

Airports Economic Regulatory Authority of India

Order No. 08/2018-19

AERA Building
Administrative Complex,
Safadarjung Airport,
New Delhi-110003
Date of Issue: 14.05.2018

Service : Ground Handling Services.
Service provider: Air India Air Transport Services Ltd.
Airport : Mumbai Airport.

In the matter of Multi Year Tariff Proposal(MYTP) for the second control period and Annual Tariff Proposals (ATPs) for the second control period in respect of M/s Air India Air Transport Services Limited (AIATSL) for providing Ground Handling Services at Mumbai International Airport, Mumbai.

सत्यमेव जयते

1. a) AIATSL is one of the Ground Handling agencies appointed by Mumbai International Airport Limited (MIAL) for carrying out Ground Handling Services at Mumbai International Airport, Mumbai and started their operations/ground handling services w.e.f. 1st April, 2014. The Authority, vide its MYTO Order No. 04/2015-16 dated 06.05.2015, decided to approve tariff on ad-hoc basis for the First Control Period (FY2011-12 to FY2015-16) for Air India.
- b) The Authority vide its Order No. 09/2016-17 dated 19.08.2016 further extended the levy of tariffs existing as on 31.03.2016, up to 30.09.2016 or till the determination of tariffs for the second control period, whichever is earlier. This order was in line with the extension granted to all Airport Operators/ISPs at major airports vide Order No. 50/2015-16 issued on 31.03.2016.
- c) The Authority vide its Order No. 11/2016-17 dated 29.09.2016 extended the levy of tariffs existing as on 31.03.2016, up to 31.03.2017 or till the determination of tariffs for the second control period, whichever is earlier.
- d) The Authority vide its Order No. 19/2016-17 dated 31.03.2017 further extended the levy of tariffs existing as on 31.03.2016, up to 30.09.2017 or till the determination of tariffs for the second control period, whichever is earlier.
- e) The Authority vide its Order No. 12/2017-18 dated 29.09.2017 further extended the tariffs existing as on 31.03.2016, for a period of six months w.e.f. 01.10.2017 or till determination of tariffs for the Second Control Period whichever is earlier.
- f) The Authority further vide Order No. 43/2017-18 dated 28.03.2018, allowed to continue levy of tariffs existing as on 31.03.2018, for a further period of six months w.e.f. 01.04.2018 or till determination of tariffs for the Second control Period whichever is earlier.



2. M/s AIATSL submitted their MYTP/ATP online on 27th June, 2016 and submitted the consolidated Balance Sheet for FY 2014-15, 2015-16 and FY 2016-17. AIATSL has submitted the bifurcation of financials (Balance sheet for FY 2015-16 and FY 2016-17) among all stations where AIATSL is operating. Bifurcation of Balance sheet for FY 2014-15 among its station of operation is not submitted. AIATSL has submitted the Annual Tariff Proposals (ATPs) for the complete Second Control period wherein AIATSL has proposed an increase of 2% year on year in the ATPs from FY 2016-17 to FY 2020-21. AIATSL has submitted the Annual Compliance Statements (ACSS) for FY 2015-16 and FY2016-17 only. AIATSL has submitted the copy of User Agreement for Mumbai Airport.
3. a) **Materiality:** As per Clause 4 .4 of the CGF Guidelines, 2011 for the regulated service(s) provided for Ground Handling facility at the major airports, the percentage share of Ground Handling at Mumbai Airport, is 22.42% which is more than 5% Materiality Index (MIg) for the above subject service. Hence the regulated service is deemed "**Material**" for the Second Control Period.
- b) **Competition:** AERA, in line with the provisions of National Civil Aviation Policy (NCAP-2016), vide Order No. 15/2016-17 dated 12th Jan, 2017 decided to consider three (3) Ground Handling Agencies (GHAs) including Air India's subsidiary/JV for competition assessment at all major airports. As per the information available, M/s CelebiNas Ground Handling Private Limited and M/s Bird Worldwide Flight Services are the other Ground Handling Agencies which are rendering similar Ground Handling Services at Mumbai Airport including AIATSL. As three Ground Handling agencies are operating at Mumbai Airport, the Ground Handling service is deemed '**competitive**'.
- c) **Reasonableness of existing User Agreement(s):** M/s AIATSL has submitted the user agreements for Mumbai Airport and till date none of the users has complained on the ground handling services rendered by AIATSL.
4. AIATSL has not submitted the copy of concession agreement with Mumbai Airport Operator and also has not conducted the stakeholder consultation with the users on the proposed ATPs submitted for complete second control period i.e. FY2016-17 to FY2020-21.
5. i) The Authority considered the submissions made by M/s AIATSL and issued a Consultation paper No. 43/2017-18 dated 31st January, 2018 wherein, the Authority proposed that the service for ground handling being provided by AIATSL at Mumbai Airport, Mumbai, is deemed "**Competitive**" and hence in accordance to the provisions of Chapter V of the AERA Guidelines, the tariff will be determined under "**Light Touch Approach**" for the duration of Second Control Period (01.04.2016 to 31.03.2021).
- ii) The Authority further proposed in the Consultation Paper that AIATSL may be allowed to charge as per **Annexure-V** (of the said consultation paper) as per the proposed tariff of FY 2016-17, as the service provider is earning a good return on Average RAB i.e. 163.22% for FY 2015-16 and 97.97% in FY2016-17. Further, the turnover/ profit % earned in FY2015-16 is 22% and in FY 2016-17 is 15%. The tariff will be effective from the date of issue of order to 31.03.2019 of the second control period for Ground Handling Services provided by AIATSL at Mumbai Airport, Mumbai.
- iii) The Authority sought written evidence based feedback, comments and suggestions from stakeholders on the above proposal by 21st February, 2018. Further the Authority vide email dated 31.01.2018 informed the same to all concerned stakeholders on their registered email IDs. In response, only one comment has been



