

PANORAMIC

# **GAS REGULATION**

Thailand



LEXOLOGY

# Gas Regulation

Contributing Editors

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Dentons

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## DOMESTIC SECTOR OVERVIEW

### State of the market

Describe the domestic natural gas sector, including the natural gas production, liquefied natural gas (LNG) storage, pipeline transportation, distribution, commodity sales and trading segments and retail sales and usage.

The following is an overview of the natural gas sector in Thailand regarding 2022 gas production, distribution, import and sales.

In 2022, Thailand imported 684 million standard cubic feet per day (MMscfd) of natural gas from Yadana, Yetagun and Zawtika in Myanmar, imported 942 MMscfd of liquid natural gas (LNG), and procured 2,648 MMscfd from domestic resources (including the Malaysia–Thailand Joint Development Area (MTJDA)), totalling some 4,274 MMscfd of natural gas.

Thailand is a net importer of both oil and gas. Given the current petroleum resource base and demand profile, Thailand will remain a net importer of hydrocarbons for the foreseeable future. The major domestic gas resources of Thailand are from the fields in the Gulf of Thailand.

Currently, the major gas producers in Thailand are PTT Exploration and Production Public Company Limited (PTTEP) and Chevron.

PTT Public Company Limited (PTT) is the primary purchaser of all natural gas, which is sold under gas sales agreements, to power, petrochemical and other industrial users.

Thailand's first LNG-receiving terminal, owned by PTT LNG Company Limited (PTT LNG) in Map Ta Phut can currently offtake and unload up to 10 million tonnes of LNG a year. The terminal consists of three 160,000 cubic metre LNG storage tanks and a port for LNG vessels from 125,000 to 264,000 cubic metres. PTT LNG and the Electricity Generating Authority of Thailand's co-development of a second LNG-receiving terminal with a storage capacity of 7.5 million tonnes per year at Nong Fab, Rayong received its first commissioning cargo of LNG in June 2022 and expects full commissioning of the facility soon. In addition, the LNG terminal in Map Ta Phut deep-sea port Phase III with a gasification capacity of 10.8 million tonnes per year, owned by Gulf MTP LNG Terminal Co Ltd, is due for completion in 2027.

PTT imports LNG under four long-term agreements totalling 5.2 million tonnes of LNG annually, in addition to purchases made on the spot market. The most significant agreement is with Qatar Gas until 2035 for 2 million tonnes of LNG annually. PTT is in the process of executing another long-term agreement with PTT Global LNG Company Limited for 1 million tonnes per year of LNG with a 15-year term commencing in 2026 in accordance with the National Energy Policy Council (NEPC) resolution rendered on 6 July 2022.

**Law stated - 8 December 2023**

### Consumption

## What percentage of the country's energy needs is met directly or indirectly with natural gas and LNG? What percentage of the country's natural gas needs is met through domestic production and imported production?

Throughout 2021, Thailand consumed 4,143 MMscfd while 59 per cent of natural gas was consumed for electricity generation. The balance was refined at gas separation plants (19 per cent), used by the industrial sector (19 per cent), and for the transportation sector (3 per cent).

Thailand's natural gas needs in 2022 were met from domestic production (including the MTJDA) (62 per cent), imports from Myanmar (16 per cent) and LNG imports (22 per cent).

**Law stated - 8 December 2023**

## Government policy

### What is the government's policy for the domestic natural gas sector and which bodies set it?

The National Energy Policy Council (NEPC) is the primary body of the Thai government setting policies in the energy sector. The NEPC consists of the Prime Minister, high-ranking cabinet ministers and high-ranking officers within the Ministry of Energy (MOE).

The NEPC's over-arching policies, known as Thailand's Integrated Energy Blueprint with five separate policies (namely, Thailand's Power Development Plan, the Energy Efficiency Plan, the Alternative Energy Development Plan, the Oil Plan and the Gas Plan), are updated from time to time. However, the government plans to implement the National Energy Plan in 2023 that will integrate these five policies into a single plan while also focusing on the energy transition to meet Thailand's carbon reduction goals.

The key pieces of legislation and responsible entities regulating the natural gas sector are as follows:

- the Petroleum Act, BE 2514 (1971), as amended (PA) under the supervision of the Department of Mineral Fuels (DMF);
- the Petroleum Income Tax Act, BE 2514 (1971), as amended (PITA) under the supervision of the Revenue Department; and
- the Energy Industry Act, BE 2550 (2007) (EIA) under the supervision of the Energy Regulatory Commission (ERC).

