

## **EPCA Report No. 34 (October 2008)**

### **Report on CNG supply to NCR towns to combat growing air pollution**

In the matter of W.P. (C) No.13029 of 1985; M.C.  
Mehta v/s UOI & others

---

**Environment Pollution (Prevention and Control)  
Authority for the National Capital Region**

---

## 1. Background

---

The Environment Pollution (Prevention and Control) Authority (EPCA) has informed the Hon'ble Supreme Court in its previous report (**No 33, March 2007, Report on Intercity Public Transport Needs**) on the exponential growth of vehicular traffic and consequent air pollution in the NCR region. The region, which has fast exploding cities of Gurgaon, Faridabad, Ghaziabad, Noida, Greater Noida, Sonapat and others, is completely dependent on private vehicles for inter-city transport. In its discussions with state government representatives, it came to EPCA's attention that the agreements to allow for inter-city transport in this region have lapsed and have not been renewed for the past 20 years. As a result, no public transport vehicle – auto-rickshaw, taxi or bus – is allowed to enter the territories of the states – Delhi, Haryana, Rajasthan and Uttar Pradesh – which is leading to enormous inconvenience to people living in these now adjoining and connected areas. In this situation people have no alternative but to commute using private vehicles. This, in turn, has added to traffic, congestion and enormous and deadly pollution in the region. It was also brought to EPCA's notice that the National Capital Region Planning Board had prepared a draft Reciprocal Common Transport Agreement among the states for unrestricted movement of vehicles in the region, which had not yet been finalized.

Since then EPCA has been working with the representatives of different state governments and the NCR Planning Board to finalise the agreement. EPCA has also been concerned that any future growth of vehicular traffic in the region must be on clean fuel, namely compressed natural gas (CNG) so that the deadly pollution can be mitigated.

On October 14, 2008, the first of the agreement has been signed by representatives of all state governments, in the presence of the secretary, Union Ministry of Urban Development. The second agreement regarding stage and goods carriage will also be signed shortly. As both agreements provide that inter-state vehicles must be run on CNG to avoid further air pollution, EPCA is bringing the matter to the Hon'ble Supreme Court for its directions as the issues regarding supply and distribution of gas are currently before the Hon'ble Court.

## 2. Size and growth of traffic in the NCR

---

A recent report, commissioned by the Delhi government, has shown the changing scenario for traffic in the cities adjoining Delhi.

The report reveals (see table) the following:

1. Over 12 lakh vehicles commute daily between Delhi and the cities in the region;
2. The highest number of vehicles is in the Ghaziabad-Delhi stretch – over 3.5 lakh vehicles daily. The NH 8 border between Delhi-Gurgaon sees as many as 2 lakh vehicles daily (which has already increased reportedly);
3. The annual growth rate is phenomenal – touching 30 per cent in the Delhi-Gurgaon stretch and over 33 per cent on the DND flyover and 30 per cent at the Loni Border between Delhi and Ghaziabad. This growth rate is pushing the system towards complete breakdown on these roads – where all flyovers and new roads are choked, even as they are commissioned.

4. The movement of this traffic is not one-way. In other words, it is not as if people are traveling only because they need to come to Delhi. In fact, more people are traveling from Delhi to Gurgaon than the other way around.

5. The problem of congestion and pollution is made acute because this enormous growth of traffic is driven by growth in cars and two-wheeler numbers. In terms of the traffic composition, it is important to note that in stretches like NH-8, roughly 90 per cent of the traffic is cars and two-wheelers (classified in this survey as light vehicles). The situation is the same in almost all the worst affected stretches of the roads. These vehicles take road space but do not end up moving sufficient numbers of people. Worse, the numbers of vehicles contributes to pollution and makes strategies to clean up difficult.

It is for this reason that EPCA has emphasized the need for a public transport plan, not just for Delhi, but for the entire region.

