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STANDING COMMITTEE ON PETROLEUM & NATURAL GAS (2021-22)

(SEVENTEENTH LOK SABHA)

MINISTRY OF PETROLEUM & NATURAL GAS

[Action Taken by the Government on the recommendations contained in the Eighth Report (Seventeenth Lok Sabha) of the Standing Committee on Petroleum and Natural Gas (2020-21) on the subject 'Allotment of Retail Outlets and LPG Distributorships']

TWELFTH REPORT

LOK SABHA SECRETARIAT
NEW DELHI

March, 2022/Chaitra, 1944 (Saka)

CP&NG NO.

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Presented to Lok Sabha on 25.03.2022

Laid in Rajya Sabha on 25.03.2022

LOK SABHA SECRETARIAT
NEW DELHI

March, 2022/Chaitra, 1944 (Saka)

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COMPOSITION OF THE STANDING COMMITTEE ON PETROLEUM & NATURAL GAS (2021-22)

Sl. No.	Names of Members
	LOK SABHA
Shri Ramesh Bidhuri - Chairperson	
2	Smt. Chinta Anuradha
3	Shri Ramesh Chand Bind
4	Shri Pradyut Bordoloi
5	Shri Girish Chandra
6	Shri Topon Kumar Gogoi
7	Shri Naranbhai Kachhadiya
8	Shri Santosh Kumar
9	Shri Rodmal Nagar
10	Shri Mitesh Rameshbhai (Bakabhai) Patel
11	Shri Unmesh Bhaiyyasaheb Patil
12	Shri M.K. Raghavan
13	Shri Chandra Sekhar Sahu
14	Shri Dilip Saikia
15	Dr. Bharatiben Dhirubhai Shiyal
16	Shri Janardan Singh Sigriwal
17	Shri Lallu Singh
18	Shri Vinod Kumar Sonkar
19	Shri Ajay Tamta
20	Dr. Kalanidhi Veeraswamy
21	Shri Rajan Baburao Vichare
	RAJYA SABHA
22	Shri Birendra Prasad Baishya
23	Shri Ripun Bora
24	Smt. Kanta Kardam
25	Shri Om Prakash Mathur
26	Shri Rambhai Harjibhai Mokariya
27	Shri Surendra Singh Nagar
28	Shri Subhas Chandra Bose Pilli
29	Dr. V. Sivadasan
30	Shri A. Vijayakumar
31	Ch. Sukhram Singh Yadav

SECRETARIAT

1	Shri H. Ram Prakash	-	Director
2	Shri Mohan Arumala	-	Under Secretary

INTRODUCTION

I, the Chairperson, Standing Committee on Petroleum & Natural Gas having been authorised by the Committee to submit the Report on their behalf, present this Twelfth Report on Action Taken by the Government on the recommendations contained in the Eighth Report (Seventeenth Lok Sabha) of the Committee on the subject 'Allotment of Retail Outlets and LPG Distributorships'.

2. The Eighth Report of the Standing Committee on Petroleum & Natural Gas was presented to Lok Sabha on 06.08.2021. The Action Taken Replies of the Government to all the recommendations contained in the Eighth Report were received on 29.12.2021.

3. The Standing Committee on Petroleum & Natural Gas (2021-22) considered and adopted the Report at their sitting held on 22.03.2022.

4. An analysis of the action taken by the Government on the recommendations contained in the Eighth Report (Seventeenth Lok Sabha) of the Standing Committee on Petroleum & Natural Gas is given in Annexure-II.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

6. The Committee place on record their appreciation for the valuable assistance rendered to them by the officers of the Lok Sabha Secretariat attached to the Committee.

New Delhi;
24 March, 2022
3 Chaitra, 1944 (Saka)

RAMESH BIDHURI,
Chairperson,
Standing Committee on
Petroleum & Natural Gas.

REPORT

CHAPTER I

This Report of the Standing Committee on Petroleum and Natural Gas deals with the action taken by the Government on the recommendations contained in the Eighth Report (Seventeenth Lok Sabha) of the Standing Committee on Petroleum and Natural Gas (2020-21) on the subject "Allotment of Retail Outlets and LPG Distributorships" of the Ministry of Petroleum and Natural Gas, which was presented to Lok Sabha and laid in Rajya Sabha on 06.08.2021.

2. Action Taken Notes have been received from the Ministry on 29.12.2021 in respect of all the 15 recommendations/observations contained in the report. These have been categorized as per the following:

(i) Recommendations/Observations that have been accepted by the Government:- Reco. Nos. 1, 2, 4, 7, 8, 9, 12, 13 and 14 (Total - 9)

(Chapter- II)

(ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies:- Nil

(Chapter- III)

(iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee:- Reco. Nos. 3, 5, 6, 10, 11 and 15 (Total - 6)

(Chapter- IV)

(iv) Recommendations/Observations in respect of which final replies of the Government are still awaited:- Nil

(Chapter- V)

3. The Committee desire that the Action Taken Notes on the Recommendations/Observations contained in Chapter-I of this Report and Final Replies in respect of the recommendations for which interim replies have been furnished by the Government (included in Chapter-V), should be furnished expeditiously.

4. The Committee will now deal with the action taken by the Government on some of their recommendations.

Recommendation No. 3

Field Verification Credentials

5. The Committee had recommended as under:

"The Committee note that the OMCs conduct draw of lots or bidding among the applicants for a location for setting up of retail outlets. The selection is done from eligible candidates have been categorized into Group 1, Group 2 and Group 3 based on land offered or not by the applicants. After the selection is done, the applicant is issued a letter informing that verification of all attested photo copies to be done with the original documents during the field verification of credentials (FVC).

The Committee observe that prior to November 2018 scrutiny of documents and field visit for inspection of land offered by all applicants was done by the oil marketing companies who have informed that it was a very time consuming process. Hence, the selection process was modified so that scrutiny and land inspections are done only for the applicants selected through draw of lots or bid opening process since November 2018. Also, the candidates are liable to be rejected if they are not able to present the original documents at the time of FVC on the designated date and time or during the FVC.

The Committee note that the allotment of retail outlets has been made more transparent by introducing selection by draw of lots among the eligible candidates. The Committee has noted that in some cases after the selected applicant has been selected by draw of lots and after the field verification of credentials, the selected candidates were found to be ineligible who are informed about the cancellation of selection and many such candidates approach court for remedy.

The Committee are of the view that this process needs to be streamlined and made more transparent and objective in a manner that provide least chances of rejection due to non-production of any documents. There can be clarification videos or FAQ's or meeting with the applied candidate before the last date where in the doubts of applicants can be clarified. The Committee feel that all the applicants be informed of all the documents and formalities that are required to be completed upon allotment so that the successful candidates have all the documents in time and are not rejected for want of certain documentary formalities. They also note that since the average number of applications per locations is only 5.1 during the last advertisement, there exists scope for reducing cancellation after field verification of credentials. The Committee recommend that the field verification of credentials should be done in a time bound manner and also whenever any applicant is found lacking in certain documents, he should be given some time to arrange for the same so that the process is more transparent and applicant friendly. The Committee also recommend that the policy of field verification should be reviewed so that it minimizes cancellation of any allotment after draw of lots is completed".

6. In this regard, the Ministry has submitted the following reply:

"Sufficient opportunity is given to the applicants for rectification of rectifiable documents (21 days time) at the document scrutiny stage itself. Therefore, giving an additional opportunity at the stage of FVC will be a duplicate the process as because during FVC, the verification of original documents is carried out which was submitted at document scrutiny stage. Hence, OMCs are of the view that the present system of giving opportunity to applicants to rectify their documents at the scrutiny stage is adequate and further opportunity at FVC stage is not desirable".

Ministry of Petroleum & Natural Gas
O.M.No.M-12038(12)/13/2021-OMC-PNG, dated 29th December, 2021

Comments of the Committee

7. The Committee in their original report had recommended that the process of Field Verification of Credentials (FVC) should be carried out in a time bound manner and applicants must be provided sufficient time to produce relevant documents in order to make the process transparent and applicant friendly. The Committee had further recommended that the FVC process should be reviewed to minimise cancellation of RO allotments after completion of draw of lots.

In this regard, the Ministry in its action taken reply has stated that sufficient time of 21 days is provided to applicants at the document scrutiny stage itself and providing additional opportunity at the stage of FVC will duplicate the process. Accordingly, the Ministry contended that the present system of providing opportunity to applicants to rectify their documents at the scrutiny stage has been adequate and providing further opportunity at FVC stage may not be desirable.

The Committee, however, are not satisfied with the reply of the Ministry as they had viewed in their earlier recommendation that this process needed to be reviewed for better transparency and minimization of litigations/legal cases. Further, it was noted that given the average number of applications per locations was only 5.1 during the last advertisement, the field verification of credentials could be carried out before draw of lots/bidding process so that there would be scope for reducing cancellations.

In view of the above, the Committee reiterate their earlier recommendation that the policy of field verification of credentials must be reviewed to minimise cancellations of retail allotments after draw of lots are completed by carrying out document scrutinizes before draw of lots where only a limited applicants are qualified.

