

**REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF ENERGY**

**RULES AND REGULATIONS  
GOVERNING THE PHILIPPINE NATURAL GAS INDUSTRY**

**DEPARTMENT CIRCULAR NO.**

5 October 2017

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Republic of the Philippines  
DEPARTMENT OF ENERGY

## **RULES AND REGULATIONS GOVERNING THE PHILIPPINE NATURAL GAS INDUSTRY**

Pursuant to Republic Act (RA) No. 7638, otherwise known as the “Department of Energy Act of 1992”, creating the Philippine Department of Energy (DOE); Executive Order (EO) No. 66, designating the DOE as the lead agency in developing the Philippine Natural Gas Industry; Administrative Order No. 38, providing for the Institutional Strengthening of the DOE; Executive Order (EO) No. 172, creating the Energy Regulatory Board as amended by RA No. 9136, otherwise known as the “Electric Power Industry Reform Act of 2001”; Presidential Decree (PD) No. 87, otherwise known as “The Oil Exploration and Development Act of 1972”, as amended; Department Circular No. 95-06-006, entitled “Policy Guidelines on the Overall Development and Utilization of Natural Gas in the Philippines”; Department Circular No. 2002-07-004, otherwise known as the Rules of Practice and Procedures before the DOE, and Executive Order 30, establishing the Energy Investment Coordinating Council to facilitate an efficient and effective administration of Energy Projects of National Significance and fasten the implementation of the Philippine Energy Plan (PEP),” the DOE, in consultation with appropriate government agencies and private stakeholders, hereby issues, adopts and promulgates the following Rules and Regulations.

### **PART I GENERAL PROVISIONS**

This Circular establishes the Rules and Regulations to be followed with respect to supply, siting, design, construction, expansion, rehabilitation, modification, operation, maintenance, safety and commercial arrangement of the Value Chain of the Philippine Natural Gas Industry (PNGI). The State shall ensure that the Philippine Natural Gas Industry, from its emerging state, will be developed into a matured market enabling the country to achieve greater energy security and sustainability.

#### **RULE 1. TITLE AND SCOPE**

##### **Section 1. Title**

This Circular shall be known as the Philippine Natural Gas Regulation (PNGR).

##### **Section 2. Scope**

This PNGR applies to the following:

1. Development and implementation of industry compliance to acceptable policies, standards and best practices on siting, design, construction, expansion, modification, operation and

maintenance of safe and state-of-the-art facilities necessary to the development of the Value Chain of the PNGI;

2. Development and implementation of policies and programs on the promotion, exploration, development, production of indigenous Natural Gas deposits and importation of Liquefied Natural Gas (LNG) for local and foreign demand, including Third Party Access (TPA) to LNG-related facilities and pipelines towards the development of the Philippines as LNG trading and transshipment hub of the Asia-Pacific Region;
3. Development and implementation of policies and programs on the transportation of Natural Gas and its related facilities on the following:
  - a) Indigenous gas from production platform to gas processing plant or LNG-related facilities;
  - b) Imported LNG from the connection point of the loading arm to the LNG-related facilities;
  - c) Natural Gas received from the last connection point of gas processing plant or LNG-related facilities to the Transmission, Distribution and Spur line metering equipment; and
  - d) LNG from the filling connection of the storage specifically used for reticulation or delivery up to the satellite LNG-related facilities in the Philippines and foreign market.
4. Overall monitoring and supervision of the activities of the PNGI.

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

It is hereby declared the policy of the State to:

1. Provide a conducive environment through the issuance of policies, plans and programs geared towards the promotion and development of the PNGI. In all cases, the State shall ensure safe, transparent, competitive and environment-friendly operation of the PNGI Value Chain;
2. Promote Natural Gas as the energy fuel which has tremendous potential to satisfy increasing demand including the development of the Philippines as LNG trading and transshipment hub within the Asia-Pacific Region;
3. Encourage conversion of existing fuel-operated machines and facilities to Natural Gas use, provided it is technically and financially feasible;
4. Promote access and financial viability of the PNGI by liberalizing entry under a system of competition, transparency and fair trade with the end goal of attaining fair price for all stakeholders;
5. Ensure compliance with International and Philippine Health, Safety, Security, Environment (HSSE) standards and best practices under a system of safe operation, high-quality service and consumer protection.

