

[F.No. AERA/20010/MYTP-IOSL/Del/2011-12]

Airports Economic Regulatory Authority Of India

Order No.1/2011-12

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

Date of Order: 26th May, 2011

Date of Issue : 30th May, 2011

In the matter of Multi Year Tariff Proposal submitted by Indian Oil Skytanking Limited for Into Plane Service Fee At IGI Airport, New Delhi for the 1st Control period commencing 01.04.2011

M/s.Indian Oil Sky Tanking Ltd. (IOSL), have vide their application dated 10.03.2011, submitted their Multi Year Tariff Proposal (MYTP) for the first control period commencing 01.04.2011, in respect of the tariff for Into Plane Service (ITP) provided at IGI Airport, New Delhi.

2. Briefly, the facts of the case are as under:-
- (i) IOSL have sought approval for the tariff for ITP services for the first control period (period of 5 years commencing 01.04.2011) based on a "light touch approach" as specified in Chapter V of 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).
 - (ii) As stipulated in the Guidelines, the Authority shall follow a three stage process for determining its approach to the regulation of a regulated service –
 - (i) Materiality Assessment;
 - (ii) Competition Assessment;
 - (iii) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.

The ITP service being provided at IGI Airport, New Delhi has a materiality index of 31.97%. Since the materiality index is more than 5% the service is deemed as "material", in terms of Clause 4.2 of the Guidelines.

- (iii) The Guidelines provide that where a Regulated Service is being provided at a major airport by two or more Service Provider(s), it shall be deemed "competitive" at that airport and if such service is provided by less than two Service Provider(s), it shall be deemed "not competitive" (Clause 5.1 of the



Guidelines refers). Further, the Guidelines also provide that the Authority may, in its discretion, consider such other additional evidence regarding reasonableness of competition, as it may deem fit and the determination of number of Service Provider(s) at a major airport shall include the Airport Operator, if the Airport Operator is also providing Regulated Service(s) at that major airport.

- (iv) It is observed that in the instant case the ITP services at IGI Airport, New Delhi are being provided by IOSL and M/s. Bharat Star Services (P) Ltd (BSSPL). Since the service is provided by two or more Service Provider(s), the service is deemed to be "competitive". Further, IOSL, in their application, have stated that the contract for providing the ITP service facility at IGI Airport was awarded to the two service providers by Delhi International Airport Limited (DIAL) on the basis of competitive bidding through a public tendering process.
- (v) In addition, IOSL have submitted copies of agreements entered into with users (Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited, Shell MRPL Aviation Fuels and Services Private Ltd) to demonstrate the validity and reasonableness of the User Agreements.
- (vi) However, to ensure that the distinctiveness and competitive nature of services developed and retained by IOSL is not hampered in any manner by disclosure of their confidential information, it has been requested that the agreements entered into between IOSL and their service providers or any part thereof, should not be uploaded or made public. However, from a regulatory perspective, since it is essential to bring the proposal into public domain in order to determine the tariff, IOSL stated that they do not have any objection to uploading of the tariff proposal determined by them, with references to the agreements between them and the service providers. IOSL requested the Authority to ensure confidentiality of their financials and not to upload any such information on AERA's website.
- (vii) IOSL had vide their letter No.AV/TSD/DIAL-ITP dated 14.03.2011 also filed a separate application for approval of their ITP charges for the period 28.07.2010 to 31.03.2011.
- (viii) The Authority noted that DIAL had appointed IOSL and BSSPL to undertake ITP services consisting of fuelling of aircraft, refueling of aircraft and refueling of defueled product into the aircraft. DIAL, without previous approval of the Authority, directed the ITP service providers to charge the new fee with effect from 28.07.2010. No proposal was also received from the into plane service providers for any approval/ fixation of these charges.
- (ix) The Authority had considered the issue in its Nineteenth Meeting (No.13/2010-11) held on 23.09.2010 wherein it was decided that the DIAL and the service providers BSSPL and IOSL should be immediately apprised of the legal position and requested to submit their comments and explanation in the matter within a period of 10 days failing which coercive action may have to be



contemplated. Accordingly, vide letter dated 13.10.2010, DIAL and the ITP service providers were apprised of the legal position and their comments and explanation were requested by 23.10.2010. In response the ITP service providers confirmed that they would not be charging any fee without determination of tariff by the Authority.

