



anp
National Agency of
Petroleum, Natural Gas and Biofuels

Law 11909

March 4, 2009,
(The Gas Act)

Decree 7382

December 2, 2010

Law 11909 deals with the activities related to the transport of natural gas, dealt with in Article 177 of the Federal Constitution, as well as on the natural gas treatment, processing, storage, liquefaction, regasification and commercialization activities. This act also changes Law 9478 of August 6, 1997, and makes other provisions. The Decree regulates Chapters I through IV and VIII of the Law.



FEDERATIVE REPUBLIC OF BRAZIL
MINISTRY OF MINES AND ENERGY

1. LAW 11909 OF MARCH 4, 2009 PAGE 2
2. DECREE 7382 OF DECEMBER 2, 2010 PAGE 30

Presidency of the Republic

LAW 11909 OF MARCH 4, 2009

Law 11909 deals with the activities related to the transport of natural gas, pursuant to article 177 of the Federal Constitution, as well as the treatment, processing, storage, liquefaction, regasification and commercialization of natural gas. This Law also changes provisions of Law 9478 of August 6, 1997 and makes other provisions.

AS THE PRESIDENT OF THE REPUBLIC, I let it be known that the Congress decrees and I ratify the following:

CHAPTER I

PRELIMINARY PROVISIONS

Article 1. This Law establishes rules for the exploration of economic activities of natural gas transport through import and export pipelines, dealt with in items III and IV of the head paragraph of article 177 of the Federal Constitution, as well as for the treatment, processing, storage, liquefaction, regasification and commercialization of natural gas.

§ 1° The economic activities dealt with in this article shall be regulated and inspected by the Union, in the capacity of granting authority, and may be exercised by an enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country.

§ 2° The performance of the activities deriving from authorizations and concessions dealt with in this Law shall be at the entrepreneur's own risk and expense, and that shall by no means be characterized as a provision of public services.

§ 3° The natural gas sector players shall:

I - perform the activities related to the natural gas sector pursuant to the Law, the technical and environmental standards and the respective concession agreements or authorizations, observing the specific local legislation on the piped gas distribution services;

II - allow the relevant inspection body to have free access, at any time, to the equipment and facilities connected to the performance of their activity, as well as their accounting records.

Article 2. For the purposes of this Law and its regulations, the following definitions shall apply:

I - Transport Capacity: maximum daily volume of natural gas that the carrier can carry in a given transport gas pipeline;

II - Hired Transport Capacity: daily volume of natural gas that the carrier shall move to the utility, pursuant to the respective transport agreement;

III - Available Capacity: part of the gas pipeline transport capacity that has not been the subject matter of a firm agreement;

IV - Idle Capacity: part of the gas pipeline transport capacity hired that has not been used, on a temporary basis;

V - Utility: agent that uses or aims at using the natural gas pipeline transport service, upon authorization of the National Agency of Petroleum, Natural Gas and Biofuels - ANP;

VI - First Utility: it is the utility whose hiring of transport capacity has enabled or contributed to enable, in whole or in part, the construction of the gas pipeline;

VII - Public Call for Tender: a procedure, with secured access to all interested parties, that aims at hiring transport capacity in existing pipelines, to be built or expanded;

VIII - Commercialization of Natural Gas: purchase and sale of natural gas, by means of agreements negotiated between the parties and filed with the ANP, except for the provisions of paragraph 2 of article 25 of the Federal Constitution;

IX - Private Consumption: volume of natural gas consumed exclusively in the natural gas production, collection, transfer, storage and processing activities;

X - Storage of Natural Gas: storage of natural gas in natural or man-made reservoirs.

XI - Packaging of Natural Gas: confinement of natural gas in gaseous, liquid or solid form for transport or consumption;

XII - City Gate: a point in the transport gas pipelines where the natural gas is delivered by the carrier to the utility or any agent appointed by the latter;

XIII - Point of Receipt: a point in the transport gas pipelines where the natural gas is delivered to the carrier by the utility or any agent appointed by the latter;

XIV - Natural Gas or Gas: any hydrocarbon that remains in gaseous state under normal atmospheric conditions, produced directly from petroleum or gas reservoirs, whose composition may contain wet, dry and residual gases;

XV - Liquefied Natural Gas - LNG: natural gas submitted to liquefaction process for storage and transport, subject to regasification in exclusive plants;

XVI - Compressed Natural Gas - CNG: any natural gas processed and packaged for transport in ampoules or cylinders at ambient temperature and a pressure that keeps it in gaseous state;

XVII - Transfer Gas Pipeline: pipeline intended for the movement of natural gas, considered as being of specific and exclusive interest of its owner, starting and ending in its own natural gas production, collection, transfer, storage and processing facilities;

XVIII - Transport Gas Pipeline: gas pipeline that executes the movement of natural gas from the processing and storage facilities, or other transport gas pipelines, to the storage facilities, other transport gas pipelines and city gates to state natural gas distribution concessionaires, except for the cases provided for in items XVII and XIX of the head paragraph in this article, including stations for compression, measurement, pressure reduction and delivery, pursuant to paragraph 2 of article 25 of the Federal Constitution;

XIX - Gas Production Offloading Pipeline: pipelines in the production facilities, aimed at the movement of natural gas from the producing wells to the processing and treatment facilities or liquefaction units;

XX - Natural Gas Sector: set of economic activities related to the exploration, development, production, import, export, processing, treatment, transport, loading, storage, packaging, liquefaction, regasification, distribution and commercialization of natural gas;

XXI - Extraordinary Transport Service: method for hiring available capacity, at any time, and which contains a suspension condition in case of hiring of capacity under the firm method;

XXII - Firm Transport Service: type of transport service where the carrier undertakes to schedule and transport the daily volume of natural gas requested by the utility until the hired transport capacity set forth in the agreement with the utility;

XXIII - Interruptible Transport Service: transport service which may be interrupted by the carrier, given the scheduled priority of the Firm Transport Service;

XXIV - Transport of Natural Gas: movement of natural gas in transport gas pipelines, comprising the construction, expansion and operation of the facilities;

XXV - Treatment or Processing of Natural Gas: set of operations aiming at enabling its transport, distribution and use;

XXVI - Carrier: authorized or concessionaire company of the natural gas transport activity by means of pipelines;

XXVII - LNG Terminal: facility used for natural gas liquefaction or import, discharge and regasification of LNG, including the ancillary services and temporary storage tanks necessary for the regasification process and subsequent delivery of the natural gas to the pipeline network or other means of transport;

XXVIII - Liquefaction Plant: facility where natural gas is liquefied, so as to enable its storage and transport, and it may comprise units for natural gas treatment, heat exchangers and LNG storage tanks;

XXIX - Regasification Plant: facility where the liquefied natural gas is regasified through imposition of heat to be introduced in the pipeline network, and it may comprise LNG storage tanks and regasifiers, as well as supplementary equipment;

XXX - Natural Gas Sector Players: agents that perform

activities related to the exploration, development, production, import, export, processing, treatment, transport, loading, storage, packaging, liquefaction, regasification, distribution and commercialization of natural gas;

XXXI - Free Consumer: natural gas consumer that, pursuant to the applicable state law, has the option of acquiring natural gas from any producer, importer or retailer;

XXXII - Self-Producer: natural gas exploring or producing agent that uses part or all of its production as raw material or fuel in its industrial facilities;

XXXII - Self-Importer: an agent authorized to import natural gas and use part, or all, of its imported product as raw material or fuel in its industrial facilities;

CHAPTER II

TRANSPORT OF NATURAL GAS

Section I

Performing the Transport of Natural Gas Activity

Article 3. The transport of natural gas shall be performed by corporations or consortia, whose formation is governed by Brazilian Laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, under the following regimes:

- I - concession, preceded by bidding process; or
- II - authorization.

§ 1. The authorization regime dealt with in item II of the

head paragraph of this article shall be applied to the transport gas pipelines that involve international agreements, whereas the concession regime shall be applied to all transport gas pipelines considered as being of general interest.

§ 2. The Ministry of Mines and Energy shall, after consulting with the ANP, establish the exclusivity term that the first utility will have to use the hired capacity of the new transport gas pipelines.

§ 3. The concessionaire or consortium of enterprises authorized to perform the transport of natural gas shall only perform those activities referred to in article 56 of Law 9478 of August 6, 1997, in addition to the storage, transport of biofuels and construction and operation of terminals.

§ 4. The ANP may be provided with the competence to declare the public utility, for the purposes of expropriation and establishment of administrative easement of the areas necessary for the implementation of the gas pipelines granted or authorized, as well as their ancillary facilities.

Article 4. The Ministry of Mines and Energy shall:

I - propose, on its own initiative or driven by third parties, the transport gas pipelines that shall be built or expanded;

II - establish the guidelines for the transport capacity hiring process;

III - define the concession or authorization regime, pursuant to paragraph 1 of article 3 hereof.

§ 1. The Ministry of Mines and Energy shall consider the Country's pipeline network expansion studies to comply with items I and III of the head paragraph of this article.

§ 2. The Ministry of Mines and Energy may determine the

use of Public–Private Partnership agreements, dealt with in Law 11079 of December 30, 2004, as well as the use of resources derived from the Contribution for Intervention in the Economic Domain - CIDE and the Energy Development Account, according to article 13 of Law 10438 of April 26, 2002, in order to enable the construction of transport gas pipeline proposed by its own initiative and considered as being of relevant general interest.

Article 5. The granting of authorization or bidding round for the concession for transport activities that envisages the construction of expansion of gas pipelines shall be preceded by public call for tender to hire capacity, aiming at identifying the potential carriers and sizing the effective demand.

§ 1. The utilities that fail to hold an authorization shall request its granting to the ANP, in form and terms defined by the latter.

§ 2 During the process of public call for tender, the ANP shall, on an iterative basis, establish the maximum rate to be applied to the utilities interested in hiring transport capacity.

§ 3. The utilities that request transport capacity by the end of the process of public call for tender shall enter into a term of commitment with the ANP, for the purchase of the requested capacity.

§ 4. The term of commitment referred to in paragraph 3 of this article shall be irreparable and irrevocable and shall be an integral part of the tender protocol.

Article 6. The ANP shall promote, according to guidelines of the Ministry of Mines and Energy, on a direct or indirect basis, the bidding process dealt with in article 5 thereof.

Article 7. The Ministry of Mines and Energy may determine that the capacity of a gas pipeline is superior to that identified in the public call for tender, defining the economic mechanisms to

enable the project, which may establish the use of the Public–Private Partnership agreement, dealt with in Law 11079 of December 30, 2004.

Article 8. The transport gas pipelines may only move natural gas that meets the specifications established by the ANP, except for agreements entered into by and between the carriers and the utilities, previously approved by the ANP, without prejudice to the other users.

Article 9. The carrier shall allow the interconnection of other transport and transfer facilities, pursuant to regulations established by the ANP, observing the natural gas specifications established by the ANP and the existing rights of the utilities.

