

Gas Pricing, Domestic Demand and Delivery Regulations

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In exercise of the powers conferred on the Authority by Section 33 of the Petroleum Industry Act, 2021 and all other powers enabling the Authority in that behalf, the Authority hereby makes the following Regulations.

Objective

1. The objective of these regulations is to regulate the marketable natural gas prices of the strategic sectors that are regulated under the Petroleum Industry Act, 2021 ("Act"), to identify the unregulated markets and make provisions for such markets.

Quality Specifications of Marketable Natural Gas

2(1) The Authority shall by notice publish the quality specifications of marketable natural gas.

(2) where the Authority intends to change the quality specifications, it shall publish a notice of the intended change on its website and in two newspapers with national coverage not less than six (6) months prior to implementing such change.

(3) Where the quality specifications of natural gas are changed by the Authority, existing gas purchase and sales contracts or other firm delivery commitments of marketable natural gas, shall be adjusted to the new specifications within a timeframe to be determined by the Authority.

Determination of the Strategic Sectors

3 (1) For the purpose of implementing the provisions of S.167 of the Act the Authority shall by notice publish a list of industries constituting the strategic sectors, provided that:

(i) The power sector shall not include mini-grids that are self-contained and disconnected from the main grid and serve rural or

other communities based primarily on solar power, but in some cases may have fossil fuels as backup power.

(ii) The power sector shall not include private power plants used exclusively for electricity generation for a single user unless such users qualify under sub-regulation 3(iv) as commercial sector.

(iii) The gas based industries included in the strategic sectors shall be the industries listed in the Fourth Schedule and such other gas based industries as the Authority may add to this Schedule pursuant to its provisions.

(iv) The commercial sector shall comprise iron and steel companies, cement companies and energy intensive industries (e.g aluminium). The Authority may, based on published criteria include any commercial or industrial activity where the cost of energy, in terms of electricity and fossil fuels, represents a significant part of the total cost of operations of such commercial sector.

(2) A wholesale customer who is not included in the list of industries comprising the strategic sectors, but who in accordance with these regulations 3 is of the view that it qualifies to be included in the list may apply to the Authority for such inclusion.

(3) The Authority shall consider a request under regulation 3(2) and convey its decision to the applicant within ninety (90) days of such request being made. The Authority's decision shall be final.

Annual Publication of the Domestic Gas Demand Requirement

4(1). The Authority shall on or before 1st March of each calendar year determine and publish the domestic gas demand requirement, in accordance with Schedule 1 of these regulations.

(2) A producer may sell raw gas at the measurement point on a free market basis, provided the producer notifies the Commission and the Authority of the respective volumes and prices upon the completion of such sales.

(3) The volumes to be sold in the strategic sector shall be classified as regulated and unregulated.

a. The regulated domestic market applies to the wholesale customers of the strategic sectors who elect to be customers of the domestic

gas aggregator and use the escrow mechanism and to the extent of subsection 167(7) to gas distributors.

- b. The unregulated volumes relate to volumes pursuant to subsections 110(2), 110(4) and 173(3) of the Act.

(4) The size of the regulated domestic market related to the strategic sectors shall equal the domestic gas demand requirement pursuant to subsection 173(2) of the Act and the Authority shall accordingly inform the Commission of such demand pursuant to subsection 173(1) of the Act.

(5) In addition to any reporting obligations under the Act and these regulations, all producers, wholesale suppliers, gas distributors, gas retailers and wholesale customers of marketable natural gas shall, prior to 1st February of the following year, notify the Authority of the volumes sold and prices applied to the preceding year based on guidelines established by the Authority.

Spare Capacity of Supporting Infrastructure

5(1). The Authority shall, prior to 1st February of each calendar year, collate information on available spare capacity in all gas conditioning plants, gas processing plants, gas transportation pipelines and gas transportation networks as of 31st December of the preceding year and inform the Commission accordingly.

(2) The Authority shall inform the Commission of anticipated spare capacity on or before 31st December of the current year and make a rolling forecast of anticipated spare capacity for the subsequent five (5) calendar years based on anticipated investments in order to expand or create new capacity related to gas conditioning plants, gas processing plants, gas transportation pipelines and gas transportation networks under expansion or construction or approved for expansion or construction by the Authority.

