(آئل اینڈ گیس ریگولیٹری اتھارٹی) OIL & GAS REGULATORY AUTHORITY
"SAY NO TO CORRUPTION"
Case No. OGRA-6(2)-2(2)/2016-Review

IN THE MATTER OF

SUI SOUTHERN GAS COMPANY LIMITED MOTION FOR REVIEW FOR DETERMINATION OF ESTIMATED REVENUE REQUIREMENT, FY 2016-17

UNDER

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

DECISION

ON

DECEMBER 22, 2016

Before:
Ms. Uzma Adil Khan, Chairperson
Mr. Aamir Naseem, Member (Gas)
Mr. Noorul Haque, Member (Finance)

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1. BACKGROUND

1.1. Sui Southern Gas Company Limited (the petitioner) is a public limited company, incorporated in Pakistan, and is listed on Pakistan Stock Exchanges Limited. The petitioner is operating in the provinces of Sindh and Balochistan under the license granted by Oil & Gas Regulatory Authority. It is engaged in construction and operation of gas transmission and distribution pipelines, sale of Natural Gas, Liquefied Petroleum Gas (LPG) Air-Mix, LPG, Gas Condensate, Natural Gas Liquids (NGL) and manufacture and sale of gas meters. The petitioner is also engaged in the business of Re-gasified Liquefied Natural Gas (RLNG) in accordance with the decision of the Federal Government (FG/GoP).

1.2. The petitioner had filed a petition on March 15, 2016 under Section 8(1) of the Oil and Gas Regulatory Authority Ordinance, 2002 (the Ordinance) and Rule 4(3) of the Natural Gas Tariff Rules, 2002 (NGT Rules), for determination of its Estimated Revenue Requirement (ERR) for FY 2016-17 (the said year). The Authority, vide its decision October 6, 2016 determined a surplus of Rs. 25,418 million (the amounts have been rounded off to the nearest million here and elsewhere in this document). The Authority determined reduction of Rs. 65.12 per MMBTU in the average prescribed price w.e.f July 01, 2016.

1.3. Being aggrieved by this determination, the petitioner has submitted a motion for review (the petition) on November 05, 2016 under Rule 16 of the NGT Rules seeking average increase in prescribed price of Rs. 53.53 per MMBTU over and above the current average prescribed price w.e.f July 01, 2016.

1.4. The petitioner has submitted the following comparative statement of cost of service:

Table 1 : Comparison of Cost of Service for FY 2016-17 as per the petition

Rs. / MMBTU

Particulars	FY 2016-17	
	DERR	The Petition
Units sold (BBTU)		390,315
Cost of gas sold	341.48	341.48
UFG adjustment	(35.42)	(1.92)
Transmission and distribution cost including Others	38.29	45.15
Depreciation	14.62	15.19
Return on net average operating fixed assets	24.90	26.78
Other operating income	(30.55)	(21.08)
Subsidy for LPG Air-Mix Project	0.92	2.15
Cost of service / prescribed price	354.24	407.76
Current average prescribed price	354.24	354.24
Increase requested in average prescribed price	-	**53.53**

1.5. The Authority issued a notice of pre-admission hearing on November 29, 2016 to the petitioner and the Federal Government (FG/GoP).

2. AUTHORITY'S JURISDICTION AND DETERMINATION PROCESS

2.1. The petitioner has invoked the jurisdiction of the Authority under Rule 16 of the NGT Rules, and Section 13 of the Ordinance, which ought to be read together to reach correct interpretation of legal framework. Section 13provides the grounds on which a review petition can be filed, and is reproduced below:-

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

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

3. PROCEEDINGS

3.1. A pre-admission hearing was held on December 8, 2016 at OGRA office, Islamabad. The petitioner's team was led by Syed Fasih-ud-Din Fawad, Acting Chief Financial Officer. The petitioner was given full opportunity to present its motion for review. The petitioner made submissions in detail with the help of multi-media presentation.

