

भारत स्टार्स सर्विसेज
प्राइवेट लिमिटेड



**BHARAT STARS SERVICES
PRIVATE LIMITED**

(A JV of BPCL & ST - Airport Services, Singapore)

Trusted Partnership

BSSPL.HO.2021-22.AERA

22.06.2021

**The Secretary
Airports Economic Regulatory Authority of India
AERA Building, Administrative Complex
Safdarjung Airport
NEW DELHI — 110 003**

Dear Sir

Subject: Submission of Stakeholder comments In the Matter of Determination of Tariff in respect of Bharat Start Services Private Limited (BSSPL) for providing Into Plane Services -ITP Service Provider at Kempegowda International Airport (KIA), Bangalore.

Bharat Stars Services Private Limited (BSSPL) is ITP operator at various open access airports in India. We Currently have received the AERA Consultation paper no. 04/2021-22 on the matter of Tariff for Kempegowda International Airport for the Financial year 2021-22 to 2025-26.

We hereby submit our comments attached.

Thanking you & assuring of our best cooperation at all times.

Yours truly

For **Bharat Stars Services Pvt Ltd**


**Prashanth M Kamath
Chief Executive Officer**

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Paper No. 04/ 2021-22 (Consultation Paper)**

Sub. In the Matter of Determination of Tariff in respect of Bharat Start Services Private Limited (BSSPL) for providing Into Plane Services at Kempegowda International Airport (KIA), Bangalore from FY 2021-22 to FY 2025-26 of the Third Control Period. | Submission by BSSPL

1. BACKGROUND

1.1 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 ('2011 Guidelines') apply to Service Providers (i.e., person, other than Airport Operator, who provide one or more Regulated Services) for, amongst other things, supplying fuel to the aircraft at a major airport (being a Regulated Service).

1.2 The Authority has made an assessment with respect to 'materiality', 'competitiveness' and 'reasonableness of User Agreements' and is inclined to conclude that the into-plane services in question are;

'material and not competitive and where the Authority is not assured of the reasonableness of the existing User Agreement(s)'.

1.3 On the basis that Bharat Stars Services Private Limited (BSSPL) is not undertaking any non-aeronautical services and that there is only a single source of revenue for BSSPL, the Authority is inclined to apply the 'Single Till' methodology for tariff determination process of BSSPL, Bangalore, and in view of the foregoing assessment, the Authority is inclined to determine Tariff(s) based on 'price cap' approach for the duration of the Control Period, and for such purpose determine the Aggregate Revenue Requirement and the Tariff.

2. PRELIMINARY SUBMISSION

- 2.1 The assessment regarding 'materiality' is an objective one in accordance with the 2011 Guidelines, and in the instant case, there is no debate regarding 'materiality' of the Regulated Services.
- 2.2 It is submitted that the assessment regarding 'competitiveness' and 'reasonableness of the existing User Agreements' should be examined only in the context of the provisions of the 2011 Guidelines and the underlying contractual arrangements in respect of the Regulated Service, and not any extraneous factor.

Assessment of Competitiveness

- 2.3 The Authority has stated that it finds that there is no competition in real terms (with respect to the ITP services) at the Bangalore Airport because:
- 2.3.1 BSSPL is providing ITP services to Airlines on behalf of the Oil Marketing Companies (OMCs) without any direct User Agreement with Airlines. Attention of the Authority is invited to paragraph 2.4.1 below, to illustrate the point that it is not by design that BSSPL does not have any direct arrangement with the Airlines.
 - 2.3.2 The two ITP service providers viz. BSSPL and Indian OilSkytanking Private Limited (IOSPL) at Bangalore, primarily cater to the clients of their own promoters/principals, viz. Indian Oil Corporation Limited (IOCL) and Bharat Petroleum Corporation Limited (BPCL). In this context, attention of the Authority is invited to paragraph 2.4.2 below.
 - 2.3.3 As per BSSPL's submission only a small portion of its business is generated from other clients such as Hindustan Petroleum Corporation Limited (HPCL), Reliance Industries Limited and Shell MRPL. In this context, attention of the Authority is invited to paragraph 2.4.3 below.
- 2.4 BSSPL would like to provide relevant context in respect of the above observations of the Authority.
- 2.4.1 Context for: As stated by the Authority, BSSPL is providing ITP services to Airlines on behalf of the OMCs without any direct User Agreement with Airlines.

Typically, the OMCs and Airlines have agreement for supply of ATF at various airports, and the ITP service provider renders ITP services to the airlines via the OMCs.

The long standing business practice primarily dictates the contractual structure amongst the various players.

Further, the issue of competition in relation to the ITP service providers is addressed at the entry stage itself – the ITP service providers are selected through a process of competitive bidding.