Gas Pricing Classification

6(1). The pricing classification for natural gas markets in Nigeria shall be in accordance with Schedule 2 of these Regulations.

(2) Regulated prices shall only relate to marketable natural gas sold in the regulated domestic market as provided for under Regulation 4(3)(a) of these Regulations.

(3) All sales of raw gas by a producer or licensee of a gas conditioning plant, shall be at unregulated prices and shall be either free market prices or transfer prices.

(4) Unregulated prices for marketable natural gas shall include free market prices and transfer prices.

(5) Unregulated free market prices for marketable natural gas shall apply to sales to wholesale customers of the strategic sectors who are not customer of the domestic gas aggregator, wholesale customers of sectors other than the strategic sectors, independent gas retailers, exporters, lessees and wholesale gas suppliers.

Domestic Base Price

7(1). The domestic base price shall be based on adjustments to the export parity price, provided that producers may supply the domestic market at lower prices.

(2) The domestic base price shall be determined by the Authority on 1st April of each year and shall be the lower of:

- (a) the export parity price (EPP) in addition to transport and processing allowance, and/or
- (b) the domestic gas supply price.

(3) On or before 1st March of each calendar year, all producers selling natural gas to the export market shall report to the Authority;

- (a) Their average export parity price for the previous year; and
- (b) Information on the adjusted export parity price, which shall be the applicable export parity price where marketable natural gas is exported by such producers rather than raw gas.

(4) Prior to 1st March of each year all producers selling natural gas to the export market shall report their average export parity price for the previous year and shall also provide the information on the adjusted export parity price, which shall be the export parity price that would have been applicable if marketable natural gas, based on specifications, including the quality specifications published by the Authority would have been exported by such producers instead of raw gas.

(5) On or before 1st March of each calendar year, the Authority shall determine the gas transport and processing allowance. This shall consist of

a transport tariff for the distance over which raw gas is typically transported to a gas processing plant and the processing tariff for a median capacity size gas processing plant processing natural gas aimed solely at the domestic market; until the Authority has determined specific allowance, \$ 0.15 per MMBtu shall be used as transport tariff and \$ 1.50 per MMBtu as processing tariff.

(6) On or before 15th March of each calendar year the Commission shall inform the Authority of the domestic gas supply price.

(7) The new domestic base price shall apply each year from 1st April until 31st March of the following year at all marketable gas delivery points.

(8) The wholesale price for the strategic sectors based on domestic base price shall not be higher than the average international gas price as determined in regulation 8 of these regulations unless the related conditions under Paragraph 1 of the Third Schedule to the Act apply.

Average International Gas Price

8(1). The Authority shall determine and publish the average international gas price.

(2) The average international gas price shall be based on the arithmetic average of similar natural gas prices in major emerging countries that are significant producers of natural gas.

(3) The Authority may by notice publish the list of countries used in the determination of average international gas price.

(4) The Authority shall, prior to 1st February of each calendar year, determine the latest applicable gas prices in the respective countries.

Feed Gas Prices

9(1). The Authority shall determine the applicable prices for the sale of ammonia, urea, methanol, polypropylene and gas to liquids based low sulfur diesel on a monthly basis, based on the average month end product prices for the current month in order to determine the price levels applicable for payments during the subsequent month, as provided for in the Fourth Schedule.

(2) Licensees of gas based industries shall provide the Authority with such information as the Authority may require from time to time in order to determine the feed gas prices.

Domestic Gas Delivery Obligation Volumes to be managed by the Domestic Gas Aggregator

10(1). The Commission shall, prior to 15th March of every year inform the domestic gas aggregator of all volumes allocated by the Commission to producers with respect to the domestic gas delivery obligations and indicate the ongoing obligations based on proved developed producing reserves and new additional domestic gas delivery obligations and provide the sequence of allocations.

(2) The Authority shall inform the domestic gas aggregator of the domestic gas demand requirement for the strategic sectors pursuant to regulation 4 (3)(a) of these regulations.

(3) The volumes reported by the Commission and the Authority under subparagraph (1) and (2) of this paragraph, should match, subject to any adjustments as a result of failure to supply under subsection 110(10) of the Act and failure to engage in wholesale purchase of marketable gas reported pursuant to sub-paragraph 11(2) of these regulations.

