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Page No. 8, Size:(11.55)cms X (15.78)cms.

Fair competition in pipeline

The end of exclusivity periods for city gas distributors is raising fresh issues of access and deregulation

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The chequered history of disputes between the Petroleum and Natural Gas Regulatory Board (PNGRB) and government and private players in the city gas distribution (CGD) business may be a thing of past, but Indraprastha Gas Ltd (IGL), Mahanagar Gas Ltd (MGL), Gujarat Gas and, to some extent, the Adanis are facing the regulatory heat again. And, yet again, the issue of ending the exclusivity period for these operators is a reason for unease. The only difference is that this time, both the regulator and the gas companies are better placed to deal with the issue.

Under the Petroleum and Natural Gas Regulatory Board Act, 2006, CGD and natural gas pipelines are to be operated under a "common carrier" principle to encourage more players to promote competition and better prices. To provide a level-playing field, the gas infrastructure has to be shared among all operators after the end of the exclusivity period. Government intervention, however, ensured that IGL, MGL and Gujarat Gas, which were already operating in Delhi, Mumbai and Gujarat respectively, were not at disadvantage. The regulations were, therefore, amended in 2010 to allow three-year exclusivity from the date of issue of the letter by the board, if the entity had been operating the CGD network for three years or more, and five years from the date of issue of the letter, if the entity had been operating for less than three years. The Act, thus, provided exclusivity of five years to new players and three years to those operating before the law was notified.

Even then a problem arose. As far as IGL — a joint venture of GAIL (India), Bharat Petroleum Corporation (BPCL) and the Delhi government — is concerned, it took over the city's gas business in 1999 from GAIL, but it received a formal authorisation from the government in 2009. It implies that the IGL's exclusivity ended in 2012. But this became a matter of dispute, because the company contended that the exclusivity period should be counted from July 15, 2010, when Section 16 of the PNGRB Act, granting powers to the regulator, was notified and not from 2009. Besides, the IGL argued that the PNGRB is authorised to declare a CGD network in a geographical area as a common carrier or contract carrier after following due procedure under section 20, which has not been followed.

The dispute has been pending in the Delhi High Court since 2015. The PNGRB, however, started a consultation process for declaring the city or local natural gas distribution networks as common carriers or contract carriers only in 2019.

In the meantime, city monopolies became a far wider issue. There are almost a dozen players in the CGD business, such as Sabarmati Gas Ltd, Bhagayanagar Gas Ltd and Avantika Gas, which have licences (within geographical areas) in over 20 states. The exclusivity period varies from three, five and eight years extendable by 10 years, depending on when the rights were given.

The PNGRB is now taking careful steps to draft regulations on how to end the exclusivity and the subsequent issues of tariff and sharing of the existing infrastructure. Since the issue has been pending for over a decade for the IGL and Gujarat Gas, they have diversified their areas in other cities. The MGL, however, has been conservative and not ventured much out of the Mumbai region, primarily because of promoter disinterest. Co-promoter British Gas, which was taken

ALL GAS
END OF EXCLUSIVE RIGHTS TO SELL

- IGL in Delhi
- MGL in Mumbai, Thane
- MGL in Raigad (2020)
- Gujarat Gas in eight areas
- Gujarat Gas in four more areas (2020)

WHAT PNGRB DRAFT RULES SAY
New entrants can:

- Use up to 20% of incumbent's pipeline capacity
- Set up CNG stations
- Sell CNG, residential PNG and gas to industrial and commercial customers
- Pay tariff either on cost-plus or bid basis

Source: ICICI Securities

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Page No. 8, Size:(11.55)cms X (15.78)cms.

over by Shell, had decided to exit the CGD businesses in Gujarat in 2013 and later in Mumbai. The other promoters, GAIL and the Maharashtra government, have floated separate companies, GAIL Gas and Maharashtra Natural Gas Ltd, for the CGD business. GAIL is also in the CGD business under the parent company.

Gujarat Gas has already seen its exclusivity end in Morbi. It now has GAIL as a competitor there, but with a large industrial consumer base, the city could offer enough business to both the players.

Analysts say once the exclusivity ends, fair competition will begin, only if it is accompanied by deregulation. According to an ICICI Securities report, competition will emerge only if new entrants get natural gas at the same price as incumbents. Gas is supplied under a government-notified formula, which has led to super-normal profits for CGD, but low returns or losses for Oil and Natural Gas Corporation. Gas can now either be supplied in accordance with a new formula, under which the price is higher, or be deregulated for all, says the report.

This apart, oil marketing companies (OMCs), which own 56-58 per cent of CNG stations at their sites in Delhi and Mumbai, are likely to emerge as the main competitors, the report adds. "This is reaffirmed by the comments of IOC and BPCL's subsidiary Bharat Gas Resources in PNGRB's consultation process," says the report. he OMCs bid aggressively in the last two CGD auction rounds and now hold 77 licences to geographical areas. "While new geographical areas will take a few years to break even, CNG and supply to industrial and commercial consumers using incumbents' infrastructure are likely to turn profitable fairly quickly," the report adds.

Opening mature and large markets to competition could, however, create another issue for natural gas planners. The focus of new entrants could shift to those markets where both infrastructure and large customer bases exist. New players could find these markets more lucrative even though they are committed to invest ₹1.2 trillion and are bound by contractual terms to begin commercial operations in other cities. This could mean that the expansion of natural gas infrastructure to other cities could slow down and future bidding rounds may suffer.