



1702/11/25/12
53

भारतीय विमानपत्तन प्राधिकरण
AIRPORTS AUTHORITY OF INDIA

AI/CHQ/REV/AERA/AS/Kolkata-MYTP/2012

25th Oct.2012

The Secretary,
Airports Economic Regulatory Authority of India,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi-110003

~~OSD-II~~

~~25/10/12~~

AGM (SD)

May pl. put upon file
To be shared with
Deloitte (W)

Sub: Comments of AAI on the Stakeholders observations on AERA C.P. No. 17/2012-13 dated 30.08.12 - Multi Year Tariff Proposal and Annual Tariff proposals for NSCBI Airport, Kolkata.

26/10/12

Madam,

Kindly refer to your AERA letter no. AERA/20010/MYTP/AAI-Kolkata/2011-12/Vol.-II/1753 dated 17th October, 2012 seeking AAI's comments on the observations made by the stakeholders on AERA C.P. No. 17/2012-13 dated 30.08.12.

In this regard, the comments of AAI on the observations of the stakeholders are enclosed as annexure-A. In addition, AAI comments on the C.P. No. 17/2012-13 dated 30.08.12 are also enclosed as annexure-B.

Yours faithfully,


(R. Shankar)

Executive Director(Finance)

Encl.: As above.

ANNEXURE-A

SL. NO	STAKEHOLDER'S OBSERVATIONS ON AERA C.P. 17/2012-13 DT. 30.08.12 - MYTP & ATP FOR NSCBIA	AAI COMMENTS
1	Hong Kong Dragon Airlines (Dragonair)	
1.1)	<p>COMMENTS ON THE PROPOSAL IN GENERAL</p> <p>It is our view that the time allowed for parties who are interested in the subject to provide inputs to the Consultation Paper is inadequate. The Consultation Paper was published on 30 August 2012 allowing responses to be submitted latest by 28 September 2012, thereby giving less than four weeks for interested parties to provide a response. Given the complexity of the issue; the amount of documents that need to be perused; the need to meet with the Authority concerned to understand the issue; and the need to seek opinions from advisors on the subject, the allowed time is grossly insufficient. In other countries where similar consultation process is conducted, a period of at least three months would be given and the process would start six to eight months in advance. In this respect, it would appear that the whole consultation exercise is not meaningful at all since in-depth analysis of the proposals cannot be conducted within the short time-frame. In any case, we are providing our comments to the Consultation Paper to meet the deadline in good faith and it is probable that supplements may be provided when we have the time to more thoroughly review the issues within our organisation.</p> <p>It is noted that the aeronautical charges, be it User Development Fee and Landing Charge, are vastly different for domestic carriers and international carriers. We understand these charges are the same for the same group of users. However, in accordance with the principle of non-discriminatory application of charges, these charges and in particular the Landing Charge should be the same for both domestic and international carriers. Charges for using such services and facilities should be worked out on</p>	<p>While appreciating the concern of stakeholder, it is pertinent to mention that one & half year of current control period has already elapsed, any further delay in finalization of tariff determination will ultimately impact the tariff rates.</p> <p>The facilities extended to domestic and international passengers/carriers are not the same. Further, charging different rates for domestic and international carriers is prevalent at many foreign airports also.</p>

