

Airports Economic Regulatory Authority Of India

Order No.17/2010-11

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110 003**

Date of Order: 31st March, 2011

Date of Issue: 31st March, 2011

In the matter of Economic Regulation of Services provided for Cargo facility, Ground Handling and supply of fuel to the aircraft - Interim arrangement for the Control Period commencing 1st April, 2011

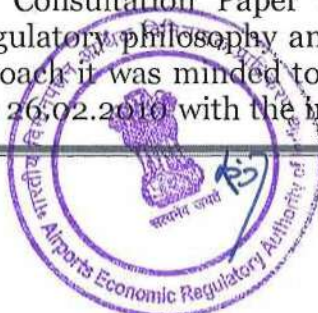
Pursuant to enactment of the "The Airports Economic Regulatory Authority of India Act, 2008" (the Act) and establishment of the Airports Economic Regulatory Authority (hereinafter referred as the "Authority"), the Authority is to perform the following functions in respect of major airports:

- (a) to determine the tariff for the aeronautical services;
- (b) to determine the amount of the development fees in respect of major airports;
- (c) to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934; and
- (d) 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.

1.2. As per Section 2 (a) of the Act, any service provided "for ground handling services relating to aircraft, passengers and cargo at an airport"; "for the cargo facility at an airport"; and "for supplying fuel to the aircraft at an airport" are aeronautical services.

2.1 To ensure transparency in the process leading up to the framing of appropriate procedures/systems for economic regulation, as required under the Act, the Authority issued a White Paper on "Regulatory Objectives and Philosophy in Economic Regulation of Airports and Air Navigation Services" ("White Paper") on 22.12.2009. The White Paper provided stakeholders an opportunity to consider the issues highlighted therein and submit evidence-based feedback, comments and suggestions. The Authority received 28 submissions in response to the White Paper which were uploaded on the Authority's website for general information.

2.2 The Authority considered the views and opinions submitted in response to the White Paper and prepared a Consultation Paper listing out the major issues impacting formulation of its regulatory philosophy and approach and laying out its rationale for the positions/approach it was minded to take. The Consultation Paper (No.03/2009-10) was issued on 26.02.2010 with the intention of providing a further



opportunity to stakeholders to make relevant submissions to the Authority before the regulatory philosophy and approach was finalized. On 16.03.2010, the Authority also convened a meeting to elicit the views of the stakeholders in person. The Authority received 21 written submissions containing suggestions and comments in respect of the Consultation Paper. The minutes of the stakeholder consultation meeting as also the comments received on the Consultation Paper were uploaded on the Authority's website.

3. The Authority, on careful perusal of all the submissions, views and opinions expressed by stakeholders, issued an Order (No. 05 / 2010-11, dated 02.08.2010) laying down its philosophy and approach for economic regulation of the services provided for Cargo Facility, Ground Handling and Supply of Fuel to the aircraft at the major airports (other than the Civil Enclaves at Goa and Pune).

4. In order to operationalize the regulatory philosophy and approach, the Authority also issued a draft of "The Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2010" for stakeholder consultation vide Consultation Paper No. 05/2010-11 dated 2.08.2010.

5. The Authority, having perused the records and upon due consideration of all facts, circumstances and submissions made by the stakeholders, approved the "Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services provided for Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft) Guidelines, 2011" (**the Guidelines**) and issued the same along with the Direction No.04/21010-11 dated 10.01.2011. All relevant service providers were directed to act in accordance with the Guidelines. Further, the stakeholder comments were also disposed off vide Order No.12/2010-11 dated 10.01.2011.

6.1 As stipulated in the Guidelines, the Authority shall follow a three stage process for determining its approach to the regulation of a regulated service –

- (i) Materiality Assessment;
- (ii) Competition Assessment;
- (iii) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.

Based on the outcome of the aforesaid assessment, the Authority would either decide to apply light touch regulation or an intrusive price cap approach to the concerned service provider.

6.2 The procedure outlined in Chapter II of the Guidelines for submission and review of the tariff proposals lays down that all service provider(s) shall within two months of the date of issue of these guidelines submit to the Authority for its consideration, a Multi Year Tariff Proposal (MYTP) for the first Control period in the form and manner specified in the appendices to the Guidelines. The Authority shall put in public domain for stakeholder consultations, the information received from the service provider(s) as part of the MYTP. Further, the Authority upon due consideration of the MYTP and stakeholder consultations thereon and after obtaining such additional information, as it may consider necessary, make a Multi Year Tariff Order (MYTO) for a Control Period.



6.3 Thereafter, the service provider shall submit to the Authority an Annual Tariff Proposal within 75 days from the date of issue of the MYTO.

