Gas at a temperature of 15.5 degrees Celsius ( $^{\circ}\text{C}$ ) ( $288.15^{\circ}$  Kelvin) and an absolute pressure of 0.101325 megapascals (Mpa) or 1013.25 millibars.

### **Section 3. Application to the Gas Price**

The approved price for any sale of Natural Gas should be tied to the volume and energy value determined on the basis of the standard conditions described in Section 2 above. In particular,

- (a) pricing for domestic and commercial sales may be on volume basis unless otherwise agreed to by the contracting parties and
- (b) pricing for industrial and power Customers shall be based on the energy value of Natural Gas.

## **RULE 5. DEFINITION OF TERMS**

As used in this Circular, the following terms shall mean as follows:

- (a) **"Affiliate"** refers to any Person which, alone or together with any other Person, directly or indirectly, through one or more intermediaries, controls, or is controlled by another Person. As used herein, "control" shall mean the power to direct or cause the direction of the management policies of a Person by contract, agency or otherwise;
- (b) **"Anti-Competitive Conduct"** refers to: price fixing, output fixing and any concerted practices, agreements by Persons or association of Persons or any conduct by a dominant Person that restricts, prevents or distorts competition;
- (c) **"Bar"** refers to a unit of pressure that is equal to one million dynes per square centimeter;

- (d) **“Customers”** refers to Persons who purchase Natural Gas for resale or final use;
- (e) **“Department of Energy”** or **“DOE”** refers to the government agency created pursuant to RA 7638 with additional functions provided for in RA 9136 and E.O. 66;
- (f) **“Department of Environment and Natural Resources”** or **“DENR”** refers to the government agency created pursuant to EO No. 192;
- (g) **“Deregulation”** refers to the removal of price controls;
- (h) **“Distribution”** refers to the transport of Natural Gas through Low-pressure Pipelines excluding transport of Natural Gas for own use;
- (i) **“Energy Regulatory Commission”** or **“ERC”** refers to the regulatory agency created by RA 9136;
- (j) **“Franchise”** refers to the right, privilege and authority issued by Congress in favor of any Person to engage in the Transmission or Distribution of Natural Gas;
- (k) **“Gas Distribution System”** refers generally to Pipeline and related facilities belonging to a Gas Distribution Utility extending between the delivery points from the Transmission System to the point of connection to the premises of the Customer;
- (l) **“Gas Distribution Utility”** refers to a Person that has been issued a Franchise and authorized by the DOE to engage primarily in the Distribution of Natural Gas to Customers in a specific geographic area;
- (m) **“Gas Infrastructure Project”** is a project which the Secretary of Energy may determine to be necessary to achieve the government’s objectives for the development of the Natural Gas industry. Such projects shall remain subject to the permitting procedure in Rule 12 of this Circular;
- (n) **“Gas Sales and Purchase Contract”** or **“GSPC”** refers to a contract for the delivery and sale of indigenous or imported Natural Gas by and between a seller and a buyer;
- (o) **“Gas Transmission System”** refers generally to the Pipeline and related facilities used to transport Natural Gas from the interconnection with gathering facilities or other Gas Transmission Systems to the interconnections with Gas Distribution Systems, or Customers;
- (p) **“Gas Transmission Utility”** refers to a Person that has been issued a Franchise and authorized by the DOE to engage primarily in the Transmission of Natural Gas to Gas Distribution Utilities and/or Customers;
- (q) **“High-pressure Pipeline”** refers to a Pipeline that operates at internal pressures higher than 40 Bars;
- (r) **“Indicative Transport Tariff”** refers to the nominal charge for the cost of transporting Natural Gas via Pipeline either as a component of the price in a Gas Sale and Purchase Contract or as the Tariff charged for providing Transmission or Distribution services to a third party;

- (s) **“Liquefied Natural Gas” or “LNG”** refers to Natural Gas which has been liquefied by compression and cooling to an extremely low temperature;
- (t) **“Low Pressure Pipeline”** refers to a Pipeline that operates at internal pressures of 40 Bars or less;
- (u) **“Market”** refers to a product and geographic area within the Philippines where gas and ancillary products/services are produced or traded;
- (v) **“Natural Gas”** refers to gas obtained from boreholes and wells consisting primarily of 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;
- (w) **“Own-use Permit”** refers to an authorization granted by the DOE for a dedicated point-to-point Pipeline or Storage Facility that is constructed and operated exclusively to transport or store gas for the final use of the Permit holder;
- (x) **“Permit”** refers to an authorization issued by the DOE for the construction, operation and maintenance, expansion and modification of a Pipeline for the Transmission or Distribution of Natural Gas and for the construction, operation and maintenance, expansion and modification of a Transmission- or Distribution-related Facility.
- (y) **“Person”** refers to a natural or juridical person, as the case may be;
- (z) **“Petroleum Operations”** as defined in PD 87, refers to searching for and obtaining petroleum within the Philippines through drilling and pressure or suction or the like, and all other operations incidental thereto. It includes the transportation, storage, handling and sale (whether for export or for domestic consumption) of petroleum so obtained but does not include any: (1) transportation of petroleum outside the Philippines; (2) processing or refining at a refinery; or (3) any transactions in the products so refined;
- (aa) **“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;
  - 2) transporting Natural Gas that is to be flared or vented; or
  - 3) gathering Natural Gas for transportation to initial processing facilities within a Service Contract area;
- (bb) **“Pipeline Concession”** refers to the right, privilege and authority issued under the Petroleum Act of 1949 (RA 387);
- (cc) **“Pipeline Network”** refers to Pipelines that are physically interconnected regardless of whether they are under common ownership or operation;