Recommendation No. 5

Expansion of Retail outlets in Hilly ad Far-flung areas

8. The Committee had recommended as under:

"The Committee observe that expansion of retail outlet network is a continuous process undertaken by public sector oil marketing companies in tandem with the growth in demand for auto fuels in the country. As such, locations for retail outlets identified by state run OMCs are included in State retail marketing plans and accordingly, are advertised for setting up of retail outlet dealerships. It has been informed that as per the notification of the Ministry of P&NG dated 08.11.2019, all oil companies are required to set up 5% of their retail outlets in remote areas in proportion to the new retail outlets from the date of notification. The Committee have been informed that OMCs encounter certain bottlenecks while setting up of retail outlets in remote and far-flung areas such as difficult terrain with logistical issues, high infrastructure and maintenance costs, low returns on investments (ROI) and low availability of sites with specific reference to hilly and mountainous terrain and remote areas. The three state run OMCs set up 266 ROs in remote areas during the year 2019-2020.

The Committee, while taking note of low returns on investments and commercial non-viability of setting up of retail outlets in hilly and remote areas, exhort the Ministry/OMCs to take up the issues of practical constraints / bottlenecks with Governments of hilly States for acquisition of land/sites at concessional rates. Further, the Ministry/OMCs may also explore the proposition of business partnerships with State Governments/ Municipal Bodies/Local Bodies for a win-win situation. The Committee, therefore, recommend the Ministry/OMCs to set up a separate coordinating mechanism to address the issues of logistics and site availability in remote and hilly terrains so that the mandatory requirement of setting up of 5% retail outlets in remote and far flung areas will be fulfilled. The Committee also desire that the Ministry/OMCs to review the possibility to enhance commissions/margins for retail outlet dealers and LPG distributors in difficult locations in order to incentivize them for financially viability".

9. In this regard, the Ministry has submitted the following reply:

"The current gazette notification dated 8.11.2019 on marketing rights authorization stipulates that at least 5% of the retail outlets are to be set up in notified remote service areas (RSA) by the authorized entities. In order to ensure compliance with this requirement, the said notification mandates that the authorized entities have to furnish bank guarantees (BGs) at the rate of Rs.3 crore/ remote area retail outlet. The low potential of such retail outlets in remote areas also affects profitability of the dealers. As such, the recommendations of the Committee are quite objective and welcome from the OMCs' standpoint. Further, MOPNG vide Gazette notification dated 13.10.2021 has notified the revised list of Remote areas and OMCs will consider establishing of retail outlets in the remote areas after this notification.

With regard to commission/margin for dealers in difficult locations/Remote Sales Areas (RSA), the calculations in Dealer Margin workings have already been factored for low volume dealers.

Further, acquisition of land from State Government on concessional rate is not applicable to LPG distribution. With regards to enhanced commission, OMCs in co-ordination with MOPNG carried out an extensive study by engaging IIM-Ahmedabad, an Institute of repute, to study the operating environment of LPG distributors across the country and costs involved on account of various cost heads which recommended uniform distributor commission and for revision of Distributors commissions at regular intervals based on empirical formula to ensure that they operate with viability".

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Comments of the Committee

10. The Committee in their report had taken note of the bottlenecks encountered by OMCs in setting up of ROs in remote and far flung areas given the low returns on investments and commercial non-viability of the same. The Committee exhorted the Ministry/OMCs to take up the issues of practical constraints with Governments of hilly states for acquisition of land sites at concessional rates and accordingly, it had recommended to explore the proposition of partnerships with State Governments/Municipal Bodies/ Local Bodies for a win-win situation. The Committee had also recommended for creating a separate coordination mechanism to address the issues for mandatory requirement of setting up of 5% retail outlets in hilly and far-flung areas. Further, the Committee had desired for the possibility to enhance commissions/margins for RO dealers operating in such difficult terrains.

The Ministry in its reply has stated that through a Gazette notification dated 13.10.2021, it has notified the revised list of remote areas and OMCs will consider setting up of ROs in remote areas after this notification. Further, it has been mentioned that with regard to commissions/margins for dealers in difficult locations, calculations have already been factored for low volumes dealers. It has further been stated that acquisition of lands at concessional rates for setting up of LPG distributorships was not applicable to LPG distributorships. With regard to enhancement of commissions to RO dealers, it has been stated that OMCs in coordination with IIM, Ahmedabad carried out a study to understand the operational environment of LPG distributors across the country and

recommended uniform distributor commission along with revision of the same at regular intervals based on empirical formula for ensuring financial viability.

The Committee, however, are not satisfied with the reply of the Ministry and therefore, reiterate their earlier recommendation for financial viability of both retail outlets in hilly and far-flung areas and expect OMCs to engage with State Governments/Municipal Bodies/ Local Bodies for acquisition of land sites for setting up of retail outlets.

Recommendation No. 6

Inclusion of EWS category in allotment policy of Retail Outlets

11. The Committee had recommended as under:

"The Committee note that the guidelines for allotment provides reservation system for various categories in the allotment of retail outlet dealerships and LPG distributorships with 22.5 per cent reservation for SC & ST category and 27 per cent reservation for OBC category. Locations are placed under the 200 point roster to ensure adherence to percentage of reservation of each category. In each of these main categories of reservation, there are sub-categories like women, outstanding sports persons, freedom fighters and defence personnel etc. The Committee also note that these reservations are applicable to all the states in the country except states like Arunachal Pradesh, Meghalaya, Nagaland and Mizoram which have higher percentage of reservation under ST category.

The Committee, further, note that the Union Government has brought about a new category of reservation i.e. Economically Weaker Section (EWS) which has not been included so far in selection guidelines for the allotment of retail outlet dealerships and LPG distributorships. The Committee, therefore, recommend that the MoPNG and OMCs may take necessary action to include EWS category also in the reservation for allotment of retail outlet dealerships and LPG distributorships without disturbing the existing reservation policy".

12. In this regard, the Ministry has submitted the following reply:

"THE CONSTITUTION (ONE HUNDRED AND THIRD AMENDMENT) ACT, 2019, provides for reservation to persons belonging to EWS who are not covered under the scheme of reservation for SC,ST and OBC upto a maximum of 10% in admission to educational institutions including private educational institutions whether aided or unaided by the State and in appointment or posts.

With respect reservations under various categories, OMC's are guided by Dealer Selection Guidelines for Retail Outlets and Unified Guidelines for Selection of LPG distributorships. Presently, there is no separate category for EWS".

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Comments of the Committee

13. The Committee in their original recommendation, while taking note of the non inclusion of Economically Weaker Sections (EWS) in the selection guidelines for allotment of retail outlet dealerships and LPG distributorships, had recommended for the inclusion of the same in the reservation for allotment of RO dealerships and LPG distributorships without disturbing the existing ceiling of the reservation policy.

In this regard, the Ministry in its reply has inter-alia stated that OMCs are guided by dealer selection guidelines for retail outlets and unified guidelines for selection of LPG distributorships and there is no separate category for EWS.

The Committee, however, view that since this is a new policy initiative of the Union Government, it is expected that the MoPNG/OMCs will suitably include this provision in dealer selection guidelines. The Committee, therefore, reiterate their earlier recommendation and accordingly, exhort the Ministry to take an initiative to incorporate the EWS category under the extant framework of reservation policy so that deprived communities within the general category will be benefited from the same.

Recommendation No. 10

Litigation by RO dealer/LPG Distributors

14. The Committee had recommended as under:

"The Committee note that several litigations have been filed in various courts of law with regard to the allotment of retail outlet dealerships and LPG distributorships along with the cases filed by landlords to get their lands vacated by OMCs on expiry of lease agreements of their land for setting up of ROs. Implementations of Marketing Discipline Guidelines have become fulcrum of contention between OMCs and RO dealers/ LPG distributors. The Committee also note that w.r.t. customer transfer policy for LPG distributorships, there are litigations pending in Supreme Court after the same was set aside by the Delhi High Court.

The Committee observe that considerable amounts of time and expense are being spent by OMCs to fight legal cases in various courts of the country. The Committee, therefore, exhort the Ministry/OMCs to institutionalize alternate dispute resolution mechanism to resolve cases/disputes outside the court rooms before resorting to legal recourse in courts of law. The Ministry may also consider for an appellate mechanism by vesting powers with PNGRB or create an ombudsman like system for resolution of disputes between OMCs and RO dealers/LPG distributors so as to fast track the decision between the OMCs and the landlords who want their lands to be vacated after expiry of lease. The Committee, therefore, recommend the Ministry to review the status of pending ' litigations of OMCs and accordingly, create an internal institutional mechanism to settle disputes so that valuable time and resources of OMCs can be saved".

15. In this regard, the Ministry has submitted the following reply:

"With regard to implementation of MDG more specifically related to termination of retail outlets, OMCs already have an appellate provision under MDG wherein any RO dealership terminated can prefer an appeal before appropriate authority of the concerned OMC. In case of SC/ST dealerships the appeal is to be heard by any Director, other than Director (Marketing). The existing appellate mechanism provides an opportunity to the dealer to prefer appeal against termination orders.

Further the dealership agreements of OMCs provide for Arbitration, in case of disputes related to various clauses of the dealership agreement. Therefore, OMCs have a system in place to handle the grievances of the dealers.

The issue of disputes with regard to leases of sites mainly occur at the time of lease renewals. Due to high cost of real estate the landlords often resort to litigations in order to force OMCs to pay substantial higher rentals. As the purchase decision, as well the renewals of leases at mutually negotiated rentals and the terms and conditions are commercial decision and varies between the OMCs an internal institutional mechanism may not be feasible. OMCs has a mechanism by way of negotiated lease or purchase with the land lords to settle the issue subject to economic viability for the site. Further appointment of an ombudsman or vesting powers with PNRGB to consider them as an appellate mechanism is not feasible in view of the commercial terms and conditions involved in each of such cases.

