

**[F. No. AERA/20010/MYTP/MAB/C/BIAL/2011-12]**

**Airports Economic Regulatory Authority of India**

**Order No. 21/2011-12**

**AERA Building,  
Administrative Building,  
Safdarjung Airport,  
New Delhi – 110003.**

**Date of Order: 16<sup>th</sup> August, 2011**

**Date of Issue: 25<sup>th</sup> October, 2011**

**In the matter of Multi Year Tariff Proposal for 1<sup>st</sup> Control Period submitted by Menzies Aviation Bobba (Bangalore) Private Limited for providing Cargo Handling Services at Bangalore International Airport, Bengaluru.**

M/s Menzies Aviation Bobba (Bangalore) Private Limited (MABB) have submitted their Multi Year Tariff Proposal (MYTP) for the Cargo facility at Bangalore International Airport, Bengaluru in respect of the 1<sup>st</sup> Control period starting w.e.f. 01.04.2011, vide their application dated 27.04.2011 (received on 29.04.2011). MABB is a private limited company incorporated on 20.06.2006. Pursuant to the Concession Agreement entered into with Bangalore International Airport Limited (BIAL), MABB has been awarded the Service Provider Rights for the design, construction, financing, testing, commissioning, maintenance, management and operation of the facility. MABB have been granted the concession to provide the services of BIAL for a period of 15 years (extendable for a further period of 5 years) by BIAL. The concession is on a BOT basis and the facility shall be transferred to BIAL at the end of the term.

2.1 In respect of the regulated service(s) provided for the cargo facility at the airport, the Authority considers that materiality of the service is linked to the cargo volume at the major airport. The materiality shall be assessed based on cargo volume in MT at the major airport as a percentage of cargo volume in metric MT at all major airports, in terms of Clause 4.3 of the Guidelines [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 Aircraft) Guidelines, 2011]. The percentage share of cargo volume for BIAL is 9.2%, which is greater than 2.5% Materiality Index fixed for the subject service. Hence, the service is deemed 'material'.

2.2 As per the information furnished by MABB in Form F1(b) on the Competition Assessment, following service providers are rendering similar services at BIAL:

(i) Air India SATS

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- (ii) Blue Dart Cargo
- (iii) ECIS

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 more than two the service is deemed 'material but competitive'.

2.3 As per the Guidelines, based on the assessment of materiality and competition, 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. Hence, the regulated service being provided by MABB at Bangalore International Airport, Bengaluru is 'material but competitive' and comes under the light touch approach for tariff determination.

3. MABB have furnished the basis for arriving at the details, including the Aggregate Revenue Requirements, the rationale for the projections/various parameters used; justification, assumptions and cost drivers used for calculating O&M Expenditure; supporting documents for the administration and general expenses and also for R&M Expenditure etc; Copies of agreements entered into with agencies for provision of Regulated Services at the major airport, including stakeholder consultation undertaken have also been furnished.

4. The Authority had, vide Consultation Paper No. 04/2011-12 dated 3.06.2011, proposed for stakeholder consultation that the cargo service provided by MABB at Bangalore International Airport, Bengaluru is 'material' and 'competitive' and hence the Authority may adopt a 'Light Touch Approach' for determination of tariff for the 1<sup>st</sup> Control Period w.e.f. 01.04.2011.

5. Comments were received from four stakeholders namely, CIAL, BIAL, DACCAI and ACAAI in response to the aforesaid Consultation Paper.

6. After careful consideration of the matter, including stakeholder comments and MABB's clarifications thereon, the Authority has observed as under:

- (i) The Authority had decided to accept the request for confidentiality to the extent requested by the service provider. CIAL has drawn attention to the same and proposed that same yardstick be applied to all similar proposals otherwise it would lead to discrimination. "Confidential Information" has been defined in clause 2.12 of the Guidelines. As per clause 7.2 of the Guidelines, the Authority shall consider specific submission(s) from Service Provider(s) for not putting certain information in the public domain on the grounds of such information being confidential information. Therefore, the Guidelines contemplate a case to case consideration in such matters. In view of this, the submission made by CIAL appears to be stretching the argument.



- (ii) DACAAI has stated that the paper does not bring out the rates for which approval is sought. In absence of the same, they have made their submissions based on the present charges as the base. It is observed that the present proposal is a MYTP wherein as per Guidelines (Clause 7.2), the Authority shall put in public domain, inter-alia, the information regarding materiality assessment, competition assessment and user agreements, as may be applicable. In other words, the Guidelines contemplate that the Authority would, at the MYTP stage, decide its approach, i.e., light touch or otherwise. The rates will form part of Annual Tariff Proposal (ATP) which will also be decided through stakeholder consultation.
- (iii) As per the Guidelines, issued by the Authority, the subject service being rendered by M/s Menzies Aviation Bobba (Bangalore) Pvt. Ltd. is material. Further as per Clause 5.1 of the Guidelines 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. Considering that the Regulated Service is being rendered by Air India SATS in addition to MABB, the subject service is deemed competitive. Therefore, ACCAI's submissions in this regard are incorrect.
- (iv) The issues relating to quality of service raised by ACCAI have been adequately addressed by MABB. In any case, the issues which have a direct bearing on tariff can be more appropriately considered at the ATP stage.

6.2 As regards BIAL's comments w.r.t. the Tribunal's Order dated 19.05.2011 in the Appeal No. 12/2011, a Miscellaneous Application was moved before the Hon'ble AERA Appellate Tribunal on 24.06.2011 seeking clarifications. The instant Order is being issued pursuant to the order of Hon'ble AERA Appellate Tribunal dated 19.10.2011, issued in Appeal No. 12/2011, wherein the Tribunal ordered that

*".....It is made clear that 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 this Court."*

**ORDER:**

7. Upon careful consideration of material available on record, submissions made by the stakeholders and MABB, the Authority hereby orders that:

- (i) The services provided for the cargo facility by Menzies Aviation Bobba (Bangalore) Pvt. Ltd. at Bangalore Airport are "material but competitive". Hence, the Authority shall adopt a "light touch approach" for determination of tariff for the 1<sup>st</sup> Control Period w.e.f. 01.04.2011.



- (ii) MABB may submit the ATP for the first tariff year of the first control period for the consideration of the Authority within a period of 75 days of the issue of this Order in accordance with the Guidelines.

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



**(Capt. Kapil Chaudhary)  
Secretary**

**To**

**M/s Menzies Aviation Bobba (Bangalore) Private Ltd.,  
Plot No. C-04L, Bengaluru International Airport,  
Devanahalli,  
Bengaluru – 560300.  
(Through: Shri Manoj Singh, Chief Executive Officer)**

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AERA

