



Airports Economic Regulatory Authority of India

**In the matter of Provision of Compensation in lieu of Fuel Throughput Charges at
Kempegowda International Airport, Bengaluru**

19th May, 2020

**AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003**

AERA



1. Introduction

The Airports Economic Regulatory Authority (AERA) is a statutory body constituted under the Airports Economic Regulatory Authority of India Act, 2008 vide Gazette Notification dated 5th December 2008. The AERA was established by the Government, to create a level playing field and foster healthy competition among major airports, to encourage investment in airport facilities, to regulate tariffs for aeronautical services etc.

2. Function of AERA

The main functions of AERA are:

1. to determine the tariff for the aeronautical services
2. to determine the amount of the development fees in respect of major airports
3. to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934 (22 of 1934);
4. to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorised by it in this behalf;

3. Back Ground

3.1 In accordance with the provisions contained in Section 13 of Airports Economic Regulatory Authority of India Act (AERA Act), 2008, the Authority determined aeronautical tariffs of Kempegowda International Airport (KIA) under the regulatory principles for the second Control Period i.e. 01.04.2016 to 31.03.2021 vide Order No. 18/2018-19 dated 31.08.2018.

3.2 As detailed in Table 74 under para 19.6.2 of the above said order, the Authority determined Rs.3885.47 as the total Aggregate Revenue Requirement (ARR) as per Regulatory Building Blocks for the entire period of second control period. Fuel Throughput Charge (FTC) was the one of the aeronautical components to achieve this revenue requirement along with other aeronautical services such as Landing, Parking & Housing, UDF etc.

3.3 The Fuel Throughput charges as per the said tariff order considered by the Authority is given in table-1 below:

Table - 1

	2019-20	2020-21
Fuel Throughput projected (million KL)	0.97	1.08
Charges per KL (in Rs)	1067	1067
Revenue (Rs. in crores)	103.3	115.3

4. Further Ministry of Civil Aviation (MoCA) vide letter No.AV.13030/216/2016-ER (Pt.2) dated 08.01.2020 decided to discontinue the levy of Airport Operator Charge or Fuel Throughput Charge (FTC) in any manifestation at all airports. Para 4 of the said letter reads as follows:

"Keeping in view all aspects of the matter, in light of the need to uphold affordability and sustainability of air passenger and air cargo transportation as per the National Civil Aviation Policy 2016, it has been decided as follows:



- (i) Levy of airport operator charge or fuel throughput charge in any manifestation shall be discontinued at all airports, airstrips and heliports across India with immediate effect.
- (ii) AERA/ Ministry of Civil Aviation, as the case may be, should take into account the amount in this revenue stream and duly compensate the Airport Operator/ AAI by suitably recalibrating other tariffs during their determinations of airport tariffs.”

5. Considering the above policy decision of MoCA, the Authority vide letter No. AERA/ 20015/ FT/2010-11/Vol.II dated 15.01.2020 advised all “Major Airport Operators” to implement the above said MoCA letter with immediate effect. AERA also advised major airport operators to submit their proposal for compensation, if any, due to discontinuation of Fuel Throughput Charges for consideration of the Authority.

6. Accordingly, BIAL vide letter No. AERA/ Finance/ 2019-20/07 dated 29.01.2020 and mail dated 21.02.2020; submitted their proposal to compensate revenue loss of Rs.140 crores on account of discontinuation of FTC at Kempegowda International Airport for the remaining period of second control period i.e.15.01.2020 to 31.03.2021. BIAL has proposed to recover the revenue loss due to discontinuation of FTC through revision of landing charges. The shortfall in revenue from 15.01.2020 to 31.03.2021 calculated by BAIL is given in table-2 below.

