POLICY NOTE

IN RE: THE NON-ISSUANCE OF FLARE-GAS LICENSE BY OGRA

1. The Competition Commission of Pakistan (hereinafter the '**CCP'**), established under the Competition Act, 2010 (hereinafter the '**Act**') received concerns from potential market entrants in the market for flare-gas storage, distribution and transportation.

2. The market entrants need to apply for license to the Oil and Gas Regulatory Authority (the '**OGRA**') under the Oil and Gas Regulatory Authority Ordinance, 2002 (the '**OGRA Ordinance**') read with the provisions of the Natural Gas Regulatory Authority (Licensing) Rules, 2002 (the '**NGRA Rules**'). However, CCP has been informed by a potential entrant that its application remains pending, although all formal processes have been completed. The CCP decided to look into this matter with a view to assess possible anti-competitive impacts of this apparent impediment in commercial activity..

3. Upon contacting, OGRA confirmed that the monopoly of M/s Sui Northern Gas Pipelines Company Limited (the '**SNGPL**') and M/s Sui Southern Gas Pipelines Company Limited (the '**SSGCL**') in transmission and distribution ended on 30 June 2010. However, OGRA stated that the current flare-gas policy issued by the Federal Government does not provide any guidance to determine: (i) producer price for flare gas; (ii) tariff applicable for future similar cases; and (iii) tariff applicable for potential consumers.

I. INDUSTRY OVERVIEW

4. SNGPL and SSGCL have a *de facto* monopoly on transmission and distribution of natural gas in their area of operations. SNGPL serves the provinces of Khyber-Pakhtunkhwa and Punjab, while SSGC provides services in the Sindh and Balochistan provinces. The Federal Government has a majority shareholding in both these companies.

5. The growth in demand for natural gas has outpaced the growth in supply in recent years, resulting in a shortfall. This leads to curtailment of gas supplies to both power and industrial sectors, especially during peak winter months. Over the next 15 years, natural gas demand is projected to reach 13.27 Billion Cubic Feet Per Day (BCF D), while domestic supplies are expected to be constrained to 2.17 BCF D due to depletion of existing gas fields, resulting in a significant shortfall of about 11 BCF D by FY 2025.[1]

6. Flare-gas, also known as associated petroleum gas, has long been regarded as a waste product in the extraction of petroleum. Using flare-gas is one of the many things that can be done to improve the supply of natural gas. Till now, flare-gas has not been utilized. It may, however, provide a stepping stone for new entrants that are aspiring to enter the market for supply of natural gas. Flare-gas can be compressed for easy storage and transportation using gas bowsers.

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[1] *Inter State Gas Systems, Gas Demand Projections, available at: http://www.isgs.pk/energy_sector.php?spid=22&mid=2*

II. COMPETITION CONCERNS

7. OGRA has been established under the OGRA Ordinance to foster competition and increase investment in the midstream and downstream market for petroleum industry. However, it seems that in the instant matter, where, *prima facie*, all the requirements for issuance of license have been met, the lack of decision on the issuance of license has created a **barrier to entry** in the market.

8. Among other things, the entry by new undertakings in a developing economy may be particularly affected by institutional delay in issuing the license once the fee has been paid. To be effective, entry by the new players must be timely. Such delays lengthen the time required to make an entry, thereby benefiting the incumbent and making the market less competitive.

9. Any barrier to entry into a market is a grave competition concern. But given that Pakistan is facing an energy crisis, barriers to entry in sectors such as natural gas are a particular cause for concern as much needed investment may be barred. Delays in processing licenses in regulated sectors, as the case is in this instance, can drive away investors and send negative signals about the competitive nature of the market.

III. RECOMMENDATION

10. Since OGRA is empowered under Sections 6, 7 and 8 of the OGRA Ordinance to issue licenses and determine tariffs regarding natural gas, it is recommended that OGRA may exercise its powers under the OGRA Ordinance and take a decision regarding any license applications submitted by potential new entrants at the earliest. This course of action will not only help in attracting much needed investment, but may also incentivize the incumbent service providers to be more efficient and innovative, which will benefit consumers.

Islamabad, the 2nd of January, 2014