- (dd) **“Pricing”** refers to the manner of setting the charges for the energy value, transmission, distribution and retail supply of Natural Gas;
- (ee) **“Service Contract”** refers to the contract entered into between the Government and a service contractor pursuant to PD 87, as amended;
- (ff) **“Storage Facility”** refers to any facility designed or adopted for the storage of Natural Gas in bulk (whether in liquid state or not) not being a pipe or other conduit for the transport of gas;
- (gg) **“Supplier”** refers to any Person authorized by the DOE to sell, broker or market gas transported through Pipelines to Customers or Persons who intend to resell Natural Gas to other Customers;
- (hh) **“Tariff”** refers to the charge for the Transmission, Distribution and supply of Natural Gas, including Indicative Transport Tariff, together with the terms and conditions of contracts for transmission service and gas delivery procedures;
- (ii) **“Third Party Access”** refers to the system of allowing any qualified Person access to the Gas Transmission Systems and Gas Distribution Systems under the conditions prescribed in Annex 2;
- (jj) **“Transmission”** refers to the transport of Natural Gas through High-pressure Pipelines excluding transport of Natural Gas for own use;
- (kk) **“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 and operated independently of Pipelines;
- (ll) **“Unbundled Prices”** refers to the pricing of products and/or services that separates the Tariff according to distinct products and/or service elements insofar as they can be reasonably separated from each other;
- (mm) **“Unbundled Service”** refers to the requirement to provide only those elements that are required by the Customer insofar as they can be reasonably separated from other elements of the products and/or services offered by service providers.

## **PART II - STRUCTURE AND OPERATION OF THE NATURAL GAS INDUSTRY**

For the purposes of this Circular, the downstream Natural Gas industry shall be divided into three (3) sectors, namely: Transmission, Distribution and Supply of Natural Gas.

### **RULE 6. TRANSMISSION SECTOR**

The Transmission of Natural Gas by Gas Transmission Utilities is subject to the permitting authority of the DOE. The DOE may determine additional functional and physical standards that shall distinguish Transmission from Distribution.

## **RULE 7. DISTRIBUTION SECTOR**

### **Section 1. Guiding Principle**

The Distribution of Natural Gas by Gas Distribution Utilities to Customers is subject to the permitting authority of the DOE and the rate-making powers of the ERC.

### **Section 2. Pipeline Networks**

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

### **Section 3. Universal Service Obligations of Gas Distribution Utilities**

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

- (a) The installation of pipes where the connection to the Customer is within twenty-five (25) meters of the Distribution Pipeline; or
- (b) Increasing the capacity of existing Distribution Pipelines.

Provided, however, that in circumstances where the Gas Distribution Utilities can demonstrate to the satisfaction of the DOE that it is not economical or financially feasible to make such a connection, this provision will not apply. The DOE shall make a determination that it is not economical or financially feasible to make a connection when:

- (i) there is no sufficient market demand for Natural Gas to justify the installation of a Pipeline;
- (ii) the Customer cannot contribute to the cost of installation; or
- (iii) the Gas Distribution Utility cannot recover the cost of installation and the incremental variable costs of operation through a surcharge to the approved Price Schedule for the Customer.

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

### **Section 1. Guiding Principle**

Transmission- and/or Distribution-related Facilities that are operated independently of the Pipeline and are used to serve Customers are subject only to the permitting authority of the DOE. Such facilities include, but are not limited to the following:

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

## **Section 2. Authorization to Operate Transmission- and/or Distribution-related Facilities**

Any Person that has demonstrated its technical and financial capability to operate Transmission- and/or Distribution-related Facilities shall be authorized by the DOE to undertake such function. No applicant that is an Affiliate of a service contractor, a Gas Transmission Utility, Gas Distribution Utility or Natural Gas Supplier may be authorized to operate Transmission- and/or Distribution-related Facilities independently of Pipelines until it demonstrates to the satisfaction of the DOE that it has sufficient procedures to operate independently.

## **RULE 9. SUPPLY SECTOR**

### **Section 1. Guiding Principle**

For the purpose of this Circular, the Supply of Natural Gas to Customers is subject to the permitting authority of the DOE for a specific geographic area and the rate-making powers of the ERC.