6.4 The Guidelines were issued on 10.01.2011 and the Authority had stipulated that the first Control period shall commence from 01.04.2011. In terms of clause 7.1 of the Guidelines, all service providers were required to submit MYTP within two months of the date of issue of the Guidelines. Therefore, the cut off date for submission of the MYTP by the service providers was 10.03.2011.

6.5 Further, in order to assist the service providers in filing a comprehensive MYTP, a checklist was prepared and vide DO letter dated 21.02.2011, all the independent service providers (of the above mentioned regulated services) were requested to ensure that the MYTP is prepared in accordance with the Guidelines and cross checked with the checklist before submission. All the service providers were also requested to ensure that necessary proposals were submitted to the Authority within the specified timelines.

7.1 The Authority received the MYTP from the following service providers as on 10.03.2011, i.e., the cut off date:

S.No.	Name of service provider	service Rendered	Airport	MYTP for approval
1	Bharat Stars Services (P) Ltd. (BSSPL)	ITP Services	IGI Airport Delhi and Bangalore	Submitted in respect of IGI Airport only
2	Delhi Aviation Fuel Facility Pvt. Ltd. (DAFFL)	Fuel Farm Facility	IGI Airport Delhi	Fuel Farm Infrastructure Charges
3	Indian Oil Sky Tanking Limited (IOSL)	ITP Services	IGI Airport Delhi and Bangalore	Submitted in respect of ITP services at IGI Airport and Bangalore Airport
4	Indian Oil Sky Tanking Limited (IOSL)	Fuel Farm Facility	Bangalore	Fuel Farm Infrastructure Charges

7.2 The Authority is also in receipt of requests, from the following service providers, for extension of time for submission of the MYTP:

S.No.	Name of service provider	Service Rendered	Airport	Extension sought for filing the MYTP - upto
1	M/s Kerala State Industrial Enterprises Ltd.	Cargo facility	Trivandrum & Calicut	End of March, 2011
2	Menzies Aviation Bobba (Bangalore) Ltd.	Cargo facility	Bangalore	10th May 2011
3	Menzies Aviation Bobba Ground Handling Services Pvt Ltd	Ground Handling	Shamsahabad, Hyderabad	Extension of 2 months
4	Hyderabad Menzies Air Cargo Pvt Ltd	Cargo Facility	Shamsahabad, Hyderabad	Extension of 2 months



S.No.	Name of service provider	Service Rendered	Airport	Extension sought for filing the MYTP - upto
5	NASPORT Handling India Pvt Ltd	Ground Handling	Ahmedabad	10th May 2011
6	Celebi Delhi Cargo Terminal Management (I) Pvt.Ltd.	Cargo facility	IGI Airport Delhi	10th June 2011
7	Delhi Cargo Service Centre Private Limited.	Cargo facility	IGI Airport Delhi	3 months
8	Globe Ground India Pvt. Ltd.	Ground Handling	Bangalore	30th April, 2011
9	Bird-Worldwide Flight Service (I) Private Ltd.	Ground Handling	IGI Airport Delhi	30th April, 2011
10	Cambata Aviation Private Limited	Ground Handling	Delhi	End April 2011
11	CELEBI NAS Airport Services India Pvt Ltd.	Ground Handling	Mumbai	30th April, 2011
12	Bharat Stars Services (P) Ltd.	ITP Services	Bangalore	31st March, 2011 in respect of BIAL
13	Bhadra International	Ground Handling	Chennai and Kolkata	90 days
14	Air India SATS	Ground Handling	Bangalore	end April'2011
15	Central warehousing Corporation	Cargo Facility	21st March'2011	
16	Celebi Ground Handling Delhi Pvt.Ltd.	Ground Handling	Delhi	30th April'2011

7.3 The remaining independent service providers numbering 7 (as per the Authority's records), at the major airports (excluding the Civil Enclaves at Goa and Pune) have neither submitted the MYTP as per the guidelines nor have requested for an extension of time for submission of the MYTP.

8.1 As indicated above, a number of services providers have sought for an extension of time for submission of the MYTP while some of the service providers have not even approached the Authority seeking time for extension nor have submitted the MYTP. The levy of fee in respect of aeronautical services w.e.f 01.04.2011, i.e., the start of the control period, without the previous approval of this Authority, would be a contravention of the provisions of the Act, which is punishable under Section 38 of the Act. Therefore, it is necessary to put in place an interim arrangement for the control period commencing 1.4.2011 so as to avoid any regulatory vacuum.

8.2 Considering the nature of services being rendered, and the availability of detailed agreements with users which lay down the charges and the service level agreements which have been executed after detailed negotiations, the Authority had decided in the Order No.12/2010-11 dated 10.01.2011, that wherever the user



agreements are in existence with all the users and the Authority is assured of their reasonableness, they should normally be respected and a Light Touch approach should be adopted even if the service is being rendered in a non competitive scenario. In other words, the Authority has decided to pre-dominantly apply a light touch approach to the regulation of the aforesaid services.

