Natural Gas Pipeline Tariff Regulations

Draft: June 10th, 2022

Objective

1. The objective of these Regulations is to establish the tariff methodologies and tariffs for the transportation of natural gas by gas transportation pipelines and by gas transportation networks, pursuant to sections 32(c), 33(n), 113, 122, 123 and other provisions of the Act as well as for the review of tariffs related to gas transportation pipelines and gas transportation networks pursuant to section 124(2) of the Act.

2. The Authority may publish guidelines under these Regulations.

General

3. The Authority shall –

(a) determine tariff methodologies for the transportation and transmission of natural gas ;

(b) provide pricing and tariff frameworks for natural gas in midstream and downstream gas operations; and

(c) make regulations to establish tariffs for midstream and downstream petroleum operations.

4. The tariffs for the transportation of natural gas in gas transportation pipelines and gas transportation networks shall be based on the tariff principles pursuant to section 122(2) of the Act.

5. Pursuant to Section 122 (3) of the Act, the Authority by these Regulations modifies the requirements of the tariff principles provided for in section 122(2) of the Act to follow the principles established in the Nigeria Gas Transportation Network Code Section B, Paragraph 4 entitled "Transportation Charges" issued as of August 2020, in compliance with section 160 of the Act.

Overall tariff structure

6. (1). All shippers shall be charged a transportation tariff which shall consist of two parts:

(a) A capacity charge, which shall be a charge for the reserved capacity reserved by the shipper (the charge is payable by the shipper irrespective of whether, or to what extent, that reserved capacity is used); and

(b) A commodity charge, which is a charge that varies in direct proportion to actual throughput of natural gas by the shipper.

(2) The transportation tariffs shall be determined and charged in US dollars or other foreign currency, and payment must be made, in respective foreign currency or its Naira equivalent at the open market rate published by the Central Bank of Nigeria pursuant to section 122(1)(d) of the Act

Capacity Charge

7. (1) The Authority may approve different classes of capacity charge for the same gas transportation pipeline or gas transportation network.

(2) Such classes of capacity charge shall be determined by different types and volumes of throughput agreements between the operators and shippers and with respect to gas transportation pipelines as to whether these pipelines are to be operated on an open access basis or for the own account of the licencee with third party access.
.

(3) The classes of capacity charge under Regulation 7(2) may be determined –

(a) with reference to gas transportation networks and gas transportation pipelines based on open access:

(i) types and industries of individual end-users of the natural gas transported by shippers, based on the criteria approved by the Authority;

(ii) importance of agreements with shippers facilitating the financing of a respective pipeline; and

(iii) such other basis as may be approved by the Authority

(b) with respect to gas transportation pipelines for the own account of the licencee:

(i) a notional charge applicable to the licencee making its own priority use of the pipeline or charge applicable to the affiliate of the licencee using the line, provided that such notional charge shall be determined on an arms-length basis by the licensee; and

(ii) charge applicable to shippers using spare capacity in the pipeline; and

(iii) such other basis as may be approved by the Authority.

(4) For gas transportation networks and gas transportation pipelines based on open access, each class of capacity charge shall be charged in respect of respective reserved capacity under relevant gas transportation agreements.

(5) For gas transportation pipelines for the own account of the licencee, the notional charge applicable to the licencee or actual charge to the affiliate shall be such that the allocation of charges between the licencee and third parties is acceptable. The determination of a notional charge shall be required in view of the use of tariffs for the purpose of royalty and gas pricing calculations.

8. (1) The capacity charge shall be determined and charged based on a United States dollar or other foreign currency amount per unit of reserved capacity, per day and shall be payable in the respective foreign currency or its Naira equivalent at the open market rate published by the Central Bank of Nigeria .

(2) Shippers shall be charged monthly in arrears. The capacity charge charged to a shipper shall be the rate which is applicable, multiplied by the number of units of reserved capacity reserved by the shipper, multiplied by the number of days in the month, subject to downward adjustment in the event of force majeure or default by the Operator.

(3) The capacity charge shall be determined by the reference tariffs pursuant to the tariff methodology determined by the Authority. The tariff methodology may adjust the reference tariffs into real tariffs based on the interaction of the various classes of capacity charges. Such real tariffs shall be determined for each calendar year expressed in constant United States dollars of the base year of the cash flow that was used in the tariff methodology. The actual capacity charge to be charged to shippers shall be the real tariffs adjusted for inflation.

(4) The actual capacity charges to apply in a calendar year shall be calculated by the operator who shall notify all shippers under the particular type of gas transportation agreements, prior to December 1st before the next calendar year.

(5) The actual capacity charges shall be charged to all shippers during the calendar year in question, without adjustmentsduring the calendar year.