- (x) IOSL, vide their letter no. AV/TSD/DIAL dated 15.12.2010 furnished details in accordance with the Authority's Consultation Paper No. 05/2010-11 dated 02.08.2010 and requested the Authority to approve the proposal on an urgent basis.
- (xi) In the meantime, Authority finalized its regulatory philosophy and general framework for economic regulation of the services provided for cargo facility, ground handling and supply of fuel to aircraft by Independent Service Providers (ISP) at the major airports and the Guidelines for determination of tariff in respect of these regulated services were issued on 10.01.2011. Since the final Guidelines were issued, IOSL was requested to resubmit their proposal in terms of the Authority's published Guidelines vide letter dated 12.01.2011.
- (xii) As stated hereinabove, the instant MYTP has been submitted by IOSL on the basis of 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.
- (xiii) IOSL have in their earlier correspondence (No.AV/TSD/DIAL-ITP dated 02.02.2011) submitted that in line with the user agreements, they had commenced refueling services from 28.07.2010 and that the suppliers have not paid the ITP fees even though they are availing the ITP services. It has been stated that while there is no flow of revenue to meet the commensurate expenses incurred towards rendering the services, IOSL has been continuing to render the services in order to keep the airport operational.
- (xiv) It is observed that the price that IOSL is entitled to charge from the Users for the first year have been fixed as under:

Price (For the year 2010-11) w.e.f 28.07.2010 to 31.03.2011				
Fuelling Aircraft	Defuelling Aircraft		Re-fuelling De-fuelled Product into an Aircraft	
	Within 6 hrs.	Beyond 6 hrs.	Within 6 hrs.	Beyond 6 hrs.
149	149	224	186	224

Relevant extracts of the Clause 2.4 pertaining to the "Fee Chargeable by the Concessionaire" of the ITP Concession Agreement (with DIAL) is reproduced hereunder:



2.4.1 The Concessionaire shall charge the Air Carriers or the Suppliers the ITP Service Fee for each litre of ATF that is provided as part of the ITP Service provided. The ITP Service Fee shall be subject to a price cap in Rs./kilo litre terms and shall be charged as per Schedule H hereto.

The price cap for the first Financial Year of operations (in Rs./kilo litre) will be set out in Schedule H, and the same shall be escalated at a rate of 5% or WPI each year whichever is lower. The price cap for each of the subsequent years will be

- (a) Effective from the 1st day of April of the following year and
- (b) Escalated by WPI as on the first day of January for the respective year.

The Concession agreement also provides that “..the WPI for all commodities announced by GOI will be considered.” and that “..The price cap so prescribed shall be maximum rates and Selected Tenderer/Concessionaire will be free to offer a discount on these rates to the Air Carriers or the Supplier.”

The ITP Concession Agreement (with DIAL) also provides that “...DIAL may review the escalation cap in case the input cost goes beyond 5%.”

- (xv) As per Schedule B of the agreement with the Users, the Agency Fee i.e., the ITP service fee, payable by Suppliers/ Air Carriers to the ITP Agent reflect the charges mentioned above. The User agreements mention that the agency fee shall be subject to revision by the ITP Agent in accordance with the limits set by DIAL from time to time.
- (xvi) IOSL had arrived at a yield per unit of Rs.165.87 in the MYTP (Form F15). However, approval has been solicited for Rs.156.45 as per the ITP Concession Agreement (with DIAL).
- (xvii) The Authority, vide its Order No.17/2010-11 dated 31.03.2011, while extending the timeline for submission of MYTP by the independent service providers upto 30.4.2011 had also decided that, in the interim, all ISP(s) may continue to charge the tariffs as prevalent on 01.09.2009 or as may have been approved/determined by the Authority thereafter with effect from 01.4.2011 and upto the date when the new tariffs as may be approved by the Authority became applicable and that this interim arrangement would be subject to the condition that the concerned independent service providers submit the MYTP latest by 30.04.2011. In case any service provider(s) fails to submit MYTP on or before 30.04.2011, the interim arrangement in respect of such service provider (s) would cease to be effective.
- (xviii) The Authority also noted that IOSL had submitted the MYTP for ITP services provided by them in respect of Delhi airport as per the timelines prescribed in the Guidelines and that IOSL had started providing ITP services in July, 2010



and the charges thereof have not been determined by the Authority. Therefore, presently, IOSL are not charging any fee in respect of service provided by them at IGIA, Delhi. As such, the Authority felt that the proposals submitted by IOSL in respect of ITP services at IGI Airport, New Delhi be immediately taken up for examination.

