

Airports Economic Regulatory Authority of India

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110 003**

Dated the 25th March, 2011

Direction under Section 15 of The Airports Economic Regulatory Authority of India Act, 2008- "Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines 2011"

No.AERA/20019/CGF-G-CE/2010-11/(06/2010-11) ----- Whereas "services provided for (i) ground handling services relating to aircraft, passengers and cargo at an airport; (ii) the cargo facility at an airport; and (iii) supplying fuel to the aircraft at an airport", are "aeronautical services" in terms of section 2(a) of the Airports Economic Regulatory Authority of India Act, 2008 (the Act);

Whereas under section 13(1)(a) of the Act, the Authority is required to determine the tariff for aeronautical services;

Whereas as per Sec 2(f) of the Act "Civil enclave" means an area, if any allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area;

Whereas under section 15 of the Act, the Authority may, for the purpose of discharge of its functions under the said Act, issue, from time to time to the Service Provider(s), such directions as it may consider necessary;

Whereas the Authority considers it necessary, for the purpose of discharge of its function of determination of tariff for the aforesaid services, to issue guidelines setting out a framework incorporating terms, conditions, systems, procedures, and information requirement therefor;

Whereas to ensure transparency in the process leading upto the framing of appropriate procedures/system for economic regulations, as required under the Act, the Authority issued a White Paper on "Regulatory Objectives and Philosophy" in the Economic Regulations of Airports and Air Navigation Services on 22.12.2009. The Authority considered the views and opinion submitted in response to the White Paper and prepared a Consultation Paper (No. 03/2009-10 dated 26.02.2010) listing out the major issues impacting formulation of its regulatory philosophy and approach and laying out its rationale for the position/approach it was minded to take.

Whereas the Authority, on careful perusal of all the submissions, views and opinions expressed by stakeholders, issued an Order (No. 05 /2010-11, dated 02.08.2010) laying down its philosophy and approach for economic regulation of the services provided for Cargo Facility, Ground Handling and Supply of Fuel to the aircraft at the major airports; and whereas the Authority, in its Order had stated that the overall approach and framework adopted does not apply, ipso facto, to the civil enclaves (Goa and Pune) under the regulatory ambit of the Authority and that appropriate views in respect of the said Civil Enclaves would be taken by the Authority with the representation of the Ministry of Defence in accordance with the provisions of sub section (1) Section 4 of the Act.



Whereas the Authority, with representation of the Ministry of Defence considered the matter and decided that:

- (i) approach laid down in Order No.05/2010-11 dated 02.08.2010 for economic regulation of ground handling, fuel supply and cargo services provided by the independent service providers and decided that the same, may be adopted for the Civil Enclaves of Pune and Goa as well; and
- (ii) Draft Tariff Determination Guidelines in respect of the aforesaid services, issued for stakeholder consultation vide Consultation Paper No.05/2010-11 dated 02.08.2010 may also be adopted for the aforesaid Civil Enclaves and that the Draft Guidelines be finalised separately for the Civil Enclaves, after taking in to account special considerations, if any, relating to the Civil Enclaves as may be required to be considered.

Whereas the Order No.09/2010-11, dated 11.11.2010 and Consultation Paper No.09/2010-11 dated 11.11.2010 were issued in pursuance thereof.

Whereas the Authority has thereafter finalized the Guidelines for tariff determination of services provided for Cargo Facility, Ground Handling and Supply of Fuel to aircrafts by independent service providers at the major airports (i.e. other than the Civil Enclaves) and Direction No.4/2010-11 dated 10.01.2011 has been issued.

Whereas in response to the Consultation Paper No.09/2010-11 dated 11.11.2010 no new inputs of substantial nature have been received from the stakeholders.

Whereas the Authority, with representation of the Ministry of Defence has considered the matter further and observed that:

- (i) The Guidelines issued by the Authority on 10.1.2011, as applicable to the independent service providers of cargo, ground handling and fuel supply services at other 12 major airports, have been evolved after extensive stakeholder consultation process and vide Order No. 13/2010-11 dated 12.1.2011 it has also been decided that where the airport operators also provide the said services, the Guidelines would be applicable to them as well.
- (ii) At the Civil Enclaves of Pune and Goa, the aforesaid services are provided to the civil aircraft and passengers through the auspices of Airports Authority of India (AAI) and defence forces have no commercial interest in the matter.
- (iii) The Guidelines provide that the first control period of 5 years would commence w.e.f. 01.04.2011 (clause 2.14) and that all service providers shall, within 2 months of the date of issue of the Guidelines, submit a Multi Year Tariff Proposal (MYTP) for the first control period and keeping in view the requests made by the independent service providers at other major airports, the Authority has proposed to extend the period of submission of MYTP upto 30.04.2011.
- (iv) Since the period of submission of MYTPs is proposed to be extended and it is clear that the Authority would not be in a position to determine tariff for the first control period in respect of any of the service providers by 1.4.2011, an interim arrangement for regulation of tariffs during the period from 1.4.2011 and till the new tariffs as may be approved by the Authority may become applicable has also been proposed for stakeholder consultation.
- (v) In the instant case the Guidelines are proposed to be adopted just a few days before 1.4.2011. Therefore, it would be appropriate that the interim arrangement is provided for at this stage itself.

