

[F. No. AERA/20010/MYTP/IOSL/ITP /BIAL /2011-2012]

Airports Economic Regulatory Authority of India

Order No. 21/2013-14

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110 0 03**

**Date of Order : 24th May, 2013
Date of Issue: 28th June, 2013**

In the matter of Determination of Annual Tariff for Into Plane Services at Bangalore International Airport, Bengaluru provided by M/s Indian Oil Sky Tanking Limited, for the third, fourth and fifth tariff year (2013-14, 2014-15 and 2015-16) of the first control period.

The Authority had considered the Multi-Year Tariff Proposal submitted by M/s Indian Oil Sky Tanking Limited (IOSL) 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. 19/2011-12 dated 25.10.2011 wherein the Authority decided to adopt 'light touch approach' for determination of the tariff for the first Control Period and also determined the tariff for the period w.e.f. 01.06.2011 to 31.03.2012. Thereafter, the Authority issued Order No. 25/2012-13 dated 29.10.2012 determining Tariffs for the second tariff year accordingly.

2.1 The above said orders, issued by the Authority, were subject to the Order dated 19.10.2011 of the Hon'ble AERA Appellate Tribunal (AERAAT) wherein, with reference to Appeal No. 12 of 2011 filed by Bangalore International Airport Ltd. (BIAL), it was ordered that:

"It is made clear the even if any final order is passed by the respondent-Airports Economic Regulatory Authority, the same shall not be given effect to without leave of the Appellate Tribunal".

2.2 The appeal No. 12/2011 filed by BIAL has been disposed off by the Tribunal vide Order dated 03.05.2013 (amended vide order dated 10.05.2013), wherein Hon'ble Tribunal ordered that:

".....We had by our order dated 19th October, 2011, directed that the tariff so decided in case of the three services mentioned in the earlier paragraph would not be implemented unless the leave is obtained from this Tribunal. In view of the disposal of this appeal, those orders would stand 'withdrawn' and in the result the implementation of tariff may now commence."



3. IOSL, vide application dated 09.01.2013, submitted its Annual Tariff Proposal (ATP) for the third, fourth and fifth tariff year for consideration and approval of ITP charges. IOSL also submitted that there is an increase of 5% in the ITP tariffs, which is in line with prevailing trend and concession agreement with the airport operator.

4.1 The Authority considered the proposal submitted by IOSL and issued Consultation Paper No. 48/2012-13 on 20.03.2013 for stakeholder consultation.

4.2 In response to the above Consultation Paper, following stakeholders submitted their comments on the proposal contained therein;

- i. Bharat Petroleum Corporation Ltd.
- ii. Hindustan Petroleum Corporation Ltd. and
- iii. Shell MRPL Aviation Fuels and Services Ltd.

4.3 M/s Bharat Petroleum Corporation Ltd. vide its letter no. AV.HO.AERA dated 2nd April, 2013 stated that

"...the tariff plan submitted by ITP service providers at Delhi airport T-III as given in Consultation Paper no. 47 & 48/2012-13 is acceptable to us".

The Consultation Paper No. 47 and 48 pertains to Bangalore Airport. It appears that the stakeholder inadvertently mentioned BIA as "Delhi Airport T-III".

4.4 M/s Hindustan Petroleum Corporation Limited vide its letter no. AVN:AERA:HQO dated 3.04.2013 stated that

"(i) For ITP charges for the third tariff year(2013-14), the revision may please be made effective prospective basis, applicable from the first

day of the subsequent month, in which AERA issue order so that we do not suffer financial loss.

(ii) ITP charges for the fourth (2014-15) & fifth (2015-16) tariff period may be revised as proposed on prospective basis."

4.5 M/s Shell MRPL Aviation Fuels and Services Ltd. vide its letter no. Nil dated 03/04/2013 stated that

1. "It will be very difficult for any fuel supplier to collect ITP charges with retrospective effect as these are back to back charges collected from Airline customers. Hence it is requested that sufficient time is given to fuel suppliers (at least 60 days) for these new rates to come into effect for making necessary arrangements with airlines for collection of ITP charges.

2. As volumes at Bangalore Airport are likely to increase, this would give a benefit to the ITP service provider in terms of better utilization of resources and therefore economies of scale will come in. It is requested that a suitable formula be incorporated which may take this into consideration and also this may be monitored by AERA from time to time based on documentation to be submitted by ITP provider.



3. *It may also be incorporated suitably in the order that if there is any delay of intimation to the fuel supplier by ITP service provider for increased charges for any reasons whatsoever, then such charges shall not be payable by the fuel supplier on behalf of the airlines as they cannot be collected from the airlines customers ”.*
5. The comments of Shell MRPL were forwarded to IOSL for its responses.

