

Airports Economic Regulatory Authority of India

Order No. 17/2019-20

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

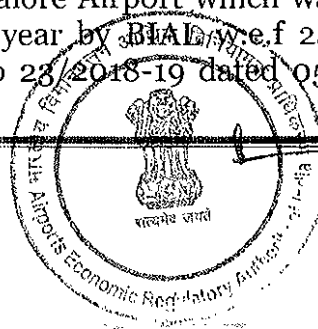
Date of Issue: 20th November, 2019

Service : Into-Plane Services
Service Provider : M/s Bharat Star Services Private Limited.
Airport : Kempegowda International Airport, Bangalore.

In the matter of the Annual Tariff Proposal for determine the tariff of 4th tariff year (From 24.05.2019 to 31.03.2020) & 5th tariff year (FY 2020-21) of the second control period (FY. 2016-17 to FY. 2020-21) in respect of M/s Bharat Star Services Private Limited (BSSPL) for providing Into-plane services at Kempegowda International Airport, Bangalore.

M/s Bharat Stars Services Private Limited (BSSPL) is providing Into Plane services at Kempegowda International Airport, Bangalore since the commencement of the airport operations i.e. 2008. The Authority considered the Multi Year Tariff Proposal (MYTP) and Annual Tariff Proposal (ATP) submitted by M/s Bharat Stars Services Private Limited (BSSPL) and after due stakeholder consultation, issued Multi -Year Tariff Order (MYTO) No. 20/2011-12 dated 25.10.2011 wherein the Authority decided to adopt 'Light Touch Approach' for determination of tariff for the first Control Period. Further, the Authority vide its Order No. 26/2012-13 dated 29.10.2012 determined Annual Tariffs for the 1st and 2nd tariff year. Thereafter, the Authority vide its Order No.20/2013-14, dated 28.06.2013 determined tariffs for the 3rd, 4th and 5th tariff year of the first control period.

2. The Authority vide its Order No 01/2017-18 dated 17.04.2017 decided to adopt 'light touch approach' for determination of tariff in respect of BSSPL for its ITP services at Bangalore airport for the 2nd control period with effect from FY 2016-17 to FY 2020-21. In the same order, the Authority also determined the Annual Tariffs for the 1st, 2nd and 3rd tariff year (up to 30.04.2018). The Authority further vide interim Order No 43/2017-18 dated 28.03.2018 allowed to continue levy of tariffs existing as on 31.03.2018 for a further period of six month w.e.f. 01.04.2018 or till determination of tariffs for the 2nd control period whichever is earlier. M/s BSSPL vide letter dated 27.06.2018 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 BIAA w.e.f 24.05.2018 to 23.05.2019. Subsequently the Authority vide order No 23/2018-19 dated 05.10.2018 determined the



tariff for the remaining period of 3rd tariff year (from 01.05.2018 to 31.03.2019) and 4th tariff year (from 01.04.2019 to 23.05.2019) of the 2nd control period.

3. BSSPL vide letter no BSSPL/HO/2019-20/AERA dated 01.05.2019 submitted that they 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 order No 5/2019-20 dated 22th May, 2019 allowed M/s BSSPL to continue levy of existing tariff as on 23.05.2019 up to 30.09.2019 or till the date of determination of tariff 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 BSSPL

4. BSSPL vide aforesaid letter dated 01.05.2019 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, Bangalore. M/s BSSPL also submitted the justification for revision in the tariff rates. M/s BSSPL has sought an increase of 39.16% in 4th tariff year (From 24.05.2019 to 31.03.2020), and, 42.80% in 5th tariff year (FY 2020-21) over the 3rd tariff year (FY 2018-19) of the second control period. BSSPL further vide letter no BSSPL/AERA/2019-20/03 dated 19.08.2019 submitted revised tariff rates, as tariff card appended below:

M/s Bharat Star Services 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	358.00	358.00	429.6	393.80	429.6
Period 01.04.2019 to 31.03.2021	367.38	367.38	440.85	404.11	440.85

5. The Authority considered the submissions made by BSSPL and issued a Consultation Paper No. 08/2019-20 dated 19.09.2019 wherein the Authority proposed tariff of Rs 300.72/KL for 4th tariff year (from the date of the issue of the order to 31.03.2020) and Rs 363.34/KL for 5th tariff year (01.04.2020 to 31.03.2021) against Rs 358.00 for FY 2019-20 and Rs 367.38 for FY 2020-21 as sought by M/s BSSPL. The Authority sought written evidence based feedback comments and suggestions from stakeholders on the above proposal latest by 10.10.2019. 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 Bharat Petroleum Corporation limited (BPCL), M/s Shell MRPL Aviation Fuels and Services Ltd and from the service provider M/s Bharat Star Service Private Limited (BSSPL). The comments received from the stakeholders were uploaded on AERA's website vide Public Notice No. 13/2019-20 dated 15.10.2019. Brief details of the comments received are given hereunder:

- 5.1 **M/s Hindustan Petroleum Corporation Limited (HPCL):** HPCL has suggested the uniform charge for similar type of service being extended at Bangalore airport, different tariff rates would be discriminatory and would create undue confusion in customer's end. HPCL further suggested that any tariff revision should be made applicable on prospective basis only.
- 5.2 **M/s Shell MRPL Aviation Fuels and Services Ltd:** Shell MRPL stated that currently the tariff for both ITP Operators at Bangalore Airport is the same. Hence, Shell MRPL suggested that BSSPL tariff may be brought to the level of IOSL as mentioned in Consultation Paper 06/2019-20 dated 13.09.2019. Shell MRPL further suggested that any tariff order should be implemented only on prospective basis.
- 5.3 **M/s Bharat Petroleum Corporation Ltd:** BPCL stated that any revision in charges should be on prospective basis and any ITP charges by BSSPL should be at par with the other agency providing similar services at Bangalore Airport.
- 5.4 **M/s Bharat Stars Services Private Limited (BSSPL):** M/s BSSPL vide letter No BSSPL/HO/2019-20/AERA dated 09.10.2019, has submitted their comments on the proposal of the aforesaid Consultation Paper which are briefly mentioned hereunder:
- 5.4.1 M/s BSSPL stated that the Authority has considerably reduced the ITP tariff from the levels proposed by them. BSSPL had proposed tariff of Rs. 358.00/KL for FY 2019-20 and Rs. 367.38/ KL for FY 2020-21 whereas the Authority has proposed a much reduced tariff of Rs. 300.72/KL for remaining period of FY 2019-20 and Rs. 363.38/ KL for FY 2020-21. BSSPL further stated that tariff proposed by them in their ATP was based on increased operating cost on account of higher rental, increased revenue share and the capex plan.
- 5.4.2 M/s BSSPL also stated that the tariff proposed by the Authority i.e. Rs. 300.72/KL for FY 2019-20 and Rs. 363.34/KL for FY 2020-21 is lesser than that of their competitor i.e. M/s IOSL at Rs. 303.04/KL for FY 2019-20 and Rs. 365.75/KL for FY 2020-21. BSSPL further stated that currently they have a much lesser market share i.e. less than 40%. Therefore, they have considerably high cost of operations due to the lesser market share. Hence, their tariff should be logically higher than their competitor who holds a larger market share.
- 5.4.3 M/s BSSPL does not agree with the AERA's opinion that there is no competition in real terms between the two ITP service providers. In this regard, BSSPL stated that irrespective of ownership, the promoter do not play any role in management or marketing of ITP Operator. The nature of market forces



ensures that there is always a healthy competition between the ITP Operators. BSSPL has also submitted the following justifications:

- a) The recent tender process for selection of ITP operator at Bangalore Airport was a globally competitive process.
- b) M/s BSSPL serves four of five suppliers round the year at Bangalore airport and BSSPL's market share keeps on changing on monthly basis. Besides, the ITP operators compete aggressively on critical parameters of quality, safety, and, efficiency.
- c) M/s BSSPL's market share has varied from 22% to 32% in last ten years, their fuel volume swings 25% to 30% in a year since the contract of airlines with the suppliers are of short duration i.e. maximum one year to two years.

5.4.4 M/s BSSPL stated that in the Consultation Paper the Authority has recommended that the existing ITP tariff of Rs. 268.63/KL shall be followed till date of issue of final order. BSSPL has also requested to the Authority for truing up the final approved tariff so that they can recover the cost incurred on operating expenses, majorly on account of increase in rent & revenue share as per new SPRH agreement. M/s BSSPL further, requested to consider the projected revenue cost for six months when finalizing their tariff order.

5.5 BSSPL's response on Stakeholder comments:

5.5.1 BSSPL vide letter dated 21.10.2019 submitted their response on stakeholders comment. BSSPL noted that all major stakeholders have submitted that the ITP tariff for both the ITP operators should be same at an airport and they have also commented that any ITP tariff revision should be on prospective basis. BSSPL also stated that they have already submitted their comments on the Consultation Paper wherein they have given detailed justification for approving their tariff rates higher than that of their competitor. BSSPL again stated that they have a much lesser market share currently at less than 40% and therefore, have considerably high cost of operations due to lesser share of business, hence their tariff should be logically higher than the competitor who holds a large part of market share.

6 Analysis/Views of the Authority:

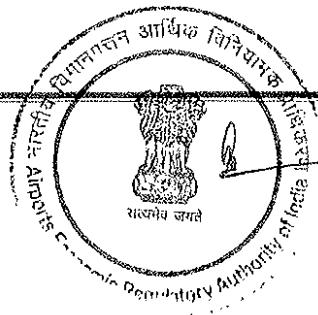
6.1 The Authority has considered the comments of all Stakeholders viz. M/s HPCL, BPCL, Shell MRPL & M/s BSSPL. Regarding the common opinion expressed by the stakeholders for fixing the same level of tariffs for both ITP's at an airport, the Authority, is of the view that the tariff determination is to 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 therefore need not be same for the agencies. Further, the Authority is also of the opinion that any change in the tariff should be implemented on the prospective basis only.