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

The DOE shall have the overall responsibility on the promotion and supervision of the development and operation of the PNGI through:

1. The evaluation of project proposals and the issuance of authority to Permit Holder/Operator, which shall include, among others, Notice to Proceed (NTP), Permit to Construct, Expand, Rehabilitate and Modify (PCERM) and Permit to Operate and Maintain (POM);
2. The issuance, among others, of Acknowledgement to Import (ATI) and Acknowledgement to Supply and Transport (AST) Natural Gas;
3. The issuance of directives to qualified Government Agencies, in their capacities as investing arms, to spearhead the development of the PNGI Value Chain when the DOE deems it imperative to catalyze its development within a given timeline;
4. The implementation of the Industry compliance to Natural Gas Philippine or International Standards on Product, Facilities and Practices;
5. The creation of a Downstream Natural Gas Review and Evaluation Committee (DNG-REC) which shall evaluate and recommend, for the approval of the Secretary, Downstream Natural Gas project proposals/applications including the conduct of joint upstream/downstream inspection and monitoring activities in coordination with a Philippine Inter-Agency Health, Safety, Security and Environment Inspection and Monitoring Team (PIA-HSSE IMT), and the creation of Technical Committees (TC) which shall formulate applicable standards. The PIA-HSSE IMT and the TC shall be chaired both by the DOE; and
6. The implementation of all other necessary measures allowed under existing laws, rules and regulations.

### **RULE 4. DEFINITION OF TERMS**

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

- a) Affiliates – refer to the corporate relationships of two or more Persons, one of whom either controls or is being controlled by the others. As used herein, “control” shall mean the power to direct or cause the direction of the management policies as part of its inherent decision power;
- b) Anti-Competitive Behavior - refers to price fixing, output fixing and any concerted practices, agreements by Persons or Association of Persons 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) Capacity - means the maximum flow, expressed in normal cubic meters per time unit or in energy unit per time.
- e) Containment - means safe storage and isolation of LNG;
- f) Customers - refer to Persons who purchase Natural Gas for resale or final use;

- g) Department of Energy or "DOE" - refers to the government agency created pursuant to Republic Act No. 7638;
- h) Deregulation - refers to the removal of Government price control;
- i) Distribution System - refers generally to the pipeline and related facilities used to transport Natural Gas extending between the last delivery point of the Transmission System to the last connection point to the Customer;
- j) Downstream LNG Value Chain – refers to activities from shipping, storage, regasification, transmission and distribution of Natural Gas to Customers;
- k) Energy Regulatory Commission or "ERC" - refers to the regulatory agency created by RA 9136;
- l) 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;
- m) Financial Closing – means generally to the stage of negotiation where a legally binding financial commitment actually exists to provide funding for a project and all conditions have already been met to permit mobilization of funds;
- n) Force Majeure - shall include Acts of God, storms, typhoons, earthquakes, unavoidable accidents, acts of war or conditions attributable to or arising out of war (declared or undeclared), laws, rules, regulations, and orders by any government or governmental agency, strikes, lockouts, or other labor or political disturbances, insurrections, riots, and other civil disturbances, hostile acts of hostile forces constituting direct and serious threat to life and property, and all other matters or events of a like or comparable nature beyond the control of the Party concerned;
- o) Gas Sales and Purchase Agreement or "GSPA" - refers to a contract or agreement for the delivery and sale of indigenous or imported Natural Gas by and between seller and buyer;
- p) Insurance - refers generally to a risk-transfer mechanism that ensures full or partial financial compensation for the loss or damage caused by event(s) beyond the control of the insured party wherein, compensation is normally proportionate to the loss incurred;
- q) Importation - means the act of bringing LNG into the Philippines;
- r) Landed Cost – refers to the cost of imported product upon delivery to the Philippines, which consist generally of the total of FOB, insurance, freight cost, currency conversion, custom duties and other applicable fees;
- s) Liquefied Natural Gas or "LNG" - refers to Natural Gas which has been liquefied by cooling at a cryogenic temperature;
- t) Natural Gas - refers to gas obtained from boreholes and wells consisting primarily of a mixture of methane, ethane, propane and butane with small amounts of heavier hydrocarbons and some impurities, notably nitrogen and complex sulphur compounds and water, carbon dioxide and hydrogen sulphide which may exist in the feed gas but are removed before liquefaction;

- u) Own-use Permit - refers to an authorization granted by the DOE to the Permit Holder/ Operator for the exclusive use in the operation of its facility;
- v) Permit Holder/ Operator – refers to a natural or juridical Person who is granted a Permit by the DOE to engage in the importation, construction, commercial operation and maintenance of natural gas facilities;
- w) Petroleum Service Contractor – refers to a holder of a Petroleum Service Contract duly issued by the DOE pursuant to PD 87, as amended;
- x) Supplier - refers to any Person engaged and registered with the DOE to trade on indigenous or imported LNG and their subsequent supply to Customers;
- y) Tariff - refers to the payment on the utilization of the capacity and use of other services offered by the Permit Holder/ Operator of the LNG-related facilities, Transmission and Distribution pipeline;
- z) Third Party Access or “TPA” - means a transparent and non-discriminatory access and utilization by a third party user of the capacity and use of other services offered by the Permit Holder/ Operator of the LNG-related facilities, transmission and distribution pipeline;
- aa) Transmission System - refers generally to the pipeline and related facilities used to transport Natural Gas extending between the connection from the gathering facilities to the last connection point before the distribution System;
- bb) Transshipment – refers to the act of taking cargo out of one ship and loading it in another, or the transfer of goods from the vessel stipulated in the freight contract to another vessel, before the place of destination named in the contract has been reached.