**Table: Profile of vehicles between entering and leaving Delhi every day**

S. No.	Location	Total Vehicles Leaving/ Entering Delhi/ Daily	Annual Growth 2001-2007 (%)	Directional split – to Delhi	Traffic Composition on Car/Light Vehicle (%)
1	NH-8 (Nr Rajokari Border)	1,96,514	28.89	44:56	87.38
2	Mehrauli Gurgaon Road (Nr Aya Nagar)	91,520	17.75	49:51	87.68
3	Old Gurgaon Road (nr Kapasheda Border)	50,518		23:77	43.79
	<b>Total (Gurgaon)</b>	<b>3,38,552</b>			
4	Surajkund Road	35,979		67:33	67.55
5	Mathura Road (Nr Badarpur Border)	62,823	12.05	56:44	75.14
	<b>Total (Faridabad)</b>	<b>98,802</b>			
6	Har Shingar Marg (Nr DDA Sports Complex)	37,066		24:76	57.35
7	Road No.13A (Kalindi Kunj Road)	61,437	2.57	50:50	76.46
8	Noida Link Road (Near Buddha Statue)	59,817		40:60	86.48
9	Vasundhara Enclave	37,310		42:58	64.26
10	DND Flyway	97,096	33.49		92.7
	<b>Total (Noida)</b>	<b>2,92,726</b>			
11	NH-24 (Nr Ghazipur Border)	75,532	17.21	56:44	74.83
12	Koushambi Border (Nr Anand Vihar ISBT)	71,048		60:40	82.28
13	Dr Bhabha Marg (Nr Ramprastha)	26,218			65.42
14	Apsara Border (G. T. Road)	49,208		52:48	71.89
15	Mangal Pandey marg (Bhopura Border)	57,885		51:49	48.65
16	Loni Border (Saharanpur Road)	78,080	29.15	66:34	47.94
17	NH-1 (Sindhu Border)	53,947	7.48	49:51	58.65
	<b>Total (Ghaziabad)</b>	<b>3,57,971</b>			
18	Rohtak Road (Tikri Border)	43,714	11.09	61:39	63.99
19	New Ashok Nagar Road	9,440			65.99
20	Auchandi Bawana Road	9,072	8.09		67.56
21	Dhansa Border	4,056	10.37		63.78
	<b>Grand Total</b>	<b>1,208,280</b>			

### **3. Deliberations to finalise the Reciprocal Common Transport Agreement**

---

In the EPCA meeting on February 9, 2008, the NCR Planning Board provided copies of the (draft) "Reciprocal Common Transport Agreements" related to contract carriage and to stage and goods carriage that had been finalized in consultation with the state governments. EPCA sent these draft agreements to state governments and called for a meeting on February 23, 2008 to expedite the signing of the "Reciprocal Common Transport Agreement" between the governments of Delhi, Haryana, Uttar Pradesh and Rajasthan.

At this meeting, EPCA explained that the exponential growth of private vehicles, primarily because of inadequate public transport facilities and the lack of connectivity, was responsible for increasing air pollution and traffic congestion. It was agreed that the different state representatives would discuss the matter with their governments and would work towards finalizing the agreement.

On March 25, 2008, the NCR Planning Board informed EPCA that secretary, Union Ministry of Urban Development had also called a meeting to discuss the matter. It was agreed that the actions would be coordinated so that decisions would be expedited. Since then EPCA has convened meetings on April 19, 2008, May 9, 2008, June 21, 2008, July 12, 2008, July 25, 2008 and September 6, 2008 to finalise the agreement with the state governments (**Annexure 1**: Minutes of the meetings to discuss the reciprocal agreement).

At the last meeting state government representatives informed EPCA that the first agreement for Contract Carriage (vehicles, which move between different fixed points) had been finalized after public consultation and was ready for signature by the different state governments. EPCA was also assured that the second agreement concerning stage and goods carriage vehicles had been published for public consultation and would be soon finalized. It has been agreed to complete this process by the end of November 2008.

On October 14, 2008, the reciprocal common transport agreement for contract carriage was signed by representatives of all concerned state governments, in the presence of the Union secretary of urban development.

### **4. Elements of the Reciprocal Common Transport Agreement and need for CNG**

---

1. No heavy, medium or light goods vehicles will ply on interstate routes passing through Delhi or New Delhi, if not transacting any goods destined to Delhi.
2. Reciprocal agreements with regard to operations of Stage Carriage on interstate routes between Delhi and Rajasthan, Delhi and Uttar Pradesh, Delhi and Haryana, Rajasthan and Uttar Pradesh, Rajasthan and Haryana, Uttar Pradesh and Haryana will be done on the basis of the agreement, which specifies the routes and the permits issued for the trips.
3. The age of the vehicle shall be limited to ten years till any further directions are issues in this regard. **Only CNG operated stage carriage buses originating and terminating in NCR can ply in NCR Area.**
4. In pursuance of the Hon'ble Supreme Court order dated 20.11.1997 Government of National Capital Territory of Delhi my define certain corridors for movement of

interstate bus services to be operated by Rajasthan, Uttar Pradesh and Haryana through Government of NCT of Delhi.

