



# Notice for Public Comments

## LNG TERMINAL ACCESS RULES, 2020

The LNG Terminal Access Rules have been drafted under Section 41 of OGRA Ordinance, 2002 and in line with the LNG Policy, 2011. These Rules rest upon high level principles which include transparency, competition, non-discrimination, efficiency, quality of terminal services, fairness, balance of rights of parties and will play a pivotal role in liberalization of LNG / RLNG market of the country. The Rules shall help promote the development of competitive gas market while ensuring safe and reliable supply of gas thus promoting country's economic growth.

Draft LNG Terminal Access Rules have been placed at OGRA website [www.ogra.org.pk](http://www.ogra.org.pk) for comments by all stakeholders within two (02) weeks of this notice. The comments may be provided through email or surface mail at the below mentioned address.

Executive Director (LNG)

**Oil and Gas Regulatory Authority**

54-B, Fazal-e-Haq Road, Blue Area, Islamabad, Pakistan

Tel: +92-51-9244090-8, +92-51-9244376, Email: [iakhtar@ogra.org.pk](mailto:iakhtar@ogra.org.pk)

## LNG Terminal Access Rules, 2020

**1. Short title and commencement.** — (1) These rules shall be called the LNG Terminal Access Rules, 2020.

(2) They shall come into force at once.

**2. Definitions.** — (1) In these rules, unless there is anything repugnant in the subject or context,

- (a) “**access arrangement**” or “**access agreement**” means the agreement between terminal operator and terminal user for berthing, unloading, treatment, measurement, quality testing, delivery, storage, re-gasification and/or re-loading of LNG as approved by the Authority;
- (b) “**Allocated Capacity**” means such Terminal Capacity that the terminal operator has allocated or committed to each terminal user at the time of any capacity declaration;
- (c) “**arm’s length**” means the manner in which unrelated parties transact business in the ordinary course, each acting independently and in its best interest;
- (d) “**Authority**” means the Oil and Gas Regulatory Authority;
- (e) “**Available Capacity**” means such Terminal Capacity that is not allocated or committed by, or in the use of a terminal operator and is still available in the LNG terminal at the time of any capacity declaration by the terminal operator;
- (f) “**Boil-off**” means evaporation of liquefied natural gas;
- (g) “**Capacity Allocation**” means the daily LNG re-gasification or re-loading capacity in MMSCF and storage capacity in million tons, allocated by terminal operator to a terminal user;
- (h) “**Capacity Hoarding**” occurs when a terminal user books Terminal Capacity but fails to use it effectively and prevents the use of such capacity by another licensee interested in such Terminal Capacity;
- (i) “**Connected System**” means a gas pipeline transmission or distribution system or any other facility, equipment or system that is connected with LNG terminal downstream of the Gas Delivery Point;
- (j) “**Custody Transfer Point**” means the flange at the downstream of the meter at which the LNG is transferred from the LNG Carrier by a hose into FSRU or a land-based facility of LNG terminal;
- (k) “**dedicated use**” means the use of an LNG terminal by a person or group of persons who have made firm commitment to the terminal operator to use [*not*

*less than one-half*] amount of the Terminal Capacity for a minimum term of ten (10) years and who will use the terminal services for self-consumption of gas and not for its sale to third parties;