As regards, LPG Distributorships, OMCs already have an internal mechanism in place with respect to grievance redressal concerning Distributor Selection process (Grievance Redressal System) and Arbitration clause for disputes resolution between the parties to a contract. Further with respect to the actions under Marketing Discipline Guidelines (MDG), there is an in-built appeal provision to ensure that any grievance is heard by higher authority and the grievances are addressed in a time bound manner without bias. However, it has also been observed that any order by the appellate authority or the arbitrator is further challenged in the Court of Law, when the order is not found favorable to applicants".

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Comments of the Committee

16. The Committee in their earlier recommendation had noted that several litigations had been pending in various courts of law with regard to allotment of

retail outlet dealerships and LPG distributorships along with cases filed by landlords against OMCs for vacating their lands on expiry of lease agreements. In this regard, the Committee while exhorting the Ministry for creation of an appellate mechanism by vesting powers with PNGRB or any other alternate mechanism for resolution of disputes between OMCs and RO dealers/LPG distributors/ landlords had recommended for reviewing the status of pending litigations by creating an internal institutional mechanism for settlement of disputes at the earliest so that valuable time and resources of OMCs would be saved.

The Ministry in its reply has stated that aggrieved RO dealers have an appellate mechanism under MDGs to approach an appropriate authority of the OMC concerned against termination of their retail outlets. Further, it has been mentioned that dealership agreements provide for arbitration in case of disputes. With regard to lease of sites and lease renewal, the reply has stated that given the commercial nature of disputes and mutually negotiated rentals, internal institutional mechanisms would not be feasible. Further, the Ministry has asserted that appointment of an ombudsman mechanism or vesting powers with PNGRB as an appellate mechanism would not be feasible given the involvement of commercial terms and conditions in such cases. As far as LPG distributors are concerned, it has inter-alia been stated that an internal mechanism has already been existing for grievance redressal with regard to distributor selection process and arbitration clause for resolution of disputes between parties.

The Committee, while not being satisfied with the reply of the Ministry with regard to availability of various mechanisms for resolution of grievances and disputes, observe that OMCs spend huge amounts of financial resources in the process of litigations for several years thereby squandering precious time, energy and human resources.

The Committee, therefore, expect the Ministry/OMCs to devise a suitable alternative mechanism to expedite various pending litigations and grievances of RO dealers and LPG distributors.

Recommendation No. 11

Vacation of Lands by OMCs after Expiry of Leases

17. The Committee had recommended as under:

"The Committee note that OMCs enter into lease agreements with landlords for setting up of retail outlets in the country and these leases are renewable after the expiry of lease period. They however, note that in certain cases there are no renewable clauses at the time of entering into lease agreements. As per the information furnished to the Committee, the OMCs under contractual rights will exercise option to renew leases and in case landlords do not renew leases of retail outlet lands, will defend the court cases filed by landlords and where options for renewal are not available, OMCs will explore possibilities for negotiations/settlements for renewal of leases or purchase and in the event of failure of negotiations, OMCs would explore available legal actions. The Committee observe that this is as per guidelines of MoPNG No. R-30024/56/O-7-MC policy dated 28-4-2010 which are followed by OMCs.

The Committee further, observe that options exercised by OMCs to explore legal actions in both cases where renewal options are available for lease of RO lands and where renewal options are not available appear to be unreasonable and inconsistent. The landlords who have entered into lease agreements with OMCs in good faith will have no option but to file legal cases for vacating the OMCs from their legally and lawfully owned lands. These exercises become burdensome to landlords by incurring considerable financial expenses to fight legal battles in various courts of law for several years. The Committee, therefore, desire that landlords should be made aware that the OMCs will resort to legal actions in case land leases are not renewed after expiry of leases. The Committee feel that OMCs being public sector companies must respect contractual agreements and have provision for either party have the right to renew or terminate the agreements.

The Committee recommend the Ministry to revisit the guidelines and review the number of litigations on this issue and make necessary changes in its 2010 guidelines so that landlords in smaller cities and towns may get their lands back without much difficulty if they are not interested to renew the land leases".

18. In this regard, the Ministry has submitted the following reply:

"OMCs exercise the option for renewal of lease, where ever applicable renewals are granted under the Acts of parliament (Burmah Shell and Esso & Caltex acquisitions acts). Further, OMCs also exercise option for renewal as agreed in the lease conditions.

It is pertinent to mention that wherever the renewal options are not available in the agreement, OMCs request for negotiated renewal of lease or purchase with the land lords, as substantial amount has been spent on the site & development of RO and also to continue to serve the motoring public at large, the public would otherwise be inconvenienced.

The landlords are fully aware of their right to litigate or legal actions as lease agreement is being signed between the landlord and OMCs. Lease agreement also contain the terms of termination of agreement.

Retail outlet (RO) site lease/security is the major issue due to the landowners resorting to litigation in anticipation of better rentals due to ever-increasing real estate rates. Despite the best efforts by OMCs to negotiate for renewal of lease, the landlords are not keen to agree on the renewal option available in agreement or renew the leases given the high real-estate value. Land lords are entering into eviction/court cases and/or demanding high rentals for RO sites which are economically unviable to OMCs. The vacation of land/sites would lead to a situation that the retail outlets would have to be vacated which would result in severe inconvenience to the motoring public due to reduced access to conveniently located petrol pumps & severe congestion in existing petrol pumps, especially given the growth in demand of automotive fuels in the city".

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Comments of the Committee

19. The Committee in their original report, had observed that options exercised by OMCs to explore legal actions against landlords in both cases where renewal options are available for lease of retail outlet lands and where renewal options are not available appear to be unreasonable and inconsistent. Further, the Committee had noted that landlords who had entered into lease agreements with OMCs in good faith would have no option but to file legal cases for vacating OMCs from their legally owned lands and as a result, these exercises would become burdensome to landlords by incurring considerable financial expenses to legal battles in courts of law for several years. In this regard, the Committee had desired that landlords should be made aware of provisions that OMCs would resort to legal actions in case land leases were not renewed after expiry of leases. The Committee therefore, felt that OMCs being public sector companies must respect contractual agreements and have provisions for vesting rights with either party to renew or terminate agreements. As such, the Committee had recommended the Ministry to revisit the guidelines and review the number of litigations on this issue and accordingly, incorporate necessary changes in MDGs of 2010 so that landlords in small towns might get their lands back without much difficulty in case of their unwillingness to renew their land leases.

The Ministry in its reply has stated that wherever renewal options were not available in agreements, OMCs would request for negotiated renewal of leases or

purchase of the same from landlords as substantial amount had already been spent on the site and development of retail outlets and also to continue to serve the motoring public at large, otherwise the public would be inconvenienced. Further, it has been stated that despite best efforts by OMCs to negotiate for renewal of leases, landlords were not keen to agree on renewal options available in agreements or renew leases given ever increasing real estate rates. Also, landlords were entering into evictions/ court cases for demanding high rentals for RO sites which in turn would be economically unviable for OMCs. It has also been stated that vacation of RO sites would result in reduced access to conveniently located petrol pumps and severe congestion in existing petrol pumps given growth in demand for auto fuels in cities.

The Committee, while taking cognizance of the Ministry's reply, are concerned to note that given limited financial wherewithal and legal access, individual landlords of retail outlets in various small towns and cities in the country cannot afford to take on public sector oil marketing giants in protracted legal battles. Further, the Committee contend that due to tardy progress in justice delivery system in the country, aggrieved families of landlords will have to wait for generations to receive legal verdicts, thereby taking a toll on their valuable lifetime resources. The Committee, therefore, reiterate their earlier recommendation by exhorting the Ministry/OMCs to be considerate towards those landlords who are unwilling to renew their land sites for retail outlets. The Ministry/OMCs may accordingly incorporate necessary changes in MDGs so that a middle path would be laid for both landlords of ROs and oil marketing companies.

Recommendation No. 15

Public Liability Insurance Policy

20. The Committee had recommended as under:

"The Committee note that Public Liability Insurance policy taken by Oil marketing companies covers losses arising out of accidents where LPG is the primary cause of fire in case of any accident involving customer's installation, the customer has to forthwith advice the corporation's distributor from whom the supply was received after which the concerned regional office informs the local office of the insurance company which takes further decision on settlement of claims as per provisions of the policy.

The personal accident cover is Rs 6 lacs per person in case of death and medical expenses of Rs 30,000/- per event and property damage of max Rs. 2 lacs per event is covered. The policy is renewed every year and the premium is payable in 50:25:25 ratio by IOCL:BPCL:HPCL. An amount of Rs.0.27 is recoverable from refill sales. The Committee note that the number of cases settled is 730 cases and an amount of Rs 25.3 crore was paid in the year 2017-18. Similarly during 2018-19, amount of Rs. 20 crore was paid with 653 cases settled and in the year 2019-20, the number of cases settled was 543 and amount paid was Rs16.2crore.

