

Type: REGULATION (PER)

By: THE CHAIRMAN OF OIL AND NATURAL GAS DOWNSTREAM
BUSINESS REGULATORY BOARD

Number: 12/P/BPH Migas/II/2008

Date: FEBRUARY 08, 2008 (JAKARTA)

Title: TENDER OF NATURAL GAS TRANSMISSION SECTIONS AND
DISTRIBUTION NETWORK AREAS IN THE CONTEXT OF PRIVILEGE
RIGHT GRANTING

THE CHAIRMAN OF OIL AND NATURAL GAS DOWNSTREAM BUSINESS
REGULATORY BOARD

Considering:

- a. whereas in implementing the provisions of Article 9 of Government Regulation Number 67 Year 2002 regarding Fuel Oil Supply and Distribution and Natural Gas Pipeline Business Regulatory Board and Article 11 of Government Regulation Number 36 Year 2004 regarding Oil and Natural Gas Downstream Business, it is deemed necessary to stipulate a Regulation of Oil and Natural Gas Downstream Business Regulatory Board regarding Tender of Natural Gas Transmission Sections and Distribution Network Areas in the Context of Privilege Right Granting;
- b. whereas Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number 05/P/BPHMigas/III/2005 dated March 15, 2005 regarding Guidelines on Tender of Natural Gas Transmission Sections and Distribution Network Areas needs to be amended;
- c. whereas the meeting of the Oil and Natural Gas Downstream Business Regulatory Board Committee on Friday, February 8, 2008, reached an agreement to stipulate a Regulation of the Oil and Natural Gas Downstream Business Regulatory Board regarding Tender of Natural Gas Transmission Sections and Distribution Network Areas in the Context of Privilege Right Granting as intended in letter a in a Regulation of the Oil and Natural Gas Downstream Business Regulatory Board.

In view of:

1. Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Year 1999 Number 33, Supplement to the State Gazette of the Republic of Indonesia Number 3817);
2. Law Number 8 Year 1999 regarding Consumers Protection (State Gazette of the Republic of Indonesia Year 1999 Number 42; Supplement to the State Gazette of the Republic of Indonesia Number 3821);

3. Law Number [22 Year 2001](#) regarding Oil and Natural Gas (State Gazette of the Republic of Indonesia Year 2001 Number 136, Supplement to the State Gazette of the Republic of Indonesia Number 4152) as amended by Decision of the Constitutional Court Number 002/PUU-I/2003 dated December 21, 2004 (Official Gazette of the Republic of Indonesia Number 1 Year 2005);
4. Government Regulation Number [67 Year 2002](#) regarding Fuel Oil Supply and Distribution and Natural Gas Pipeline Business Regulatory Board (State Gazette of the Republic of Indonesia Year 2002 Number 141, Supplement to the State Gazette of the Republic of Indonesia Number 4253);
5. Government Regulation Number [36 Year 2004](#) regarding Oil and Natural Gas Downstream Business (State Gazette of the Republic of Indonesia Year 2004 Number 124, Supplement to the State Gazette of the Republic of Indonesia Number 4436);
6. Decree of the President of the Republic of Indonesia Number [86 Year 2002](#) dated December 30, 2002 regarding Establishment of Fuel Oil Supply and Distribution and Natural Gas Pipeline Business Regulatory Board (BPHMIGAS);
7. Decree of the President of the Republic of Indonesia Number 27/P Year 2007 dated April 23, 2007;
8. Regulation of the Minister Energy and Mineral Resources Number [0007 Year 2005](#), dated April 21, 2005 regarding Requirements and Implementation Guidelines on Business License of Oil and Natural Gas Downstream Business;
9. Decision of the Chairman of Fuel Oil Supply and Distribution and Natural Gas Pipeline Business Regulatory Board (BPHMIGAS) Number 04/Ka/BPH Migas/12/2003 dated December 19, 2003 regarding Title of Oil and Natural Gas Downstream Business Regulatory Board;
10. Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number [01/P/BPHMigas/XII/2004](#) dated December 10, 2004 regarding Guidelines on the Granting of Privilege Rights for Natural Gas Transmission through Pipelines in Certain Sections of Natural Gas Transmission Pipelines;
11. Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number [02/P/BPH Migas/XII/2004](#) dated December 10, 2004 regarding Guidelines on the Granting of Privilege Rights for Natural Gas Transmission through Pipelines in Certain Areas of Natural Gas Distribution Network;
12. Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number [04/P/BPH Migas/II/2005](#) dated February 3, 2005 regarding Guidelines on Stipulation of Tariffs for Natural Gas Transmission through Pipelines;
13. Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number [11/P/BPH Migas/I/2007](#) dated January 19, 2007 regarding Guidelines on Stipulation of Natural Gas Distribution Network Areas.