- (l) "**energy equivalence**" means that terminal operator shall deliver gas to terminal user at the Gas Delivery Point in terms of energy equivalence of the volume input of LNG at the Custody Transfer Point, subject to agreed retainage;
- (m) "**Gas Delivery Point**" means the flange at the downstream of the meter installed at LNG terminal at which the gas is delivered to a shipper or customer;
- (n) "**LNG**" means Liquefied Natural Gas that is natural gas in liquid state at or below its point of boiling and at or near atmospheric pressure;
- (o) "**LNG reloading point**" means the point at the LNG terminal at which the flange coupling of the LNG terminal's loading line joins the flange coupling of a truck, vessel or other vehicle for re-loading LNG;
- (p) "**LNG terminal**" means fixed or movable facilities, whether located on land or sea, used for loading, unloading, storage and re-gasification of LNG including all ancillary and auxiliary equipment and pipelines;
- (q) "**LNG Terminal Access Code**" or "**Code**" is the common set of standard conditions governing access arrangement between terminal operator and terminal user under these rules which shall include processes such as capacity declaration, Capacity Allocation, Capacity Hoarding, Nomination, metering, Tariff, emergencies, communication, planned maintenance, operational planning and other operational matters, as approved by the Authority, and which shall bind the terminal operator not to discriminate as between similarly situated persons or classes of persons and services in the exercise of its rights or in the performance of its obligations;
- (r) "**Nomination**" means notification process between terminal user and terminal operator to schedule the periodic regasification and delivery of gas at the Gas Delivery Point, or re-loading and delivery of LNG at the LNG re-loading point, or provision of any other terminal services in accordance with the access agreement;
- (s) "**Open Season**" means a phased process to call for interests in the allocation of Terminal Capacity and thereby determine the demand, scope and terms for such allocation, and to invite non-binding and binding offers for the allocation of Terminal Capacity, in an open and transparent manner;
- (t) "**party**" means a terminal operator, terminal user or connected system operator who has entered into an access agreement;
- (u) "**person**" means any individual, corporation, company, association, partnership, joint venture, trust, organization, authority, committee, department, incorporated or unincorporated, whether or not having distinct legal personality;

- (v) “**re-gasification**” means the physical process by which LNG is processed to be returned into its gaseous state;
- (w) “**re-loading**” includes loading of LNG on the trucks or vessels designated by a terminal user and approved by the terminal operator in accordance with the access agreement;
- (x) “**retainage**” shall include Boil-off, gas used as fuel for the operation of LNG terminal, lost and unaccounted-for gas in the LNG terminal including as a result of measurement errors, and gas flared and vented by the terminal operator for reasons of emergency;
- (y) “**shipper**” means a person holding a valid licence issued by the Authority for transmission, distribution, or sale of gas through access agreement for transportation of gas;
- (z) “**Schedule**” means a schedule attached to these rules;
- (aa) “**Tariff**” means the charges payable by terminal user to terminal operator for the terminal services and any other costs and charges under the access agreement;
- (bb) “**Terminal Capacity**” means the berthing, unloading, storage, re-gasification and re-loading capacity of LNG terminal;
- (cc) “**terminal operator**” means the person operating the LNG terminal under a license issued by the Authority;
- (dd) “**terminal services**” means the services offered by LNG terminal in accordance with the terms of its license, including berthing, unloading, reloading, storage, re-gasification, treatment, measurement and quality testing whether on continuous, uniform or interruptible basis, in accordance with the access agreement; and
- (ee) “**terminal user**” means a shipper or other person that holds capacity of LNG terminal by entering into access agreement with terminal operator.

(2) The words and expressions used but not defined hereunder shall have the meanings as assigned to them in the Oil and Gas Regulatory Authority Ordinance, 2002 (Ordinance XVII of 2002) and the rules, regulations framed thereunder and the LNG Terminal Access Code approved under these rules, from time to time.

**3. Applicability and Approvals.** — (1) These rules and the Code shall apply to all present and future LNG terminals and parties; and each party shall comply with the provisions thereof except to the extent of any exemptions granted by the Authority under rule 12.

(2) Each party shall, in the performance of its respective role, adhere to the principles of competition, efficiency, fairness, non-discrimination, quality, reasonableness, and transparency.

(3) The Authority may, in respect of the matters requiring its approval under these rules and the Code, grant approval on an application made by a party; provided as follows:

- (a) the application shall be supported by sufficient evidence to the satisfaction of the Authority;
- (b) the Authority shall grant the opportunity of hearing, if it is so requested by the applicant and may, on its own motion, call for hearing of any concerned person; and
- (c) the applicant shall pay such fee as may be prescribed by these rules.

(4) The Authority shall closely monitor the regulated activities under these rules and, where it is expedient to do so in the public interest or in the interest of the gas market, may, by notification in the official Gazette, prescribe procedures and standards in respect of the regulated activities.