The domestic trading of natural gas is governed by the Fuel Oils Trading Act, BE 2543 (2000) and the Fuel Oils Control Act, BE 2542 (1999), which are administered by the Department of Energy Business (DOEB). The DMF, DOEB and ERC are within the MOE and play a role in implementing the policy.

**Law stated - 8 December 2023**

## Regulatory authorities

## Which authorities make regulatory policies and decisions in respect of the production, transmission, distribution and supply of natural gas?

### Upstream

The DMF, as the primary authority governing the upstream market in Thailand, issues notifications and subordinate rules concerning the exploration and production of natural gas under the PA. Ministerial Regulations under the PA are issued by the MOE.

If a concessionaire or a contractor under a production-sharing contract or a services contract wishes to challenge a decision of the DMF or MOE, it may allege a violation of the relevant government contract (namely, concession agreement, production-sharing contract or services contract) in accordance with the provisions therein. Other interested parties may challenge decisions of the DMF or MOE or both through the Administrative Court.

### Midstream and downstream

The primary authority governing the midstream and downstream markets in Thailand is the ERC, established in 2007 under the EIA. The ERC issues notifications and rules, and proposals for Royal Decrees to regulate the energy sector, including the natural gas sector. The ERC regulates the transportation, transportation systems, storage, wholesale and retail (other than in the transportation sector) of natural gas.

Section 121 of the EIA outlines the procedures for challenging the decisions or rulings of the ERC. Appeals of the ERC's decisions must be submitted to the ERC, whose decision will be final. If the affected party disagrees with the ERC's decision on appeal, it may have grounds for disputing the ERC's decision by bringing a claim to the Administrative Court.

**Law stated - 8 December 2023**

## REGULATION OF NATURAL GAS PRODUCTION

### Ownership and organisation

#### What is the ownership and organisational structure for production of natural gas (other than LNG)? How does the government derive value from natural gas production?

Under the PA, petroleum belongs to the state. No person may explore for or produce petroleum in any area, whether owned by that person or another, except by virtue of a concession and (since 2017) a production sharing contract (PSC) or service contract (SC).

However, a concessionaire owns the petroleum it produces with the right to sell and dispose of such petroleum. All natural gas produced must be sold to PTT Public Company Limited for domestic distribution and use.

A concessionaire or contractor under a PSC or SC must be a company. However, it may be 100 per cent foreign-owned.

Gas separation, distribution and trading are subject to ceilings on foreign ownership under the Foreign Business Operations Act, BE 2542 (1999), the Land Code and other laws.



The government benefits from gas production by receiving royalty and income tax, and maintaining a sufficient and reliable supply of gas for power plants, industrial plants and petrochemical complexes.

Law stated - 8 December 2023

## **Regulatory framework**

### **Describe the statutory and regulatory framework and any relevant authorisations applicable to natural gas exploration and production.**

The Petroleum Act (PA) governs the exploration and production of petroleum (natural gas and oil). It is administered by the Department of Mineral Fuels (DMF) under the Ministry of Energy (MOE).

Until recently, all existing natural gas exploration and production has occurred in Thailand by way of petroleum concessions (other than the Malaysia–Thailand Joint Development Area). In 2007, the PA was amended by PA No. 6. Four ministerial regulations under the PA and a revised form of petroleum concession were published in 2012.

Thai practice in granting petroleum concessions (for oil and gas exploration and production) was to award them only following the publication of an international invitation. Applications were evaluated on a points system by the Petroleum Committee, which forwards its recommendations to the cabinet for approval.

Most concession terms and conditions are prescribed in the PA and its regulations. In practice, concession applicants are rarely permitted to negotiate changes in the standard terms. The Petroleum Income Tax Act (PITA) prescribes a special income tax regime for exploration and production companies.

#### 2017 amendments to PA and PITA

The PA (No. 7) and the PITA (No. 7) were enacted in March 2017 to establish the PSC and SC contract regimes.

Amendments to section 23 of the PA include the additions that exploration and production of petroleum now require the application for, and the grant of, a PSC, SC or concession. The MOE will determine which form is appropriate, with rules and procedures to be published with the approval of the cabinet.