HAS DECIDED:

To stipulate: REGULATION OF THE OIL AND NATURAL GAS DOWNSTREAM BUSINESS REGULATORY BOARD REGARDING TENDER OF

NATURAL GAS TRANSMISSION SECTIONS AND DISTRIBUTION NETWORK AREAS IN THE CONTEXT OF PRIVILEGE RIGHT GRANTING

CHAPTER I GENERAL PROVISIONS

Article 1

In this Regulation of the Oil and Natural Gas Downstream Business Regulatory Board referred to as:

1. Natural Gas shall be the result of natural process in the form of hydrocarbon which under pressurized condition and atmosphere temperature is in the form of gas phase obtained from the mining process of Oil and Natural Gas;
2. Natural Gas Transmission through Pipelines shall be the activities of transporting Natural Gas through pipelines which include transmission and/or distribution through transmission pipelines and the supporting equipment operated and/or managed as an integral and inseparable system;
3. Master Plan of the National Natural Gas Distribution and Transmission Network shall be the document regarding the plan for developing and constructing Natural Gas distribution and transmission networks within the territory of the Unitary State of the Republic of Indonesia as stipulated by the Minister of Energy and Mineral Resources;
4. Natural Gas Transmission Section shall be a certain section of the Natural Gas Transmission Pipeline Network that is a part of the Master Plan of the National Natural Gas Distribution and Transmission Network;
5. Distribution Network Area of Natural Gas shall be a certain area from the Natural Gas Distribution Network that is a part of the Master Plan of the National Natural Gas Distribution and Transmission Network;
6. Natural Gas Transmission Pipelines shall be the pipelines that transport Natural Gas from the Natural Gas supply source or Natural Gas fields to one or more distribution centers and/or to one or more big consumers;
7. Natural Gas Distribution Pipelines shall be the pipelines that transport Natural Gas from one Natural Gas Transmission Pipeline or from Natural Gas Distribution Pipeline to the customers or to other Natural Gas Distribution Pipelines which form a network;
8. Oil and Natural Gas Downstream Business Regulatory Board hereinafter referred to as the Regulatory Board shall be an agency established to regulate and supervise supplies and distribution of Fuel Oil and Natural Gas as well as Natural Gas Transmission through Pipelines for Downstream Business;
9. Business Entity shall be the company in the form of legal entity that runs a type of permanent and continuous business and established pursuant to applicable laws and regulations and having domicile within the Territory of Unitary State of the Republic of Indonesia;

10. Privilege Right shall be the right granted by the Oil and Natural Gas Downstream Business Regulatory Board to a Business Entity to operate Natural Gas Transmission through Pipelines in a Transmission Section and/or within a Distribution Network Area based on tender;
11. Tariff shall be the fee collected in relation to a service of Natural Gas Transmission through Pipelines;
12. Tender shall be the method to offer a Natural Gas Transmission Section and/or Distribution Network Area in the Context of Granting of Privilege Rights to Business Entities;
13. Committee shall be the Committee of Regulatory Board appointed by the President of the Republic of Indonesia under a Decree of the President of the Republic of Indonesia Number 27/P Year 2007 dated April 23, 2007;
14. Temporary Business License of Natural Gas Transmission through Pipelines shall be the Business License issued by the Director General of Oil and Natural Gas for participating in a Tender of Natural Gas Transmission Section in the Context of the Granting of Privilege Rights pursuant to Regulation of the Minister of Energy and Mineral Resources Number 0007 Year 2005 regarding Requirements and Implementing Guidelines on Business License for Oil and Natural Gas Downstream Business;
15. Temporary Business License for Natural Gas Trading that Owns Natural Gas Distribution Network Facilities shall be the Business License issued by the Director General of Oil and Natural Gas for participating in a Tender of Natural Gas Distribution Network Area in the Context of Granting of Privilege Rights pursuant to Regulation of the Minister of Energy and Mineral Resources Number 0007 Year 2005 regarding Requirements and Implementing Guidelines on Business License for Oil and Natural Gas Downstream Business;
16. Tender Preparation Team shall be the team established and stipulated in the Decision of the Chairman of Regulatory Board pursuant to the resolution of the Committee meeting to prepare the Tender Document and materials for assessing/evaluating Bid Document;
17. Committee Meeting shall be the highest decision making mechanism in the Regulatory Board organization;

CHAPTER II OBJECTIVES AND PURPOSES

Article 2

Regulation of the Regulatory Board regarding Tender of Natural Gas Transmission Sections and Distribution Network Areas In the Context of Privilege Right Granting shall be stipulated with the objective of ensuring that the organization of Tender of Natural Gas Transmission Sections and Distribution Network Areas can be carried out normally, fairly and transparently.

