

EXTRAORDINARY

PART I- SECTION 1

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MINISTRY OF PETROLEUM & NATURAL GAS
RESOLUTION

New Delhi, the 8th March, 2002

No.P-23015/1/2001-Mkt – The Government of India vide its Resolution No. 224 dated 21st November, 1997 decided the phased dismantling of Administered Pricing Mechanism (APM). In the aforesaid Resolution, it was envisaged that investments in the refining sector will be encouraged by providing reasonable tariff protection and making marketing rights for transportation fuels viz. MS, HSD and ATF conditional on owning and operating refineries with an investment of at least Rs. 2000 crore or oil exploration and production companies producing at least three million tonnes of crude oil annually.

2. The Prime Minister, in March, 1999, had set up a Group of Ministers for working out a specific framework for developing “India Hydrocarbon Vision - 2025”. The Group submitted its report on 23.3.2000. The report has inter-alia recommended that marketing rights for transportation fuels be made conditional to a company investing or proposing to invest Rs. 2000/- crore in exploration or production, refining, pipelines or terminals. The report has also recommended to set up mechanisms to enable new entrants to establish own distribution networks for marketing without encroaching on the retail networks of the existing marketing companies.

3. The Government of India have now decided to grant authorization to market transportation fuels, namely, MS, HSD and ATF to the new entrants including the private sector, after taking into account the recommendations of the Report “Indian Hydrocarbon Vision – 2025”. The guidelines for granting of authorization to market transportation fuels are given below:

- I. As per the Resolution of the Government of India dated 21st November, 1997, companies owning and operating refineries with an investment of at least Rs.2,000 crore or oil exploration and production companies producing at least 3 million tonnes of crude oil annually, are entitled for marketing rights for transportation fuels.
- II. Now, authorization to market transportation fuels, namely, motor spirit (MS), high speed diesel(HSD) and aviation turbine fuel (ATF) is also available to a company investing or proposing to invest Rs.2,000 crore, in exploration and production (E&P), refining, pipelines or terminals. The

valuation of the investments for the above purposes will be got done by the Government to its satisfaction.

III. In case of future investments, the time frame for making such investments in the eligible activities would be counted as ten years from the date of grant of authorization for marketing of transportation fuels for all projects taken up under this scheme. Within the overall time frame of ten years for making investment of Rs. 2,000 crore in the eligible activities, financial closure should be achieved within five years, and the project/projects completed in all respects within ten years. The aforesaid period of ten years includes the period earmarked for financial closure. To be eligible, the company will be required to make such investments as would result in the additionality to the existing assets and/or creation of new assets in the eligible activities.

IV. Investment in the following assets is considered eligible:

- (a) Setting up new grass root refineries and/or expansion of the existing refineries along with facilities like crude oil receipt and transportation facilities.
- (b) Exploration and production of hydrocarbons including coal bed methane, and associated facilities like crude oil/natural gas pipelines, crude oil and natural gas processing plants.
- (c) Terminals for crude oil/LNG.
- (d) Common carrier natural gas/petroleum products/LPG pipelines;

Provided in case of "common carrier pipelines", the investor would be subject to all rules and regulations relating to a regulatory mechanism that may be laid down in future.

- (e) Investment in the above activities for setting up additional assets for improvement in quality of product to meet environmentally related norms.

The activities other than those specified above would not be eligible.

V. The requirement of the specified amount of actual or proposed investment would be applicable to the total of the various investments/proposed investments by the company in the eligible activities and would not be restricted to any single activity.

VI (a) The company proposing to make the specified level of investment in the eligible activities or a company which has already made Rs. 2000 crore of investment in the eligible activities but is yet to complete the project/projects will be required to sign an agreement containing conditions and milestones, with the Government in the Ministry of Petroleum and Natural Gas (MoP&NG)/Regulatory Board.

- (b) The agreement would, inter-alia, have specific provisions for bank guarantee of Rs. 500 crore for the proposed investment. The guarantee, where imposed, would be discharged on completion of the investment of Rs. 2,000 crore but the obligation of the applicant to complete the project would continue till final completion of the project.

- VII. The Government/Regulatory Board shall review the progress of project/projects periodically with the concerned parties to satisfy itself that the conditions and milestones given in the agreement are being fully complied and there is no slippage therein. If the investment up to Rs. 2000 crore is delayed beyond ten years, then the bank guarantee may be invoked and any other penalty as provided in the agreement imposed including the cancellation of authorization to market transportation fuels. In cases where after investment of Rs. 2000 crore the project remains incomplete beyond the period, specified by the applicant in his scheme, the market authorisation can be withdrawn.
- VIII. The investments made or proposed to be made in the eligible activities would be in the form of equity, equity like instruments e.g. convertible debentures (fully or partially), or debt with recourse to the company.
- IX. Every eligible company would get only one authorization i.e. the company that has invested or proposes to invest in the eligible activities either in its name or in the name of the company in which investment has been made or is proposed to be made.
- X. The authorization to market transportation fuels may be exercised either by the eligible company itself or through its subsidiary or through its Joint Venture (JV) company with other eligible company/companies or through its JV company with a Public Sector Undertaking already marketing transportation fuels.
- XI. The authorization to market transportation fuels will not be transferable without permission of the Government.
- XII. The company seeking authorization to market transportation fuels will be required to make an application in the specified form, accompanied by such fees as may be specified, giving details of the scheme of marketing for which authorization is sought. There shall be no limit to the quantum and size of the scheme and the number and location of retail outlets (ROs) in the scheme provided that no encroachments on the existing retail outlets will be allowed. However, the marketing scheme shall, by way of information, contain details of :-
- (a) the source of supply of products to be marketed;
 - (b) tankage and other infrastructure established/proposed to be established along with their capacity;
 - (c) means of transportation of products to depots and to ROs;
 - (d) the number and locations of ROs proposed to be established and details of their storage and dispensing capacity;**
 - (e) the total quantum and type of products to be covered under the marketing scheme.

