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IndianOil Skytanking

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May 20, 2011

AIRPORTS ECONOMIC REGULATORY AUTHORITY OF INDIA (AERA)
AERA Building, Administrative Complex
Safdarjung Airport, New Delhi 110 003

Kind Attn: C.V. Deepak
OSD - II

Dear Sir,

**Subject: MYTP for the 1st Control Period in respect of ITP Services at IGI Airport,
New Delhi - Req**

**Ref: Your letter No. No. AERA/20015/MYTP/IOSL/ITP-Del/2011-12, dated
18th May, 2011, served through e-mail.**

We have received your above referred letter requesting for comments on the letters sent to you by the International Air Transport Association, Indian Oil Corporation Limited, Hindustan Petroleum Corporation Limited and Reliance Industries Limited, setting out their comments and objections with respect to Multi Year Tariff Proposal for the First Control Period at the IGI Airport, New Delhi.

We are happy to note that the Suppliers have no objection to light touch approach being applied to IOSL. The following are our comments on the objections/ suggestions/ comments furnished by the Suppliers:

- 1) With respect to letter sent by **Indian Oil Corporation Limited**:
 - a. We would like to mention that the concession agreements and the ITP Service Agreement were entered into and executed by the concerned parties after a competitive bidding process. The tariff proposed for the current control period of 2011-12 has been escalated in line with the concession agreements. These were commercial terms upon which bids were called for by DIAL.
 - b. Further, the ITP Service Agreement stipulates that the agency fee shall be subject to revision by ITP Agent, as per the limits set by DIAL and the Suppliers have agreed to the same and executed the Agreement. The fixation by DIAL will be made strictly on the parameters as agreed to in the Concession agreement between ITP Agent and DIAL.
 - c. The escalated rates for the current control period have been submitted to AERA for approval on 10th March, 2011. The consultation process being undertaken by AERA with respect to the tariff is resulting in a delay in approval of the same. Since the first control period commences on 1st April 2011 as per AERA Guidelines and since the rates are escalated as per the duly executed contracts, the rates are to take effect as per the contracts and as per AERA Guidelines. It would be significant to point out that though the suppliers are availing the services, no payments have been made by the Suppliers, pending approval by AERA.

As such the Suppliers have already had the benefit of a credit period of over two months, during which period ITP Agents have had to raise funds privately to ensure that the operations at the Airport is not brought to a grinding halt.

- d. Since the escalated rates to be paid by the Suppliers can be easily recovered by the Suppliers from the airlines by raising debit notes and for reasons stated above, we do not find any merit in making the rates applicable on a prospective basis or continuing the earlier rates until the day AERA approves the proposed tariff. Also, the concession agreement states that price cap for each of the subsequent years will be effective from the 1st of April of the following year escalated as per the WPI as on the 1st of January of the respective year. The price for the whole year is worked out on the basis of monthly returns. If the escalation is not paid from the 1st of April, it will completely destroy the basis and purpose of such escalation.

2) With respect to letter sent by **International Air Transport Association**:

- a. The formula for computing competition has been fixed by AERA, which states that, a service if provided by more than one service provider, it would be deemed competitive.
- b. We have been selected on the basis of competitive bidding. Since our rate was the lowest the other ITP Agent was called upon to match our rates. The fixation of rates had been made on competitive bidding.
- c. However Open Access requires that the rate at which service is provided at the Airport is not different for different Suppliers. Every Supplier should have equal access to services at the Airport. It is with this perspective that the rates have been homogenized at the lowest bid price.
- d. In case the rates are not fixed and discount is given to the Suppliers on case to case basis then the particular Supplier would get advantage of the same and grab the business from other Suppliers. This would be discriminatory and biased and would, in fact lead to unfair competition and do away with the effective competition in existence. Moreover the ITP fee was recovered through a competitive bid.
- e. The Scheme of insurance and fuel supply contemplates that the ITP Agent is an agent of the Supplier. This is necessary to ensure adequate coverage under the Aircraft Refuelling Insurance. As such it is the Supplier who enters into contracts with the Aircrafts at the best possible rates, with the ITP Agents fee being fixed and transparent. Any independent contracting by the ITP Agent is not contemplated in the scheme for fuel supply adopted by DIAL and all other Airports in India. Also this was not part of terms and conditions of the tender floated by DIAL. In fact if the ITP Agent was expected to maintain a marketing team, related infrastructure and hold negotiations with Airline Companies the ITP fee would be much higher than its present levels.

