

Order No. 16/2019-20

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

Date of Issue: 13.11. 2019

**Service : Into-Plane Services
Service provider : M/s Indian Oil Skytanking Private Limited
Airport : Kempagowda International Airport, Bengaluru.**

In the matter of the Annual Tariff Proposal for FY 2019-20 (from 24th May 2019 to 31.03.2020) 4th tariff year and (FY 2020-21) 5th tariff year of the second control period in respect of M/s Indian Oil Skytanking Private Limited for providing Into-Plane service at Kempagowda International Airport, Bengaluru.

M/s Indian Oil Skytanking Private Limited (IOSL) is one of the Into Plane Service (ITP) provider appointed by BIAL at Kempagowda International Airport, Bengaluru. The Authority, vide its MYTO Order No. 19/2011-12 dated 25.10.2011, had decided to adopt 'Light Touch Approach' in respect of the Indian Oil Skytanking Private Limited for providing Into Plane Services at Bangalore airport for determination of tariffs for the 1st Control Period and also decided the tariff for first tariff year (2011-12). Subsequently, the Authority vide Order No. 25/2012-13 dated 29.10.2012, determined the tariff for second tariff year. Thereafter, the Authority issued Order No. 21/2013-14 dated 24.05.2013, determine the tariffs for the third, fourth and fifth tariff year (FY 2013-14, 2014-15 and 2015-16) of the 1st Control Period.

2. The Authority vide Order No. 05/2017-18 dated 12.06.2017, decided to adopt 'Light Touch Approach' for determination of tariffs in respect of IOSL for its ITP services at Bangalore airport during the 2nd Control Period with effect from 01.04.2016 to 31.03.2021. In the same order, the Authority also determined the tariff for first, second and third tariff year (01.04.2016 to 24.05.2018) as their concession agreement with BIAL expiring on 24.05.2018 only. M/s IOSL vide letter dated 28.05.2018 has further informed that their existing contract for ITP Services at Bangalore Airport which was valid up to 24.05.2018 has been further extended by



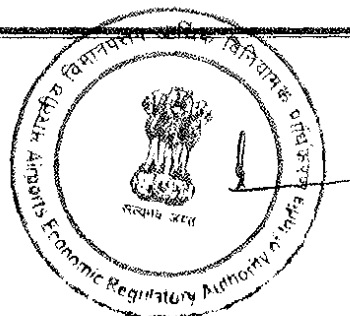
one more year by BIAL w.e.f (24.05.2018 to 23.05.2019). Subsequently the Authority vide order No 24/2018-19 dated 10.10.2018 had determined the tariff for the remaining period of 3rd tariff year (from 24.05.2018 to 31.03.2019) and 4th tariff year (from 01.04.2019 to 23.05.2019) of the 2nd Control Period.

3. M/s IOSL vide letter No BLR/ITP/AERA/MYTP dated 27.04.2019 submitted that IOSL entered into a Service Provider Right Holder (SPRH) agreement with BIAL for providing Into Plane services for another ten years w.e.f 24.05.2019. To avoid any regulatory vacuum the Authority, vide interim Order No. 05/2019-20 dated 22.05.2019, allowed IOSL to continue levy of tariffs existing as on 23.05.2019, up to 30.09.2019 or till determination of tariffs by AERA whichever is earlier. The Authority, further vide interim Order No. 08/2019-20 dated 26.09.2019, allowed to continue levy of tariffs existing as on 30.09.2019, for a further period of six months w.e.f. 01.10.2019 or till determination of tariffs by AERA whichever is earlier.