The general terms and conditions that are to be inserted in the PSCs include the following:

- all actual expenses in petroleum operations are to be borne by the contractor and deducted from production, as detailed in the contract, per the work plan and budget approved by the director-general annually. Deductions may not exceed 50 per cent of the total production. The excess can be deducted in the following year if such expenses for that year do not exceed 50 per cent. Up to 50 per cent of the remainder of the total production, after deduction and payment of royalty, is shared with the contractor;

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the portion of production owned by the state may either be sold or disposed of by the state, or by the contractor at the state's request;

- ownership of all construction materials, equipment, properties and facilities used in petroleum operations acquired by the contractor is to be vested in the state;
- certain provisions relating to concessions also apply to PSCs, notably as to grant, renewal and revocation of rights, duration and renewal of exploration and production periods, demarcation, award and relinquishments of exploration blocks, award of production areas, and transfer of rights; and
- the contractor is to pay a royalty of 10 per cent on the total production.

The general terms and conditions that are to be set out in the SCs include the following:

- remuneration, calculation and payment of remuneration may be made in petroleum production or cash, and only upon commercial production;
- the term of petroleum exploration and production shall not exceed 30 years, with reasons for early termination to be included in the contract;
- rules, procedures, work plans, reporting procedures and conditions of measurement are to be included in the production or exploration contract;
- like PSCs, SCs require annual approval of a work plan and budget by the state, with expenses for petroleum operations to be borne by the contractor, and total production is to be owned by the state. The state may dispose of or sell any portion of its production, or may request the contractor to do so;
- money received by the government from the sale or disposal of production is to be first paid as a royalty, with the remainder to be paid as remuneration and expenses under the production or exploration contract. The remainder is to be remitted to the Treasury; and
- the government is to pay a royalty of 10 per cent on the petroleum produced.

For the adoption of the PSC form, the PITA has likewise been amended. Under the PITA, a company that is a party to a PSC must pay an income tax of 20 per cent of the net profits from its petroleum business. The PITA does not mention SCs, meaning contractors under SCs are subject to general income tax of 20 per cent under the Revenue Code.

The rights to produce natural gas in the Bongkot and Erawan fields upon the expiry of the then-existing concessions were auctioned in late 2018. The winning bidders for both fields included PTTEP Energy Development Company Limited (PTTEP ED), a subsidiary of PTT Exploration and Production Public Company Limited (PTTEP), with the holding interest of 100 per cent in the Bongkot field and a consortium of PTTEP ED and MP G2 (Thailand) Limited, a subsidiary of Mubadala Petroleum (Thailand) Holdings Limited, with holding interests of 60 per cent and 40 per cent respectively in the Erawan field. The winning bidders entered into PSCs in February 2019, and production under this new PSC regime commenced in 2022 for the Erawan field and 2023 for the Bongkot field. Further, the latest bidding round for three offshore exploration and production blocks in the Gulf of Thailand (24th bid round), namely, Block G1/65, Block G2/65 and Block G3/65, which was announced on 7 April 2022, will also be developed through the PSC regime. PTTEP was awarded the rights for Blocks G1/65 and G3/65 and Chevron Offshore (Thailand) was awarded the rights for Block G2/65.

The MOE determines regulatory policies governing the production, transmission, distribution and supply of natural gas, based on the advice and recommendations of the Petroleum Committee and the DMF. The Energy Regulatory Commission (ERC) has a role in policies governing the transmission, distribution and supply of natural gas. The ERC has also announced a 20-year (from 2011 to 2030) Energy Efficiency Development Plan, which will eventually require large-scale businesses in the natural gas industry to implement energy conservation promotion measures to encourage customers to reduce energy use by specified minimum standards.

**Law stated - 8 December 2023**

### **Unconventional gas production**

#### **Are there different rules for, or any restrictions on, unconventional natural gas production (including fracking)?**

There are currently no differentiated rules for, or restrictions on, unconventional gas production (including fracking).

**Law stated - 8 December 2023**

### **Required security and guarantees**

#### **Are participants required to provide security or any guarantees to be issued with a licence to explore for or to store gas?**

Petroleum contractors are required to post both parent company guarantees and bank guarantees to secure their work obligations.

Pursuant to the invitation for proposals for the petroleum bidding round in 2018 for offshore blocks G1/61 and G2/61, a pre-qualified bidder was required to submit a bid bond of 3 million baht per submission. The bid bond was returned to non-successful bidders and the successful bidder upon signing of the PSC. A successful bidder must then submit a performance guarantee of 3.5 billion baht.

Similarly, pursuant to the announcement of the 23rd bid round and 24th bid round, a pre-qualified bidder was required to submit a bid bond of 3 million baht per submission. The bid bond is to be returned to non-successful bidders and the successful bidder upon signing the concession agreement. A successful bidder must submit a performance guarantee in the amount equal to or greater than the amount of proposed expenditures according to the exploration plan and special benefits for the total six-year exploration period.