- f. The present scheme as adopted by DIAL does foster competition and provide avenue for price bargaining by the Airlines. We would like to bring it to your attention that ITP Service provider having commercial transactions with the Airlines is not in vogue in India and also such transactions were not part of the terms and conditions of the tender floated by DIAL. The rate of fees to be charged was determined through the tender and is a competitive rate and is lower than the rate prevalent anywhere in Europe or USA. It may please be noted that in Europe and USA, the ITP Service rates are varying from USD 5 to 10 per KL and the prevalent rates at Delhi are much lower than those rates.
- g. WPI is the most prevalent factor in arriving at the escalation of prices. The other parameters like economies of scale and increased operational efficiency were already factored in while quoting during the tendering process. All such factors were considered at the time of bidding and accordingly the lowest quotes were submitted by the bidders. Considering all such factors, the escalation mechanism was incorporated in the Concession Agreement with DIAL. Keeping in mind increasing input costs and other parameters stated above, the escalation mechanism was determined and set out in the Concession Agreement. Hence, it would be incorrect to say that the escalation is automatic.

3) With respect to letter sent by **Hindustan Petroleum Corporation Limited:**

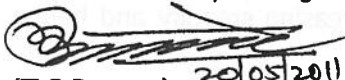
- a. As rightly mentioned in their letter, the rates were determined through a competitive bidding process where HPCL had also participated but since their rate was higher than the lowest quote, they were not selected. Thus, the tariff was determined by DIAL as per the lowest quote and since the same was done through a bidding process and accepted by all the Suppliers, there is no need for another independent agency to validate the same.
- b. Factors such as function of the cost and the volume of business available at the Airport were considered in determining the escalation mechanism. Keeping these in mind, it is stipulated in the concession agreement that the rates shall be escalated at 5% or WPI, whichever is lower.
- c. Furthermore, the ITP service provider takes risk for the downward trend in volumes as well, which is compensated by the escalation of rates. Considering all such factors, the escalation mechanism was incorporated in the concession Agreement with DIAL, keeping in mind the WPI and a maximum cap of 5% was set, which is quite reasonable.
- d. We would like to bring to your notice that the input costs including salary & wages, electricity, diesel and other utilities are increasing steadily and hence a 5% cost escalation is justified.
- e. With respect to application of the revised rates on a prospective basis, our comments are already set out in 1 (c) and (d) above.

- 4) With respect to letter sent by **Reliance Industries Limited**:
- a. RIL has accepted that the consultation process was followed by IOSL. There cannot be any discussion on the methodology of determination of price in the consultation process since the prices were already determined through the tender process. The tender was evaluated on the basis of not only the price but other capabilities of the bidder. It is understood that RIL was also one of the bidders in the tendering process and was not successful in their efforts to win the bid. Since the rate was already determined through the tender process, the consultation process was for firming up the other terms and conditions of the User Agreements and hence to that extent the consultation process was complete.
 - b. Since AERA is the competent authority to determine the tariff, IOSL has provided information relating to capital expenditure, operating expenses, financing charges etc. in their proposal to AERA for MYTP 2011-12 but has requested AERA to maintain confidentiality of the same as the information is sensitive to our business and hence cannot be shared with others by AERA. Moreover the IOSL's proposal is being evaluated on the basis of Light touch approach by AERA as the criteria for that approach is met by IOSL.
 - c. We have never mentioned that cost plus basis is the criterion for reasonableness of the tariff. Since the prices were determined through a competitive bidding process, no further guidance is required from Airlines or other independent agencies to validate the said rates.
 - d. We have already submitted our tariff proposal to AERA which includes our cost details and we are not offering any discounts to any of the Suppliers. Furthermore, this would lead to non-level playing field for the Suppliers, as enumerated in 2(d) above.
 - e. It would be incorrect to say that IOSL has a competitive edge since the rates being charged by both the ITP service providers are one and the same. Further, there is no possibility of IOSL, as Operator, cross-subsidizing ITP services with revenue from onsite facilities since rates stipulated in the two separate contracts entered into by IOSL are determined by DIAL and not by IOSL. We have submitted the full cost details to AERA but have requested AERA to maintain confidentiality of the same as sharing it would affect our business.

We do trust that you will find the same to be in order. It is requested that the ITP fees may please be approved on immediate basis.

Thanking you,

For IndianOil Skytanking Limited,


(T.S. Dupare) 20/05/2011
Chief Executive Officer