**4. Terminal operator's role.** — (1) The terminal developer or operator shall, -

- (a) develop a capacity allocation mechanism consistent with rule 7 and the Code, and submit it to the Authority [along with its application for the license whereas the existing licensees shall do so within thirty (30) days of the notification of these rules];
- (b) prepare a tariff methodology and tariff structure consistent with rule 10 and the Code, and submit it to the Authority [along with its application for the license whereas the existing licensees shall do so within thirty (30) days of the notification of these rules];
- (c) publish on its website the information about Available Capacity, Allocated Capacities, released and reduced Terminal Capacities, types of terminal services, Tariffs for each type of terminal service, capacity allocation mechanism and such other disclosures as are required by these rules and the Code, and update any change therein within three (3) days thereof;
- (d) offer Available Capacity and respond to requests for Capacity Allocation in accordance with these rules and the Code;
- (e) allocate Available Capacity based on the capacity allocation mechanism and report each Capacity Allocation to the Authority within three (3) days thereof;
- (f) obtain prior approval of the Authority for each access agreement for the allocation of Terminal Capacity;
- (g) not prevent competition and ensure non-discrimination in providing terminal services;
- (h) prevent capacity hoarding by terminal users through commercial and contractual remedies provided in the Code and access agreement, including through use-it-or-lose-it and other suitable measures;

- (i) facilitate the assignment or transfer of Terminal Capacity in accordance with the provisions of the Code;
- (j) transact business at an arm's length, particularly, in the case of integrated projects and affiliated entities;
- (k) act as a reasonable and prudent terminal operator; and
- (l) ensure safety, reliability, integrity and quality of terminal services.

(2) Without prejudice to sub-rule (1), a terminal operator shall, -

- (a) receive, store, re-gasify and reload LNG cargoes,
- (b) provide terminal services in accordance with the Code and access agreement;
- (c) fairly and accurately manage inventories of LNG cargoes;
- (d) allocate gas volumes on the basis of borrowing and lending, or other inter-user arrangements so as to ensure security of supply to the terminal users, in accordance with the Code and access agreement; and
- (e) manage the terminal operations and provide terminal services in a fair and transparent manner.

(3) The terminal operator shall adhere to all applicable standards and codes in the provision of terminal services.

**5. Terminal user's role.** — (1) A terminal user shall be responsible for, -

- (a) delivery of LNG cargoes in accordance with the annual, quarterly and monthly schedules developed by the terminal operator pursuant to the Code;
- (b) timely and accurate Nominations to the terminal operator for both LNG deliveries and gas send-outs or LNG re-loading from the LNG terminal in accordance with the Code and access agreement;
- (c) updating its Nominations (re-nominations) promptly where additional information becomes available, as set out in the access agreement;
- (d) cooperating with the terminal operator in the application of mechanism for borrowing and lending of LNG among the terminal users; and
- (e) taking delivery of gas and re-loaded LNG in accordance with the Code and access agreement.

(2) The terminal users shall adhere to all applicable standards and codes in the utilization of terminal services.

**6. LNG and Gas quality.**—(1) A terminal user shall deliver LNG in terms of energy equivalence or tonnage and as per the quality and specifications given in the Code; and the terminal operator shall send out gas in accordance with the gas specifications given in the Gas Network Code and reload LNG in accordance with the specifications given in the Code.

(2) The terminal operator shall have the right to refuse to accept, or to accept with certain conditions, the delivery of LNG at the Custody Transfer Point which does not conform to the quality and specifications given in the Code.

(3) The terminal user shall have the right to refuse to accept, or to accept with certain conditions the delivery of, -

- (a) gas at the Gas Delivery Point which does not conform to the quality and specifications of the Gas Network Code; or
- (b) LNG at the LNG reloading point which does not conform to the quality and specifications of the Code.

**7. Terminal Capacity.** — (1) In respect of new LNG terminals and any expansion of the existing LNG terminals, the terminal developer or operator shall develop and implement the Open Season process to assess demand for terminal services and allocate Terminal Capacity which shall be in accordance with the capacity allocation mechanism.