5. The States shall take initiative to computerize the database of drivers, vehicle registration and other related information in the NCR districts on priority basis. States should also endeavor to implement the usage of RFID enabled registration plates in new vehicles and replace old registration plates in phased manner and also ensure bar-coding of finger-prints of drivers. All the stage carriages would have GPS vehicle tracking system.
6. Contract carriage permits for motor cabs/taxi will only be given to vehicles using clean fuel/CNG conforming to prevailing Euro norms in the NCR. Auto-rickshaws only on CNG and up to certain agreed numbers will be allowed to ply between the cities.
7. All vehicles registered for movement in the NCR will have a colour code and logo for easy recognition. There will not be a tax for these vehicles on entering or leaving towns of NCR.

## **5. Status of CNG availability, supply and distribution in NCR**

---

The Hon'ble Supreme Court has been seized with the matter of CNG availability to the neighbouring towns of Delhi since 2002. It was in April 2002, based on EPCA's recommendation that the Hon'ble Court had directed the Union government to give priority to the transport sector with regards the allocation of natural gas. In December 2002, EPCA began its discussions with Indraprastha Gas Limited (IGL) to expand its existing network of gas supply to neighbouring towns. It wrote to IGL asking for IGL to expand the city gas distribution network to include neighbouring towns of NCR.

Based on these discussions, in July 2003 IGL applied to the Ministry of Petroleum and Natural Gas (MoPNG) to allocate gas for distribution in these towns. In April 2004, MoPNG allocated 0.7 million standard cubic metres per day (mmscmd) of natural gas for the NCR towns of Faridabad, Gurgaon, Noida and Greater Noida to IGL. In this allocation, IGL was named as the implementing agency for distribution of gas to these towns.

On May 15, July 31 and November 4, 2004 EPCA held meetings to discuss the programme with IGL. At the request of EPCA, IGL applied to the MoPNG for gas allocation for the Ghaziabad region.

In December 2004, EPCA filed its report (**No 11: Report on the expansion of the CNG programme in the NCR towns of Faridabad, Gurgaon, Noida and Greater Noida**) detailing out the programme and the need to augment public transport vehicles in the towns. It asked the Hon'ble Supreme Court to direct the state governments to issue permissions to IGL for building the CNG infrastructure.

### **Hon'ble Supreme Court direction on EPCA report 11**

On 11.03.2005 the Hon'ble Supreme Court, in response to EPCA's report no 11, directed "having considered the affidavits on behalf of the states of Haryana and Uttar Pradesh and the additional affidavit filed by IGL as also having regard to the fact that presently the firm allocation of CNG is with IGL, we direct the states of Haryana and Uttar Pradesh to render full cooperation and assistance to IGL to set up requisite number of outlets in Faridabad and Gurgon in the state of Haryana and in Noida and Greater Noida in the state of Uttar Pradesh."

In its order of 29.4.2005, the Hon'ble Supreme Court reiterated its direction, saying "that the states of Haryana and Uttar Pradesh, including the authorities in these states, whether it be Noida, Greater Noida or HUDA, in implementation of the said order in letter and spirit, shall grant requisite permissions and spaces for commencing the process for setting up outlets in Faridabad and Gurgaon in the state of Haryana and Noida and Great Noida in the state of Uttar Pradesh within six weeks."

In this order, the Hon'ble Court had also said that others could also be granted permission, if they satisfied the conditions for eligibility and other requirements.

Subsequently, EPCA learnt that the matter had become complicated because the state government of Haryana had issued approval to the private company, Haryana City Gas for exclusive rights to distribute gas in the towns of Gurgoan, Faridabad, Sonipat and Panipat (EPCA has been given to understand that the state government subsequently amended this order and granted exclusive rights to Adani gas for Faridabad, Haryana City Gas for Gurgoan and Sonepat and Panipat to IGL). EPCA was also informed in its meetings that the state of Uttar Pradesh had issued expression of interest for setting up gas distribution projects in different states of UP and was issuing its own policy for natural gas. It also learnt that the government issued NOC to Adani and then to IGL for the distribution of gas in Noida and Greater Noida. In effect, this has led to enormous confusion and delay in implementing a critical programme for combatting air pollution in these areas.

EPCA understands that different parties have taken the matter to the Hon'ble Supreme Court. Over the past two years, these parties have filed affidavits and counter-affadivits regarding their claim to the distribution of gas in the region.

