

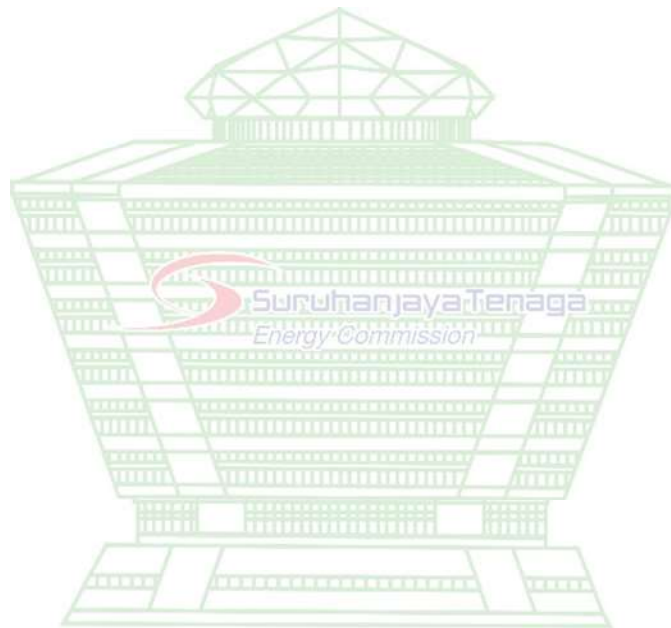
GUIDELINES

ON LICENCE APPLICATION

Established pursuant to section 11A of Act 501

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1. Objective and Scope

- 1.1. The Malaysian Gas Third Party Access System (“TPA System”) was implemented mainly for the purpose of allowing the utilisation of the country’s existing and future gas infrastructures by multiple parties to import gas into the country. By implementing the TPA System, it is envisaged that the country would promote competition in the gas market and ensure the reliability and sustainability of national gas supplies.
- 1.2. In order to implement the TPA System, the Gas Supply (Amendment) Act 2016 (the “Amendment Act”) was gazetted on 9 September 2016 to amend the then Gas Supply Act 1993 to include provisions in relation to the economic regulation of the import into regasification terminal, regasification, shipping, transportation and including safety and technical regulations in the case of distribution or the retail or use of gas through a piping system and related matters. More particularly, the Commission was given the task to regulate such matters.
- 1.3. The Gas Supply Regulations 1997 was also subsequently amended to cater for the new scope introduced by the Gas Supply Act 1993.
- 1.4. For the purposes of the following provisions of these Guidelines, any reference to the “Gas Supply Act 1993” shall mean a reference to such Act, as amended, varied or modified by the Amendment Act and any reference to the “Gas Supply Regulations 1997” shall mean a reference to such Regulations, as similarly amended, varied or modified.
- 1.5. The relevant parties are also to note that there may be other authorities who have jurisdiction over technical and safety issues throughout the gas value chain, for example, the current jurisdiction of the Department

of Occupational Safety and Health (“DOSH”) on technical and safety issues relating to regasification terminals and transmission pipelines in Malaysia pursuant to the, Petroleum (Safety Measures) Act 1984 and Factories and Machinery Act 1967. Such matters are not covered under the Gas Supply Act 1993 and as such the relevant parties are required to independently liaise with these authorities, if necessary. It shall be the sole responsibility of the relevant parties to identify and ascertain such matters.

1.6. Definitions and interpretations: Unless expressly indicated to the contrary or unless the context otherwise requires, terms adopted and used in these Guidelines shall bear the same meaning as they are defined in the Gas Supply Act 1993.

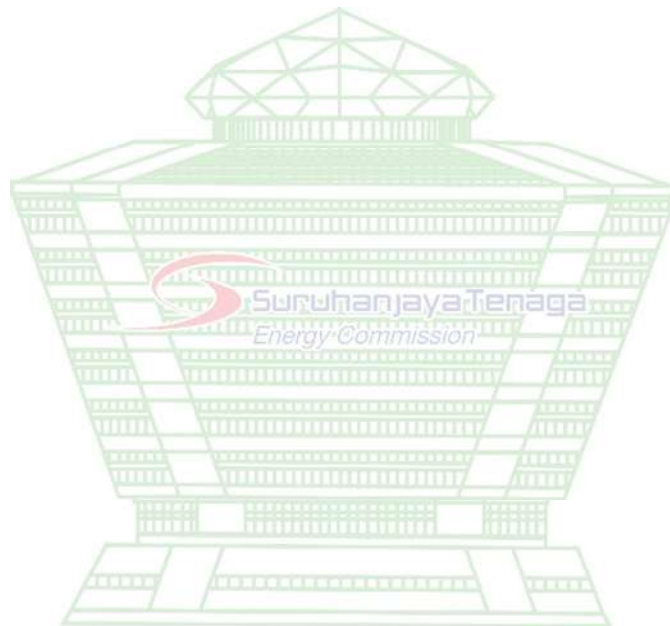
1.7. Within its expanded regulatory scope, the Commission as provided under Section 11 of the Gas Supply Act 1993 may grant the following licences on certain conditions and on payment of certain fees:

- (a) import into regasification terminal licence;
- (b) shipping licence;
- (c) regasification licence;
- (d) transportation licence;
- (e) distribution licence;
- (f) retail licence; and
- (g) private gas licence.