## **PART II STRUCTURE OF THE NATURAL GAS VALUE CHAIN**

The Structure of the PNGI Value Chain shall be divided into Upstream and Downstream operations. Upstream constitutes the promotion, exploration, development, production and sale of indigenous gas. Downstream consists of importation, storage, regasification, transportation, trading and other related activities of natural gas from load port to Customers.

### **RULE 5. UPSTREAM NATURAL GAS SECTOR**

This Circular shall cover the regulation of the Petroleum Service Contracts relative to the construction and/or operation of the transmission pipeline and its related facilities after the platform, the Gas Processing Plant or the LNG-Related Facilities and the distribution pipeline and its related facilities.

## **RULE 6. DOWNSTREAM NATURAL GAS SECTOR**

This Circular shall cover the regulation of structures in the Downstream Natural Gas Industry.

### **Section 1. LNG-Related Facilities**

1. Jetty and Unloading/Loading arms;
2. Cryogenic Pipelines;
3. Storage Tanks;
4. Low and High Pressure Pumps;
5. Boil-Off Gas (BOG) compressors and re-condensers;
6. Vaporizers;
7. Metering; and
8. Other relevant components.

### **Section 2. Pipelines**

1. Transmission;
2. Distribution;
3. Spur lines; and
4. Other relevant components.

### **Section 3. Transmission and/or Distribution-Related Facilities**

1. Processing plants;
2. Facilities for pipeline interconnections and metering;
3. Natural Gas Refilling Stations; and
4. Other relevant components.

### **Section 4. Supply of Natural Gas**

1. Indigenous;
2. Imported; and
3. Blended.

## **PART III REGULATIONS AND STANDARDS OF THE NATURAL GAS INDUSTRY**

### **RULE 7. PERMITS**

#### **Section 1. Natural Gas Facilities**

For purposes of this Circular, the following Permits shall be issued in accordance to an Application Guideline to be issued by the DOE:

- a. Notice to Proceed (NTP);
- b. Permit to Construct, Expand, Rehabilitate, Modify (PCERM); and
- c. Permit to Operate and Maintain (POM).



## **Section 1.1 Guiding Principles for Evaluation**

In order to meet the objectives of the PNGI development, the DOE shall utilize different methods of accepting Project proposals with due consideration for objectivity and transparency in the conduct of evaluation, recommendation and issuance of Permits.

The DNG-REC will endorse its recommendation for the issuance of Permits, for approval of the Secretary, after compliance to the following considerations:

1. The construction of the Natural Gas project is consistent with the declaration of policies in this Circular;
2. The Applicant has met the minimum legal, technical and financial qualifications; and
3. The proposed Natural Gas project shall be technically and financially viable by ensuring, among others, that:
  - a. There is sufficient market for natural gas to justify the construction of the Natural Gas project;
  - b. The proposed Natural Gas project shall be legally, technically and financially feasible to operate;
  - c. The proposed activity in the PNGI shall not result to any Anti-Competitive Conduct.

## **Section 1.2 Own-Use Permits**

Own-Use Permit for Natural Gas facilities shall be allowed for the Operator's exclusive use in the operation of its facilities. The Holder of Own-Use Permit shall still comply with the requirements in this Circular and the DOE Application Guidelines.

Own-Use Permit for Transmission, Distribution and Spur line Pipelines shall be exempted from Franchise requirement.

## **Section 1.3. Term and Procedure for the Issuance of Permit**

1. An Applicant who meets the minimum legal, technical and financial requirements shall be issued an NTP.

The Applicant shall be given a period of three (3) months from date of issuance of NTP to secure permits or clearances from other Government Agencies and submit Financial Closing requirements.

2. After compliance with the Permitting and Financial Closing, the DOE Secretary shall issue the PCERM as an authority for the Operator to proceed with the construction including the expansion and modification, whenever applicable, of the Natural Gas Facilities. To monitor the progress of the project, the Operator is required to submit regular Progress Report to the DOE and the DOE in coordination with the PIA-HSSE IMT shall conduct on-site progress validation.

The completion of construction shall be within the approved construction timeline.

3. Within thirty (30) days from completion of the construction, the Operator shall submit an application for POM and its supporting post-construction documents. After verification of the completion of construction by the DNG-REC, in coordination with the PIA-HSSE IMT,

the Operator shall be granted POM by the DOE Secretary. The POM shall be valid for an initial period of 10 years, renewable every ten years, subject to the following conditions:

- a. That the Permit Holder has not been in default in its responsibilities as provided in this Circular, the Conditions of the Permit and their Supply commitments;
- b. That the Operator and the Natural Gas Facilities continue to be legally, technically and financially competent to operate for the renewal period; and
- c. That the Operator shall submit the renewal application at least six (6) months before the expiration of the POM.