(xix) It is also to be observed that in terms of Clause 7.3 and 7.4 of the Guidelines, the Authority shall upon due consideration of the MYTP and stakeholder consultations thereon make a Multi Year Tariff Order (MYTO) for a Control Period. After issuance of the MYTO, the service provider shall submit its Annual Tariff Proposal (ATP). The ATP for the first tariff year of the first control period is required to be submitted within 75 days of the issue of MYTO. As per Clause 11.2, the ATP is required to be submitted in the manner and form provided in AI.8.1 of Appendix I. The proposal is required to be supported by the following:-

- a) Details of consultations with stakeholders
- b) Evidence of User Agreements clearly indicating the Tariff proposal by the service provider and agreed to by the User.

In the instant case, IOSL have submitted the Annual Tariff Proposal for 2011-12, i.e., the first tariff year of the first control period alongwith the MYTP itself. The tariffs proposed are supported by the User Agreements.

3. In the 36th meeting held on 19.04.2011, the Authority considered the matter in detail and tentatively decided as under:

- (i) The ITP services provided by IOSL at IGI Airport are material but competitive. Therefore, in accordance with the clause 3.2 of the Guidelines, a "Light Touch Approach" may be adopted for determination of tariff in the first control period w.e.f. 1.4.2011.
- (ii) Since the IOSL is being kept under a "Light Touch Approach" in the first control period, the tariff for the period immediately preceding the first control period, i.e., 28.7.2010 to 31.3.2011 may also be proposed for approval in line with the light touch approach.
- (iii) IOSL's request to ensure confidentiality of their financials as well as client confidentiality may be accepted. Therefore, while placing MYTP etc. for stakeholders consultation relevant information should be redacted.
- (iv) As per clause 7.3 and 7.4 of the Guidelines the Authority shall upon due consideration of the MYTP and stakeholders consultation shall make MYTO for a control period. After issuance of MYTO the service provider shall submit its annual tariff proposals. However, in the present case the service provider has submitted the ATP for the first tariff year 2011-12 along with MYTP itself. It was observed that, presently, there is no approved tariff in respect of IOSL for ITP services at IGI airport and IOSL has been rendering these services since 28.7.2010 without receiving any fee. Therefore, if a strict compliance



with Guidelines is insisted upon, the matter of approval of tariff would get postponed further which would not be in the interest of economic and viable operation of the service provider. In this light, the Authority, as a special case, decided to propose approval of the annual tariff proposal for the tariff year 2011-12 for stakeholders consultation at this stage itself.

(v) A Consultation Paper on the above lines may be issued immediately with a consultation period of two weeks.

4. A Consultation Paper (No.01/2011-12) was, accordingly, issued on 21.04.2011 soliciting comments/views of the stakeholders by 05.05.2011.

5.1 Comments have been received from the following stakeholders:

- (i) Delhi International Airport (P) Limited (DIAL)
- (ii) Hindustan Petroleum Corporation Limited (HPCL)
- (iii) Indian Oil Corporation Limited (IOCL)
- (iv) Reliance Industries Limited (RIL)
- (v) International Air Transport Association (IATA)
- (vi) Air India

The comments received from the stakeholders were forwarded to IOSL seeking their views on the issues raised by the stakeholders. IOSL vide their letter dated 20.05.2011 have submitted their comments on the issues raised by the stakeholders. The comments of the stakeholder and clarification furnished by IOSL have been examined by the Authority in its 39th Meeting held on 26.05.2011. A table indicating the stakeholder comments, clarification furnished by IOSL and the views of the Authority thereon is at **Annexure –I**.

5.2 It has been observed that IOSL have clarified various issues raised by the stakeholders and that these clarifications are found to be acceptable.