	<p>basis of the efforts related to their usage, not on basis of domestic or international operation, or stage length of the flights as it bears no correlation at all.</p>	
<p>1.2)</p> <p>8(9)</p> <p>14 ATP</p> <p>87-2</p> <p>3(b)</p>	<p>COMMENTS ON IMPACT OF THE PROPOSED TARIFF ADJUSTMENT</p> <p>The proposed increase in Aeronautical Tariff put forward by NSCBIA is astoundingly exorbitant. It is a very drastic increase of 118% in international landing charges and 83% in parking & housing charges. This will inevitably cause a very huge financial impact to the airlines.</p> <p>It is apparent that charge increase at such a drastic level will only serve to further dampen demand, compel airlines to review the commercial viability of the route, or choose other airports as transit stops. Airports play a very critical role in the economy of India. If there were further reduction of services and traffic, the consequence would be a move backward in the public good role of the airport thus affecting the economic development of India, lowering regional prosperity to the benefit of competing airports and cities.</p>	<p>AAI formulated its MYTP proposal for NSCBI Airport, Kolkata as per AERA Guidelines for determination tariff for Airport Services after taking into consideration various aspects including fresh investment made for Construction of New Integrated Terminal Building, Projected revenue and expenditure etc and accordingly computed the ARR for the current control period. However, keeping in view the concern of all the stakeholders, AAI itself in its ATP proposed to recover only part of the ARR during the current control period and balance ARR in the next control period. Had AAI proposed to recover the entire ARR in the current control period itself, the tariff increase would have been much higher. In view of this AAI seeks support from all the stakeholders for implementation of the current proposal of AAI for providing better facilities at the airport.</p> <p>(3a)</p>
<p>(1.3)</p> <p>2.</p> <p>2.00</p> <p>4(9)</p> <p>8-203</p> <p>4(b)</p>	<p>COMMENTS ON SPECIFIC POINTS ABOUT THE CARGO FACILITY SERVICES AT NSCBIA</p> <p>The tentative decision to approve AAI's proposal to continue levying the existing rates for the various cargo facility services during the remaining period of first control period is inappropriate. Cargo Facility is part of the airport operations and therefore the tariff should be determined altogether as a whole. The broad understanding between AAI and Trade Bodies on the tariff for cargo services that were fixed in consultation with the Trade over annual escalation of 5% in cargo rates should be revisited in conjunction with this MYTP, rather than taking the "light touch approach" as suggested for the first control period. Otherwise, there will be an issue that the proposed tariff for airport services is subsidizing the cargo services.</p> <p>The original value of fixed assets, accumulated depreciation, accumulated capital grants,</p>	<p>AAI had submitted a separate proposal for Cargo services as per AERA's Cargo Facility, Ground handling and supply of Fuel to Aircraft Guidelines dated 10th January, 2011 (CGF Guidelines). As per CGF Guidelines, Cargo services provided by AAI at Kolkata airport for the first control period meets the criteria for services to be assessed as "Material but competitive", hence tariff for cargo services has been filed separately and same is considered under "Light Touch Approach" by AERA. Further, it is clarified that AAI in its ATP proposed to increase the existing cargo tariff by 8% p.a during the remaining control period.</p>

	<p>subsidies or user contribution which are the components for computing the Regulatory asset base, those depreciation cost and other investments are to a certain extent also of being used by the freight operations, hence the calculation of the tariff should include the cargo facilities and operations into the whole picture. All those costs towards the modernization of NSCBIA are on the high side during the first control period, and with the high Aggregated Revenue Requirement proposed by AAI, it is unfair to have this burden to be solely borne out by the airport users only. It is in our view that these costs should also be shared among all the facilities' users, including freight operations. With the significant traffic growth of 7.77% for international cargo, the cargo volumes would have a great impact to the overall computation of the annual tariff aeronautical charges.</p>	<p>It is not correct to infer that entire burden of tariff increase is passed on to passenger airlines. The increase in landing and parking charges is also applicable to Cargo Freight Operators. The MYTP for Cargo services has been prepared as per AERA Guidelines considering the relevant factors, including projected traffic growth etc.</p>
<p>4 Priced Cost 5(a) 3 P 8 5(b)</p>	<p>1.4) COMMENTS ON THE EXAMINATION OF THE PROJECT COST</p> <p>The details of the project costs were not included in the consultation paper, though the costs were categorized as Civil works, Electrical...etc, the level of details is insufficient. This makes the justification difficult as no detail background to consider if those costs involved are entitled to be included in the airport project.</p> <p>The project cost is approved by the Ministry of Civil Aviation of India, however, there is no prior detailed and public discussion or consultation among the airport users, who eventually are the stakeholders that need to bear the costs.</p>	<p>Breakup of Project cost was available in the Annexure-III of the C.P. Further, Asset-wise & year-wise capitalization considered for the 1st control period was given in Form F10(a) of MYTP (Annexure-II of C.P.)</p> <p>The project for construction of new integrated terminal building at Kolkata airport was approved by the competent authority, prior to issue of AERA Guidelines for User consultations. However, User Consultation will be followed in respect of future investments as per AERA Guidelines.</p>
<p>12 6(a) 3 P 8 6(b)</p>	<p>1.5) COMMENTS ON THE PERIOD TO TRUE UP/CORRECTION OF VARIOUS COSTS AND REVENUE</p> <p>The Authority proposed to true up the actual costs or revenue while determining tariffs for the next control period, however, in other international airports in USA, these should be done at the end of each year.</p> <p>In order to have a clearer picture of the cost and revenue involved in the project and to be fair to the facilities users, yearly reconciliation of all costs and revenues should be considered.</p>	<p>Stakeholders are aware that that present MYTP pertain to 1st Control Period (2011-12 to 2015-16) and one & half years of the control period has already elapsed. AERA has taken a tentative decision regarding Error Correction and Annual Compliance Statement (Tentative Decision no. 12), wherein AERA has proposed that NSCBIA should submit the Annual Compliance Statements for the individual tariff years of the first control period along with the MYTP for the next control period.</p>