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

Un-Accounted For Gas (UFG)

(i) Implementation of Policy Guidelines Unaccounted for Gas (UFG)

Assets

(ii) Gas Transmission pipeline/ SCADA RLNG related projects
(iii) Gas Distribution System
(iv) Building & Civil Works
(v) Plant and Machinery
(vi) Tools and Equipments
(vii) Vehicles
(viii) Computer Software
(ix) Computer Hardware

Transmission and Distribution Cost

(x) Human Resource (HR) Cost Benchmark
(xi) Provision for doubtful debts
(xii) SSGCL Share in ISGSL expenses

Miscellaneous

(xiii) WPPF

4. DISCUSSION & DECISION

4.1. Unaccounted for Gas (UFG)

4.1.1. The petitioner has submitted that in pursuance of ECC's approved policy guidelines dated 20.11.2014, it had claimed following items in relation to UFG in its petition for ERR for the said year:

- Unbilled pilfered volume in law & order affected areas (2,355 MMCF)
- Pilfered volume detected against non-consumers (8,000 MMCF)
- Impact of change in bulk-retail ratio on UFG (25,759 MMCF)

4.1.2. The petitioner has stated that the Authority in its DERR did not consider the impact of policy guidelines in totality. The petitioner has added that during the said year, the major factors i.e. law and order situation, non-consumers theft and bulk-retail ratio would still be affecting the UFG of the company like previous years. They do not foresee any substantial improvement in these areas during the said year. In view of the same, the petitioner has requested to build a reasonable cushion in the estimated tariff for these factors during the said year. The petitioner has further requested the Authority to allow 100% of the claimed volumes pursuant to ECC policy guidelines dated 20.11.2014.

4.1.3. The Authority notes that any un-controllable factors and anticipated non-consumer theft may not be considered at this stage. The petitioner is required to put in its best efforts to control these factors and the Authority may consider them at the time of FRR in the light of FG's policy guidelines / UFG Study. Moreover, the Authority has not considered / allowed such volumes at ERR stage and equitable treatment is to be given to both the Sui Companies in this regard.

4.1.4. *In view of the above, the Authority maintains its earlier decision on the matter.*

4.2. Operating Fixed Assets

4.2.1. The petitioner has requested to allow an additional amount of Rs. 6,186 million, detail of which is as under:

Table 2: Addition to the Assets as per the Petition in Comparison with DERR

Rs. in Million

Particulars	FY 2016-17			Inc./Dec. over DERR FY 2016-17	
	ERR	DERR	The Petition	Rs.	%
Land	4	4	4	-	-
Buildings	278	100	278	178	178
Roads, pavements and related infrastructure	151	68	68	-	-
Gas Transmission Pipelines	48,841	18,844	20,273	1,429	8
Plant and Machinery	642	274	642	368	134
Gas Distribution System	10,258	5,141	6,923	1,782	35
Furniture, equipment including computers and allied equipments	598	110	518	408	370
Computer Software	162	38	162	124	326
LPG Air Mix Projects	1,564	13	1,564	1,551	12,312
Telecommunication Systems	65	51	60	9	17
Appliances, Loose Tools and Equipments	131	24	50	26	108
Vehicles	622	310	622	312	101
Construction Equipments	1,000	500	500	-	-
Compressors	9,940	5,000	5,000	-	-
SCADA	45	45	45	-	-
Gross Assets	*74,302*	*30,522*	*36,708*	*6,186*	*20*

i. Buildings; Plant & Machinery; Computers & Allied Equipments; Computer Software; Telecommunication Systems; Appliances, Loose Tools &Equipments; and Vehicles:

4.2.2. The petitioner has claimed an additional amount of Rs. 1,425 million against the heads of Buildings; Plant & Machinery; Computers & allied equipments; Computer Software; Telecommunication Systems; Appliances, Loose Tools &Equipments and Vehicles. The petitioner has stated that the Authority in the DERR for the said year has neither provided any reasonable justification for disallowance against these heads nor made any specific comments with respect to any specific category or asset which in the opinion of the Authority was imprudent or lacked justification.

