

Airports Economic Regulatory Authority of India

Order No. 12/2018-19

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

Date of Issue: 29th May, 2018

**Service : Into-Plane Fuelling Services
Service provider : M/s Bharat Stars Services Private Limited.
Airport : Chhatrapati Shivaji International Airport, Mumbai.**

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 Stars Services Private Limited. (BSSPL) for providing Into-plane fuelling services at Chhatrapati Shivaji International Airport, Mumbai.

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 CSI Airport, Mumbai (MIAL) for 1st control period and after due stakeholder consultation, issued Multi Year Tariff Order (MYTO) No. 11/2015-16 dated 27.05.2015 wherein the Authority decided to adopt 'Light Touch Approach' and determined Tariffs for the period 25.01.2015 to 31.03.2016.

- 1.1 The Authority allowed the AO/ISP's to continue the levy of tariffs existing as on 31.03.2016 up to 30.09.2018 from time to time vide following Orders:
- Order No. 11/2016-17 dated 29.09.2016,
 - Order No. 19/2016-17 dated 31.03.2017,
 - Order No. 12/2017-18 dated 29.09.2017,
 - Order no. 43/2017-18 dated 28.03.2018.
- 1.2 M/s BSSPL vide their letter dated 09.03.2016, submitted the certified copy of their Multi Year Tariff Proposal and Annual Tariff Proposal which was filed online by them for determination of tariffs for the second control period for providing Into Plane Services at CSI Airport, Mumbai. BSSPL has proposed 15% increase in tariff for the year 2016-17 and further increase of 33% in FY 2017-18



and further increase of 8% year on year for remaining period of the second control period.

2.1 In respect of the regulated service(s) provided for Supply of fuel to the aircraft at major airports, the materiality of service is assessed based on actual 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 CSI Airport, Mumbai is **24.29%** 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, M/s Indian Oil Skytanking Private Limited is rendering similar service at CSI 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 CGF Guidelines, 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 Chhatrapati Shivaji International Airport, Mumbai is 'material but competitive' and shall come under the 'Light Touch Approach' for tariff determination.

2.4 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:

- 2.4.1 Form B –Submission of ATP
- 2.4.2 Form 14(b)-Proposed Tariff Card
- 2.4.3 Details of consultation with stakeholders
- 2.4.4 Evidence of User Agreements clearly indicating the Tariff proposed by the Service Provider.

3.1 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 that Oil companies are their users and they have entered into user agreements with all the users, hence there is no requirement for organising a specific stakeholder consultation meeting for the subject proposal.

3.2 M/s BSSPL vide letter dated 05.04.2017 has proposed 15% increase in FY 2016-17 and further increase of 33% in FY 2017-18 and further increase of 8% year on year for second control period due to additional manpower cost to meet DGCA requirement of using 'Two men' operated dispenser, increase in land rent, increase in cost due to operation from two locations since MIAL has offered land at two different locations and cost of office space & porta cabin required to be rented from MIAL



4.1 The Authority considered the submissions made by BSSPL and issued the Consultation Paper No. 01/2018-19 dated 10.04.2017 proposing the following for stakeholder consultation:

- (i) The Into Plane Service being provided by M/s Bharat Stars Services Private Limited (BSSPL) at CSI Airport, Mumbai 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) The Authority proposes to allow BSSPL to continue the levy of tariffs existing as on 31.03.2016 for the First Tariff year (2016-17) and Second Tariff Year (2017-18) of Second Control Period.
- (iii) The Authority proposes 51.55% increase in existing tariff for 2018-19 to meet the revenue requirement of BSSPL to a large extent. The Authority further proposes to increase the tariff by 5% year on year for FY 2019-20 and 2020-21.

5. Stakeholders Comments

5.1 M/s IOSL: As per the selection criteria of ITP service providers, the L2 party needs to match the rates of L1 party so that rate parity is maintained and the suppliers/airlines may have the option to select the ITP service provider providing better service at the same rate. BSSPL was the L1 party in the tender and IOSL matched the rate of BSSPL to meet the tender conditions. AERA proposing a higher rate to BSSPL, the original L1 party stands to become L2, which seems illogical. As the service provided by the two service providers, meeting the same service standards there cannot be a different rate for the same service.

5.2 M/s BPCL requested the following:

- Any revision in charges should be on prospective basis.
- The ITP charges by BSSPL should be at par with the other agency providing similar service at Mumbai Airport.