<p>8 8(2) 88=4</p>	<p>1.6) COMMENTS ON THE OPERATION AND MAINTENANCE EXPENDITURE</p> <p>The basis to determine the annual increase in Staff Cost, Repairs and Maintenance, Utility and Outsourcing Expenditure, Administrative and General Expenditure is not mentioned and disclosed in the consultation paper, this makes the justification difficult. With the lack of transparency of these operation and maintenance expenditures, it is hard for the airlines to comment whether the proposed % is justified or not.</p>	<p>Key assumptions for Revenue, Expenses and traffic growth etc. assumed by AAI are given in the annexure-II of Consultation paper.</p>
<p>10 8(4) 88=4 8(6) 88=4</p>	<p>1.7) COMMENTS ON SPECIFIC POINTS ABOUT THE FAIR RATE OF RETURN ON CAPITAL (FROR)</p> <p>The calculation and justification of one of the factors in determining the FROR, the asset beta, is determined by using the sample airports suggested in the paper of KPMG. There are no specifications of the selection criteria of these "comparable airports" to be chosen. The median value (0.92) of asset beta for these selected airports to be used as the estimation of the asset beta for AAI airports is questionable. Furthermore, given the fact that it was mentioned in the paper the average asset beta for Chennai airport can be taken at 0.61 (on the basis of the comparator set used by National Institute of Public Finance and Policy (NIPFP)), without taking into account any risk mitigating factors, we do not understand the reason and rationale behind on the calculation why 0.92 was proposed to be used instead.</p> <p>For the calculation of the Cost of Equity (Re), one of the components being used is the expected rate of return on the market portfolio (Rm). The market rate of return(Rm) has been calculated using the BSE Sensex, which is a free-float market capitalization-weighted stock market index of 30 well-established and financially sound companies listed on Bombay Stock Exchange (BSE). The 30 component companies which are some of the largest and most actively traded stocks, are representative of various industrial sectors of the Indian economy. However, given AAI as the government solely owned company, the expected return should not be the same as the private sector. Hence, by using market return indicator of BSE Sensex for the benchmark of the expected</p>	<p>Beta is a measure of systematic risk. Systematic risks capture the business risks of the company vis-a-vie other securities listed on the stock exchange.</p> <p>Since there is no listed airport operator in India, M/s KPMG had considered Betas of listed airport operators in the emerging markets as a proxy for the systematic risk of AAI.</p> <p>In view of above, the methodology adopted by the KPMG for estimating asset beta for AAI is appropriate.</p> <p>Airport Operations is highly capital-intensive and high risk sector, which is also exposed to financial and systematic risks. Considering the above, it is appropriate the estimate market rate of return (Rm) based on the market return indicator of BSE Sensex.</p> <p>Higher proportion of debt in the capital structure may be appropriate in case of new companies formed for the purpose of undertaking the new projects. This is not the case in case of AAI, which is already in existence and managing the airports and generating the internal resources from the airport operations. As such AAI opted to finance the project mainly from internal resources. Further, in case of higher debt also, there would be outflow on account of servicing the debt. Further, it is also mention that AAI Act also permits creation of Reserve fund for the purpose of up-gradation of existing infrastructure and creation of new</p>