5.3 The ITP rates sought for approval by IOSL, on the basis of User Agreement, are as under:

Period	Fuelling Aircraft	Defuelling Aircraft		Re-fuelling De-fuelled Product into an Aircraft	
		Within 6 hrs.	Beyond 6 hrs.	Within 6 hrs.	Beyond 6 hrs.
28.07.2010 to 31.03.2011	149	149	224	186	224
01.04.2011 to 31.03.2012	156.45	156.45	235.20	195.30	235.20

5.4 Upon careful consideration of material available on record, submissions made by the stakeholders and submissions made by the IOSL, the Authority, in its 39th meeting held on 26.05.2011 approved the proposal made by IOSL.



ORDER:

In exercise of powers conferred by Section 13(1)(a) of the Act, the Authority hereby approves that Indian Oil Skytanking, the Into Plane Service provider at IGI Airport, New Delhi may be regulated under 'light touch' approach during the first control period of 5 years commencing 01.04.2011 and the tariff for the ITP services provided by IOSL at IGI Airport, New Delhi for the period 28.07.2010 to 31.03.2011 and for the first tariff year 2011-12 is determined, as indicated in para 5.3 above.

**By the Order of and in the
Name of the Authority**


**(Sandeep Prakash)
Secretary**

To,

**Indian Oil SkyTanking Limited
Fuel Farm Facility
Bangalore International Airport
Devanahalli
Bangalore - 560 300
(Through Shri. T S Dupare, CEO)**

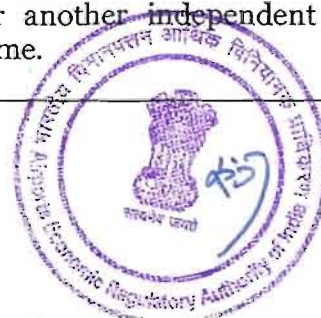
**Copy to :-
Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi-
110 003.**



Comments furnished by Indian Oil Skytanking (IOSL) in respect of views expressed by stakeholders on the Consultation Paper No.01/2011-12 – Multi Year Tariff proposal for 1st Control Period submitted by IOSL for Into- Plane Service Fee at IGI Airport, New Delhi dated 21.04.2011

Annexure - I

Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
Delhi International Airport Limited	1	Have agreed to the proposal for regulating the services of IOSL at terminal T-3, IGI Airport Delhi, under light touch approach during the first control period.	-----	-----
	2	The tariff proposed by IOSL is in line with the ITP concession and since IOSL has not been able to realize any revenue since 28.07.2010 the charges proposed may kindly be approved.	-----	-----
Hindustan Petroleum Corporation Limited	3	No objection in considering IOSL's ITP services under light touch approach, as their services at IGI Airport, New Delhi falls under 'material' but 'competitive' category, as defined by AERA.	-----	-----
	4	The Tariff proposed by IOSL for the period 28.7.2010 and 31.3.2011 is in line with the Agreement signed with the Fuel Supplier. HPCL were informed that the tariff was arrived on the basis of tender by DIAL, however, HPCL not privy to the process of fixation of the charge. The charge can be validated by an independent agency for its aptness.	Rates were determined through a competitive bidding process where HPCL had also participated but since their rate was higher than the lowest quote, they were not selected. Thus, the tariff was determined by DIAL as per the lowest quote and since the same was done through a bidding process and accepted by all the Suppliers, there is no need for another independent agency to validate the same.	After extensive stakeholder consultation process, the Authority has decided to adopt a light touch approach for determination of tariff in the cases where : (a) Service is deemed to be non material (b) Service is deemed to be



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
				<p>material but competitive</p> <p>(c) Service is deemed to be material and non competitive but the Authority is assured of the reasonableness of the user agreements.</p> <p>In the present case, the service is deemed material and competitive. Therefore, unless evidence is made available, which would require further analysis/review of the tariff proposal, the tariff proposed by the service provider would normally be approved.</p>
	5	<p>Revision of the rate should be the function of the cost and the volume of business available at the airport. Any increase in the charges should be considered keeping these factors into consideration rather than accepting fixed yearly increase.</p>	<p>Factors such as function of the cost and the volume of business available at the Airport were considered in determining the escalation mechanism. Keeping these in mind, it is stipulated in the concession agreement that the rates shall be escalated at 5% or WPI, whichever is lower.</p> <p>Furthermore, the ITP service provider takes risk for the downward trend in volumes as well, which is</p>	<p>Refer comments at Sl.No 4 above</p>