5.3 M/s HPCL: Into plane charges are pass-through items in pricing and hence, it will be inappropriate to charge different charges for different customers at the same Airport. To avoid the disparity HPCL requested that ITP charges for BSSPL should also be fixed at par with IOSL.

5.4 BSSPL’s response on Stakeholder comments:

BSSPL sought the increase in tariff due to high operating cost on account of lesser market share at Mumbai Airport.



In the past, same ITP charges have been prevalent and also approved by the Authority at all "Open Access" airports for both ITP service providers. If the honourable Authority decides to grant similar ITP charges at Mumbai Airport to both ITP operators, BSSPL has no objection to the same.

6. Authority's Examination.

- (i) The Authority primarily proposed 51.55% increase in existing tariff for 2018-19 to meet the revenue requirement of M/s BSSPL based on the data on the RAB, expenditure and sales volume provided by the company.
- (ii) The Authority has noted the comments of stakeholders (Oil Companies) who had suggested that same rates should be fixed for both the ITP service providers at CSI Airport, Mumbai. Since the Concession Agreement signed by the ITP operator with Airport operator contains the same terms and conditions and the service standards to be provided by both the ITP firms are same.
- (iii) The Authority is of the view that the tariff determination should be based on individual agencies revenue requirement for efficient operator and service level to be provided by the Agency. It does not subscribe to the perception that the rate of competitive firms should be same or any contract condition of the Concession Agreement among the concessionaire has to be honoured which are not as per AERA's philosophy and guidelines.
- (iv) The Authority also feels that determining the same rate for competitive firms would mean preventing competing firms from further improving their efficiency and reducing their rates. Moreover, in case the rate of the efficient firm is increased to match the rate of the other firms, it would mean discouraging the efficient firm to charge lower rate and get more business and would constitute a disservice to the user.
- (v) However, in this case, the main stakeholder (Oil Companies) has asked for the same rate for both the ITPs and M/s BSSPL has also expressed 'No Objection' for approving the same rate for both the service providers. Hence, the Authority has decided to grant the lower tariff approved for M/s IOSL at Mumbai to M/s BSSPL, Mumbai thereby increasing the existing tariff by 34.2% as against 51.55% proposed in the consultation paper for third tariff year (2018-19). Further, the tariff is to be increased by 5% year on year basis for financial year 2019-2020 and 2020-2021.



ORDER

7. Upon careful consideration of the material available on record, as well as submissions made by the stakeholders, the Authority, in exercise of powers conferred upon it by Section 13(1)(a) of the AERA Act, 2008 hereby orders that:
- 7.1 The Into Plane Service being provided by M/s Bharat Stars Services Private Limited (BSSPL) at CSI Airport, Mumbai 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.
- 7.2 The Authority has decided to allow BSSPL to continue the levy of tariffs existing as on 31.03.2016 for the First Tariff year (2016-17) and second tariff year (2017-18) of Second Control Period.
- 7.3 Tariff for the tariff year t3 to t5 i.e. FY 2018-19 to F Y 2020-21 of the second control period for Into Plane Services provided by BSSPL at CSI Airport Mumbai is determined as stated at Annexure - I.
- 7.4 The levy of new tariffs shall be effective from **01.06.2018**.

सत्यमेव जयते

By the Order of and in the
Name of the Authority


(Puja Jindal)
Secretary

To

M/s Bharat Stars Service Private Limited.,
Plot No. A- 5&6, First Floor,
Sector - 1, Noida-201301.
(Through: Shri Akash Tiwari, Chief Executive Officer)



M/s Bharat Stars Services Pvt. Limited
Chhatrapati Shivaji International Airport (CSIA), Mumbai
Tariff for the 3rd, 4th and 5th tariff year (2018-19, 2019-20 and 2020-21) of
2nd control period

Tariff Year	Aircraft Refueling	Aircraft De-fueling		Refueling of Aircraft with defueled product	
		Within 6 hrs	Beyond 6 hrs	Within 6 hrs	Beyond 6 hrs
Tariff year 3 (2018-19)	265.72	268.40	335.50	268.40	335.50
Tariff year 4 (2019-20)	279.00	281.82	352.28	281.82	352.28
Tariff year 5 (2020-21)	292.95	295.91	369.89	295.91	369.89

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