- 2.4.2 Context for: The two ITP service providers viz. BSSPL and IOSPL at Bangalore, primarily cater to the clients of their own promoters/principals, viz. IOCL and BPCL.

Under the Service Provider Right Holder Agreement dated February 28, 2019 executed between Bangalore International Airport Limited and BSSPL ('SPRH Agreement'), BSSPL is under an obligation to provide ITP Services to the Users during the term of the SPRH Agreement by entering into appropriate agreements with the Users, and such agreements shall be in strict consonance with the terms and conditions of the SPRH Agreement.

There is no requirement for the ITP agents to have in place agreements with each of the Users (whether such user is a suppliers or not) at the Airport.

Even if BSSPL is catering to the requirements of its own promoter (BPCL), any such contractual arrangement inter-se BSSPL and BPCL would be on arms-length basis following applicable provisions of the Companies Act, 2013.

- 2.4.3 Context for: Only a small portion of BSSPL's business is generated from other clients such as HPCL, Reliance Industries Limited and Shell MRPL.

Analysis of the sales volume of BSSPL for the financial year 2020-21 reveals that HPCL, Shell MRPL and RIL account for more than 15% of the total sales volume of BSSPL.

HPCL, Shell MRPL and RIL contribute 6.78%, 8.81% and 0.14% respectively, of the sale volume of BSSPL.

In the assessment of 'competitiveness', the prescribed criterion is the provision of the Regulated Service by two or more Service Providers. If this criterion is met, then the Regulated Service is deemed competitive. The

utilisation of such service by the suppliers at the Airport is not the issue for determination in this regard.

It is submitted that BSSPL and IOSL were awarded the sub-concession for rendering ITP services at the Airport pursuant to a competitive bidding process.

Assessment of reasonableness of the existing User Agreement(s)

- 2.5 The Authority, it appears is not assured of the reasonableness of the existing User Agreement(s) because BSSPL is providing ITP services to Airlines on behalf of the OMCs without any direct User Agreement with Airlines.
- 2.6 As elucidated above, typically, the OMCs and Airlines have agreement for supply of ATF at various airports, and the ITP service provider renders ITP services to the airlines via the OMCs.
The long standing business practice primarily dictates the contractual structure amongst the various players.
- 2.7 Further, the contractual arrangement inter-se BSSPL and BPCL would be on an arms-length basis following applicable provisions of the Companies Act, 2013.
- 2.8 It is also submitted that in the assessment of whether or not the existing User Agreement(s) is reasonable, as prescribed under the 2011 Guidelines, the Authority shall consider that the existing User Agreement is reasonable provided:
- 2.8.1 Service Provider submits existing User Agreement(s) between the Service Provider and all the User(s) of the Regulated Service(s), clearly indicating the tariff(s) that are agreed to between the Service Provider and the User(s) of the Regulated Service(s), and
 - 2.8.2 The User(s) of the Regulated Services(s) have not raised any reasonable objections or concerns in regard to the existing User Agreement(s), which have not been appropriately addressed.
- 2.9 The User Agreement cannot thus be considered as 'unreasonable' under the provisions of the 2011 Guidelines.
- 2.10 In light of the foregoing, it is submitted that:
- 2.10.1 Following the assessment criteria prescribed under the 2011 Guidelines, the Regulated Service in question is 'material but competitive'.

2.10.2 The Authority is required to adhere to the assessment criteria set forth in the 2011 Guidelines and not take into account extraneous considerations. Further, the Authority is required to keep in consideration the factors which are beyond the control of BSSPL and are a result of other factors like long standing business practice.

2.10.3 The existing User Agreement(s) answer the test of 'reasonableness' under the 2011 Guidelines. Without prejudice to the foregoing, it is submitted that as per the 2011 Guidelines, Single Till/Hybrid Till clause is applicable only when price cap method is applied. Accordingly, we wish to reiterate and affirm in view of what is stated above that BSSPL may continue to be assessed under light touch approach and hence these factors regarding 'reasonableness' of the existing User Agreement(s) become irrelevant.

3. SUBMISSION ON MERITS

Fuel Throughput

3.1 There are certain issues which remain to be considered by the Authority in respect of fuel throughput, and BSSPL seeks leave to submit as under.

3.2 Using 2019-20 as the base year, as suggested by Authority, would be erroneous because;

3.2.1 The 61% share of BSSPL in the sale of international ATF volume in the financial year 2019-20 (Refer to Table 1) was exceptional, and a singular event whilst in the years previous to 2019-20, BSSPL sales in International segments ranged about 40% average in preceding 4 years . Please refer to Table 2 which shows significant volumes were subsequently lost. Table 1 and Table 2 are attached separately. In view of the above, it would be appropriate to consider average of the historical figures as the base leaving out the exceptional year.