### **Section 2. Authorization to Supply Natural Gas to Customers**

Any Person that has demonstrated its technical and financial ability to supply Natural Gas to Customers shall be authorized by the DOE to undertake such function. No applicant that is an Affiliate of a service contractor, a Gas Transmission Utility or Gas Distribution Utility may be authorized to supply Natural Gas until it demonstrates to the satisfaction of the DOE that it has sufficient procedures to operate independently.

### **Section 3. Affiliated Suppliers**

In order to prevent Anti-Competitive Conduct, service contractors, Gas Transmission Utilities and Gas Distribution Utilities that own or control Affiliates that are Suppliers shall conduct their business as follows:

- (a) No preference will be given to the Affiliated Supplier over other Persons through contracting for available capacity, scheduling, balancing, curtailment priority or Tariffs;
- (b) Marketing information provided to the Affiliated Supplier will be provided to any non-Affiliated Supplier that is a competitor or potential competitor;
- (c) Employees of the Affiliated Supplier shall, to the maximum extent possible, function independently in making business decisions; and
- (d) Books of accounts and records of the Affiliated Supplier shall be maintained separately.

**RULE 10. REGULATION OF TRANSMISSION, DISTRIBUTION,  
AND SUPPLY OF NATURAL GAS**

The Transmission, Distribution and supply of Natural Gas are businesses affected with public interest and the regulation of said businesses as provided in this Circular is hereby deemed necessary in the public interest.

**Section 1. Franchising Requirement in the Transmission and Distribution of Natural Gas**

The operation of Gas Transmission and Distribution Systems as provided for in this Circular is recognized to be public utility operations requiring a Franchise or similar legislative authorization.

However, this provision will not be applicable to operation of facilities for Transmission and Distribution of Natural Gas that have been granted an Own-use Permit under Rule 12, Section 6.

**Section 2. Pipelines and Related Facilities Under Service Contracts**

Any Person that is party to a Service Contract which authorizes the construction and/or operation of Pipelines and related facilities for transporting Natural Gas shall be required to obtain a Franchise to the extent that such Pipelines are operated as a public utility.

**Section 3. Philippine Ownership Requirement**

As required under Article XII, Section 11 of the Constitution of the Republic of the Philippines, no Franchise, certificate or any other form of authorization of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines. The DOE shall encourage equity participation in Gas Transmission Utilities and Gas Distribution Utilities by the general public.

**Section 4. Cross-ownership**

Subject to the provisions of this Circular and Philippine laws 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 parties to a Service Contract, Gas Transmission Utilities, Gas Distribution Utilities, Suppliers and Customers or their Affiliates holding any interest, directly or indirectly, in other business segments of the gas industry chain.

**RULE 11. THIRD PARTY ACCESS**

**Section 1. Third Party Access Obligation**

Gas Transmission Systems and Gas Distribution Systems excluding those constructed and operated for own use shall be available for non-discriminatory access by third party users which may include parties to a Service Contract, Suppliers and Customers, 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. Available Capacity**

Third Party Access obligations shall apply only to the available capacity of the Gas Transmission Systems and Gas Distribution Systems as determined by subtracting the volume of capacity that is:

- (a) Used by the owner or operator to serve his own customer; and/or
- (b) Allocated to third parties under transportation contracts

from the design capacity of the Gas Transmission Systems and Gas Distribution Systems .

## **Section 3. Deferment of Third Party Access Obligation**

As a condition imposed by a Permit, the DOE may determine that implementation of Third Party Access to Gas Transmission Systems and Gas Distribution Systems 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 Gas Transmission Systems and Gas Distribution Systems ; or
- (b) It is in the interest of the Customers served by the Gas Transmission System and Gas Distribution System to ensure stability of supply.

In either case, the DOE shall not defer implementation of Third Party Access for a period longer than three (3) years after completion of construction in the case of Gas Transmission Systems and five (5) years after completion or construction in the case of Gas Distribution Systems . Provided, however, that the deferment period can be extended on reasonable grounds.

## **Section 4. Approved Access Conditions for Gas Transmission Utilities and Gas Distribution Utilities**

Prior to conducting negotiations with third parties, a Gas Transmission Utility and a Gas Distribution Utility shall request the DOE to approve its access conditions. The DOE shall approve access conditions after it has determined that they are consistent with the provisions contained in Annex 2.

# **RULE 12. PERMITS**

## **Section 1. Requirement for a Permit**

No Person shall undertake the construction, operation and maintenance, expansion, extension or modification of a Gas Transmission System and Gas Distribution System or a Transmission- and/or Distribution-related Facility unless a Permit has been issued by the DOE.