The Committee note that now that the customer base has increased due to PMUY scheme, the awareness among LPG consumers need to be increased about the details of this policy along with the safe cooking practices including design of kitchen, location of cylinder and stoves, ventilation etc. The steps taken by the company needs to be expanded and awareness campaigns using mass media should be carried out on mission mode so as to avert any such accidents. Also, awareness should be created that in case of any untoward incident which causes injury/property damage or death of life where LPG is the primary cause of fire, they may file a claim from the insurance company. Therefore the Committee desire that Ministry may review the process of claim settlement and make it simple and also recommend that OMCs should conduct awareness campaigns on the public liability insurance policy taken by them".

21. In this regard, the Ministry has submitted the following reply:

"Information pertaining to the Public Liability Insurance (PLI) policy is available in public domain http://www.mylpg.in & on the OMCs websites. OMCs also adopt the following measures for creating awareness among consumers regarding safe use of LPG and also about PLI Policy:

i. OMCs undertake regular campaigns to improve the safety awareness of the customers. Customer education is imparted right at the time of release of new connection through displays and demo-installation at distributors' showroom and at the time of installation of the connection at the residence.
ii. Safety leaflets and domestic gas customer card containing instructions on safe use of LPG are handed over to all the customers for reference. They also contain the details about PLI policy.
iii. Safety and customer education clinics are conducted from time to time to increase customer awareness on safe use of LPG.
iv. LPG distributors are under instructions to carry out mandatory checks of the LPG installation at the customer's premises once in five years on payment of requisite service charge by the customer.

Further, the field officers and the distributors proactively follow up with the customers, whenever they come to know of any accident involving LPG to assist them in filing claims and settlement of the same under the PLI policy".

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Comments of the Committee

22. The Committee in their original report had inter-alia observed that given the expanding base of customer base under PMUY, awareness must be created on war footing level among LPG customers with regard to safe cooking practices such as design of kitchens, appropriate location of cylinders and stoves and sufficient ventilation etc in order to avert cylinder blasts/accidents. The Committee, had, therefore, recommended for increasing awareness about public liability insurance policy and streamlining settlement of claims under the same for customers.

In this regard, the Ministry in its reply has inter-alia stated that apart from regular campaigns by OMCs, demo installations at distributors' showrooms and customer education clinics on awareness of LPG cylinders, LPG distributors also carry out mandatory checks of LPG installations at customers' premises once in 5 years on payment of requisite charges by customers.

The Committee while taking note of various measures undertaken by OMCs and LPG distributors with regard to safe use of LPG cylinders, would like to exhort the Ministry/OMCs that mandatory checks about LPG installations at residences of customers must be carried out annually instead of once in five years and the same should be conducted free of cost without any requisite charges from customers and accordingly, the necessary changes may be incorporated in the policy guidelines for compliance by LPG distributors. Further, the Committee expect the Ministry/OMCs to streamline the process of insurance policy for expeditious settlement of claims for aggrieved LPG customers.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation No. 1

Guidelines for Allotment of Retail Outlets and LPG Distributorships

The Committee observe that prior to May 2002, selection of dealers for Retail Outlets was done by the Dealer Selection Board. However, in 2003 the appointment of Retail Outlet dealers was carried out through a 3-tier marks based selection process Involving (a) Evaluation of land offered (b) Document/information based evaluation and (c) Interview. In 2014, the Dealer Selection Guidelines for Retail Outlets were amended and the selection of Retail outlet Dealers was conducted by Draw of Lots/Bidding in front of public authorities. Again in 2018, OMCs began implementing new dealership selection guidelines introducing on-line applications for allotment of retail outlet dealerships at various locations in the country. The Committee observed that improvements have been made in the system from time to time to ensure transparency and clarity in the allotment of ROs and LPG Distributorships.

The Committee, however, note that there have been many legal cases in courts that have challenged the allotment process. They also note that at present there is neither any mechanism to collect feedback from participants/applicants who participated in the selection process of allotments nor any independent study has been conducted regarding the efficacy of the process. Therefore, the Committee desire that the Ministry should develop a feedback system and also conduct a study to simplify and streamline the system and incorporate a simple and transparent procedure to eliminate or reduce the number of legal cases arising out of allotment of RO dealerships and LPG distributorships.

The Committee also note that there have been developments in LNG, Hydrogen and Electric Vehicles as alternative sources of energy for automobiles in future. Further, while taking into account the fact that retail outlets should cater to these diverse options in future, the Committee recommend that Ministry/OMCs should review the guidelines for inclusion in allotment of retail outlets and also have provisions for inclusion of such new technologies being made available in these retail outlets after taking into account all related safety requirements.

REPLY OF THE GOVERNMENT

The selection for retail outlet dealership through computerized draw of lots was adopted in 2018 by Oil Marketing Companies (OMCs) to make the process transparent and simplified. There is a laid down complaint redressal procedure which has been described in detail in the brochure (www.petrolpumpdealerchayan.in) along with criteria for selection & process of selection. Therefore, each and every candidate is fully aware of the process of selection along with the procedure and timelines for lodging their complaint. The brochure also clearly describes how the selection related complaints will be processed. Each complaint is duly investigated and during this process it is ensured that due opportunity is provided to each of the affected parties to make their submissions. After examining the submissions, the decision of the Competent Authority is conveyed through a detailed speaking order to all concerned. Therefore, an already simplified and transparent selection process exists which is duly backed up by a robust grievance redressal system.

OMCs have stated that the court cases or litigations on dealer selection are the complaints related to applicants and not on the transparent process of Draw of Lots. However, in spite of the grievance redressal system available, still some candidates prefer the legal recourse which cannot be totally eliminated.

As regards, LPG Distributorships, Oil Marketing Companies (OMCs) have streamlined and digitized the process of selection of LPG distributorships for locations advertised under Unified Guidelines for Selection of LPG Distributorship (USG). With regards to court cases, as on 01.09.2021, out of 6379 advertised locations, only 127 are under court stay (approx 0.2%). These cases are mostly due to family/local disputes between/amongst applicants and are not associated with selection policy and process. To take disputes in selection process, transparent grievance mechanism is already in place in Unified Selection Guidelines.

Regarding additional feedback mechanism, OMCs are of the view that feedback can be obtained from all candidates participating in the draw through questionnaire regarding efficacy of the present selection process and further improvements, if any, which can be incorporated in the selection process based on merit.

Ministry of Petroleum and Natural vide resolution dated 8.11.2019 revised the guidelines for authorization to private entities to market transportation fuels. The revised guidelines for granting authorization to market transportation fuels i.e. MS/HSD, inter-alia, state that in addition to conventional fuels, the authorized entities and the PSU OMCs (IOCL/BPCL/HPCL) are required to install facilities for marketing at least one new generation alternate fuels i.e. CNG/LNG/Electric Vehicle Charging points etc. at their proposed retail outlets within three years of operationalization of said outlet. Accordingly, Letter of Intent (LOI) conditions for all new RO locations have been amended by OMCs, including suitable clause with regard to compulsory provision of at least one new alternate fuel in the new retail outlet.

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Recommendation No. 2

Single Window System for Approvals

The Committee observe that the process of commissioning of retail outlets is a long drawn process involving multifarious activities such as bid opening/draw of lots process, scrutiny of documents, field verification of credentials, issuance of LOI, obtaining of 10 to 12 NOCs from various Departments/agencies of State Governments, submission of fixed fee/bid amount, construction of retail outlets and issuance of Letter of Appointment and commissioning of retail outlets. The complexity of each location and delay in approvals from authorities makes the allotment process more cumbersome and tedious for OMCs. Further, it is also observed that the process of commissioning of retail outlets gets delayed due to receipt of complaints from various quarters and redressal of the same by OMCs as per the extant policy.

In this regard, the Committee observed that 29,501 LOIs were issued as on 01.06.2021 against the advertisement of 2018. However, only one-third of the total LOIs i.e. 10307 Retail Outlets have been commissioned and the remaining 19,194 outlets are yet to be commissioned even after the completion of three years. The Committee has been informed that the MoPNG has been in touch with State Governments with regard to obtaining clearances/approvals in a time bound manner. Further, the Ministry has also been requested by State Governments to propose draft guidelines to streamline the allotment process. Therefore, the Committee recommended the Ministry to propose draft guidelines for State Governments and also set up a single window clearance system so that mandatory approvals/clearances and statutory requirements are obtained expeditiously at the State level / Local Government level for early commissioning of Retail Outlet dealerships and LPG distributorships.

REPLY OF THE GOVERNMENT

The issue related to setting up of a Single Window Clearance System has been taken up by this Ministry with all the State Governments and followed up from time to time for simplifying the NOC process required for setting up of retail outlets. Till date, the Single Window Clearance System has been started only in a few districts by the State of Madhya Pradesh. The selection process till issuance of LOI is completed expeditiously by OMCs; and early approvals from statutory authorities at State/Local Government like NOCs will assist OMCs in early commissioning of Retail outlets.

Reforms in the selection process of LPG distributorship is a continuous process. As and when it is felt necessary, reforms in the established process are carried out to streamline the selection process. To move on with further streamlining of the selection process of LPG distributorship, an online selection process has been introduced under Unified Guidelines for Selection of LPG Distributorships which includes online receipt of application, processing and online draw of lots. Further, this Ministry has not received any reference from the stake holders regarding difficulties faced by them in receiving necessary approvals/clearances from State Government.