Table – 2: Shortfall in revenue submitted by BIAL

	2019-20 (Est)	2020-21(Proj)
Revenue from Fuel Throughput (Rs. in crores)	103.30	115.30
Revenue from Fuel Into Plane (Rs. in crores)	1.50	1.80
Total Yearly Revenue (Rs. in crores)	104.80	117.10
Revenue Loss to be compensated to BIAL	21.80	117.10
Total Compensation due to BIAL		140

6.1 BIAL vide above letter also stated the following:

“The directions have been issued by MoCA & AERA notwithstanding the fact that the classification and treatment of FTC, which has a direct bearing & goes to the root of the subject matter of MoCA’s decision & subsequent AERA’s direction and therefore the jurisdiction and power of MoCA and AERA to issue the same, is pending adjudication before the Hon’ble Supreme Court & Telecom Disputes Settlement and Appellate Tribunal (‘TDSAT’), a fact which the MoCA’s letter itself takes note of.

This action by MoCA and AERA has sought to classify FTC as an aeronautical charge without awaiting the decisions of the Hon’ble Supreme Court or TDSAT.

Without prejudice to the aforesaid, MoCA cannot issue a direction to AERA, as it cannot decide, even in the case of Aeronautical Service, what can or cannot be charged by an airport operator at an airport, as it is not within the ambit of its powers and functions. AERA is the entity which has the statutory powers to decide on these matters. These powers and functions of AERA cannot be interfered with by the Central Government i.e. MoCA, otherwise the whole purpose of establishing AERA as an independent body would be rendered redundant.



It is pertinent to note the fact that AERA has never conducted any stakeholder discussions, as mandated in the AERA Act, on the issue of discontinuation of the FTC charges in any manifestation, till date.”

6.2 BIAL has requested AERA to increase the landing charges w.e.f. 01.04.2020 to compensate the revenue shortfall of Rs.140 crores for the period 15.01.2020 to 31.03.2021. The revised landing charges proposed by BIAL for both passenger and cargo flights are given in Table 3 below:

Table – 3: Revised Landing charges submitted by BIAL

	Unit	Existing Rate FY2020-21	Proposed Rate FY2020-21
Landing Charges – International Pax flights			
Up to 100 MT	INR per MT	281	469
Above 100 MT	INR per MT	378	633
Landing Charges – Domestic Pax flights			
Up to 100 MT	INR per MT	142	238
Above 100 MT	INR per MT	192	322
Landing Charges – International Cargo flights			
Up to 100 MT	INR per MT	281	469
Above 100 MT	INR per MT	378	633
Landing Charges – Domestic Cargo flights			
Up to 100 MT	INR per MT	142	238
Above 100 MT	INR per MT	192	322
Landing Charges – Domestic Pax ATRs (<80 seater)		-	-

Authority’s Examination

7. The Authority carefully examined the proposal of BIAL in reference to the letter No. AV.13030/216/ 2016-ER (Pt.2) dated 08.01.2020 issued by MoCA. As per order No.18/2018-19, the Authority expected that BIAL would generate revenue from Landing and FTC during F Y 2019-20 and 2020-21 of the second control period as detailed below:

Table – 4 (Rs in crores)

	2019-20	2020-21
Revenue from Landing	180.52	207.21
Revenue from FTC	103.3	115.3

7.1 The Authority noted that in compliance to the tariff order no.18/2018-19, the expected shortfall in revenue from FTC for the period from 15.01.2020 to 31.03.2020 is Rs.21.52 crores and FY 2020-21 is Rs.115.30 crores. The Authority has also noted that BIAL considered revenue from Fuel Into Plane (ITP) services also for calculating the shortfall in revenue, however, the Authority is of the opinion that MoCA has discontinued only the FTC i.e. Airport Operator fee and the fuel into plane charge shall



continue to be levied. Accordingly, AERA noted that the shortfall in revenue from FTC expected by BIAL is Rs.136.82 crores which is 66% of expected landing revenue for FY 2020-21.

7.2 The Authority is of the view that FTC is one of the operating expenditure of airlines and charged by Oil suppliers as a pass through expenditure. Airport Operators are charging FTC as a royalty in addition to land rent from oil suppliers. With the abolition of FTC cost of ATF is expected to get reduced to that extent and avoid cascading effect of taxes which in turn would benefit airlines. In view of above, the Authority proposed to compensate this shortfall by increasing the landing charges by 66% during FY 2020-21.

7.3 Regarding the statement of BIAL at para 6.1, the Authority noted that MoCA has conducted numerous rounds of stakeholders consultations and considered the deliberations of two industry working groups representing airline operators, airports, fuel infrastructure facility providers, oil marketing companies etc. without prejudice to the outcome of judicial proceedings on the matter of classification of FTC as aeronautical or non-aeronautical services.