Article 3

The Regulation of the Regulatory Board regarding Tender of Natural Gas Transmission Sections and Distribution Network Areas in the Context of Privilege Right Granting shall be stipulated with the purpose of:

- a. enhancing investment in the construction of Natural Gas Distribution and Transmission Pipelines in the context of improving domestic Natural Gas utilization;
- b. establishing Business Entities that have financial and technical abilities as well as the ability to construct and operate Natural Gas Transmission Pipelines and/or Distribution Pipelines in an efficient, economic and effective manner.

CHAPTER III STIPULATION AND TENDER OF NATURAL GAS TRANSMISSION SECTIONS AND DISTRIBUTION NETWORK AREAS

Article 4

- (1) The Natural Gas Transmission Sections and Distribution Network Areas, which are a part of the Master Plan of the National Natural Gas Distribution and Transmission Network to be offered through tender shall be decided in the Committee Meeting.
- (2) Based on the resolution of Committee Meeting as intended in paragraph (1), the Chairman of Regulatory Board shall stipulate the Natural Gas Transmission Sections and Distribution Network Areas to be offered through tender.
- (3) The tender as intended in paragraph (2) shall be carried out after obtaining consideration from the Minister.
- (4) The tender as intended in paragraph (2) shall be organized openly and announced in printed and electronic media.

CHAPTER IV TENDER PREPARATION TEAM

Article 5

- (1) The Regulatory Board in organizing a Tender of Natural Gas Transmission Section and Distribution Network Area shall form the Tender Preparation Team.
- (2) The Tender Preparation Team shall be stipulated in a Decision of the Chairman of the Regulatory Board through the Committee Meeting.
- (3) The Tender Preparation Team shall be chaired by the Director of Natural Gas of the Regulatory Board.
- (4) The Tender Preparation Team as intended in paragraph (3) shall prepare Tender Document and working paper as the materials for assessing/evaluating the Bid Document.

CHAPTER V

TENDER DOCUMENT

Article 6

- (1) The Tender Document as intended in Article 5 paragraph (4) shall be stipulated by the Chairman of the Regulatory Board based on the resolution of the Committee Meeting.
- (2) The Tender Document as intended in paragraph (1) shall include:
 - a. Information regarding the Natural Gas Transmission Section or Distribution Network Area to be tendered, including among others:
 1. estimated pipes length, planned pipes section, pipe diameter and lifetime;
 2. pipe design capacity;
 3. pipe location class;
 4. pipe operational pressure (*inlet and outlet*);
 5. pipe technical standard;
 6. Coordinates of the Natural Gas Distribution Network Area;
 7. Schedule of Construction Completion of Natural Gas Transmission Pipelines or Distribution Pipelines.
 - b. Requirements and procedures to participate in the tender.
 - c. Tender Schedule.
 - d. Requirements of Bid Document.
 - e. Parameter used in the tender.
 - f. Criteria for evaluating/assessing prospective winner.
- (3) Business Entities participating in the tender must collect the Tender Document within the stipulated time schedule.

CHAPTER VI REQUIREMENTS FOR PARTICIPATING IN TENDER

Article 7

- (1) Business Entities that participate in a Tender of Natural Gas Transmission Section must meet the following requirements:
 - a. possess Temporary Business License of Natural Gas Transmission through Pipelines for the tendered Natural Gas Transmission Section.
 - b. perform registration within the stipulated time schedule.
 - c. submit bid letter and Bid Document in accordance with the requirements and time schedule stipulated in the Tender Document.
- (2) Business Entities that participate in a Tender of Natural Gas Distribution Network Area must possess Temporary Business License for Natural Gas Trading and Own Natural Gas Distribution Network Facilities for the tendered Natural Gas Distribution Network Area, and meet the requirements as intended in paragraph (1) letter b and letter c.

