

SENATE OF PAKISTAN



**REPORT OF THE SENATE SPECIAL COMMITTEE ON GAS
INFRASTRUCTURE DEVELOPMENT CESS BILL, 2015**

PRESENTED BY
SENATOR IQBAL ZAFAR JHAGRA
CHAIRMAN

Contents

➤ Preface	3
➤ Introduction.....	4
➤ Recommendations.....	5
 ANNEXTURES.....	 8
➤ Minutes of the meeting held on 14 th July, 2015	
➤ Minutes of the meeting held on 7 th October, 2015	
➤ Minutes of the meeting held on 6 th November, 2015	
➤ Minutes of the meeting held on 12 th November, 2015	

PREFACE

Pursuant to discussion held in the Senate of Pakistan on 20th May, 2015, on a motion moved by Senator Ilyas Ahmed Bilour regarding implementation on the Gas Infrastructure Development Cess Bill, 2015.

2. In this context, I was appointed as the Convener of the Special Committee. The Committee decided to examine various dimensions of this issue involving the principle stakeholders and, in this context, the Committee held meetings and detailed presentations and briefings from government officials, experts and professionals of the respective sector.

3. I am grateful to the honorable members of the Committee, Minister for Petroleum and Natural Resources, State Minister for Petroleum and Natural Resources, Secretary, Ministry of Petroleum and Natural Resources, Secretary, Ministry of Finance Revenue, Economic Affairs, Statistics and Privatization, Secretary of the Special Committee and other participants on their cooperation with the Committee.

Sd/-

(Senator Iqbal Zafar Jhagra)

INTRODUCTION

In the sitting of the Senate held on 20th May, 2015, Senator Ilyas Ahmed Bilour moved motion under Rule 204 of the Rules of Procedure and Conduct of Business in the Senate, 2012, that a Special Committee be constituted to monitor the implementation of the Gas Infrastructure Development Cess, 2015 as passed by the Majlis-e-Shoora (Parliament) and to make recommendations for removal of anomalies if any. After hearing the members, the Chairman ruled that a Special Committee would be constituted to monitor the Implementation of the Gas Infrastructure Development Cess Bill, 2015, to make recommendations for removing anomalies, if any, and report back to the House.

2. The Composition of the Special Committee was as under:-

i.	Senator Iqbal Zafar Jhagra	Convener
ii.	Senator Ilyas Ahmed Bilour	Member
iii.	Senator Professor Sajid Mir	Member
iv.	Senator Muhammad Zafarullah Khan Dhandla	Member
v.	Senator Saleem Mandviwala	Member
vi.	Senator Osman Saifullah Khan	Member
vii.	Senator Muhammad Ali Khan Saif	Member
viii.	Senator Mohsin Aziz	Member
ix.	Senator Muhammad Talha Mehmood	Member
x.	Senator Hasil Khan Bazenjo	Member
xi.	Senator Hilal-ur-Rehman	Member
xii.	Senator Saeed Ghani	Member
xiii.	Senator Islamuddin Shaikh	Member
xiv.	Senator Saeed-ul-Hassan Mandokhail	Member
xv.	Senator Muhammad Usman Khan Kakar	Member
xvi.	Senator Muhammad Mohsin Khan Leghari	Member
xvii.	Minister for Petroleum & Natural Resources Ex-Officio Member	

3. The Committee met on 14th July, 2015, 7th October, 2015, 6th November, 2015 and 12th November, 2015. The Committee decided that before taking any decision on the issue all the stake holders would be taken on board. In this regard the Committee invited stakeholders from CNG Sector, Fertilizer Sector and Ceramic Industry to know their views and perspectives regarding the issue under deliberation.
4. The Special Committee after detailed deliberations and discussions with different stakeholders unanimously finalized the following recommendations:-

RECOMMENDATIONS

- i) The Committee recommends that the Gas Infrastructure Development Cess issue should be treated sector wise and noted that all sectors are ready to pay but not retrospectively.
- ii) The Committee recommends that the CNG Sector should be given a sympathetic consideration and the Exemption should be provided in pursuance of the Orders of the Court of Law from time to time. Any CNG Station who has not paid the GIDC Amount in the Gas Bills from the Gas distribution Companies because of the respective Court Orders or from whom such recovery could not be effected on account of any interim or final orders of any Court shall be exempted from payment of such arrears together with any further sum(s) whatsoever accrued or chargeable thereupon on account of such non-payment.
- iii) The Committee recommends that in case of exemption of all the arrears agreed as stated in recommendation ii, CNG Stations shall not be seeking any refund or claim repayment of any sums, if so recovered by the Gas Utility Companies in the name of GIDC notwithstanding any Judgment, decree or Order of any Court, including any of the High Courts or Apex Supreme Court of Pakistan.