**Law stated - 8 December 2023**

## **REGULATION OF NATURAL GAS PIPELINE TRANSPORTATION AND STORAGE**

### **Ownership and infrastructure**

## Describe in general the ownership of natural gas pipeline transportation, and storage infrastructure.

PTT Public Company Limited (PTT) has a monopoly on the natural gas pipeline business and owns the natural gas pipeline system. PTT is a public limited company that is majority-owned by the Ministry of Finance.

A number of government bodies are concerned with the transportation of petroleum (oil and gas), which may be divided into the following categories:

- marine transport: the Marine Department and the Ministry of Transport;
- railway transport: the State Railways of Thailand; and
- tanker truck transport: the Department of Land Transport and the Ministry of Transport.

**Law stated - 8 December 2023**

## Regulatory framework

### Describe the statutory and regulatory framework and any relevant authorisations applicable to the construction, ownership, operation and interconnection of natural gas transportation pipelines, and storage.

The construction, ownership, operation and interconnection of natural gas transportation pipelines and storage are governed by the Energy Industry Act (EIA). The EIA empowers the Energy Regulatory Commission (ERC) to approve the construction of the pipeline and infrastructure.

**Law stated - 8 December 2023**

## Land rights

### How does a company obtain the land rights to construct a natural gas transportation or storage facility? Is the method for obtaining land rights to construct natural gas distribution network infrastructure broadly similar?

Under the EIA, when a licensee is a government agency and needs to use immovable property to construct an energy network system (defined as a power network system or a natural gas network system) or other structures necessary and related to such activities, the Office of ERC will expropriate the property, and the ownership will belong to the state.

The Office of ERC has the duty to take care of, maintain, use and acquire interests in immovable property vested in the state in accordance with rules, procedures and conditions prescribed by the ERC.

A private entity licensee may obtain the rights to land for the construction of natural gas transportation or storage facilities by purchasing or leasing land.

**Law stated - 8 December 2023**

## Access

### How is access to the natural gas transportation system and storage facilities arranged? How are tolls and tariffs established?

Under the EIA, a licensee that has an energy network system (defined as a power network system or a natural gas network system) must allow other licensees or energy industry operators to utilise or connect to its system in accordance with terms stipulated and announced by the licensee who owns the energy network system.

The terms concerning the connection of energy network systems, use of system services and the operation of systems must be based on the following principles:

- they must not adversely affect the security, safety and quality of the energy system;
- they must not disadvantage energy consumers and the public;
- they must not discriminate or hinder other licensees or energy industry operators;
- the technical specifications at the end-use points or the point of connection to the energy network system must be clear, technically feasible and must not impose an undue burden on the person who asks to use or connect to the system;
- the duties and responsibilities of both persons who ask to use or connect to the system and persons who allow the use of or connection to the system must be clearly specified; and
- any other characteristic specified by the ERC.

Law stated - 8 December 2023

## Interconnection and expansion

### Can customers, other natural gas suppliers or an authority require a pipeline or storage facilities owner or operator to expand its facilities to accommodate new customers? If so, who bears the costs of interconnection or expansion?

Expansion of an energy network system must be approved by the ERC. If the expansion plan affects the material interest of the public, the ERC must conduct an opinion-hearing process. A licensee that has an energy network system must conduct operations in line with what is stipulated in the approved expansion plan.

Law stated - 8 December 2023

## Processing

### Describe any statutory and regulatory requirements applicable to the processing of natural gas to extract liquids and to prepare it for pipeline transportation.

At present, PTT is the sole purchaser of natural gas and the builder and operator of gas separation plants. A sixth gas separation plant was completed on 25 January 2011. The

plants are subject to the legal regime applicable to factories in general. There is no special statutory or regulatory regime.

**Law stated - 8 December 2023**

### **Contracts**

**Describe the contractual regime for transportation and storage.**

Pipeline systems can be interconnected by private contracts. A licensee that has an energy network system must disclose the contracts, agreements, conditions and tariffs for the use of or connection to its system, pursuant to the rules, procedures and conditions established by the ERC.

The ERC has the power to order the licensee issuing the terms concerning the interconnection of energy network systems, use of system services and system operations, to revise or improve them as per the EIA principles.