8. The Authority considered the submissions made by BIAL and issued the Consultation Paper No. 21/2019-20 dated 05.03.2019 proposing the following for stakeholder consultation:

- (i) The Authority proposes to increase the Landing Charges at Kempegowda International Airport by 66% for FY 2020-21 to recover the shortfall of Rs. 136.82 crores.
- (ii) To true up revenue based on actuals while determining tariff for third control period.

9. Stakeholder's Comments

In response to the Consultation Paper, the comments have been received from the following stakeholders:

9.1 Federation of Indian Airlines (FIA)

FIA stated that AERA should not implement increase of airport charges/tariff, of any nature whatsoever, due to the adverse financial impact on the airlines in the wake of Corona virus outbreak. FIA further submitted the following, in case AERA is desirous to implement any increase in airport charges:

- a) *"firstly, the consultation paper may kindly be placed in abeyance till the aviation industry experiences normalcy and; and*
- b) *Thereafter, as and when the consultation exercise on the consultation papers are resumed, the following needs to be ensured:"*
 - (i) Analysis on identification of tariff component for effecting amendments:- FIA stated that the consultation paper fails to provide any cogent reasons for BIAL's proposal to increase in landing charges instead of any other airport charges. The consultation paper ought to provide/discus (a) whether airport operator has considered other aeronautical tariff components instead of landing charges for the purpose of seeking compensation? If yes, provide reasons for not proposing the same for tariff revision, along with any cost benefit analysis on such tariff component? (b) whether airport operator has



considered compensation by way of revision of non-aeronautical sources? (c) AERA's scrutiny on revision of other tariff components including the alternate possibility of compensation through non-aeronautical sources.

FIA further submitted that the revision of tariff, if any, should be made only in the pass-through elements of the airport charges e.g. UDF, PSF-Facilitation etc. which will avoid any adverse impact on airline industry.

- (ii) FIA also submitted that AERA invited written submissions from stakeholders on the consultation paper without convening stakeholders meeting. FIA stated that AERA is bound to hold due consultation with the stakeholders while discharging its functions in terms of Section 13(4) of AERA Act, 2008.

FIA also stated that there has been no stakeholder consultation on the issue of tariff adjustment pursuant to the abolishment of FTC by MoCA as stated in para 7.3 of the consultation paper. It is essential that a suitable stakeholders consultation meeting is convened by AERA, preferably for identifying a common tariff component.

9.2 International Air Transport Association (IATA):

IATA requested to defer any increase in airport charges as compensation in lieu of FTC for the remaining period of this control period due to outbreak of COVID-19 and consequential disruptions in the aviation industry. IATA also suggested that Airport Operators should equally play their role in this situation by lowering their profit expectations and help to provide the much-needed financial relief to airlines through reductions or rebates to airport charges.

9.3 Airline Operators Committee Bangalore (AOC):

AOC requested to put off any further increase in charges, but also support by providing a financial assistance package to airlines to tide over the current crisis due to COVID-19, in the interest of long term sustainability of operations.

9.4 Mumbai International Airport Ltd (MIAL):

MIAL has requested to consider the time value of the shortfall already suffered by the airport operator and the impact of annual escalation of FTC as per the agreement between airport operator and oil marketing companies.

9.5 Association of Private Airport Operators (APAO):

APAO stated that AERA while allowing the compensation should also consider the agreement between airport operators and the oil marketing companies, which provides escalation in charges, as applicable. APAO further stated that AERA should have considered the future value of shortfall suffered due to discontinuation of FTC.



9.6 **Bharat Petroleum Corporation Ltd** : stated that they have no objection to the proposal of AERA.

9.7 **BIAL** also requested to consider the carrying cost of loss in FTC revenue for the period 16.01.2020 to 31.03.2020.