(4) Where the volumes reported by the Commission and Authority do not match, the domestic gas aggregator shall report back to the Commission and Authority the possible discrepancies and where necessary, the Commission or the Authority or both shall adjust volumes in order to finalise the domestic gas delivery obligation to be managed by the domestic gas aggregator.

(5) Where the volume of the allocated domestic gas delivery obligations is less than the domestic gas demand requirement because of insufficient voluntary supplies, the domestic gas aggregator shall develop and apply the curtailment scheme as approved by the Authority, pursuant to section 154 (c) of the Act, to the requirements of wholesale customers in order for the volumes to match and advise the respective wholesale customers to enter into agreements with producers on a free market basis.

Allocation of domestic gas delivery obligation volumes to be managed by the domestic gas aggregator

11(1). Wholesale customers who wish to be clients of the domestic gas aggregator and who have reported the required volumes under the domestic gas demand requirement to the Authority, shall nominate such volumes with the domestic gas aggregator and apply for the corresponding gas purchase order.

(2) Upon receipt of the application, the domestic gas aggregator shall conduct due diligence on the wholesale customer, with a view of determining its ability to engage in the wholesale purchase of marketable natural gas.

(3) Upon satisfactory due diligence, the domestic gas aggregator shall issue the gas purchase order to the wholesale customer.

(4) The gas purchase order shall specify:

- (a) the lessee expected to supply the required natural gas,
- (b) the quantity of marketable natural gas to be supplied to the wholesale customer,
- (c) the price payable by the wholesale customer based on sections 167 and 168 of the Act at the marketable gas delivery point,
- (d) the location for the delivery of the natural gas pursuant to subsection 110(7) of the Act, and where such location is different from the marketable gas delivery point, the wholesale customer shall be responsible for the applicable transport charges from the marketable gas delivery point to such location,
- (e) the delivery schedule, and
- (f) such other details as may be determined by the domestic gas aggregator.

(5) The issuance of a gas purchase order by the domestic gas aggregator shall be sufficient evidence that a quantity of gas has been allocated to the wholesale customer pursuant to the domestic market demand requirement.

(6) The domestic gas aggregator shall allocate gas purchase orders in the same sequence as indicated by the Commission under regulation 10(1) of these regulations, provided, that the domestic gas aggregator may make such modifications as required in order to ensure that as much as possible each producer would provide all the required volumes of one or more wholesale customers.

(7) Upon the issuance of the gas purchase order to a producer, the producer and wholesale customer are encouraged to enter into a gas purchase and sale agreement pursuant to section 156 of the Act, provided that where the parties wish to continue to make use of the escrow account mechanism under section 154(g) of the Act, the parties shall continue to adhere to the aggregated prices determined by the domestic gas aggregator based on Domestic Based Price (DBP) and wholesale prices determined by the Authority on a yearly basis for the power and commercial sector and monthly basis for the gas based industries.

(8) Where a producer and wholesale customer have entered into a gas purchase and sale agreement or other agreement prior to the effective date of the Act, and such agreement continues, the domestic gas aggregator shall send an adjustment to the earlier gas purchase order, in order to adjust the order to the provisions of the Act.

(9) Where the producer and wholesale customer, after having been allocated the purchase order by the domestic gas aggregator, decide nevertheless not to make any further use of the escrow account mechanism under section 154(g) of the Act and enter into an agreement pursuant to subsection 110(2) of the Act, they shall so inform the domestic gas aggregator, the Commission and the Authority, and the related gas volumes shall no longer be part of the regulated domestic market and the parties shall no longer be client of the domestic gas aggregator.

Aggregate Gas Price

12 . The domestic gas aggregator shall inform the producers as required of the aggregate gas price determined by the domestic gas aggregator pursuant to the aggregate of the volumes delivered to the power and commercial sectors, and gas based industries.

Gas Pricing for Retail Gas Customers

13 (1). A person shall not supply natural gas to retail gas customers without a gas retail licence or a gas distribution licence.

(2) Where any person is supplying natural gas to one or more retail gas customers upon the effective date of these Regulations without a licence, such person shall within ninety (90) days apply to the Authority for the applicable licence.