- 1.8. The objective of these Guidelines is to establish a framework for the issuance of the abovementioned licences including the conditions which may be imposed together with the issuance of such licences.

- 1.9. These Guidelines are not the substitute for the Gas Supply Act 1993 nor for any Regulations made thereunder. Anyone in doubt about how they may be affected by the Gas Supply Act 1993 should obtain independent legal advice in respect thereof.


END OF SECTION



2. Basic Principles

2.1. Save and except for private gas licences and any other circumstances as may be determined by the Commission, an entity may only hold one licence at any particular time.

2.2. Subject to specific requirements as may be prescribed further in these Guidelines and save and except for an application for a retail licence or a private gas licence, an entity which intends to apply for a licence under the Gas Supply Act 1993 (“Applicant”) shall possess the following criteria:

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- (a) the Applicant is incorporated locally or in any other countries approved by the Commission;
 - (b) the Applicant fulfils a certain minimum paid-up capital requirement as may be prescribed by the Commission;
 - (c) all directors sitting on the board of directors of the Applicant may not hold any directorships on the board of directors of any other Applicant or any other holder of a licence issued under the Gas Supply Act 1993;
 - (d) the Applicant has sufficient financial capability by submitting three (3) consecutive years of Financial Statements of the Applicant to the satisfaction of the Commission. Provided that if the Applicant is not able to provide three (3) consecutive years of Financial Statements, the holding company or the shareholders of the Applicant shall establish financial capability by providing the said documents or any other relevant documents;

- (e) the Applicant has sufficient relevant technical capability; and
- (f) the Applicant complies with such other additional requirements as may be set by the Commission from time to time.

2.3. The specific requirements to be fulfilled by each Applicant are as follows:

- (a) for import into regasification terminal licence:
 - (i) the Applicant is a company which is either incorporated or registered as a foreign company under the Companies Act of Malaysia or Labuan.
 - (ii) the Applicant has a paid-up capital of at least RM1 million (or equivalent in other currencies).
 - (iii) the Applicant must submit such other information/documents as may be requested by the Commission.
- (b) for shipping licence:
 - (i) the Applicant is a company which is incorporated under the Companies Act of Malaysia or Labuan.
 - (ii) the Applicant has a paid-up capital of at least RM5 million.
 - (iii) the Applicant must submit the following information/documents:

- (aa) if the Applicant is a company which has been active for at least the past 3 years, the audited financial statements of the Applicant for the past 3 years.
- (ab) if the Applicant is not a company which has been active for the past 3 years, the audited financial statements of the holding company of the Applicant for the past 3 years.
- (ac) such other information/documents as may be requested by the Commission.
- (c) for regasification licence:
 - (i) the Applicant is a company which is incorporated under the Companies Act of Malaysia.
 - (ii) the Applicant has a paid-up capital of at least RM5 million.
 - (iii) except for human resources and finance personnel, the management team of the Applicant must possess, individually, at least 5 years of working experience in the Malaysian gas market.
 - (iv) the Applicant must submit the following information/documents:
 - (aa) a brief write-up which shall contain, among others, a description of the regasification activities, relevant capacity and technical specifications of the

regasification terminal. Where possible, the write-up shall include process and instrumentation diagrams.

(ab) if not already included in the abovementioned brief write-up, a layout plan of the regasification facility which shall show, among others, each major physical unit within the regasification facility.

(ac) if the Applicant is a company which has been active for at least the past 3 years, the audited financial statements of the Applicant for the past 3 years.

(ad) if the Applicant is not a company which has been active for the past 3 years, the audited financial statements of the holding company of the Applicant for the past 3 years.

(ae) such other information/documents as may be requested by the Commission.

(v) for new licences, applications must be submitted no less than 180 working days before the date of the activity of regasification of gas is carried out.

(d) for transportation licence:

(i) the Applicant is a company which is incorporated under the Companies Act of Malaysia.

(ii) the Applicant has a paid-up capital of at least RM5 million.

- (iii) except for human resources and finance personnel, the management team of the Applicant must possess, individually, at least 5 years of working experience in the Malaysian gas market.
- (iv) the Applicant must submit the following information/documents:
 - (aa) a brief write-up which shall contain, among others, a description of the transportation activities including the specific area of supply, the capacity and the technical specifications of the relevant transmission pipeline.
 - (ab) if not already included in the abovementioned brief write-up, a location plan of the relevant transmission pipeline and all other facilities utilised or to be utilised in the transportation activities.
 - (ac) if the Applicant is a company which has been active for at least the past 3 years, the audited financial statements of the Applicant for the past 3 years.
 - (ad) if the Applicant is not a company which has been active for the past 3 years, the audited financial statements of the holding company of the Applicant for the past 3 years.
 - (ae) such other information/documents as may be requested by the Commission.