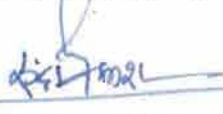


Now, therefore, in terms of powers conferred on it under Section 15 of the Act, the Authority hereby directs that:

- (i) The Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2011 (the Guidelines) issued on 10.1.2011 shall be applicable in respect of the Civil Enclaves at Pune and Goa with the modification that a new clause 7.10 may be added in Chapter II of the Guidelines as under:
- “7.10 In the first control period commencing from 1.4.2011, the tariffs as effective on 1.9.2009 in respect of service provider (s) shall continue to be applicable beyond 1.4.2011 and upto the date when the new tariffs as may be approved by the Authority, upon receiving their proposals would become applicable:*
- Provided that the aforesaid arrangement of continuation of existing tariffs beyond 1.4.2011 shall cease to be effective if a service provider fails to submit the MYTP within the period of 2 months of the date of adoption of the Guidelines in respect of the Civil Enclaves.”*
- (ii) For the purposes of Civil Enclaves at Pune and Goa, the Guidelines, shall be deemed to have been issued on the date of issue of this Direction.
- (iii) All independent service providers of the aforesaid services and the AAI (wherever it provides the aforesaid services), at the Civil Enclaves at Goa and Pune are hereby directed to act in accordance with the Guidelines as modified above.

सत्यमेव जयते

By the Order of and in the name of the Authority


(Sandeep Prakash)
Secretary

To,

1. **Airports Authority of India,
Rajiv Gandhi Bhawan,
New Delhi -110 003
(Through: Shri V.P Agrawal, Chairman)**
2. **Air India Ltd.
Transport Complex Building,
First floor, CSI Airport,
Vile Parle (East), Mumbai 400099
(Through: Shri Arvind Jadhav, Chairman & Managing Director)**
3. **NASPORT Handling Private Limited
905, Sagar Tech Plaza,
'A' Wing, Andheri Kurla Road, Saki Naka,
Andheri (East) Mumbai - 400 072
Maharashtra
(Through: Shri Hosi Charna, Director)**



4. **Bhadra International (India) Ltd.,**
B-4/62, Safdarjung Enclave,
New Delhi – 110 029
(Through: Shri Prem Bajaj, Director)
5. **Central Warehousing Corporation**
Warehousing Bhawan, 4/1,
Siri Institutional Area, August Kranti Marg,
New Delhi – 110 016
(Through Shri B.B. Pattanaik, Managing Director)
6. **Indian Oil Corporation Ltd**
Indian Oil Bhawan,
G-9m Ali Yavar Jung Marg,
Bandra(E), Mumbai-400 051
(Through: Shri R. Sareen, Executive Director (Aviation))
7. **Reliance Industries Limited,**
Reliance Corporate Park, Block-6,
D-Wing, 2nd floor, 5-TTC Industrial Area,
Thane-Belapur Road,
Ghansoli, Navy Mumbai
(Through: Shri P. Raghavendran, President (Petroleum Business))
8. **Hindustan Petroleum Corporation Ltd.,**
17, Petroleum House,
Jamshedji Tata Road,
Mumbai 400 020
(Through: Shri R Radhakrishnan, GM (Aviation) & Head- SBU)
9. **Bharat Petroleum Corporation Ltd., Bharat Bhawan,**
4&6 Currimbhoy Road,
Ballard Estate, Mumbai-400 001
(Through: Shri Shyamal B. Bhattacharya, General Manager (Aviation))
10. **M/s. Essar Oil Ltd. Essar,**
Techno Park Building II, Swan Mill Compound,
L.B.S.Marg, Kurla(W),
Mumbai-400 070
(Through Shri P. Sampath, Director (Fin.))
11. **Shell MRPL Aviation Fuels & Services Ltd,**
No.72/4, Cunningham Road,
Opp: Cottage industries Exposition,
Bangalore.
(Through Shri Sanjay Varkey, CEO)