Section II

Concession of the Transport of Natural Gas Activity

Article 10. The natural gas transport concessions hired as from this Law shall identify the goods and facilities to be considered as connected to their use, and shall be in force for thirty (30) years as from the date of signature of the indispensable agreement, and they may be extended for equal terms, under the conditions set forth in the concession agreement.

Sole Paragraph. The extensions referred to in this article shall be requested by the concessionaire, within twelve (12) months prior to the final date of the relevant concession agreement, and the ANP shall manifest on the request within three (3) months from that date.

Article 11. The ANP shall promote the bidding process for the concession of the transport of natural gas activity.

Article 12. The ANP shall prepare the tender protocols and the concession agreements for the construction or expansion and operation of the transport gas pipelines under the concession regime.

§ 1. The ANP, through delegation of the Ministry of Mines and Energy, shall enter into the concession agreements referred to in this Law.

§ 2. The preemptive right shall be assured to the carrier whose facility is being expanded, in case it participates in the bidding round dealt with in head paragraph of this article, under the same conditions as the winning bidder.

Article 13. In the bidding process, the criterion to select the winning bid shall be that of the lowest annual cost, pursuant to the regulations and to the tender protocol.

§ 1. The annual cost referred to in the head paragraph of this article corresponds to the annual amount to be received by the carrier for the provision of the hired service, pursuant to the tender protocol and the concession agreement.

§ 2. The natural gas transport rates to be paid by the utilities for the case of the gas pipelines object of concession shall be established by the ANP by applying, to the maximum rate set in the bidding process, the same factor corresponding to the ratio between the annual cost established in the bidding process and the maximum annual cost defined in the tender protocol.

Article 14. In case of expiration, the goods intended for, and considered as bound to the performance of the transport activity shall be incorporated to the Union's assets, upon declaration of public utility, and fair and previous indemnification in cash, thus becoming under administration of the granting authority, pursuant to specific regulation to be published.

§ 1. In any case of expiration of the concession, the concessionaire shall, at its own risk and expense, remove the equipments and assets that are not object of incorporation by the Union, being obliged to remedy or indemnify for the damage arising out of its activities and undertake environmental recovery action as established by the relevant bodies.

§ 2. The concessionaire whose concession has been expired shall continue to render transport services until a new concessionaire is appointed or the pipeline is disabled.

§ 3. The operation rates for the period referred to in paragraph 2 of this article shall be established by the ANP so as to cover the effective costs of an efficient operation.

Article 15. The goods incorporated to the Union's assets pursuant to article 14 hereof may compose a set of goods and facilities to be bidden together with a new concession for the performance of transport activity.

§ 1. In the bidding round referred to in the head paragraph of this article, the highest payment for the use of the public asset, or the provisions of article 13 hereof, or also a combination of both criteria, may be used as selection criterion for the winning bidder.

§ 2. The resources collected with the bidding round dealt with in the head paragraph of this article may be reverted to the expansion of the natural gas transport network, and, as the case may be, to the indemnification of the installments connected to goods to be incorporated to the Union's assets, yet to be amortized or depreciated, which have been paid up in order to ensure the continuation and existence of the service granted.

§ 3. Only investments that had been explicitly authorized by the ANP shall be indemnified.

§ 4. The bidding process provided for in the head paragraph

of this article may begin up to twenty-four (24) months prior to the expiration of the concession term, with a view to ensuring the continuation of the services rendered, except to the provisions of the Sole Paragraph in article 10 hereof.

Article 16. The transfer of the concession agreement with the preservation of its object and contract conditions is allowed.

Sole Paragraph. The transfer of the agreement may only occur upon prior and express authorization by the ANP.

Section III

The Tender Protocol

Article 17. The tender protocol shall be accompanied by the respective basic draft concession agreement and shall indicate:

I - the route of the gas pipeline transport object of concession, the city gates, as well as the forecast transport capacity and the criteria used for its sizing;

II - the maximum annual transport revenue estimated and the criteria used for its calculation;

III - the requirements to be fulfilled by the bidders and the pre-qualification criteria, as the case may be;

IV - the list of documents required and criteria to be followed for the evaluation of the technical capacity, the financial competence and the legal status of the interested parties, as well for the technical and economic-financial judgment of the bid;

V - the explicit indication that the concessionaire shall pay the indemnifications due for expropriations or easements necessary to execute the agreement, as well as the acquisition of licensing with the competent bodies, including those of environmental nature;

VI - The term, venue and time in which the interested parties will be given the data, studies and other elements and information necessary for bid preparation, as well as the cost of their acquisition;

VII - the exclusivity term that the first utilities will have to use the hired capacity of the new transport gas pipelines.

VIII - the term of the concession and the possibility of extension, as the case may be.

Article 18. Where the participation of enterprises in consortium is allowed, the tender protocol shall contain the following requirements:

I - evidence of public or private commitment of consortium formation, signed by the consortium members;

II - appointment of a consortium leading enterprise, responsible for the consortium and for running the operations, without prejudice to the joint responsibility of the other members;

III - submission, by each of the consortium members, of the documents required for the purposes of evaluating the technical and economic-financial qualification of the consortium;

IV - prohibition of participation of the same enterprise in another consortium - or individually - in the bidding process for the same transport gas pipeline;

V - granting of a concession to the winning consortium, subject to the registering of deed of incorporation of a consortium, pursuant to the sole paragraph of article 279 of Law 6404 of December 15, 1976.

Article 19. In case of participation of a foreign enterprise, the tender protocol shall contain the requirement that it submits, along with its bid in a separate envelope:

I - evidence of technical capacity, financial competence and legal and fiscal status pursuant to regulation to be issued by the ANP;

II - full content of its instrument of incorporation, and evidence that it is organized and regularly operational, pursuant to the laws of its country;

III - appointment of a legal representative with the ANP, with special powers to carry out acts and assume responsibilities regarding the bidding process and the bid submitted;

IV - in case of becoming a winning bidder, commitment to establish an enterprise according to the Brazilian laws, with headquarters and administration in Brazil.

Sole Paragraph. The execution of the concession agreement shall be subject to the effective compliance with the commitment undertaken according to item IV in the head paragraph of this article.

Section IV

Judgment of the Bidding Process

Article 20. The judgment of the bidding process shall identify the most valuable bid, according to objective criteria established in article 13 or paragraph 1 of article 15 hereof, and shall comply with the principles of legality, impersonality, morality, publicity, and equality among the bidders.

Section V

The Concession Agreement

Article 21. The concession contract shall faithfully reflect the conditions of the tender protocol and of the winning bid, and

shall have the following essential clauses:

I - the description of the gas pipeline object of concession;

II - the list of goods and facilities intended for and, in this capacity, considered as bound to the performance of the transport activity, followed by the specification of the rules on the abandonment and relinquishment of areas, and the removal of equipment, as well as the conditions in which these will be incorporated by the Union, in case of expiration of the concession;

VIII - the term of the concession and its extension conditions, as the case may be.

IV - the implementation schedule, the minimum investment estimated and the gas pipeline expansion hypotheses;

V - the annual cost and the adjustment criteria;

VI - the guarantees offered by the concessionaire, including as regards the performance of the proposed investment;

VII - the specification of the rules regarding the relinquishment and abandonment of areas, including the removal of equipment and incorporation of goods to the Union's assets;

VIII - the follow-up and inspection procedures for the activities of the concessionaire, as well as for agreement audit;

IX - the obligation, by the concessionaire, to provide the ANP with reports, data and information regarding the activities developed;

X - the access rules for any interested utility to the gas pipeline object of the concession, according to the provisions herein;

XI - the rules for the resolution of disputes related to the agreement and its performance, including conciliation and international arbitration;

XI - the cases of termination and expiration of the agreement;

XIII - the applicable sanctions in case of failure, by the concessionaire, to comply with the contractual obligations.

XIV - the exclusivity term during which the first utilities will have to use the hired capacity of the new transport gas pipelines.

Article 22. The concessionaire shall:

I - enter into transport agreement with the utilities for all types of services offered, which shall be previously approved by the ANP;

II - adopt, in every operation, the actions necessary for the conservation of the facilities, the areas occupied and the natural resources potentially affected, thus ensuring the safety of the persons, and for the protection of the environment;

III - establish an emergency and contingency plan against accidents and any other facts or circumstances that interrupt or may interrupt the transport services;

IV - in case of any emergency or contingency, immediately notify the fact to the ANP and the relevant authorities;

V - be civil liable for the actions of its agents and indemnify for any and all damage arising out of the activities performed, and the Union shall be reimbursed for the charges they may have to bear as a result of possible claims motivated by acts of the concessionaire;

VI - adopt the best practices of the international natural gas industry and comply with the rules, as well as with the applicable technical and scientific procedures, related to the transport of natural gas.

VII - deliver, in electronic media accessible to any interested

party, information on the characteristics of its installations, the services rendered, the applicable rates, the available capacities and the agreements, specifying parts, terms and quantities involved.

Article 23. The concessionaire may, for the performance of its duties, with due regard for the conditions and limits established in the regulations:

I - use, for the execution of the services, equipment belonging to third parties;

II - hire, with third parties, the development of inherent, ancillary or supplementary activities, as well as the implementation of associated projects.

§ 1. In any case, the concessionaire shall remain responsible before the ANP and the utilities.

§ 2. The relationships between the concessionaire and third parties shall be governed by the ordinary law, and the latter shall not have rights before the Union.

Article 24. The concessionaire shall:

I - provide information of technical, operational, economic-financial and accounting nature or other, related to the service, pursuant to the regulations;

II - keep accounting records of the gas transport activity separated from the activity of storage of natural gas;

III - submit, for approval by the ANP, the draft standard agreement to be entered into with the utilities, with a clause for the resolution of possible controversies, which may provide for arbitration agreement, pursuant to Law 9307 of September 23, 1996;

IV - submit to the activity's regulations and inspection.

Article 25. The spin-off, consolidation, conversion, merger, capital decrease of the concessionaire or the transfer of controlling interest shall depend on prior approval by the ANP.

Sole Paragraph. (VETOED)

Section VI

Authorization for the Transport of Natural Gas Activity

Article 26. The term for the new authorizations dealt with in item II of the head paragraph of article 3 herein shall be thirty (30) years, and it may be extended for equal term, with due regard for the rules set forth upon approval and the regulations.

§ 1. The authorized expansion of the gas pipeline shall be with its respective regime and remaining term.

§ 2. The provisions contemplated by articles 22, 23 and 24 thereof shall be applicable to authorized carriers dealt with in this article.

Article 27. The goods intended for, and considered as bound to the performance of the transport activity under the authorization regime, regarding the gas pipelines derived from international agreements, shall be incorporated to the Union's assets after the end of the term, upon declaration of public utility, and fair and previous indemnification in cash, observing the provisions of paragraph 3 of article 15 hereof, pursuant to the regulation.

Article 28. The natural gas transport rates for the new gas pipelines object of authorization shall be proposed by the carrier and approved by the ANP, according to criteria set forth by the latter.

