

Name:	
Enrolment No:	

UNIVERSITY OF PETROLEUM AND ENERGY STUDIES
End Semester Examination, May, 2019

Course: Mid & Downstream Oil & Gas Law (Hons-4)

Programme: B.A.L.L.B. (Energy Law)

Time: 03 hrs.

Instructions:

Semester: VII

CC:LLBD 412

Max. Marks: 100

SECTION A

S. No.	Objective type, any five (5 x 2 = 10 marks)	Marks	CO
Q 1	What is the objective of the Petroleum and Natural Gas Regulatory Board Act 2006 (“PNGRB”) and the Petroleum Act, 1934 (“PNGRB Act”)?	2	CO1
Q2	What are the non-regulated activities under the PNGRB Act?	2	CO2
Q3	What is a dedicated pipeline?	2	CO1
Q4	Who is the approval authority for containers of petroleum under the Petroleum Act, 1934 and rules made thereunder?	2	CO3
Q5	What are the three different classifications of Petroleum under the Petroleum Act, 1934?	2	C04
Q6	What do you understand by the “ship or pay” concept used in the gas transportation agreement?	2	CO2

SECTION B: Short answer type Conceptual questions, any two (2 x 10 = 20 marks)

Q 7	Under which provisions of the Constitution of India do the Center Government and the State Government have the power to enact law with respect to petroleum and gas? Critically analyse in view of the case of Association of Natural Gas vs Union of India.	10	CO2
Q8	Which operations in the downstream sector need registration under the PNGRB Act? Those entities that are operating prior to the coming of the PNGRB Act, what are their obligation with respect to registration? Give examples of some such entities operating in the market?	10	CO3
Q9	What are the licensing requirements with respect to storage, importation and transportation of petroleum, and what exemptions are allowed under the Petroleum Act and Petroleum Rules?	10	CO2

SECTION-C Analytical questions, any two (2x 10 = 20 marks)

Q 10	Most of the Oil Marketing Companies (“OMC”) in India are Government Companies and are suffering from “under-recoveries”. Why are there so many Government and so few private OMCs in the downstream sector? How do these Government OMCs survive such “under recoveries”?	10	CO3
Q11	What are the reasons for introducing the concept of common and contract carrier in the pipeline sector? How do the Government propose to enforce such concept in the market? Critically analyse	10	CO3
Q12	Can PNGRB determine the transportation/network tariff for all pipelines? Critically analyse in view of the Supreme Court case of Indraprastha Gas Ltd. Vs PNGRB or other relevant cases.	10	CO2

SECTION-D Application based, answer any five (5 x 10 = 50 marks questions)

Q13	<p>GAIL is India’s largest network operator of pipelines, connecting South to North, and East to West of India. In addition, it is also in the business of marketing of natural gas to industrial and other commercial users. GAIL has been approached by Alpha Power Company Limited (Alpha Power) for supply of natural gas in the state of Gujarat for operation of its thermal power plant. The parties have entered into a Gas Sale and Transportation Agreement on 1 October 2002 (GSTA) for sale and transport of 0.5MMBTU of gas.</p> <p>GAIL was to supply gas from Dahej Terminal held by Petronet LNG Limited (Petronet), to the Delivery Point which was some 500 meters from the terminal. GAIL has back to back Gas Sale and Purchase Agreement with Petronet for the sale and purchase of 0.5 MMBTU of gas.</p> <p>Subsequently on 06.03.2007, the Central Government issued the impugned policy directive to Petronet (Price Pooling Policy) in the following terms:</p> <p><i>“The question of prices to be charged for RLNG from different customers has been under consideration of the Government. After considering existing practices and to avoid loading high cost of additional RLNG being made available to the prospective customers, it has been decided, after examination of all aspects, in public interest, that the gas prices being charged on supply of RLNG procured under long term contracts should be on a non-discriminatory basis”</i></p> <p><i>The letter was authenticated by the Under Secretary to the Government of India.</i></p> <p>In view of the above order, GAIL, w.e.f. 01.08.2007, in contravention to the GSTA, has increased the price of gas sold from Rs. 135 per MMBTU to Rs. 207.02 MMBTU.</p>	10	CO4
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	<p>Alpha Power has challenged that the so called policy as bad in law and ultra-virus the Constitution before the Supreme Court of India. GAIL has claimed ‘change in law’ pursuant the Price Pooling Policy under its GSTA. In view of the above, answer the following:</p> <p>It is the law that Article 14 of the Constitution applies also to matters of governmental policy and if the policy or any action of the Government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional. In view of the above statement, is the Price Pooling Policy valid in law? Answer in view of the case of Essar Steel vs Union of India.</p>		
Q14	What are the main legal and commercial features of a gas transportation agreement (GTA)?	10	CO3
Q15	What did the High Court in the case of Gail (India) Limited vs Petroleum and Natural Gas clarify with respect to the power of PNGRB on setting out the terms and conditions of GTA negotiated between parties?	10	CO3
Q16	GAIL is both the transporter and marketer of natural gas. What obligations do the PNGRB Act and the regulations made thereunder impose on entities undertaking both transportation and marketing of natural gas. Critically analyze in view of various judicial precedents.	10	CO3
Q17	<p>Further, after the enactment of PNRB Act, Alpha Power has approached the PNGRB and obtained approval in 2009 to lay, build and operated a dedicated pipeline connecting Dahej Terminal to Alpha Power Plant Station directly. Thereafter, in May 2010, Alpha Power has requested GAIL to allow it to take delivery of the gas at Dahej Terminal itself. According to Alpha Power, GAIL charges discriminatory higher transportation tariff compare to other affiliate entities of GAIL.</p> <p>GAIL has refused such request stating that the delivery point has already been agreed between the parties and the tariff charged is approved by PNGRB. Apha Power has filed a restrictive trade practice suit against GAIL before the PNGRB. GAIL has claimed that in view of the arbitration clause in the GSTA Alpha Power cannot invoke the jurisdiction of PNGRB</p> <p>In view of the arbitration clause provided in the GSTA, can Alpha Power approach the PNGRB under the PNGRB Act? Critically analyze in view of various judicial precedents.</p>	10	CO4
Q18	Can the practice of GAIL be considered as a restrictive trade practice? Critically analyze in view of various judicial precedents.	10	CO3