Annual Tariff Proposal (ATP) of IOSL

4. M/s IOSL, vide aforesaid letter dated 27.04.2019 submitted their Annual Tariff Proposal (ATP) towards determination of tariff for the 4th tariff year (From 24.05.2019 to 31.03.2020) & 5th tariff year (FY 2020-21) of the 2nd control period for providing Into Plane Services at Kempegowda International Airport, Bengaluru. IOSL also submitted the justifications for revision in the tariff rates. M/s IOSL has sought an increase of 33.48% in 4th tariff year (From 24.05.2019 to 31.03.2020), and, 40.15% in 5th tariff year (FY 2020-21) over the 3rd tariff year (FY 2018-19) of the 2nd Control Period. IOSL further vide letter dated 18.06.2019 submitted revised tariff rates, as tariff card appended below:

M/s Indian Oil Skytanking Private Limited, Kempegowda International Airport, Bengaluru					
Tariff Card (All Amounts in INR per KL)					
	Fueling of Aircraft	Defueling of Aircraft within 6 Hours	Defueling of Aircraft Beyond 6 Hours	Refueling of defueled product 6 Hours	Refueling of defueled product 6 Hours
Period 24.05.2019 to 31.03.2020	353.78	353.07	423.68	388.37	423.68
Period 01.04.2020 to 31.03.2021	370.72	370.72	444.80	407.79	444.86



5. The Authority considered the submissions made by IOSL and issued a Consultation Paper No. 06/2019-20 dated 13.09.2019 wherein the Authority proposed tariff of Rs 303.04/KL for 4th tariff year (from the date of the issue of the order to 31.03.2020) and Rs 365.75/KL for 5th tariff year (01.04.2020 to 31.03.2021) against Rs 353.78 for FY 2019-20 and Rs 370.72 for FY 2020-21 as sought by M/s IOSL. The Authority sought written evidence based feedback, comments and suggestions from stakeholders on the above proposal latest by 04.10.2019. In response to the proposal contained in the said Consultation Paper, comments have been received from M/s Hindustan Petroleum Corporation Limited (HPCL), M/s Indian Oil Corporation limited (IOCL), M/s Shell MRPL Aviation Fuels and Services Ltd and from the service provider M/s Indian Oil Skytanking Private Limited (IOSL). The comments received from the stakeholders were uploaded on AERA's website vide Public Notice No. 11/2019-20 dated 14.10.2019. Brief details of the comments received are given hereunder:

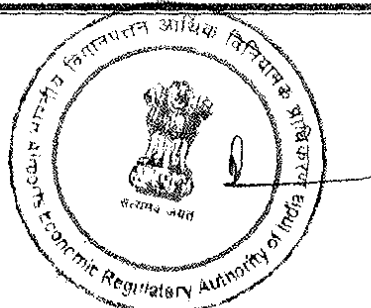
5.1 **M/s Hindustan Petroleum Corporation Limited (HPCL):** HPCL has suggested that the uniform charge for similar type of service being extended at Bangalore airport, therefore HPCL requested the Authority to keep rates of BSSPL and IOSL at par at Bangalore airport. HPCL further requested, any tariff revision should be made applicable on prospective basis only.

5.2 **M/s Indian Oil Corporation limited (IOCL):** M/s IOSL stated that there is an increase of 20.7% in tariff for 5th tariff year over the previous year. This increase is high and requires rationalization. IOCL also stated that any change in rate should be uniform for the entire Into-Plane Service provider at an airport and any increase in the tariff should be on prospective basis.

5.3 **M/s Shell MRPL Aviation Fuels and Services Ltd:** Shell MRPL stated that currently the tariff for both ITP Operators at the Airport is the same. Shell MRPL would like for this practice of non-discrimination based on pricing to continue in the best interests of its end users. Shell MRPL further suggested that any tariff order should be implemented only on prospective basis.

5.4 **M/s Indian Oil Sky tanking Private Limited (IOSL):** M/s IOSL vide letter dated 04.10.2019, has submitted their comments on the proposal of the aforesaid consultation paper which are briefly mentioned hereunder:

5.4.1 M/s IOSL stated that the Authority's approach for tariff calculation which is based on the average RAB is not in line with the AERA guidelines for light touch approach. IOSL further stated that, the ITP Service is primarily manpower oriented, and constitutes to around 50% of the total operating cost. If new assets are not added in any particular year the RAB, accordingly will reduce in that year.