IOSL vide its letter dated April 29, 2013 stated that:

“1. With respect to Point No. 1 regarding sufficient time of at least 60 days to be given to fuel suppliers for the new rates to come into effect:

a. As you may be kindly aware that the first control period as per MYTP commenced on 1st April, 2011 in line with AERA Guidelines and the tariff submitted for the 5 year period had already been approved by AERA which contains an escalation of 5% on year on year basis. Since the rates are escalated at 5% as per the duly executed contracts, the rates are to take effect as per the contracts and the same have also been approved by AERA. Therefore the suppliers and all the other stakeholders are already aware of the escalation of 5% every year and accordingly they are expected to take appropriate caution while entering into fuel supply contracts with Airlines as typically the contracts are spread over two financial periods. Further, it is a normal practice that the suppliers incorporate a disclaimer clause I their Fuel Supply Agreements, for such levies and duties. Under such circumstances, we do not foresee any constraint on part of the suppliers to recover dues, if any, from their contracted airlines and hence any under-recoveries if claimed by any supplier, is not tenable.

b. Moreover, AERA approves the tariff after following due consultation process with the stakeholders and after ascertaining their views/comments. Therefore, the fuel suppliers get sufficient time to know that after the consultation process, the new Tariff Rates are likely to be considered for approval by AERA.

Since the rate are as per the Agreements entered into and known in advance to the fuel suppliers and for reasons stated above, further notice of minimum 60 days to be given to the suppliers as suggested by M/s Shell MRPL in their letter is not warranted. Further these rates are already approved as per MYTP and published on AERA website.

2. With respect to Point No. 2 regarding likely increase in volumes and economics of scale:

a. The parameters like economies of scale had already been factored in the rates and considering such factors, the escalation mechanism was incorporated in the relevant agreements.

b. Furthermore, the ITP service provider takes risk for the downward trend in volumes as well, which is compensated by the escalation of rates. It may please be noted that last year there was negative trend in the sales volumes at Bangalore. We would like to bring to your notice that the input costs including salary & wages,



electricity, diesel, water and other utilities have been increasing steadily every year. Considering all such factors, the escalation mechanism was incorporated in the Agreements and therefore incorporation of a suitable formula to take care of economies of scale, as suggested by MRPL-Shell, is not required since the various factors as mentioned above cannot be linked to volume of ATF.

3. With respect to Point No. 3 regarding charges shall not be payable by the fuel supplier if there is any delay of intimation by the ITP Service Provider:

As already mentioned earlier under Point No. 1, the rates for ITP Charges are already known to the Fuel Suppliers as provided in the agreements entered into with ITP Service Provider. The approval of tariff is conveyed by AERA and the same is hosted in the AERA website. Therefore, sending a separate intimation to the fuel supplier by the ITP Service Provider is not warranted. In such cases the suppliers need to take proactive action for recovery of such dues from their contractual Airline customers.”

6. The Authority noted that:

- (i). It was decided to adopt “light touch approach” for determination of tariff for Into Plane (ITP) Service provided by M/s IOSL at BIA and tariffs for the first and second tariff years were determined accordingly.
- (ii). IOSL, in its ATP for 3rd tariff year, submitted that there was an increase of 5% in rate, which was in line with prevailing trend and concession agreement with the airport operator.
- (iii). Bharat Petroleum Corporation Limited agreed to the proposal in the consultation paper. Hindustan Petroleum Corporation Limited also agreed to the proposal and stated that the revision may be applicable on prospective basis.
- (iv). In respect of the issues raised by M/s Shell, it is observed that the tariffs in respect of services provided by IOSL at BIA are to be determined under “Light touch Approach” and hence the volumes etc. details are not being examined in an intrusive manner.
- (v). The instant exercise of determination of tariff for ITP service being provided at BIA, is in accordance with the provisions of Guidelines [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”).
- (vii) The appeal No. 12/2011, filed by BIAL, has been disposed off by AERAAT vide order dated 03.05.2013 (amended vide order dated 10.05.2013).



ORDER:

7. Upon careful consideration of material available on record, the Authority, in exercise of the powers conferred by Section 13(1)(a) of the Airports Economic Regulatory Authority of India Act, 2008, hereby orders that:

i) The maximum Tariffs for Into Plane services provided by M/s Indian Oil Skytanking Limited at Bengaluru International Airport, Bengaluru, for the third tariff year (w.e.f. 01.04.2013 to 31.03.2014), fourth tariff year (w.e.f. 01.04.2014 to 31.03.2015) and fifth tariff year (w.e.f. 01.04.2015 to 31.03.2016) of the first Control Period, are determined to be as at **Annexure-I.**

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


(Ravi Pahwa)
Bench Officer

To

**Indian Oil Skytanking Ltd.,
Fuel Farm Facility,
Bengaluru International Airport,
Devenhalli,
Bengaluru - 560 300
(Through: Shri T. S. Dupare, CEO)**



Annexure I

INDIAN OIL SKYTANKING LIMITED

**ITP Charges for the Year 2013-14, 2014-15 and 2015-16
Bangalore International Airport, Bengaluru**

(Rs. /KL)

Tariff Year	Period	Fuelling of Aircraft	Defueling Aircraft		Refuelling of Defueled Product into an aircraft	
			Within 6 hrs	Beyond 6 hrs	Within 6 hrs	Beyond 6 hrs
Tariff Year 3 (2013-14)	01.04.2013-31.05.2013	231.53	231.53	277.83	254.68	277.83
	01.06.2013-31.03.2014	243.11	243.11	291.72	267.41	291.72
Tariff Year 4 (2014-15)	01.04.2014-31.05.2014	243.11	243.11	291.72	267.41	291.72
	01.06.2014-31.03.2015	255.27	255.27	306.31	280.78	291.72
Tariff Year 5 (2015-16)	01.04.2015-31.05.2015	255.27	255.27	306.31	280.78	306.31
	01.06.2015-31.03.2016	268.03	268.03	321.63	294.82	321.63

