

Gujarat Water and Gas Pipelines (Acquisition of Right of User in Land) Act, 2000

5 of 2000

[14th March, 2000]

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Publication of notification for acquisition
4. Hearing of objections
5. Power to enter, survey, etc.
6. Declaration of acquisition of right of user
7. Laying of pipelines
8. Power to enter land for inspection, etc
9. Restrictions regarding the use of land
10. Compensation
11. Deposit and payment of compensation
12. Protection of action taken in good faith
13. Collector and competent authority to have certain powers of civil court
14. Bar of jurisdiction of civil court
15. Penalty
16. Certain offences to be cognizable
17. Power to make rules
18. Application of other laws not barred

Gujarat Water and Gas Pipelines (Acquisition of Right of User in Land) Act, 2000

5 of 2000

[14th March, 2000]

STATEMENT OF OBJECTS AND REASONS The State Government has undertaken the implementation of water supply projects in the State, the major one of which is Sardar Sarover Canal Based Drinking Water Supply Project which itself will require laying of about 2700 Kms. of pipelines for transport of water from one place to another. Gujarat Infrastructure Development Board has given locational clearance to some LNG import terminals in the State and the proposed gas grid shall link these LNG terminals and other gas

supply sources to various demand centres in the State. The gas project linking various supply points including LNG terminals with various gas demand centres in and around Gujarat has been planned. The proposed gas grid is high pressure trunk pipeline system requiring laying of about 1500 kms of pipelines. Although land can be acquired outright for laying such pipelines under the Land Acquisition Act, 1894, the procedure for such acquisition is long drawn and costly. Since the water and gas pipeline will be laid underground, outright acquisition of land is not necessary. Therefore, in the case of water and gas pipelines, it is considered sufficient to acquire the mere right of user in the land for laying and maintaining the pipelines. This Bill seeks to achieve the aforesaid objects. The main features of the Bill are (i) No right of user in land can be acquired for the purpose of laying pipelines unless the State Government declares its intention by notification in the Official Gazette, and unless objections, if any, filed within thirty days of that notification are disposed of by the competent authority. (ii) When final declaration about the acquisition is made, the right to use the land for the purpose of laying pipelines will vest in the State Government or, as the case may be, the Corporation but notwithstanding such acquisition, the owner or occupier of the land shall be entitled to use the land for the purpose for which such land was put to use immediately before the declaration by the State Government. But after the date of acquisition, he shall not construct any building or any other structure or construct or excavate any tank, well, reservoir or dam or plant any tree on that land. (iii) Compensation for the damage, loss or injury sustained by any person interested in the land shall be payable to such person. Besides this, compensation calculated at ten percent, of the market value of the land on the date of the preliminary notification is also payable to the owner and to any other person whose right of enjoyment in the land has been affected by reason of the acquisition. The compensation in both the case is to be determined by the competent authority in the first instance and an appeal lies from the decision to the Collector. The following notes on clauses explain, in brief, the important provisions of the Bill Clause 2. This clause defines certain terms used in the Bill. Clause 3. This clause empowers the State Government by notification in the Official Gazette to declare its intention to acquire the right of user in the land where it considers necessary for transport of water or gas from one area to another area to lay the pipelines in that land. Clause 4. This clause provides that any person who object to the laying of

pipelines under the land within thirty days from the date of the notification and empowers the competent authority after giving to object or of opportunity of being heard to allow or disallow the objection. Clause 5. This clause empowers the State Government or the Corporation to enter upon and survey, to dig or bore into the sub soil, take levels and to set out the intended line of work etc. of any land in respect of which the notification has been issued. Clause 6. This clause provides that the competent authority shall submit a report where the objections have not been made within the specified time to the State Government in and this clause further empowers the State Government by notification in the Official Gazette, to declare that the right of user in the land for laying the pipelines shall be acquired and on publication of this notification, the right of user of land absolutely vests in the State Government or the Corporation free from all encumbrances. Clause 7. This clause empowers any person authorised by the State Government or the Corporation and its servants and workmen to enter upon the land and to lay pipeline or to do any other things necessary for laying the pipelines. It also restricts the Government or the Corporation to lay pipelines under any land which was used for residential purposes before the date of publication of the notification, any land on which permanent structure was in existence previously, and land appurtenant to a dwelling house or any land at a depth which is less than one metre from the surface. Clause 8. This clause empowers the State Government or the Corporation with necessary workmen and assistance to enter the land after giving reasonable notice to the occupier thereof for maintaining, examining, repairing altering or removing any pipeline. Clause 9. This clause entitles the owner or occupier of the land to use the land for the purpose for which it was put to use before the declaration has been made. It further restricts the owner or the occupier to construct any structure, excavate any tank, well, reservoir or dam, plant any tree on the land concerned. It also empowers the Collector to remove the building, the structure, reservoir, dam or tree on the application made by the competent authority where the occupier constructs such structure or building. Clause 10. This clause makes liable to the State Government «r the Corporation to pay compensation to the person to whom the damage, loss or injury has been done while laying the pipelines. It empowers the Collector to determine the amount of compensation where it is not acceptable to either of the party. It also provides for certain factors which the Collector while determining the amount of