Article 8

- (1) Tender of Natural Gas Transmission Section and Distribution Network Area can be organized if the total number of Tender participants registered is minimum 3 (three) Business Entities.
- (2) In the event up to the closing time of registration of Tender participants, the total number of Tender participants is less than 3 (three) Business Entities, then no later than 7 (seven) business days, the Regulatory Board shall announce re-Tender.
- (3) If within the period of 1 (one) month after the Tender announcement as intended in paragraph (2) the total number of Tender participants is still less than 3 (three) Business Entities then the Chairman of the Regulatory Board shall, based on the resolution of Committee Meeting, organize Tender for registered Tender participating Business Entities.

CHAPTER VII BID DOCUMENT

Article 9

The Bid Document as intended in Article 7 paragraph (1) letter c, shall consist of:

- a. Administrative document.
- b. Technical document.
- c. Financial document.

Article 10

- (1) The administrative document as intended in Article 9 letter a shall include:
 - a. Copy of Temporary Business License of Natural Gas Transmission through Pipelines for the tendered Natural Gas Transmission Section or Temporary Business License for Natural Gas Trading that Owns Natural Gas Distribution Network Facilities for the tendered Natural Gas Distribution Network Area by presenting the originals thereof.
 - b. The Profile of the Business Entity and copy of its supporting data which include among others: Deed of Establishment, Company Registration Certificate (TDP), Trade Business License (SIUP), Taxpayer Registration Number (NPWP) and Company Domicile Certificate.
 - c. Duly-stamped Promissory Letter stating the commitment to comply with applicable laws and regulations.
 - d. Duly-stamped Statement letter confirming the accuracy of the Bid Document.
 - e. Bid Bond issued by a reputable financial institution and approved by the Department of Finance in the amount as decided by the Chairman of the Regulatory Board pursuant to the resolution of the Committee Meeting minimum 0.1% (zero point one ten percent) of the investment value and stated in the Tender Document.

- (2) The Bid Bond as intended in paragraph (1) letter e shall be kept by the Revenue Treasurer of the Regulatory Board.

Article 11

The technical document as intended in Article 9 letter b shall include:

1. alternative supply sources.
2. planned section, pipe length, pipe lifetime and diameter.
3. pipe location class.
4. pipe design capacity.
5. pipe operational pressure (*inlet* and *outlet*).
6. technical standard for the used pipes.
7. coordinates of the Natural Gas Distribution Network Area.
8. supporting facilities used.
9. schedule of pipeline construction activities.
10. experiences of the Business Entity related to the business activity of Natural Gas Transmission through Pipelines.

Article 12

- (1) The financial document as intended in Article 9 letter c shall include among others:
 1. Receipt of Tax payment form (SSP).
 2. Financial Statement of the Business Entity at least for the past 3 (three) years approved and ratified by the General Meeting of Shareholders (RUPS) and the Public Accountant Office.
 3. Promissory Letter/Financial Guarantee from a financial institution if the fund is either partially or totally derived from the financial institution.
 4. Tariffs offered including the calculation break down.
- (2) The Tariffs as intended in paragraph (1) number 4 shall be stipulated as the Tariffs that must be applied to the Tender participant appointed as the tender winner.

Article 13

In the event of changes in the parameter used in the bid as stipulated in the Tender Document, the Tariffs as intended in Article 12 paragraph (2) can be reviewed by the Regulatory Board.

Article 14

- (1) The Bid Document as intended in Article 9 shall be attached to the bid as enclosure.
- (2) The bid and Bid Document as intended in paragraph (1) shall be:
 - a. submitted to the Chairman of the Regulatory Board within the stipulated time limit.
 - b. in compliance with the provisions as required in the Tender Document.
- (3) The Bid Document that has been submitted to the Chairman of the Regulatory Board shall fully become the property of the Regulatory Board.