**Law stated - 8 December 2023**

## **REGULATION OF NATURAL GAS DISTRIBUTION**

### **Ownership**

**Describe in general the ownership of natural gas distribution networks.**

Other than the pipelines connecting the gas fields in the Malaysia–Thailand Joint Development Area and some pipelines located in and around industrial estates, PTT is the sole owner of natural gas distribution infrastructure in Thailand.

**Law stated - 8 December 2023**

### **Regulatory framework**

**Describe the statutory and regulatory structure and authorisations required to operate a distribution network. To what extent are gas distribution utilities subject to public service obligations?**

Under the Energy Industry Act (EIA), the natural gas business – which means natural gas transmission through pipelines and natural gas network systems, natural gas storage and transformation of natural gas from liquid to gas, natural gas procurement and gas wholesale or retail through natural gas distribution systems, excluding natural gas business operations in the transportation sector – is under the supervision of the Energy Regulatory Commission (ERC).

Licensees must provide energy services pursuant to standards established by the ERC.

The ERC may assign a licensee to provide energy services in a particular locality where no service exists, or where services are not extensive or are inadequate to meet the demand of energy consumers in that locality.

The Ministry of Energy is empowered to set policies on the provision of energy services, including energy services for the underprivileged, as well as policies dealing with energy consumers' complaints.

If an energy consumer is adversely affected by a service provided by a licensee, the consumer can make a written complaint to the Regional Energy Consumer Committee. Disputes between licensees must be resolved in accordance with regulations prescribed by the ERC. The decision of the ERC on appeal is treated as final.

The Administrative Court has jurisdiction over claims by private sector parties against government agencies, such as the ERC.

**Law stated - 8 December 2023**

### **Access and pricing**

**How is access to the natural gas distribution grid organised? Describe any regulation of the prices for distribution services. In which circumstances can a rate or term of service be changed?**

Access to the natural gas distribution grid is organised according to the regulations of the ERC.

Prices for distribution services are regulated by the ERC.

**Law stated - 8 December 2023**

### **System/service expansion and limitation**

**May the regulator require a distributor to expand its system to accommodate new customers? May the regulator require the distributor to limit service to existing customers so that new customers can be served?**

The ERC has the power to order the licensee issuing the terms concerning the interconnection of energy network systems, use of system services and system operations, to revise or improve them as per the principles outlined in the EIA. Therefore, to an extent, the regulator can require a distributor to expand its system and limit service to existing customers for these purposes.

**Law stated - 8 December 2023**

### **Contracts**

**Describe the contractual regime in relation to natural gas distribution.**

PTT is the primary seller of natural gas in Thailand. Customers typically enter into long-term gas sales agreements with PTT, which sets out the key commercial terms, namely, specifications and delivery point. However, the price of liquid natural gas is controlled by the ERC.

**REGULATION OF NATURAL GAS SALES AND TRADING****Ownership and organisation****What is the ownership and organisational structure for the supply and trading of natural gas?**

PTT is the primary seller of natural gas in Thailand. Customers typically enter into long-term gas sales agreements with PTT, which sets out the key commercial terms, namely, specifications and delivery point. However, the price of liquid natural gas (LNG) is controlled by the Energy Regulatory Commission (ERC).

Law stated - 8 December 2023

**Government oversight****To what extent are natural gas supply and trading activities subject to government oversight? What authorisations are required to engage in wholesale trading of gas?**

Generally, the Ministry of Energy and the ERC supervise all chains of gas supply, such as trading, distribution, import, export, storage, transport and standards of equipment.

The Energy Industry Act (EIA) establishes a regulatory regime for the electricity and natural gas businesses. One purpose of the EIA is to restructure energy industry management by separating policy-making, regulation and operational functions.

Under the EIA, the natural gas business is under the supervision of the ERC comprising a chair and six other members. The Office of ERC was established as a state agency with the status of a juristic person and is under the supervision of the ERC.

The ERC is empowered to issue announcements determining the licences for different types of energy industry operations and recommend to the Minister the issuance of royal decrees determining the categories, capacities and characteristics of the energy industry exempt from the licensing requirement.

Under the EIA, a licensee who has an energy network system (including a gas piping system) must carry out operations in line with the energy network system expansion plan. An energy network system licensee that is a state agency stipulated by the ERC must develop its energy network system expansion plan for submission to the Ministry of Energy for approval by the cabinet. A licensee that is not a state agency as stipulated by the ERC must develop its energy network system expansion plan for submission to the ERC for approval pursuant to the scope and rules prescribed by the ERC.

