

F. No. AERA/20010/MYTP/BKFF/FF/Kannur/CP-II/2018-19
Airports Economic Regulatory Authority of India

Order No. 14/2019-20

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi - 110003**

Date of Order: 28th October, 2019

Service : Fuel Farm and Into-Plane Services
Service provider : M/s BPCL Kannur Fuel Farm Private Limited.
Airport : Kannur International Airport Limited, Kannur

Subject: To consider the Multi Year Tariff Proposal and Annual Tariff Proposal for (FY 2019-20) 2nd tariff year and (FY 2020-21) 3rd tariff year of the first Control Period(01.04.2018 – 31.03.2023) in respect BPCL Kannur Fuel Farm Private Limited (BKFFPL) providing Fuel Farm and Into Plane Services at Kannur International Airport Limited (KIAL)

BRIEF

M/s BPCL Kannur Fuel Farm Private Limited (BKFFPL) is providing Fuel Farm and Into Plane Services at both Domestic and International Airport of Kannur, w.e.f. 09th Dec, 2018. The Authority vide order No 34/2018-19 dated 04th December, 2018 approved Ad-hoc tariff of Rs. 1900/- per KL as Fuel Infrastructure Cost including Aircraft refuelling and also approved separate charges for defueling and refuelling at Kannur International Airport. Rates approved as per the tariff order was effective till 30th June 2019. To avoid any regulatory vacuum the Authority vide order No 6/2019-20 dated 21st June, 2019 allowed M/s BKFFPL to continue levy of existing tariff as on 30.06.2019 up to 30.09.2019 or till the date of determination of tariff by AERA whichever is earlier. The Authority further vide order No 11/2019-20 dated 30th June 2019 allowed M/s BKFFPL to charge tariff of Rs. 1846/- per KL as Fuel Infrastructure Cost including Aircraft refuelling and also approved separate charges for defueling and refuelling, as submitted by M/s BKFFPL for Kannur International Airport up to 31.12.2019 or till the date of determination of tariff by AERA whichever is earlier.

MYTP/ ATP of BKFFPL

2. BKFFPL vide letter no. BKFFPL/AERA/2019-20/01 dated 29th April, 2019 submitted their Multi Year Tariff Proposal (MYTP) from FY 2018-19 to FY 2022-23 and Annual Tariff Proposal (ATP) for FY 2019-20 (from 01.07.2019 to 31.03.2020) and FY 2020-21 of the first Control Period (01.04.2018–31.03.2023) towards determination of tariff for Fuel Farm and Into Plane Services at Kannur International Airport (KIAL). Considering the Aggregate Revenue Requirement, and estimated traffic volumes, BKFFPL proposed a tariff of Rs. 1846.00/- KL as Fuel Infrastructure Cost including Aircraft refuelling for the period July 2019 to March 2021. BKFFPL further vide mail dated 16.07.2019 submitted Balance sheet, Profit & Loss Account for

FY 2018-19 and Supplier Agreement between Fuel Farm, Airport Operator and the Oil Marketing Companies. However, M/s BKFFPL had not submitted any evidence of User Consultation Committee Meeting on the proposed tariff.

3. The Authority notes that the actual traffic in the 4 months of operation till March 2019 has been low and accordingly the sale of fuel at the beginning i.e. Dec,2018 was 904 KL reaching up to 2561 KL per month in March 2019. The actual trends and growth of traffic will be known in the next 1 to 2 years. The Authority further notes that the actual Capital Expenditure incurred is around Rs. 16.06 crores and two additional refuellers of Rs 2.64 crores are proposed to be bought in 2020-21. The Hydrant system has not been created by the company currently and is proposed in future, based on the growth of Air Traffic Movement (ATM) and ATF demand at Kannur International Airport.

4. The Authority analysed the details of Operating Expenditure proposed by BKFFPL. The Authority notes that Operation and Maintenance (O&M) of the Fuel Farm and Into- Plane Services is carried out by BPCL and BPCL recovers its operational costs by taking a 16% margin on the same except for power bills, water consumption bills, & land lease bills. The Authority further noted that the O&M cost estimate proposed by BKFFPL seemed to be high, however, BKFFPL submitted that the full details and actual trends of the same will be available only after 1 to 2 years of operations.