<p>8(C) -</p> <p>8(G) -</p>	<p>rate of return is inappropriate and obviously on the high side.</p> <p>In addition, it is mentioned in the consultation paper that there are still uncertainties in estimation of the different parameters which are used to determine the FROR and as a result suggest accepting FROR of 15% for this control period as suggested by AAI to provide for sufficiently generous allowance for such uncertainty in estimation. However, our view is that it is inappropriate to give allowance for the uncertainties of FROR as this will greatly affect the end result of the annual tariff proposal.</p> <p>It is also noted that the debt to equity ratio of AAI is at the level of 9.6% which is comparatively very low to a healthy company. It is mentioned in the Delhi Tariff Order that the proportion of debt of around 60% in the capital structure could be regarded as an efficient means of finance. The high FROR is basically due to the fact that the majority of the financing comes from equity instead of debt, whereas the cost of equity is 7.61 percentage points higher than the cost of debt. It is very obvious that there should be a need to re-adjust a reasonable balance on the proportion of debt vs equity in the financing structure of AAI, especially given the current low interest-rate environment. The airport users should not be penalized or paid for the inefficient financing structure of AAI. We strongly object to the proposed FROR in the consultation paper.</p>	<p>facilities Accordingly, the accumulated reserve fund has been utilized by AAI for financing of the project.</p>
<p>1.8)</p> <p><u>13</u></p> <p>9(B)</p>	<p>COMMENTS ON EFFECTIVE DATE OF NEW TARIFF</p> <p>The new tariff of this MYTP should only be effective from the date when the new facilities and terminals are available to be used by the airport users. It is inappropriate and unfair to the airport users in advance paying for the high tariff while they are still using the old facilities.</p>	<p>The project works relating to construction of new integrated terminal building & other facilities are complete and new facilities are likely to be commissioned shortly.</p>
<p>1.9)</p> <p>8-5,6</p> <p><u>10(a)</u></p>	<p>SUMMARY</p> <p>The absence of data details has precluded a more in-depth analysis to be conducted on the various levels of increases proposed. It is suggested that apart from observing the principles as enshrined in the price regulation framework, the ICAO recommendations such as transparency, non-</p>	<p>The requisite details of project cost, Revenue, Expenses & Traffic growth etc. considered by AAI for formulation of MYT proposal for NSCBIA is available in the C.P.</p>

discrimination and adequate consultations in respect of airport charges setting should also be followed. In addition due cognizance has to be taken in respect of the strategic value of NSCBIA and its contribution to the economy of India

We believe only through a complete review and revision by the Government of India of the terms in the pre-defined framework upon which price determination of aeronautical tariff in respect of NSCBIA is constructed would ensure a right balance is struck between the investors of NSCBIA and the users. If not, the competitiveness of NSCBIA will be severely weakened thereby adversely affecting the growth being planned for and ultimately the economic development of India at large.

On basis of the aforementioned comments, and a fair account of charges to the users of NSCBIA could be maintained, we urge the Government of India to:

1. Make visible the financial performance of NSCBIA preferably in the form of a business plan of NSCBIA for a reasonably lengthy period in the life span of the project;
2. There should be **NO** discriminatory charge on rates for international and domestic flights, in particular, the landing fees where the use of the same runway for international and domestic carriers.
3. Take cargo facility services into the determination of MYTP instead of using the 'light touch approach" in the 1st control period. It is unreasonable and unfair that due to the previous broad understanding between AAI and Trade Bodies over annual escalation of 5% in cargo rates, then the other airport users

AERA has processed the AAI's MYTP for NSCBIA as per the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.

Govt. of India has set up independent regulator for the economic regulation of major airports. AERA has established the regulatory framework for major airports after a thorough consultative process, wherein all the aspects pertaining to regulatory philosophy and approach towards regulation of major airports were finalized. Accordingly, AAI formulated its MYTP proposal as per Guidelines issued by AERA for determination of Tariff for Airport Operators.