8.3 The Authority had also, while stipulating the date of commencement of the Control Period (Clause 6.2 (i) of Order No.12/2010-11 dated 10.01.2011), observed that keeping in view the timelines contemplated in the guidelines, it may not be possible to issue the tariff determination orders well in time before 01.4.2011. It was also decided that wherever the Authority, after filing of the requisite proposals by the concerned stakeholders is not in a position to issue the annual tariff orders before 01.4.2011, it would issue appropriate orders for regulating the tariffs during the interim period.

8.4 In the above background, the requests for extension of time and proposals for interim arrangement for the first control period commencing on 1.4.2011 were considered by the Authority (in its 32nd meeting held on 16.3.2011) when the Authority observed and tentatively decided as under:

- (i) The three independent service providers namely BSSPL, DAFFL, IOSL have submitted the MYTP as on 10.3.2011.
- (ii) IOSL and BSSPL have submitted the MYTP for ITP services provided by them in respect of Delhi airport.
- (iii) IOSL have submitted the MYTP for ITP services and in respect of the Fuel Farm facility at Bangalore airport. It appears from Authority's records that IOSL and BSSPL have been providing ITP services at Bangalore airport from 2008 onwards and the charges thereof were also fixed prior to 01.09.2009, i.e., the date when provisions of the Act regarding determination of tariff by the Authority were made effective. Similar position exists in respect of IOSL in so far as the fuel farm facility at Bangalore airport is concerned.
- (iv) In respect of IGIA, Delhi, both BSSPL and IOSL started providing ITP services in July, 2010 and the charges thereof have not been determined by the Authority. Therefore, presently, they are not charging any fee in respect of service provided by them at IGIA, Delhi. Similar position exists in respect of fuel farm facility of DAFFL.
- (v) Keeping in view the position discussed at (i) to (iv) above, it is felt that the proposals submitted by IOSL in respect of ITP services and fuel farm facility at Bangalore airport; and by IOSL and BSSPL for ITP services and DAFFL for fuel farm facility at IGI Airport be immediately taken up for examination. In the interim, the IOSL, may be allowed to continue charging the fee/tariff at Bangalore airport as was in existence on 01.09.2009 w.e.f. 01.04.2011 till the tariffs (for the first control period) are decided by the Authority and become applicable.
- (vi) As regards the IGIA, Delhi, the Authority notes that no approved tariff is in existence and therefore, an interim arrangement w.e.f. 01.04.11 is not possible. The Authority, therefore, proposes to take up these



proposals for consideration on priority so that they could be finalized as soon as possible and tariffs so approved may be made applicable w.e.f. 01.04.2011.

- (vii) As regards the sixteen (16) service providers who have requested for extension of time for filing the MYTP, the requests for extension vary from 3 weeks to 3 months. It is felt that this being the first control period some flexibility should be permitted.
- (viii) A number of service providers have also not responded to the guidelines and the directions issued on 10.1.2011, i.e., they have neither filed MYTP nor have sought extension of time. This being the first control period, the Authority intends to give such service providers one more chance to comply with statutory/regulatory requirements.
- (ix) Keeping in view the position at points (vii) and (viii) above, it is proposed that the last date for filing of MYTP for the control period commencing 01.04.2011 may be extended upto 30.4.2011.
- (x) Subject services were brought in the regulatory ambit for the first time under the Act. As indicated earlier, the powers contained in section 13 for determination of tariff were made effective on 01.09.2009. Thereafter, Authority has not approved tariffs in respect of any of the independent service providers for these services. As such, in respect of the independent service providers who have either sought extension of time or who have not responded, the tariffs as effective on 01.09.2009 may be allowed to continue beyond 01.04.2011 also and upto the date when the new tariff as may be approved by the Authority upon receiving their submissions would become applicable. This interim arrangement would be subject to the condition that the concerned independent service providers submit the MYTP latest by the 30.4.2011. In case any service provider(s) fails to submit MYTP on or before 30.4.2011, the interim arrangement in respect of such service provider(s) would cease to be effective.

9. Aforesaid proposals were placed for stakeholder consultation vide Consultation Paper No. 16/2010-11 dated 17.3.2011 with last date of submission of comments being 24.3.2011.

10. In response, comments have been received from the following:

10.1 **NASPORT Handling India Private Limited** –

NASPORT has thanked the Authority for extending the timeline for submission of MYTPs. They have further sought clarification regarding the tariff to be charged by them at Goa and Pune Airports with reference to Clause 3.2 which specifies that a separate guideline will be issued for the aforesaid airports, being civil enclaves.