compensation shall have due regard. Clause 11. This clause provides that the State Government or the Corporation shall deposit the amount of compensation with the competent authority within such time and in such manner as may be prescribed. Clause 12. This clause provides that the Collector and the competent authority shall have the powers of Civil Court while trying a suit under the Code of Civil Procedure in respect of the matters specified therein. Clause 13. This clause provides for usual indemnity for acts done in good faith. Clause 14. This clause provides for bar of jurisdiction of any Civil Court. Clause 15. This clause provides for penalty for contravention of the acts done by any person as specified therein. Clause 16. This clause provides for an offence falling under sub-clause (2) of Clause 15 to be cognizable within the meaning of the Code of Criminal Procedure. Clause 17. This clause empowers the State Government by notification in the Official Gazette, to make rules for carrying out the purposes of this clause. Sub-clause (2) of this clause specifies the matters which the rules may provide.]

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Water and Gas Pipelines (Acquisition of Right of User in Land) Act, 2000.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,

(a) "competent authority" means any person or authority authorised by the State Government by notification in the Official Gazette, to perform the functions of the competent authority under this Act.

(b) "corporation" means any body corporate established under any Gujarat Act and includes

(i) a Company formed and registered under the Companies Act, 1956 (1 of 1956); and

(ii) a Company formed and registered under any law relating to companies formerly in force in any part of India;

(c) "gas" means a matter in gaseous state which predominantly

consists of methane;

(d) "prescribed" means prescribed by rules made under this Act.

3. Publication of notification for acquisition :-

(1) Whenever it appears to the State Government that it is necessary in the public interest that for the transport of water or, as the case may be, gas from one area to another area, pipelines may be laid by the State Government or, the Corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette declare its intention to acquire the right of user therein.

(2) Every notification under sub-sec. (1) shall give a brief description of the land.

(3) The competent authority shall cause the substance of the notification to be published at such places and in such manner as may be prescribed.

4. Hearing of objections :-

(1) Any person interested in the land may, within thirty days from the date of the publication of notification under sub-sec. (1) of Section 3 , object to the laying of the pipelines under the land.

(2) Every objection shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.

(3) Any order made by the competent authority under sub-sec. (2) shall be final.

5. Power to enter, survey, etc. :-

On the issue of a notification under sub-sec. (1) of Section 3 , it shall be lawful for any person authorised by the State Government or, as the case may be, the Corporation which proposes to lay pipelines for transporting water or, as the case may be, gas and its servants and workmen

(a) to enter upon and survey and take levels of any and specified in

the notification;

(b) to dig or bore into the sub-soil;

(c) to set out the intended line of work;

(d) to mark such levels, boundaries and line by placing marks and cutting trenches;

(e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and

(f) to do all other acts necessary to ascertain whether pipelines can be laid under the land:

Provided that while exercising any power under this section, such person or any servant or workman of such person shall cause as little damage or injury as possible to such land.

6. Declaration of acquisition of right of user :-

(1) Where no objection under sub-sec. (1) of Section 4 has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-sec. (2) of that section, that, authority shall, as soon as may be, submit a report accordingly to the State Government and upon receipt of such report, the State Government shall declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines shall be acquired.

(2) On the publication of the declaration under sub-sec. (1), the right of user in the land shall vest absolutely in the State Government free from all encumbrances.