Under the EIA, licences for natural gas industry operations are classified into four types, namely:

- natural gas transportation through a transmission pipeline system licence;
- a natural gas acquisition and wholesale licence;



- natural gas retail through a distribution pipeline system licence; and
- a natural gas storage and transformation of liquid to gas licence.

The storage and transformation of natural gas from liquid to gas where the total storage of LNG of each storage unit is less than 50,000 litres is exempted from the licence requirement but requires notification to the Office of ERC.

Under the Fuel Oils Trading Act, BE 2543 (2000), a fuel trader with the quantity of trading of each type or combined from 100,000 metric tonnes and above is required to obtain a licence from the Department of Energy Business. For the Fuel Oils Control Act, BE 2542 (1999), the possession of fuels is a controlled activity where a licence may be required depending on the quantity and type of fuels in possession (namely, controlled activities in the third category). For the second category, a notice is required.

**Law stated - 8 December 2023**

### **Trading processes**

#### **How are physical and financial trades of natural gas typically completed?**

Natural gas physical trades are first conducted between concessionaires or production-sharing contract contractors and PTT. PTT then sells to independent or small power producers or industrial users through gas sale agreements. The agreements mostly share some standard specifications (eg, the price, the amount of natural gas to be sold, receipt and delivery point, the tenure of the contract, and other terms and conditions). Most agreements are in the form of firm contracts where both parties are legally obligated to either receive or deliver the amount of gas specified in the contract and there is legal recourse available to either party, should either fail to meet such obligations. LNG physical trades are done in the form of master sale and purchase agreements. There is no financial trading of natural gas in the Thai market.

**Law stated - 8 December 2023**

### **Available services and products**

#### **Must wholesale and retail buyers of natural gas purchase a bundled product from a single provider? If not, describe the range of services and products that customers can procure from competing providers.**

PTT is the primary owner of natural gas pipelines in Thailand. In practice, PTT is the main seller of natural gas in the Thai market as of today, and it generally only sells under long-term contracts. As such, customers generally must purchase bundled goods and services from PTT.

**Law stated - 8 December 2023**

## **REGULATION OF LNG**

## Ownership and organisation

What is the ownership and organisational structure for LNG, including liquefaction and export facilities, and receiving and regasification facilities?

LNG trading is subject to a restriction on foreign ownership under the Foreign Business Operations Act of 1999 (unless the foreign company meets certain minimum capital requirements), the Land Code and other laws.

Thailand's first LNG-receiving terminal owned by PTT LNG Company Limited (PTT LNG) in Map Ta Phut industrial estate can currently offtake and unload up to 10 million tonnes of LNG a year (1,400 million standard cubic feet per day and consists of three 160,000 cubic metre LNG storage tanks and a port for LNG vessels from 125,000 to 264,000 cubic metres. The second LNG-receiving terminal with a storage capacity of 7.5 million tonnes per year became operational in May 2022 under a co-development of PTT LNG and Electricity Generating Authority of Thailand at Nong Fab, Rayong. In addition, the LNG terminal in Map Ta Phut deep-sea port Phase III with a gasification capacity of 10.8 million tonnes per year, owned by Gulf MTP LNG Terminal Co, Ltd, is due for completion in 2027.

Law stated - 8 December 2023

## Regulatory framework

Describe the regulatory framework and any relevant authorisations required to build and operate LNG facilities.

The same regulatory framework and governmental and administrative authorisations apply to LNG plants and industrial plants.

Law stated - 8 December 2023

## Pricing

Describe any regulation of the prices and terms of service in the LNG sector.

No regulations governing the prices and terms of service in the LNG sector have been issued.

Law stated - 8 December 2023

## MERGERS AND COMPETITION

### Competition authorities

Which government body may prevent or punish anticompetitive or manipulative practices in the natural gas sector?

Under the Trade Competition Act BE 2560 (2017) (TCA), the Trade Competition Commission (TCC) is the government body with general regulatory oversight for anticompetitive or manipulative practices, other than in sectors with specific trade competition regulations.

Energy services businesses, which include the midstream and downstream markets of natural gas supply, are regulated by the Energy Regulatory Commission (ERC) under the Energy Industry Act (EIA).

The EIA prescribes objectives to promote competition in the energy industry, prevent abusive use of dominance in energy industry operations, and promote fairness and transparency in the provision of services for energy network systems without unjust discrimination. The ERC is also empowered to monitor and regulate mergers in the sectors where it has regulatory oversight, namely, the electricity industry and the natural gas industry.

