

[F. No. AERA/20010/MYTP/AI/C/CHENNAI/2013-14]

Airports Economic Regulatory Authority of India

Order No. 5/2015-16

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

Date of Order: 6<sup>th</sup> May, 2015

Date of Issue: 13<sup>th</sup> May, 2015

**Service:** Determination of Cargo Service Tariff  
**Service provider:** Air India  
**Airport:** Chennai and Mumbai

**Approval of tariff on ad-hoc basis for the first control period (2011-2016)**

1.1 As per Section 2(a) of the "The Airport Economic Regulatory Authority of India Act, 2008" any service provided inter-alia for "ground handling services relating to aircraft, passengers and cargo at an airport"; for the cargo facility at an airport"; and "for supplying fuel to the aircraft at an airport" are aeronautical services. As per Section 13(1)(a) of the Act, the Authority is required to determine the tariff for aeronautical services.

1.2. The Authority had issued the CGF Guidelines "[The Airports Economic Regulatory Authority of India (Terms and Conditions for Determining of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2011]" vide Direction No. 4/2010-11 dated 10.01.2011. In terms of powers conferred on section 15 of the Act, all concerned service providers were also directed to act in accordance with the aforesaid CGF Guidelines.

1.3. In terms of Clause 7.1 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, briefly called CGF Guidelines hereinafter, all the Service Provider(s) is required to, within two months of the date of the issue of these Guidelines, submit a Multi-Year Tariff proposal (MYTP) for the first control period in the form and manner specified in section AI.2 of Appendix 1 of the Guidelines. In case a new Service Provider is granted permission for providing regulated service(s) at a major airport, the Service provider is required to, within two months of the date of grant of such permission, submit to the Authority for its consideration, a Multi-Year Tariff proposal (MYTP) in accordance with these Guidelines.

1.4. Accordingly, all services providers were required to submit the Multi Year Tariff Proposal for the first control period commencing on 01.04.2011 within two months of the date of issue of Guidelines, i.e. by 10.03.2011. Further, the Annual Tariff Proposal (ATP) for the first year of the first Control Period was required to have been submitted within 75 days of issue of MYTO and the ATPs for the 2<sup>nd</sup> Tariff year were required to be submitted at least 75 days prior to start of the said Tariff year. However, since most of the ISP(s) had sought extension of time for submission of the MYTP being the 1<sup>st</sup> Control Period the Authority vide its Order No. 17/2010-11 dated 31.03.2011, extended the date for submission of MYTP(s) upto 30.04.2011 and also ordered that in the interim, all the 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 01.04.2011 and upto the date when the new tariffs as may be approved by the Authority became applicable. However, this arrangement was subject to the condition that the concerned ISP would submit the MYTP latest by 30.04.2011. The Authority, in its Order, had stated that in case the ISP(s) fail to submit the MYTP on or before 30.04.2011, the interim arrangement in respect of such service provider(s) would cease to be effective.

1.5. Air India (AI) providing ground handling and cargo services at a number of major airports, had not yet submitted its MYTP, though it had sought extension of time for submitting the same time and again. Extension of time was granted to Air India as per their request, but they were requested to submit the information in prescribed Forms as per CGF Guidelines.

## 2. Present Status

2.1 Air India, vide their letter dated 29.08.2012, had submitted a proposal on Ground Handling and Cargo Service as under:

*"We are enclosing the rates being charged by Air India for ground handling activities including cargo handling being followed at various major airports in India ..... This would also be the ATP for the year 2012-13. Air India has been charging the same tariff for ground handling services since 2009. The rates have not been revised and are also not planned to be revised in the near future. Whenever, a revision is to be effected the same shall be submitted to AERA for necessary approval. The list of major airports where these rates are inter-alia is applicable is placed at Annexure 'B'.*

*Air India is providing Cargo services at Mumbai and Chennai airports. We are also enclosing the cargo tariff being charged presently at Mumbai and Chennai airports, which are enclosed at 'Annexure C & D respectively with the proposed marginal increase. Air India has been charging the same tariff for cargo services since 2009. These rates are proposed to be revised @ 60% over the existing rates. The ATP for 2012-13 incorporating the increase is placed at Annexure E & F respectively. The proposals for these airports have already been submitted earlier to AERA. As regards the Cargo facilities at Mumbai and Chennai it is to inform that apart from Air India, Airports Authority of India is also providing Cargo services.*