(3) Where in respect of any land, a notification has been issued under sub-sec. (1) of Section 3 , but no declaration under this section has been published within a period of one year from the date of that notification, that notification shall cease to have effect on the expiration of the said period.

(4) Notwithstanding anything contained in sub-sec. (2), the State Government may, on such terms and conditions as it may think fit, to impose, direct by order in writing that the right of user in the land for laying the pipelines shall, instead of vesting in the State Government, vest, either on the date of publication of the declaration or, on such other date as may be specified in the order,

in the Corporation proposing to lay the pipelines and thereupon the right of such user in the land shall, subject to the terms and conditions so imposed, vest in that Corporation free from all encumbrances.

7. Laying of pipelines :-

(1) Where the right of user in any land has vested in the State Government or, as the case may be, the Corporation under Section 6

(i) it shall be lawful for any person authorised by the State Government or, as the case may be, the Corporation, and its servants and workmen to enter upon the land and lay pipelines or to do any other thing necessary for the laying of pipelines:

Provided that no pipeline shall be laid under

(a) any land which, immediately before the date of the publication of notification under sub-sec. (1) of Section 3, was used for residential purposes; or

(b) any land on which there stands any permanent structure which was in existence immediately before the said date; or

(c) any land which is appurtenant to a dwelling house; or

(d) any land at a depth which is less than one metre from the surface; and

(ii) such land shall be used only for laying the pipelines and for maintaining, examining, repairing altering or removing any such pipelines or for doing any other thing necessary for any of the aforesaid purposes or for the utilisation of such pipelines.

(2) If any dispute arises with regard to any matter referred to in paragraph (b) or (c) of the proviso to clause (i) of sub-sec. (1), the dispute shall be referred to the competent authority whose decision thereon shall be final.

8. Power to enter land for inspection, etc :-

For maintaining, examining, repairing, altering or removing any pipeline, or for doing any other thing necessary for the utilisation of the pipelines or for the making of any inspection or measurement for any of the aforesaid purposes, any person authorised in this behalf by the State Government or, as the case may be, the Corporation may, after giving reasonable notice to the occupier of

the land under which the pipeline has been laid, enter therein with such workmen and assistants as may be necessary:

Provided that, where such person is satisfied that an emergency exists, no such notice shall be necessary:

Provided further that, while exercising any powers under this section, such person or any workmen or assistants of such person, shall cause as little damage or injury as possible to such land.

9. Restrictions regarding the use of land :-

(1) The owner or occupier of the land with respect to which a declaration has been made under sub-sec. (1) of Section 6, shall be entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under sub-sec. (1) of Section 3 :

Provided that such owner or occupier shall not after the declaration under sub-sec. (1) of Sec. 6

- (i) construct any building or any other structure;
- (ii) construct or excavate any tank, reservoir or dam; or
- (iii) plant any tree, on that land.

(2) The owner or occupier of the land under which any pipeline has been laid shall not do any thing or permit any thing to be done which will or is likely to cause any damage in any manner whatsoever, to the pipeline.

(3) Where the owner or occupier of the land with respect to which a declaration has been made under sub-sec. (1) of Sec. 6,

- (a) constructs any building or any other structure, or
- (b) constructs or excavates any well, tank, reservoir or dam, or
- (c) plants any tree,

on that land, the Collector within the local limits of whose jurisdiction such land is situated may, on an application made to it by the competent authority and after holding such inquiry, as it may deem fit, cause the building, structure, reservoir, dam or tree to be removed or the well or tank to be filled up, and the costs of such removal or filling up shall be recoverable from such owner or occupier.

10. Compensation :-

(1) Where in the exercise of the powers conferred by Section 5 , Section 7 or Section 8 by any person, any damage, loss or injury is sustained by any person interested in the land under which the pipeline is proposed to be, or is being, or has been laid, the State Government or, as the case may be, the Corporation shall be liable to pay compensation to such person for such damage, loss or injury, the amount of which shall be determined by the competent authority in the first instance.

(2) If the amount of compensation, determined by the competent authority under sub-sec. (1) is not acceptable to either of the parties, the amount of compensation shall, on application by either of the parties to the Collector within the limits of whose jurisdiction the land or any part thereof is situated, be determined by that Collector.