Section VII

Existing Transport Gas Pipelines

Article 29. The new concession agreements or the granting of authorization for expansion of transport facility shall not harm the existing rights of carriers and utilities, and the same remaining term and the same gas pipeline regime shall be granted.

Article 30. For the pipeline transport of natural gas, the authorizations issued by the ANP are hereby ratified until the date of issuance of this Law, pursuant to article 56 of Law 9478 of August 6, 1997.

§ 1. Upon compliance with the obligations set forth or to be set forth at the moment of granting an in the regulation, the authorizations referred to in the head paragraph of this article shall last for thirty (30) years, from the date of publication hereof or, for the cases of the projects dealt with in paragraph 2 of this article, from the date of granting of the authorization.

§ 2. The provisions of this article are applicable to the projects under environmental licensing projects that, on the date of publication hereof, had not obtained authorization from the ANP yet.

§ 3. For the case of projects dealt with in the head paragraph and in paragraph 2 of this article, the exclusivity term the first utilities will have shall be ten (10) years, from the beginning of the commercial operation of the respective transport gas pipeline.

§ 4. The goods and facilities intended for the performance of the transport activity under the authorization regime, dealt with in this article, shall be considered as bound to the respective authorization and, upon declaration of public utility and fair and previous indemnification in cash, shall be incorporated to the Union's assets at the end of the term.

§ 5. The provisions set forth in articles 22, 23 and 24 hereof are applicable to the authorized carriers within this article.

Article 31. The transport rates and revision criteria already defined up to the date of publication hereof are hereby preserved.

Section VIII

Access of Third Parties to the Gas Pipelines and Assignment of Capacity

Article 32. The access of third parties to the transport gas pipelines are hereby ensured, pursuant to the act and its regulations, in compliance with the provisions of paragraph 2 of article 3 and of paragraph 3 of article 30 hereof.

Article 33. The access to the transport gas pipelines shall be through the hiring of the following transport services, among other ways provided for by the regulations:

- I - firm, in available capacity;
- II - interruptible, in idle capacity; and
- III - extraordinary, in available capacity;

Sole Paragraph. The access to the gas pipelines shall be first in the available capacity and, only after its full hiring the right to access the idle capacity shall be granted, according to the provisions of paragraph 2 of article 3 and of paragraph 3 of article 30 hereof.

Article 34. The access to the firm transport service, in available capacity, referred to item I of the head paragraph of article 33 hereof, shall be through public call for tender carried out by the ANP, according to guidelines of the Ministry of Mines and Energy.

Sole Paragraph. The accesses to the interruptible transport services, in idle capacity, and extraordinary, in available capacity, shall be pursuant to the regulations, having the publicity, transparency and guarantee of access ensured to all interested parties.

Article 35. The assignment of capacity is hereby authorized, thus understood as a transfer, in whole or in part, of the right to use the firm transport capacity hired.

Sole Paragraph. The ANP shall regulate the capacity assignment dealt with in this article, so as to preserve the carrier's rights.

CHAPTER III

IMPORT AND EXPORT OF NATURAL GAS

Article 36. Any enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country, may receive authorization from the Ministry of Mines and Energy to perform natural gas import and export activities.

Sole Paragraph. The performance of natural gas import and export shall observe the guidelines established by the CNPE, in particular those related to the provisions of article 4 of Law 8176 of February 8, 1991.

CHAPTER IV

STORAGE AND PACKAGING OF NATURAL GAS

Article 37. The storage of natural gas shall be performed by enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, through concession, preceded by bidding process, or authorization.

Article 38. The storage of natural gas in hydrocarbon reservoirs relinquished to the Union, and in other non-producing geological formations shall be object of concession for use, preceded by bidding process under the competition method, pursuant to paragraph 1 of article 22 of Law 8666 of June 21, 1993, and the exploration shall be at the concessionaire's own risk and expense.

§ 1. Ministry of Mines and Energy or, the ANP through delegation, shall define the geological formations referred to in the head paragraph of this article that shall be object of the bidding process.

§ 2. The ANP shall prepare the tender protocols and promote the bidding process for the concession of the storage activities dealt with in the head paragraph of this article.

§ 3, The ANP, through delegation of the Ministry of Mines and Energy, shall enter into the concession agreements for the storage of natural gas.

§ 4. The Ministry of Mines and Energy shall, after consulting with the ANP, establish the exclusivity term for the agents whose hiring storage capacity has enabled or contributed to enable the implementation of storage facility dealt with in the head paragraph of this article.

§ 5, The imported or produced natural gas, pursuant to article 26 of Law 9478 of August 6, 1997, and stored in natural geological formations shall not constitute property of the Union, according to article 20 of the Federal Constitution.

Article 39. The ANP shall deliver geological data regarding the areas with potential for the storage of natural gas to the interested parties, with due consideration, for analysis and further confirmation of its suitability.

§ 1. The performance of non-exclusive exploratory activities necessary for the confirmation of suitability of the areas with potential for storage shall depend on authorization from the ANP.

§ 2. All data obtained in the exploratory activities dealt with in paragraph 1 of this article shall be transferred to the ANP, free of charge.

Article 40. The storage of natural gas in a facility other than those provided for in article 38 hereof shall be authorized by the ANP, pursuant to the applicable law.

Article 41. The packaging of natural gas shall be performed by enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, upon authorization.

Article 42. The ANP shall regulate the packaging activity for the transport and commercialization of natural gas to the end consumer through alternative means to the pipelines.

§ 1. Alternative means to the pipelines means the movement of natural gas by highway, railway and waterways.

§ 2. The ANP shall cooperate with other agencies to adapt the regulation of the transport referred to in paragraph 1 of this article, as the case may be.

CHAPTER V

GAS PRODUCTION OFFLOADING PIPELINES AND FACILITIES FOR PROCESSING, TREATMENT, LIQUEFACTION, REGASIFICATION OF NATURAL GAS

Article 43. Any enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country, may receive authorization from the ANP to construct, expand the capacity and operate natural gas processing or treatment plants.

Sole Paragraph. The natural gas processing or treatment activity may be authorized for enterprises that comply with the technical, economic and legal requirements set forth by regulation.

Article 44. Any enterprise or consortium of enterprises organized under the Brazilian laws, with headquarters and administration in the Country, may receive authorization from the ANP to construct and operate natural gas liquefaction and regasification plants, as well as gas pipelines for the production transfer and offloading out of the concession for the exploration and production of petroleum and natural gas.

Sole Paragraph. The regulation shall issue rules on the eligibility of the interested parties and the conditions for the authorization, envisaging the conditions for the transfer of its ownership, upon compliance with the environmental protection and safety requirements.

Article 45. The gas pipelines for production offloading, the natural gas treatment or processing plants, as well as the liquefaction and regasification terminals, are exempt from granting access to third parties.

CHAPTER VI

DISTRIBUTION AND COMMERCIALIZATION OF NATURAL GAS

Article 46. The free consumer, the self-producer or self-importer whose needs for movement of natural gas cannot be fulfilled by the state distribution company, may directly construct and implement facilities and pipelines for its own specific consumption, by means of an agreement assigning its operation and maintenance to the state distribution company, and the facilities and pipelines shall be incorporated to the State's assets through declaration of public utility and fair and previous indemnification, in case of full use.

§ 1. The operation and maintenance rates for the facilities shall be established by the state regulating body according to the principles of reasonableness, transparency, publicity, and the specific characteristics of each facility.

§ 2. In case the facilities and pipelines are constructed and implemented by the state distribution companies, the rates established by the state regulating body according shall consider the investment, operation and maintenance costs, observing the principles of reasonableness, transparency, publicity, and the specific characteristics of each facility.

§ 3. In case the distribution facilities are constructed by the free consumer, the self-producer or self-importer, pursuant to the head paragraph of this article, the state distribution company may request that the facilities are sized in a way to allow that other users have their needs met, negotiating the necessary compensations with the free consumer, the self-producer or self-importer, under arbitration of the state regulating body.

Article 47. Except for the provisions of paragraph 2 of article 25 of the Federal Constitution, the commercialization of natural gas shall be upon the execution of agreements filed with the ANP.

§ 1. The ANP shall inform the origin or characteristics of the reservoirs that will support the supply of the natural gas volumes hired.

§ 2. The ANP may, according to specific regulation, request the data referred to in paragraph 1 of this article, from the natural gas sales agent.

Article 48. The natural gas commercialization agreements shall contain a clause for the resolution of possible controversies, which may provide for arbitration agreement, pursuant to Law 9307 of September 23, 1996;

Article 49. The public enterprises and the government-controlled corporations, their subsidiaries and affiliated companies, holders of concession or authorization, are hereby authorized to adhere to the instrument and arbitration agreement referred to in article 48 hereof.

Sole Paragraph. The rights related to credits and debts deriving of hiring of natural gas dealt with in article 47 hereof are hereby regarded as available.

CHAPTER VII

CONTINGENCY IN THE SUPPLY OF NATURAL GAS

Article 50. in situations characterized as contingency in the supply of natural gas, upon proposition from the National Council on Energy Policy - CNPE and Presidential Decree, the

obligations of gas supply, in activities within the Union's scope of competence, and rendering of transport services, object of agreements executed between the parties, may be suspended, according to guidelines and policies contained in the Contingency Plan, pursuant to regulation by the Executive Branch.

§ 1. Contingency means the temporary, actual or potential incapacity to fully meet the demand for natural gas supplied on a firm basis, arising out of non-anticipated and involuntary supervening facts, in activities within the Union's scope of competence, resulting in significant impact in the supply of the natural gas market.

§ 2. In situations of contingency, firm basis shall mean the supply method agreed upon between the parties, by which the supplier undertakes to regularly deliver the gas; such concept comprises the proven consumption of the suppliers in their production, transport, processing and industrial facilities.

Article 51. The establishment of the Contingency Committee is hereby authorized, to be coordinated by the Minister of Mines and Energy, whose composition and operation shall be set forth by regulation, and whose duties shall include the preparation, implementation and follow-up of the Contingency Plan for the supply of natural gas.

§ 1. The Contingency Plan, pursuant to the regulation, shall provide for:

I - initial measures, where applicable;

II - measures to mitigate the reduction in the gas supply;

III - priority consumption;

IV - equal distribution of possible reductions in the gas supply, meeting the priority consumption needs and respecting the limitations in logistics.

§ 2. In situations of contingency with immediate repercussion, the agents involved with the contingency shall adopt initial measures, compatible with the guidelines of this Law and its regulation, until the composition of the Contingency Committee.

§ 3. Upon the composition of the Contingency Committee, the initial measures mentioned in Paragraph 2 of this article shall be approved by the Committee, in case they are in compliance with this Law and its regulation.

§ 4. The Contingency Committee shall declare the end of the contingency.

Article 52. During the period of contingency, the National Agency of Petroleum, Natural Gas and Biofuels - ANP - shall assume the coordination of the movement of natural gas in the Country's transport network, so as to ensure that the Contingency Committee resolutions are fully met.