Request for any extension on the periods granted for NTP and PCERM shall be allowed by the DOE Secretary only under the following conditions:

- a. In case of Force Majeure, the Permit holder shall notify the DOE in writing, with details and proof thereof, within thirty (30) days from the existence or occurrence of the same;
- b. That the Permit holder satisfies the DOE as regards its proposed timeline, work program and budgetary considerations to warrant the extension by reason of Force Majeure;

Upon determination by the DOE of the existence of Force Majeure, the Operator shall be granted a moratorium on its work and financial commitment and will be given an extended period equivalent to the approved amended work program and budget supporting the extension.

## **Section 2. Natural Gas Supply**

1. The existing laws and rules governing the Upstream Natural Gas Sector allow the Government the option to sell directly or otherwise authorize a Service Contractor to sell its share of the Indigenous Production. For this purpose, the DOE Secretary may consider the evaluation and recommendation of both Upstream and Downstream REC.

Further, the DOE Secretary or his duly authorized representative shall participate in the negotiation process and the subsequent approval of the Gas Sale and Purchase Agreement (GSPA).

2. The Operator of the LNG-Related Facilities shall ensure the accommodation of both indigenous and imported supply of Natural Gas. The DOE shall support and ensure the implementation of any plans to upgrade the terminal and its ancillary facilities into a hub for international trading and Transshipment;

### **Section 3. Registration and Reportorial Requirements of Natural Gas Participants, Facilities, Import and Supply**

1. Applicants shall be issued an LNG Importer Accreditation Certificate and shall be qualified thereafter to apply for Acknowledgement to Import LNG (ATI-LNG) and Acknowledgement to Supply and Transport Natural Gas (AST-NG).
2. The facilities and activities of all Industry participants shall be registered. The required reportorial requirements shall be submitted to the DOE for proper supervision and monitoring in accordance to the Guidelines to be subsequently issued by the DOE.

### **Section 4. Application Fee**

The Applicant shall pay the DOE a non-refundable fee for the processing and evaluation of its application as provided in the latest DOE Approved Schedule of Fees and Charges.

### **Section 5. Confidential Information**

The DOE shall protect and limit the disclosure of confidential or commercially sensitive information unless allowed by the Operator or when required by law, rules and regulations.

### **Section 6. Rules of Practice**

Any legal proceeding relative to the application, interpretation and implementation of this PNGR before the DOE shall be in accordance to the Department Circular No. DC2002-07-004, otherwise known as the Rules of Practice and Procedure before the Department of Energy. The Rules of Court shall apply in suppletory manner.

## **Rule 8. FRANCHISE REQUIREMENT**

### **Section 1. Transmission and Distribution Pipeline as Public Utility**

Transmission and Distribution Pipelines considered as Public Utility are those actually used in the transport of Natural Gas and operating regularly as a business to serve the general public. Pipelines functioning as Public Utility shall require a Congressional Franchise. Excluded are those used exclusively under a Bilateral Agreement or for Own-Use.

### **Section 2. Public Utility Pipeline Service Pricing**

The Energy Regulatory Commission (ERC) shall be responsible in the fixing and regulating of rates or schedule of prices for the use of the pipeline under the Transmission and/or Distribution Sectors.

### **Section 3. Ownership Requirement**

As required under Article XII, Section 11 of the 1987 Philippine Constitution, no Franchise as a Public Utility shall be granted except to citizens of the Philippines or a corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by the citizens of the Philippines and/or Philippine Corporations.

## **Rule 9. THIRD PARTY ACCESS**

### **Section 1. Third Party Access Obligation**

Capacity shall be available and other services relating to the use of LNG-Related Facilities, Transmission and/or Distribution, and Spur line pipelines, excluding those constructed and operated for own use, shall be available on a transparent and non-discriminatory access by third party users.

The Operators thereof, shall comply with an open and sufficient consultation process on both existing and potential third party users to discuss the available capacity and other available services.

To further improve transparency, the Operator shall comply with the release and publication of relevant information on the following areas of the access terms and conditions:

1. Available Capacities and schedule of their availability;
2. Other types of services offered;
3. Tariffs, where the rate making policies and methodologies underlying their calculations and determination of rates shall be approved by the ERC prior to their implementation; and
4. Other relevant information.

These information shall be made available to the DOE as part of the reportorial requirements and duly published for the information of the general public.

Compliance to the third party access conditions and registration, except on rate making policy and determination, shall be in accordance to the Guidelines to be subsequently issued by the DOE.