## **Section 2. Gas Infrastructure Projects**

In order to meet the objectives of the Natural Gas industry development, the DOE may recommend the bidding out of a Gas Infrastructure Project subject to existing laws and regulations. The winning bidder shall comply with the permitting requirements and all other pertinent rules and regulations under this Circular.

## **Section 3. Pipeline Route**

All Pipelines shall be constructed following a route that will provide the greatest benefit to Customers that can be identified at the time the application is submitted. Before issuing a Pipeline Permit, the DOE may require an applicant to submit the results of studies undertaken on alternative routes and options for expansion along these proposed routes for the supply or transport of Natural Gas from holders of a Service Contract, Gas Transmission or Distribution Utilities, Suppliers and Customers.

In order to minimize easement costs, whenever possible, Pipelines shall be located in road reservations. Developers of Pipelines and Transmission- and/or Distribution-related Facilities shall coordinate with relevant government agencies in order to avoid conflicting projects and to ensure the integrity of such combined road and Pipeline infrastructure.

## **Section 4. Conditions of the Permit**

It shall be a condition of each Permit that:

- (a) Where the DOE has determined that the demand for Natural Gas exists and that the Permit holder can earn reasonable return from its additional investment, the Permit holder may be required to provide additional capacity by:
  - (1) making an interconnection with another Pipeline; or
  - (2) increasing the capacity by installing compression in the case of a Transmission Pipeline.
- (b) The Permit holder shall 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**

Permits shall be required for Pipelines that are constructed as part of Petroleum Operations to the extent that they are located outside the Service Contract area and are used to transport and supply the Natural Gas produced under the Service Contract to the buyer or Customer except as may be provided under Section 6. herein.

## **Section 6. Own-Use Permits**

The DOE may grant an Own-Use Permit for dedicated point-to-point Pipelines that are constructed and operated exclusively for the final use 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. Where the application relates to an own-use pipeline or related facility which has a capacity in excess of the requirements of the applicant, as determined at the time of filing the application, the applicant shall be required to submit supporting documents proving its expansion assumptions or other justification for the Pipelines or other related facility's excess capacity.

Own-use facilities are exempted from the requirement of a Franchise and all other regulations as stated in this Circular except those that relate to safety and environmental standards under Rule 14. Except where they are transferred to a Franchise-holder with a Permit prior to their operation as public utilities, holders of Own-use Permits shall secure a Franchise and a permit prior to operating own-use facilities as public utilities.

#### **Section 7. Fees**

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

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

No Pipeline or Transmission- and/or Distribution-related Facilities for which a Permit has been issued shall be abandoned or withdrawn from service by the grantee of the Permit without obtaining prior written authorization from the DOE.

#### **Section 9. Duration of Permit**

A Permit shall be valid for twenty five (25) years extendible for up to an additional twenty five (25) years or the remaining period of the Franchise or primary authorization for the Pipeline or Transmission- and/or Distribution-related Facility, whichever is less.

The Permit will be revoked if the Permit holder fails to commence operation within five (5) years from the date Permit is issued unless a longer period is provided in the Franchise. This provision will not apply if the cause for non-commencement of operation is beyond the control of the Permit holder.

### **RULE 13. APPLICATION FOR PERMITS**

#### **Section 1. Application Required**

Unless otherwise disqualified by law, any Person seeking a Permit to construct, operate and maintain, expand or modify a Pipeline or a Transmission- and/or Distribution-related Facility and/or Supply of Natural Gas shall file an application in accordance with the procedure set forth in "Rules of Practice and Procedure Before the DOE" (Department Circular 2002-07-004).

## **Section 2. Contents of the Application**

All applications shall be made in writing, verified and must contain the information described in Annex 1 to this Circular and those set forth in Department Circular 2002-07-004.

## **Section 3. Application Fee**

The applicant shall pay the DOE a non-refundable fee for the processing and hearing of its application as provided in Department Circular 2002-07-004.

## **Section 4. Confidential Information**

The DOE will limit the disclosure of and protect confidential or commercially sensitive information in accordance with existing laws.

## **Section 5. Decision to Issue a Permit**

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

- (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; and
- (c) The manner in which the Pipeline is owned and operated will not lead to Anti-Competitive Conduct in the Transmission, Distribution or supply of Natural Gas.

# **RULE 14. STANDARDS FOR CONSTRUCTION, OPERATION AND SAFETY**

## **Section 1. Conduct of Operations**

The construction and operation of Pipelines and Transmission- and/or Distribution-related Facilities (including design, manufacture, testing, maintenance, repairs, alterations and extensions) shall be in accordance with relevant standards promulgated by the International Standards Organization (ISO), 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 ISO or such other requirements as the DOE may approve in the Permit.

## **Section 2. Impact on Public Infrastructure**

The DOE shall require the applicant to submit construction plans showing the location of all Pipelines and Transmission- and/or 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 (60) days before construction commences.