4.2.3. The Authority notes that it had provisionally allowed an amount of Rs. 907 million in DERR, based on historical trend analysis, against the projected amount of Rs. 2,498 million against the said heads. The petitioner's projections have historically remained on higher side vis-à-vis actual capitalization against these heads. Moreover, the petitioner has not provided any justification against the Authority's observation derived from historical trend analysis.

4.2.4. ***Since the petitioner has neither provided any new evidence/ justification nor has responded to the observations noted by the Authority in DERR in this regard, therefore, the Authority maintains its earlier decision on the matter.***

ii. Gas Transmission Pipelines:

4.2.5. The petitioner has claimed an amount of Rs. 1,429 million for laying 24" dia× 31 Km pipeline from SMS Kathore to SMS Surjani. The petitioner has stated that the said pipeline segment is required to improve low pressure issues in SITE industrial area, enhance operational efficiency of Western region namely Northern Pass Hub Town, Coastal Area of Hawks Bay, Kannup and other industrial, commercial and domestic customers.

4.2.6. The Authority notes that the petitioner had projected the said pipeline segment from Kathore to Surjani as 'Distribution Project' in its ERR petitions for FYs 2012-13 and FY 2015-16 and the Authority had allowed an amount of Rs. 1,139 million and Rs. 291 million in its respective determinations, however, the petitioner could not execute the project in the FY 2012-13 and FY 2015-16. Now the petitioner has projected the said pipeline segment as a 'Transmission Project'.

4.2.7. *The Authority, in view of the operational requirement as well as its earlier determinations on the matter, principally approves 24" dia × 31 Km pipeline from SMS Kathore to SMS Surjani and allows the petitioner to execute the project in the said year, however, any expenditure on the said pipeline segment will be allowed at the time of FRR subject to actual capitalization in this head.*

iii. Gas Distribution System:

4.2.8. The petitioner has claimed an additional amount of Rs. 1,782 million in this head, the detail of which is as under:

Table 3: Addition to the Assets as per the Petition in Comparison with DERR

Rs. Million

Item	Amount Claimed in ERR	Amount Allowed in DERR	Additional Amount Claimed in the Petition
Distribution mains including services	2,158	1,658	125
Replacement / Repair of Gas Meters	1,192	941	976
Installation of New Connections	649	312	337
Installation of Modems, EVCs and Filter Separators	445	200	245
New Towns and Villages	486	25	100
Total	**4,930**	**3,136**	**1,783**

<u>Laying of Distribution Mains including Services – Existing Areas:</u>

4.2.9. The petitioner has stated that the Authority in its DERR for the said year allowed an amount of Rs. 1,658 million under this head by revising targets in kilometers of the company as well as reduced the per kilometer cost for laying pipelines. The petitioner has requested to take actual laying rate at 3.26 million per kilometer which is arrived at by applying 0.6% incremental factor on per kilometer rate of 3.24 million which was allowed by the Authority in DERR for FY 2015-16.

4.2.10. The Authority notes that the petitioner in its petition for ERR had projected per unit cost of Rs. 2.97 million for laying distribution mains and the same was allowed by the Authority in the DERR. Moreover, actual per Km cost of laying 'Distribution mains' and 'Reinforcement mains' during FY 2015-16 was Rs. 2.1 million and Rs. 2.5 million respectively, therefore per unit cost allowed by the Authority during the said year is well above the per km cost actualized in the previous year.

4.2.11. ***The Authority, therefore, maintains its earlier stance on the matter, and advises the petitioner to project correct and realistic figures in future.***

Replacement / Repair of Gas Meters:

4.2.12. The petitioner has claimed an additional amount of Rs. 976 million against this head, based on actual per unit cost allowed by the Authority for FY 2014-15.