### **Union government's stand on gas distribution**

Given the importance and urgency of resolving this matter, EPCA called for a meeting with MoPNG to understand the policy framework for natural gas distribution in the country. The representatives of MoPNG informed EPCA that the Central government was taking up this matter with the different state governments, as it was their contention that states did not have jurisdiction to decide on the distribution of natural gas. The state government had been asked to withdraw their respective orders. The MoPNG also informed EPCA that the Hon'ble Supreme Court in a Presidential Reference had clarified that Entry 53 of List 1 (Petroleum and Petroleum Products) included natural gas and this gave the Central government the sole jurisdiction to decide on its policy.

EPCA has also seen the affidavit filed by MoPNG (IA no 270 of 2007) filed on 7.12.2007 on this matter to the Hon'ble Supreme Court. It has also noted the subsequent interim orders of the Hon'ble Supreme Court on 4.4.2008 and 13.08.2008.

## **6. Other issues that concern the successful implementation of the CNG programme in critically polluted cities, including NCR region**

---

### **6.1 Union government's clarification to EPCA regarding "authorized entity"**

On November 24 2007, EPCA had called a meeting with MoPNG to discuss the status of the gas distribution in different polluted cities, being monitored by the authority, under directions from the Supreme Court. It raised the issue of policy uncertainty regarding the authorization granted to these agencies, including IGL, which in turn was leading to delays in operationalising the CNG programme in these critically polluted cities.

The situation had been further complicated because of the stand of the newly created Petroleum and Natural Gas Regulatory Board. The Board has taken the view that all 'entities'

who were given permission to operate (including IGL, which was set up under the directions of the Hon'ble Supreme Court) are not recognized authorities. It has refused to accept that these agencies, which were set up by the Union government before the formation of the Board, should be allowed to function without impediment and take on the urgent challenges of growth in their region.

The meeting was reconvened on March 1, 2008 to ascertain the progress being made to resolve the issue. EPCA was in particular extremely concerned by the growing lines of vehicles in the city to fill gas. EPCA was informed of the letter written by the Regulatory Board on 31.3.2008 to IGL not to undertake any new or incremental activity or activities.

In the meeting on May 11, 2008, the representatives of MoPNG clarified the position on this issue. They informed EPCA that letters had been written to the regulatory board clearly stating that "IGL is authorized by the Central government to lay, build, operate or expand city gas distribution project in Delhi and its urburbs (Noida, (Gautambudh Nagar), Gurgaon and Faridabad." It also clarified that the Act does not define who would be recognized as an 'authorised entity' before the appointed day, except that the Central government should have issued the authorization.

This position was reiterated in the meeting on September 20, 2008. MoPNG once again stated that there is no confusion about IGL being the authorized entity for Delhi and its suburbs (Noida, Gurgaon and Faridabad). EPCA was also informed that the Board had recently written that it would accept the authorizations granted by the Union government.

Based on this clarification, it was agreed that IGL should go ahead with its expansion plan expeditiously. EPCA asked IGL to submit a detailed roadmap of its expansion plans with milestones that would be regularly monitored by the authority. This is critical to ensure that the efforts made by the Hon'ble Supreme Court and the gains made by the city to reduce its pollution are not negated. (**Annexure 2:** minutes of meetings with MoPNG)

### **Section 16 of PNGR Board Act not notified**

It has also been brought to EPCA's notice that as a crucial section of the Petroleum and Natural Gas Regulatory Board Act has not yet been notified, the Board does not in fact have the powers to give authorization to any entity at present. The section 16 of the Act is regarding 'authorisation' and says that no entity shall operate 'without obtaining authorizations under this Act'. It also specifies that provided that the entity "immediately before the appointed day shall be deemed to have such authorization subject to the provisions of this Chapter, but any change in the purpose or usage shall require separate authorizations granted by the Board." Without the notification of this section of the Act, the Union government retains the right to grant authorizations.

### **6.2 Union government clarification on pricing of natural gas**

EPCA is also deeply concerned regarding the pricing of city gas, especially where the market has been mandated through the directions of the Hon'ble Supreme Court. It is clear that in these circumstances, where action is being taken for public good, the pricing has to be carefully regulated so that private profit is not made.

The lack of a cogent pricing policy can jeopardize the CNG programme of cities. In this regard, EPCA in its meetings with MoPNG has emphasized the need for a clear policy regarding the pricing of CNG in cities. It has suggested that the Ministry should examine the report of EPCA on this matter, which was done on the direction of the Hon'ble Supreme Court. In the report (**July 2002: Getting the Prices Right**) EPCA had recommended that CNG should be considered a green fuel and fiscal incentives given to ensure that the fuel

can be promoted but at the same time ensure that the companies do rational and regulated pricing. The Ministry has assured EPCA that it will revert back on a pricing policy for CNG in cities. This work needs to be expedited, as it will be crucial to the success of the programme.