### **Section 3. Pipeline Design Standard**

The design standard for Pipelines shall comply with the requirements of ISO 13623 (Petroleum and Natural Gas Industries – Pipeline Transportation System) 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 sixty (60) days from commissioning of the Pipeline.

### **Section 4. Pipeline Testing**

Where a test is required to be carried out under this Circular or as a condition of the Pipeline Permit, it shall be conducted by the DOE, its authorized representative or any accredited agency. Where such test is conducted by an accredited agency, 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 (7) days notice shall be given to the DOE of any proposed hydrostatic or flow efficiency tests; and
- (b) All test certificates for hydrostatic tests referred to in this section and all radiographs or ultrasonic testing results of pipeline welds shall at all times be readily available to a DOE inspector or its authorized representative and shall not be destroyed or otherwise disposed of except with the permission in writing from the DOE.

### **Section 5. Signs**

In the interest of public safety and welfare, signs or markers, in accordance with the standards designated in Section 3 above, shall be erected and maintained in strategic locations in accordance with the standards designated in Section 3.

Permit holders shall advise concerned local government units (LGUs) and appropriate government agencies about the existence of the Pipelines related facilities within their respective jurisdiction and shall provide such LGUs and appropriate government agencies detailed maps of their Pipeline routes.

### **Section 6. Discontinuation of Operations**

If the DOE determines that a condition exists in any segment of the Pipeline or part of Transmission and/or Distribution-related Facility which may endanger life or property such as but not limited to:

- a) Escape of gas due to pipe burst or damage from an external force;
- b) Damage to pipe that could lead to escape of gas; or
- c) Other similar conditions

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.

## **Section 7. Discharge of Substances from Pipelines**

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

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

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

- (a) the time and place of the discharge;
- (b) the approximate quantity of Natural Gas discharged;
- (c) an initial assessment of the damage to the Pipeline and/or the environment that resulted from the discharge and/or ignition of Natural Gas;
- (d) an initial assessment of the conditions that caused or contributed to the discharge or ignition;
- (e) the methods adopted or proposed to be adopted to carry out repairs;
- (f) an initial assessment of the circumstances generally relating to the discharge and its control; and
- (g) steps taken or to be taken to minimize the chances of such circumstances recurring.

Within five (5) days from the submission of the preliminary report, the Permit holder shall submit a final and detailed report to the DOE, with a copy to the DENR, containing its final findings on the damage to the pipeline and/or the environment resulting from the discharge and/or ignition, the conditions that caused or contributed thereto, the methods adopted to carry out repairs, the circumstances relating to the discharge and its control and the steps taken to minimize a recurrence of such discharge and/or ignition.

## **Section 8. Onshore Pipeline Abandonment**

The abandonment of a pipeline shall comply with the following requirements:

- (a) The line shall be depressurized and purged of all flammable gases and fluids pigged twice and flushed with corrosion inhibitor;
- (b) The line shall be filled with light weight cement;
- (c) All risers shall be cut off at the line burial level;
- (d) All open access into the line shall be covered with a material that will prevent internal access to the pipeline; and
- (e) The right of way shall be cleaned of debris and returned to as close to original condition as possible.

The abandonment of Transmission- and/or Distribution-related Facilities consented to by the DOE, on the other hand, shall comply with the following requirements:

- (i) The Facilities shall be completely dismantled; and
- (ii) The site will be cleaned of debris and remediated to as close to original condition as possible.

### **Section 9. 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 the environment, 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 recommended by the DENR.

### **Section 10. Compliance with Environmental and Other Laws and Regulations**

All Permit holders 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 15. NATURAL GAS PRICING**

### **Section 1. Determination of Rates and Price Schedules**

All matters related to fixing and regulating the rate or schedule of prices of piped gas (to be charged by duly franchised gas companies that distribute gas by means of an underground pipe system) shall remain the responsibility of ERC consistent with the ERB Charter as amended by RA 9136 and Section 20 of RA 8479 which amended Section 3 of the ERB Charter.

### **Section 2. Guiding Principles for Pricing**

The following guiding principles are hereby adopted for pricing:

- a) Prices of Transmission, Distribution and supply of Natural Gas to Customers will be regulated until such time that the Secretary of Energy determines that the markets for such products and/or services are effectively competitive.
- b) The energy value of Natural Gas sold to consumers shall likewise be regulated.
- c) Prices of products and/or services in competitive markets shall be deregulated.

### **Section 3. 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 4. Unbundled Service**

Any provision of Gas Sale and Purchase Contracts to the contrary notwithstanding, the indicative Tariff for Transmission or Distribution of Natural Gas submitted to the DOE shall be calculated on the basis of Unbundled Service.