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
			<p>compensated by the escalation of rates. Considering all such factors, the escalation mechanism was incorporated in the concession Agreement with DIAL, keeping in mind the WPI and a maximum cap of 5% was set, which is quite reasonable.</p> <p>The input costs including salary & wages, electricity, diesel and other utilities are increasing steadily and hence a 5% cost escalation is justified.</p>	
	6	<p>As the Agency fee is a pass through item for the Suppliers, it would be difficult for Suppliers to recover these charges from the customers in the event they are made applicable on retrospective basis. In view of above, it is requested that if any upward revision in Charge is proposed for the First Control Period/ tariff year 2011-12, it should be made and applicable from the prospective date only.</p>	<p>The escalated rates for the current control period have been submitted to AERA for approval on 10th March, 2011. The consultation process being undertaken by AERA with respect to the tariff is resulting in a delay in approval of the same. Since the first control period commences on 1stApril 2011 as per AERA Guidelines and since the rates are escalated as per the duly executed contracts, the rates are to take effect as per the contracts and as per AERA Guidelines. It would be significant to point out that though the suppliers are availing the services, no payments have been made by the Suppliers, pending approval by AERA.</p> <p>As such the Suppliers have already had the benefit of a credit period of over two months, during which period ITP Agents have had to raise funds privately to ensure that the operations at the Airport is not brought to a grinding halt.</p>	<p>In view of the fact that IOSL have been rendering services since 28.07.2010 without receiving payment, the submission of IOSL appears acceptable.</p>



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
			Since the escalated rates to be paid by the Suppliers can be easily recovered by the Suppliers from the airlines by raising debit notes and for reasons stated above, we do not find any merit in making the rates applicable on a prospective basis or continuing the earlier rates until the day AERA approves the proposed tariff. Also, the concession agreement states that price cap for each of the subsequent years will be effective from the 1 st of April of the following year escalated as per the WPI as on the 1 st of January of the respective year. The price for the whole year is worked out on the basis of monthly returns. If the escalation is not paid from the 1 st of April, it will completely destroy the basis and purpose of such escalation.	
Indian Oil Corporation	7	The tariff proposed by IOSL for the period 28.7.2010 and 31.3.2011 is in line with the agreement signed with the Fuel Supplier.	-----	-----
	8	Continuation of the above ITP rates beyond 31.03.2011 till the last day of the month in which AERA issues the order.	The concession agreements and the ITP Service Agreement were entered into and executed by the concerned parties after a competitive bidding process. The tariff proposed for the current control period of 2011-12 has been escalated in line with the concession agreements. These were commercial terms upon which bids were called for by DIAL.	Refer comments at Sl.No 6 above



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
			Further, the ITP Service Agreement stipulates that the agency fee shall be subject to revision by ITP Agent, as per the limits set by DIAL and the Suppliers have agreed to the same and executed the Agreement. The fixation by DIAL will be made strictly on the parameters as agreed to in the Concession agreement between ITP Agent and DIAL.	
	9	The ITP rates as mentioned for the first control period (2011-12) may be made effective on prospective basis, from the first day of the subsequent month, in which AERA issues the order.	Clarification furnished at Sl.No.6 may please be referred.	Refer comments at Sl.No 6 above
Reliance	10	The consultation process followed by IOSL with Suppliers was only with regard to terms of agreement for Into Plane services. In the consultation meetings, there was no discussion on the methodology for determining the tariff being charged by the Into Plane service provider. Hence the consultation process is not complete.	RIL has accepted that the consultation process was followed by IOSL. There cannot be any discussion on the methodology of determination of price in the consultation process since the prices were already determined through the tender process. The tender was evaluated on the basis of not only the price but other capabilities of the bidder. It is understood that RIL was also one of the bidders in the tendering process and was not successful in their efforts to win the bid. Since the rate was already determined through the tender process, the consultation process was for firming up the other terms and conditions of the User Agreements and hence to that extent the consultation process was complete.	Refer comments at Sl.No 4 above