(3) The Authority shall ensure customer protection and prevent anti-competitive behaviour or discriminatory conduct with respect to prices

charged, services provided, and tariffs applied to retail gas customers by gas distributors.

(4) Gas distributors shall within Ninety (90) days submit to the Authority all information necessary for the review of the prices charged, services provided, and tariffs applied by such gas distributor.

(5) Within one year following the effective date of these Regulations, the Authority shall determine with respect to each gas distributor whether the prices charged, services provided, and tariffs applied comply with the provisions of sub-paragraph (3) of these Regulations and where such prices, services and or tariffs do not comply, the Authority shall order the gas distributor to make such adjustments as required by the Authority.

Adoption of Free Market Conditions

14(1). The Authority shall, in determining whether a free market has been achieved, separately for the power sector, commercial sector and gas based industries, make a decision based on criteria which may include but not limited to the following:

- (a) Whether the respective sector is already largely unregulated pursuant to the information contained in the information supplied pursuant to paragraph 4(1) of these Regulations,
- (b) Contracted volumes of gas dedicated to the domestic market has exceeded volumes dedicated for export,
- (c) Gas delivery systems whether pipelines or delivery by trucks are adequate to ensure liquidity and that no monopolies or cartels are significant in the market,
- (d) The existence of trading platform(s) approved by the Authority to publish prices from time to time,
- (e) The availability of key delivery infrastructure and observance of third-party access rules, and
- (f) The existence of bilateral and over-the-counter trading, balancing rules and standardized trading contracts which form a substantial part of the maturing market, and trading indices that can be derived from long term contracts.

(2) The Authority upon the determination that free market status has been achieved for a particular sector shall in consultation with the Commission, notify key stakeholders that the regulated pricing regime shall no longer

be applicable for such sector by giving the required one-year notice to the market.

(3) Where the Authority has determined that free market status has been achieved for all three sectors, the regulated gas pricing system and the related requirements under the domestic gas delivery obligations shall terminate and domestic gas aggregation shall no longer be required upon the termination date of the last one-year notice.

Requirement to Provide Information

15. The Authority may direct a producer, licensee or permit holder to provide information or data on gas volumes, gas pricing information and any other relevant information, and the producer, licensee or permit holder shall provide such information or data in the prescribed manner within five (5) business days from the date of such direction.

Penalties

16 (1). Any person who

- a. Fails to obtain a licence required under these Regulations,
- b. Fails to provide information required under these Regulations
- c. Makes a false declaration to the Authority or wilfully furnishes information so required which is in any respect false or insufficient; or
- d. Fails to comply with any provisions of these regulations or any directives given or condition of any permit or licence issued under these regulations,

Is liable to a penalty issued by the Authority not exceeding One Hundred Thousand United States Dollars (US \$100,000), and in addition any permit, licence or authorisation granted to that person may be suspended, cancelled or terminated

17 (1) From the commencement of these Regulations any supplier who fails to comply with its Domestic Gas Delivery Obligations as specified by the Authority shall;

- (a) Pay a penalty for the volume not delivered based on the price of gas provided in the executed GSPA or at a Price of US\$3.50/MScf, whichever is higher.; and

(b) Not be permitted to deliver gas to any export project until the domestic gas delivery obligation is met,

18. Any person who acting on behalf of a producer or purchaser of gas under a domestic gas delivery obligation who fails to accept the aggregate price or refuses to pay the proceeds of gas into the escrow account for the purposes of aggregation shall be liable to a penalty issued by the Authority not exceeding Fifty Thousand Dollars (US \$50,000).

Transitional Provisions

19. Gas prices shall remain as under current arrangements until 1st April 2023.

Repeal

20. The National Gas Supply and Pricing Regulations, 2008, is hereby repealed.

Interpretation

In addition to the definitions contained in Section 318 of the Petroleum Industry Act, 2021, the following definitions shall apply to these Regulations:

“Act” means the Petroleum Industry Act, 2021

“capped free market price” means the price applicable to gas distributors on the basis of subsection 167(7) of the Act.