**Law stated - 8 December 2023**

## **Competition standards**

### **What substantive standards does that government body apply to determine whether conduct is anticompetitive or manipulative?**

Licensees under the EIA are subject to the regulatory oversight of the ERC. For other business operators, such as upstream natural gas producers, the TCA will apply to their activities. The TCC is the regulator with the supervisory authority of the TCA.

Sections 54 and 55 of the TCA proscribe specific conduct that is anticompetitive or an abuse of a dominant operator's market power, such as price-fixing, market allocation, bid rigging, horizontal restraint, or other types of joint agreement in other manners as prescribed by the TCC.

With respect to licensees under the EIA, the ERC has the discretion to determine whether the conduct may create a monopoly, lessening and restricting competition. The following criteria are taken into consideration:

- the provision of a service relevant to the economic principles, market structure and competition level in a relevant market;
- market share; and
- other factors or conditions according to principles of laws on trade competition and other relevant laws taking into consideration public interest, the protection of consumers, penetration of new business and competition in a relevant market.

**Law stated - 8 December 2023**

## **Enforcement**

### **What authority does the government body have to preclude or remedy anticompetitive or manipulative practices?**

The TCA empowers the TCC to suspend and unwind any merger that may cause a monopoly or result in a dominant position in the market. Failure to comply will result in the violator being liable to an administrative fine.

The EIA also empowers the ERC to order the licensee to unwind or correct a merger that is monopolistic, reduces competition or limits competition. Failure to comply will result in the licensee being liable to pay a fine or imprisonment or both.

**Law stated - 8 December 2023**

### **Merger control**

**Does any government body have authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of production, transportation or distribution assets?**

The TCC established under the TCA is empowered to approve or disapprove mergers and other changes in control over businesses that result in a monopoly or unfair competition.

The ERC is empowered to approve mergers and acquisitions for activities requiring energy industry licences under the EIA.

**Law stated - 8 December 2023**

### **Price restrictions**

**In the purchase of a regulated gas utility, are there any restrictions on the inclusion of the purchase cost in the price of services?**

Under the EIA, the Ministry of Energy has the power, with the approval of the National Energy Policy Council (NEPC), to establish policies and guidelines for fixing tariffs for energy industry operations.

Subject to policies and guidelines approved by the NEPC, the ERC may prescribe rules for fixing tariffs for each type of licence under the following guidelines:

- they should reflect the actual cost by taking into account a reasonable return on investment of an efficient energy industry operation;
- they should be at a level to ensure efficient and adequate energy procurement to meet the demand for energy within the country;
- they should encourage the improvement of the efficiency of energy industry operations;
- fairness must be ensured for both energy consumers and licensees;
- consideration should be given to the assistance of underprivileged power consumers and the decentralisation of development to provincial areas;
- the calculation of the tariffs must be clear and transparent, and the tariffs must be made public; and
- there must be no unjust discrimination against energy consumers or those who wish to use energy.

**Law stated - 8 December 2023**

### **Corporate governance regulations**

**Are there any restrictions on the acquisition of shares in gas utilities? Do any corporate governance regulations or rules regarding the transfer of assets apply to gas utilities?**

The ERC issued the Regulation of the Energy Regulatory Commission on Establishment of Criteria to Prevent Mergers, Competition Lessening or Restrictions in Energy Service, BE 2552 (2009). Any holder of a natural gas industry operation wishing to dispose of and acquire assets or shares must comply with this regulation and, where applicable, the permission approval from the ERC must be obtained prior to the transaction.

**Law stated - 8 December 2023**

## **INTERNATIONAL**

### **Foreign participation**

**Are there any special requirements or limitations on foreign companies acquiring interests in any part of the natural gas sector?**

A petroleum concessionaire or production-sharing contract contractor must be a company. However, subject to any specific limitations in the terms of reference for any bid round, it may be 100 per cent foreign-owned.

Gas separation, distribution and trading are subject to a restriction on foreign ownership under the Foreign Business Operations Act, BE 2542 (1999) (unless the foreign company meets certain minimum capital requirements), the Land Code and other laws.

**Law stated - 8 December 2023**

### **International agreements**

**To what extent is regulatory policy affected by treaties or other multinational agreements?**

Thailand is a party to many international treaties, bilateral investment protection treaties and double tax treaties, including those of the World Trade Organization. Thailand is not a party to the International Centre for Settlement of Investment Disputes Convention.

The Association of Southeast Asian Nations (ASEAN) integration includes plans for the interconnection of current and planned pipelines among the member states. Such integration will require regulators and governments to collaborate, creating a regulatory framework for the transborder trading of energy and natural gas.