*The details of various financials, manpower parameters etc. relating to ground handling and cargo would not be possible to be provided at this stage as Air India is in the process of major corporate and financial restructuring specially related to these two functions. The turnaround plan and financial restructuring plans, as approved by the Government, for the merged company are underway and are being closely monitored by the Government. On implementation of the approved financial and corporate restructuring plans that Air India is undergoing, we would be in better position to fulfil AERA requirement/guidelines in complete detail. In the meanwhile we may be permitted to file the MYTP and ATP as per the annexure enclosed."*

*"The copy of the approved Annual Reports of Air India till the year 2010-11 is provided in our website as below:*

*<http://www.airindia.com/SBCMS/Webpages/JRD.aspx?MID=196#>*

*"In view of above stated position and filing of tariff proposal, Air India may be permitted to charge the existing rates for various services."*

2.2 With their submissions, Air India also enclosed the following documents:



- (i) Ground Handling Charges by Air India;
- (ii) Major Airport at which Ground Handling charges are applicable;
- (iii) Cargo Charges of Air India at Chennai.

2.3 As regards cargo handling rates, Air India vide letter dated 29.08.2012 submitted that they are providing cargo service at Mumbai and Chennai airports and charging the same tariff for cargo services since 2009. Air India proposed an increase (6%) over the existing rates which were however not supported by requisite forms and documentary evidence as per Guidelines.

2.4 It was noted by the Authority that while AI have not furnished any specific detail as per the formats specified in the CGF Guidelines, however, they have indicated the rates/ tariff for the (a) cargo handling services and (b) Ground handling services. Accordingly, the Authority observed that

*“..... In respect of cargo services they have submitted the rates as were existing in 2011-12 and currently applicable in 2012-13. However, they have also proposed an upward revision in these tariffs. In this regard the Authority was informed that though Air India has proposed a revision in the tariffs for cargo services, the same has not been supported by the information and documentary evidence as envisaged under the Guidelines. Hence, in view of these facts the Authority noted that the proposal in respect of tariffs for ground handling services may be considered and put forth for stakeholder consultation as no revision in the rates is proposed. However, in respect of cargo services further information would be needed for its consideration by the Authority”.*

2.5 Subsequently various reminders vide letters dated 23.11.2012, 09.01.2013 and DO letter from Secretary AERA dated 07.08.2013 with copy to MoCA were issued but there has been no response. The representative of Air India was called for a meeting with Secretary, AERA to resolve the issues pertaining to ground handling and cargo services, which they did not attend.

### **3. Authority's view**

3.1 As per Section 13(1)(a) of the Act, the Authority is required to determine the tariff for aeronautical services.

3.2 The Authority noted that in respect of the above mentioned airports, the Authority has not approved/determined tariff w.e.f. 01.04.2011 in respect of cargo services being rendered by Air India and less than one year is left for completion of the 1st Control Period, which is set to expire on 31.03.2016.

3.3 It was further noted that fresh determination of tariff for the 2<sup>nd</sup> control period is due in less than one year.

3.4 In view of the fact that the Authority has not approved/determined tariff w.e.f. 01.04.2011 in respect of cargo service being rendered by Air India Chennai, Mumbai and at several major airports, the Authority decided the following:

- (i) Air India, for the remaining part of the current control period viz. upto 31.03.2016, is allowed to continue to charge tariff in respect of cargo handling services at the airports of Chennai, Mumbai and at any other major airport at which Air India is rendering such services, at such rates, as was prevalent on 01.09.2009.



- (ii) The levy of this tariff in respect of such aeronautical services would cease to be effective w.e.f. 31.03.2016 i.e. the end of the 1<sup>st</sup> Control Period.
- (iii) Any further levy of fee beyond 31.03.2016 without prior approval of Authority would be a contravention of the provisions of the Act, which is punishable under Section 38 of AERA Act.
- (iv) Air India may submit their tariff proposals for the 2<sup>nd</sup> control period starting 01.04.2016, well in time, as per the Guidelines of the Authority.

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

*Alok Shekhar*  
(Alok Shekhar)  
Secretary

To,

**Shri Rohit Nandan  
Chairman & Managing Director,  
Air India, Building,  
Nariman Point,  
Mumbai.**

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AERA