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Recommendation No. 4

Identification of Locations for Retail Outlets

The Committee have been informed that locations for setting up Retail Outlets are identified by the respective oil companies based on market potential, commercial I minimum volume considerations and parameters like distance between two outlets. The locations for setting up of LPG Distributorships (Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and Durgam Kshetriya Vitrak) are identified based on available refill sale potential that can sustain economically viable operation of LPG distributorship. The Committee note that the selection for LPG distributors was decided by OMCs depending on population, economic prosperity of location and distance from existing nearby distributor etc. The country is now witnessing major expansion of highways where thousands of kilometers are being added to the road network every year. The vehicle population has also increased as more than 10 crore automobiles have been sold in the last five years and mobility has also increased in view of domestic tourists within the country. The

Committee have been informed that due to factors like inter-state borders with price advantage, truck lay bye, halting points, business hubs, certain areas lead to clustering of ROs.

The Committee are of the view that highways should have fuel stations for its users so that travellers can optimally make use of them and crowd/cluster ROs. The Committee are surprised to note that Ministry of Petroleum and Natural Gas has so far not given any thought to such a vital issue and have also not held any meeting with MoRTH/NHAI for allotment of land along new highways for setting up of retail outlets and are dismayed that neither the Ministry nor the OMCs have looked into the matter seriously. However, the Committee have been informed that NHAI has identified some spots for amenities which include fuel stations for which bids have been invited and Oil PSUs have also submitted their bids.

The Committee, observe that the new locations should be based on data mining of vehicular density and population, potential of emerging smart cities, new highways being built by Union government and State governments in the planning and growth of Retail Outlets and LPG distributorships and MoPNG must discuss with MoRTH/NHAI for alJotment of land alongside the highways to set up their fuel dispensing stations. The Committee, therefore, recommend that a much more nuanced, proactive and scientific approach needs to be adopted in identifying locations for setting up of both Retail Outlets and LPG Distributorships so that the ROs and LPG distributorship agencies are more evenly distributed throughout the country to cater to the needs of users besides being commercially viable.

REPLY OF THE GOVERNMENT

The Committee's recommendation for identification of locations based on data mining and coordination with MoRTH/NHAI for even distribution of retail outlets on Highways is under implementation by OMCs. Further, MOP&NG vide its letter dated 13.8.2021 has issued directives to OMCs whereby the OMCs can award direct dealership to the successful bidders of Way Side Amenities (WSA) of NHAI/State Governments. OMCs are already in the process of direct award of dealership to WSA Concessionaires, based on the above mentioned broad guidelines issued by MOP&NG.

While identifying locations, for LPG Distributorships, to be advertised under USG, OMCs appointed M/s Socio Cops, a private organization to map the existing distributors and identify proposed locations for new Distributorships pan India. The Private agency used a proprietary Android application to map geographical locations and used Map Layers from MAPMYINDIA to identify new locations along with several criteria viz; Distance to Railway station, National/State Highway, Socially desirable market potential etc. M/s Socio Cops identified four to five potential alternatives for each location. This data was made available with field officers, who then did feasibility study of the same to assess feasibility & finalise location. Hence, a proactive and scientific approach has been deployed for identification of LPG Distributorships.

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Recommendation No. 7

Corpus Fund Scheme of OMC

The Committee have learnt that OMCs provide financial assistance to candidates belonging to SC and ST categories in respect of locations reserved for them consequent upon award of dealerships. In this regard, OMCs ensure availability of ready retail outlets with required facilities at its cost on land offered by candidates and procured by Companies on mutually agreed terms and conditions. Further, it has been informed that OMCs provide adequate working capital assistance/loan for a full operation cycle equivalent to 7 days sales volume of operation of dealerships. The working capital as well as SB1 loan +1% interest per annum or 11% per annum whichever is lower thereon will be recovered in 100 monthly installments commencing from the 13" month of commissioning of dealerships. The Committee also observe that OMCs also provide an additional working capital under the scheme within two years after the commencement of dealerships and it must be preceded by increased sales at retail outlets.

The Committee, while taking note of the interest component charged by OMCs on working capital assistance provided to RO dealers and LPG distributors, would like to point out that OMCs do not provide any interest on the security amount deposited by successful candidates at the time of awarding of dealerships and distributorships. The Committee, therefore, recommend the Ministry/OMCs to provide for interest on security deposits made by RO and LPG distributors. The Committee also feel that OMCs must provide for some kind of interest subvention to candidates belonging to SC and ST categories and EWS category so that the financial assistance provided under the Corpus Fund Scheme will achieve its true efficacy and further, OMCs should not collect charges after the repayment of loans. The Committee further desire that the OMCs should stop recovery of loan from LPG distributors given for construction of LPG godowns after the cost of construction has been recovered fully.

REPLY OF THE GOVERNMENT

Currently refundable security deposit is collected from candidates who have been allotted retail outlets. The Security deposit is refundable in the event of dealer resigning or the dealership being terminated except in case of terminations on account of proven adulteration/malpractice.

The refundable security deposit is collected as security for various assets/equipments like dispensing units, underground storage tanks deployed by the OMCs for operating the retail outlet and for maintaining the Brand/name of the OMC. The security deposit collected is for lifetime of the dealership and is collected only once prior to the commissioning of the dealership which is as per terms of selection Brochure. OMCs after review of the recommendations are of the opinion that for the reasons stated above OMCs will not be in a position to pay interest for the security deposit for retail outlet dealership.

Oil Companies provide adequate working capital assistance/loan for a full operation cycle (equivalent to 7 days sales volume) of the operation of the dealership. Both working capital and SBI MCLR (+1 % interest per annum) or 11 % p.a. whichever is lower will be recovered in 100 monthly installments commencing from the 13th month of the dealership.

Currently SBI MCLR + 1 % works out to 8 % interest on the working capital loan advanced under CFS scheme. The interest therefore currently charged is already 3% lower than the maximum interest of 11 % under the scheme. Therefore interest subvention is already in force for working capital availed by CFS dealers.

No charges are being collected by OMCs once the loan along with applicable interest is paid by the dealer.

As regards, LPG Distributorships, interest free security deposits are as per the norms of the selection guidelines which are specified for different category of distributorships. This security deposit is provisioned to irrevocably authorize the OMCs to adjust and set off any claim or loss suffered by the OMCs or any other amount recoverable by the OMCs from the Distributor against such security deposit. The said security deposit shall not carry any interest against the OMCs and shall be liable for forfeiture in favour of the OMC in the event of any breach, neglect, or default by the Distributor in addition to any other rights or remedies available to the OMCs under the distributorship Agreement or otherwise in law.

OMCs have already stopped recoveries wherever the investments made by OMCs for providing infrastructure to SC/ST distributors have been recovered.

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Recommendation No. 8

Commission/Margins of retail Outlet dealers

The Committee while taking cognizance of commissions and margins of retail outlet dealers, observe that despite rising inflation and operational costs in running retail outlets, state-run OMCs have not enhanced margins of RO dealers since 2017. In this regard, the Committee observe that the amendment provisions of Marketing Disciplinary Guidelines (MDGs) of 2012 issued by OMCs in October, 2017 with regard to short delivery of fuels, maintenance of toilets and payment of wages to staff employed by RO dealers have become a bone of contention between OMCs and RO dealers. The Committee have learnt that revision in MDGs is carried out by OMCs from time to time in order to instill a sense of discipline amongst dealers along with transparency and efficiency in retail outlet operations in the country. The Committee, however, note that the assertion of OMCs to interlinking the enhancement of dealers margins to that of hiking the wages of employees of RO dealers has strained the relationship with RO dealers. Accordingly, some of dealer/dealer association have filed writ petition challenging the amendment to MDG 2012, implementation including the wages payment. Accordingly, Delhi High Court have heard these petition and disposed vide order dated 18.03.2020 and thereafter, OMCs have also filed counter affidavit against the verdict of the single judge bench pronounced in March, 2020 and the issue has been sub-judice since then.

In view of the above, the Committee feel that retail outlets are an interface between OMCs and customers and play an important role in building the image of OMCs. The Committee feel that the prevailing relationship between RO dealers and OMCs does not augur well for the overall functioning of the retail industry and therefore, recommend the

Ministry/OMCs to make sincere efforts for an, amicable solution at the earliest. The Committee desire the Ministry/OMCs to review the guidelines for RO dealers to implement a staggered system of dealership margins given differences in cost of living, basic pay structures and economic development of various States in the country. They can also co-relate the commission/margins of dealers with retail price index. The Committee feel that every organisation has a constitutional right to redress its grievances through legal remedies and therefore, expect the Ministry/OMCs not to act with vindictive attitude towards retail outlet dealers for resorting to a legal recourse against amended MDGs.

REPLY OF THE GOVERNMENT

To motivate the employees of retail outlets to provide better quality of service standards and to deliver the assurance given to customers in terms of quality, quantity, cleanliness and behavior on forecourt, OMC have advised dealers to pay OMCs notified wages which is arrived on the basis of Central Minimum Wages (applicable for construction workers) or statutory minimum wages as notified by States, whichever is higher. The dealer margins were revised in 2017 after taking into account various other factors including the above and accordingly the margins were paid. In order to ensure implementation of the wages payable to the retail outlet employees by the dealers MDG, 2012 was amended along with some other clauses. It is contended that this is a welfare measure.