3.2.2 Since financial year 2019-20, several airlines have phased out old versions of the aircrafts and will continue to phase out the older versions of the aircrafts. The new age aircrafts are much more fuel efficient. Hence the reduction on account of these

factors need to be factored in. Table 3 shows the projected volume after considering the fuel efficiency factor.

- 3.3 The Authority has taken an optimistic view that the ATMs shall start recovery by year 2021-22, and fully recover by year 2022-23 in respect of domestic traffic, and fully recover by year 2023-24 in respect of international traffic. However, in view of the surge in the COVID-19 pandemic and with new variants, and the extent of effectiveness of vaccines still under study and considering that a third wave is likely to hit, which may be worse than the first and second one, such an optimistic view may be misplaced.
- 3.4 **Importantly, it cannot be ignored that travel and movement restrictions did provide impetus to new-age communication technology. Technological advancement and wide use of such technology have now demonstrated that business travel can be significantly reduced. Many business houses have re-invented themselves in the way they do business – much less travel. Amongst other things, virtual exhibitions are now there to stay.**
- 3.5 During the pandemic, many airlines have started phasing out the old versions of the aircrafts and started introducing more fuel-efficient aircrafts. The Authority is requested to factor in this aspect of fuel efficiency saving during the 3rd Control Period.
- 3.6 Further, it has been suggested by principal scientific advisor, to the Government of India that 'phase three' is inevitable, given the high levels of circulating virus,' and it is likely that the Government may continue to impose such restrictions based on the assessment of the situation.

The full impact of the surge in COVID 19 cases on ATM for 2021-22 and subsequent years cannot yet be ascertained. In view of the above (point no. 3.3 to 3.6), it shall be prudent to re-workout the volumes downwards.

The volume projections after considering the foregoing factors is set forth in Table 4 (Final Volume Projections).

Operational and maintenance expenditure

- 3.7 Authority's Examination & Analysis.
Employee Benefit Expenses: In accordance with Table 5 of the Consultation Paper at page 14, it is estimated that the ATMs of Domestic would return to 100% in 2022-23 and ATMs of International would return to 100% in 2023-24 and in our submission, we estimate that ATMs of Domestic may return to 100% by 2022-23

and International to 100% by 2023-24. Although, there would be recovery in ATMs as well as volumes during the 3rd Control Period, the recovery of volumes would not be proportionate to recovery in ATMs.

Accordingly, the manpower would need to be augmented to cater to this increase as ITP services is manpower oriented and the requirement of manpower will increase in tandem with increase in ATMs/ fuelling operations.

- 3.8 The Authority in paragraph 8.13 of the Consultation Paper has observed that *'BSSPL, Bangalore has taken Revenue sharing @ 23.60% of the Aeronautical revenue however, the Authority has proposed to consider the revenue share @ 5% of the Aeronautical revenue based on AERA Order No. 01/2018-19 dated 5th April 2018 on Capping the amount of Royalty, license Fee/Revenue Share payable to Airport Operator as a "pass through" expenditure for the Independent service Providers providing Cargo Facility, Ground handling, Supply of Fuel to Aircrafts at Major Airports.'*

It is submitted that in the new tenders being invited by the Airport Operators for selection of the ITP Service Providers, the selection criteria for ITP Agents has been changed from lowest service fee against a "Fixed Revenue" share to "Highest Revenue" Share in line with Cargo and GHA Business. The ITP Agents in respect of BIAL were finalised basis of this principle recently upon expiry of the first concession period.

As the business model has changed from "Fixed revenue to highest revenue share", The ITP service should also have the revenue share cap of 30% in line with other Ground handlers as BSSPL falls under same category, Hence, the Authority should allow the entire 23.60% revenue share as a pass through, instead of capping the pass through to 5%.

Rework of RAB

- 3.9 The Authority in paragraph 4.15 of the Consultation Paper has observed that *'The Authority, in order to ensure that BSSPL adheres to the Capital expenditure plan, proposes to rework the RAB of the BSSPL Bangalore for the 3rd Control Period, by reducing the RAB by 1% of the cost of dispensers & refuellers etc. as the case may be, if BSSPL Bangalore fails to commission and capitalize the CAPEX as per the plan considered by the Authority while truing up.'*
- 3.10 It is submitted that BSSPL should not be penalised for not incurring capex as projected on account of reasons not within its control. COVID 19 has presented unprecedented situations and given that several more waves of COVID are likely to hit the human population across the globe, there is no

visibility of the future. In case the capex cannot be spent due to reasons beyond the control of BSSPL, the company should not be penalised.