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
	11	IOSL has not provided any details with regard to capital expenditure, Operating expenses, financing charges etc, in their proposal to AERA for MYTP 2011-12, which are required to ascertain the reasonableness of the tariff proposed now	Since AERA is the competent authority to determine the tariff, IOSL has provided information relating to capital expenditure, operating expenses, financing charges etc. in their proposal to AERA for MYTP 2011-12 but has requested AERA to maintain confidentiality of the same as the information is sensitive to our business and hence cannot be shared with others by AERA. Moreover the IOSL's proposal is being evaluated on the basis of Light touch approach by AERA as the criteria for that approach is met by IOSL	In terms of Clause 7.2 of the Guidelines, the Authority has accepted the request of IOSL for treating certain information as "Confidential Information". Further, the present tariff proposal is being considered under the light touch approach.
	12	If cost plus basis is the criterion for reasonableness of tariff then same can be assessed only on receiving all financial details, If competitive tariff is the basis of reasonableness then the Airlines who are paying similar charges at other airports may also be able to guide.	IOSL have never mentioned that cost plus basis is the criterion for reasonableness of the tariff. Since the prices were determined through a competitive bidding process, no further guidance is required from Airlines or other independent agencies to validate the said rates.	Refer comments at Sl.No 11 above
	13	Concession agreement provides for, "price cap so prescribed shall be maximum rates and Selected tenderer will be free to offer a discount on these rates to the Air Carriers or the Supplier,". It is possible to offer discriminatory discounts to specific suppliers and thereby reduce competitiveness of other suppliers. AERA should seek	IOSL have submitted the tariff proposal to AERA which includes cost details and IOSL is not offering any discounts to any of the Suppliers. Furthermore, this would lead to non-level playing field for the Suppliers, as enumerated in In case the rates are not fixed and discount is given to the Suppliers on case to case basis then the particular Supplier would get advantage of the same and grab the business from other Suppliers. This would be discriminatory and biased and would, in fact lead to	Refer comments at Sl.No 4 above



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
		the details of costs and the tariff from IOSL and the basis of offering any discount to suppliers from IOSL so that no undue competitive advantages is given to any supplier.	unfair competition and do away with the effective competition in existence. Moreover the ITP fee was recovered through a competitive bid.	
	14	IOSL is also an Onsite Facilities Operator and can gain competitive edge vis-à-vis other ITP operator by cross subsidizing ITP service with revenue from onsite facilities, Therefore in order to establish level playing field between ITP Operators, AERA to seek full cost details from both ITP Operators and put in public domain and then only reasonableness can be commented upon.	It would be incorrect to say that IOSL has a competitive edge since the rates being charged by both the ITP service providers are one and the same. Further, there is no possibility of IOSL, as Operator, cross-subsidizing ITP services with revenue from onsite facilities since rates stipulated in the two separate contracts entered into by IOSL are determined by DIAL and not by IOSL. We have submitted the full cost details to AERA but have requested AERA to maintain confidentiality of the same as sharing it would affect our business.	IOSL is the Operator of the Fuel Farm facility and not its owner. Therefore, the submissions made by IOSL appear to be reasonable.
International Air Transport Association	15	Effective competition would be present when the two ITP service providers contract different fees with the same supplier. In other words, if the two ITP service providers consistently contract the same fee with the same supplier or even the same fee with all suppliers, then effective competition would clearly be absent and one would be seriously concern about possible price-fixing.	The formula for computing competition has been fixed by AERA, which states that, a service if provided by more than one service provider, it would be deemed competitive. We have been selected on the basis of competitive bidding. Since our rate was the lowest the other ITP Agent was called upon to match our rates. The fixation of rates had been made on competitive bidding.	Authority believes that a competitive scenario would emerge if the service providers are appointed through open competitive bidding process. In any case, the users, i.e, Oil Companies have accepted this as a competitive situation.