5.4.2 M/s IOSL also stated that the existing assets are almost 11 years old and require replacement hence, for new investments, they need a suitable tariff and a return to make those investments viable. According to IOSL, the tariff (Operating Expenditure+ Depreciation and a 14% return on these two line items) should be Rs 323.33/KL for FY 2019-20 and 384.61/KL for FY 2020-21 as per AERA methodology. IOSL further stated that for tariff determination, AERA is considering different Operating margins for two competitive firms which is discriminatory in nature and against the principals of competition.

5.4.3 M/s IOSL further stated that it is against the AERA Guidelines to determine the tariff of Into Plane Service Providers under "Price Cap approach". IOSL does not agree with the AERA's opinion that "there is no competition in real terms between IOSL & BSSPL". In this regard, IOSL justify that its market share has fallen from 74% in FY 2016-17 to 60% in FY 2019-20 due to competitive market environment. IOSL further stated that as per AERA guidelines, a service provided by two or more service providers is deemed competitive, and the same guidelines of determining competitiveness have been used by AERA in case of IOSL's & BSSPL's ITP Services at Bangalore, Delhi and Mumbai Airports.

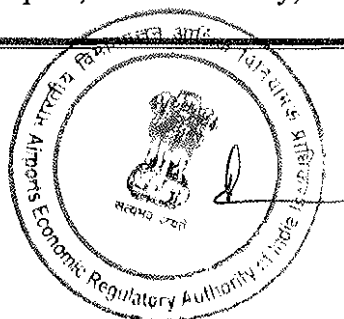
5.5 M/s IOSL stated that the new tariff for FY 2019-20 would be effective after six months in the FY 2019-20, hence AERA should consider, projected revenue loss for 06 month when finalizing the tariff order. M/s IOSL has requested either to consider tariff as per their submission, i.e. INR 353.07/KL for FY 2019-20 and INR 370.72/ KL for FY 2020-21 or according to AERA methodology i.e. INR 323.33/KL for FY 2019-20 and INR 384.61/ KL for FY 2020-21 (as calculate by them). IOSL further stated that during the Consultation meeting all stakeholders have a common demand to fix similar tariffs for both ITP Operators i.e. IOSL and BSSPL.

5.6 **IOSL's response on Stakeholder comments:**

IOSL have no objections to consider same tariffs for both ITP Operators at Bangalore Airport and also have no objection to consider increase in the tariff on prospective basis. M/s IOSL stated that the rationalization recommended by IOCL has no basis and is not supported by any calculations/evidences. The justification of the tariff increase have already been discussed and explained to IOCL in the Stakeholder meeting, held in Bangalore on 9th May, 2019.

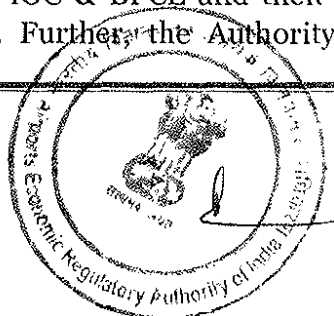
6. **Analysis/Views of the Authority:**

6.1 The Authority has considered the comments of all Stakeholders viz. M/s HPCL, IOCL, Shell MRPL & M/s IOSL. Regarding the view on the same tariff for both ITPs at an airport, the Authority, is of the view that the tariff



determination should be based on the individual agency's revenue requirement for efficient operation and service level to be provided by the agency, keeping their expenses on operation and maintenance, staff cost etc. in view, and, the rate need not be same for the agencies. Further, the Authority is of the opinion that any change in the tariff should be implemented on prospective basis only.