(3) The competent authority or, as the case may be, the Collector while determining the compensation under sub-sec. (1) or, as the case may be, sub-sec. (2), shall have due regard to the damage or loss sustained by any person interested in the land by reason of

(i) the removal of trees or standing crops, if any, on the land while exercising the powers under Section 5 , Section 7 or, as the case may be, Section 8 ;

(ii) the temporary severance of the land under which the pipeline has been laid from other lands belonging to, or in the occupation of, such person;or

(iii) any injury to any other property whether movable or immovable, or the earnings of such persons caused in any other manner:

Provided that in determining the compensation no account shall be taken of any structure or other improvement made in the land after the date of the publication of the notification under sub-sec. (1) of Section 3 .

(4) Where the right of user of any land has vested in the State Government or, as the case may be, the Corporation it shall, in addition to the compensation, if any, payable under sub-sec. (1), be liable to pay to the owner and to any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such vesting, compensation calculated at ten per cent, of the market value of that land on the date of the

publication of the notification under sub-sec. (1) of Section 3 .

(5) The market value of the land on the said date shall be determined by the competent authority and if the value so determined by that authority is not acceptable to either of the parties, it shall, on application by either of the parties to the Collector referred to in sub-sec. (2), be determined by that Collector.

(6) The decision of the Collector under sub-sec. (2) or (5) shall be final.

11. Deposit and payment of compensation :-

(1) The amount of compensation determined under Sec. 10 shall be deposited by the State Government or, as the case may be, the Corporation, with the competent authority within such time and in such manner as may be prescribed.

(2) If the amount of compensation is not deposited within the time prescribed under sub-sec. (1), the State Government or, as the case may be, the Corporation, shall be liable to pay interest thereon at the rate of nine per cent, if the amount of compensation is deposited within one year after the period prescribed under sub-sec. (1) and at the rate of fifteen per cent, if the amount of compensation is deposited after the expiry of the said one year.

(3) As soon as may be after the compensation has been deposited under sub-sec. (1), the competent authority shall, on behalf of the State Government or, as the case may be, the Corporation pay the compensation to the persons entitled thereto.

(4) Where several persons claiming to be interested in the amount of compensation deposited under sub-sec. (1), the competent authority shall determine the persons who in its opinion are entitled to receive the compensation and the amount payable to each of them.

(5) If any dispute arises as to the apportionment of the compensation or any part thereof or as to the persons to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the Collector within the limits of whose jurisdiction the land or any part thereof is situated and the decision of the Collector thereon shall be final.

12. Protection of action taken in good faith :-

The Collector and the competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office;
- (e) issuing commission for examination of witness.

13. Collector and competent authority to have certain powers of civil court :-

(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules or notification made or issued thereunder.

(2) No suit or other legal proceeding shall lie against the State Government, Corporation or, as the case may be, the competent authority for any damage, loss or injury caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules or notification made or issued thereunder.

14. Bar of jurisdiction of civil court :-

No civil court shall have jurisdiction in respect of any matter which the Collector or, as the case may be, the competent authority is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or proposed to be taken in pursuance of any power conferred by or under this Act.

15. Penalty :-

(1) Whoever wilfully obstructs any person in doing any of the acts authorised under Section 5 , Section 7 or as the case may be, Section 8 or wilfully fills up, destroys, damages or displaces any trench or mark made under Section 5 or wilfully does anything prohibited under the proviso to sub-sec. (1) of Section 9 , shall be punishable with imprisonment which may extend to six months or

fine or both.

(2) Whoever wilfully removes, displaces, damages or destroys any pipeline laid under Section 7 , shall be punishable with rigorous imprisonment for a term which shall not be less than one year, but which may extend to three years and shall be liable to fine.

16. Certain offences to be cognizable :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence falling under sub-sec. (2) of Section 15 shall be deemed to be cognizable within the meaning of that Code.

17. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules provide for all or any of the following matters, namely:

(a) the places at which and the manner in which the substance of the notification may be published under sub-sec. (3) of Section 3 ;

(b) the time within which and the manner in which the amount of compensation shall be deposited under sub-sec. (1) of Section 11 .

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

18. Application of other laws not barred :-

The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to the acquisition of land.