The scheme will specifically outline the mode of compliance volunteered by the eligible company relating to retail service obligations and marketing service obligations as may be laid down by the Government/Regulatory Board.

XIII After scrutinizing the scheme, the Government or the Regulatory Board as the case may be, may give authorization to the eligible company imposing conditions in public interest which may include:-

- (a) servicing remote areas and low service areas as may be declared by the Central Government from time to time, by setting up ROs in such areas at least in proportion to the existing percentage of ROs in the remote areas and low service areas respectively at the beginning of the year of applying for authorization.

The Government/Regulatory Board shall have the power to cancel the marketing authorization if the eligible company fails to set up retail outlets in the remote and low service areas as directed by the Government/Regulatory Board while issuing authorization.

Provided that the eligible company may choose to discharge this obligation by entering into suitable commercial agreement(s) with the existing marketing companies as mentioned in para 3(X).

Explanation:

(i) 'Marketing service obligations' mean obligations laid down by the Government/Regulatory Board and include obligations to set up marketing infrastructure including retail outlets in remote areas and low service areas as may be declared by the Central Government from time to time, not to close down retail outlets in monopoly markets, remote areas and low service areas without prior permission of the Government/Board, to maintain minimum inventory levels of petroleum products as specified by the Central Government, to provide service to any person on demand within a reasonable period of time and on a non-discriminatory basis, and to follow codes and standards laid down by the Board and/or any other prescribed authority.

(ii) 'Retail service obligations' for retail outlets mean obligations laid down by the Government/Regulatory Board and include the obligations for maintaining supplies of MS and HSD to retail consumers through out the specified working hours and of specified quality and quantity and ensuring that minimum facilities as laid down by the Government/Board are available to the retail consumers at retail outlets.

(iii) 'Remote areas' in this scheme mean the notified districts in the States of Himachal Pradesh, J&K, North Eastern States, Sikkim, Uttranchal, Union Territories of Andaman & Nicobar Islands, Lakshadweep Islands and any other area notified as such by the Central Government.

(iv) 'Low service area' in this scheme means an area not covered by National Highway/State Highway and not having any retail outlet within 10 KMs or as may be notified by the Central Government from time to time.

- (b) the eligible company shall not operate with this authorization through a dealer with whom another marketing company has entered into an agreement for marketing of transportation fuel(s) or from the existing retail outlet of another company.

- (c) the Government/Regulatory Board shall not normally suggest major alterations in the proposed scheme except relating to the servicing of remote areas and low service areas. The Government/Regulatory Board shall endeavour to issue authorization within three months of the receipt of the application.
- XIV The marketing authorization once issued will not be withdrawn unless the conditions relating to the authorization are violated. In any case, this shall not be done without a notice to the applicant and without full enquiry into the violations.
- XV The applicant shall inform the Government/Regulatory Board of major change(s) in his scheme of marketing, if any. The marketing authorization does not discharge the applicant from the obligation of obtaining other clearances as required under law, rules or regulations of a competent authority;
- XVI Till the Regulatory Board is formed, the Government will approve the scheme for marketing transportation fuels and issue all authorizations in this regard.
- XVII. Authorization to market transportation fuels would be granted by the Government up to 1.4.2002 or till the dismantling of APM and the setting up of a functioning Regulatory Mechanism. During APM, the authorization will be given to those who have made in full the specified investment in the eligible activities. Companies who propose to invest the specified amount, would be eligible for grant of authorization to market transportation fuels only after the APM is dismantled. The new entities who are granted authorization to market transportation fuels during the APM will be entitled to compensation from the oil pool account for such of their marketing infrastructure which is specifically approved to be eligible to be compensated from the oil pool account at the time of grant of authorization. Out of the infrastructure mentioned above, the compensation from the oil pool account would be given only for the terminals/depots that are actually used and to the extent they are used for storage/distribution of petrol and diesel as per the OCC plans. For this purpose, an agreement regarding compensation from the oil pool account and allied matters will be entered into by the company with the Government.
- XVIII. In case of any doubt or dispute as regards any of the provisions of these guidelines, decision of the Government will be final and binding.
4. The decisions herein contained will come into force at once and will remain in force until further orders.

(S. Vijayaraghavan)
Joint Secretary to the Government of India