6.2 Regarding the comments of BSSPL about reduced tariff as proposed in the Consultation Paper, it is stated that , the Authority determines tariff based on return



on RAB and the ARR requirement, taking into consideration the operating expenditure including manpower cost, rental, revenue share, investment on Capital Assets, growth in the volume, margin etc. The Authority 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 BSSPL 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, i.e. keeping reasonable interest of the end customer in mind. The Authority has considered the high royalty payable by BSSPL to MIAL while determining the tariff for this control period on a light touch basis, based on decision taken vide Order no. 01/18-19 dated 05.04.2018. However, the Authority feels that there is no competition at the Airport in real sense between two Into-Plane Service Providers, and, accordingly the Authority is of the opinion that the tariff should be determined on "price cap method" effective from 3rd Control Period.

- 6.3 Regarding the comments of BSSPL on AERA proposing a lower tariff rate than its competitor, i.e. IOSL, the Authority, is of the view that the tariff rates are determined based on the individual firm's 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 tariff rates would depend on the revenue and expenditure of the individual firm. It is also noted that the capital expenditure for the period April to September 2019 is only Rs 28,000 against projected figure of Rs 710 lakhs.
- 6.4 Regarding the comments of BSSPL about competition between BSSPL & IOSL, the Authority, is of the view that at Bangalore Airport, the Service Provider IOSL and BSSPL, are mainly promoted by two Oil Marketing Companies (OMC's) IOC and BPCL. Under this arrangement, the ISPs supply the fuel to the OMCs who in turn supply the fuel to the end users i.e. the airlines. As such the two ISPs primarily cater to IOC & BPCL and their clients. Hence, the Authority finds that, there is no competition in real terms.
- 6.5 Regarding the comments of BSSPL about truing up of proposed tariff, it is clarified that BSSPL proposal has been considered under "Light Touch Approach" and there is no provision for truing up under "Light Touch Approach". The Authority in its analysis finds that the average return on RAB, and, average operating profit during the 2nd Control Period is high, and, therefore, there is no shortfall evinced in ARR. Therefore, the Authority, is of the view that the tariff rates proposed by the AERA in CP No 08/2019-20 dated 19.09.2019 are adequate and sufficient to meet the revenue requirement of BSSPL for FY 2019-20 and FY 2020-21.
- 6.6 Considering all the above facts, the Authority decides to allow BSSPL to levy the tariffs as proposed in the Consultation Paper No 8/2019-20 dated 19.09.2019 for 4th tariff year (from 22.11.2019 to 31.03.2020) and 5th tariff year FY 2020-21 of the second control period.




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 Bharat Star Service Private Limited providing Into Plane Service at Bangalore Airport, is allowed to charge the tariff for 4th tariff year (from 22.11.2019 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 22.11.2019.

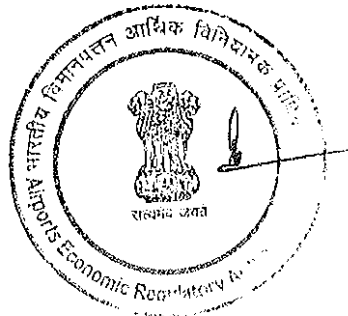
By the Order of and in the
Name of the Authority


(Geetha Sahu)
AGM

To,
M/s Bharat Star Service Private Limited.
First Floor, Plot No. A- 5 & 6,
Sector-A, Noida-201301, UP.

(Through: Shri Akash Tiwari, Chief Executive Officer)

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



M/s Bharat Star Service Private Limited (BSSPL)
Approved Maximum Tariff rates for FY 2019-20 (from 22.11.2019 to 31.03.2020) & (FY 2020-21) 5th tariff year of the 2nd Control Period.

M/s Bharat Star Service Private Limited (BSSPL), Kempegowda International Airport, Bengaluru					
Tariff Card (All Amounts in INR per KL)					
	A	B	C	D	E
	Fueling of Aircraft	Defueling of Aircraft within 6 Hours	Defueling of Aircraft Beyond 6 Hours	Refueling of defueled product within 6 Hours	Refueling of defueled product beyond 6 Hours
4 th tariff year (FY 2019-20) 22.11.2019 to 31.03.2020	300.72	300.72	360.86	330.79	360.86
5 th tariff year (FY 2020-21) from 01.04.2020 to 31.03.2021	363.34	363.34	436.00	399.67	436.00

Note:

1. Rates of "fuelling of Aircraft" in Column 'A' above only have been determined by AERA.
2. The other charges of Defueling/refuelling of defueled product (within/ beyond 6 hours) as column 'B' to 'E' above are on proportionate basis as per submission of BSSPL.