Sole Paragraph. The carriers, under coordination of the ANP, shall remain responsible for the operation of their gas pipelines that are part of the transport network during the period of contingency.

Article 53. The ANP shall, pursuant to the regulations, establish accounting and settlement procedures, to be applied to all natural gas sector players, aiming at paying off the difference of amounts derived from the commercial operations carried out between the parties, due to the execution of the Contingency Plan.

§ 1. Up to the limit of the hired volumes, the suppliers and carriers affected by the execution of the Contingency Plan, but not involved in the situation of contingency, shall have the maintenance of the hired prices assured, even if they supply a portion of the supplied volume to other consumers or distributors.

§ 2. The establishment of the Settlement Chamber is hereby authorized, a private legal corporation aimed at performing the

accounting and settlement dealt with in this article, and any existing entity may be utilized.

§ 3. The costs arising out of the functionality of the Settlement Chamber shall be borne by the natural gas sector agents, pursuant to the regulations.

Article 54. Failure to comply with the Contingency Plan resolutions shall result in pecuniary sanctions corresponding to twice the loss provoked, according to calculations by the ANP, to be applied and collected from the violating party by the ANP.

Sole Paragraph. The application of sanctions provided for in this article does not eliminate or limit the rights of the agents harmed by such inobservance of the Contingency Plan to demand indemnification, pursuant to the civil law, against the responsible for the losses incurred.

Article 55. The application of the Contingency Plan shall not exempt the agent that caused it from being held liable by fault or fraud.

CHAPTER VIII

FINAL AND TRANSITORY PROVISIONS

Article 56. The maintenance of the current natural gas consumption regimes is hereby assured in fertilizer production plants and national or imported petroleum refining facilities existing as on the date of publication of this Law.

Article 57. The maintenance of the current exploration regimes in natural gas pipelines that, as on the date of publication of this Law, carry out the supply of natural gas in fertilizer production plants and national or imported petroleum refining

facilities, is hereby assured.

Article 58. Articles 2, 8, 23, 53 and 58 of Law 9478 of August 6, 1997, shall be effective with the following wording:

“Art. 2

.....

VII - establishing guidelines for the use of natural gas as raw material for industrial productive processes, by means of regulating specific conditions and criteria aiming at its efficient use, and compatible with the domestic and international markets.

.....” (NR)

“Art. 8

.....

V - authorizing the refining, liquefaction, regasification, loading, processing, treatment, transport, storage and packaging practices;

.....

VII - inspecting, directly and pursuant to Law 8078 of September 11, 1990, or by means of partnerships with bodies from the Federal District or the States, the activities contained in the petroleum, natural gas and biofuels sector, as well as applying the administrative and pecuniary sanctions provided for by the law, regulation or agreement;

.....

XIX - regulating and inspecting the access to gas pipelines' capacity;

XX - directly or indirectly promoting the public calls for tender to hire capacity to transport natural gas, according to the

guidelines of the Ministry of Mines and Energy;

XXI - registering the agreements of transport and interconnection between the transport facilities, including those originated from overseas, and the commercialization agreements entered into the market players;

XXII - informing the origin or characterization of the natural gas reserves hired and to be hired with the market players;

XXIII - regulating and inspecting the execution of the natural gas storage activity, including as regards the rights of access of third parties to granted facilities;

XXIV - preparing tender protocols and promoting bidding rounds for the hiring of concessionaires to explore the transport and storage activities of natural gas;

XXV - preparing, upon delegation from the Ministry of Mines and Energy, the concession agreements for the exploration of the transport and storage activities of natural gas subject to the concession regime;

XXVI - authorizing the activity of natural gas sales, within the Union's scope of competence;

XXVII - establishing criteria for the calculation of the gas pipelines' transport and transfer capacity;

XXVIII - cooperate with State and environmental regulatory bodies, aiming at rendering the rules applicable to the natural gas sector and markets compatible and standardized." (NR)

“Art. 23.

§ 1.

§ 2. The ANP may grant, directly to the owner of production rights or authorization for mineral coal deposit prospecting,

concession for use of methane gas that occurs as associated to that deposit, being exempt from bidding process provided for in the head paragraph hereof.” (NR)

“Article 53. Any enterprise or consortium of enterprises that meets the requirements of article 5 hereof may submit a bid followed by the relevant project to the ANP, for the construction and operation of refineries and natural gas processing, liquefaction, regasification and storage facilities, as well as for the expansion of its capacity.

.....” (NR)

“Article 58. Any interested party may use the transport pipelines and maritime terminals now existing or to be built, except for the Liquefied Natural Gas - LNG - terminals, upon proper compensation to the owner of the facilities or the natural gas transport capacity, pursuant to the law and the applicable regulation.

§ 1. The ANP shall settle the amount and payment conditions for the proper compensation, based on previously established criteria, in case there is no agreement between the parties, and shall also be responsible for checking whether the agreed amount is compatible with the market.

.....

§ 3. The revenue referred to in the head paragraph of this article shall be allocated to the enterprise that effectively bears the cost of the natural gas transport capacity.” (NR)

Article 59. Law 9478 of August 6, 1997, enters into force added of the following article 8-A:

“Article 8-A. The ANP shall be responsible for supervising the transport of natural gas in the transport chain and coordinating

it in situations characterized as contingency.

§ 1. The Contingency Committee shall define the guidelines for the coordination of the natural gas transport chain in situations characterized as contingency, as acknowledged by means of a Presidential Decree.

§ 2. In the exercise of the duties referred to in the head paragraph of this article, the ANP, without prejudice to other duties attributed to it by regulation, shall:

I - supervise the data and information from the transport gas pipeline control centers;

II - keep the information base regarding the natural gas transport system always updated, thus providing the Ministry of Mines and Energy with the information on the system reinforcement needs;

III - monitor the natural gas input and output to and from the transport chains, comparing the volumes transported with the transport agreements in force;

IV - inform the existing movement capacities that are not being under use and its possible hiring conditions; and

V - establish standards and parameters for the efficient operation and maintenance of the natural gas transport and storage system.

§ 3. The parameters and information regarding the transport of natural gas necessary for the supervision, control and coordination of the operation of the gas pipelines shall be made available by the carriers to the ANP, according to specific regulation.

Article 60. This Law shall be in force on the date of its publication.

Brasilia, March 4, 2009; 188th year of the Independence and
121th of the Republic.

LUIZ INÁCIO LULA DA SILVA

Tarso Genro

Guido Mantega

Edison Lobão

This text shall not replace the text published in the DOU
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FEDERATIVE REPUBLIC OF BRAZIL
MINISTRY OF MINES AND ENERGY

DECREE 7382
Of December 2, 2010

Presidency of the Republic

DECREE 7382 OF DECEMBER 2, 2010

Decree 7382 regulates Chapters I through VI and VIII of Law 11909 of March 4, 2009, which deal with the activities related to the transport of natural gas, pursuant to article 177 of the Federal Constitution, as well as the treatment, processing, storage, liquefaction, regasification and commercialization of natural gas.

THE PRESIDENT OF THE REPUBLIC, pursuant to the powers vested in him through article 84, items IV and VI, “a”, of the Constitution, and in view of the provisions of Law 10847 of March 15, 2004, and of Law 11909 of March 4, 2009,

DECREES:

CHAPTER I

PRELIMINARY PROVISIONS

Article 1. This Decree regulates Chapters I through VI and VIII of Law 11909 of March 4, 2009, except for the specific law on local services of piped gas.

Sole Paragraph. The economic activities dealt with in this article shall be regulated and inspected by the Union, in the capacity of granting authority, and may be exercised by an

enterprise or consortium organized under the Brazilian laws, with headquarters and administration in the Country.

Article 2. For the purposes of this Decree, the following definitions shall apply:

I - Packaging of Natural Gas: confinement of natural gas in gaseous, liquid or solid form for transport or consumption;

II - Natural Gas Sector Players: corporations or consortia that perform activities related to the exploration, development, production, import, export, processing, treatment, transport, loading, storage, packaging, liquefaction, regasification, distribution and commercialization of natural gas;

III - Self-Importer: a corporation or consortium authorized to import natural gas and use part, or all, of its imported product as raw material or fuel in its industrial facilities;

IV - Self-Producer: a natural gas exploring or producing corporation or consortium that uses part or all of its production as raw material or fuel in its industrial facilities;

V - Hired Transport Capacity: daily volume of natural gas that the carrier shall move to the utility, pursuant to the respective transport agreement;

VI - Transport Capacity: maximum daily volume of natural gas that the carrier can carry in a given transport gas pipeline;

VII - Available Capacity: part of the gas pipeline transport capacity that has not been the subject matter of a firm agreement;

VIII - Idle Capacity: part of the gas pipeline transport capacity hired that has not been used, on a temporary basis;

IX - Utility: agent that uses or aims at using the natural gas pipeline transport service, upon authorization of the National

Agency of Petroleum, Natural Gas and Biofuels - ANP;

X - First Utility: it is the utility whose hiring of transport capacity has enabled or contributed to enable, in whole or in part, the construction of the gas pipeline;

XI - Public Call for Tender: a procedure, with secured access to all interested parties, that aims at hiring transport capacity in existing pipelines, to be built or expanded;

XII - Commercialization of Natural Gas: purchase and sale of natural gas, by means of agreements negotiated between the parties and filed with the ANP, except for the provisions of paragraph 2 of article 25 of the Constitution;

XIII - Free Consumer: natural gas consumer that, pursuant to the applicable state law, has the option of acquiring natural gas from any producer, importer or retailer;

XIV - Private Consumption: volume of natural gas consumed exclusively in the natural gas production, collection, transfer, liquefaction, regasification, storage and processing activities;

XV - Storage of Natural Gas: storage of natural gas in natural or man-made reservoirs.