- iv) The Committee recommends that aforesaid arrangement shall be available only to those CNG stations/owners, whose list will be provided to Gas Utility Companies by CNG Forum/All Pakistan CNG Association. CNG Forum, in its turn, would prepare such lists in consultation with respective CNG Associations, who shall seek a written Affidavit on their Company Letterhead from each of their members whose names are to be included in the list. Affidavits shall, inter alia, contain a written undertaking that the CNG station's owner concerned unconditionally agrees to the aforesaid terms, and shall not claim repayment or refund of any sum if so recovered on account of GIDC. These CNG owners/members in their respective Affidavits shall hold the CNG Forum through its nominees and their respective Associations harmless and indemnified in respect of any loss or claim on account of this settlement.
- v) The Committee recommends that as OGRA is empowered to exercise its power on non-discriminatory basis, it shall notify prices of CNG in a fair and transparent manner, in accordance with the applicable Rules/Regulations and after seeking consultative feedback from the stakeholders.
- vi) The Committee recommends that the Ceramic Industry should be treated at par with other industries as it is also incurring huge losses on account of energy shortage and smuggling.
- vii) The Committee recommends that for captive power producers (CPPs) producing electricity for their own consumption no retrospective GIDC will be charged. The Committee also recommended that the rate of GIDC for CPPs for future i.e. after promulgation of GIDC act be brought down at par with the Industrial Sector/Industry. It was further directed that the SPP (Small Power Producer) and NCPP (New Captive Power Producers) will be treated at par with IPPs.
- viii) The majority of the Committee's members agree with the point of view of Ministry of Petroleum and Natural Resources and Ministry of Finance

Revenue, Economic Affairs, Statistics and Privatization that the matter of new fertilizer plants and payment of GIDC is sub judice. However Senator Muhammad Mohsin Khan Leghari was of the point of view that when the new fertilizer plants are collecting GIDC, by selling at increased price (Rs.160/bag) they should deposit it with the government. He recommended that the government may withdraw GIDC on Fertilizer, and the revenue thus lost should be paid by the government as "subsidy" in the kissan package announced by Prime Minister.


(IFFAT MUSTAFA)
Secretary Committee


(SENATOR IQBAL ZAFAR JHAGRA)
Chairman Committee

ANNEXTURES

- Minutes of the meeting held on 14th July, 2015
- Minutes of the meeting held on 7th October, 2015
- Minutes of the meeting held on 6th November, 2015
- Minutes of the meeting held on 12th November, 2015

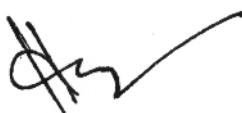
SENATE SECRETARIAT

SUBJECT: MINUTES OF THE MEETING OF THE SENATE SPECIAL COMMITTEE ON IMPLEMENTATION OF THE GAS INFRASTRUCTURE DEVELOPMENT CESS Act, 2015 HELD ON 14TH JULY, 2015

A meeting of the Senate Special Committee on Implementation of the Gas Infrastructure Development Cess (GIDC) Act, 2015 was held under the Chairmanship of Senator Iqbal Zafar Jhagra, on Tuesday, the 14th July, 2015 at 12:30 p.m. in Committee Room No. 4, Parliament House, Islamabad.

2. The agenda before the Committee was as under:-
 - i. To consider the Implementation of Gas Infrastructure Development Cell Bill, 2015.
 - ii. Any other item with the permission of the Chair.
3. The following Members of the Committee attended the meeting:-

i.	Senator Iqbal Zafar Jhagra	Chairman
ii.	Senator Ilyas Ahmed Bilour	Member
iii.	Senator Saleem Mandviwala	Member
iv.	Senator Muhammad Ali Khan Saif	Member
v.	Senator Mohsin Aziz	Member
vi.	Senator Hasil Khan Bizenjo	Member
vii.	Senator Senator Saeed Ghani	Member
viii.	Senator Senator Muhammad Usman Khan Kakar	Member
ix.	Senator Muhammad Mohsin Khan Leghari	Member
x.	Minister for Petroleum & Natural Resources	Ex-Officio Member
4. A list of participants from different ministries/departments is enclosed as annexure-A.
5. The meeting commenced with the recitation of the Holy Quran. The Chairman Committee welcomed all the participants of the meeting.



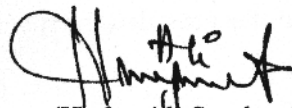
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6. In the beginning, Captive Power Plants (CPPs) issue of retrospective charges and rates was taken for decision. After detailed discussion and deliberation the following recommendations/decisions were taken.


(a) That the New-Captive Power Plants (N-CPPs) and Small Power Plants (SPPs) will be treated at par with Independent Powers Plants (IPPs) under the Gas Infrastructure Development Cess Act, 2015, whereas Captive Power Plants (CPPs) will be treated at par with Industrial Sector under the Gas Infrastructure Development Cess Act, 2015.

