

File No. AERA/20015/FT/2010-11/Vol.II
Consultation Paper No. 21/2019-20



Airports Economic Regulatory Authority of India

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

5th March, 2020

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

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;

Back Ground

3. 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) for the second Control Period ie. 01.04.2016 to 31.03.2021 vide Order No. 18/2018-19 dated 31.08.2018.

3.1 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) for the entire control period. Fuel Throughput Charge (FTC) was the one component to achieve this revenue requirement along with other aeronautical services such as Landing, Parking & Housing, UDF etc.

3.2 The Fuel Throughput charges as per the above tariff order considered by the Authority is given 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 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 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 has submitted a 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 proposing the same to be recovered from the airlines in the form of revised 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

	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

	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. The Authority as per order No.18/2018-19 had 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 expected shortfall in revenue from FTC as per the tariff order no.18/2018-19, for the period from 15.01.2020 to 31.01.2020 is Rs.21.52 crores and FY 2020-21 is Rs.115.30 crores. AERA noted that BIAL has considered revenue from Fuel Into Plane services also for calculating the shortfall in revenue, however, AERA is of the opinion that MoCA has discontinued only the FTC i.e. Airport Operator fee and the fuel into plane charge shall continues to be levied. Accordingly, the total shortfall in revenue from

FTC is expected to be 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 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. Abolishing the FTC, cost of ATF is expected to get reduced to that extent and also avoid cascading effect of taxes and in turn would benefit airlines. In view of above, the Authority proposes 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.

Proposal

8. The Authority has carefully considered the proposal of BIAL to compensate the revenue shortfall due to discontinuation of FTC w.e.f.15.01.2020 and decides to make the following proposal for stakeholder consultations.

- (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. The revised Landing Charges are annexed as “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 01.04.2020.

9. STAKEHOLDERS' CONSULTATION TIMELINE

9.1. In accordance with the provisions contained in Section 13(4) of the AERA Act, 2008, the proposal mentioned in **Para 8 above** read with the relevant discussion in the other sections of the paper is hereby put forth for Stakeholders' Consultation. For removal of doubts, it is clarified that the contents of this consultation paper may not be construed as any order or direction of this Authority. The Authority shall pass an order, in the matter, only after considering the submissions of the Stakeholder's in response hereto and by making such decisions fully documented and explained in terms of the provisions of the Act.

9.2. The Authority welcomes written evidence- based feedback, comments and suggestions from Stakeholder's on the proposal made in (**Para 8 above**), latest by **12.03.2020** at the following address.

Director (P&S)
Airports Economic Regulatory Authority of India
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi -110003
Email: krishan.ram@aera.gov.in
Tel: 011-24695040, Fax: 011-24695039

(B S Bhullar)
Chairperson

Kempegowda International Airport, Bengaluru

Landing Charges for F Y 2020-21

	Unit	As per Order No. 18/2018-19	Proposed Rate
Landing Charges - International			
Up to 100 MT	INR per MT	281	466
Above 100 MT	INR per MT	28100+378 in excess of 100 MT	46600 + 627 in excess of 100 MT
Landing Charges – Other than International			
Up to 100 MT	INR per MT	142	236
Above 100 MT	INR per MT	14200+192 in excess of 100 MT	38600+318 in excess of 100 MT

Fuel Throughput Charges for F Y 2020-21

	Unit	As per Order No. 07/2017-18	Proposed Rate
Fuel Throughput Charges	INR per KL	1067	NIL

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

Noted by chief.

F.No. AV-13030/216/2016-ER (Pt.2)
Government of India
Ministry of Civil Aviation
[ER Division]

B-Block, Rajiv Gandhi Bhavan
Safdarjung Airport, New Delhi – 110 003

Dated, the 8th January 2020

To,

- 1. Shri Balwinder Singh Bhullar**
Chairperson
Airports Economic Regulatory Authority of India
AERA Building, Safdarjung Airport, New Delhi – 110 003.
- 2. Smt. Rubina Ali**
Joint Secretary (AAI and AD)
Ministry of Civil Aviation
Rajiv Gandhi Bhavan, Safdarjung Airport, New Delhi – 110 003.