“domestic base price” means the price determined pursuant to subsection 167(1) and the Third Schedule to the Act, and shall apply to power sector pursuant to subsection 167(5) of the Act and the commercial sector pursuant to subsection 167(6) of the Act and gas based industry

“domestic gas supply price” means the price established by the Commission on the basis of gas supply curves submitted by the lessees, for the purpose of allocating the domestic gas delivery obligations pursuant to the Act and regulations;

“export parity price (“EPP”)” means the price received by natural gas producers from NLNG or other gas exporters for raw gas at the measurement point in the field on an arm’s length basis for the purpose of exporting natural gas as LNG or by export pipeline and for the sale of natural gas liquids at the exit of the facilities of the buyer;

“feed gas price” means a gas price for one of the gas based industries pursuant to the Fourth Schedule of the Act;

“free market basis” means sales on a voluntary seller and voluntary buyer basis, and shall be arm’s length sales;

“Free market prices” means prices entered into on a free-market basis and transfer prices shall be prices between a producer and a licensee of a gas conditioning plant, gas processing plant or gas retailer who is controlled by a company or companies who are also constituting the related producer.

“gas conditioning” means the treatment of raw gas through de-hydration, nitrogen removal, hydrogen-sulfide removal, carbon-dioxide removal or other similar processes, but not including NGL removal or fractionation, with the purpose of producing marketable gas or raw gas suitable for transportation to a gas processing plant or for sale or delivery to the market;

“gas conditioning plant” is a plant dedicated to gas conditioning;

“gas processing” means the processing of raw gas for the purpose of producing marketable natural gas, natural gas liquids and plant condensates, including processes related to NGL removal and fractionation and includes plants for the extraction of ethane;

“gas processing plant” is a plant dedicated to gas processing;

“mini-grid” means an electric power grid, usually self-contained and not connected to the main grid, typically not larger in size than 10 MW and using renewable energy to a significant degree, for the purpose of providing electricity to customers that so far have not been connected to

electricity or wish to enhance the reliability of power supply from the main grid;

“power sector” are power plants which supply electricity based on regulated tariffs to residential, commercial and industrial customers in a particular geographical area, directly or through distribution companies, and are connected to the main grid and are producing power primarily based on fossil fuels with individual plants typically exceeding a size of 10 MW;

“producer” means a lessee holding an oil mining lease or petroleum mining lease or or a licensee holding an oil prospecting licence or a petroleum prospecting licence, where such licensee carries out temporary test production;

“regulated domestic market” means the market as described in subparagraph 4(4);

“retail gas customers” are customers of marketable natural gas who are not lessees, wholesale customers or exporters and do not have the commercial capability to individually and economically connect to a gas transportation pipeline or gas transportation network; and

“strategic sectors” means in relation to marketable natural gas purchases, wholesale customers of the following sectors the –

- (a) power sector
- (b) gas based industries, consisting of industries using gas as feedstock or industrial raw material, and
- (c) commercial sector, consisting of industries, as may be determined by the Authority, which use gas as an energy source.

Short Title

These Regulations may be cited as the Gas Pricing, Domestic Demand and Delivery Regulations

SCHEDULE 1

GAS DEMAND CLASSIFICATION	
Regulated Domestic Market	
	Marketable Natural Gas
	Sales to Strategic Sectors using a regulated price power sector gas based industries commercial sector Gas Distributors
Unregulated Market	
	Marketable Natural Gas
	Sales to: Strategic Sectors on a free market basis power sector gas based industries commercial sector Non-Strategic Sectors Gas Retailers Exporters
	Raw Gas
	Domestic Market Exports

SCHEDULE 2

GAS PRICE CLASSIFICATION	
Regulated Prices	
Marketable Natural Gas	
	Domestic Base Price
	Power Sector, customer of aggregator Commercial Sector, customer of aggregator
	Feed Gas Prices
	Gas Based Industries, customer of aggregator
	Capped Free Market Price
	Gas distributors
Unregulated Prices	
Raw Gas	
	Free Market Price
	Wholesale Customers Exporters, the weighted average being the EPP Independent Gas Conditioning and Processing Licensees Other Lessees Wholesale Gas Suppliers
	Transfer Price
	Controlled Gas Conditioning and Processing Licensees
Marketable Natural Gas	
	Free Market Price
	Strategic Sectors, not customer of aggregator Non Strategic Sectors Independent Gas Retailers Exporters Other Lessees Wholesale Gas Suppliers
	Transfer Price
	Controlled Gas Retailer