10.2 **Hyderabad Menzies Air Cargo Pvt. Ltd.** – has thanked the Authority for extension of timeline granted and further submitted the following:

- (i) The notified tariff for agents has been maintained with no revision. Services provided to the airline customers are based on mutual



understanding and signed agreements. They have been abiding by the terms of user agreements as existed on 1st September, 2009. New customers have also been accepted on similar terms only.

Therefore, Menzies have requested the Authority to amend clause 9(x) to say that service providers shall maintain with the terms of the existing user agreements in place as on 1st September, 2009.

- (ii) Secondly, the Authority has been requested to reconsider its position for submission of all financial details and business plan, before the authority determines reasonableness of existing user agreements. In case the business does not fall under price-cap regulation, the hardship of filing of business plans and other financial information on regulatory building blocks may be done away with. It may only be relevant for those who fall under price-cap approach.
- (iii) Lastly, Authority plans to put user agreements in public domain which have confidential information of commercial value like prices and each customer has different price based on the service, expected volumes etc. Therefore they have requested to not publish their commercial information or their MYTP proposal in public domain.

10.3 Hindustan Petroleum Corporation Limited–

- (i) As indicated in para 9(v) of the said Consultation Paper, , they have no comments to offer on IOSL's / BSSPL charging fee/ Tariff towards Fuel Farm facility and ITP service fee as applicable at Bangalore Airport w.e.f. 01/04/2011, as was in existence on 01/09/2009, till the tariffs (for the First Control period) are decided by AERA.

However they have highlighted the increase in the fees during the period since the New Bangalore Airport got commissioned.

Effective Date	Fuel Farm Facility services (Rs / Kl)	Into Plane services (Rs / Kl)		
		Fuelling Aircrafts	Defuelling Aircrafts	Refuelling defueled product in Aircraft
23.05.2008	700.00	73.99	Within 48 Hrs – Rs 73.99 Beyond 48 hrs Rs 110.99	Within 48 Hrs – Rs 92.49 Beyond 48 hrs Rs 110.99
01.01.2009	1500.00	200.00	Within 48 Hrs – Rs 200 Beyond 48 hrs Rs 240	Within 48 Hrs – Rs 220 Beyond 48 hrs Rs 240

Service Tax as applicable extra on above charges. As per communication from Service providers, Revised ITP charges of Rs 210 per Kl effective 1st June 2010 temporarily withdrawn till finalization of same by AERA.

- (ii) As these charges applicable at the Airports are a pass through item for the suppliers, i.e., the charges are recovered from the customers and passed on to the service provider / Airport Operator, it would be difficult for HPCL to recover these charges from the customers in the event they



are made applicable on retrospective basis. In view of above, it has been requested that any revision in charges for the first control period should be made from the prospective date. Till these charges (for the First Control period) are finalized by AERA, existing approved rates should only be made applicable.

10.4 **GSEC Limited** –

- (i) Though Ahmedabad cargo complex falls under the category of non-material and competitiveness is not a criterion relevant as much as other bigger airports, there is an underlying competition from nearby gateway ports. Lot of Gujarat based cargo still leaves through Mumbai and therefore GSEC has been basing their tariff based on this factor.
- (ii) They shall be submitting their MYTP by 30th April, 2011.
- (iii) GSEC have a few concerns on the revenue forecast as estimating demurrage for the forthcoming period is difficult. If tariff fixation is done on the basis of projected revenue where demurrage revenue becomes a part, then any deviation could cause errors.
- (iv) Since the cargo operation and as a consequence cargo tariff is standardized as far as format is concerned, it would be helpful to prescribe a format for MYTP giving specific tariff heads.

10.5 **Reliance Industries Limited** –

- (i) As mentioned in the Para 9 of the Consultation Paper, many independent service providers for fuel have submitted the MYTPs to AERA for consideration/approval. In order to have a fair assessment of the cost structure being claimed by various Independent Service Providers for fuel at airports, Reliance would like the MYTPs along with working to be placed on the website as per clause 7.2 page 9 of 76 of the Guidelines dated 10th January, 2011 for all stake holders to have access and provide comments, if any.
- (ii) Presently the commercial arrangement between ATF Suppliers and Independent Service Providers for supplying of fuel to aircraft at airport is based on the fees decided by Independent Service Providers. Hence, AERA should look into this aspect of deciding the tariff (fees) being levied by Independent Service providers before deciding to have light touch approach or not in those cases.
- (iii) Even in the instances where light touch approach is being followed, AERA may ensure that the consultation process with all relevant stakeholders is completed by the Independent Service Provider before MYTP is approved by AERA.