Copy to:

- 1. Shri Arvind Singh**
Chairman
Airports Authority of India
Safdarjung Airport, New Delhi – 110 003.
- 2. Dr. M.M. Kutty**
Secretary
Ministry of Petroleum & Natural Gas
Shastri Bhavan, New Delhi – 110 001.

Subject: Rationalisation of Fuel Throughput (Airport Operator) Charge levied by Airport Operators on Aviation Turbine Fuel (ATF) across all Airports in India – reg.

Dear Sir,

Fuel-related charges are charged variously either in three parts as (a) Airport Operator Charges, (b) Fuel Infrastructure Charges (FIC), and (c) Into Plane (ITP) Charges or as a composite of the three, generally called Fuel Throughput Charge (FTC), at the airports, airstrips and helipads across the country. At some airports, fuel supply is provided on open access basis.

2. Fuel throughput charges for supplying fuel to airline operators at an airport are covered under section 2(a)(vi) of the Airports Economic Regulatory Authority (AERA) Act, 2008, while section 13 sets out the basis on which surcharges are to be levied. At airports being operated by Airports Authority of India (AAI), the power of the authority to charge fees, rents, etc. in respect of aircraft or for any other service or facility offered in connection with aircraft operations at an airport, airstrip or

Page 1 of 2

भारतीय विमानन एवं नाविक विभाग
सफदरजंग एअरपोर्ट, नई दिल्ली-110003

प्राप्त

डाकरी नं० 15107
तारीख 10/01/2020

heliport arises from the provisions of section 22(i) of the AAI Act, 1994. Airport charges are also variously specified in the existing concession agreements and contracts of airports leased out by AAI.

3. Numerous rounds of stakeholder consultations have been held by the Ministry in order to rationalize the present mechanism of invoicing of ATF fuel throughput charges. These duly incorporated the deliberations of the two industry Working Groups on the subject comprising of representatives of airline operators, airports, fuel infrastructure facility providers, into plane fuel service providers, and oil marketing companies without prejudice to the outcoming of judicial proceedings on the matter of classification of fuel throughput charges as aeronautical or non-aeronautical services initiated by some PPP/JV airport operators.

3. It was seen *inter alia* that the global best practices at airports avoid levying a double charge by way of land rental on fuel suppliers for the use of the land at the airport and a market access or concession fee for providing commercial opportunity when there is no underlying tangible service being rendered by the airport operator.

4. 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. This issues with the approval of the competent authority.



(Dinesh Kumar)

Deputy Director (ER)

Phone: 2464 1912

Email: dinesh.kumar14@nic.in

AERA/20015/FT/2010-11/Vol. II
Airport Economic Regulatory Authority of India

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

Dated: 15th January, 2020

To,
The Airport Operators (as per Annexure I)

Sub.: Rationalisation of Fuel Throughput (Airport Operator) Charge levied by Airport Operators on Aviation Turbine Fuel (ATF) across all Airports in India - reg.

Sir,

I am directed to forward herewith the MoCA's letter no. AV-13030/216/2016-ER (Pt.2) dated 08.01.2020 on the above mentioned subject.

All the Airport Operators are advised to implement the directions given by the Ministry of Civil Aviation in the said letter with immediate effect.

Further with regard to the compensation in lieu of the implementation of the said direction, Airport Operators may submit their proposals, if any, on priority for consideration of the Authority.

This issues with the approval of the Competent Authority.



(Ram Krishan)
Director (Policy & Statistics)

Encl.: as above

Copy to:

- (i) PPS to Secretary - for information of Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi.
- (ii) Shri Dinesh Kumar, Deputy Director, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi.
- (iii) Oil Companies (as per Annexure – II)

