

Airports Economic Regulatory Authority of India

Order No. 01/2017-18

AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi - 110003

Date of Issue: 17th April, 2017

Service : Into-Plane Fuelling Services
Service provider : M/s Bharat Star Services Private Limited.
Airport : Kempegowda International Airport, Bangalore.

In the matter of Multi Year Tariff Proposal and the Annual Tariff Proposal for the second control period (FY. 2016-17 to FY. 2020-21) submitted by M/s Bharat Star Services Private Limited. (BSSPL) for providing Into-plane fuelling services at Kempegowda International Airport, Bangalore.

The Authority considered the Multi Year Tariff Proposal (MYTP) and Annual Tariff Proposal (ATP) submitted by M/s Bharat Stars Services Private Limited (BSSPL) for provision of Into Plane Services (ITP) at Bangalore international Airport, Bengaluru (BIA) and after due stakeholder consultation, issued Multi -Year Tariff Order (MYTO) No. 20/2011-12 dated 25.10.2011 wherein the Authority decided to adopt 'Light Touch Approach' for determination of tariff for the first Control Period. The Authority vide its Order No. 26/2012-13 dated 29.10.2012 determined Annual Tariffs for the 1st and 2nd tariff year. Thereafter, the Authority vide its Order No.20/2013-14, 28.06.2013 determined tariffs for the 3rd, 4th and 5th tariff year of the first control period.

1.1 The Authority vide its Order No.50/2015-16 dated 31.03.2016 allowed the AOs/ISPs to continue the levy of tariffs existing as on 31.03.2016 up to 30.09.2016 or till the determination of tariffs for the second control period, whichever is earlier. Thereafter, the Authority vide its Order No. 11/2016-17 dated 29.09.2016 further extended the levy of tariffs as on 31.03.2016 up to 31.03.2017 or till the determination of tariffs for the second control period, whichever is earlier. The Authority vide its Order no. 19/2016-17 dated 31.03.2017 has further extended the levy of tariffs as on 31.03.2016 up to 30.09.2017 or till the determination of tariffs for the second control period, whichever is earlier.

1.2 BSSPL vide their letter no. BSSPL.HO.2015-16.AERA dated 09.03.2016 submitted the certified copy of their Multi Year Tariff Proposal and Annual Tariff Proposal which was filed online by them on 14.03.2016 for determination of tariffs for the second control period for providing Into Plane Services at Kempegowda



International Airport, Bangalore. On the basis of ITP fuelling agreement between BSSPL and Bangalore International Airport (BIAL), BSSPL has proposed for 5% escalation of each rate element year on year. BSSPL vide their letter dated 10.10.2016 has also submitted the Annual Compliance Statement (ACS) for the financial year 2015-16.

2.1 In respect of the regulated service(s) provided for Supply of fuel to the aircraft at major airports, the Authority considers that materiality of the service is linked to the actual volume of fuel off take (in Kilolitres) at the major airport. The materiality shall be assessed based on fuel off take volume in Kilo Litres (KL) at the major airport as a percentage of total volume of fuel off take in KL at all major airports. The percentage share of the volume of fuel off take for Bangalore International Airport is **8.62%** which is greater than **5%** Materiality Index threshold limit fixed for the subject service. Hence the service is deemed '**material**'.

2.2 As per the information furnished by BSSPL, in Form F1 (b) on the Competition Assessment, M/s Indian Oil Skytanking Private Limited is rendering similar service at Bangalore International Airport. The Guidelines provide that where a regulated service is being provided at a major airport by two or more service providers(s), it shall be deemed '**competitive**' at that airport. In the instant case with the total number of players being two, the service is deemed '**material but competitive**'.

2.3 As per Clause 3.2 of the Guidelines, based on the assessment of materiality and competition, when such regulated service is deemed 'material but competitive', the Authority shall determine tariff(s) for the service provider(s) based on a 'Light Touch Approach' for the duration of the Control Period. Hence the regulated service being provided by BSSPL at Kempegowda International Airport, Bangalore is 'material but competitive' and shall come under the 'Light Touch Approach' for tariff determination.

2.4 BSSPL has sought an increase of 5% in tariffs as per the provision of their Into Plane Fuelling Service Agreement with BIAL. CEO, BSSPL has also informed that Oil companies are their users and they have entered into user agreements with all the users and the increase in tariff sought is also as per the provisions of Concession Agreement. Hence there is no requirement for organising a specific stakeholder consultation meeting for the subject proposal.

2.5 As per Clause 11.2 of the Guidelines, the ATP is required to be submitted in the manner and form provided in AI. 8.1 of Appendix I to the guidelines and should be supported by the following documents:

- 2.5.1 Form B –Submission of ATP
- 2.5.2 Form 14(b)-Proposed Tariff Card
- 2.5.3 Details of consultation with stakeholders
- 2.5.4 Evidence of User Agreements clearly indicating the Tariff proposed by the Service Provider.