- (v) for new licences, applications must be submitted no less than 180 working days before the date of the activity of transportation of gas is carried out.
- (e) for distribution licence:
- (i) the Applicant is a company which is incorporated under the Companies Act of Malaysia.
 - (ii) the Applicant has a paid-up capital of at least RM5 million.
 - (iii) except for human resources and finance personnel, the management team of the Applicant must possess, individually, at least 5 years of working experience in the Malaysian gas market.
 - (iv) the Applicant must submit the following information/documents:
 - (aa) a brief write-up which shall contain, among others, a description of the distribution activities including the specific area of supply, the capacity and the technical specifications of the relevant distribution pipeline.
 - (ab) if not already included in the abovementioned brief write-up, a location plan of the relevant distribution pipeline and all other facilities utilised or to be utilised in the distribution activities.

- (ac) if the Applicant is a company which has been active for at least the past 3 years, the audited financial statements of the Applicant for the past 3 years.
- (ad) if the Applicant is not a company which has been active for the past 3 years, the audited financial statements of the holding company of the Applicant for the past 3 years.
- (ae) such other information/documents as may be requested by the Commission.
- (v) for new licences, applications must be submitted no less than 180 working days before the date of the activity of distribution of gas is carried out.
- (f) for retail licence:
 - (i) the Applicant is either a company which is incorporated locally, or a government body or agency recognised by the Commission.
 - (ii) the Applicant must submit the following information/documents:
 - (aa) a brief write-up which shall contain, among others, a description of the retail activities including the specific area of supply and the technical specifications of the relevant piping system.

- (ab) if not already included in the abovementioned brief write-up, a layout plan of the relevant piping system.
 - (ac) such other information/documents as may be requested by the Commission.
- (g) for private gas licence:
- (i) the Applicant is a company which is incorporated locally, or a government body or agency recognised by the Commission, a business registered under the Business Registration Act 1956, a society registered under the Societies Act 1966 or a public entity recognised by the Commission such as public hospitals or public schools or an individual.
 - (ii) the Applicant must submit such other information/documents as may be requested by the Commission.
- 2.4. An Applicant may apply for an exemption of the requirement in paragraph 2.2(c) by submitting an exemption application to the Commission together with its licence application. It shall be the sole and absolute discretion of the Commission whether or not to grant such exemption.

2.5. Submission of Licence Application

- (a) An Applicant must submit a licence application before commencing any activities for which a licence is required under the Gas Supply Act 1993.
- (b) An Applicant shall make a licence application through the Commission's Online Application System (OAS) e-Gas which is available through oas.st.gov.my or by any other alternative methods as may be determined by the Commission.
- (c) An Applicant must submit together with its licence application all relevant supporting documents as may be required by the Commission.

2.6. Upon submission of the licence application and before a licence is granted by the Commission (if any), the Commission may request for further written information from the Applicant and/or invite the Applicant for a meeting for the Commission to clarify any issues.

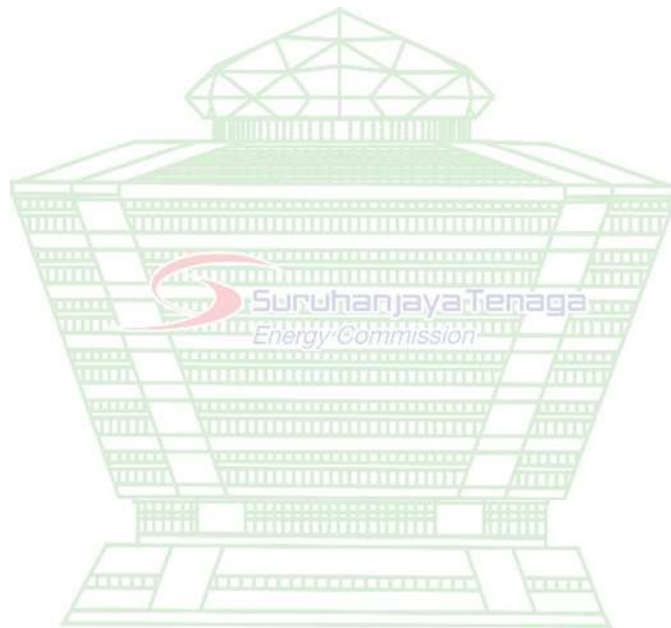
2.7. The Commission shall give due consideration to the licence applications which comply with all of the requirements of these Guidelines. Notwithstanding the foregoing, the final authority to grant an import into regasification terminal licence, shipping licence, retail licence and private gas licence lies with the Commission while the final authority to grant a regasification licence, transportation licence and distribution licence lies with the Minister.

END OF SECTION

3. Fees

The Applicants should be mindful that there would be fees payable in relation to their licence application, for example, at the point of submission and at the point of approval. As such, the Applicants are advised to refer to the Gas Supply Act 1993 and all regulations made thereunder to ascertain such payable fees.

END OF SECTION



4. Licence Conditions

Together with the issuance of the relevant licence, the Commission will also, at its discretion, issue the licence conditions which need to be observed for each licence.

END OF SECTION

Dated: - 1 JUL 2020



ABDUL RAZIB DAWOOD

Chief Executive Officer
for Energy Commission