XVI - Compressed Natural Gas - CNG: any natural gas processed and packaged for transport in ampoules or cylinders at ambient temperature and a pressure that keeps it in gaseous state;

XVII - Liquefied Natural Gas - LNG: natural gas submitted to liquefaction process for storage and transport, subject to regasification in exclusive plants;

XIX - Gas Production Offloading Pipeline: pipelines in the production facilities, aimed at the movement of natural gas from the producing wells to the processing and treatment facilities or liquefaction units;

XX - Reference Gas Pipeline: gas pipeline project used for the purposed of defining maximum rates and annual costs to be considered in the public calls for tender and in the concession bidding processes;

XXI - Transfer Gas Pipeline: pipeline intended for the movement of natural gas, considered as being of specific and exclusive interest of its owner, starting and ending in its own natural gas production, collection, transfer, storage and processing facilities;

XXII - Transport Gas Pipeline: gas pipeline that executes the movement of natural gas from the treatment or processing facilities, of storage or other transport gas pipelines, to the storage facilities, other transport gas pipelines and city gates to state natural gas distribution concessionaires, except for the cases provided for in items XIX and XXI, including stations for compression, measurement, pressure reduction and delivery, pursuant to paragraph 2 of article 25 of the Constitution;

XXIII - Natural Gas Sector: set of economic activities related to the exploration, development, production, import, export, processing, treatment, transport, loading, storage, packaging, liquefaction, regasification, distribution and commercialization of natural gas;

XXIV - City Gate: a point in the transport gas pipelines where the natural gas is delivered by the carrier to the utility or any agent appointed by the latter, pursuant to regulation by the ANP;

XXV - Point of Receipt: a point in the transport gas pipelines where the natural gas is delivered to the carrier by the utility or any agent appointed by the latter, pursuant to ANP regulation, pursuant to regulation by the ANP;

XXVI - Extraordinary Transport Service: method for hiring

available capacity, at any time, and which contains suspension condition in case of hiring of capacity under the firm method;

XXVII - Firm Transport Service: type of transport service where the carrier undertakes to schedule and transport the daily volume of natural gas requested by the utility until the hired transport capacity set forth in the agreement with the utility;

XXVIII - Interruptible Transport Service: transport service hired in idle capacity, which may be interrupted by the carrier, given the scheduled priority of the Firm Transport Service;

XXIX - LNG Terminal: facility used for natural gas liquefaction or import, discharge and regasification of LNG, including the ancillary services and temporary storage tanks necessary for the regasification process and subsequent delivery of the natural gas to the pipeline network or other means of transport;

XXX - Carrier: corporation or consortium, concessionaire or authorized to perform natural gas transport activity by means of pipelines;

XXXI - Transport of Natural Gas: movement of natural gas in transport gas pipelines, comprising the construction, expansion and operation and maintenance of the facilities;

XXV - Treatment or Processing of Natural Gas: set of operations aiming at enabling its transport, distribution and use of natural gas;

XXVIII - Liquefaction Plant: facility where natural gas is liquefied, so as to enable its storage and transport, and it may comprise natural gas treatment plants, heat exchangers and LNG storage tanks; and XXXIV - Regasification Plant: facility where the liquefied natural gas is regasified through imposition of heat to be introduced in the pipeline network, and it may comprise

LNG storage tanks and regasifiers, as well as supplementary equipment;

Sole Paragraph. The natural gas regasification and liquefaction activities are not included in the set of operations referred to in item XXXII.

Article 3. The natural gas sector players shall, without limitation:

I - perform the activities pursuant to this Decree, the technical and environmental standards and the respective concession agreements or authorizations; and

II - allow the relevant inspection body to have free access, at any time, to the equipment and facilities connected to the performance of its activity, as well as its accounting records.

CHAPTER II

TRANSPORT OF NATURAL GAS

Section I

Performing the Transport of Natural Gas Activity

Article 4. The transport of natural gas shall be performed by corporations or consortia, whose formation is governed by Brazilian Laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, under the following regimes:

I - concession, preceded by bidding process; or

II - authorization.

§ 1. The authorization regime dealt with in item II shall be applied observing the provisions of paragraph 2 of article 41, in the following cases:

I - to the transport gas pipelines that involve international agreements, as defined by the Ministry of Mines and Energy;

II - to the gas pipelines existing on March 5, 2009;

II - to the gas pipelines that, by March 5, 2009, have fulfilled the following conditions;

a) they are authorized by the ANP and are yet to be constructed; or

b) they have started the environmental licensing process, but are yet to be authorized by the ANP;

IV - to the expansions of the gas pipelines provided for in items I, II and III.

§ 2. The concession regime shall be applicable to the other transport gas pipelines and their expansions.

§ 3. The corporation or consortium, concessionaire or authorized to perform the transport of natural gas shall only perform those activities referred to in article 56 of Law 9478 of August 6, 1997, in addition to the storage, transport of biofuels and construction and operation of terminals.

Article 5. The ANP may be provided with the competence to declare the public utility, for the purposes of expropriation and establishment of administrative easement of the areas necessary for the implementation of the gas pipelines granted or authorized, as well as their ancillary facilities.

Article 6. The Ministry of Mines and Energy shall:

I - propose, on its own initiative or driven by third parties, the transport gas pipelines that shall be built or expanded;

II - establish the guidelines for the transport capacity hiring process;

III - define the authorization regime applicable to each case to the natural gas transport activity, observing the provisions of article 4.

§ 1. For the purposes of compliance with item I, the Ministry of Mines and Energy shall prepare the Ten-Year Plan for Expansion of the Gas Pipeline Transport Network, preferably revised on an annual basis, based on studies developed by the Energy Research Company - EPE.

§ 2. The studies to be developed by the EPE shall contain, without limitation, proposals for routing and compression systems to be installed, as well as for the location of city gates and the estimated investments in gas pipelines.

§ 3. The Ministry of Mines and Energy may determine, where applicable, the use of Public-private Partnership agreement, pursuant to Law 11079 of December 30, 2004, as well as the use of resources derived from the Contribution for Intervention in the Economic Domain - CIDE, pursuant to article 4 of Law 10604 of December 17, 2002, and the Energy Development Account, according to article 13 of Law 10438 of April 26, 2002, in order to enable the construction of transport gas pipeline proposed by its own initiative and considered as being of relevant general interest.

§ 4. The Ministry of Mines and Energy shall establish rules for the natural gas sector players to provide the EPE with data for the preparation of the studies on the expansion of the gas pipeline transport network.

§ 5. When the construction or expansion of the gas pipeline is requested by the interested parties, pursuant to item I, the

term between the date of request registry and the corresponding statement by the Ministry of Mines and Energy on the request shall not be superior to twelve months.

Article 7. The granting of authorization or bidding round for the concession for transport activities that envisages the construction or expansion of gas pipelines shall be preceded by public call for tender to hire capacity, aiming at identifying the potential carriers and sizing the effective demand.

Sole Paragraph. The utilities that fail to hold an authorization shall request its granting to the ANP, in form and term defined by the latter.

Article 8. The ANP shall prepare the tender protocol for the public call for tender and shall directly and indirectly promote it, according to guidelines established by the Ministry of Mines and Energy.

§ 1. The tender protocol shall contain a proposal for gas pipeline routing, the expected maximum rate and the method for definition of the exclusivity term mentioned in paragraph 2 of article 3 of Law 11909 of 2009, among other parameters.

§ 2. The Ministry of Mines and Energy shall provide the ANP with the basic information of the reference gas pipeline contained in the studies for the expansion of the network, as well as the information available that may contribute for the public call for tender.

§ 3. During the process of public call for tender, the ANP shall, on an iterative basis, establish the maximum rate to be applied to the utilities interested in hiring transport capacity.

§ 4. The ANP shall be aided by the EPE in the bidding process for the settlement of the maximum rate, as well as the resizing of the reference gas pipeline facilities, due to the result

of the public call for tender and the iterative process provided for in paragraph 3.

Article 9. The Ministry of Mines and Energy may determine that the capacity of a gas pipeline is superior to that identified in the public call for tender, defining the economic mechanisms to enable the project, which may establish the use of the Public–Private Partnership agreement, dealt with in Law 11079 of 2004.

§ 1. For the gas pipelines fallen under this article, the exclusivity term for the additional capacity, as determined by the Ministry, may be different from the one established in the public call for tender.

§ 2. The increase of capacity referred to in the head paragraph shall not imply an increase in the transport rate of the respective gas pipeline.

Article 10. The utilities that request transport capacity by the end of the process of public call for tender, shall enter into a term of commitment with the ANP, for the purchase of the requested capacity.

§ 1. The term of commitment referred to in the head paragraph shall be irreparable and irrevocable and an integral part of the tender protocol for the concession of natural gas transport activity, and shall contain, among other information, the maximum rate and the exclusivity term.

§ 2. The term of commitment shall provide that the exclusivity term may be reduced or extinct through administrative proceedings, pursuant to paragraphs 1 through 3 of article. 11.

§ 3. Before the signature of the terms of commitment referred to in the head paragraph, the Ministry of Mines and Energy shall announce the decision as to whether the rights granted in article 9th will be used.

Article 11. The Ministry of Mines and Energy shall, after consulting with the ANP, establish the exclusivity term that the first utility will have to use the hired capacity of the new transport gas pipelines.

§ 1. The exclusivity term dealt with in head paragraph shall be defined so as to meet the following parameters:

I - it shall not be superior to ten years;

II - it shall consider the level of development of the market to be served;

III - it may be variable due to the result of the public call for tender, pursuant to the respective tender protocol; and

IV - it shall end when the movement in a gas pipeline reaches its maximum transport capacity hired, even if the term established in the public call for tender has not ended, pursuant to ANP regulation.

§ 2. Whenever the ANP identifies evidence of abusive practices by the first utilities, supported by the protection provided by the exclusivity term, produce representation to the competition defense bodies.

§ 3. After the decision of the competition defense bodies as for the representation dealt with in paragraph 1, the Ministry of Mines and Energy may, after consulting with the ANP, without prejudice to the sanctions applicable to the violations to the economic regime, provided for in Law 8884 of June 11, 1994, revise the exclusivity term established beforehand.

§ 4. The ANP, through sanctioning administrative proceedings investigating the evidence of violation to the rules hereof or its respective regulations, and which does not fall under the provisions of paragraph 2, may recommend that the Ministry of

Mines and Energy revises or extinguishes the exclusivity term.

Article 12. The transport gas pipelines may only move natural gas that meets the specifications established by the ANP, except for agreements entered into by and between the carriers and the utilities, previously approved by the ANP, without prejudice to the other users.

Article 13. The carrier shall allow the interconnection of other transport and transfer facilities, pursuant to regulation established by the ANP, observing the natural gas specifications and the existing rights of the utilities.

Article 14. The ANP shall be responsible for inspecting and assessing the operational conditions of the granted and authorized gas pipelines.

§ 1. The ANP shall define the procedures necessary for the proper follow-up of the goods intended for the natural gas transport, and considered as bound to the authorization or concession, including those related to the carriers' accounting operations.

§ 2. The ANP shall be responsible for qualifying legal certifying entities to perform the assessment.

§ 3. The cost of the assessment dealt with in this article shall be borne by the carrier, which may select, among the legal certifying entities, the one to render the service.

§ 4. The concessionaire or authorized agent shall submit, to the ANP, the opinion from the legal certifying entity, followed by the measures to be adopted to remedy possible identified problems.

§ 5. The provisions in this article shall also be applicable to gas pipelines referred to in article 41.

Article 15. The operational exchange of natural gas, named swap, shall be requested to the carriers by the interested utilities, pursuant to regulation established by the ANP.

§ 1. The revenues resulting from the swap shall inure for the reduction of transport rates and coverage of overhead costs of the carrier and the respective compensation for the capital invested, to be approved by the ANP.

§ 2. The ANP shall establish the new rate to be paid by the utilities, considering the provisions of paragraph 1.

§ 3. The new rate established by the ANP for the agent that requests the swap, pursuant to paragraph 2, may not be inferior to the existing utilities, even if in backflow.