Authority's proposal in Consultation Paper:-

5. The Authority considered the submissions made by M/s BKFFPL and issued the Consultation Paper No. 05/2019-20 dated 16.08.2019 wherein the Authority proposed the following:

- 5.1 M/s BKFFPL is the only firm operating the Fuel Farm at Kannur International Airport, so there is no competition, therefore, the Authority, has decided to adopt 'Price Cap Approach' for intrusive determination of tariffs for the period FY- 2019-20 (From 01.10.2019 to 31.03.2020) to FY- 2022-23 of 1st Control Period.
- 5.2 To approve the "fuel infrastructure fee" (FIF) of Rs. 1735/- KL (including Aircraft Refuelling) for the 2nd tariff year FY 2019-20 (From 01.10.2019 to 31.03.2020) and 3rd tariff year FY 2020-21 of the first control period against the existing tariff of Rs. 1900/- KL, for its Fuel Farm and Into Plane services at Kannur International Airport.
- 5.3 M/s BKFFPL be allowed to charge the existing ad hoc tariff of Rs. 1900/- KL as approved by the Authority vide order No 34/ 2018-19 dated 4th December 2018 till the date of determination of regular tariff by AERA.
- 5.4 Tariff for FY 2021-22 & 2022-23 of the 1st Control Period will be determined based on review of the actual revenues OPEX, ARR etc., as well as status of the proposed construction of Hydrant System, and, also submission of the Annual Compliance Statement (ACS). M/s BKFFPL should submit all the above information well in advance for timely action by the Authority.

- 5.5 The Authority observes that, no 'User Consultation Committee' meeting has been conducted by M/s BKFFPL, hence, it is directed that BKFFPL should conduct a User Consultation meeting and submit details to the Authority along with Stakeholder's/user's comments.

Stakeholder's Comments

6 The Authority sought written evidence based feedback, comments and suggestions from stakeholders on the above mentioned Consultation Paper proposal latest by 06.09.2019. In response to the proposal contained in the said consultation paper, comments have been received from BPCL, Kannur Fuel Farm Private Limited (BKFFPL) only. Other Stakeholders have not given any comments. The comments received from BKFFPL were uploaded on AERA website vide public notice No. 09/2019-20 dated 25.09.2019. Brief details of the comments received are given hereunder:

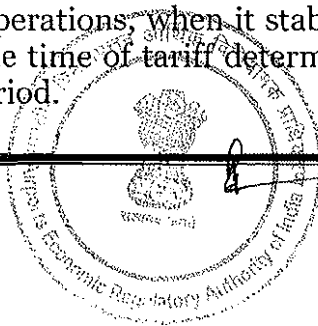
- 6.1 BKFFPL commented that the tariff proposal in line with the Guidelines and Orders issued by the Authority. Based on the guidelines applicable as of date, the fuel farm volumes are not material and accordingly the tariff is to be determined under a "Light Touch Approach". BKFFPL stated that the Fuel Farm has been set up to function under "Open Access Model" for use by all users. BKFFPL also stated that the BKFFPL majority shareholding is held by Bharat Petroleum Corporation Limited (BSPL) and its Operation is governed by its Board of Directors. Having stated the above, the tariff is to be determined under "Light Touch Approach".
- 6.2 BPCL commented that the JV formation at Kannur International Airport is to ensure transparent and fair Services through an independent entity, to all suppliers at this open access airport. BPCL is also one of the suppliers at this airport availing the services of BKFFPL on similar terms and conditions as applicable to all other suppliers. BPCL has been provided with the Contract to manage the Fuel Farm and Into-Plane services considering their experience in managing such ventures in other places and the economies. That 16% is a marginal loading for recovery of overheads that BPCL charges on the actual costs incurred, in line with operations being carried out at other open access airports e.g. New Delhi. BKFFPL has also stated that based on the requirement of related party transactions on arm's length basis, necessary approval have been obtained for 16% margin. Depending on the actual scale of operations the O&M cost may vary either way which can be tried up.
- 6.3 BKFFPL commented that the actual ATF uplift volume is low compared to the projections provided by them in their initial submissions. All the regulatory blocks are only an estimate basis, Operation has not stabilized still and actual trends and growth of traffic cannot be ascertained at this stage. Hence, BKFFPL requested to keep the rate at Rs. 1846/- per KL as proposed by them for the period till 31st March 2021.
- 6.4 BKFFPL commented that prior to the commencement of airport operations at Kannur, several round of meeting were organized with all eligible suppliers.

Based on discussions, the agreement between BKFFPL and the Oil Marketing Companies (Suppliers) has been executed. However, as directed BKFFPL will conduct another round of user consultation meeting and the record of the same will be submitted to the authority.