BSSPL has submitted Form B, Form 14(b) and copy of the user agreements with their Annual Tariff Proposal . BSSPL has not provided evidence of stakeholder consultation meeting on the grounds given in para 2.4 above.

2.6 The Authority considered the submissions made by BSSPL and issued the



Consultation Paper No. 04/2016-17 dated 16.02.2017 proposing the following for stakeholder consultation:

- (i) The Into Plane Service being provided by Bharat Star Services Private Limited (BSSPL) at Bangalore Airport, Bangalore is "Material but Competitive". Therefore the Authority proposes to adopt 'Light Touch Approach' for determination of tariffs for the 2nd control period w.e.f. 01.04.2016 to 31.03.2021 and accordingly issue the MYTO for the 2nd control period.
- (ii) Consider the 5% annual escalation in the tariffs sought by BSSPL and decide the Annual Tariff Proposal for the tariff years T1 to T5 i.e FY 2016-17 to FY.2020-21 submitted by BSSPL as per their tariff card .

3.0 In response to the aforesaid Consultation Paper CEO, BSSPL provided justification to the stakeholders for the proposed increase in tariffs due to increase in manpower, O&M costs and the high level of safety and service standards expected by airlines from the ITP operators in a highly competitive market scenario. The Oil companies viz. BPCL, Shell MRPL and IOSL supported the increase in ITP fees sought by BSSPL, but requested that the increase should be made effective from a prospective date. IATA requested that deeper scrutiny of BSSPL's financial performance should be done and it should also be checked whether there is a real competition or not. Further, IATA suggested that price cap regulation should be applied for determination of tariffs.

Views of the Authority

The Authority observed that BSSPL has submitted the tariff card with 5% escalation year on year for the entire 2nd control period from tariff year T1 to T5 i.e FY.2016-17 to FY.2020-21. The Into Plane Fuelling Service Agreement between BSSPL and BIAL shall expire in April-2018 and no document is available on record in support of any proposed extension of the Agreement beyond April-2018.

The Authority carefully examined the stakeholder's comments, provisions of Into Plane Fuelling Service Agreement and the Annual Compliance Statements (ACS) and other audited financials for the first control period submitted by BSSPL. The Authority noted that from the tariff orders for the first control period it appears that on the basis of BIAL's letter dated 18.12.2008 rate of Rs.200/KL instead of Rs. 73.99/KL (as given in Into Plane Fuelling Service Agreement) was taken as base rate by AERA while determining the tariffs during the first control period. The Authority on review of the ACS noted that BSSPL has maintained a good regulatory operating profit and adequate return on RAB during the entire first control period.

Considering the above facts, the Authority in its 171st meeting held on 20.03.2017 decided not to consider increase in tariffs by 5% as sought by BSSPL and allow BSSPL to continue the levy of tariffs existing as on 31.03.2016 for the period 01.04.2016 to 30.04.2018.

ORDER

Upon careful consideration of material available on record, as well as submissions made by the stakeholders, the Authority, in exercise of powers conferred by Section 13(1)(a) of the AERA Act, 2008 hereby orders that:



- (i) The Into Plane Service being provided by Bharat Star Services Private Limited (BSSPL) at Bangalore Airport, Bangalore is "Material but Competitive". Therefore the Authority adopts 'Light Touch Approach' for determination of tariffs for the 2nd control period w.e.f. 01.04.2016 to 31.03.2021.
- (ii) BSSPL may be allowed to continue the levy of tariffs existing as on 31.03.2016 for the period 01.04.2016 to 30.04.2018 (Annexure-I).

By the Order of and in the
name of the Authority


(Puja Jindal)
Secretary

To

M/s Bharat Star Services Private Limited.,
1st Floor, Plot A-5 & 6, Sector-1,
NOIDA-201 301,
Uttar Pradesh.
(Through: Shri Akash Tiwari, Chief Executive Officer)

सत्यमेव जयते

Copy to: Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan,
Safdarjung Airport New Delhi-110003.

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AERA



Annexure-I

Tariff Card of M/s BSSPL for providing Into Plane Services at Kempegowda International airport, Bangalore .

(In Rupees/KL)

Tariff Year		Aircraft Fuelling	Aircraft De-Fuelling		Aircraft Re-Fuelling De-Fuelled Product	
			Within 48 Hrs.	Beyond 48 Hrs.	Within 48 Hrs.	Beyond 48 Hrs.
2nd control Period	01.04.2016 to 31.03.2017	268.03	268.03	321.63	294.82	321.63
	01.04.2017 to 31.03.2018	268.03	268.03	321.63	294.82	321.63
	01.04.2018 to 30.04.2018	268.03	268.03	321.63	294.82	321.63

Note: The above tariffs are as per AERA Order no. 20/2013-14 dated 28.06.2013.



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