AIRPORT OPERATORS

1. **Shri Arvind Singh, IAS,**
Chairman,
Airports Authority of India,
Rajiv Gandhi Bhawan, New Delhi.
2. **Shri V.J. Kurian, IAS,**
Managing Director,
Cochin International Airport Pvt. Ltd,
Ndedumbassery, Kochi Airport P.O.,
Ernakulam – 683 111, Kerala.
3. **Shri K Narayana Rao,**
Director,
Delhi International Airport Pvt. Ltd,
Uran Bhawan, IGI Airport, New Delhi – 110 037.
4. **Shri S.G.K Kishore,**
Chief Executive Officer,
GMR Hyderabad International Airport Pvt. Ltd.,
GMR Aero Towers, 4th Floor,
Rajiv Gandhi International Airport,
Shamshabad, Hyderabad – 500 409.
5. **Shri Rajeev Jain,**
Chief Executive Officer,
Mumbai International Airport Ltd (MIAL),
CSI Airport, 1st floor Terminal 1B,
Santacruz (E), Mumbai- 400 059
6. **Shri Hari Marar,**
Managing Director,
Bangalore International Airport Pvt. Ltd.,
Alpha-2, Administration Block,
Bengaluru International Airport,
Devanahalli, Bangalore – 560 300.
7. **Shri Suneel Dutt,**
Chief Executive Officer,
Chandigarh International Airport Ltd.
New Civil Air Terminal Village,
Jureri, Mohali – 140306 Punjab
8. **Shri Jayakrishnan Sivadasa Kurup,**
Chief Financial Officer,
Kannur International Airport Ltd.,
“Parvathy”, T.C. 36/1, N.H. Bypass, Chacka,
Thiruvananthapuram, Kerala – 695024.
9. **Shri M.A. Abid Ruhi,**
Senior Airport Director & COO,
MIHAN India Ltd.,
Dr. Babasaheb Ambedkar International Airport,
Nagpur Maharashtra 440005.

Oil Companies

1. **Shri Sanjay Sahay,**
ED (Aviation),
Indian Oil Corporation Ltd.,
Indian Oil Bhawan,
G-9 Ali Yavar Jung Marg,
Bandra(E), Mumbai-400 051.

2. **Shri H.C. Mehta,**
President (Petroleum Business),
Reliance Industries Limited,
Reliance Corporate Park, Block-6,
D-Wing, 2nd floor, 5-TTC Industrial Area,
Thane-Belapur Road, Ghansoli, Navy Mumbai.

3. **Shri Kannuru Srinivas,**
ED (Aviation),
Hindustan Petroleum Corporation Ltd.,
Hindustan Bhavan, Ground Floor, 8,
Shoorji Vallabhdas Marg, Ballard Estate,
Mumbai-400 001 .

4. **Shri V. Nagarajan,**
ED (Aviation) & Head,
Aviation Business Unit,
Bharat Petroleum Corporation Ltd.,
A-5&6, Sector-1, NOIDA – 201301.

5. **Shri Chockalingam Subbiah,**
CFO & CS,
Shell MRPL Aviation Fuels & Services Ltd,
#102, Prestige Sigma,
Vittal Mallya Road,
Bangalore – 560 001, Karnataka.

Notwithstanding the above and the fact that the direction of MoCA is ultra vires to the provisions of the AERA Act and violates the fundamental tenet of the agreements entered into between BIAL and MoCA, we wish to bring to your kind attention the impact of MoCA letter on BIAL's revenues in the balance 15 months of the 2nd control period.

As you are aware, BIAL has appealed to Hon'ble TDSAT regarding treatment of Fuel by AERA and the information we submit below is without prejudice to BIAL's rights, contentions and the grounds mentioned in the said Appeals.

The Fuel related revenues considered by AERA in the Tariff Order no 18/2018-19 dated 31st August 2018 for 2nd control period are given below:

Particulars - Rs Crs	FY 2020 (Est)	FY 2021 (Proj)
Revenues from Fuel Throughput	103.30	115.30
Revenues from Fuel Into-Plane	1.50	1.80
Total Yearly Revenues	104.80	117.10
Revenue Loss to be compensated to BIAL	21.80*	117.10
Total Compensation due to BIAL		140

*Prorated for 2.5 months (15th Jan 2020-31st Mar 2020)

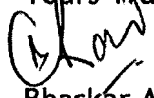
The loss in Fuel Revenues to BIAL on account of MoCA's direction works out to Rs 140 crs approximately and the same needs to be recovered in the next year i.e. FY 2020-21 through additional compensation.

This additional Rs 140 crs compensation would need to be recovered from the airlines in the form of revised landing charges. The calculations and the proposed landing charges is annexed along with this letter.

As you are aware, KIA is undergoing major expansion of its facilities and it cannot afford any changes to the approved tariff order or delay in any compensation arising out of any governmental direction.

We look forward to working with AERA on revising the Schedule of Airport Charges containing the rate card for Aeronautical services, so as to be effective from 1st April 2020.