10.6 **Menzies Aviation Bobba Pvt. Ltd.** –

- (i) From 1st September 2000 to date, Menzies has been providing services to the trade and customers based on mutual understanding and



agreements. During this time they were engaged in the regular consultation process with the Authority and so they believe that consultation process existed during this period. On reverting to the charges as effective before 1st September 2009 for the interim period, it is not practical to reverse the transactions that have taken place since 1st September 2009 till date and subsequent agreements with our stakeholders. Also it will not be practicable to make temporary arrangement with their stakeholders and customers for the interim period beyond 1st April 2011 till Authority's order is received. Given the impracticality of reverting to the charges as effective on 1st September 2009, they have requested that current tariff should be allowed to be applicable during the interim period beyond 1st April 2011 till the new date of Authority's approval is put in place.

- (ii) MYTP proposal also includes all the financial information to be prepared in accordance with Price Cap Approach. Since Authority has clearly defined two as competition, ISP having a competition qualifies for light touch regulation. Therefore Menzies is of the view that they qualify for light touch regulation.

Direction No. AI.2 is also asking all the Price Cap information like aggregate revenue requirement, Business Plan etc which is relevant only for those Service Provider's who do not qualify for Light touch regulation. Hence permission has been sought to submit all the non-financial information that is sought under MYTP.

- (iii) Subsequent to Consultation Paper No.5 , the suggestions offered which were not taken on board have been reiterated as under:

- Return on Investment rather than Return on Net Book Value
- Breaking the windfall income outsider the purview of regulation
- Allowing flexibility of asset restructuring like allowing leased model
- Not using CAPM as its outdated model

Since above approach is applicable to service provider facing Price Cap regulation, their financials reflected in above methodology give erroneous results leaving scope for mis-interpretation by stakeholders and they will have practical problems of explaining the financials to all the stakeholders and even amongst stakeholders it would give rise to conflicts. For example, their shareholders and board may have reservations against publicly explaining the financials.

- (iv) Another concern is that Authority plans to put user agreements in public domain. All the agreement have confidential information like prices and each customer has different price based on the service, expected volumes etc. Accordingly, Authority has been requested to not publish their non financial information or their MYTP proposal in public domain.

10.7 **Bharat Stars Services Private Limited** –

They have already submitted the “Multi Year Tariff Proposal (MYTP)” for Into-Plane (ITP) Services at Delhi Airport and the same for Bangalore Airport is being submitted at the earliest before the stipulated timeline of 30th April 2011.



BSSPL has requested the Authority to approve the rate of ITP Services at Delhi Airport for the interim period of 28th July 2010 to 31st March 2011 at the earliest as this will enable them to receive applicable payments for the services already/being rendered in FY 2010-11 in this month complete their annual accounting process effectively.

10.8 Federation of India Airlines (FIA)–

- (i) FIA feels that the process of tariff determination has been considerably delayed due to the non submission of MYTP by the service providers and in a way the service providers are frustrating the very objectives for which AERA has been set up. Prima-facie, FIA is of the view that the ad-hoc tariffs are without any reasonable justification and are on the higher side. Therefore, rather than allowing the ad-hoc tariffs to continue, AERA should disallow the ad-hoc tariffs particularly in respect of all service providers who have not submitted MYTP. For those who have submitted MYTP, AERA may undertake the tariff determination at the earliest.
- (ii) FIA feels that the member airlines should be allowed to go back to their warehouse facilities or operated from the CUT on rental basis with self handling of cargo by airlines, till the time it takes for AERA to decide on the validity of the need for such facilities after consulting airlines and all stakeholders before deciding the regulatory approach mentioned in paragraph 6.1.

10.9 Express Industry Council of India –

Airport operators/independent service providers should be held accountable for the services that they render to the express industry which hitherto have been unregulated having ample scope for unbridled demands for increase in tariff without any accountability or service level commitments.

10.10 CELEBI Delhi Cargo Terminal Management India Pvt Ltd -

- (i) CELEBI has been providing services to the trade and customers (old and new), with effect from 25th November, 2009, based on mutual understanding and signed commercial agreements. So reverting to the prices or charges that were prevalent prior to 1st September 2009 for the interim period is impractical and such an action of retrospective pricing will have serious commercial and tax complications including that with regard to subsequent agreements without stakeholders. Also it will be not practicable to make temporary arrangement with their stakeholders and customers for the interim period beyond 1st April 2011 till the Authority order is received. Hence, CELEBI has requested that the current and prevalent tariff should be allowed to be applicable during the interim period beyond 1st April 2011 till 30th June 2011.
- (ii) Direction No. 4 AI.2 is asking all the Price Cap information like aggregate revenue requirement, Business Plan, etc which is relevant only for those service providers who do not qualify for Light Touch Regulation. Hence



permission has been sought to submit only the non-financial information that is sought under MYTP.

- (iii) Another concern CELEBI has is that the Authority plans to put user agreements in the public domain. All the agreements have confidential information like prices and each customer has a different price based on the kind of services, expected volumes, etc. In this light, the Authority has been requested not to publish their financial and non financial information nor their MYTP proposal in the public domain.