(2) The terminal operator shall ensure that the following conditions are met in an Open Season process developed and applied by it:

- (a) the market participants have access to the terminal operator's website and offices to get all the relevant project information;
- (b) the Open Season process shall be posted on the terminal operator's website and an advance public notice thereof shall be published in one English newspaper and one Urdu newspaper of wide circulation;
- (c) a project profile containing all the relevant information of the new LNG terminal or expansion of an existing LNG Terminal shall be posted on the terminal operator's website and simultaneously submitted to the Authority, which shall include the following:
  - (i) the total amount of planned Terminal Capacity;
  - (ii) the time frame by which Terminal Capacity will become available;
  - (iii) the descriptions of different types of terminal services, such as firm, spot and interruptible;
  - (iv) whether terminal services will be available as bundled packages or on segregated basis (e.g., individual services of berthing, unloading, storage, regasification and re-loading);
  - (v) any specific terms of terminal services;
  - (vi) the capacity allocation mechanism;
  - (vii) the applicable timelines and requirements for each step in the process of Capacity Allocation;

- (viii) indicative range of tariffs for each terminal service;
  - (ix) introduction to the terminal developer and operator and their contact points; and
  - (x) any other relevant project information; and
- (d) the process for inviting and processing requests for Terminal Capacity, and accepting or rejecting such requests shall be transparent and non-discriminatory.

(3) The terminal operator shall hold pre-Open Season meetings after an advance public notice, and inform the market participants about relevant details of the LNG project, including material on technical, financial and commercial information. The terminal operator shall allow the potential terminal users adequate time to submit non-binding requests for Terminal Capacity.

(4) In respect of the unused or uncontracted Terminal Capacity except as referred in sub-rule (1), the terminal operator may follow any mode of allocation specified in the capacity allocation mechanism which may include Open Season, first-come-first-served principle, public auctions, outreach to specific business sectors, first option to the existing terminal users and such other processes as are consistent with these rules.

(5) The terminal operator shall ensure that the capacity allocation mechanism meets the following conditions: -

- (a) be fair, transparent and non-discriminatory;
- (b) facilitate competition;
- (c) be compatible with the functioning of the wider market;
- (d) be capable of adapting to evolving market circumstances;
- (e) not hamper or create barriers to market entry by new participants;
- (f) not prevent market participants with a small market share from competing effectively;
- (g) reflect efficient and maximum use of Terminal Capacity to foster investment in the LNG terminal;
- (h) make terminal services available on a short, medium and long-term basis; and
- (i) offer market-based solutions for primary or secondary allocation of Terminal Capacity to terminal users.

(6) Bilateral negotiations may only be allowed in the case of dedicated use of the LNG terminal by an end-user, subject to the condition that the LNG terminal was set up specifically for the dedicated use and due approval has been granted by the Authority in this behalf.

**8. Terminal Maintenance.** —The terminal operator shall develop a schedule of annual maintenance of the LNG terminal for the subsequent year, after sharing it with all the terminal users and taking into account their observations. The schedule of annual maintenance shall be circulated to the terminal users to allow them to plan the delivery of LNG cargoes accordingly.



**9. Capacity allocation to short-term and small terminal users.** — (1) The terminal operator shall allocate a minimum of **[ten (10) percent]** of the total Terminal Capacity of a new LNG terminal and any expansion of the existing LNG terminal to the terminal users, -

- (a) who wish to enter into access agreement for a term not exceeding **[three (3) years]**; and
- (b) who do not require more than **[ten (10)] percent** of the Available Capacity or such other amount as the Authority may, by notification in the official Gazette, specify in this behalf.

(2) A terminal operator shall not allocate whole of the Terminal Capacity to a single terminal user except with the prior approval of the Authority and any such approval may be granted on just cause explained to the satisfaction of the Authority.