Best Regards,
Yours Truly,



Bhaskar Anand Rao
Chief Financial Officer

Encl: Annexure 1

Annexure 1 - Calculations & Proposed Landing Charges

Fuel Revenues for BIAL			2019-20	2020-21
A	Revenue - (Fuel throughput)			
	Fuel requirement per ATM	KL per ATM	3.89	3.89
	ATMs	#Num	248830	277689
	Total Fuel Throughput	million KL	0.97	1.08
	Revenue Share to BIAL for Thru'put	Rs. per KL	1067	1067
	Revenues from Fuel Throughput	Rs. Crore	103.3	115.3
	Revenue to be compensated	Rs. Crore	21.5	115.3
B	Revenue Fuel Into-Plane			
	Fuel requirement per ATM	KL per ATM	3.89	3.89
	ATMs	#Num	248830	277689
	Total Fuel Throughput	million KL	0.97	1.08
	Revenue Share to BIAL for Into - Plane	Rs. per KL	15.8	16.6
	Revenues from Fuel Into-Plane	Rs. Crore	1.5	1.8
	Revenue to be compensated	Rs. Crore	0.3	1.8
A+B	Total	Rs. Crore	21.8	117.1
	Carrying cost of u/r of 2020 at FROR rate	11.93%	0.5	
C	Total trsfr			22.4
	Total Compensation Amount to BIAL			139.5

Proposed Landing Charges (w.e.f 1st April 2020)

Details	UoM	Basis	Existing Tariff 2020-21	Proposed Tariff 2020-21
Landing charges - Domestic pax flights	Rs. per MT	Up to 100 MT	142	238
		Above 100 MT	192	238
Landing charges - International pax flights	Rs. per MT	Up to 100 MT	281	469
		Above 100 MT	378	633
Landing charges - Domestic cargo flights	Rs. per MT	Up to 100 MT	142	238
		Above 100 MT	192	322
Landing charges - International cargo flights	Rs. per MT	Up to 100 MT	281	469
		Above 100 MT	378	633
Landing charges - Domestic pax ATRs (<80 seater)	Rs. per ATM	Per landing	-	-

Source: AERA approved BIAL's Business Plan

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Rationalisation of Fuel Throughput (Airport Operator) Charge levied by Airport Operators on Aviation Turbine Fuel (ATF) across all Airports in India -reg.

From : Bhaskar Venkatramani <bhaskar.v@BIALAIRPORT.COM>

Fri, Feb 21, 2020 12:37 PM

Subject : Rationalisation of Fuel Throughput (Airport Operator) Charge levied by Airport Operators on Aviation Turbine Fuel (ATF) across all Airports in India -reg.

1 attachment

To : jaimon skaria <jaimon.skaria@gov.in>

Cc : Bhaskar Anand Rao <bhaskar.rao@BIALAIRPORT.COM>, Madhan Kumar <madhan@BIALAIRPORT.COM>, Savita E <savita@BIALAIRPORT.COM>

Dear Sir,

Pursuant to AERA letter bearing Ref: AERA/20015/ft/2010-11/VOL.II, dated 15.01.2020, we wish to inform you that BIAL is not levying FTC Charges on the Fuel Farm Operator (M/s IOSL) from 15th January 2020.

We also would like to inform you about a typo error in BIAL submission vide letter AERA/Finance/2019-20/07, dated 20th January 2020.

In the Annexure 1, Table showing the proposed landing charges (wef 1st April 2020) , the corrected table should be as under:

Proposed tariff (w.e.f 1st April 2020)

Charge type	UoM	Details of charge	Existing Tariff 2020-21	Proposed Tariff 2020-21
Landing charges - Domestic pax flights	Rs. per MT	Upto 100 MT	142	238
		Above 100 MT	192	322
Landing charges - International pax flights	Rs. per MT	Upto 100 MT	281	469
		Above 100 MT	378	633
Landing charges - Domestic cargo flights	Rs. per MT	Upto 100 MT	142	238
		Above 100 MT	192	322
Landing charges - International cargo flights	Rs. per MT	Upto 100 MT	281	469
		Above 100 MT	378	633
Landing charges - Domestic pax ATRs (<80 seater)	Rs. per ATM	Per landing	-	-

May please take note of the same for necessary action at your end.

Best Regards,
Bhaskar V