Article 16. The gas pipelines started in LNG terminals and interconnected to the transport network which is not part of the terminal shall be considered as transport gas pipelines.

Sole Paragraph. The ANP shall define which gas pipelines are part of the LNG Terminals through specific regulation.

Section II

Concession of the Transport of Natural Gas Activity

Article 17. The natural gas transport concessions for construction or expansion shall be preceded by bidding process and shall be in force for thirty years from the date of signature of the indispensable agreement, and it may be extended for at most another equal term, in the conditions set forth herein and in the concession agreement.

Article 18. The ANP shall prepare the tender protocols, the concession agreements and promote the bidding process

for the construction or expansion and operation of the transport gas pipelines under concession regime, with due regard for the guidelines from the Ministry of Mines and Energy.

Article 19. The Ministry of Mines and Energy shall enter into the concession agreements referred to in this Chapter.

Sole Paragraph. The competence provided for in the head paragraph may be delegated to the ANP by act from the Minister of Mines and Energy.

Article 20. The preemptive right shall be assured to the carrier whose facility is being expanded, in case it participates in the bidding round dealt with in article 17th, under the same conditions as the winning bidder.

Sole Paragraph. The gas pipelines expansion operation shall observe the rules established by the ANP.

Article 21. The concessionaire of the pipeline to be expanded shall have the preemptive right to operate such expansion.

§ 1. In case the original concessionaire exercises the right provided for in the head paragraph, it shall be entitled to the operation and maintenance rate calculated based on the criteria established by the ANP in the tender protocol.

§ 2. In case the original concessionaire does not exercise the right provided for in the head paragraph, the concessionaires may agree upon an expansion operation, pursuant to ANP regulation.

Article 22. In the bidding process, the criterion to select the winning bid shall be that of the lowest annual cost, pursuant to the regulations hereof and of the tender protocol.

§ 1. The annual cost referred to in the head paragraph corresponds to the annual amount to be received by the carrier for the provision of the hired service, pursuant to the tender protocol

and to the concession agreement.

§ 2. The natural gas transport rates to be paid by the utilities shall be established by the ANP by applying, to the maximum rate set in the bidding process, the same factor corresponding to the ratio between the annual cost established in the bidding process and the maximum annual cost defined in the tender protocol.

§ 3. In situations of sharing background transport infrastructure, the reduction factor of the rate may be inferior to that established in paragraph 2nd, according to ANP regulation.

Article 23. The natural gas transport concessions may be extended for at most thirty years, pursuant to the tender protocol and the concession agreement.

§ 1. If provided by the agreement, the concessionaire may request the extension of the concession term to the ANP, at least twelve months before the date of expiration of the concession agreement.

§ 2. The ANP shall produce evidence, giving opinion on the request by the concessionaire within three months, from the date of the request, forwarding it for decision by the Ministry of Mines and Energy.

§ 3. In case the ANP expresses an opinion on the extension of the concession, the case to be forwarded to the Ministry of Mines and Energy shall contain:

I - the new amount of annual cost to be drawn on by the concessionaire, in case no bonus is charged for the continuation;

II - the maximum amount for the bonus recommended to be paid by the concessionaire, in case the previous annual cost is kept;

III - at least five alternatives combining bonus and annual cost; and

IV - the new concession term that shall preferably coincide with the remaining expansion concession term, if applicable.

§ 4. The resources derived from the payment of bonus for the continuation of the transport services may be reverted to the expansion of the natural gas transport network, and, as the case may be, for the indemnification of the installments connected to goods to be incorporated to the Union's assets, yet to be amortized or depreciated, which have been paid up in order to ensure the continuation and existence of the service granted.

§ 5. The Ministry of Mines and Energy, after consulting with the National Council on Energy Policy - CNPE, shall decide on the request within two months, from the receipt of the case, defining the best financial alternative to be performed among the propositions submitted by the ANP.

§ 6. The concessionaire shall have thirty days, after the notification made by the Ministry of Mines and Energy, to inform on its interest in extending the concession term, pursuant to the decision referred to in paragraph 5.

§ 7. For compliance with the provisions of paragraph 3, the ANP shall be aided by the EPE.

Article 24. In case of expiration of the concession, the goods intended for, and considered as bound to the performance of the transport activity shall be incorporated to the Union's assets, upon declaration of public utility, and fair and previous indemnification in cash, under the following:

I - only the portion of the goods to be depreciated or amortized shall be indemnified;

II - the rules for the definition of the indemnification amount shall be previously defined by the ANP and consider assets valuation methods, such as the current value and the cost of asset

replacement, discounting the depreciation and the amortization occurred until the date of expiration of the concession; and

III - Only the goods whose installation had been previously and explicitly authorized by the ANP shall be indemnified.

§ 1. In any case of expiration of the concession, the concessionaire shall, at its own risk and expense, remove the equipments and assets that are not object of incorporation by the Union, being obliged to remedy or indemnify for the damage arising out of its activities and undertake environmental recovery action as established by the relevant bodies.

§ 2. For the purposes of the provisions of paragraph 1, the removal of buried tubes and fittings is mandatory provided it is established by the body in charge of environmental licensing of the gas pipeline, in case of expiration of the activity.

§ 3. The concessionaire whose concession has been expired shall continue to render transport services until a new concessionaire is appointed or the pipeline is disabled observing the provisions in item XV of article 30.

§ 4. The operation rates to be paid to the carrier obliged to keep rendering transport services, as provided in paragraph 3rd, shall be established by the ANP so as to cover the effective costs of an efficient operation.

Article 25. The goods incorporated to the Union's assets pursuant to article 24 shall be under the administration of the Granting Authority and may compose a set of goods and facilities to be bidden together with a new concession for the performance of transport activity.

§ 1. In the bidding round referred to in the head paragraph of this article, the highest payment for the use of the public asset, the lowest annual cost requested, or also a combination of both

criteria, may be used as selection criterion for the winning bidder.

§ 2. The resources collected with the bidding round dealt with in the head paragraph of this article may be reverted to the expansion of the natural gas transport network, and, as the case may be, for the indemnification of the installments connected to goods to be incorporated to the Union's assets, yet to be amortized or depreciated, which have been paid up in order to ensure the continuation and existence of the service granted.

§ 3. The bidding process provided for in the head paragraph of this article may begin up to twenty-four months prior to the expiration of the concession term, with a view to ensuring the continuation of the services rendered, observing the provisions of paragraph 1st of article 23.

Article 26. The transfer of the concession agreement with the preservation of its object and contract conditions is allowed.

Sole Paragraph. The transfer of the agreement may only occur upon prior and express authorization by the ANP.

Section III

The Tender Protocol

Article 27. The tender protocol shall be accompanied by the respective basic draft concession agreement and shall indicate:

I - the route of the gas pipeline transport object of concession, the city gates, as well as the forecast transport capacity and the criteria used for its sizing;

II - the maximum annual transport revenue estimated and the criteria used for its calculation;

III - the selection criterion for the most valuable proposal pursuant to article 22 or to paragraph 1 of article 25;

IV - the requirements to be fulfilled by the bidders and the pre-qualification criteria, as the case may be;

V - the list of documents required and criteria to be followed for the evaluation of the technical capacity, the financial competence and the legal status of the interested parties, as well for the technical and economic-financial judgment of the bid;

VI - the explicit indication that the concessionaire shall pay the indemnifications due for expropriations or easements necessary to execute the agreement, as well as the acquisition of licensing with the competent bodies, including those of environmental nature;

VII - The term, venue and time in which the interested parties will be given the data, studies and other elements and information necessary for bid preparation, as well as the cost of their acquisition;

VIII - the exclusivity term that the first utilities will have to use the hired capacity of the new transport gas pipelines object of the concession.

IX - the term of the concession and the possibility of extension, as the case may be.

X - the mandatory items to be contained in the technical proposal to be submitted together with the financial proposal, including:

a) the detailed preliminary gas pipeline routing;

b) the description of all equipment to be incorporated to the gas pipeline, including the compression station, if applicable;

c) diameter and length of the gas pipeline;

d) specification of the materials to be used;

XI - the minimum index of local content of the gas pipeline;

XII - the list of the utilities that entered into terms of commitment deriving from the public call for tender, pursuant to article 10, with the respective volumes and guarantees;

XIII - the form and origin of the resources that will be used for compliance with the provisions of paragraph 3 of article 6 and of article 9; and

XIV - the terms of commitment entered into by the utilities.

§ 1. For the purposes of this article, the gas pipeline routing means the one considered by the ANP for the definition of the maximum rate of the public call for tender and the maximum cost allowed in the concession bidding process.

§ 2. The ANP shall be aided by the EPE in the definition of the maximum annual cost dealt with in item II of the head paragraph.

Article 28. Where the participation of enterprises in consortium is allowed, the tender protocol shall contain the following requirements:

I - evidence of public or private commitment of consortium formation, signed by the consortium members;

II - appointment of a consortium leading enterprise, responsible for the consortium and for running the operations before the Granting Authority, without prejudice to the joint responsibility of the other members;

III - submission, by each of the consortium members, of the documents required for the purposes of evaluating the technical and economic-financial qualification of the consortium;

IV - prohibition of participation of the same enterprise in another consortium - or individually - in the bidding process for the same transport gas pipeline;

V - granting of a concession to the winning consortium, subject to the registering of deed of incorporation of a consortium, pursuant to the sole paragraph of article 279 of Law 6404 of December 15, 1976.

Article 29. In case of participation of a foreign enterprise, the tender protocol shall contain the requirement that it submits, along with its bid in a separate envelope:

I - evidence of technical capacity, financial competence and legal and fiscal status, pursuant to ANP regulation;

II - full content of its instrument of incorporation, and evidence that it is organized and regularly operational, pursuant to the laws of its country;

III - appointment of a legal representative with the ANP, with special powers to carry out acts and assume responsibilities regarding the bidding process and the bid submitted; and

IV - in case of becoming a winning bidder, commitment to establish an enterprise according to the Brazilian laws, with headquarters and administration in the Country.

Sole Paragraph. The execution of the concession agreement shall be subject to the effective compliance with the commitment undertaken according to item IV.

Section IV

The Concession Agreement

Article 30. The concession contract shall faithfully reflect the conditions of the tender protocol and the winning bid, and shall have the following essential clauses:

I - the description of the gas pipeline object of concession;

II - the list of goods and facilities intended for and, in this capacity, considered as bound to the performance of the transport activity, followed by the specification of the rules on the abandonment and relinquishment of areas, and the removal of equipment, as well as the conditions in which these will be incorporated by the Union, in case of expiration of the concession;

III - The concessionaire's obligation to replace the related goods, necessary for the good performance of the transport activity, regardless of the remaining concession term;

IV - the term of the concession and its extension conditions, as the case may be.