(b) As far the matter of future schedule rates are concerned, the matter will be discussed in the forthcoming meeting of the Committee.

7. The meeting was ended with a vote of thanks to and from the Chair.



(Hyder Ali Sundrani)
DS/ Secretary Committee



(Senator Iqbal Zafar Jhagra)
Chairman

SENATE SECRETARIAT

MINUTES OF THE MEETING OF THE SPECIAL COMMITTEE TO MONITOR THE IMPLEMENTATION OF THE GAS INFRASTRUCTURE DEVELOPMENT CESS BILL, 2015.

A meeting of the Special Committee to monitor the implementation of the Gas Infrastructure Development Cess Bill, 2015, was held on 7th October, 2015, at 03.00 p.m., (Commenced at 03.10 p.m.) in Committee Room No.1, Parliament House, Islamabad, under the Convener ship of Senator Iqbal Zafar Jhagra.

2. The following members also attended the meeting: -

- | | |
|--|-------------------|
| 1. Senator Hasil Khan Bizenjo | Member |
| 2. Senator Prof. Sajid Mir | Member |
| 3. Senator Saleem Mandviwalla | Member |
| 4. Senator Mohsin Aziz | Member |
| 5. Senator Hilal-ur-Rehman | Member |
| 6. Senator Muhammad Usman Khan Kakar | Member |
| 7. Senator Osman Saifullah Khan | Member |
| 8. Mr. Shahid Khaqan Abbasi,
Minister for Petroleum & Natural Resources | Ex-officio Member |

List of participants from the M/O P&N.R and PD&R is Annexed.

3. The agenda before the Committee was as under:-

- (i) Further consideration of the Implementation of
Gas Infrastructure Development Cess Bill, 2015.

4. The meeting commenced with the recitation from the Holy Quran. The Convener of the Committee welcomed all the participants. Thereafter, he requested the participants to introduce themselves after which the discussion on agenda item was started.

M. J.

5. The Committee discussed in detail the issue of collection of Cess from the gas consumers in the Industrial Sector and Captive Power Plants (CPPs) retrospectively under the GIDC Act. The Committee was of the considered view that the collection of GIDC retrospectively from the gas consumers in the said Sector and power plants which had not collected it from the consumers was unjustified as it was impossible to determine as to which industrial unit and the CPPs had passed on the burden of GIDC to the consumers and not paid to the Government.

6. After detailed deliberations the Special Committee deferred further consideration of the matter with the direction to the Ministry of Petroleum and Natural Resources to seek comments / legal views of experts on the subject for consideration by the Committee in its next meeting.

7. The meeting ended with the vote of thanks to and from the Chair (At 5.00 p.m.).



(MUHAMMAD TAHIR KHAN)
Secretary (Committee)



(SENATOR IQBAL ZAFAR JHAGRA)
Convener (Committee)

LIST OF THE PARTICIPANTS

- | | | |
|-----|------------------------------|--|
| 1. | Mr. Hasan Nawaz Tarar | Secretary, M/o P&NR. |
| 2. | Mr. Zakir Shah | PD CPEC, M/o P&NR. |
| 3. | Mr. Asif Sheikh | (Admin.) M/o P&NR. |
| 4. | Mr. Aamer Irshad | Chief, M/o PD&R. |
| 5. | Mr. Zafarul Hassan | M/o PD&R. |
| 6. | Mr. Zohair Fazil | Dy. Chief (I&C),
M/o PD&R. |
| 7. | Mr. Nisar Ahmed | Dy. Chief (Social
Welfare), M/o PD&R. |
| 8. | Mr. Ashfaq Ahmed | Asstt. Chief (DAD),
M/o PD&R. |
| 9. | Dr. F.H. Khattak | Chief (HOP), M/o PD&R. |
| 10. | Mr. M. Farooq Malik | M/o PD&R. |
| 11. | Mr. Shahid Naeem | M/o PD&R. |

SENATE SECRETARIAT

MINUTES OF THE MEETING OF THE SPECIAL COMMITTEE ON GAS INFRASTRUCTURE DEVELOPMENT CESS BILL, 2015 HELD ON 6TH NOVEMBER, 2015

A meeting of the Special Committee to monitor the implementation of the Gas Infrastructure Development Cess Bill, 2015 was held on 6th November, 2015 at 2:00 pm in the Committee Room No. 4, Parliament House Islamabad. The following members attended the meeting:

1.	Senator Iqbal Zafar Jhagra	Chairman
2.	Senator Ilyas Ahmed Bilour	Member
3.	Senator Saleem Mandviwala	Member
4.	Senator Muhammad Ali Khan Saif	Member
5.	Senator Mohsin Aziz	Member
6.	Senator Saeedul Hassan Mandokhail	Member
7.	Senator Muhammad Mohsin Khan Leghari	Member
8.	Minister for Petroleum Ex-Officio Member	

2. List of participants is annexed:-

3. The agenda before the Committee is as under:

- i) To consider the implementation of the Gas Infrastructure Development Cess Bill, 2015.
- ii) Consideration of Public Petition No. 540, submitted by Mr. Ghalib Khan on behalf of Ever Green CNG station, Peshawar addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.
- iii) Consideration of Public Petition No. 631, submitted by Syed Yawar, addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.
- iv) Consideration of Public Petition No. 890, submitted by All Pakistan Ceramic Tiles Manufacturers Association (APCTMA), addressed to the Chairman Senate, regarding collection of GIDC retrospectively from the Industrial Sector.