Some of the Dealers/Dealer Federations filed Writ Petitions in various High Courts challenging these amendments. OMC filed Transfer Petitions before Hon'ble Supreme Court, which passed an order requesting Delhi High Court to dispose the Writ Petitions. Delhi HC vide order dated 18.3.2020 on the issue of payment of minimum wages observed that however good the measure may be, the OMCs cannot make it mandatory via a guideline that the R.O. dealers should pay salaries/wages higher than statutorily notified minimum wages. OMCs took legal opinion as to whether to challenge the Order of the Hon'ble High Court. Solicitor General of India opined that the order of the Delhi High Court merits challenge. Accordingly, OMCs filed LPA before the Hon'ble High Court of Delhi and the matter is sub-judice.

OMCs endeavor to maintain cordial relations with the dealer network and ensure that customers are not inconvenienced. OMCs hold meetings as and when required with dealers on various issues to arrive at amicable solutions.

Some of the components of dealer margin are based on AICPI index like, dealer remuneration, other operating expenses etc. and therefore the recommendation of the Committee to co-relate the commission/margin to retail price index has been taken care of.

The dealer federations raised various demands after October 2016 for revision of dealer margins. Several recommendations made by dealers was taken into account and based on the discussions dealers/dealer federation, the dealer margins were revised w.e.f. 1.8.2017 by OMCs.

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Recommendation No. 9

Customer Transfer Policy and Non-Viability of LPG Distributorships

The Committee note that customer transfer policy has been devised by OMCs keeping in consideration of the market ceiling of old distributors and viability limits for newly commissioned distributors. Further, the objective of this policy has been to ensure rationalization of refill sale in line with ceiling limits and also to ensure that new distributors reach viable limits. The Committee have also been informed that locations for setting up of LPG distributorships are identified on the basis of available refill sale potential to sustain economically viable operations of LPG distributorships. The refill sale potential is based on several factors such as population, population growth rate, economic prosperity of the location and also distance from existing nearest distributor.

The Committee note that as on 01.01.2021, out of 22,217 numbers of LPG distributorships allotted under Marketing Plan by OMCs and out of which 7115 numbers are operating below viability limits which in turn requires rationalization to attain viability. The Committee, while taking note of various variables in determining the criteria for financial viability and refill sale potential for identification of new LPG distributorships, exhort the Ministry/OMCs not to overlook the existing business viability of old LPG distributorships by transferring major chunk of their customer base to newly setup distributorships. Further, the Committee expect that these customer transfer policies should not be used as an expedient tool by OMCs to settle scores with recalcitrant old distributors in the guise of rationalization of LPG distributorships.

With LPG expansion policy having reached near saturation level due to the stupendous growth achieved under PMUY scheme, the addition of new customers to LPG distributors would be marginal in future. The Committee while noting the provision of an additional one crore LPG connections to PMUY beneficiaries during the current year, recommend the Ministry to review the Customer Transfer Policy of OMCs under the marketing plan and take necessary steps to ensure financial viability of both old and new LPG distributorships in the country as well as ease and convenience to the users.

REPLY OF THE GOVERNMENT

Customer Transfer policy is formulated so as to ensure that the new Distributorships set up should be a viable proposition, while the existing distributorships do not lose their financial viability. Thus, there is a protection of sale of the existing distributorships in built in the policy itself.

As averred in the recommendation, the LPG expansion has reached near saturation in most of the markets and hence the viability of the new distributorships can be achieved only through Customer Transfers.
The policy is designed in such a way that the OMCs would not be able to use the same to settle scores and the existing distributors' interests are protected.

It may also be noted that the Intra-company transfer policy dated 04.01.18 of OMCs was set aside by Hon'ble High Court of Bombay vide order dated 30.09.2019 and the SLPs filed by OMCs are being heard by Supreme Court.

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Recommendation No. 12

Marketing Discipline Guidelines (MDG)

The Committee observe that public sector OMCs have been implementing MDGs since 1982 to enforce greater degree of business ethics and satisfactory customer service in the field of marketing and distribution of petrol and diesel by retail outlet dealers and LPG cylinders by LPG distributors. As administrative guidelines, these MDGs are enforced to dispense the right quality and quantity of petroleum products along with safe handling procedures by retailers and distributors to end consumers. Further, ensuring courteous behaviour with consumers along with common uniform code among employees of dealers and distributors have also been part of these guidelines across the dealership network in the country. These guidelines also stipulate a wide range of penal provisions covering suspension of sales/supplies, imposition of fines and terminations for any kind of malpractices and irregularities in dispensing petroleum products.

The Committee, however, have learnt about some instances of coercive tactics of OMCs in enforcing MDGs in the country such as imposition of exorbitant penalties upon LPG distributors for not conforming to the mandatory uniform code among employees working in godowns and showrooms. LPG associations have submitted that OMCs have been dispatching excessive supplies of LPG cylinders to distributors beyond the requisitioned indent just to meet their unreasonable monthly targets. The Committee have also been informed that Non-Domestic and Non-Exempted (NONE) LPG retailers along with OMCs have been selling commercial LPG cylinders to poor customers at hefty prices and same cylinders to some high end hotels at very reasonable prices by directly lifting stocks from LPG bottling plants.

The Committee while taking cognizance of monetary penalties upon ROs and LPG distributors by OMCs for violations of MDGs, recommend that the Ministry/OMCs to review such instances and ensure that all the OMCs levy the penalties in consistent with the MDG violations throughout the country in a uniform manner so that it is not one sided and there is no arbitrariness in such decisions. Further, the Committee while being concerned about the coercive tactics of OMCs upon LPG distributors, exhort the Ministry/OMCs to enforce the sale of commercial cylinders in the open market to customers at reasonably determined prices and such sales should be kept transparent may be, through use of technology such as allowing sale online.

REPLY OF THE GOVERNMENT

OMCs submit that the MDG provisions are applicable to all in the uniform manner. Further there is a defined process in MDG wherein in all the cases of irregularities, the competent/appropriate authority of the concerned Oil Company will take suitable action after enquiry, following due process and in accordance with the principles of natural justice.

Penalty in certain MDG irregularities have been levied to prevent recurrence and act as deterrent in line with the changing marketing requirements/incidents to maintain discipline in the dealer network.

There is no arbitrariness in OMCs decisions as MDG guidelines implemented by OMCs clearly spell out the due process for establishment of irregularities.

As regards LPG, Ministry vide letter dated 19.08.2014 had conveyed to the Oil Marketing Companies (OMCs) that they may finalize the Marketing Discipline Guidelines (MDGs) at their level after due consultation with the stakeholders for both LPG and Retail Outlets. MDG, 2018 which is in vogue and was issued in November, 2018 has been formulated and issued by OMCs and its implementation also is the responsibility of OMCs.

Present MDG provides for a uniform approach by all the OMCs and eliminates arbitrary action. Penalties are part of MDG. MDG forms part & parcel of the instructions as issued from time to time under relevant clause on 'Faithful Performance' of the Distributorship Agreement by OMCs to distributor. These guidelines do not preclude any action under the Distributorship Agreement.

MDG is meant to ensure business discipline among the distributors and it is invoked only against erring distributors on established cases of malpractices. Due opportunities are given and process of natural justice is followed by asking the distributors to provide clarification before taking action. No financial Penalties are imposed on any minor irregularities in the first instance.

MDG is oriented towards enforcing discipline amongst the distributorship network and prevent malpractices in distribution of LPG, which is all the more significant as LPG being an essential commodity has a direct impact on its services to the common masses.

Commercial LPG business is confined to commercial customers only and is highly competitive with the presence of Private Players. Thus, to enable OMC distributors to be competitive in the market, OMCs have devised discount policy in Commercial LPG for commercial customers. The field is also advised accordingly to ensure that there is transparency and equal treatment for all the distributors.

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Recommendation No. 13

Sale of Petrol and Diesel through Mobile Bowsers and Dispensers

The Committee observe that as per the directions of MoPNG, door to door delivery of diesel to DG sets, industrial establishments, earth moving equipment through bowsers and mobile dispensers have been permitted by PESO, It has also been informed that as per the amendment in MS HSD Control Order, 10.12.2019, OMCs issue advisories to RO dealers for strict compliance and upon any proven malpractices by door to door/roadside delivery, punitive action will be initiated by OMCs under the provisions of agreements signed between OMCs and RO dealers. Further, the power of sampling and seizure of mobile bowsers shall be exercised by authorised officers of Central and State Governments. The Committee have been informed by the retail outlet association about the unauthorised sale of fuel to roadside customers by these bowsers and mobile dispensers in gross violation of guidelines. However, they note that no misuse of permission from PESO to supply diesel to customers at roadside has been reported by

Government agencies except one instance reported in March, 2021 in the Baran district of Rajasthan.

The Committee express serious concern about the sale of auto fuels to roadside customers other than through legally permitted mechanism which is illegal. The unauthorised retail sale of auto fuels to individual customers at roadside is fraught with dangers given the highly inflammable nature of auto fuels and the inherent public safety hazards and it would also make bowsers to operate as mini retail outlets at the fraction of investment. The Committee, therefore, expect the Ministry/OMCs to strictly monitor movement of mobile bowsers and dispensers through use of latest technology and accordingly, recommend that OMCs and PESO should devise a mechanism for better monitoring of provisions of MS and HSD Control Orders along with other extant statutory provisions for exemplary punitive actions for violation of such orders.