4.2.13. The Authority notes that per unit cost of industrial meter replacement projected by the petitioner for the said year i.e. Rs. 443,873/unit is higher than the per unit cost of industrial meter replacement actualized by the petitioner during FY 2015-16 i.e Rs. 209,533/unit. Moreover, the petitioner has projected to replace 300,000 Nos. domestic meters during the said year as against the actual figure of 260,379 for the FY 2015-16 and that too under NGEP Project, which has now been closed by the World Bank.

4.2.14. ***In view of the above, the Authority maintains its earlier stance on the matter and disallows the additional amount claimed under this head.***

Installation of New Connections:

4.2.15. The petitioner has claimed an additional amount of Rs. 337 million in this head, based on actual per unit cost of FY 2014-15 and FY 2015-16.

4.2.16. ***The Authority principally agrees to the stance of the petitioner, however, any additional expenditure against this head will be considered at the time of FRR subject to actual capitalization in this head.***

Installation of Modems, EVCs and Filter Separators:

4.2.17. The petitioner has claimed an additional amount of Rs. 245 million in this head. The petitioner has clarified that all expenses to be incurred under this head are entirely different from the items claimed under the head of 'Replacement Meters – UFG Control Program'.

4.2.18. *The Authority principally agrees to the stance of the petitioner, however, any additional expenditure against this head will be considered at the time of FRR subject to actual capitalization in this head.*

New Towns & Villages:

4.2.19. The petitioner has requested to allow an additional amount of Rs. 100 million for laying gas development schemes, which are to be financed through soft term loan from Government of Sindh.

4.2.20. The Authority observes that clause 6.2 of Natural Gas Allocation & Management Policy 2005 and Rule 20(v) of Natural Gas Licensing Rules, 2002 empower the petitioner to regret the expansion of gas supply network in economically unviable areas until and unless Federal/Provincial Governments share the burden of such uneconomical expansion with the company, to the extent of the amount over and above per customer cost criteria. These resources may include funds and grants provided by the above said Governments.

4.2.21. The Authority notes that gas development schemes projected by the petitioner do not meet FG's prescribed per customer cost criteria and prevailing policy on the matter. *The Authority, therefore, maintains its earlier stance on the matter and does not allow any additional amount under this head.*

iv. LPG Air Mix Projects:

4.2.22. The petitioner has claimed an amount of Rs. 1,551 million for installation of LPG Air Mix Plants at Awaran, Bela, Zhob, QillaSaifullah, Loralai and Kharan.

4.2.23. The Authority notes that the petitioner has not obtained requisite licenses for the said LPG Air Mix Projects. *The Authority, therefore, maintains its earlier stance on the matter.*

4.3. Transmission & Distribution Cost

i. HR Cost Benchmark

4.3.1. The petitioner has argued that the Authority in its decision on ERR FY 2014-15 developed in house HR Benchmark formula, which expired in FY 2014-15. However, the Authority extended the same for DERR for FY 2015-16 and FY 2016-17. The Authority has allowed Rs. 11,386 million in DERR for the said year, which is quite insufficient to cater for its actual HR cost need.

4.3.2. The petitioner has requested the Authority to treat impact of Temporary Assignees (TA's) outside HR benchmark. The petitioner has further argued that at least 12% increase on annualized basis be allowed to cater the requirements of HR cost in line with the increase offered by the FG to its employees.