10. **BIAL's view on stakeholders comments:**

In response to comments of not to increase airport charges due to the adverse financial impact on the airlines in the wake of Corona virus outbreak, BIAL stated that, FTC was a part of the aeronautical charges determined by AERA vide its order No. 18/2018-19 dated 31.08.2018. FTC has been discontinued as decided by MoCA and the same will result in revenue shortfall to BIAL. MoCA has also recognized the same and has directed AERA to compensate the Airport Operators by suitably recalibrating other tariffs. Thus, no new airport charges are being imposed and it is only reallocation of this revenue shortfall among other tariff components. This restructuring is to the benefit of the airlines industry as they can now claim ITC benefit. Further, the impact of COVID-19 is not limited to Airlines, even BIAL is a victim in the current situation. Due to reduction in traffic there is a reduction in aeronautical revenue as well as non-aeronautical revenue.

Further BIAL stated that international crude prices have reduced by more than 35% for the period 31st Dec 2019 to 6th Mar 2020. This has resulted in the ATF prices coming down for the Airlines. BIAL also reported that, ATF prices for domestic airlines has come down by 10.3% in Mar 2020 vis a vis rates prevalent in Feb 2020. Airlines ticket prices are not regulated however airport charges are regulated by AERA. Discontinuance of FTC will lead to under-recovery of ARR and any delay in this compensation will have an adverse impact on efficient airport operations besides delaying the approved capital projects, which are in advanced stages of implementation. Hence this cannot be kept in abeyance till the aviation sector experiences normalcy.

BIAL also stated that revenue from landing charges is more than 95% of the total Landing, Parking and Housing charges, hence the practical solution to recover the shortfall in revenue from FTC is through revising landing charges only. The net ARR determined by AERA is after considering the cross subsidy from non-aeronautical revenue, further, the recovery of aeronautical revenue cannot be through non-aeronautical sources.

Regarding the comment of FIA/ IATA to compensate revenue shortfall from FTC by UDF / PSF-Facilitation, BIAL stated that, the genesis of this FTC compensation is based on the representation by Airlines to MoCA on the cascading effect of taxes on ATF. If the shortfall is recovered through airline charges, the airlines can avail Input TAX Credit and pass on the benefit to passengers. In case the shortfall is recovered from passengers as additional UDF / PSF, the GST thereon cannot be recoverable as most of the passengers shall not be able to claim ITC. As FTC is directly traceable to operating cost of airlines, it can only be related to airline related charges and not UDF.



11. Authority's view on Stakeholder's Comments.

11.1 The Authority carefully examined the comments of stakeholders and is of the view that AERA had considered FTC as one of the aeronautical charges to recover the target revenue determined for 2nd control period i.e.01.04.2016 to 31.03.2021. The discontinuation of FTC from 15.01.2020 has created gap in actual revenue vis-à-vis the target revenue as per tariff order. The present crisis due to COVID-19 outbreak has affected all the stakeholders across aviation industry and this may further reduce the recovery of ARR. Hence any delay in implementation of this order is not appropriate in view of the capital investments planned and in progress at the airport.

11.2 The suggestion of FIA to compensate by way of revising non-aeronautical tariffs is not feasible as AERA is mandated to determine aeronautical tariffs only. AERA considers FTC as one of the aeronautical charges hence, the shortfall can be compensated through aeronautical services only. FTC was a part of fuel cost for airlines and abolition of FTC and consequent avoidance of cascading effect of taxes has direct benefit for airlines, hence to compensate the airport operator, charging passengers may not be appropriate.

11.3 While the Authority understands that the abolition of FTC has directly benefited the airlines, however 66% increase in landing charges in case of BIAL seems high in view of the present crisis in aviation industry. In this background, the Authority has decided that the compensation should be shared by the airlines and passengers at least by 70:30 ratio, to moderate the burden on airlines to that extent. Accordingly, the Authority decides to compensate BIAL Rs. 136.82 crores by increasing the Landing charges and UDF for F Y 2020-21 as detailed in the table below:

The expected revenue from Landing & UDF for 2020-21 (Rs in crores)

	Landing	UDF
Expected Revenue	207.21	499.90
Compensation in lieu of FTC (70:30 Ratio)	95.77	41.05
% increase required	46%	8%