## **RULE 16. PROMOTION OF COMPETITION**

### **Section 1. Promotion of Competition**

- a) Agreements, decisions and concerted practices of Persons or associations of Persons to fix prices and/or fix output shall be prohibited.
- b) Other practices and/or conduct by a Person or groups of Persons that restrict, prevent or distort competition such as but not limited to predatory pricing and practices, excessive pricing, bundling and other vertical restraints, denial of access to essential facilities on fair terms, discriminatory conditions on transactions that restrict, prevent or distort competition shall likewise be prohibited.
- c) Subject to the provisions of relevant laws, the Secretary of Energy will adopt measures and/or corresponding remedies to restore competition following an investigation of the relevant circumstances and a definitive finding of:
  - (i) price and/or output fixing; or
  - (ii) that other practices/conduct that are the subject of investigation restrict and/or prevent and/or distort competition.

### **Section 2. Take-or-Pay Obligations**

- (a) For the purpose of determining their eligibility for a passthrough to Customers, take-or-pay provisions in Gas Sales and Purchase Contract may:
  - (i) Index the contract price to the price of competing alternative fuels such as heavy fuel oil (HFO) and/or gas oil based on internationally accepted reference standards;
  - (ii) Include re-opener mechanism(s) to allow for the adjustment of the price and/or volume commitments under extraordinary circumstances causing severe economic hardship to either party such as price movements in competing alternative fuel market or changes in the gas purchaser's market such as substantial contraction in forecast demand levels; and
  - (iii) Provide for a reasonable period for recovery of take-or-pay payments.

- (b) Potential parties to a Gas Sales and Purchase Contract may, at their option, and prior to the execution of such contract, request that the DOE review their take-or-pay provisions for their consistency with a(i) and a(ii) above;

No party to a Gas Sales and Purchase Contract may be compelled to renegotiate any term or condition of a duly executed Gas Sales and Purchase Contract or to incorporate terms or conditions in such contract which are not commercially acceptable to it or its counterparty, it being sufficient that the terms and conditions of the contract as a whole mitigate the potential impact upon Customers of take-or-pay provisions.

## **PART IV. TRANSITORY PROVISIONS**

### **RULE 17. EXISTING SYSTEMS**

#### **Section 1. Permits**

Pipelines and Transmission- and/or Distribution-related Facilities that have been constructed prior to the date of effectivity of this Circular shall continue to operate under their existing authorities but are required to obtain a Permit from the DOE. Permits for such Pipelines and Transmission- and/or Distribution-related shall be granted as a matter of right in accordance with Rule 12. Suppliers who have entered into Gas Sales and Purchase Contracts with Customers and have delivered indigenous or imported Natural Gas under said contracts prior to the date of effectivity of this Circular are required to obtain a Permit from the DOE. Permits for such Suppliers shall be granted as a matter of right in accordance with Rule 9.

#### **Section 2. Application**

Within sixty (60) days from the date of effectivity of this Circular, the owners of existing Pipelines and Transmission- and/or Distribution-related Facilities shall submit an application for a Permit to the DOE. Only the provisions of Annex 1 subsection (a) through (m) shall apply to applications made under this Rule 17. In addition, the application need only contain a certified copy of the as-built drawing of the Pipeline.

Within sixty (60) days from the date of effectivity of this Circular, the Suppliers of existing Gas Sales and Purchase Contracts who have delivered indigenous or imported Natural Gas under said contracts shall secure an authorization from the DOE as a Supplier.

### **RULE 18. PENDING APPLICATIONS.**

This Circular shall apply to all applications pending before the DOE for construction of Pipelines and Transmission and/or Distribution-related Facilities prior to its date of effectivity.

## **PART IV. FINAL PROVISIONS**

### **RULE 19. REPORTORIAL REQUIREMENTS**

To assure compliance with this Circular, all Gas Transmission Utilities, Gas Distribution Utilities, owners of Transmission- and/or Distribution-related Facilities and Suppliers shall comply with the pertinent reportorial requirements provided in Annex 3.

### **RULE 20. OFFENSES AND PENALTIES**

#### **Section 1. Offenses**

Any Person that violates:

- (a) Any section or rule of this Circular;
- (b) Any condition of a Permit; or
- (c) Any relevant order of the DOE

shall be deemed to have committed an offense under this Circular.

#### **Section 2. Enforcement of Rules**

The DOE shall conduct investigations upon its own initiative or upon receiving a complaint in writing of any allegation of an offense under Section 1 of this Rule in accordance with Department Circular 2002-07-004.

#### **Section 3. Penalties**

Except with respect to violation of rates set by the ERC which shall be subject to its jurisdiction, a violation of any of the provisions in this Circular or any condition of the Permit shall be subject to the imposition of penalties by the DOE in accordance with existing laws. Each day of non-compliance shall be considered a separate violation.

#### **Section 4. Cancellation of Permit**

In addition to the imposition of penalties, the DOE may suspend or cancel the Permit where there is a violation of a condition under which the Permit was issued or any provision in this Circular.

### **RULE 21. SEPARABILITY CLAUSE**

Should any provision herein be subsequently declared invalid or unconstitutional, the same shall not affect the validity or the legality of the other provisions not so declared.