4.3.3. The Authority observes that the petitioner's consistent demand of allowing cost of TAs outside benchmark formula holds no logic, despite the very fact that the same has already been included as part of base year cost. The Authority further reminds to the petitioner of its earlier directions wherein cost of TAs were kept outside benchmark formula as an interim arrangement till such time the final judgment was issued from Court of Law. Now TAs are part of permanent work force of the petitioner, therefore, allowance of its cost over and above the HR benchmark is illogical and irrational. The Authority has also exhaustively elaborated the basis and intent of HR benchmark during FRR for FY 2015-16, and accordingly extended the same effective FY 2015-16, while adopting actual cost of FY 2014-15 as base year cost. Based on it, the HR benchmark cost including IAS cost is re-computed at Rs. 12,928 million. ***The Authority, however, shall allow HR cost adjustment at the time of FRR based on revised base year cost. The Authority, however, directs the petitioner to manage its HR cost within allowable limit, and strive for cost optimization through implementation of best HR policies.*** The Authority further reiterates its directions issued in FRR for FY 2015-16 to conduct manpower study to analyze insight into the real need of the company keeping in view working norms and latest technical horizon, job accountabilities and vibrant approaches practiced in this sector carried out internationally, within a week of this determination. Also, terms of reference in this regard may also be consulted with the Authority. The Authority further reiterates its directions in respect of sacked employees reinstated under the Presidential Ordinance, 2009 to submit quarterly progress reports on an ongoing basis in order to asses judicious and effective utilization of additional workforce. The petitioner's performance in terms of utilization of re-instated employees remains dismal and is a cause of serious concern to the Authority.

ii. Provision for Doubtful debts

4.3.4. The petitioner has submitted that the Authority at the time of DERR for the said year, has provisionally allowed Rs. 547 million, based on the premise that it had not provided the information as per the requisite format. The petitioner has informed that it has now provided the revised claim in respect of provision for doubtful debts at Rs. 1,814 million based on its own company's policy, within the limit 1% of sales as per the ECC decision. The petitioner also argued that ECC of Cabinet is a supreme council to decide on such matters and its decisions are binding on OGRA.

4.3.5. The Authority notes that it had already implemented a benchmark in respect of provision for doubtful debts during DERR for the said year for all categories of consumers, wherein clear guiding basis has already been provided / set to the petitioner. The Authority acknowledges that the petitioner has submitted revised information, which is under consideration of the Authority. ***Accordingly, adjustment, if any, on this account shall be made at year based on actual numbers while considering the benchmark in place in respect of provision for doubtful debts.***

iii. SSGCL Share in ISGSL Expenses

4.3.6. The petitioner has requested to allow entire amount Rs.149 million against SSGCL Share in ISGSL Expenses for DERR for FY 2016-17. The said amount has been computed on the basis of letter of Ministry of Petroleum and Natural Resources regarding reimbursement of revenue expenditure by the petitioner and SNGPL at the ration of 51:49. The petitioner has explained that as per direction of the Authority, they have written letters to MP&NR for obtaining guideline for reimbursement of ISGSL expenditure on the basis of changed shareholding pattern of gas utility companies.

4.3.7. The Authority observes that in the meeting of ECC dated December 15, 2016, the matter of funding of ISGSL has been submitted, and principle decision was taken where M/s GHPL, being the parent company, shall fund the expenditures of ISGSL.

4.3.8. *In view of above, the Authority decides not to include expenditure relating to ISGSL, and directs the petitioner to proceed in the light of latest ECC decision.*

5. Financial Impact of Honorable Sindh High Court Judgment

5.1. The Authority notes that SECP has granted permission to the petitioner to stagger the financial impact arising out of the honorable Sindh High Court judgment dated November 25, 2016 over two financial years i.e. FY 2015-16 and the said year. Accordingly, the Authority vide para 11.5 of its decision dated December 22, 2016 in the matter of Final Revenue Requirement for FY 2015-16 has already recovered Rs. 18,360 million. *The balance amount is to be recovered through the final revenue requirement for the said year. The Authority further reiterates its directions to strictly follow the conditions as imposed by SECP, and submit a certificate through its Managing Director for the compliance of the same.*

5.2. *In view of the foregoing, the petition is hereby disposed of.*

Noor ul Haque,
Member (Finance)

Aamir Naseem,
Member (Gas)

Uzma Adil Khan,
(Chairperson)

Islamabad, December 22, 2016