**10. Terminal Tariff.** — (1) Each terminal operator shall develop its tariff structure in accordance with a tolling tariff methodology which shall meet the following principles or conditions:

- (a) it is not anti-competitive;
- (b) it is non-discriminatory;
- (c) it is fair and transparent;
- (d) it is reflective of reasonable cost of terminal services;
- (e) it does not cross-subsidize the costs of different terminal services; or
- (f) it is based upon efficient use of the LNG terminal.

(2) The tariff structure may include the following components:

- (a) Capacity or fixed element covering capacity reservation and other fixed charges;
- (b) Variable elements covering the variable operation and maintenance charges of the LNG terminal; and
- (c) Utilization of capacity.

(3) The Authority shall approve Tariffs for the parties whose licenses require such approval, including gas utility companies and public sector entities. Such entities shall submit the tolling tariff methodology, including tariff structure and Tariffs, for different terminal services to the Authority for its approval under rule 3.

(4) The Authority may call for any further information or materials that it shall deem appropriate for its review and shall approve the Tariffs that comply with the requirements of sub-rule (1).

(5) The Authority may, on its own motion or upon a complaint lodged by any aggrieved person, review the tolling tariff methodology, including tariff structure and Tariffs, of any LNG terminal to determine its compliance with these rules.

(6) The Authority may, subject to due opportunity of hearing to the terminal operator, require the terminal operator to make such changes to the tolling tariff

methodology, tariff structure and tariff rates as may be necessary to bring them in full compliance with this rule.

**11. Transparency of information, reporting and disclosures.** — (1) Transparency and access to vital information about access arrangement shall be ensured by the parties.

(2) The terminal operator shall publish the following information on its website and update it within three (3) days of any change, and shall simultaneously report the same to the Authority, namely: -

- (a) Terminal Operator's Licence;
- (b) LNG Terminal Access Code;
- (c) Gas Network Code for the use of gas pipeline transportation system;
- (d) Technical Characteristics of LNG terminal;
- (e) Total Terminal Capacity, Available Capacity and Allocated Capacities;
- (f) Capacity Allocation Methodology;
- (g) Types of terminal services;
- (h) Tariffs for different terminal services;
- (i) Standard forms and applications for terminal services;
- (j) Standard access agreement and its annexes;
- (k) Capacity transfer agreement and assignment instruments;
- (l) Specifications for LNG vessels;
- (m) Annual maintenance schedule; and
- (n) Emergency procedures.

(3) The Authority shall regularly monitor the roles of the parties to access agreement and call for any additional information to ensure that the parties duly comply with their obligations under these rules, the Code and access agreement. For the aforesaid purpose, the Authority may issue, from time to time, such general or special instructions to one or more parties as deemed necessary by it.

(4) The Authority shall use the information obtained under this rule to prepare annual report on the state of gas market with particular reference to access agreements and competition in the market and such report shall be made part of the yearly report required to be published and submitted to the Federal Government under section 20 of the Oil and Gas Regulatory Authority Ordinance, 2002 (XVII of 2002).

**12. Exemptions.** — (1) The Authority may, on an application of the terminal operator supported by sufficient evidence and the fee prescribed in the Schedule, grant exemption from one or more provisions of these rules and the Code except as specified in sub-rule (3), if the following conditions are met:

- (a) the Terminal Capacity will be used by the terminal developer, or a dedicated end-user or licensee so specified by the policy directive of the Federal Government;
- (b) the exemption will not be anti-competitive, non-transparent or against public policy; and
- (c) the exemption will not impair the proper functioning of domestic gas market.

(2) The Authority shall carry out periodic monitoring of the exempted LNG terminals to ensure that the aforesaid conditions shall continue to be met and, for the purpose, the Authority may call for any additional information and materials that it may deem appropriate.

(3) No exemption shall be granted by the Authority against the conditions of its monitoring role, development and publication of capacity allocation methodology, preparation of tolling tariff methodology, capacity hoarding, terminal congestion measures, reporting and disclosures, as specified in these rules and the Code.

(4) No exemption granted under these rules shall automatically apply to any future expansions of the LNG terminal.