### **Section 2. Available Capacity**

Third Party Access obligations shall apply only to the available capacity of the LNG-Related Facilities, Transmission and/or Distribution, and Spur line Pipelines as determined after satisfying the capacity intended for:

1. Own-Use for the exclusive operation of the facility; and
2. Capacities required by its supply and/or transportation contract.

## **Rule 10. PROMOTION OF COMPETITION AND NATURAL GAS PRICING**

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

1. The commercial operations of the activities in the PNRI shall be competitive, transparent and primarily governed by market forces.
2. Agreements, decisions and concerted practices by an individual or organizations to fix prices and/or fix output are prohibited;
3. Other practices and/or conduct by an individual or organizations that undermine, restrict or distort competition are likewise prohibited; and
4. Consistent with the applicable provisions of laws, findings and recommendations of the Philippine Competition Commission (PCC), the DOE Secretary shall adopt measures and/or corresponding remedies to maintain competition.

## **Section 2. Cross-Ownership and Affiliated Companies**

Parent-subsidiary and cross-ownership participation of parties in the activities, from the Natural Gas facilities, importation and supply of Natural Gas to Customers, shall be allowed for operational and financial feasibility considerations. In all cases, the State shall apply the provisions of this Circular and other applicable laws and regulations concerning the ownership and operation of businesses affected with public interest and prohibition of monopolies and combinations in restraint of trade.

## **Section 3. Natural Gas retail pricing**

The retail price of indigenous and imported Natural Gas shall be deregulated but unbundled to the extent of reflecting the following basic pricing components: landed cost of the Natural Gas plus the recovery of local taxes, cost of investment, operating expense and fair margin.

### **Rule 11. STANDARDS ON FACILITIES, PRODUCT AND SAFETY PRACTICE**

#### **A. FOR CONSTRUCTION, OPERATION AND MAINTENANCE OF NATURAL GAS FACILITY**

##### **Section 1. Standards on the Conduct of Activities**

Natural Gas Facilities must be predicated on their high quality and efficient service, stringent safety systems and overall attention to detail in design, solid construction and best operational practices. Regulations shall focus on its consistency to both applicable Philippine and Internationally Accepted Standards in the Natural Gas Industry.

##### **Section 2. Critical Safety Conditions of the LNG Ships**

- a. The Operator of the LNG-Related Facility and the Maritime Agencies of the Government shall require a Certification from the LNG vessel operator that the LNG vessel design, construction, and operations complied with international standards and codes relating to fitness to travel, hull requirements, cargo containment, pressure/temperature controls, safety systems, fire protection, and crew training, among other issues.

Marine quality assurance for LNG carriers is provided through the process of vetting, which assesses ship quality against a known standard to determine its acceptance for use. Vetting is conducted by shipping companies using employees or independent contractors on their own ships as well as chartered ships.

- b. LNG ship unloading to the LNG receiving facility shall be equipped with redundant safety systems on Emergency Shutdown, Quick Release, Containment and Rescue.
- c. Ships must have a Comprehensive Security Plan which shall provide preventive, detection, alert and rescue system.

##### **Section 3. Critical Safety Conditions of the Facility**

Generally, multiple layers of protection are created by critical safety conditions, all of which are integrated with a combination of industry standards and regulatory compliance. Industry standards are written to guide industry and enable public officials to efficiently evaluate safety, security, and environmental impacts of LNG facilities and industry activities. Regulatory compliance should ensure transparency and accountability in the public domain.

The following requirements for safety, primary containment, secondary containment, safeguard systems, separation distance, Industry Standards/Regulatory Compliance, Operational Safety and discontinuance

of operation standards, shall be applied across the LNG Value Chain, from production, liquefaction, and shipping, to storage and re-gasification.

**a. Primary Containment**

Employing suitable materials for storage tanks and other equipment and appropriate engineering design throughout the Value Chain is the most important safety requirement for the industry in order to contain the LNG.

**b. Secondary Containment**

This second layer of protection ensures that if leaks or spills occur, the LNG can be contained and isolated. For onshore installations, dikes and berms should surround liquid storage tanks to capture the product in case of a spill. In some installations, a reinforced concrete tank should surround the inner tank that normally holds the LNG. Secondary containment systems are designed to exceed the volume of the storage tank. Double and full containment systems for onshore storage tanks may eliminate the need for dikes and berms.

**c. Safeguard Systems**

In the third layer of protection, the goal is to minimize the release of LNG and mitigate the effects in case of a release. At this level of safety protection, LNG operations use systems such as gas, liquid and fire detection to rapidly identify any breach in containment including use of remote and automatic shut off systems to minimize leaks and spills in case of failures. Operational systems (procedures, training and emergency response) supplement in the prevention and mitigation of hazards. Regular maintenance of these systems is vital to ensure their reliability.