**RULE 22. AMENDMENT OF RULES**

Amendments and/or modifications to any provision of this Circular shall be made by the DOE in consultation with the Natural Gas industry participants.

**RULE 23. EFFECTIVITY**

This Circular shall take effect fifteen (15) days after publication in the Official Gazette or in at least two (2) newspapers of general circulation and submission of a copy to the University of the Philippines Law Center.

Done this twenty seventh day of August 2002 in Fort Bonifacio, Taguig, Metro Manila.

**VICENTE S. PÉREZ, JR.**  
**Secretary**

## 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, ten (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, ten (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 application for Environmental Compliance Certificate with the DENR including its Environmental Impact Statement;
- (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 Pipeline is to be constructed and operated as part of Petroleum Operations;
- (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;
  - 3) Location and designation of each point of connection of proposed facilities with Customers and Franchises showing communities and Customers taking delivery of more than 10,000 MCF or 283 MCM 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.
- (h) 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 Natural Gas to be used as fuel, suction and discharge pressures and compression ratio;
  - 3) Pressures and volumes of Natural Gas at the main line inlet and outlet connections at each compressor station;
  - 4) Pressures and volumes of Natural 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.
- (i) 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) 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.
- (j) A statement by applicant describing:
- 1) The Service Contract areas accessible to the Pipeline that contain sufficient existing or potential Natural 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;
- (k) 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 of the proposed access agreement or easements to be entered into with landowners.

Provided that the submission of requirements 2 and 3 herein may be deferred to anytime before the Permit is issued by the DOE.

- (l) A system-wide estimate of the quantity of Natural Gas and rate of delivery during each of year of the Pipeline's full operation as well as the period when the Pipeline and Transmission- and/or Distribution-related Facilities are used for commissioning and build up of delivery, together with:

- 1) Names and locations of Customers, 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 Customer whose estimated consumption totals 283 MCM or more in any calendar month or 2,830 MCM 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) Where applicable, applicant's total annual and peak day or hourly gas requirements by classification of service in subsection (1) above, divided as follows:
    - (i) for each Gas Distribution Utility where Natural Gas is sold by applicant at retail;
    - (ii) for each buyer under a Gas Sales and Purchase Contract;
    - (iii) For all main line direct industrial gas Customers; and
    - (iv) Pipeline use and unaccounted for Natural Gas, for both the applicant and each buyer under a Gas Sales and Purchase Contract;
  - 3) Explanation and derivation of basic factors used in estimating future requirements, and full details concerning all other sources of Natural Gas supply available to applicant and to each of its Customers;
- (m) If it is assumed that proposed Customers in new areas or firm and interruptible direct industrial Customers whose estimated consumption totals 283 MCM or more in any calendar month or 2,830 MCM or more in any calendar year, will convert from other fuels to Natural Gas, to the extent possible, 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 which the 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 Joule basis;
- (n) A detailed estimate of total capital cost of the Pipeline and Transmission- and/or Distribution-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 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;
- (o) Plans for financing the proposed facilities for which the application is filed, supported by documents describing

- 1) the ratio of equity and debt to total financing;
    - (a) for equity financing, names and addresses of stockholders, the respective equity contribution by value (paid-up and not paid-up) and type;
    - (b) For debt financing, type of debt instruments, their maturities, respective share to total debts, source of debt financing, i.e., whether domestic or foreign;
  - 2) 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;
  - 3) A balance sheet and income statement for three (3) years) from the most recent date available;
  - 4) 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;
  - 5) 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-and/or Distribution-related facilities.
- (p) 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 a statement showing any affiliation between the applicant and any parties to such agreements or arrangements referred to in paragraph (d) above;
- (p) Provide reference tariff, indicative Tariff as well as any Tariff for which approval will be sought from the ERC, and depreciation rates calculated according to the prescribed methodology and rate setting procedures of the ERC.
- (r) Pro-forma 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 PIPELINES

Gas Transmission and Distribution Utilities 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 and 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 Customers along the Pipeline's route.
  - 4) The Pipelines 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 Permit that:
  - 1) Describes the type of service (transmission, gathering, processing, treatment, line-pack, balancing, etc.) that is to be provided to third parties. The service provided must be unbundled and include those that are likely to be sought by a significant part of the market.
  - 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. The queuing policy must be economically efficient, reasonably accommodate the legitimate business interests of providers, users and prospective users and does not discriminate between Affiliates and non-Affiliates with respect to the supply of the capacity. If capacity allocation is proposed to be undertaken by auction, the auction rules must be submitted for prior approval to the DOE to ensure that the process is competitive.
  - 3) Provides information (maps, calculations, 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 (such as sale and purchase, lifting, unit development, etc.) which have been or will be entered into by the Pipeline Permit holder.