Deviation from earlier approach

3.11 It is submitted that factors used to make an assessment with respect to 'materiality', 'competitiveness' and 'reasonableness of User Agreements' have remained the same since the 1st Control Period. There is no change in the factors affecting the foregoing assessment and it is submitted that as done on earlier occasions, the Light Touch approach should continue to apply in the determination of tariff for the Regulated Service in question.

4. PROPOSAL

4.1 For reasons stated above and emphasising that the charges paid by the supplier on fuel throughput is the lone source of income for BSSPL and any variation can affect the profit and loss accounts to a large extent, BSSPL submits that the light touch approach should be adopted for determination of tariff with respect to the 3rd Control Period.

We request the Authority to consider our Submissions favourably as stated above.

4.2 We would be available for any additional information that may be required by the Authority in this regard.

Thanking you


Prashanth M Kamath
Chief Executive Officer

Enclosed:

- Table 1 (International ATF volume in the financial year 2019-20)
- Table 2 (Loss of international volumes)
- Table 3 (Projected volume after considering the fuel efficiency factor)
- Table 4 (Final Volume Projections)

Enclosure – 1 Table 1 (International ATF volume in the financial year 2019-20 & Estimated volumes for BSSPL)

Year	BSSPL ATM			Total	Domestic	BSSPL ATF Volume						
	Domestic	International	Total			Domestic	International	Total	Total			
2015-16	28440	1700	30140	20%	44002	15%	96413	34%	140414	24%		
2016-17	28456	18%	1920	8%	30376	17%	58660	16%	121909	38%	180569	26%
2017-18	39208	23%	3340	14%	42548	22%	80163	19%	136835	40%	216997	29%
2018-19	52908	25%	3960	13%	56868	24%	88019	20%	187813	47%	275833	33%
2019-20	53058	27%	4480	15%	57538	25%	82475	19%	231531	61%	314006	38%
2020-21	24446	24%	1400	13%	25846	23%	58298	24%	53638	29%	111936	26%
2021-22	32208	23%	1819	12%	34028	22%	61195	19%	75444	38%	186639	28%
2022-23	46011	23%	2728	12%	48739	22%	87021	19%	103166	38%	200587	28%
2023-24	49692	23%	3637	12%	53329	22%	94115	19%	110888	38%	245303	28%
2024-25	54293	23%	3928	12%	58221	22%	101457	19%	122959	38%	266116	28%
2025-26	57054	23%	4219	12%	61273	22%	108402	19%	127510	38%	283432	28%

Table 2 (Loss of international volumes)

BSSPL- AIRLINES LOST in 2021 (uplift in KL FY2019-2020 PERIOD FROM 01/04/2019 TO 31/03/2020)													
CUSTOMER	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	TOTAL
EMIRATES	3783	3770	2920	2861	2978	3000	3285	3640				0	26236
AIR FRANCE	2306	2139	2183	2347	2268	2225	2429	2646	2930	3111	3121	1811	29516
EMIRATES CARGO	167	110	61	124		0	0	25					487
LUFTHANSA PAX	2598	3245	2782	2963	2607	2479	2660	2320	2805	3098	3365	1409	32333
LUFTH. CARGO	254		204	171	325	247	194	232	259	246	208	318	2658
AEROLOGIC CARGO	1997	2641	1834	2263	2148	1893	2360	1967	2155	2657	2356	1827	26099
KLM							71	864	893	951	952	624	4356
TOTAL	11104	11905	9986	10729	10326	9845	11000	11693	9043	10063	10001	5990	121684

Table 3 (Projected Airport volume after considering the fuel efficiency factor)

KIA Bengaluru - Projections of ATMs & ATF Volumes for third control period.

Year	Recovery % on Base FY19-20		ATM Numbers			% Fuel Efficiency Saving		ATF Volume (in KL)		
	Domestic	Intl	Domestic	Intl	Total	Domestic	International	Domestic	International	Total
2020-21	70	50	140034	15156		0	0	306830	189274	496104
2021-22	100	75	200048	22733		3	3	425172	275305	700477
2023-24	108	100	216052	30311		5	5	524559	359506	884065
2024-25	118	108	236057	32736		6	6	560560	488955	1049515
2025-26	124	116	248060	35161		7	7	598964	517117	1116081

Table 4 (Final Volume Projections)

Year	Airport ATF Volume (In KL)			BSSPL ATF Volume		
	Domestic	International	Total	Domestic	International	Total
2019-20	438328	378427	816755	82475	231531	314006
2020-21	241468	187641	429109	58298	53638	111936
2021-22	322077	198537	520614	61195	75441	136636
2022-23	460110	297806	757916	87421	193166	200587
2023-24	496919	397074	893993	94405	156888	245303
2024-25	542930	428840	971770	103152	162959	266116
2025-26	570537	460606	1031143	108402	176030	283432