CHAPTER VIII
INSPECTION AND EVALUATION RESULT ON
BID DOCUMENT

Article 15

- (1) The Committee shall Evaluate/Assess the Bid Document based on the working paper prepared by the Tender Preparation Team.
- (2) The working paper as intended in paragraph (1) shall be the result of inspection by the Tender Preparation Team on the:
 - a. Administrative document.
 - b. Technical document.
 - c. Financial document.
- (3) The result of inspection on the administrative document as intended in paragraph (2) letter a shall include the result of inspection on the completeness and validity of the Administrative document.
- (4) The result of inspection on the technical document as intended in paragraph (2) letter b shall include the result of inspection on the completeness and validity of the Technical document as well as the technical ability of the Business Entity to construct and operate the Natural Gas Transmission Pipelines and/or Distribution Pipelines.
- (5) The result of inspection on the financial document as intended in paragraph (2) letter c shall include the result of inspection on the completeness and validity of the financial document, financial soundness of the Business Entity, and the Tariff offered.
- (6) Inspection as intended in paragraph (5) shall be carried out in 2 (two) phases:
 - a. Phase I, inspection on the completeness and validity of the Administrative document, Technical document and Financial document, to be performed at the time of opening of Bid Document.
 - b. Phase II, inspection on the technical document and Financial document related to the technical ability, financial soundness of the Business Entity and Tariff offered, to be performed towards the Tender participants who are declared to have provided complete and valid documents in phase I.
- (7) The result of inspection performed by the Tender Preparation Team in the form of working paper shall be submitted to the Committee as an Evaluation material.

CHAPTER IX
STIPULATION OF PROSPECTIVE WINNER

Article 16

- (1) The Tender Preparation Team shall deliver the working paper as intended in Article 15 paragraph (7) as the material for evaluation by the Committee.

- (2) Based on the result of evaluation on the working paper of the Tender Preparation Team, the Committee through the Committee Meeting shall stipulate the ranks of prospective tender winners.
- (3) The Chairman of the Regulatory Board shall announce the prospective winners as intended in paragraph (2).

Article 17

- (1) Business Entities that are the prospective Tender winners as intended in Article 16 paragraph (3) must submit promissory letter to comply with all the provisions set forth in the Bid Document within a period of 7 (seven) business days as of the announcement date of prospective Tender winners.
- (2) The Business Entities as the prospective Tender winners as intended in Article 16 paragraph (3) must deliver performance bond for the construction work of Natural Gas Transmission Pipelines and/or Distribution Pipelines issued by a reputable financial institution and approved by the Department of Finance the amount of which shall be stipulated by the Regulatory Board based on the resolution of the Committee Meeting minimum 0.2% (zero point two percent) of the investment value.
- (3) The performance bond as intended in paragraph (2) must be delivered at the same time as delivery of the promissory statement as intended in paragraph (1).
- (4) The performance bond as intended in paragraph (2) shall be kept by the Revenue Treasurer of the Regulatory Board.

Article 18

The Business entities that are the prospective Tender winners as intended in Article 16 shall be disqualified in the following events:

- a. failure to deliver the promissory letter as intended in Article 17 paragraph (1).
- b. failure to deliver the performance bond as intended in Article 17 paragraph (2).
- c. resignation.

Article 19

- (1) The Chairman of the Regulatory Board shall, pursuant to the resolution of the Committee Meeting, stipulate the Business Entities that have submitted promissory letter and performance bond as winner of the tender.
- (2) In the event the Business Entity that is the prospective Tender winner is declared disqualified as intended in Article 18, the Committee shall stipulate the prospective Tender winner selected from the Tender participant from the lower rank.
- (3) In the event the prospective Tender winner as intended in paragraph (2) is declared disqualified as intended in Article 18, the Regulatory Board shall perform a repeat tender.

Article 20

- (1) In the event the prospective Tender Winner fails to deliver promissory letter, performance bond, or resigns as intended in Article 19, the Regulatory Board shall be entitled to disburse the Bid Bond as intended in Article 9 paragraph (1) letter e and deposit it to the State Reserves.
- (2) The Business Entities that are Tender participants other than as intended in paragraph (1) shall be entitled to receive the Bid Bond back after the winner of the tender is stipulated in a Decision of the Chairman of the Regulatory Board.

CHAPTER X CLOSING PROVISIONS

Article 21

As this Regulation of the Regulatory Board comes into effect, Regulation of the Oil and Natural Gas Downstream Business Regulatory Board Number: 05/P/BPH Migas/III/2005 dated March 15, 2005 regarding Guidelines on Tender of Natural Gas Transmission Sections and Distribution Network Areas, shall be hereby revoked and declared null and void.

Article 22

This Regulation of the Regulatory Board shall come into effect as from the date of its stipulation.

Stipulated in: Jakarta
On February 08, 2008
Oil and Natural Gas Downstream Business Regulatory Board,
Chairman,

Sgd

Tubagus Haryono

Note

Source: LOOSE-LEAF REGULATION OF THE CHAIRMAN OF OIL AND
NATURAL GAS DOWNSTREAM BUSINESS REGULATORY BOARD
YEAR 2008