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4. Any other item with permission of the Chair.
5. The meeting started with the recitation from the Holy Quran by Senator Mohsin Aziz.
6. Chairman of the Committee, Senator Iqbal Zafar Jhagra welcomed Minister for Petroleum, Members of the Committee, all stakeholders and other participants of the meeting.
7. Chairman Committee stated that the Committee considered it vital to hear from all stakeholders about their views and perspectives regarding the issues under deliberation.

CNG SECTOR'S CONCERNS

8. Mr. Junaid Esmail Makda from CNG Forum started presentation on the behalf of CNG sector. He briefed the Committee about the genesis of the GIDC issue. He pointed out that the shortfall of thirty rupees in form of GIDC would make almost all CNG stations non-profitable but nonetheless the CNG business community is forced to continue its business.
9. OGRA has reduced the prices of CNG by completely ignoring all the components under the head of operating expense which was previously accepted by OGRA itself in its price notification.
10. They reduced 30 rupees when the supreme court gave its order; moreover they held a public hearing and also asked a third party to audit 20-25 stations for calculating pricing effect in view of the SC order. They removed all the components of our expenses to come up to the total of Rs 30. We filed our petitions to OGRA but no one paid any heed so the matter went in the court of the Federal Government and then to ECC; hence finally the CNG association was left with no option except to approach the court of law. He argued that OGRA should have followed the court order by issuing an order for removal of GIDC impact but it didn't happen and confusion continued to prevail. The issue has been wrongly presented by asserting that the GIDC was collected from the consumer and had not been deposited in the Government account.
11. Senator Mohsin Aziz said that GIDC was introduced in 2012 and it was Rs.13/kg at that time.
12. The Convener of the special Committee informed the Committee that OGRA held a public hearing by inviting all stakeholders. Mr. Junaid Esmail Makda responded that OGRA had already finalized the matter even before that public hearing and ignored the report of their auditors. Mr. Ghyas Paracha, Chairman Supreme Council APCNGA responded OGRA had held hearings in Lahore, Islamabad and Karachi and after these hearings they reduced the price by further eight rupees i.e. from Rs. 74.16/kg to Rs. 65/kg by cutting the margins and operational costs. He further informed the

committee members that they went to Islamabad High Court, OGRA and Ministry of Petroleum and Natural Resources but nothing happened and only after declaration by the Supreme Court that the measure is illegal, removed it from the Bills.

13. Mr. Junaid Esmail Makda said that the GIDC effect should be conditional to cost; only then our concern will be taken care of.

14. While responding to Senator Mohsin Aziz Chairman APCNGA Sindh stated that today Region I price is RS. 75.8/kg and Region II Rs. 67.50/kg whereas in 2014 price for region I was Rs.76.35/kg and Region II was Rs.71.50/kg. During last three years operating cost has not increased at all and has stayed constant.

15. Senator Mohsin Aziz inquired that whether OGRA has included GIDC in the Price of inputs. Chairman APCNGA responded that GIDC was included in Taxes so it was there in input component but it was not included in the operating cost. Senator Mohsin Aziz stated that the price was 76 rupees on 1st July 2014 but inquired about the raw material cost. While responding Chairman APCNGA Sindh stated that cost of Gas was Rs. 32.98/kg, GID was Rs. 15 /kg and GST around Rs. 11 to 12 and then withholding tax at source equal to 4 percent which is equivalent to Rs. 5 to 6.

16. Senator Mohsin Aziz objected that Withholding tax could not be Rs. 5 to 6 at 4 percent rate rather it would be 1.25 Rupees instead of being 5 or 6 Rupees. Senator Mohsin Aziz further stated that it totaled to 60.75 Rupees and you were selling at 76 Rupees so the profit was 15.25 Rupees per kg at that point in time.

17. Chairman APCNGA stated that out of this almost 16 Rupees profit, 13 Rupees is incurred on electricity. This computation is according to OGRA calculation i.e. 0.5 kW is incurred on per Kg CNG production.

18. Convener of the Committee stated that the cost is extremely high. Chairman APCNGA stated that since last three years tariff has been increasing but OGRA never increased the cost incurred under the head of electricity. Senator Mohsin Aziz stated that the cost of processing the Gas per Kg is 40% of the cost of raw gas.