- 6.5 M/s BKFFPL also requested for a meeting with the Authority for discussion on the Consultation Paper comments and brief about the proposed Hydrant System and the cost outlay etc. In this regard, a meeting has been conducted at AREA office, the Authority advised to BKFFPL that currently, there is no requirement of Hydrant system at Kannur Airport and also advised BKFFPL to submit more justification for including 16% margin on the Operating and maintenance Expenditure.
- 7 BKFFPL further vide. Mail dated 30th September 2019 submitted the following justification for considering 16% margin on the Operation and Maintenance Cost:
- 7.1 The contract for Operation and Maintenance at BKFFPL has been provided to BPCL by virtue of the Memorandum of Understanding (MoU) signed between BPCL and Kannur International Airport. The arrangement of pricing, being a related party transaction, has been demonstrated as Arms' Length basis and has been already approved by the Audit Committee of BPCL as well as BKFFPL in line with the requirements of the Companies Act/SEBI regulations.
- 7.2 BKFFPL is currently operating with only two staff on its payroll. The other staff members are taken on deputation from another Joint Venture Company of BPCL - Bharat Stars Services Private Limited (BSSPL). To optimize the costs, BPCL has deputed key staff members from its own office, who have suitable skill and experience to manage the operations at the Kannur Fuel Farm. The JV-BKFFPL is fully dependent on BPCL for various activities/processes and seeks guidance from BPCL even for routine proposals, etc. Hence, the 16% loading charged by BPCL should not be viewed as merely a profit element but largely as a share of Overheads towards other back-end activities/processes together with an element of profit that is charged to BKFFPL. In other words, if staff members of BPCL were to be fully engaged directly in the operations at BKFFPL, the cost is expected to be much more than the 16% charged currently.

8 Analysis/Views of the Authority:

- 8.1 The Authority examined the comments and submission made by BKFFPL on AERA's Consultation Paper. The Authority noted BKFFPL's justification that if staff members of BPCL were to be fully engaged directly in the operations at BKFFPL, the cost is likely to be much more than the 16% charged currently. Hence, the Authority is of the view that 16% margin charged by the BPCL can be considered in the Operation and Maintenance expenditure of the BKFFPL. The Authority further noted that the O&M cost estimate proposed by M/s BKFFPL seems to be high. However, as the actual O&M costs can be ascertained only after one or two years of operations, when it stabilizes, and, accordingly, O&M costs will be tried up at the time of tariff determination for the 4th & 5th tariff year of the First Control Period.

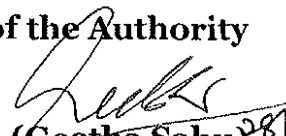


8.2 The Authority also noted that M/s BKFFPL is the only firm operating the Fuel Farm at Kannur International Airport, there is no competition, therefore, the Authority, has decided to adopt 'Price Cap Approach' for determination of tariffs for the period FY-2019-20 to FY 2022-23 of 1st Control Period.

ORDER

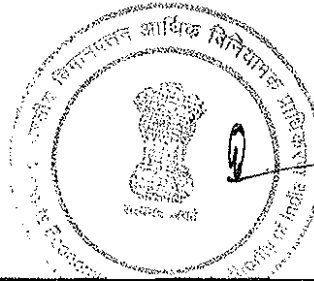
- 9 Upon careful consideration of material available on record, as well as submissions made by M/s BKFFPL, the Authority, in exercise of powers conferred by Section 13(1) (a) of the AERA Act, 2008 hereby orders that:
- (i) M/s BPCL Kannur Fuel Farm Private Limited (BKFFPL) is allowed to charge the "fuel infrastructure fee" (FIF) of Rs. 1846/- KL (including Aircraft Refuelling) for the 2nd tariff year FY 2019-20 and 3rd tariff year FY 2020-21 of the first control period, for its Fuel Farm and Into Plane services at Kannur International Airport as per the tariff card attached as "Annexure I". This rate will be effective from 1st November, 2019.
- (ii) M/s BKFFPL should file its Annual Tariff Proposal (ATP) for FY 2021-22 & 2022-23 of the 1st Control Period well in advance. The tariff for the above said period will be determined on review of the actual revenues, operating expense, ARR etc., as well as status of the proposed construction of Hydrant System, and, also submission of the preceding year Annual Compliance Statement (ACS).

Order issued in the Name of the Authority


(Geetha Sahu)
AGM (Fin)

To,
M/s BPCL Kannur Fuel Farm Private Limited.
Fuel Farm & Into Plane Facility
Kannur International Airport Limited,
Kannur- 670702.
(Through: Prashant M Kamath, CFO)

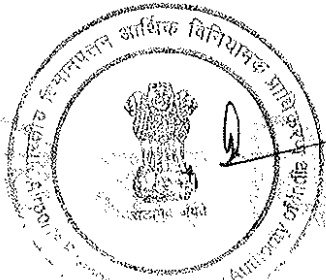
Copy to: Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan,
Safdarjung Airport New Delhi-110003.



Annexure-I

BPCL Kannur Fuel Farm Private Limited (BKFFPL)
Tariff Rates Approved for FY 2019-20 & FY 2020-21

Tariff period	Fuel Infrastructure Cost (including Aircraft Refuelling)	Aircraft Defueling	Refuelling of Aircraft with defueled product	
			Within 48 hours	Beyond 48 hours
From 01.11.2019 to 31.03.2020	Rs. 1846 per KL	Rs.300 per KL	Rs. 350 per KL	Rs. 400 per KL
From 01.04.2020 to 31.03.2021	Rs. 1846 per KL	Rs.300 per KL	Rs. 350 per K	Rs. 400 per K



AERA