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DIAL/2010-11/Fin-ACC/1465

**Mr. Sandeep Prakash,**  
Secretary,  
Airports Economic Regulatory Authority of India  
Administrative Complex  
Safdarjang Airport  
New Delhi - 110 003

13/2/10  
050-I  
SM (ABS)

**Sub: Submission of response on Consultation paper No.06/2010-11**

Dear Sir,

This is in reference to Consultation paper on "Revision of fuel throughput charges by airport operators with effect from 1st April, 2010" issued by Airport Economic Regulatory Authority "AERA" on September 14<sup>th</sup> 2010.

At the outset, we would like to place our sincere appreciation to AERA for giving us opportunity for participating in the Airport Economic Regulation framework and responding to the aforesaid Consultation Paper.

Based on the commercial agreement entered between DIAL and the Oil Companies the revision in the Fuel Throughput charges was agreed. Vide letter no. DIAL/2010-11/Comm-GH/998 dated July 26, 2010 we had requested AERA to approve the revision in the Fuel Throughput Charges.

We welcome and appreciate AERA for taking due consideration of existing agreements with the Fuel Suppliers as iterated in the Consultation Paper No.3 on Regulatory Philosophy dated February 26<sup>th</sup>, 2010.

**I. Existing Concession Agreements: OMDA**

As per Section 13 (1) (vi) of the AERA Act, 2008 "Act", AERA would consider the existing agreement entered by the Government with the Airport Operators while determining tariff for Aeronautical Services. As per the provisions of Schedule 5 of OMDA, "**Common hydrant infrastructure for aircraft fuelling services by authorized providers**" is listed as Aeronautical Service.

There is a clear distinction between the levy of **Throughput Fee** and the **Fuel Infrastructure Fee**. In case of the former, the fee is the consideration for the concession awarded to the fuel supply companies to supply their product to air carriers operating out of the respective airports. The latter is a levy charged by

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the owner of the facility (may not necessarily be airport operator) which generally comprises of the necessary Infrastructure viz. Common Hydrant System, Pipeline, Storage Tank etc. required for the performance of the fuelling services. Therefore, throughput fee is not covered under Schedule 5 of OMDA and is consequentially not a charge for an Aeronautical Service.

In compliance with the provisions of the Act and adherence to the provision of OMDA, we submit that the throughput fee is a concession fee charged generally on per unit of ATF offtake. It is a fee for a non-aero service and is similar to the concession fee charged for flight kitchen or concessions provided within the terminal for passenger facilitation. However, the revenues from fuel throughput fee may be included for the purpose of cross subsidization. This would be in line with the letter, spirit and methodology provided under OMDA.

## **II. Existing Commercial Agreements with OIL companies**

As per AERA directive, airports were to continue with existing charging mechanism till the AERA regulations are in place.

Currently the AERA regulations are pending finalization and as such, the existing commercial agreements signed by DIAL with oil companies need be implemented, failing which there will be irreparable loss to DIAL.

We had vide our letter no. DIAL/2010-11/Comm-GH/ dated 15th July, 2010 submitted that the current fuel throughput charges is an existing charge prevalent since 1st April, 2008. This charge had been subject to contractual inflation (WPI) related increase thereafter. DIAL, under the supervision of Ministry of Petroleum and Natural Gas, has entered into an long term agreement with the oil companies (PSUs) to enable stable pricing of through put charges.

In the same letter, we drew attention of the Authority to Clause 4.11 of Part IV of Consultation Paper No.3/2009-10 dated 26th February, 2010 issued by the Authority, which states "*in case the common access / fuel farm facilities are provided as well as operated by a licensee, the Authority will take into account the structure and agreements between the airport operator and fuel facility provider.*". We acknowledge the position stated by the Authority for taking into due consideration all the existing agreements entered in this regard.

The Authority accepts, in the consultation paper no.6/2010-11, the existence of an economic rationale to charge such access/concession fee. An extract from the consultation paper stated in Para 4 (e) has been reproduced below which is self-explanatory.

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*“While there is an economic rationale for charging access fees such as throughput charges, there is no definite formula through which such charges can be determined. Therefore, conventionally such charges are negotiated between the access provider and the access seeker”*

In light of the aforementioned facts, we request AERA to kindly approve the following:

- Approve the proposed increase of 5% based on inflation taking the charge to Rs. 561.75 per kl w.e.f. April 1<sup>st</sup>, 2010.
- As per the provisions of OMDA and State Support Agreement (which is a sovereign document signed with Govt.of India and AAI) Fuel Throughput charge be categorized as Non Aeronautical charge.

Yours Faithfully

**For Delhi International Airport Private Limited**

  
for Sidharath Kapur  
(Chief Financial Officer-Airports)