10.11 Kerala State Industrial Enterprises Ltd. –

Kerala State Industrial Enterprises informed that the existing Tariff at our Air Cargo Complexes (Trivandrum and Calicut) were fixed effective from 1st April 2007. Though the tariffs are due for reasonable upward revision, they could not concentrate on this so far on account of the uncertainties prevailing at Trivandrum in the handling of import / export cargo consequent on the commissioning of new Airport Terminal. KSIE has informed that their MYTP shall be submitted in time.

10.12 Mumbai International Airport Pvt. Ltd –

- (i) In order to have continuity of services and to avoid any inconvenience to users at CSI Airport, Mumbai, MIAL has submitted that the existing charges for those ISPs who have either started service after 1.9.2009 or have revised charges with user agreements after 1.9.2009, may also be permitted to continue as they were not aware of regulatory approach in the absence of Guidelines, which were issued only on 10.1.2011.
- (ii) MIAL has submitted that in the first instance the Authority may assess materiality, competition and reasonableness of existing user agreements. If the service is deemed to be “material and not competitive” and the Authority is not assured of reasonableness of the existing user agreements, then only an MYTP may be required to be filed for which 2 months time may be given after such assessment by AERA.

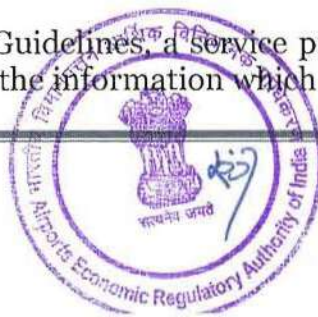
10.13 Indian Oil Corporation Limited –

- (i) IOCL have not been able to release payments towards the ITP fees and Infrastructure fees to the service provider at the IGI airport, Delhi, since July 2010, inspite of their continuing to receive the services. As a result, the liability provision on account of these charges continues to mount.
- (ii) It would be difficult for the oil companies to recover the fees/tariffs pertaining to fuelling arrangements at various airport , in case approved tariff is more than the existing /adhoc/interim tariff and is made applicable from retrospective basis.
- (iii) IOCL has therefore requested that the tariff rates be finalized at the earliest and made effective from prospective date.

11. The comments submitted by the stakeholders have been examined by the Authority and it is observed that:



- (i) The provisions of section 13 of the AERA Act, 2008 came into effect on 01.09.2009. Therefore, with effect from 01.09.2009, tariffs in respect of aeronautical services provided at the major airports have to be determined by the Authority. However, the Authority has not received any proposals for determination of tariff in respect of the subject services, except from Delhi Cargo Service Centre (tariffs in respect of domestic cargo interim facility at IGI airport, New Delhi), Delhi Aviation Fuel Facility Pvt. Ltd. (tariffs in respect of fuel hydrant infrastructure at IGI airport) and the BSSPL & IOSL (tariffs in respect of ITP services at IGI airport). The Authority has determined the tariff in respect of DCSC vide Order No. 16/2010-11 dated 24.3.2011 whereas the proposals of DAFFL, IOSL and BSSPL for determination of tariff for the period upto 31.3.2011 are, presently, under examination of the Authority. It is in this background that the Authority has proposed to continue to the tariffs, as in effect on 1.9.2009, beyond 1.4.2011, purely, as an interim arrangement.
- (ii) From the consultation responses it would appear that a few service providers have either started providing the subject services after 1.9.2009 or have taken new customers thereafter. These service providers have, suo-moto, decided their tariffs. Such suo motto action, if any, is in contravention of section 13 of the Act and the Authority cannot be post facto, expected to provide a cloak of legality to such acts by agreeing to suggestions of allowing unapproved tariffs to continue in the interim period. It is also relevant to note that the Guidelines have evolved through an extensive consultation process spread over December 2009 to January 2011. M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd., Menzies Aviation Bobba Pvt. Ltd. and Hyderabad Menzies Air Cargo Pvt. Ltd. have actively participated in the consultation process but never raised this issue. Even now these service providers have not provided any details and have confined themselves to making general statements/submissions on this count. In view of this, the Authority is unable to agree with the submissions made in this regard. It is reiterated that the present proposal is an interim measure only to avoid any regulatory vacuum. As and when any of the service provider makes concrete submissions and gives relevant proposal, the Authority would be open to look into the matter on a case to case basis.
- (iii) As per the Guidelines already issued, the Authority would make a decision regarding the approach it would adopt in a particular case, i.e., light touch or price cap only after MYTP is submitted. Therefore, MYTP needs to contain all information including the financial information irrespective of whether the entity would finally be regulated under a light touch approach. In case, the Authority decides to adopt light touch approach in a given case, it would ordinarily use the information furnished for control purposes only.
- (iv) As indicated in the Guidelines, a service provider has to at the time of submission indicate the information which it would like to be treated as



confidential along with justification for the same. If the Authority finds the request justified it would redact the information found to be "confidential information" and place other information for stakeholder information/consultation.