19. Chairman APCNGA stated that we have already deposited the GIDC collected excluding the amounts belonging to the Stay Order periods and are ready to settle the remaining amount but with a plea that Government should consider the price differential discrimination as far as operational cost is concerned Mr. Junaid Esmail Makda thanked Ministry of Petroleum for forwarding the summary of deregulating the CNG prices.

FERTILIZER SECTOR'S CONCERNS

20. Mr. Ruhail Mohammad, CEO ENGRO Fertilizers started his briefing by saying that in 2010 a new plant of 1.3 million tons was installed equivalent to the investment of \$ 1.1 billion. The rationale was that the quantity of Urea imported was around 1.3 million tons with \$500 million import substitution as imported Urea was sold at 20 to 25 % lower prices. Under this head Government had to save huge amount of subsidy on imported Urea as well. This investment is governed by Fertilizer policy 2001 with the major incentive of fixed gas price. It was supposed to be a fixed price for 10 years after production and the policy stated that it should be inclusive of all taxes, duties, levies and charges whatsoever whether Local, Federal or Provincial. ECC decided that this would be auctioned through International Competitive Bidding (ICB) so Ministry of industries prepared an Invitation to Bid (ITB) with reference to 2001 policy with specification that price of Gas for the Plant will be 70 cent per MMBTU and shall remain fixed till the expiry of ten years. He further added that they pay 15 billion rupees to banks every year as principle plus interest. So the Gas price was a major policy incentive for the fertilizer industry. This incentive is given to six plants installed during this regime.

21. While responding to Senator Mohsin Aziz, CEO ENGRO stated that GIDC was imposed in 2011 but because of this policy we were exempted from GIDC in 2011 but then it was reintroduced in July 2014 for the first time at the rate of RS. 300/MMBTU. He requested that GIDC should not be imposed on our new investment, he added that ENGRO had gone to court and been granted a stay order in this regard. Fatima fertilizer is facing the same problem.

22. Senator Mohsin Aziz stated that because of the imposition of GIDC, price has risen by RS 160 per bag of fertilizer. Senator Mohsin Khan Leghari inquired whether the price increase has been already passed on to the farmer or not. CEO ENGRO responded that yes it has been passed on to keep the old plant viable. Senator Mohsin Khan Leghari registered his concern that farmers are the only segment badly affected by GIDC. While responding to Senator Mohsin Khan Leghari CEO ENGRO stated that the new plants are getting gas at the rate of 70 cents while the old one are getting on 123 cents and new companies are earning profit on the basis of fixed price.

23. Convener of the Committee while agreeing with the Senator stated that the burden is being transferred to the consumers.

24. CEO ENGRO emphasized that their projected return would no more be the same after the imposition of the GIDC. Government has to honor the contract signed with the fertilizer industry.

25. Senator Ilyas Ahmad Bilour stated that GIDC is Rs. 300/MMBTU and the selling price of old and new plants are the same, so the new plant is earning wind fall profit and still they are getting gas on cheaper rate. CEO ENGRO responded that either increase in gas price or imposing GIDC both have the same effect.

26. Representative of Fatima Fertilizer also shared the concerns raised by CEO ENGRO. He added that fertilizer sector consumes around 15% of total Gas in the country and GIDC on fertilizer industry is more than 40 percent in value at the rate of Rs.300/MMBTU on one segment and Rs. 150/MMBTU on other segment. He further stated that Fertilizer industry does arrange its own infrastructure as it has to bring gas from the operational field to fertilizer plant. He further added that CCP decision of June 2014 that it is recommended that GIDC is charged to all fertilizer plants to provide a level playing field in the urea market. Mr. Fazal Sheikh from Fatima Fertilizer stated that the government has supported old plants much better than new ones, as all old plants enjoyed various exemptions. New plants are also contributing 40 percent under the tax head. He thanked the Minister for Petroleum and Natural Resources to bring LNG in the country, as their old plant has become operational.

27. Representative of Fauji Fertilizer pointed out that the policy should be revised and GIDC should be capped as new plants are taking shelter of the policy and actually getting billions from the people and not passing it on to the government. Senator Mohsin Aziz responded that Fauji Fertilizer has also enjoyed the ten year fixed price facility.

28. Representative of Fauji Fertilizer Bin Qasim agreed with the concerns of all other stakeholders and added that the rate of GIDC right from the start was higher for the fertilizer sector. PAK Arab Fertilizer also complained that they didn't get any gas this year and further stated that the payment of GIDC is subject to the supply of gas.

CERMAIC INDUSRY'S CONCERNS

29. Mr. Muhammad Azeem representing all Pakistan Tiles Manufacturing Association stated that we have requested for the waiver of extra amount of GIDC demanded since 2011 with retrospective effect as Ceramic Industry is already under extreme pressure due to dumped imports from various countries since last 10 years and smuggled tiles from Iran as well. The industry's financial statements show that we have not passed on the GIDC yet. He pointed out that though the Government of Pakistan has exempted Industrial sector but Ceramic Industry is still asked to pay in every bill.