**d. Separation Distance**

Regulations have always required that LNG facilities be sited at a safe distance from adjacent industrial, communities and other public areas. Safety zones are established around LNG ships while underway in Philippine waters and while moored. The safe distances or exclusion zones are based on LNG vapor dispersion data, and thermal radiation contours and other considerations as specified in regulations used by the Operator.

**e. Industry Standards/Regulatory Compliance**

No systems are complete without appropriate operating and maintenance procedures being in place and with insurance that these are adhered to, and that the relevant personnel are appropriately trained. Organizations such as the Society of International Gas Tanker and Terminal Operators (SIGTTO), Gas Processors Association (GPA) and National Fire Protection Association (NFPA) produce guidance which comes from industry best practices.

**f. Safety Standard**

In order to maintain HSSE best practices, policies and regulations in the operation of the Natural Gas Facility, all operators shall comply with the Philippine and Internationally Accepted Safety Standards and best practices on areas of Design and Construction, Management System, Operation System, Maintenance System, Personnel Development and Training Community Health and Safety Preparedness and Emergency Response.

**g. Discontinuation of Operations**

Should the Operator and the DOE, in coordination with the PIA-HSSE-IMT, determine that a condition exists in any segment of the Natural Gas Facility which may endanger life or property, the affected segment or facility shall be taken out of operation and proper remedial action shall be taken to prevent further damage and apply subsequent repair or replacement measures. In all these stages, the Operator shall submit a complete report and documentation to the DOE.

Should there be an accident, damage or discharges of Natural Gas or hazardous materials or substances from the Natural Gas Facility, the Operator, in addition to the obligations stated above, shall promptly inform the DOE Secretary, DNG-REC Chair and the Director of OIMB, and submit a preliminary report to the DOE within forty eight (48) hours containing relevant information on the initial assessment of the incident and the emergency response taken.

Within seven (7) days from the submission of the preliminary report, the Operator shall submit a comprehensive and detailed report to the DOE Secretary, DNG-REC Chair and the Director of OIMB and the members of the PIA-HSSE-IMT containing its official findings on the damage to the Natural Gas Facility and its corresponding environment and all other relevant information on the steps taken to resolve and address the cause of the incident.

**Section 4. Critical Safety Conditions of the Pipelines and the Transmission and/or Distribution Related Facilities**

In addition to the compliance requirement of the safety conditions under Section 3 of Rule 11, the following conditions shall further apply.

**a. Impact on Public Infrastructure**

The Operator shall ensure technical and regulatory compatibility to that of other public infrastructures with proper consultation, coordination and permitting done with other Government Agencies responsible for any bridges, roads, harbors, streams, rivers and coastal waterways that will be affected by the Pipeline projects.

**b. Pipeline Testing**

No Pipeline testing shall be done without the presence and proper coordination with the DNG-REC in coordination with PIA-HHSE-IMT.

All 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.

**c. Signs**

In the interest of public safety and welfare, signs or markers shall be erected and maintained in strategic locations. Operator shall advise concerned local government units (LGUs) and appropriate government agencies about the existence of the pipeline related facilities within their respective jurisdiction and shall provide such LGUs and appropriate government agencies detailed maps of their Pipeline routes.

## **B. FOR PRODUCT STANDARD**

### **Section 1. Quality**

The Operator shall maintain the quality of gas supply to Customers in accordance with the Philippine or Internationally Accepted Standards and ensure that delivery of indigenous or imported LNG must always pass the purification requirements from associated compounds unnecessary or damaging to the LNG regasification facility.

### **Section 2. Measurement of Natural Gas**

Unless otherwise approved by the DOE, the 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 3 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 3. 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 (°C) (288.15°Kelvin) and an absolute pressure of 0.101325 megapascals (Mpa) or 1013.25 millibars.

### **Section 4. Application to the Gas Price**

The approved price for any sale of Natural Gas should be tied to the following:

- 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 12. RESPONSIBILITIES OF THE PERMIT HOLDER/ OPERATOR**

- a. Align all its goals and objectives to the accomplishment of the Declared Policies of this Circular;
- b. Be directly responsible for the construction and operation by providing the necessary services, technology and financing, either by itself or through its duly authorized subcontractors, without entitlement from the Philippine Government to any reimbursement of any expense incurred;
- c. Comply with applicable Philippine laws and regulations relating to tax, labor, health, safety, indigenous people's rights, environment and specially protected areas and ecology;
- d. Comply with the regulatory obligations, maintenance of complete records and submission of all reportorial requirements and other documents as maybe required by the DOE under the authority of this Circular and its implementing Guidelines;
- e. Implement the Project strictly adhering to the scope and limits of the Permit and Operate in accordance to the Philippine and International Standards;