The facilities extended to domestic and international passengers are not the same. The differential charges for domestic and international flights have been worked out considering market conditions. Such practice of charging different rates for domestic and international carriers is prevalent at many foreign airports also.

The MYTP for Cargo services has been considered under 'Light Touch Approach" by AERA as per their Guidelines on the MYTP for the airport operators.

10(b)

10(c)

Pg 5/6

14 ATA

2 .c



<p>10</p> <p>P8-5,6</p>	<p>should be penalized.</p> <p>4. Make effort moving quickly towards an efficient financing structure where higher debt to equity ratio should be adopted. As a result to derive a lower Weighted Average Cost of Capital (WACC) or FROR, this will be beneficial to the whole airport and airport users.</p> <p>5. Given there are still many uncertainty factors such as the estimation of different parameters for WACC; time for AAI to move towards an efficient financing structure, we strongly urge the government to consider adopting a lower equity beta (such as 0.61 as suggested by NIPFP) as well as a lower Equity risk premium for calculating a more reasonable and acceptable WACC and ARR for the airport users for 1st control period. Any reconciliation of these uncertainty factors could be done in the next control period.</p> <p>Hong Kong Dragon Airlines Ltd (Dragonair). Strongly requests that the proposals be reconsidered in light of the comments made in this submission.</p>	<p>Please refer para 1.7 above</p>
<p>2</p>	<p>IATA</p>	
<p>2.1)</p> <p>P8-1</p> <p>AK</p>	<p>Introduction</p> <p>IATA strongly objects to the use of a consultant paid for by a vested party(AAI) to assist with AERA's deliberations pertaining to tariff determination for an AAI airport. It throws into doubt the true independence of the entire tariffdetermination process.</p>	<p>The Consultant is appointed at the instance of AERA for examining the proposal submitted by the AAI. The Consultant reports directly to AERA and providing consultancy services to them in the matter. Hence there is no conflict of interest.</p>
<p>2.2)</p> <p>2</p> <p>B-2</p> <p>P8-2</p>	<p>Cargo Facility Services at NSCBIA – Regulatory Approach</p> <p>AAI's proposal for an annual increase of 8% should not be allowed as therehad been no user consultation to settle on an agreed rate of increase. The8% increase sought is also higher than the 5% that trade bodies had agreedto pay for 2010-11 and 2011-12.</p>	<p>As per AERA's Cargo Facility, Ground Handling and Supply of Fuel to the Aircraft Guidelines 2011 (CGF Guidelines, 2011), Cargo services provided by AAI at Kolkata airport for the first control period meets the criteria for services to be assessed as "Material but competitive", hence tariff for cargo services has been filed</p>



		separately and same is considered under "Light Touch Approach" by AERA. Tariff increase for Cargo services by 8% p.a. is part of over-all Stakeholders consultation meeting on MYTP & ATPs for Kolkata airport.
2.3) C 3(a) Pg-23 3(b) Pg-2	<p>Airport Services at NSCBIA – Regulatory Approach</p> <p>2.3) The treatment of revenue derived by the airport in the area of cargo services as non-aeronautical revenue is inconsistent with the categorization of cargo services as aeronautical services in the AERA Act. It is also inconsistent with the way fuel throughput fee (which is revenue derived by the airport for another type of aeronautical service defined in the AERA Act i.e. fuel services) is treated which is an aeronautical revenue for the airport operator.</p> <p>IATA believes that it would be appropriate to consider revenue derived by the airport in the area of cargo services (as with the areas of ground handling and fuel services) as aeronautical revenue for the airport operator.</p> <p>The proposed solution is not ideal as it results in costs being wrongly allocated among two different groups of users (passenger airlines and freighter airlines) and is therefore in contravention of ICAO's cost-based charging policy. AAI must take immediate steps to separate costs between airport operation and cargo services to facilitate a more appropriate and equitable tariff determination process.</p>	<p>The revenue from Cargo services has been treated as aeronautical revenue in the MYTP. It is pertinent to note that the revenue from Cargo has been duly considered for arriving at ARR for the airport. Hence there is no inconsistency in treatment cargo services as aeronautical services. Further, AAI has formulated MYTP as per the Single Till approach of regulation. Since, the ARR calculation under single till is done considering the total revenue of the airport, including revenue from Cargo, fuel throughput, etc., the treatment of revenue from cargo services as aeronautical or otherwise will not have any impact on the overall tariff determination for the airport.</p> <p>AAI had prepared MYTP for Airport and Cargo services at Kolkata airport as per the Guidelines issued by AERA. The costs pertaining to airport and cargo have been separately identified and apportioned accordingly.</p>
2.4) D 4 Pg-3	<p>Project Details</p> <p>As AAI has clearly stated its intention to not use the existing International Terminal Building after commissioning of the New Integrated Terminal Building, AERA should exclude the asset value of the existing Terminal Building in the current control period rather than address this only on the next control period.</p>	<p>The observation of stakeholder is noted and AAI shall abide by the decision of AERA.</p>
2.5) 5 Pg-34	<p>Regulatory Asset Base</p> <p>AAI's depreciation periods for the main capital spend fall well below the ranges shown in ICAO Doc 9562 – Airport Economics Manual (an extract of the relevant table is as follows)</p>	<p>AAI is charging depreciation as per the policy approved by AAI Board. The depreciation policy of AAI has been formulated after considering the factors such as minimum useful service life</p>