V - the implementation schedule, the minimum investment estimated and the gas pipeline expansion hypotheses;

VI - the annual cost and the adjustment criteria;

VII - the guarantees offered by the concessionaire, including as regards the performance of the proposed investment;

VIII - the follow-up and inspection procedures for the activities of the concessionaire, as well as for agreement audit;

IX - the obligation, by the concessionaire, to provide the ANP with reports, data and information regarding the activities developed;

X - the access rules for any interested utility to the gas pipeline object of the concession, according to the provisions of Law 11909 of 2009, and Section VII of Chapter II;

XI - the rules on the resolution of disputes related to the agreement and its performance, including conciliation and international arbitration;

XII - the cases of termination and expiration of the agreement;

XIII - the applicable sanctions in case of failure, by the concessionaire, to comply with the contractual obligations.

XIV - the exclusivity term that the first utilities will have to use the hired capacity of the new transport gas pipelines.

XV - the maximum term the concessionaire undertakes to operate the gas pipeline after the expiration of the concession; and

XVI - the form and origin of the resources that will be used for compliance with the provisions of paragraph 3 of article 6 and of article 9.

§ 1. The expansion hypotheses for the gas pipeline, referred to in item V, are limited to the transport capacity hired in the public call for tender that preceded the bidding process and represent the growth curve of the hired capacity against time.

§ 2. The adjustment criteria, dealt with in item VI, shall consider the Extended Consumer Price Index – IPCA as an instrument of monetary correction to be used in the adjustment process of the annual cost.

Article 31. The concession agreement shall contain the concessionaire's obligations to meet minimum performance indicators, pursuant to ANP's regulation.

Article 32. The concessionaire shall:

I - enter into the respective transport agreement with the utilities for all types of services offered, which shall be previously approved by the ANP;

II - adopt, in every operation, the actions necessary for the conservation of the facilities, the areas occupied and the natural resources potentially affected, thus ensuring the safety of the persons, and for the protection of the environment;

III - establish an emergency and contingency plan against accidents and any other facts or circumstances that interrupt or may interrupt the transport services;

IV - in case of any emergency or contingency, immediately notify the fact to the ANP and the relevant authorities, adopting the initial measures provided for in paragraph 2 of article 51 of Law 11909 of 2009;

V - be civil liable for the actions of its agents and indemnify for any and all damage arising out of the activities performed, and the Union shall be reimbursed for the charges they may have to bear as a result of possible claims motivated by acts of the concessionaire;

VI - adopt the best practices of the international natural gas industry and comply with the rules, as well as with the applicable technical and scientific procedures, related to the transport of natural gas.

VII - deliver, in electronic media accessible to any interested party and at a place of easy access, updated information on the characteristics of its installations, the services rendered, the applicable rates, the available capacities and the agreements, specifying parts, terms and quantities involved; and

VIII - obtain all licenses, authorizations and consents deemed necessary for the construction and operation of the gas pipeline, including the environmental ones.

Article 33. The concessionaire may, for the performance of its duties, with due regard for the conditions and limits established by the ANP and the concession agreement:

I - use, for the execution of the services, equipment belonging to third parties; and

II - hire, with third parties, the development of inherent, ancillary or supplementary activities, as well as the implementation of associated projects.

§ 1. The agreements entered into between the concessionaire and third parties deriving from items I and II shall be governed by private law, and no legal relationship shall be established between the third parties and the Union.

§ 2. In any case, the concessionaire shall always remain responsible before the ANP and the utilities.

Article 34. The concessionaire shall:

I - provide information of technical, operational, economic-financial and accounting nature or other, related to the service, pursuant to ANP's regulations;

II - keep accounting records of the gas transport activity separated from the activity of storage of natural gas and other activities developed;

III - submit, for approval by the ANP, the draft standard agreement to be entered into with the utilities, with a clause for the resolution of possible controversies, which may provide for arbitration agreement, pursuant to Law 9307 of September 23, 1996; and

IV - submit to the law that governs the activity's regulations and inspection.

Article 35. The spin-off, consolidation, conversion, merger,

capital decrease of the concessionaire or the transfer of controlling interest, as well as the change in the membership of the consortium holding the concession, shall depend on prior approval by the ANP, under penalty of expiration of the concession.

Sole Paragraph. The approval dealt with in this article refers to regulatory aspects under responsibility of the ANP, and that shall not eliminate the need for approval by other public administration bodies, pursuant to the applicable law, in particular those responsible for the competition defense.

Section V

Authorization for the Transport of Natural Gas Activity

Article 36. The term for the new authorizations dealt with in item II of the head paragraph of article 4th shall be thirty years, and it may be extended for equal term, with due regard for the rules set forth in the granting act and this Decree.

§ 1. The authorized expansion of the gas pipeline shall be with its respective regime and remaining term.

§ 2. The provisions provided for in articles 32, 33 and 34 hereof shall be applicable to authorized carriers dealt with in this article.

Article 37. The goods intended for, and considered as bound to the performance of the transport activity under the authorization regime, regarding the gas pipelines derived from international agreements, shall be incorporated to the Union's assets after the end of the term, upon declaration of public utility, and fair and previous indemnification in cash, observing the provisions of items I, II and III of the head paragraph of article 24.

Article 38. The natural gas transport rates for the new gas pipelines object of authorization shall be proposed by the carrier and approved by the ANP, according to criteria set forth by the latter.

Article 39th. The ANP shall authorize the construction, expansion and operation of international gas pipelines after favorable manifestation by the Ministry of Mines and Energy.

Section VI

Existing Transport Gas Pipelines

Article 40. The new concession agreements or the granting of authorization for expansion of transport facility shall not harm the existing rights of carriers and utilities.

Article 41. For the pipeline transport of natural gas, the authorizations issued by the ANP are hereby ratified until the date of issuance of this Law, pursuant to article 56 of Law 9478 of August 6, 1997.

§ 1. The projects under environmental licensing process on March 5, 2009, shall be authorized by the ANP, observing the necessary requirements for the respective granting.

§ 2. Upon compliance with the obligations set forth or to be set forth at the moment of granting and in the regulation, the authorizations referred to in the head paragraph shall last until March 5, 2039, and the authorizations referred to in paragraph 1 shall be effective for thirty years, from the date of publication of the granting.

§ 3. After the expiration of the authorization terms dealt with in this article, the project shall be granted, upon calling for bids, or disabled.

§ 4. For the case of projects dealt with in the head paragraph and in paragraph 1, the exclusivity term the first utilities will have shall be ten years, from the beginning of the commercial operation of the respective transport gas pipeline.

§ 5. The list of goods and facilities related to the transport activity under authorization regime dealt with in this article shall be forwarded by the respective carriers to the ANP, for approval, within one hundred and eighty days as from the date of publication of this Decree.

§ 6. The carriers shall forward to the ANP, within ninety days from the date of publication of this Decree, the list of gas pipelines that fall under paragraph 1, informing the environmental licensing body and the supporting documentation corroborating that the gas pipeline was under environmental licensing process on March 5, 2009, under penalty of not receiving the corresponding authorization.

§ 7. The authorized carrier shall replace the goods related, necessary for the good performance of the transport activity, regardless of the remaining concession term, observing the regulation issued by the ANP.

§ 8. The provisions provided for in articles 32, 33 and 34 shall be applicable to authorized carriers dealt with in this article.

Article 42. The expansion of gas pipeline that falls under article 41 shall be under authorization regime, with the same terms as that remaining from the original authorization of gas pipeline to be expanded.

Sole Paragraph. The definition of transport rate of the expansion dealt with in the head paragraph may consider an investment amortization and depreciation period superior to the authorization term, as established by the ANP.

Article 43. The expansion of capacity of the existing pipelines shall:

I - be authorized, pursuant to regulation established by the ANP;

II - be preceded by public call for tender to be conducted by the ANP and shall directly and indirectly be promoted by it, according to guidelines established by the Ministry of Mines and Energy; and

III - respect the exclusivity term, observing the provisions of item IV of paragraph 1 of article 11.

Sole Paragraph. The carrier that holds the authorization of existing pipeline shall have the preemptive right to carry out the expansion dealt with in the head paragraph.

Article 44. In case of expiration of the authorization, the goods connected shall be incorporated to the Union's assets, upon declaration of public utility, and fair and previous indemnification in cash, under the following:

I - only the portion of the goods to be depreciated or amortized shall be indemnified;

II - the indemnification amount shall be defined by the ANP and consider assets valuation methods, such as the current value and the cost of asset replacement, discounting the depreciation and the amortization occurred until the date of expiration of the authorization; and

III - Only the goods whose installation had been previously and explicitly authorized by the ANP shall be indemnified.

Sole Paragraph. The provisions of article 25 are applicable to the goods dealt with in this article, as the case may be.

Article 45. The ANP shall announce, within one hundred and eighty days from the publication of this Decree, the list of transport pipelines authorized, under environmental licensing process and transfer pipelines to be converted into transport pipelines, pursuant to this Decree and Law 9478 of 1997, informing, where applicable the expiration date for the exclusivity term.

Article 46. The transport rates and revision criteria already defined up to March 5, 2009, are hereby preserved.

§ 1. The ANP, within ninety days as from the publication of this Decree, shall announce the transport rates and revision criteria referred to in the head paragraph, observing the principles of transparency and publicity.

§ 2. Except for the income tax, the creation, change or expiration of any legal taxes and duties shall imply in upward or downward revision of the rate, in case their impact is corroborated, as applicable, after approval by the ANP.

Article 47. The transport agreements entered into until March 5, 2009 and whose expiration terms exceed the authorization period defined in paragraph 2 of article 41, shall be assumed by the concessionaire that is appointed to operate the gas pipeline, for the remaining agreement term, and the respective information shall be an integral part of the corresponding tender protocol.

Sole Paragraph. The transport agreements to be entered into due to the expansion of capacity of the gas pipelines referred to in article 41 and whose duration exceeds the authorization term, shall also be assumed by the concessionaire, and the respective information shall be an integral part of the corresponding tender protocol.

Section VII

Access of Third Parties to the Gas Pipelines and Assignment of Capacity

Article 48th. The access of third parties to the transport gas pipelines shall be granted, respecting the exclusivity term.

Sole Paragraph. The swap of natural gas, dealt with in article 15, is considered as a form of access by third parties to the transport gas pipelines.

Article 49. The access to the transport gas pipelines shall be through the hiring of the following transport services, among other ways:

- I - firm, in available capacity;
- II - interruptible, in idle capacity; and
- III - extraordinary, in available capacity;

§ 1. The access to the gas pipelines shall be first in the available capacity and, only after its full hiring the right to access the idle capacity shall be granted.

§ 2. The access to the firm transport service, in available capacity, shall be through public call for tender carried out by the ANP, according to guidelines of the Ministry of Mines and Energy.

§ 3. The access to the interruptible and extraordinary transport services, shall be pursuant to the regulations established by the ANP, having the publicity, transparency and guarantee of access ensured to all interested parties.

Article 50. The ANP shall establish the criteria for the definition of the amounts due by third parties that accessed the

transport gas pipelines, the payment conditions and its destination.