(6) The reference tariffs shall be a levelized charge, whereby it is a constant charge over the term approved by the Authority.

Commodity Charge

9. (1) The commodity charge shall be set to recover the cost to the operator of all fuel gas, provided the operator uses the fuel gas efficiently and in accordance with good engineering practice.

(2) All shippers shall pay the same commodity charge per unit of natural gas actually transported on their behalf.

(3) Each shipper shall have the right, in lieu of paying a commodity charge, to provide at no cost to the operator a share of the total quantity of fuel gas required by the operator in proportion to that shipper's actual throughput of natural gas through the pipeline or network.

Tariff Methodology

10. (1) The Authority shall determine, within a prescribed time frame, the tariff methodology applicable to:

(a) new gas transportation pipelines operating on an open access basis;

(b) new gas transportation pipelines being operated for the own account of the licencee;

(c) the review of tariffs for existing gas transportation pipelines; and

(d) the review of tariffs for the existing gas transportation network.

(2) In determining the tariff methodology, the Authority shall take into consideration:

(a) whether the tariff shall be charged on a "postage stamp" basis, whereby the tariff shall be non-distance-sensitive, having only one single tariff rate for the class of tariff, regardless of the distance that natural gas is transported along the pipeline;

(b) the classes of capacity charges that should apply;

(c) the methodology for determining the reference tariffs, including:

(i) the determination of the capital costs or remaining capital costs that should be considered;
(ii) how the rate of return should be determined, in terms of a blended rate for equity and debt or a rate for equity only, as well as the level of profitability that should be considered;
(iii) the duration of the cashflow for which the capital recovery and profitability will be determined and the term during which the reference tariff shall apply, which may consist of different phases;
(iv) the type of charge that would be applicable after the capital costs have been recovered;
(v) the taxes and levies that should be included in the reference tariff determination and the methodology for including such taxes and levies;

(d) the methodology for adjusting the reference tariff to the real tariffs to be determined for each calendar year from which the capacity charges for each year can be derived; and
(e) the inflation indexes to be used for determining the actual capacity charges for each year.

Tariffs

11. (1) Within one month after the Authority has published the various tariff methodologies the operators of the existing gas transportation pipelines and gas transportation network shall calculate the reference tariffs and real tariffs with respect to the capacity charges and propose the same to the Authority pursuant to section 124 of the Act as well as the initially applicable actual capacity charges.

(2) Subsequently, the actual capacity charges shall be calculated prior to the start of each calendar year pursuant to the tariff methodology.

(3) With respect to new gas transportation pipelines the tariff methodology shall be applied by the operator and the operator shall report the respective tariffs to the Authority.

12. (1) Following the end of each calendar year the operator shall recalculate the capacity charges which should have been charged for that calendar year, taking into account the actual performance of shippers in duly paying invoices and the commencement of additional transportation of natural gas for new or existing shippers.

(2) The method of adjustment under Regulation 12(1) shall be approved by the Authority.

Publication of tariffs

13. The operators shall publish the respective actual tariffs for each calendar year pursuant to Section 124(1)(c) of the Act from which the actual capacity charges can be determined.

Interpretations

14. In addition to the definitions contained in the Petroleum Industry Act, 2021 the following definitions shall apply to these Midstream Gas Infrastructure Fund Regulations.

"Act" means Petroleum Industry Act, 2021.

“fuel gas” means all natural gas used for or consumed in the operation and maintenance of the pipeline, including compressor station fuel and fuel used for other utility purposes, together with line losses and other unaccounted-for losses of natural gas incurred in such operations which are within tolerances permitted under the gas transportation agreements.

“good engineering practice” means the exercise of that degree of skill, diligence, prudence, foresight and operating practice which would reasonably and ordinarily be expected from a skilled and experienced operator in accordance with internationally acceptable industry standards and recognised good practice applicable to high pressure natural gas pipelines.

“new gas transportation pipeline” means a pipeline for which an applicable licence was issued under section 135 of the Act on or after the effective dated of the Act.

“operator” means a company that has received a licence from the Authority to operate a gas transportation pipeline or gas transportation network.

“reserved capacity” means transportation capacity in the pipeline which is reserved by a shipper under a gas transportation agreement for transportation of natural gas from a particular receipt point to a particular delivery point, on the basis of a firm commitment by the operator to transport such quantities of natural gas and a firm commitment by the shipper to pay the reservation charge for that transportation capacity whether or not it is used.

“shipper” means a person, who enters into a gas transportation agreement with the operator in such form as may be required by the operator pursuant to the Nigerian Gas Transportation Network Code.

Short title

15. These Regulations may be cited as the Natural Gas Pipeline Tariff Regulations.