

Ref. No. PEG/2013/122

Date: October 14, 2013

Shri K. K. Sharma,
Under-Secretary (Exploration), Ministry of Petroleum and Natural Gas,
Government of India

Dear Sir,

Comments regarding new uniform policy for awarding hydrocarbon acreages

We are glad that the Ministry of Petroleum and Natural Gas (MoPNG) has published a new uniform policy on awarding hydrocarbon acreages and invited comments on it. Broadly, the proposal to move to production-linked payments (PLP) and revenue sharing is a welcome move as it simplifies the regime, reduces the management overheads, and enables a more transparent system. We present our suggestions and comments on the draft policy below.

1. The letter from the US (E) to the DGH as put up on the website of MoPNG asks for comments on the policy from private / JV companies. Given that oil and gas are properties of the nation, all citizens should have a chance to comment on policies related to concession agreements about such resources. We are sharing our comments on the proposed policy as an energy policy research and advocacy group working towards public interest, and request you to take our suggestions on board.

An important policy of this nature has to take a comprehensive view of issues such as bidding, pricing and utilization. It should be accompanied by a detailed background paper presenting various options, international experiences and example calculations. Such a draft policy and background paper should be put up for public consultation, which should be actively sought by the Government. The policy should be finalized only after obtaining such public feedback. Therefore, the Government should re-publish a draft policy based on these and other inputs received until October 15, 2013, along with the background paper and seek feedback about it.

2. The proposed policy document seems to assume that some normative assumption about the reserves and production profile would be known at bidding time. For example, Para 3.5 states that the NPV of the Government revenue would be based on production profile and price, will be used to evaluate a bid, while Para 3.11 states that the offer document would mention whether the block is likely to have CBM and/or oil-gas. However, actual production profiles that would be known based on detailed exploration are likely to be significantly different from assumed normative profiles. This is likely to have serious implications, as is being currently experienced in a high-profile case.

Therefore, it may be desirable to publicly fund all exploration activities for natural resources, including oil and gas. The resultant data on reserves, possible production profiles etc. should then be published and bids invited from contractors only for production of oil / gas. This is likely to eliminate or minimize the various uncertainties and risks and thus increase the likelihood of attracting investments and enabling a level playing field. The expenditure involved in detailed exploration is also unlikely to be very high and hence this option should be considered by the Government. It should be noted that exploration and reserve estimation in the coal sector is predominantly done by CMPDI, a Government agency.

The policy should also clearly articulate the corrective measures that would be taken in case of a big difference between expected and actual production profiles.

3. The draft policy does not mention how prices would be discovered or decided. This is a key issue to determine the Government revenue and contractor incentives. Therefore, the policy needs to clearly state how prices would be determined in the new policy regime, and how prices would be used to evaluate the various bids.
4. The policy states that abnormally low bids would be examined (Para 3.7). While this welcome, abnormally *high* bids should also be examined closely because many problems in the Indian infrastructure sector have been caused by highly aggressive bids. Each auction round should also clearly state what these abnormally high or low bids would be.
5. Tariff-based bidding in the power sector imposes a limit on how much the maximum capacity charge can differ from the minimum capacity charge. A similar limit should be considered here about how much the maximum revenue sharing can differ from the minimum revenue sharing. This will ensure that the NPV of Government revenue cannot be artificially increased by abnormally high bids for some unrealistic price/production ranges.
6. Para 3.11 specifies whether a block is to be bid as a CBM block or oil-gas block. It does not distinguish further between tight oil-gas, shale oil-gas and conventional oil-gas though production profiles and willingness to share revenues may be different for each of them. The policy needs to clearly state how the bidder can provide these various bids and how the bids would be combined to evaluate the bid.

The policy is also silent on what would happen if the contractor finds any kind of hydrocarbon for which he has not bid. For example, it could happen that the offer document did not state that the block would have shale oil/gas and hence did not invite bids for it, but shale oil/gas is discovered during exploration. As blocks are not explored in detail at bidding time, such a situation is likely to arise. Therefore, the policy needs to clarify what would happen in such situations.

7. The policy should ensure that there are well-defined timelines for different exploration phases to ensure that operators do not 'squat' on blocks. The policy should also clearly mandate that the contractor would periodically and regularly share all exploration related data free of charge

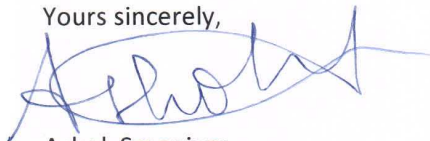
with the Government. This data can be kept confidential as long as the contractor is operating the block. After that, the Government should be free to use the data as it sees fit.

8. The policy does not seem to mandate domestic sale obligation for all finds. Para 4.8 suggests that such an obligation would exist for gas but not for oil. Given that the country imports over 80% of its oil requirements and given the statements of the Honourable Minister for Petroleum and Natural Gas that he wishes to see India's self-sufficiency in oil to increase dramatically, it appears logical that there should be a domestic sale obligation for oil too. The policy should include a clear domestic sale obligation for all products discovered and produced from the block.
9. The Government had issued a separate draft policy on shale oil-gas exploration in August 2012 and invited comments on it. Prayas Energy Group (and others) had submitted its comments to MoPNG on that policy. This policy appears to override that policy, though the environmental risks associated with shale gas production are well known, and the August 2012 draft policy and comments in response to it provided various suggestions on mitigating this risk. Therefore, this policy should have specific clauses to ensure that water and environmental pollution is minimized, particularly in the case of shale oil-gas production. Having a shale oil-gas exploration policy without such safeguards could exacerbate the already critical condition with respect to water in our country.
10. In the interests of transparency and following best practices, the policy should mandate the following:
 - a. For each auction round, MoPNG/DGH should publish draft versions of the offer document with bid evaluation criteria etc., and the model contract, and actively seek public feedback before finalizing them.
 - b. The winner, winning bid and anonymous comparison of the winning bid with other bids submitted should be published for each block that is auctioned. This practice is already followed in the power sector for competitive bidding based power procurement.
 - c. Data about finds, reserves and production profiles of blocks, as well as actual production and sales data, including prices, should be publicly and easily available. Examples from other sectors of similar data being published include CEA's daily generation report and CIL's daily coal despatch report.

We request you to consider our suggestions and incorporate them into the policy, as this policy can have significant impact on Government revenues, public interest and energy security.

Thanking you,

Yours sincerely,



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Cc:

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