REPLY OF THE GOVERNMENT

OMCs have not permitted sale of Diesel to roadside customers. The agreement between OMCs and Mobile Dispenser operator, specifically mentions compliance of provisions of MS HSD Control Order / PESO regulations on part of Mobile Dispenser operators, thus barring them from any sale to roadside customers.

OMCs shall again reiterate to all Mobile Dispenser operators to strictly comply with all the statutory regulations and guidelines mentioned in SOPs pertaining to DDD operations, as permitted by PESO and strict compliance of same.

Further provisions are available with the Central & State Government for initiating action under MS and HSD control order for any incidence of such violations.

OMCs shall take action upon proven malpractice by mobile bowser/dispenser operators under the provisions of the agreements executed.

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Recommendation No. 14

Enhancing Customer Services

The Committee recommend that OMCs have taken a number of customer centric initiatives which include incentive to customer to promote digital transactions, campaign to encourage customers to check quality and quantity of products, autorotation of retail outlets to enhance transparency in retail outlets. Similarly, LPG refill booking and check status updates over whatsapp, digital payment options, provision to avail 5 kg DSC instead of 14.2 kg cylinder, LPG panchayat and safety clinics with special focus on PMUY consumer, home delivery, LPG cylinder to customers, portability of connection, etc. The Committee note that OMCs have done a good job in providing basic amenities and customer experience at retail outlets by introducing provisions like clean toilets, free air, provision of PUC, IVRS, online booking and water cooler. The outlets on highways should also provide such services to consumers for enhancing their sale.

The Committee would like to the extension of these facilities to be replicated at all the retail outlets and LPG distributorships. The consumers should be informed of their rights by having them enumerated at notice board. The staff of both retail outlets and LPG distributors should be sensitized about the courteous behavior and good conduct with consumers. OMCs should strive for a better consumer experience through their marketing network.

The Committee desire that enhancing consumer experience should be seen as a continuous and evolving process whereby the best in service standards should be provided in the remotest corner of the country. The Committee recommend that there should be a mechanism in place for a third party audit for customer service and the OMCs should ensure that experience of consumers and retail outlets should be a pleasant one.

REPLY OF THE GOVERNMENT

OMCs are embarking upon "Evaluation of Retail Outlet Standards", a comprehensive program of digital assessment of standards across various customer facing parameters for enhancing customer services, which is likely to be rolled out this year. The evaluation process includes third party verification of retail outlet standards.

OMCs already have a standard Backdrop at all the LPG distributorships, displaying following information:

- Notification mentioning that it's not obligatory for the customer to purchase Stove/Cooking Range from the distributor and is at liberty to buy the same from any source so long as it bears the BIS mark or is an approved quality/ make.
- Security deposit for Cylinders and PRs
- Service Charges for various services offered by the Distributor
- Emergency Helpline No.
- Mechanic Service available Free of Cost for attending leakage, defects of Cylinder/Regulator.

Further, OMCs are also working on putting up a display board on 'Know your rights' and also to incorporate the same in the DGCC booklet.

OMCs are regularly sending SMS with link for providing feedback on quality & quantity of cylinder supplied to them. SMS is sent on the registered mobile numbers of the customers on all the cylinders delivered.

Regular inspections are also carried out by the field officers and also by senior officers from Regional/Area/Territory Offices and Zonal/State/Regional Offices of OMCs to ensure that these boards are displayed. These are implemented in all the distributorships including those in remote areas.

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CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE GOVERNMENT DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT'S REPLIES

- Nil -

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation No. 3

Field Verification Credentials

The Committee note that the OMCs conduct draw of lots or bidding among the applicants for a location for setting up of retail outlets. The selection is done from eligible candidates have been categorized into Group 1, Group 2 and Group 3 based on land offered or not by the applicants. After the selection is done, the applicant is issued a letter informing that verification of all attested photo copies to be done with the original documents during the field verification of credentials (FVC).

The Committee observe that prior to November 2018 scrutiny of documents and field visit for inspection of land offered by all applicants was done by the oil marketing companies who have informed that it was a very time consuming process. Hence, the selection process was modified so that scrutiny and land inspections are done only for the applicants selected through draw of lots or bid opening process since November 2018. Also, the candidates are liable to be rejected if they are not able to present the original documents at the time of FVC on the designated date and time or during the FVC.

The Committee note that the allotment of retail outlets has been made more transparent by introducing selection by draw of lots among the eligible candidates. The Committee has noted that in some cases after the selected applicant has been selected by draw of lots and after the field verification of credentials, the selected candidates were found to be ineligible who are informed about the cancellation of selection and many such candidates approach court for remedy.

The Committee are of the view that this process needs to be streamlined and made more transparent and objective in a manner that provide least chances of rejection due to non-production of any documents. There can be clarification videos or FAQ's or meeting with the applied candidate before the last date where in the doubts of applicants can be clarified. The Committee feel that all the applicants be informed of all the documents and formalities that are required to be completed upon allotment so that the successful candidates have all the documents in time and are not rejected for want of certain documentary formalities. They also note that since the average number of applications per locations is only 5.1 during the last advertisement, there exists scope for reducing cancellation after field verification of credentials. The Committee recommend that the field verification of credentials should be done in a time bound manner and also whenever any applicant is found lacking in certain documents, he should be given some time to arrange for the same so that the process is more transparent and applicant friendly. The Committee also recommend that the policy of field verification should be reviewed so that it minimizes cancellation of any allotment after draw of lots is completed.

REPLY OF THE GOVERNMENT

Sufficient opportunity is given to the applicants for rectification of rectifiable documents (21 days time) at the document scrutiny stage itself. Therefore, giving an additional opportunity at the stage of FVC will be a duplicate the process as because during FVC, the verification of original documents is carried out which was submitted at document scrutiny stage. Hence, OMCs are of the view that the present system of giving opportunity to applicants to rectify their documents at the scrutiny stage is adequate and further opportunity at FVC stage is not desirable.

Ministry of Petroleum & Natural Gas
O.M.No.M-12038(12)/13/2021-OMC-PNG, dated 29th December, 2021

Comments of the Committee
(Please see Para No. 7 of Chapter-I)

Recommendation No. 5

Expansion of Retail outlets in Hilly ad Far-flung areas

The Committee observe that expansion of retail outlet network is a continuous process undertaken by public sector oil marketing companies in tandem with the growth in demand for auto fuels in the country. As such, locations for retail outlets identified by state run OMCs are included in State retail marketing plans and accordingly, are advertised for setting up of retail outlet dealerships. It has been informed that as per the notification of the Ministry of P&NG dated 08.11.2019, all oil companies are required to set up 5% of their retail outlets in remote areas in proportion to the new retail outlets from the date of notification. The Committee have been informed that OMCs encounter certain bottlenecks while setting up of retail outlets in remote and far-flung areas such as difficult terrain with logistical issues, high infrastructure and maintenance costs, low returns on investments (ROI) and low availability of sites with specific reference to hilly and mountainous terrain and remote areas. The three state run OMCs set up 266 ROs in remote areas during the year 2019-2020.

The Committee, while taking note of low returns on investments and commercial non-viability of setting up of retail outlets in hilly and remote areas, exhort the Ministry/OMCs to take up the issues of practical constraints / bottlenecks with Governments of hilly States for acquisition of land/sites at concessional rates. Further, the Ministry/OMCs may also explore the proposition of business partnerships with State Governments/ Municipal Bodies/Local Bodies for a win-win situation. The Committee, therefore, recommend the Ministry/OMCs to set up a separate coordinating mechanism to address the issues of logistics and site availability in remote and hilly terrains so that the mandatory requirement of setting up of 5% retail outlets in remote and far flung areas will be fulfilled. The Committee also desire that the Ministry/OMCs to review the possibility to enhance commissions/margins for retail outlet dealers and LPG distributors in difficult locations in order to incentivize them for financially viability.

REPLY OF THE GOVERNMENT

The current gazette notification dated 8.11.2019 on marketing rights authorization stipulates that at least 5% of the retail outlets are to be set up in notified remote service

Director, other than Director (Marketing). The existing appellate mechanism provides an opportunity to the dealer to prefer appeal against termination orders.

Further the dealership agreements of OMCs provide for Arbitration, in case of disputes related to various clauses of the dealership agreement. Therefore, OMCs have a system in place to handle the grievances of the dealers.

The issue of disputes with regard to leases of sites mainly occur at the time of lease renewals. Due to high cost of real estate the landlords often resort to litigations in order to force OMCs to pay substantial higher rentals. As the purchase decision, as well the renewals of leases at mutually negotiated rentals and the terms and conditions are commercial decision and varies between the OMCs an internal institutional mechanism may not be feasible. OMCs has a mechanism by way of negotiated lease or purchase with the land lords to settle the issue subject to economic viability for the site. Further appointment of an ombudsman or vesting powers with PNRGB to consider them as an appellate mechanism is not feasible in view of the commercial terms and conditions involved in each of such cases.

As regards, LPG Distributorships, OMCs already have an internal mechanism in place with respect to grievance redressal concerning Distributor Selection process (Grievance Redressal System) and Arbitration clause for disputes resolution between the parties to a contract. Further with respect to the actions under Marketing Discipline Guidelines (MDG), there is an in-built appeal provision to ensure that any grievance is heard by higher authority and the grievances are addressed in a time bound manner without bias. However, it has also been observed that any order by the appellate authority or the arbitrator is further challenged in the Court of Law, when the order is not found favorable to applicants".