COMMITTEE MEMBERS DISCUSSION WITH MINISTERIES

30. Minister for Petroleum and Natural Resources stated that CNG Sector's concerns may be considered by the Committee as input cost has increased immensely whereas OGRA did not adopt a rational approach. He further added that electricity rate has increased since last three years but their prices are same and the problems faced in the process of implementation of GIDC have created number of anomalies.

31. Senator Saleem Mandviwala emphasized that the Committee should conclude the matter. While responding to Senator Mohsin Khan Leghari, Minister for Petroleum and Natural Resources stated that the total financial impact is 40 billion rupees from 2012 to May 2015.

32. Senator Ilyas Ahmad Bilour stated that because of competition many of the companies did not increase price and did not include GIDC in Khyber Pakhtunkhwa. Senator Mohsin Aziz stated that GIDC is paid only for the time where the stay has been vacated or judgment has been given in the favor of consumer and Government has gone to the superior court. Convener of the Committee added that they had also paid for the period before going to court.

33. Minister for Petroleum and Natural Resources informed the committee members that the Stay only barred SSGPL and SNGPL from collecting the GIDC so they kept taking it from the consumer but did not pay it to the government. He further added that it was struck down just on the basis that it could not be passed as money bill therefore it was covered initially by ordinance and finally the Gas Infrastructure Development Cess (GIDC) Bill-2015.

34. Senator Mohsin Aziz stated that where there was no stay for whatever reason for couple of months they paid nonetheless, but after the stay order till the Ordinance GIDC should not be demanded. Convener agreed that intervening period can be reconsidered.


35. Senator Muhammad Ali Khan Saif said that the Act empowers the Government to impose it though the amount of Cess is not rationalized. Decision at this point would be arbitrary. He further said that collection is their responsibility on behalf of Government; after deducting the stay order period they cannot keep the GIDC with them under law. We should not come to any conclusion arbitrarily rather third party audit should be done to cater to the concern of both the parties.

36. Muhammad Aslam, Assistant Draftsman from Ministry of Law stated that Ministry of Petroleum and Natural Resources went for appeal in 2013 and on 13 august 2014 judgment came but Justice Nasirul Mulk gave decision in favor of CNG sector. He further stated that in last meeting it was decided that Ministry of Petroleum and Natural Resources should come up with a concrete proposal.
37. Mr. Anwer Shaikh Joint Secretary Ministry of Finance stated that stakeholders are just withholding agents and they cannot withhold this Cess under any justification.
38. Senator Saleem Mandviwala and Minister for Petroleum and Natural Resources said that it is not possible to audit this case as it will take decades to finalize. Senator Muhammad Ali Khan Saif said that Audit does not mean sensu stricto audit and OGRA has already done an audit in past on direction of the Court. Minister for Petroleum and Natural Resources said that new plants are getting price at the rate of 70 cents while old plants are getting at the rate of 123 cents and GIDC by both is passed on to consumer but new plants went to court that no new tax or duty could be imposed on them. The Minister emphasized that the Ministry had not promised them windfall profits and thus the court should decide whether their profits are being hurt or whether it is a case of excessive profit. The Minister further said that Government would opt for administrative solution otherwise.
39. Senator Mohsin Aziz said they are treating this tax as part of Gas price and you cannot challenge them; he suggested that the GIDC should be withdrawn and a method should be formulated to transfer the increased price by Rs. 160 in Government's kitty.
40. Joint Secretary Finance informed the Committee that GIDC is verifiable and that collecting agents are liable to deposit it. He added that according to FBR, Cess is charged as expenditure so it is verifiable.
41. Senator Mohsin Aziz stated that Captive Power Plants (CPPs) produce electricity for themselves which will not be charged but what they sold to consumers will be charged; moreover, he stated that the CPPs are mostly in textile industry where they have engaged in production for their own use.
42. Senator Mohsin Aziz also stated that by imposing GIDC industry is becoming uncompetitive especially in small provinces. In case of KPK firstly a moratorium was imposed in 2009 to stop providing gas connection and resulted in adversely affecting the growth of the industrial sector, and then GIDC and increased Gas price also hampered the industry in Sindh.