<p>08-4</p>	<p>Examples of range of depreciation periods</p>	<p>of various assets based on technical assessment, obsolescence etc. The depreciation policy adopted by AAI is also accepted by C&AG.</p>	
	<p>Building(freehold)</p>		<p>20-40 years</p>
	<p>Buildings(leasehold)</p>		<p>Over a period of lease</p>
	<p>Runways & Taxiways</p>		<p>15-30 years</p>
	<p>Aircraft parking areas</p>		<p>15-30 years</p>
	<p>Furniture and fittings</p>		<p>10-15 years</p>
	<p>Motor Vehicles</p>		<p>4-10 years</p>
	<p>Electronic equipment(including telecommunications equipment)</p>		<p>7-15 years</p>
	<p>General equipment</p>		<p>7-10 years</p>
	<p>Computer equipment</p>		<p>5-10 years</p>
	<p>Computer software</p>		<p>3-8 years</p>
<p>AAI's depreciation policy is clearly a gross mismatch with the global norm for the useful life of airport assets such as terminal buildings and runways. AAI has to review its depreciation rates to be more in line with global best practices in order to avoid front-loading costs that can lead to unsustainably high airport charges. In its final order for NSCBIA, AERA must adjust the depreciation costs for major asset items based on the depreciation periods that are in line with global norms (as in the table above).</p>			
<p>2.6)</p> <p>B</p> <p>13-45</p>	<p>Traffic Forecast</p> <p>IATA is of the view that use of CAGR in itself for forecasting traffic growth is an acceptable methodology and averaging is not necessary and unjustified. Furthermore, given that the airport's capacity will be significantly enhanced, the potential for stronger traffic growth is greater provided that airport charges are kept moderate. A lower traffic projection used for tariff determination can be self-fulfilling if the resultant higher charges puts a drag on growth. AERA should work on a realistic scenario that can stimulate traffic growth particularly since a shortfall if it happens will be made up in the next control period.</p>	<p>Since, there is a gap between CAGR and AAI projected traffic growth rates, in order to take a balanced view, AERA had decided to consider traffic growth based on average of CAGR and AAI projected growth rates.</p>	