- 6) Informs a third party whether the Pipeline will be operated by Affiliates of the Permit holder or other persons under a management or technical assistance contract.
  - 7) Describes the procedure for users to convince the owner of 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 Permit holder.
  - 8) Responds to the user's request for access within thirty (30) days from receipt of the access application. If a definitive response cannot be provided within thirty (30) days due to the requirement to conduct more investigations, the provider must describe the nature of the investigations to be undertaken, the schedule for its completion and any related, reasonable costs which the prospective user may have to pay.
  - 9) Protects the disclosure and use commercially sensitive information exchanged by the parties.
  - 10) Furnishes regular reports to users on Pipeline efficiency and reliability as well as spare capacity and developable capacity of the Pipeline.
- (c) Provide reference tariff calculated according to the prescribed methodology and rate setting procedures of the ERC.
- (d) Identifies interconnected facilities that are integral to the Pipeline.
- (e) Provides a procedure for the resolution of disputes between the Pipeline and users that may arise either during negotiation or performance of transportation 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.
- (f) Contains the terms and conditions of all agreements to be entered into between the users and the Pipeline including:
- 1) Pro forma transportation services contracts;
  - 2) Security bonds or letters of credit; and
  - 3) Pipeline operating and nomination procedures.
- (g) A Pipeline may not impose any minimum volume requirements for transportation service without first filing an application with, and obtaining an approval from, the DOE authorizing the imposition of reasonable minimum volume requirements.

## ANNEX 3

### REPORTING AND DOCUMENTATION

#### **Section 1. Gas Transmission and Distribution Utilities and/or Operators of Transmission- and/or Distribution-related Facilities**

To assure compliance with this Circular, every Gas Transmission Utility, Gas Distribution Utility or operator of a Transmission- and/or Distribution-related Facility shall comply with the following reporting requirements:

- (a) *Initial report.* - Within thirty (30) days from commencement of its operation, a Gas Transmission Utility, or Gas Distribution Utility shall submit to the DOE a written report signed under oath by a senior official of the company containing the following information:
  - (1) The name of the Person and location of the facility to which gas was transported or of the third party for whom transportation service was provided by the Gas Transmission Utility or Gas Distribution Utility ;
  - (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) from the original source and the location (i.e., barangay, town and province) to the ultimate delivery point of the gas; and
    - (iv) The Tariff approved by the ERC.
  - (3) If transportation is provided to a Customer that is located in the service area of a Gas Transmission Utility or Gas Distribution Utility a statement that the transporter has notified the holder of the Franchise in writing prior to commencing the transportation.
- (b) *Subsequent Reports.* - A Gas Transmission Utility or Gas Distribution Utility shall amend its initial report to reflect any material change with pertinent transportation arrangement. Any change 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 Utility or Gas Distribution Utility.
- (c) *Record Maintenance.* Each Gas Transmission Utility and Gas Distribution Utility shall maintain records for each category of transportation service provided during the preceding calendar year, but not limited to, the following information:
  - (1) The docket number assigned to the transaction by the DOE;
  - (2) List of Customers connected to the Pipeline;
  - (3) Total volumes sold to Customers and transported for third parties;
  - (4) Interruption of service by date; and
  - (5) Total revenues received for the services provided.

Such records shall be made available to and submitted as required by the DOE.

- (d) *Notification of Termination.* Not later than thirty (30) days following the termination of any transportation arrangement (except storage) authorized under this Circular, the Gas Transmission Utility or Gas Distribution Utility, 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.

Operators of Transmission- and/or Distribution-related Facilities shall be subject to similar reporting and documentation requirements with respect to the service that they provide.

## **Section 2. Gas Suppliers**

- (a) *Initial Report:* Within sixty (60) days after commencing deliveries of Natural Gas under a sale effected pursuant to this Circular, the Supplier 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 name of the seller and Customer to whom the Natural Gas has been supplied
  - (2) A description of the Supply, including:
    - (i) The dates of the commencement and anticipated termination of the Supply;
    - (ii) The estimated total and daily quantities (in Joules) of Natural Gas; and
    - (iii) The Unbundled Price.
  - (3) A statement whether the Supply is subject to interruption to the extent that the Natural Gas is required to enable the seller involved to provide adequate service to other Customers 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 DOE 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) *Record Maintenance.* Each Supplier that engages in the supply of Natural Gas shall maintain a record of the following information for the preceding calendar year:

- (1) Total volumes sold to Customers and third parties who intend to on-sell to Customers; 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 Supply of Natural Gas authorized by the DOE, 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.

### **Section 3. Construction and Operational Reporting**

The Permit holder shall submit to the DOE a written report on the construction and operation of the Pipeline and the Transmission- and/or Distribution-related Facility during each six (6) month 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 (1) month after 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) During the construction of the Pipeline and/or Transmission- and Distribution-related Facility, the 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 twenty four (24) hours from the time the emergency situation occurred.

### **Section 4. Corrosion Records**

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