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SECTION A

S. No.	Objective type, any five (5 x 2 = 10 marks)	Marks	CO
Q 1	What is APM?	2	CO1
Q2	What is retail service obligation?	2	CO2
Q3	What is a city gas distribution network?	2	CO1
Q4	Who is the licensing authority under the Petroleum Act, 1934?	2	CO3
Q5	Who is the licensing authority under the Petroleum Act, 1934?	2	CO4
Q6	What constitutes downstream oil and gas sector?	2	CO2

SECTION B: Short answer type Conceptual questions, any two (2 x 10 = 20 marks)

Q 7	What are the relevant licensing requirements and exemptions allowed with respect to: <ul style="list-style-type: none"> (a) storage of petroleum; (b) import of petroleum and (c) transport of petroleum 	10	CO2
Q8	What are the relevant provision of the Constitution of India which gives power with respect to petroleum and gas?	10	CO3
Q9	Which operations in the downstream sector need authorization under the Act? Those entities that are operating prior to the coming of the Act, what are their obligation with respect to authorization? Give example of some such entities operating in the market?	10	CO2

SECTION-C Analytical questions, any two (2x 10 = 20 marks)

Q 10	What are the main reason for removing APM by the Government of India?	10	CO3
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Q11	Why are there so few oil marketing companies in the downstream oil and gas sector even after removal of APM?	10	CO3
Q12	What are the reasons for introducing the concept of common and contract carrier in the pipeline sector? How do the Government propose to enforce such concept in the market?	10	CO2
SECTION-D Application based, answer any two (25 x 2 = 50 marks questions)			
Q13	<p>GAIL is India's largest network operator of pipelines, connecting South to North, and East to West of India. In addition, it is also in the business of marketing of natural gas to industrial and other commercial users. GAIL has been approached by Alpha Power Company Limited (Alpha Power) for supply of natural gas in the state of Gujarat for operation of its thermal power plant. The parties have entered into a Gas Sale and Transportation Agreement on 1 October 2002 (GSTA) for sale and transport of 0.5MMBTU of gas.</p> <p>Further, after the enactment of PNRB Act, Alpha Power has approached the PNGRB and obtained approval in 2009 to lay, build and operate a dedicated pipeline connecting Dahej Terminal to Alpha Power Plant Station directly. Thereafter, in May 2010, Alpha Power has requested GAIL to allow it to take delivery of the gas at Dahej Terminal itself. According to Alpha Power, GAIL charges discriminatory higher transportation tariff compare to other affiliate entities of GAIL.</p> <p>GAIL has refused such request stating that the delivery point has already been agreed between the parties and the tariff charged is approved by PNGRB. Alpha Power has filed a restrictive trade practice suit against GAIL before the PNGRB. GAIL has claimed that in view of the arbitration clause in the GSTA Alpha Power cannot invoke the jurisdiction of PNGRB.</p> <p>Can the practice of GAIL be considered as a restrictive trade practice? Answer in view of the judgement of Indian Oil Corporation Limited Vs. Gujarat State Petroleum Corporation Limited and others.</p>	25	CO4
Q14	GAIL is both the transporter and marketer of natural gas. What obligations do the PNGRB Act imposes on entities undertaking both transportation and marketing of natural gas.	25	CO3
Q15	Can PNGRB decide the tariff for the dedicated pipeline? Critically analyse in view of the Supreme Court Indraprastha Gas case.	25	CO3