- f. Provide Insurance Policy pursuant to Section 1 of Rule 16.
- g. Submit an Abandonment Plan and establish a corresponding Sinking Fund pursuant to Section 2 of Rule 16;
- h. Post an Annual Performance Bond pursuant to Section 3 of Rule 16;
- i. Allow and facilitate the necessary preparations based on a valid order, Examiners of the Bureau of Internal Revenue and Bureau of Customs entry, to the facility premises and full access to accounts, books, and records for tax and other fiscal purposes;
- j. Allow and facilitate the necessary preparations, based on a valid order, DOE, PIA-HSSE IMT and other Government Agencies, entry to facility premises and full access to operational records for inspection and monitoring activities;
- k. Give preference to qualified local talents for hiring and local companies/agencies in entering into subcontracts on projects or services which are required in the constructions or operations;
- l. Abide by the requirements of assignment or transfer of interest pursuant to Section 4 of Rule 16;
- m. Hold the DOE, its officers and employees, and PIA-HSSE IMT free from all claims, demands or actions arising out of its failure to comply with laws, regulations, standards, contracts, and permits in connection but not limited to accidents, damages or injuries;
- n. Participate in regular operational meeting with the DNG-REC and in the development, issuance and review of plans, protocols, standards and codes applicable to the Natural Gas project;

### **RULE 13. DOWNSTREAM NATURAL GAS REVIEW AND EVALUATION COMMITTEE**

This Circular authorizes the creation of the Downstream Natural Gas Review and Evaluation Committee (DNG-REC) which shall perform the following functions:

1. Examines, evaluates, and reviews the legal, technical and financial capabilities of the project applicants and recommends to the Secretary the issuance of Downstream Natural Gas Permits which shall include, among others, NTP, PCERM and POM;
2. Recommends to the Secretary the issuance of directives to qualified Government Agencies in their capacities as investing arms to spearhead the development of the Natural Gas Value Chain in case it is imperative to catalyze its development within the timeline given;
3. In case more than one applicant applies for a Permit covering the same area or captive market, recommends to the Secretary the appropriate action taking into consideration the established and approved study on commercial viability;
4. Recommends to the Secretary the issuance of standards and policies on product, facilities and practices to ensure safety, quality, efficiency and economy;
5. Supervises and monitors the progress and operation of projects and authorizes conduct of joint upstream/downstream inspection and monitoring activities in coordination with PIA- HSSE IMT;
6. Addresses any inquiries and issues that maybe raised by the Secretary in connection to the permits, policies and programs endorsed for the Secretary's approval and execution;

7. Resolves issues in relation to the legal, technical and financial capabilities of applicants; and
8. Implements all other necessary measures allowed under existing laws, rules and regulations.

**PART IV  
TRANSITORY PROVISIONS**

**RULE 14. EXISTING SYSTEMS**

Natural Gas Facilities that have been constructed prior to the Effectivity of this Circular shall continue to be operated under their existing Permits and comply with additional requirements, if applicable, under this Circular.

Suppliers who have entered into GSPA with Customers and have delivered indigenous or imported Natural Gas prior to the Effectivity of this Circular shall continue to operate under said contracts subject to compliance to the additional requirements in this Circular.

**RULE 15. PENDING APPLICATIONS**

All pending applications on any activity in the Natural Gas Value Chain before the DOE shall be covered by this Circular.

**PART V  
FINAL PROVISIONS**

**RULE 16. INSURANCE, ABANDONEMENT, DECOMMISSIONING, PERFORMANCE BOND AND  
ASSIGNMENT OF INTEREST**

**Section 1. Insurance**

The Operator shall secure an Insurance Policy to be provided to the DOE within sixty (60) days from date of issuance of PCERM and POM, respectively, to adequately cover/answer any identified potential damage to the environment, lives and/or property, in accordance with existing laws, rules and regulations based on the Environmental (land, air, water and people) Impact Identification, Prevention and Mitigation Assessment and the Seismic, Geologic, Oceanographic, Atmospheric and Security Hazard to Infrastructure and Process Identification, Prevention and Mitigation Assessment.

**Section 2. Abandonment and Decommissioning**

- a. The Operator shall submit an Abandonment Plan and establish a corresponding Sinking Fund in the form of a trust account with a reputable commercial bank in the Philippines in favor of the DOE, the amount of which shall be equivalent to the estimated abandonment and decommissioning cost, starting three years (3) years before the end of the POM term if without any plan for renewal or at any point whenever an immediate withdrawal from the project is made without any transferee.
- b. No Natural Gas Facilities for which a Permit has been issued shall be abandoned or withdrawn from service by the Operator without obtaining prior written authorization from the DOE. The Operator shall complete the abandonment, decommissioning and compliance to all other pending obligations before the DOE issues the Clearance Certificate, specifically:
  1. The Facilities shall be completely dismantled; and