Article 51. The assignment of the right to use the firm transport capacity hired is hereby authorized, including during the exclusivity term.

Sole Paragraph. The ANP shall regulate the capacity assignment dealt with in this article, so as to preserve the carrier's rights.

Article 52. The expansion of the transport capacity is characterizes as a form of access of third parties to the gas pipelines, with due regard to the exclusivity term established, observing the provisions of article 11.

CHAPTER III

IMPORT AND EXPORT OF NATURAL GAS

Article 53. Any corporation or consortium organized under the Brazilian laws, with headquarters and administration in the Country, may receive authorization from the Ministry of Mines and Energy to perform natural gas import and export activities.

§ 1. The ANP shall produce evidence for the request to exercise the natural gas import and export activity, also with the inspection of that activity.

§ 2. The performance of natural gas import and export shall observe the guidelines established by the National Council on Energy Policy - CNPE.

CHAPTER IV

STORAGE AND PACKAGING OF NATURAL GAS

Article 54. The storage of natural gas shall be performed by a corporation or consortium organized under the Brazilian laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, through concession, preceded by bidding process, or authorization.

Article 55. The storage of natural gas in hydrocarbon reservoirs relinquished to the Union, and in other non-producing geological formations shall be object of concession for use, preceded by bidding process under the competition method, pursuant to paragraph 1 of article 22 of Law 8666 of June 21, 1993, and the exploration shall be at the concessionaire's own risk and expense.

§ 1. The Ministry of Mines and Energy or, the ANP through delegation, shall define the geological formations referred to in the head paragraph of this article that shall be object of the bidding process.

§ 2. The interested parties may suggest geological formations to be granted for storage.

§ 3. For the performance of the provisions of paragraph 1 and analysis of the provisions of paragraph 2, both the Ministry of Mines and Energy and the ANP may request specific technical studies with the EPE.

§ 4. The ANP shall prepare the tender protocols and promote the bidding process for the concession of the storage activities dealt with in the head paragraph.

§ 5. The Ministry of Mines and Energy shall enter into the concession agreements for the storage of natural gas, and may

delegate such competence to the ANP.

§ 6. The Ministry of Mines and Energy shall, after consulting with the ANP, establish the exclusivity term for the agents whose hiring storage capacity has enabled or contributed to enable the implementation of storage facility dealt with in the head paragraph.

§ 7. The ANP shall establish the rules for access of third parties to the storage facilities objects of concession agreements, respecting the exclusivity term defined in paragraph 6.

§ 8. The concession agreement referred to in the head paragraph shall set forth, among other things, the concessionaire's obligations when the agreement expires and regarding the relinquishment of the reservoir explored.

§ 9. The imported or produced natural gas, pursuant to article 26 of Law 9478 of August 6, 1997, and stored in natural geological formations shall not constitute property of the Union, according to article 20 of the Constitution.

Article 56. The ANP shall deliver geological data regarding the areas with potential for the storage of natural gas to the interested parties, with due consideration.

§ 1. The ANP shall authorize the interested parties referred to in the head paragraph, pursuant to regulation, to carry out non-exclusive exploratory surveys in areas with potential for the storage of natural gas.

§ 2. All data obtained in the exploratory activities dealt with in paragraph 1 shall be transferred to the ANP, free of charge.

Article 57. It is the concessionaires' responsibility to zeal for the integrity of the geological formations used for the storage of natural gas, and the ANP shall define the procedures to follow-up

the activity.

Sole Paragraph. The concession agreement shall contain the sanctions applicable due to the bad use of the geological formations.

Article 58. The storage of natural gas in a facility other than those provided for in article 55 hereof shall be authorized, regulated and inspected by the ANP, and the access of third parties to the facilities is not mandatory.

Article 59. The packaging of natural gas shall be performed by a corporation or consortium organized under the Brazilian laws, with headquarters and administration in the Country, at the entrepreneur's own risk and expense, upon authorization.

Sole Paragraph. The filling of gas pipeline, as well as increase or lowering of pressure shall not characterize as packaging of natural gas.

Article 60. The ANP shall regulate the packaging activity for the transport and commercialization of natural gas to the end consumer through alternative means to the pipelines.

§ 1. Alternative means to the pipelines means the movement of natural gas by highway, railway and waterways.

§ 2. The ANP shall cooperate with other public bodies and agencies to adapt the regulation of the transport referred to in paragraph 1.

CHAPTER V

GAS PRODUCTION OFFLOADING PIPELINES AND FACILITIES FOR PROCESSING, TREATMENT, LIQUEFACTION, REGASIFICATION OF NATURAL GAS

Article 61. Any corporation or consortium organized under the Brazilian laws, with headquarters and administration in the Country, may receive authorization from the ANP to construct, expand the capacity and operate natural gas liquefaction and regasification plants, LNG terminals, natural gas liquefaction and regasification plants, as well as gas pipelines for the production transfer and offloading out of the concession for the exploration and production of petroleum and natural gas.

Sole Paragraph. The ANP shall establish the requirements and conditions for the authorization and transfer of authorization ownership, respecting the environmental protection and safety standards of the facilities.

Article 62. The gas pipelines for production offloading, the natural gas treatment or processing plants, as well as the liquefaction and regasification terminals, are exempt from granting access to third parties..

CHAPTER VI

DISTRIBUTION AND COMMERCIALIZATION OF NATURAL GAS

Article 63. The free consumer, the self-producer or self-importer whose needs for movement of natural gas cannot be fulfilled by the state distribution company, may directly construct and implement facilities and pipelines for its own

specific consumption, by means of an agreement assigning its operation and maintenance to the state distribution company, and the facilities and pipelines shall be incorporated to the State's assets through declaration of public utility and fair and previous indemnification, in case of full use.

§ 1. The operation and maintenance rates for the facilities shall be established by the state regulating body according to the principles of reasonableness, transparency, publicity, and the specific characteristics of each facility.

§ 2. In case the facilities and pipelines are constructed and implemented by the state distribution companies, the rates established by the state regulating body according shall consider the investment, operation and maintenance costs, observing the principles of reasonableness, transparency, publicity, and the specific characteristics of each facility.

§ 3. In case the distribution facilities are constructed by the free consumer, the self-producer or self-importer, pursuant to the head paragraph, the state distribution company may request that the facilities are sized in a way to allow that other users have their needs met, negotiating the necessary compensations with the free consumer, the self-producer or self-importer, under arbitration of the state regulating body.

Article 64. The corporations that wish to act as self-producer or self-importer shall be previously registered with the ANP.

§ 1. The self-importer registration shall only be granted to corporations authorized to carry out the import activity.

§ 2. The self-producer registration shall only be granted to corporations that enter into agreements with the Union to explore and produce petroleum and natural gas, with commercial discovery declared and production development plan approved by the ANP.

§ 3. The self-producer registration for the members of the consortium that fall under the provisions of paragraph 2 shall be granted according to the limits of its participation in the gas production in the consortia mentioned above.

§ 4. The corporations that act as self-producer and self-importer shall notify the ANP on a monthly basis, within the terms and forms established by the latter, the natural gas volumes used in each of their facilities.

§ 5. For the purposes of qualification as self-producer or self-importer, according to the provisions of items III and IV of article 2nd, their facilities means those explored or held by the same corporation that performs the natural gas import or production.

§ 6. The corporations directly or indirectly controlled by other corporations that perform the natural gas import or production, as well as by the controlling shareholders of the producing or importing corporation, may request their qualification as self-producer or self-importer to the ANP.

§ 7. In case of corporations associated to producing or importing corporation, the qualification referred to in paragraph 6 shall be proportional to their interest in the producing or importing corporation in the associated corporation's share capital.

Article 65. The construction, implementation and incorporation of the facilities and pipelines referred to in the head paragraph of article 63 to state distribution companies' assets, as well as the qualification of end users as free consumers, shall respect the specific law on the local piped gas distribution services.

Sole Paragraph. The ANP shall be responsible for authorizing the construction and operation of the city gates the interconnect transport gas pipelines to the pipelines referred to in article 63.

Article 66. Except for the provisions of paragraph 2 of article

25 of the Constitution, the commercialization of natural gas shall be upon the execution of agreements filed with the ANP.

§ 1. The ANP shall inform the origin or characteristics of the reservoirs that will support the supply of the natural gas volumes hired, when requested by the acquirer at the time of the hiring.

§ 2. The ANP may, according to specific regulation, request the data referred to in paragraph 1st from the natural gas sales agent.

§ 3. The natural gas commercialization activity dealt with in the head paragraph, defined in item XII of article 2, shall only be performed by agent registered with the ANP, pursuant to its regulation.

Article 67. The natural gas commercialization agreements shall contain a clause for the resolution of possible controversies, which may provide for arbitration agreement, pursuant to Law 9307 of 1996.

Article 68. The public enterprises and the government-controlled corporations, their subsidiaries and affiliated companies, holders of concession or authorization, are hereby authorized to adhere to the instrument and arbitration agreement referred to in article 67th.

Sole Paragraph. The rights related to credits and debts deriving of hiring of natural gas dealt with in article 47 of Law 11909 of 2009, are hereby regarded as available.

CHAPTER VII

FINAL AND TRANSITORY PROVISIONS

Article 69. The maintenance of the current natural gas consumption regimes is hereby assured in fertilizer production plants and national or imported petroleum refining facilities existing as of March 5, 2009.

Sole Paragraph. The natural gas volumes consumed in each of the fertilizer production plants and in the refineries dealt with in the head paragraph shall be monthly informed to the ANP.

Article 70. The maintenance of the gas pipelines exploration regimes and methods that supply natural gas to the national or imported petroleum refining facilities and the fertilizer production plans existing as of March 5, 2009 is hereby assured.

Article 71. The ANP shall provide, within one hundred and eighty days after the publication of this Decree, the requalification of all gas pipelines that do not fall under the new definitions provided in this Decree, and whose prior qualification is not kept by the provisions in article 70th.

Article 72. The ANP shall issue rules to characterize the expansion of capacity of transport gas pipelines.

Article 73. The ANP shall deliver, in electronic media accessible to any interested party and at a place of easy access, updated information on the daily movement and the capacity of all transport gas pipelines, as well as the hired transport capacity, the available capacity, the idle capacity and the exclusivity terms.

Article 74. The acts issued by the ANP as from the date of publication of Law 11909 of 2009 related to the import of natural gas are hereby ratified.

Article 75. The Ministry of Mines and Energy and the ANP shall issue supplementary rules and necessary regulations for the effective implementation of the provisions of this Decree.

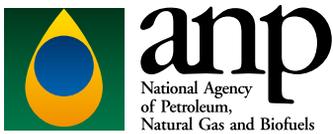
Article 76. This Decree shall come into force on the date of its publication.

Brasilia, December 2, 2010; 189th year of the Independence and 122nd of the Republic.

LUIZ INÁCIO LULA DA SILVA

Márcio Pereira Zimmermann

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Ministry of
Mines and Energy