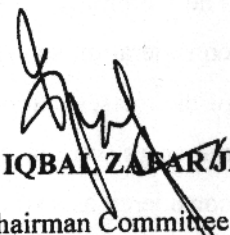
Recommendations/Decisions made during the meeting:

- i) The Committee recommended to divide the period in three segments first is when the aggrieved parties went to court and Court had not yet decided, second is when the court granted the stay and third one is after ordinance; by differentiating these three periods we can probably arrive at a solution.
- ii) The Committee recommended that GIDC issue should be treated sector wise. The Committee observed that all sectors are ready to pay but not retrospectively.
- iii) The Committee recommended adopting a rational approach in differentiating between those who paid and those who had not paid and their subsequent treatment.
- iv) The Committee was of the point of view that CNG Sector should be given a sympathetic consideration and recommended that where they have collected and paid during the pendency of their cases that period will be considered as paid and will not be refunded. However, where the cases were in the Courts and stay orders were given in their favor that period should be considered as a waiver.
- v) The Committee directed that OGRA is empowered to exercise its power on nondiscriminatory basis transparently.
- vi) The Committee recommended that Ceramic industry should be treated at par with other Industries as it is also incurring huge losses because of energy shortage and smuggling.
- vii) The Committee appreciated the Minister of Petroleum and Natural Resources for already having given a commitment on the floor of the House to bring amendment in the Act for removal of any kind of anomalies.
- viii) The Committee recommended that as far as GIDC is concerned the rate of Captive Power Plants (CPPs) should be brought at par with the industries. CPPs producing electricity for their own consumption should be exempted from GIDC.
- ix) The Committee agreed that the only way to change the nature of sovereign guarantee is through an act of parliament.
- x) The Committee suggested that a Committee having OGRA, Consumers and CNG Sector as members along with the concerned Ministries should decide about the auditors and solution of the problem.

- xi) The Committee directed that Government should apprise the Committee on this issue. Chairman of the Committee reminded that Ministry of Petroleum and Natural Resources was directed that in consultation with Ministry of Law and Ministry of Finance a solution should be formulated regarding how this windfall profit can be taken away from the newly installed fertilizer plants.
- xii) The Committee instructed the CNG and Fertilizer sectors to give their proposals in writing to the Committee promptly. Response from Fertilizer ENGRO sector is annexed as "A" and from CNG sector as "B" and from Ceramic Industry at "C".
43. The Committee ended with a vote of thanks to and from the Chair.



(IFFAT MUSTAFA)
Secretary Committee



(SENATOR IQBAL ZAFAR JHARGA)
Chairman Committee



SENATE SECRETARIAT

MINUTES OF THE MEETING OF THE SPECIAL COMMITTEE ON GAS INFRASTRUCTURE DEVELOPMENT CESS BILL, 2015 HELD ON 12TH NOVEMBER, 2015

A meeting of the Special Committee to monitor the implementation of the Gas Infrastructure Development Cess Bill, 2015 was held on 12th November, 2015 at 2:00 pm in the Committee Room No. 1, Parliament House Islamabad. The following members attended the meeting:

1.	Senator Iqbal Zafar Jhagra	Chairman
2.	Senator Ilyas Ahmed Bilour	Member
3.	Senator Professor Sajid Mir	Member
4.	Senator Saleem Mandviwala	Member
5.	Senator Muhammad Ali Khan Saif	Member
6.	Senator Saeedul Hassan Mandokhail	Member
7.	Senator Muhammad Mohsin Khan Leghari	Member
8.	Senator Hilal ur Rehman	Member
9.	Senator Hasil Khan Bizenjo	Member
10.	Senator Muhammad Usman Khan Kakar	Member
11.	Minister for Petroleum & Natural Resources Ex-Officio Member	
12.	State Minister for Petroleum & Resources	

2. List of participants is annexed:-

3. The agenda before the Committee was as under:

- i) To consider the implementation of the Gas Infrastructure Development Cess Bill, 2015.
- ii) Consideration of Public Petition No. 540, submitted by Mr. Ghalib Khan on behalf of Ever Green CNG station, Peshawar addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.

- iii) Consideration of Public Petition No. 631, submitted by Syed Yawar, addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.
 - iv) Consideration of Public Petition No. 890, submitted by All Pakistan Ceramic Tiles Manufacturers Association (APCTMA), addressed to the Chairman Senate, regarding collection of GIDC retrospectively from the Industrial Sector.
- 4. Any other item with permission of the Chair.
 - 5. The meeting started with the recitation from the Holy Quran by Secretary Ministry of Finance.
 - 6. Chairman of the Committee, Senator Iqbal Zafar Jhagra welcomed Minister for Petroleum and Natural Resources, State Minister for Petroleum and Natural Resources, Members of the Committee, Secretary Ministry of Finance, Secretary Ministry of Petroleum and Natural Resources and other participants of the meeting.
 - 7. The Minutes of the meetings held on 6th November, 2015 were adopted.
 - 8. Chairman Committee read out the recommendations of the last meeting held on 6th November, 2015 to finalize the issue.