- (v) A few other submissions regarding reconsideration of the provisions made in the Guidelines have been made. These submissions are beyond the scope of present consultation. Further, the Guidelines have been finalized and issued after an extensive stakeholder consultation. Hence, a reconsideration at this stage is not feasible.

12. After careful consideration of all material on record, the Authority hereby orders that:

- (i) The timeline for submission of MYTP by the independent service providers is extended upto 30.4.2011.
- (ii) In the interim, all independent service providers may continue to charge the tariffs as prevalent on 01.09.2009 or as may have been approved/determined by the Authority thereafter with effect from 01.4.2011 and upto the date when the new tariffs as may be approved by the Authority became applicable. This interim arrangement would be subject to the condition that the concerned independent service providers submit the MYTP latest by 30.4.2011. In case any service provider(s) fails to submit MYTP on or before 30.4.2011, the interim arrangement in respect of such service provider (s) would cease to be effective.

By the Order of and in the
Name of the Authority


(Sandeep Prakash)
Secretary

To,

1. Airports Authority of India,
Rajiv Gandhi Bhawan,
New Delhi - 110003
(Through: Shri V. P. Agrawal, Chairman)
2. Cochin International Airport Ltd,
Nedumbassery, Kochi Airport
P.O., Ernakulam -683 111,
Kerala
(Through Dr. Krishnadas Nair, Managing Director)
3. Delhi International Airport Pvt. Ltd,
Uran Bhawan,
IGI Airport,
New Delhi - 110 037
(Through: Shri Kiran Kumar Grandhi, Managing Director)



4. **GMR Hyderabad International Airport Pvt. Ltd,
Rajiv Gandhi International Airport,
Shamshabad,
Hyderabad -500 409
(Through: Shri.Kiran Kumar Grandhi, Managing Director)**
5. **Mumbai International Airport Pvt Ltd,
CSI Airport, 1st Floor, Terminal 1B
Santa Cruz (E),
Mumbai
(Through: Shri G. V. Sanjay Reddy, Managing Director)**
6. **Bangalore International Airport Pvt. Ltd,
Alpha-a, Administration Block,
Devanahalli, Bangalore -560 300
(Through: Shri G. V.Sanjay Reddy, Managing Director)**
7. **Kerala State Industrial Enterprises Ltd.,
Trivandrum Air Cargo Terminal,
Trivandrum -695008
(Through: Shri Febi Varghese, Managing Director)**
8. **Kerala state Industrial Enterprises Ltd.,
Calicut Air Cargo Complex,
Karipur- 673647
(Through: Shri Febi Varghese, Managing Director)**
9. **Central Warehousing Corporation,
Warehousing Bhawan,
4/1, Siri Institutional Area,
August Kranti Marg,
New Delhi - 110 016.
(Through: Shri B.B. Pattanaik, Managing Director)**
10. **Rajasthan Small Scale Industries Corporation Ltd.,
Udyog Bhavan, Tilak Marg,
'C' Scheme,
Jaipur
(Through: Shri M.K.Devarajan, IPS, Managing Director)**
11. **GSEC Limited, Air Cargo Complex,
Old Airport, Ahmedabad,
Regd. Office: 2nd Floor,
Gujarat Chambers,
Ashram Road,
Ahmedabad- 380009
(Through: Shri Samir Mankad, Director)**
12. **Air India SATS Airfreight services .
Cargo Warehouse 2 ,
Bengaluru International Airport,
Devanahalli, Bangalore-560300
(Through : Mr. Henry Christopher, AVP)**