- 6.2 Regarding the comments of IOSL about the return on average RAB, the Authority is of the view that besides return on RAB, the Authority also consider other aspects such as operating cost including manpower cost, investment on Capital Assets, growth in the volume, margin etc.
- 6.3 The Authority observes that as per submissions made by IOSL, average return on RAB and average operating profit during the 2nd Control Period is high and there is no shortfall in ARR. Therefore, the Authority is of the view that the tariff rate proposed by the AERA in C P No 06/2019-20 dated 13.09.2019 is adequate and sufficient to meet the revenue requirement of IOSL for FY 2019-20 and FY 2020-21. The Authority further observed that the increase in concessional fees from 5% to 23.6% through new concession agreement is very high, the Authority is of opinion that the IOSL may have agreed to pay such high concession fee, assuming that the concession fee will be a 'pass through' in the tariff determination. The high Concession fee cost ultimately has to be borne by the end user and is contrary to the objective of price regulation, keeping reasonable interest of the end customer in mind. The Authority has considered the high royalty payable by IOSL to MIAL while determining the tariff for this control period, However, the Authority will restrict the royalty to 5% as per the AERA order no. 01/2018-19 dated 05.04.2018 for the next control period for determination of tariff.
- 6.4 As regards IOSL comments of considering different operating margins for two competitive firms being discriminatory in nature by the Authority, it is clarified that the rates are determined based on return on RAB and the ARR requirement, taking into consideration the operating expenditure and other incidental expenses. In this case the Authority has considered the same rate of return on RAB for both the firms. Needless to state that the operating margin depends on the revenue and expenditure of the individual firms, and, therefore, cannot be same.
- 6.5 Regarding the comments of IOSL about AERA guidelines for determining the tariff of Into Plane Service under "Price Cap Approach", the Authority, is of the view that at Bangalore Airport the Service provider IOSL and BSSPL are mainly promoted by the two oil companies i.e. IOC and BPCL and two companies mainly cater to IOC & BPCL and their clients hence there is no competition in real terms. Further, the Authority even under light touch



approach can go intrusive and examine margins, the growth in profits, return on average RAB, volumes, as well as other aspects such as operating cost including manpower cost while considering the proposals to ensure protection of reasonable interest of the end user.

6.6 Considering all the above facts, the Authority has decided to allow IOSL to levy the tariffs as proposed in the Consultation Paper No 6/2019-20 dated 13.09.2019.

7. ORDER

Upon careful consideration of material available on record, as well as submissions made by the stakeholders/service provider, the Authority in exercise of powers conferred upon it by Section 13(1) (a) of the AERA Act, 2008 hereby orders that:

(i) M/s Indian Oil Skytanking Private Limited providing Into Plane Service at Bangalore Airport, is allowed to charge the tariff for 4th tariff year (from 20.11.2019 to 31.03.2020) and 5th tariff year FY 2020-21 of the second control period as at **Annexure-I**.

(ii) The levy of new tariff shall be effective from 20.11.2019.

By the Order of and in the
Name of the Authority

राज्यसिंह जयसिंह


(Geetha Sahu)
AGM

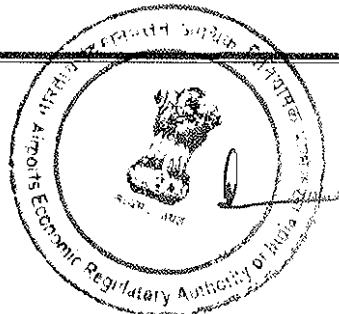
To

M/s Indian Oil Skytanking Private Limited.,
Fuel Farm Facility
Bangalore International Airport
Devanahalli
Bangalore – 560 300
(Through: Shri T. S. Dupare, Chief Executive Officer)

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

Order No. 16/2019-20

Page 6



Annexure I

M/s Indian Oil Skytanking Private Limited, Kempagowda International Airport, Bengaluru.					
Tariff Card for the 4th tariff year i.e. FY 2019-20 and 5th tariff year i.e. FY 2020-21 of the Second Control Period					
(Amount in Rs. Per Kl)					
Period	Fuelling of Aircraft	Defuelling of Aircraft		Refuelling of Defuelled Product	
		Within 6 Hours	Beyond 6 Hours	Within 6 Hours	Beyond 6 Hours
Tariff year 4 (20.11.2019 to 31.03.2020)	303.04	303.04	363.61	333.31	363.61
Tariff Year 5 (01.04.2020 to 31.03.2021)	365.75	365.75	438.82	402.25	438.82

सत्यमेव जयते