Ministry of Petroleum & Natural Gas
O.M.No.M-12038(12)/13/2021-OMC-PNG, dated 29th December, 2021

Comments of the Committee
(Please see Para No. 16 of Chapter-I)

Recommendation No. 11

Vacation of Lands by OMCs after Expiry of Leases

The Committee note that OMCs enter into lease agreements with landlords for setting up of retail outlets in the country and these leases are renewable after the expiry of lease period. They however, note that in certain cases there are no renewable clauses at the time of entering into lease agreements. As per the information furnished to the Committee, the OMCs under contractual rights will exercise option to renew leases and in case landlords do not renew leases of retail outlet lands, will defend the court cases filed by landlords and where options for renewal are not available, OMCs will explore possibilities for negotiations/settlements for renewal of leases or purchase and in the event of failure of negotiations, OMCs would explore available legal actions. The Committee observe that this is as per guidelines of MoPNG No. R-30024/56/O-7MC policy dated 28-4-2010 which are followed by OMCs.

The Committee further, observe that options exercised by OMCs to explore legal actions in both cases where renewal options are available for lease of RO lands and where renewal options are not available appear to be unreasonable and inconsistent. The landlords who have entered into lease agreements with OMCs in good faith will have no option but to file legal cases for vacating the OMCs from their legally and lawfully owned lands. These exercises become burdensome to landlords by incurring considerable financial expenses to fight legal battles in various courts of law for several years. The Committee, therefore, desire that landlords should be made aware that the OMCs will resort to legal actions in case land leases are not renewed after expiry of leases. The Committee feel that OMCs being public sector companies must respect contractual agreements and have provision for either party have the right to renew or terminate the agreements.

The Committee recommend the Ministry to revisit the guidelines and review the number of litigations on this issue and make necessary changes in its 2010 guidelines so that landlords in smaller cities and towns may get their lands back without much difficulty if they are not interested to renew the land leases".

REPLY OF THE GOVERNMENT

OMCs exercise the option for renewal of lease, where ever applicable renewals are granted under the Acts of parliament (Burmah Shell and Esso & Caltex acquisitions acts). Further, OMCs also exercise option for renewal as agreed in the lease conditions.

It is pertinent to mention that wherever the renewal options are not available in the agreement, OMCs request for negotiated renewal of lease or purchase with the land lords, as substantial amount has been spent on the site & development of RO and also to continue to serve the motoring public at large, the public would otherwise be inconvenienced.

The landlords are fully aware of their right to litigate or legal actions as lease agreement is being signed between the landlord and OMCs. Lease agreement also contain the terms of termination of agreement.

Retail outlet (RO) site lease/security is the major issue due to the landowners resorting to litigation in anticipation of better rentals due to ever-increasing real estate rates. Despite the best efforts by OMCs to negotiate for renewal of lease, the landlords are not keen to agree on the renewal option available in agreement or renew the leases given the high real-estate value. Land lords are entering into eviction/court cases and/or demanding high rentals for RO sites which are economically unviable to OMCs. The vacation of land/sites would lead to a situation that the retail outlets would have to be vacated which would result in severe inconvenience to the motoring public due to reduced access to conveniently located petrol pumps & severe congestion in existing petrol pumps, especially given the growth in demand of automotive fuels in the city".

Ministry of Petroleum & Natural Gas
O.M.No.M-12038(12)/13/2021-OMC-PNG, dated 29th December, 2021

Comments of the Committee
(Please see Para No. 19 of Chapter-I)

Recommendation No. 15

Public Liability Insurance Policy

The Committee note that Public Liability Insurance policy taken by Oil marketing companies covers losses arising out of accidents where LPG is the primary cause of fire in case of any accident involving customer's installation, the customer has to forthwith advice the corporation's distributor from whom the supply was received after which the concerned regional office informs the local office of the insurance company which takes further decision on settlement of claims as per provisions of the policy.

The personal accident cover is Rs 6 lacs per person in case of death and medical expenses of Rs 30,000/- per event and property damage of max Rs. 2 lacs per event is covered. The policy is renewed every year and the premium is payable in 50:25:25 ratio by IOCL:BPCL:HPCL. An amount of Rs.0.27 is recoverable from refill sales. The Committee note that the number of cases settled is 730 cases and an amount of Rs 25.3 crore was paid in the year 2017-18. Similarly during 2018-19, amount of Rs. 20 crore was paid with 653 cases settled and in the year 2019-20, the number of cases settled was 543 and amount paid was Rs16.2crore.

The Committee note that now that the customer base has increased due to PMUY scheme, the awareness among LPG consumers need to be increased about the details of this policy along with the safe cooking practices including design of kitchen, location of cylinder and stoves, ventilation etc. The steps taken by the company needs to be expanded and awareness campaigns using mass media should be carried out on mission mode so as to avert any such accidents. Also, awareness should be created that in case of any untoward incident which causes injury/property damage or death of life where LPG is the primary cause of fire, they may file a claim from the insurance company. Therefore the Committee desire that Ministry may review the process of claim settlement and make it simple and also recommend that OMCs should conduct awareness campaigns on the public liability insurance policy taken by them".

REPLY OF THE GOVERNMENT

Information pertaining to the Public Liability Insurance (PLI) policy is available in public domain http://www.mylpg.in & on the OMCs websites. OMCs also adopt the following measures for creating awareness among consumers regarding safe use of LPG and also about PLI Policy:

v. OMCs undertake regular campaigns to improve the safety awareness of the customers. Customer education is imparted right at the time of release of new connection through displays and demo-installation at distributors' showroom and at the time of installation of the connection at the residence.

vi. Safety leaflets and domestic gas customer card containing instructions on safe use of LPG are handed over to all the customers for reference. They also contain the details about PLI policy.

vii. Safety and customer education clinics are conducted from time to time to increase customer awareness on safe use of LPG.

viii. LPG distributors are under instructions to carry out mandatory checks of the LPG installation at the customer's premises once in five years on payment of requisite service charge by the customer.

Further, the field officers and the distributors proactively follow up with the customers, whenever they come to know of any accident involving LPG to assist them in filing claims and settlement of the same under the PLI policy.

Ministry of Petroleum & Natural Gas
O.M.No.M-12038(12)/13/2021-OMC-PNG, dated 29th December, 2021

Comments of the Committee
(Please see Para No. 22 of Chapter-I)

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

- Nil -

New Delhi;
24 March, 2022
3 Chaitra,1944 (Saka)

RAMESH BIDHURI,
Chairperson,
Standing Committee on
Petroleum & Natural Gas.

Annexure-I

MINUTES
STANDING COMMITTEE ON PETROLEUM AND NATURAL GAS
(2021-22)

ELEVENTH SITTING
(22.03.2022)

The Committee sat on Tuesday, the 22 March, 2022 from 1500 hrs. to 1530 hrs. in Committee Room 'C', PHA, New Delhi.

PRESENT

Shri Ramesh Bidhuri - Chairperson

MEMBERS

LOK SABHA

2. Smt. Chinta Anuradha
3. Shri Pradyut Bordoloi
4. Shri Topon Kumar Gogoi
5. Shri Naranbhai Kachhadiya
6. Shri Santosh Kumar
7. Shri Rodmal Nagar
8. Shri Mitesh Rameshbhai Patel
9. Shri Unmesh Bhaiyyasaheb Patil
10. Shri Dilip Saikia
11. Shri Janardan Singh Sigriwal
12. Shri Vinod Sonkar

RAJYA SABHA

13. Shri Birendra Prasad Baishya
14. Shri Om Prakash Mathur
15. Shri Rambhai Mokariya
16. Shri Subhas Chandra Bose Pilli
17. Ch. Sukhram Singh Yadav

SECRETARIAT

1. Shri H. Ram Prakash - Director
2. Shri Mohan Arumala - Under Secretary

2. At the outset, Hon'ble Chairperson welcomed the Members to the sitting of the Committee. The Committee then took up for consideration draft Action Taken Report on the subject 'Allotment of Retail Outlets and LPG Distributorships' and adopted the same without modifications.

3. The Committee then authorised the Chairperson to finalize the Report and present/lay the Report in both the Houses of Parliament.

4. At the end of the deliberations, the Committee authorized the Hon'ble Chairperson to undertake the study visit of the Committee in the month of May, 2022.

The Committee then adjourned.

Annexure II

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE EIGHTH REPORT (SEVENTEENTH LOK SABHA) OF THE STANDING COMMITTEE ON PETROLEUM AND NATURAL GAS (2020-21) ON THE SUBJECT 'ALLOTMENT OF RETAIL OUTLETS AND LPG DISTRIBUTORSHIPS'.

I	Total No. of Recommendations	15
II	Recommendations/Observations which have been accepted by the Government (Vide Recommendations Nos. 1, 2, 4, 7, 8, 9, 12, 13 and 14)	09
	Percentage to Total	60.00%
III	Recommendations/Observations which the Committee do not desire to pursue in view of Government's (Vide Recommendations No: Nil)	00
	Percentage of Total	00
IV	Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee (Vide Recommendations Nos. 3, 5, 6, 10, 11 and 15)	06
	Percentage of Total	40.00%
V	Recommendations/Observations in respect of which final replies of the Government are still awaited (Vide Recommendation No. Nil)	00
	Percentage of Total	00