received i.e. from **M/s Business Aircraft Operators Association (BAOA)**. The details of the comments received from BAOA, clarifications received from AIATSL and the Authority's views are detailed as under:

M/s Business Aircraft Operators Association (BAOA)

Comment-1: AERA has adopted 'light touch approach' for deciding the aeronautical tariff for AIATSL at Mumbai International Airport due to service deemed as 'material and competitive'. However, there is a lack of reasonability in charges being proposed at the airport due to no transparent and documented process of stakeholder's consultation. This situation doesn't conform to provision of 'competition laws' and the latest GH Policy of the GOI (Please refer para 3(d) of the Gazette of India F.No. AV-2401/8/2017-AAI-MoCA dated 15.12.2017). While assessing reasonableness of existing user agreements, AERA has concluded that there has no complaint from 'users' regarding User Agreements. This presumption by the authority could prove to be faulty as the users are mostly unaware of their rights at public airport and consider the mentioned charges in User Agreement as 'fail accompli', without any redressal. Therefore, AERA is requested to seek specific comments from users on 'User Agreements' before presuming their reasonableness.

Reply by AIATSL: As a matter of practice, Airlines float Request for Proposal or bid and after qualifying the bid, airline further approaches for finalizing the commercial terms.

Authority's views: The Authority has issued its 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") vide its Order No. 12/2010-11 dated 10.01.2011 and Direction No. 04/2010-11 dated 10.01.2011 wherein its approach in the matter of Regulatory Philosophy and Approach in Economic Regulation of these services are finalized. AERA has considered the provisions of the latest GH policy as mentioned above. This has already been indicated at **para 3.2 b)** of the aforesaid consultation paper. However the Authority is considering/processing the proposals keeping in view all the other relevant provisions of its CGF Guidelines.

User agreements are legal documents which contain mutually agreed terms and conditions between the ISP and the users.

Comment-2: The 'service provider' has also not conducted any stakeholder's consultation, which is critically important to ensuring reasonability of tariff in 'light touch approach'.

Reply by AIATSL: Being a Govt. organization, proper procedure and due diligence is followed while responding to tenders and Request for Proposals floated by Airlines. Hence reasonability of tariff is ensured in the competitive bidding procedure.

Authority's Views: The Authority in the Order has already given directions to AIATSL to conduct stakeholder consultation in future before submitting its Annual Tariff Proposals to the Authority.

Comment-3: In view of the above, it is required to rationalize GH charges through a transparent process of stakeholder consultations and objective feedback. There is a need to restructure the charges based on limited GH services required by small aircraft. AIATSL be asked to offer rates in baskets starting from minimum charges for limited GH services essential for small aircraft movements.



Reply by AIATSL: Presently, smaller aircraft are handled at General Aviation Hangar No. 8, Kalina, where AIATSL is considering setting up ground handling at General Aviation Hangar, Gate No. 8, CSI Airport, Kalina.

Authority's view: Views mentioned against comments no. 1 and 2, may be referred.

Comment-4: Annexure V of CP 43/2017-18 doesn't include charges for smaller code 'A' & 'B' aircraft. Please see the attached ICAO codes for reference. This needs to be included for the benefit of NSOP operators.

Reply by AIATSL: AIATSL will work out the charges for smaller aircraft type A & B and put up to AERA.

Authority's views: The Authority takes a note of it and through this order, now direct the AIATSL not to charge anything for ground handling services for the aircrafts other than those specified in the tariff card of this Order without prior approval/determination of tariff by this Authority.