**13. Capacity assignment and transfer.** — (1) A terminal user shall have the right to assign or transfer the Allocated Capacity to another licensee and such right shall be exercised in relation to the unutilized part of the Allocated Capacity.

(2) For the transfer or assignment of Allocated Capacities, the terminal users shall comply with the conditions specified in the Code.

**14. Capacity hoarding and terminal congestion.**—(1) The Authority may, from time to time, call upon the terminal operators to provide such information as may be required by the Authority to effectively monitor the use of Terminal Capacity and, subject to due opportunity of hearing to the parties, pass such orders as may be required to effectively prevent Capacity Hoarding.

(2) The parties shall develop and implement suitable measures to prevent and remove congestion in LNG terminals and shall particularly apply the use-it-or-lose-it and other processes specified in the Code to make any unutilized Terminal Capacity available for use by the other licensees.

**15. Dispute resolution and complaint redressal.** — (1) The parties to access agreement shall use the mechanisms given in the Code for the resolution of disputes relating to activities that fall within the remit of the Code and access agreement.

(2) Without prejudice to sub-rule (1), any person aggrieved of a violation of these rules or the Code by a party may file a complaint before the Authority against such party in accordance with the provisions of the Oil and Gas Regulatory Authority Ordinance, 2002 and rules and regulations made thereunder.

**16. Measurement.** — (1) There shall be installed measurement equipment at the LNG terminal to measure the quality and quantity of LNG, including Boil off, in accordance with the Code.

(2) Gas flows will be measured at the Gas Delivery Point on the basis of actual calorific value of the gas injected by the terminal operator in the gas pipeline transportation system connected to the LNG terminal or other connected system.

(3) The error limit or accuracy of the measurement equipment shall be as agreed between the parties in the access agreement.

(4) Verification and calibration shall be carried out according to the generally accepted standards prevailing in the LNG industry and, in the event of multiple standards, the more stringent standards will be applicable.

**17. LNG/Gas accounting and reconciliation.** — (1) The LNG accounting at the Custody Transfer Point shall be carried out in MMBTU terms by the parties to the access agreement.

(2) Gas reconciliation, billing and other charges and their settlement in terms of MMBTU shall be addressed in accordance with the access agreement.

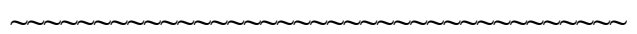
**18. Fees.** — Any party seeking an approval from the Authority under rule 3 and the Code shall be liable to payment of the fees specified in Schedule, which may be revised by the Authority, from time to time, by notification in the official Gazette.

**19. Conflict of rules and agreements.** — In case of a conflict between these rules and the Code, the provisions of the rules shall prevail. Where any conflict arises between the provisions of the Code and access agreement or any other agreement, the provisions of the Code shall prevail.

**20. Penalty.** — (1) No licensee shall contravene or fail to comply with any provision of the Ordinance, rules, regulations and terms and conditions of a license or a decision of the Authority. Any licensee who commits such contravention shall be punishable with fine, subject to sub-rule (3), which may extend to one-quarter of one percent of the annual turnover of the licensee in the most recent complete financial year.

(2) In case of a continuing contravention the licensee shall be punishable with additional fine which may extend to one-tenth of one percent of annual turnover of the licensee in the most recently completed financial year for every day during which such contravention continues after the first contravention.

(3) In imposing any fine under these rules, the Authority shall keep in view the principle of proportionality of the fine to the gravity of the contravention or failure. Prior to imposing a fine the Authority shall, in writing require the person liable to be affected to show cause orally, in person or otherwise, or in writing, as to why the fine may not be imposed.



## **SCHEDULE**

**[See rules 12 and 18]**

### **REGULATORY FEES**

<b>No.</b>	<b>Activity</b>	<b>Fee (Rupees)</b>
1.	Approval of Access Agreement	[•] per MMSCFD
2.	Approval of Capacity Transfer	[•] perMMSCFD
3.	Approval ofExemption Request	[•] per MMSCFD
4.	Approval of Amendment or Renewal of Access Agreement	[•] per MMSCFD