2.7) 7(a) 18-5	<p>Revenue from services other than aeronautical services</p> <p>The increase in commercial areas at the new airport provides a huge upside potential for AAI to boost its non-aeronautical revenue. IATA agrees with AERA's proposal to true up the actual receipts from non-aeronautical revenue while determining tariffs for the next control period. Additionally, IATA believes that AAI should be encouraged to increase the contribution of non-aeronautical revenue at Chennai? IATA supports the idea of setting the forecast of non-aeronautical revenue provided by AAI as a floor in the true up process as this can provide the necessary impetus to AAI to strive for higher non-aeronautical revenue.</p>	<p>All effort will be made to increase the share of non-aeronautical revenue.</p>
2.8) 7(b) 18-5	<p>After Chennai International Airport, NSCBIA has the second highest fuel throughput fee in the whole of India by virtue of a flawed tender process in 2007 which caused the fee to increase by 17 times. There is no justification for allowing this already high concession fee which has no cost basis to automatically escalate at 5% per year because of a contractual agreement with a monopoly which the oil marketing companies had little choice but to sign. Notwithstanding the fact that revenue from fuel throughput fees would be treated as aeronautical in nature for determination of aeronautical tariffs, AERA should set the fundamentals right by not permitting a fee that has no cost basis to escalate automatically every year.</p>	<p>The Fuel Throughput Charges at Kolkata airport has been finalized based on transparent competitive bidding process and the expected revenue from Fuel Throughput Charges has been taken into consideration for determination of tariff.</p> <p>In case 5% increase in fuel throughput charges is not allowed the revenue shortfall on this account will have an impact on tariff of other revenue components (aeronautical services).</p>
2.9) 7(c) 18-6	<p>In the AERA Act, ground handling services, fuel supply services and cargo services are classified as aeronautical services. On that basis and as a matter of consistency, licence fee from ground handling should be treated as aeronautical revenue in the same way that fuel throughput fee is treated. As previously mentioned, royalty fee from cargo services should also be regarded as aeronautical revenue.</p>	<p>AAI has formulated MYTP based on Single Till Basis. Considering royalty from Ground Handling Agency as non-aeronautical revenue as per AAI or as aeronautical revenue as suggested by IATA, will not have any impact on the over-all tariff determination.</p>
2.10) 10 18-6	<p>Cost of Equity, Cost of Debt, Leverage, Weighted Average Cost of Capital (WACC) and Fair Rate of Return (FROR)</p> <p>IATA disagrees with this assumption. NSCBIA has a stable and predictable revenue stream which is</p>	<p>AAI disagree with the IATA's contention. Normally higher debt proportion in the capital</p>

<p>886</p>	<p>appropriately financed by debt. For NSCBIA, in the absence of proper debt/equity data, AERA must use the notional debt/equity ratio of 1.5 to protect users against unfair cost pass-through arising from the airport's own inefficiency.</p>	<p>structure is desirable in case where new companies formed for the purpose of undertaking the new projects. This is not the case with AAI and is already in existence and managing the airports and generating the internal resources from the airport operations. As such AAI opted to finance the project mainly from internal resources. Further, in case of higher debt also, there would be outflow on account of servicing the debt.</p> <p>In addition, AAI Act also permits for creation of Reserve funds for purpose of up-gradation of existing infrastructure and creation of new facilities. Accordingly, the accumulated Reserves have been utilized for financing of project.</p>
<p>10(b) 89-6</p>	<p>2.11) The current debt-equity proportion for AAI is clearly very inefficient. It is unacceptable that AAI is allowed to extend this same inefficient financing structure to future capital funding, leaving the users to bear the brunt of this inefficiency. In a competitive market which economic regulation is supposed to emulate, AAI would have been driven to attain a more efficient financing structure in a short span of time. AAI must be compelled to move quickly towards attaining such an efficient capital structure. AERA, as its mandate requires, must protect the users by ensuring that the higher financing cost does not get passed through.</p>	<p>As per para 2.10.</p>