Comment-5: Finally, it is the time AERA disallows levying of royalty/revenue share, in any form at all public airports. Please refer BAOA letter Ref. No. BAOA/AERA/01/2017-18 dated 01 May 2017 sent in response to AERA CP 08/2016-17 (copy attached).

Reply by AIATSL: Matter does not pertain to AIATSL; hence the clarification with regard to Point No. 5 may be obtained from the concerned agency.

Authority's Views: AERA as per its CGF Guidelines, do not regulate/determine the royalty/revenue share, however it has tried to address this issue in other manner by way of issuing Order No. 01/2018-19 dated 05.04.2018, wherein capping of the amount of Royalty/Licence fee/Revenue share payable to Airport Operator as pass through expenditure for ISPs, has been done. Order is available on the AERA's website. Further para 6 of this Order may also be referred in this regard.

6. In line with Government of India, MoCA notification No. F.No. AV-24011/8/2017-AAI-MoCA dated 15.12.2017; the Authority also decides that AIATSL being a JV of the Air India shall match the lowest royalty paid by other ground handling agencies.

ORDER

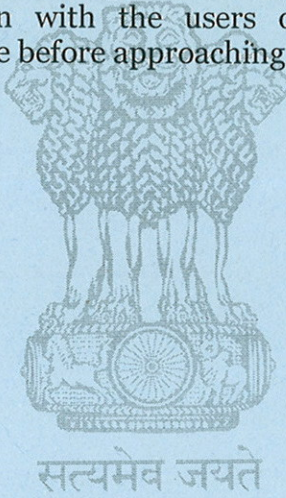
The Authority, in exercise of powers conferred by Section 13(1) (a) of the AERA Act, 2008, hereby orders that:

- (i) The service for ground handling being provided by M/s AIATSL at Mumbai Airport, Mumbai, is "**Competitive**" and hence in accordance with the provisions of Chapter V of the AERA Guidelines the tariff will be determined under "**Light Touch Approach**" for the duration of Second Control Period (01.04.2016 to 31.03.2021).
- (ii) The Authority is of the view that 'the Guidelines' need not be followed in a routine manner. Further even in 'Light Touch approach,' the Authority examines the margins, the growth of profit and return on RAB to ensure that extraordinary profits do not accrue to the service provider and that the ultimate customer is not burdened with higher tariffs as the latter does not have any say in the User Agreements.
- (iii) Having regard to the high profit margins earned by AIATSL, the proposed increase of tariffs of 2% year on year from FY 2016-17 to 2020-21 is not allowed. AIATSL is allowed to charge the tariff(s) from the date of issue of order to 31.03.2019 of the second control period for Ground Handling Service rendered at Mumbai Airport, Mumbai as per Annexure-I. The tariff for FY2019-20, FY2020-21, will be considered based on the actual situation and

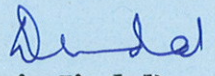


implementation of the new ground handling policy as approved by Government of India.

- (iv) Tariff determined as above will be maximum tariff to be charged. No other charge is to be levied over and above the approved tariff.
- (v) M/s AIATSL should not exceed the tariff charges for its Non-Schedule Operations as approved by AERA for its schedule operations for similar class of aircrafts.
- (vi) M/s AIATSL shall not charge anything for providing ground handling services for the aircrafts other than those specified in the tariff card of this Order, without prior approval/determination of tariff(s) by this Authority.
- (vii) M/s AIATSL should submit a copy of Concession Agreement and conduct the stakeholders consultation with the users on the proposed Annual Tariff Proposals (ATPs) in future before approaching AERA for tariff determination.



By the Order of and in the
Name of the Authority


(Puja Jindal)
Secretary

To,

M/s Air India Air Transport Services Limited,
Airline House, 113 Gurudwara Rakab Gunj Road,
New Delhi-110001.
(Through Capt. Ashwini Sharma, CEO)



ANNEXURE-I

Rates from the Date of Issue of Tariff Order to 31.03.2019.to be charged by M/s AIATSL for ground handling services being rendered at Mumbai Airport Mumbai.

**Price List (in INR)-Scheduled/Non-scheduled Aircrafts
(International & Domestic)**

(Amt in Rs.)

Type of Aircraft	Comprehensive Handling in INR	
	Freighter	Scheduled International
ATR 72	—	14,000
A319/A320/A321/B737	—	92,136
A300	—	1,40,000
B767	—	1,50,000
A310	—	1,50,000
B757	—	1,40,000
A330	—	1,80,000
B777	1,80,000	1,80,000
A340	—	1,80,000
B747	—	2,00,000
B787	—	1,70,000
B380	—	2,60,000

Note : All charges mentioned above are maximum and excluding the applicable statutory taxes.