COMMITTEE MEMBERS DISCUSSION WITH MINISTERIES

- 9. Minister for Petroleum and Natural Resources stated that CNG Sector's concerns may be considered by the Committee as input cost has increased immensely whereas OGRA did not adopt a rational approach. He further added that electricity rate has increased since last three years but their prices are same and the problems faced in the process of implementation of GIDC have created number of anomalies.
- 10. Senator Saleem Mandviwala emphasized that the Committee should conclude the matter.
- 11. Minister for Petroleum and Natural Resources informed the Committee members that the Stay only barred SSGPL and SNGPL from collecting the GIDC so they kept taking it from the consumer but did not pay it to the government. He further added that it was struck down just on the basis that it could not be passed as money bill therefore it was covered initially by ordinance and finally the Gas Infrastructure Development Cess (GIDC) Bill-2015.
- 12. The Committee also take-up following Public Petitions.

- i. Public Petitions. No. 540 submitted by Mr. Ghalib Khan on behalf of Ever Green CNG station, Peshawar addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.
- ii. Public Petition No. 631, submitted by Syed Yawar, addressed to the Chairman Senate, regarding grievances of CNG Station owners on the imposition of GIDC.
- iii. Public Petition No. 890, submitted by All Pakistan Ceramic Tiles Manufacturers Association (APCTMA), addressed to the Chairman Senate, regarding collection of GIDC retrospectively from the Industrial Sector.

13. After detailed discussion and deliberation with members the Chairman Committee stated that as the matter was referred from the House, the following recommendations are finalized in this context.

- i) The Committee recommended that the GIDC issue should be treated sector wise. The Committee observed that all sectors are ready to pay but not retrospectively.
- ii) The Committee recommended that the CNG Sector should be given a sympathetic consideration and the Exemption should be provided in pursuance of the Orders of the Court of Law from time to time. Any CNG Station who has not paid the GIDC Amount in the Gas Bills from the Gas distribution Companies because of the respective Court Orders or from whom such recovery could not be effected on account of any interim or final orders of any Court shall be exempted from payment of such arrears together with any further sum(s) whatsoever accrued or chargeable thereupon on account of such non-payment.
- iii) The Committee recommended that it in case of exemption of all the arrears agreed as stated in Para ii, CNG Stations shall not be seeking any refund or claim repayment of any sums, if so recovered by the Gas Utility Companies in the name of GIDC notwithstanding any Judgment, decree or Order of any Court, including any of the High Courts or Apex Supreme Court of Pakistan.
- iv) The Committee clarified that aforesaid arrangement shall be afforded only to those CNG stations/owners, whose list will be provided to Gas Utility Companies by CNG forum. CNG forum All Pakistan CNG Association, in its


turn, would prepare such lists in consultation with respective CNG Associations, who shall seek a written Affidavit on their Company Letterhead from each of their members whose names are to be included in the list. Affidavits shall, inter alia, contain a written undertaking that the CNG station's owner concerned unconditionally agrees to the aforesaid terms, and shall not claim repayment or refund of any sum if so recovered on account of GIDC. These CNG owners/members in their respective Affidavits shall hold the CNG Forum through its nominees and their respective Associations harmless and indemnified in respect of any loss or claim on account of this settlement.

- v) The Committee directed that OGRA is empowered to exercise its power on non-discriminatory basis and shall notify prices of CNG in a fair and transparent manner, in accordance with the applicable Rules/Regulations and after seeking consultative feedback from the stakeholders.
- vi) The Committee recommended that the Ceramic Industry should be treated at par with other industries as it is also incurring huge losses on account of energy shortage and smuggling.
- vii) The Committee recommended that for captive power producers (CPPs) producing electricity for their own consumption no retrospective GIDC will be charged. The Committee also recommended that the rate of GIDC for CPPs for future i.e. after promulgation of GIDC act be brought down at par the Industrial Sector. It was further directed that the SPP (Small Power Producer) and NCPP (New Captive Power Producers) will be treated at par with IPPs.
- viii) The majority of the Committee's members agreed with the point of view of Ministry of Petroleum and Natural Resources and Ministry of Finance Revenue, Economic Affairs, Statistics and Privatization that the matter of new fertilizer plants and payment of GIDC is sub judice. However Senator Muhammad Mohsin Khan Leghari was of the point of view that when the new fertilizer plants are collecting GIDC, by selling at increased price

(Rs.160/bag) they should deposit it with the government. He recommended that the government withdraw GIDC on Fertilizer, and the revenue thus lost should be paid by the government as "subsidy" in the kissan package announced by Prime Minister.

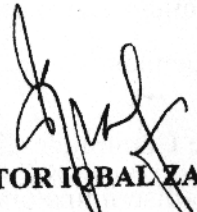
14. The Convener of the Special Committee directed Secretary Committee to send the final recommendations to the Petition Cell for further necessary action.

15. The Committee ended with a vote of thanks to and from the Chair.



(IFFAT MUSTAFA)

Secretary Committee



(SENATOR IQBAL ZAFAR JHARGA)

Chairman Committee