11.4 The Authority noted that, the existing UDF rate for International Pax is Rs.716 and Domestic Pax is Rs.179 considering 80:20 ratio between international & domestic rates. Applying the same ratio, Rs.32.84 crores is to be recovered from International passengers and Rs.8.21 crores from Domestic passengers. The passenger traffic as considered by the Authority for FY2020-21 vide order No.18/2018-19 and the proportionate increase in UDF is given below:

	International	Domestic
Passenger throughput	5.35 Million	35.13 Million
Embarking Passenger	2.675 Million	17.565 Million
Addl. Revenue required from UDF	Rs.32.84 crores	Rs.8.21 crores
Increase in UDF per Pax	Rs.123.00	Rs.5.00



Accordingly the revised Landing charges and UDF for F Y 2020-21 are given below:

Revised Landing charges

	Unit	As per Order No. 18/2018-19	Revised Rate
Landing Charges - International			
Up to 100 MT	INR per MT	281	410
Above 100 MT	INR per MT	28100+378 in excess of 100 MT	41000 + 552 in excess of 100 MT
Landing Charges – Other than International			
Up to 100 MT	INR per MT	142	207
Above 100 MT	INR per MT	14200+192 in excess of 100 MT	20700+280 in excess of 100 MT

Revised UDF

	As per Order No. 18/2018-19 for ticket issued on or after 01.04.2020	Revised UDF for ticket issued on or after 01.06.2020
UDF – International Embarking Passenger	Rs.716/Pax	Rs.839/Pax
UDF – Domestic Embarking Passenger	Rs.179/Pax	Rs.184/Pax

11.5 Regarding FIA's suggestion for holding stakeholders meeting the Authority decides not to conduct the same in view of following:

- a) The Authority observed that MoCA has conducted numerous rounds of stakeholder's consultations and considered the deliberations of two industry working groups representing airline operators, airport operators, fuel infrastructure facility providers, oil marketing companies etc. before abolishing the FTC.
- b) The Authority is not considering any new revenue to the Airport Operator in addition to already determined ARR vide Order No.18/2018-19 dated 31.08.2018 wherein aeronautical tariffs were finalized after extensive stakeholders consultation process. The aeronautical tariffs were finalized after duly considering the cross subsidy from non-aeronautical revenue.
- c) Abolition of FTC, which directly benefits the airlines as they can avail input tax credit, necessitates recalibration of other tariffs to compensate/ cover the shortfall in ARR of the Airport Operator.
- d) The Authority, by inviting detailed comments, had given an opportunity to all the stakeholders to express their views on the Consultation Paper.

11.6 The Authority also decides to true up this revenue considering time value of money while determining tariff for next control period.



ORDER

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

- (i) The Authority has decided to allow the increase in Landing Charges and UDF at Kempegowda International Airport for FY 2020-21 to recover the shortfall of Rs. 136.82 crores in lieu of abolition of FTC. The revised Landing Charges and UDF is annexed at Annexure - I.
- (ii) To true up revenue based on actuals while determining tariff for third control period.
- (iii) The revised charges shall be applicable from **01.06.2020**.



By the Order and in the name of the Authority


(Ram Krishan)

Director (Policy & Statistics)

To

Bangalore International Airport Limited
Alpha-2 Building
Kempegowda International Airport
Bengaluru
(Through: Shri Hari Marar, Managing Director)

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AERA



The Landing Charges and UDF as per Annexure –I of Order No.18/2018-19 dated 31.08.2018 in respect of Kempegowda International Airport, Bengaluru is modified as follows:

Landing Charges for FY 2020-21

	Unit	Revised Rate
Landing Charges - International		
Up to 100 MT	INR per MT	410
Above 100 MT	INR per MT	41000 + 552 in excess of 100 MT
Landing Charges – Other than International		
Up to 100 MT	INR per MT	207
Above 100 MT	INR per MT	20700+280 in excess of 100 MT

UDF for FY 2020-21

	Revised UDF for ticket issued on or after 01.06.2020
UDF – International Embarking Passenger	Rs.839/Pax
UDF – Domestic Embarking Passenger	Rs.184/Pax

Fuel Throughput Charges for F Y 2020-21: **NIL**

All other charges as determined and terms & conditions vide order No.18/2018-19 dated 31.08.2018 shall remain applicable.

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