## **7. Recommendations and directions sought from the Hon'ble Supreme Court**

The following recommendations and request for directions from the Hon'ble Supreme Court are being made keeping in mind the urgency as NCR governments have now signed the common transport agreement, to allow for public transport vehicles to move within the crowded cities of the region. The success of this agreement will be determined by the availability of CNG, as the agreement provides for transport to ply on this clean fuel. The agreement is modeled on the success of the earlier intervention of the Hon'ble Supreme Court in the city of Delhi, which promoted the use of CNG with simultaneous directions to the state government to substantially augment the public transport fleet. These two actions taken together led to major gains and reduced air pollution in the city.

EPCA would also like to put on record that the delay in resolving this matter has meant that over four years have been lost in implementing an effective CNG programme for the entire region. This is particularly important given the exploding private transport in the region and its impact on traffic congestion and pollution.

Furthermore, the recommendations are being made keeping in view the need to work within a policy framework for city gas, which can be applied for other cities. The expansion of city CNG programmes, critical for public health concerns, will be jeopardized if such delays are allowed in the future. It is necessary to work within the policy framework for the distribution of rights to supply gas in different cities, keeping in mind that this is primarily a commercial arrangement that has to be decided by the government, based on national policy.

EPCA is constrained to draw the Hon'ble Court's attention that the concern in this writ petition is for a public health cause but different companies want the Hon'ble Court to decide on individual contracts and distribution rights, which is purely a commercial proposition. The recommendations keep in mind that the current directions of the Hon'ble Supreme Court are interim decisions and await a final order.

Given the above, EPCA's recommendations for consideration of the Hon'ble Court are:

1. To endorse that the Central government has the sole power to decide on the policy for CNG distribution as set out by Entry no 53, List 1 of the Constitution. But caution the Central government that this policy for city gas distribution must recognize the public health benefits of CNG, which is being promoted as a clean fuel and is necessary for reducing pollution in our cities.
2. To endorse the Central government's authorization of IGL as the agency charged with supply and distribution of city gas in Delhi and in neighbouring cities. It must be noted that IGL was given gas as early as 2004 and it has done the initial work in creating the infrastructure. This endorsement is necessary, as it will resolve the policy framework for city distribution in other cities of the country.
3. Direct the two state governments – Uttar Pradesh and Haryana -- to abide by the Central government's authorization in this regard, given the Constitutional provision and to facilitate the granting of facilities for early implementation of the CNG programme in their cities. It must be noted that the current arrangements, created primarily because of the insistence of state government's to grant gas distribution

licenses to different companies, are untenable and will lead to lack of accountability. Already, these actions have led to considerable delays and confusion because of the changes of private parties to whom gas rights were given and then withdrawn.

4. Direct the two companies, namely Haryana City Gas and M/s Adani to abide by these decisions and to work within the policy framework for city gas distribution in the country. There is no doubt that the financial interests of these commercial companies will be affected by these decisions. However, these companies must be clear that they took the risk to enter the market of gas distribution, without any gas to sell. It must be noted that the companies took the contract from the two state governments for distribution of gas in Gurgaon, Faridabad and Noida, in full knowledge that the gas had already been allocated to IGL and that IGL had been asked by the Hon'ble Court to proceed to implement the CNG programme, critical for combating air pollution. We are constrained to point out that the two private companies took advantage of the loose system and the Central government's lack of control over its own policy framework. Their actions have resulted in considerable delay in implementing the programme across the region. In this process, these two companies have jeopardized the CNG programme in these cities, which are increasingly polluted and face public health challenges because of toxification.
5. Direct the Central government to ensure that the programme in the NCR towns is implemented with speed. IGL must be asked to report on its schedule of implementation so that the state governments can simultaneously augment their public transport fleet, namely buses, to run on CNG.
6. Direct the Central government to resolve all outstanding issues with the Petroleum and Natural Gas Regulatory Board regarding the policy framework for city gas distribution and the role and responsibility of each agency. But caution the Central government that its policy must not jeopardize the existing programmes for city gas distribution but instead must work to strengthen and expedite this work, which is being promoted for public interests.
7. Direct the Central government to finalise the city gas pricing policy to ensure that the expanding programme can promote the use of natural gas in public transport vehicles to reduce air pollution in our cities.