13. **Menzies Aviation Bobba (Bangalore) Limited,**
Cargo Warehouse 1,
Bengaluru International Airport,
Devanahalli, Bangalore- 560300
(Through: Shri.Manoj Kumar Singh, CEO)
14. **Celebi Delhi Cargo Terminal Management (I) Private Limited**
Import III, Cargo Terminal
IGI Airport, New Delhi - 110037
(Through: Shri Sanjay Khanna, CEO)
15. **Delhi Cargo Service Center Private Limited,**
A-294/1, Road No.6, NH-8,
Mahipalpur Extension, New Delhi-110037
(Through: Shri Radharamanan Panicker, Director)
16. **Hyderabad Menzies Airport Cargo Pvt. Ltd.**
Air Cargo International Airport,
Shamshabad,
Hyderabad -500409
(Through: Mr. Paul Smith, CEO)
17. **Express Industry Council of India**
501,Crystal Centre, Raheja Vihar,
Off. Chandivali Farm Road, Powai,
Mumbai 400 072.
(Through: Shri R. K. Saboo, Chairman)
18. **Bhadra International (India)Ltd.,**
B-4/62, Safdarjung Enclave,
New Delhi-110029
(Through: Shri Prem Bajaj, Director)
19. **NAS Aviation Services India Pvt. Ltd.**
903-905, SAGAR TECH Plaza,
A-wing, Andheri Kurla Road,
Mumbai – 400072.
(Through: Shri Hosi Charna, VP-BD & Admin)
20. **Indo Thai Airport Management Services Pvt. Ltd.,**
5, JBS Harden Avenue, Silver Arcade,
Room No.S-2, Second Floor,
Kolkata-700 005
(Through: Shri Rakesh Jain, Director)
21. **Globe Ground India Pvt. Limited,**
GSE 2, Bengaluru International Airport,
Devanahalli,
Bangalore 560300
(Through: Shri Rajat Maharishi, CEO)



22. **Bird-Worldwide Flight Service (1) Private Limited,**
Bird Consultancy Services Pvt. Ltd., E-Block,
Connaught House, Connaught Place,
New Delhi -110001
(Through: Shri. Gaurav Bhatia, Director)
23. **Cambata Aviation Private Limited,**
IGI Airport Terminal 2,
Line Maintenance,
Block A, New Delhi - 110037
(Through: Mr. Yezdi Cooper, Airport Manager)
24. **Air India SATS Airport Services**
Maintenance centre, Gate No. 02,
Rajiv Gandhi International Airport,
Shamshabad-500 409
R R District-AP(India)
(Through: Shri Gopi Bala, Vice President)
25. **CELEBI NAS Airport Services India Pvt. Ltd.**
B407, Citi Point, Andheri Kurla Road,
Andheri (E), Mumbai -400 059.
(Through: Shri Sahil Mehta, Managing Director)
26. **Essar Oil Ltd.,**
Essar Techno Park Building II,
Swan Mill Compound,
L.B.S.Marg, Kurla(W),
Mumbai- 400 070
(Through: Shri P Sampath, Director (Finance))
27. **Indian Oil Corporation Ltd.,**
Indian Oil Bhawan (Navy Land),
G-9m Ali Yavar Jung Marg, Bandra(E),
Mumbai-400051 .
(Through: Shri R Sareen, Executive Director (Aviation))
28. **Delhi Aviation Fuel Facility (P) Ltd.,**
New Udaan Bhawan, Terminal 3, Opp. ATC Complex,
International Terminal, IGI Airport, New Delhi-110037
(Through: Shri Pradeep Panicker, Director)
29. **Shell MRPL Aviation Fuels & Services Ltd,**
NO.72/4, Cunningham Road,
Opp: Cottage industries Exposition,
Bangalore.
(Through: Shri.Sanjay Varkey, CEO)
30. **Reliance Industries Limited**
Reliance Corporate Park,
Block-6, D-Wing, 2nd floor, 5-TTC Industrial Area,
Thane-Belapur Road, Ghansoli, Navy Mumbai.
(Through: Shri P. Raghavendran, President (Petroleum Business))



31. **Bharat Petroleum Corporation Ltd.,
Bharat Bhavan, 4&6 Currimbhoy Road,
Ballard Estate, Mumbai 400 001.
(Through: Shri Shyamal B Bhattachary, General Manager (Aviation))**
32. **Hindustan Petroleum Corporation Ltd.,
Hindustan Bhawan,
8, Shoorji Vallabhdas Marg,
Mumbai 400 001
(Through: Shri R Radhakrishnan, Head, Aviation SBU)**
33. **Indian Oil Sky Tanking Limited,
Fuel Farm 1, Bengaluru International Airport,
Devanahalli, Bangalore-560300.
(Through: Shri T.S. Dupare, Chief Executive Officer)**
34. **Bharat Stars Services (P) Ltd.
4th Floor, Plot A-5 &6,
Sector -1, NOIDA-201301
(Through: Shri Vijay Ranjan, CEO)**
35. **Blue Dart Aviation Ltd.,
No. 88-89 Old International Terminal,
Meenambakkam Airport,
Chennai-600 027.
(Through: Ms. Tulsi Nowlakha Mirchandaney, Managing Director)**
36. **Deccan Cargo & Express Logistics Pvt. Ltd.,
4th & 5th Floor, Raheja Paramount, 138,
Residency Road, Bangalore-560 025.
(Through: Capt. G. R. Gopinath, Chairman & Managing Director)**
37. **Aryan Cargo Express,
A-87188, Road NO.4,
Mahipalpur Extn., New Delhi-37
(Through: Capt. Mukut Pathak)**