**Law stated - 8 December 2023**

### **Cross-border sales and deliveries**

**What rules apply to cross-border sales or deliveries of natural gas?**

At present, the Thailand–Malaysia Joint Authority Act, BE 2533 (1990) applies to gas exploration and production in the Malaysia–Thailand Joint Development Area.

Other major laws applicable to the export and import of oil and gas include:

- the Export and Import of Goods into the Kingdom Act, BE 2522 (1979);
- the Customs Act, BE 2560 (2017);
- the Emergency Decree on Remedy and Prevention of Shortage of Fuel Oil, BE 2516 (1973); and
- the Fuel Oils Trading Act, BE 2543 (2000).

In connection with Thailand integrating with ASEAN, Thailand will become subject to ASEAN policies on transborder trading in natural gas.

The ASEAN Plan of Action for Energy Cooperation from 2016 to 2025 specifies cooperation in seven areas, including Programme Area No. 2 – the Trans ASEAN Gas Pipeline.

**Law stated - 8 December 2023**

## TRANSACTIONS BETWEEN AFFILIATES

### Restrictions

What restrictions exist on transactions between a natural gas utility and its affiliates?

At present, no restrictions exist on transactions between a natural gas utility and its affiliates.

**Law stated - 8 December 2023**

### Enforcement

Who enforces the affiliate restrictions and what are the sanctions for non-compliance?

Not applicable.

**Law stated - 8 December 2023**

## UPDATE AND TRENDS

### Gas sector-specific regulation

Describe recent trends and developments in the regulation of the domestic natural gas sector.

The National Energy Policy Council (NEPC) adopted revisions to Thailand's Power Development Plan in early 2019.

Thailand's reliance on natural gas for the next 10 to 20 years as a fuel for generating electricity will be coupled with a decline in domestic production. As a result, the country will likely need to invest in additional liquid natural gas (LNG)-receiving capacity, or additional pipelines from neighbouring countries.

The NEPC approved the Electricity Generating Authority of Thailand (EGAT) in developing a floating terminal receiving unit (FSRU) project in 2017. The FSRU would have been moored in the Gulf of Thailand and provided feedstock to power plants in Bangkok or the surrounding provinces, or both. However, the 2017 FSRU project has been scrapped by the NEPC and replaced by the approval for EGAT to jointly invest with PTT LNG Company Limited in the second LNG-receiving terminal. The Ministry of Energy has been conducting a feasibility study for the possibility of the FSRU project in southern Thailand.

**Law stated - 8 December 2023**

**Other regulatory developments of particular relevance to the gas sector**  
**Describe any other recent regulatory trends and developments of particular interest to those operating in the domestic natural gas sector.**

The recent regulatory trends in Thailand in relation to the domestic natural gas sector in Thailand would be the environmental regulations to achieve climate goals. As a part of the global effort to reduce greenhouse gas (GHG) emissions in accordance with the Paris Agreement, the Department of Mineral Fuels (DMF) has issued a notification regarding the criteria for reporting and accounting of GHG emissions from upstream petroleum operation, which came into an effect on 17 August 2022 (the Notification).

Under the Notification, the petroleum business operators are now obligated to keep account of the GHG emission in accordance with the methods set out in the Notification and report the following GHG emissions, both directly and indirectly, generated during exploration and production periods through the DMF's application software for each calendar year (January to December), by March of the following year. The reporting of GHG emissions must at least contain the following:

- type and amount of fossil fuels used per year;
- amount of flared gas per year, the amount of gas vented and the number of days gas venting per year;
- volume of crude oil and (or) natural gas production per year;
- composition of natural gas if the natural gas produced can be used as fuel;
- composition of flared gas (if any);
- amount of consumed energy from external generators or suppliers per year; and
- other information as specified by the DMF.

Failure to comply with the reporting and accounting requirements under the Notification will result in a fine of up to 10,000 baht.

In relation to environmental trends, the latest proposed amendment to the Petroleum Act, BE 2514 (1971), which is still in draft form and in the process of being tendered for approval

by the Cabinet, also introduces a regulatory framework in operating a carbon business operation, which proposes the use of a licensing system for granting carbon business operation rights and conducting surveys to locate carbon capture and storage sites.

Petroleum business operators, along with other business operators in the private sector, may anticipate additional regulations and obligations concerning greenhouse gas (GHG) emissions and combating climate change in the future. This includes new businesses and technologies that may arise in connection with these environmental concerns.

**Law stated - 8 December 2023**