2. The site will be cleaned of debris and remediated to as close to its original condition as possible.
- c. The abandonment of above-ground laid pipelines shall comply with the following requirements:
1. The line shall be depressurized and purged of all flammable gases and fluids pigged twice and flushed with corrosion inhibitor;
  2. The line shall be filled with light weight cement;
  3. All risers shall be cut off at the line burial level;
  4. All open access into the line shall be covered with a material that will prevent internal access to the pipeline; and
  5. The right of way shall be cleaned of debris and returned to as close to original condition as possible.
- d. A submarine pipeline may be abandoned in place if it will not present a hazard to the environment, marine navigation, fishing and other marine uses.
1. The pipeline shall be depressurized, flushed and filled with seawater;
  2. Any riser shall be cut off at the sea floor and the ends of the line shall be properly plugged; and
  3. Where a pipeline comes to shore, the pipeline will be cut off at a distance from the shore or at an applicable depth below sea level.

### **Section 3. Annual Performance Bond**

Post an Annual Performance Bond within thirty (30) days from the issuance of the PCERM, equivalent to the committed budget for the current year and year thereafter until completion of the Project, in favor of the DOE, conditioned upon the faithful performance by the Operator of any or all of its work commitments under the NTP and Permit; Non-performance shall cause the forfeiture of the Bond in favor of the DOE.

### **Section 4. Assignment/Transfer of Interest**

Assignment or transfer of interest of the Permit shall be allowed only upon prior written approval of the DOE based on acceptable reasons and compliance by the Operator and/ or assumption by the assignee of all obligations and upon meeting the minimum legal, technical and financial qualifications of the transferee;

## **RULE 17. CONSULTATION AND ARBITRATION**

- a. The Parties shall make their best efforts to amicably settle any dispute arising from the performance or interpretation of any provision hereof;
- b. Disputes arising between the Parties relating to this Circular, Permit or the interpretation and performance of any of its provisions, which cannot be settled amicably, shall be settled by arbitration. The DOE and the Operator shall each appoint one (1) arbitrator and so advise the other Party within thirty (30) days after receipt of a written request to do so. Such two (2)

arbitrators shall appoint a third arbitrator. If either Party fails to appoint an arbitrator within thirty (30) days after receipt of a written request from the other Party to do so, such arbitrator shall be appointed, at the request of the other Party, by the President of the International Chamber of Commerce. If the first two (2) arbitrators appointed as aforesaid fail to agree on a third arbitrator within thirty (30) days after receipt of a written request from the other Party to do so, such third arbitrator shall be appointed, at the request of either Party, by the President of the International Chamber of Commerce. If an arbitrator fails or is unable to act, his successor will be appointed in the same manner as the arbitrator whom he succeeds. Unless the Parties agree otherwise, Singapore shall be the venue of the arbitration proceedings;

- c. The English language shall be the official language to be used in the arbitral proceedings. All hearing materials, statement of claim or defense, award and the reasons supporting them shall be written in English;
- d. The decision of a majority of the arbitrators shall be final and binding upon the Parties. Judgment upon the award rendered may be entered in any court having jurisdiction or application may be made to such court for a judicial recognition of the award and an order of enforcement as the case may be. Each Party shall bear its respective cost of arbitration unless the arbitrators decide otherwise;
- e. Except as provided in this Rule, arbitration shall be conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce, then in effect.

#### **Rule 18. INCENTIVES**

To attract foreign and domestic investors into the Natural Gas Industry, the Government offers various incentives through the Board of Investments (BOI) pursuant to Executive Order (EO) No. 226 or its successor, otherwise known as the Omnibus Investments Code of 1987. The Natural Gas Value Chain Permit Holder/Operator may avail of these incentives subject to compliance to its inclusion and registration as either part of preferred areas of investments, pioneer or non-pioneer, export production as well as those rehabilitating and expanding its existing operation.

#### **RULE 19. OFFENSES AND PENALTIES**

##### **Section 1. Offenses and Penalties**

An offense is deemed committed by a Permit holder/Operator who violated:

- (a) Relevant provision of Philippine laws, regulations or this Circular;
- (b) Any condition of the Permit; and
- (c) Any relevant order of the DOE.

The DOE may suspend or cancel the NTP or the Permits issued under this Circular and may recommend the cancellation of the relevant permits and clearances from the other Government Agencies.

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

The DOE shall conduct investigations upon its own initiative or upon receiving a complaint in writing and under oath of any allegation of violation under Section 1 of this Rule in accordance with Department Circular No. 2002-07-004.

### **RULE 20. REPEALING CLAUSE**

All rules and regulations or parts thereof, which are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly.

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

Should any provision of this Circular be subsequently declared invalid or unconstitutional, such parts not affected thereby shall remain in full force and effect.

### **RULE 22. EFFECTIVITY**

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

Done this \_\_\_ of \_\_\_, 2017 in Bonifacio Global City, Taguig City, Metro Manila.

**ALFONSO G. CUSI**  
Secretary