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Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
		<p>AERA needs to get the ITP service providers to submit crucial information on fees contracted with suppliers to make an informed assessment of whether effective competition actually exists.</p>	<p>However Open Access requires that the rate at which service is provided at the Airport is not different for different Suppliers. Every Supplier should have equal access to services at the Airport. It is with this perspective that the rates have been homogenized at the lowest bid price.</p> <p>In case the rates are not fixed and discount is given to the Suppliers on case to case basis then the particular Supplier would get advantage of the same and grab the business from other Suppliers. This would be discriminatory and biased and would, in fact lead to unfair competition and do away with the effective competition in existence. Moreover the ITP fee was recovered through a competitive bid</p>	<p>Further, the Authority is of the opinion that price alone is not the sole criteria indicative of competition or otherwise. Quality of service is equally important and the users have a clear choice on this count itself.</p>
	16	<p>Effective competition would be present when the ITP service providers actively practise contracting directly with airlines. Presently, the ITP service providers only contract with suppliers who then pass through the entire cost to the airlines. Airlines would tend to negotiate harder than suppliers for lower rates since airlines are the actual payers of the fee. When effective competition is absent, both ITP providers could be observed to</p>	<p>The Scheme of insurance and fuel supply contemplates that the ITP Agent is an agent of the Supplier. This is necessary to ensure adequate coverage under the Aircraft Refuelling Insurance. As such it is the Supplier who enters into contracts with the Aircrafts at the best possible rates, with the ITP Agents fee being fixed and transparent. Any independent contracting by the ITP Agent is not contemplated in the scheme for fuel supply adopted by DIAL and all other Airports in India. Also this was not part of terms and conditions of the tender floated by DIAL.</p>	<p>Refer comments at Sl.No 15 above</p>



Comments furnished by Indian Oil Skytanking (IOSL) in respect of views expressed by stakeholders on the Consultation Paper No.01/2011-12 – Multi Year Tariff proposal for 1st Control Period submitted by IOSL for Into- Plane Service Fee at IGI Airport, New Delhi dated 21.04.2011

Stakeholder	Sl.No	Comments of the Stakeholders	Clarifications by IOSL	Comments of AERA
		shun contracting directly with airlines to avoid revenue dilution.	<p>In fact if the ITP Agent was expected to maintain a marketing team, related infrastructure and hold negotiations with Airline Companies the ITP fee would be much higher than its present levels.</p> <p>The present scheme as adopted by DIAL does foster competition and provide avenue for price bargaining by the Airlines. We would like to bring it to your attention that ITP Service provider having commercial transactions with the Airlines is not in vogue in India and also such transactions were not part of the terms and conditions of the tender floated by DIAL. The rate of fees to be charged was determined through the tender and is a competitive rate and is lower than the rate prevalent anywhere in Europe or USA.It may please be noted that in Europe and USA, the ITP Service rates are varying from USD 5 to 10 per KL and the prevalent rates at Delhi are much lower than those rates</p>	
	17	IATA is strongly opposed to any automatic annual escalation in fees as is the case with the price cap for the ITP service fee. An increase in fee cannot be justified on the simplistic basis of WPI alone. Other parameters such as economies of scale and increased operational efficiency need to be factored in. What has been observed at other	<p>WPI is the most prevalent factor in arriving at the escalation of prices. The other parameters like economies of scale and increased operational efficiency were already factored in while quoting during the tendering process. All such factors were considered at the time of bidding and accordingly the lowest quotes were submitted by the bidders. Considering all such factors, the escalation mechanism was incorporated in the Concession Agreement with DIAL. Keeping in mind increasing</p>	Refer comments at Sl.No 4 above.



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		<p>airports outside India where effective competition in ITP service exists is that fees tend to stay constant or fall as throughput volume grows and operational efficiency improves. Allowing ITP service fees to rise automatically takes away the incentive for the ITP service providers to strive for better operational and business efficiency. Such an automatic increase is clearly not sustainable. IOSL's proposal for the ITP service fees for 01.04.2011 to 31.03.2012 merely applies a 5% increase over the levels it had proposed for the preceding period (28.07.2010 to 31.03.2011). In the absence of any concrete justification, such an increase should not be allowed</p>	<p>input costs and other parameters stated above, the escalation mechanism was determined and set out in the Concession Agreement. Hence, it would be incorrect to say that the escalation is automatic.</p>	