<p>2.12)</p> <p>PG-7</p> <p>100</p> <p>PG-7</p> <p>100</p> <p>PG-7</p>	<p>It is unacceptable that AERA proposes to accept AAI's WACC figure for NSCBIA of 15% in spite of some skewed assumptions made by KPMG in deriving the figure such as:</p> <p>(i) using a comparator set that is limited to countries like China, Mexico and Malaysia which is at odds with AERA's position that the comparator set should not be restricted to developing/emerging countries;</p> <p>(ii) deriving an asset beta by using a median value of an inappropriate comparator set</p> <p>(iii) taking NSCBIA's gearing ratio to be the same as that for AAI as a whole</p> <p>(iv) Using a grossly inefficient financing structure for future funding requirements.</p> <p>IATA has prepared its computation of the appropriate WACC in its earlier submission to AERA's Consultation Paper No. 16/2012-13 on tariff determination for Chennai International Airport. This same computation is equally applicable to NSCBIA. IATA's computation takes into consideration the use of an optimal gearing ratio (60%) and the relatively low risk of the regulated airport business given that many of the significant risks have been eliminated through the true up mechanism. The computation is reproduced for NSCBIA and included as an attachment to this submission. The computation shows that WACC of 9.3% would be appropriate for NSCBIA.</p>	<p>Beta is a measure of systematic risk. Systematic risks capture the business risks of the company vis-a-vis other securities listed on the stock exchange.</p> <p>Since there is no listed airport operator in India, M/s KPMG had considered Betas of listed airport operators in the emerging markets as a proxy for the systematic risk of AAI. Consultant had taken a filtered approach while identifying comparable airports, like - country of operations - Emerging markets, Business model, Regulatory environment and Liquidity of the stock.</p> <p>In view of above, the methodology adopted by the KPMG for estimating asset beta for AAI is appropriate.</p> <p>Higher proportion of debt in the capital structure may be appropriate in case of new companies formed for the purpose of undertaking the new projects. This is not the case in case of AAI, which is already in existence and managing the airports and generating the internal resources from the airport operations. As such AAI opted to finance the project mainly from internal resources. Further, in case of higher debt also, there would be outflow on account of servicing the debt. Further, it is also mentioned that AAI Act also permits creation of Reserve fund for the purpose of up-gradation of existing infrastructure and creation of new facilities Accordingly, the accumulated reserve fund has been utilized by AAI for financing of the project.</p>
<p>2.13)</p> <p>11</p> <p>PG-7</p>	<p>Quality of Service</p> <p>IATA views that it is inequitable for airlines to pay higher charges from the third tariff year and not have the recourse for a rebate in the event of obvious service quality shortfalls. AAI must be required to put in place its processes/procedures within the next six months (by end of second quarter 2013) instead of a year so that there is sufficient time buffer to ensure that these processes/procedures are indeed installed before</p>	<p>Considering the fact that one & half year of current control period has already elapsed. A transition period of one year for implementation of quality service measurement and determination of any rebate is reasonable for making appropriate systemic and procedural changes in line with Service quality requirement of AERA guidelines. AAI will put in place systems/procedures at the</p>

	the start of the fourth tariff year.	earliest within the time frame fixed the AERA.
2.14)	<p>Annual Tariff Proposal</p> <p>The notion that airport charges need to go up significantly because it has not been raised for a number of years is clearly flawed. Annual increases in airport charges is not a given and is not common practice globally. Airport charges could in fact go down as a result of economies of scale and the airport increasing its proportion of non-aeronautical revenue. At many airports around the world, airport charges have remained stable for many years. This has facilitated air traffic growth and brought benefits to all stakeholders in the industry. The absence of significant capital investment at many airports in India including NSCBIA coupled with additional aeronautical revenues derived from strong traffic growth justifies the absence of any increases in the past.</p>	<p>It is not correct to say that AAI has not made any significant capital investment at many airports in India including NSCBIA in the past.</p> <p>AAI continuously making capital investment for development of Airport infrastructure across the country in the past for providing better facilities to the passengers and airline operators</p> <p>The total investment made by AAI at various airports during 10th plan period (2002-2007) and 11th Plan period (2007-2012) was Rs 3534.62 crores and Rs 11868.40 crores respectively.</p> <p>In spite of the above, AAI has not increased any Tariff since 2002 except a small increase of 10 % in 2009.</p>
2.15)	<p>AAI's mission is : ' <i>To achieve highest standards of safety and quality in air traffic services and airport management by providing state of the art infrastructure for total customer satisfaction contributing to the economic growth and prosperity of the nation</i> '. Its mission is clearly different from that of the private sector whose sole focus is on maximizing shareholders' returns. AAI's mission should be a primary consideration when determining airport charges. The steep increases proposed in the Consultation Paper would dampen traffic growth at NSCBIA and consequently adversely impact economic growth and prosperity of India. AAI should be concerned as the outcome would run contrary to its mission.</p> <ul style="list-style-type: none"> The differential in landing charges between international and domestic flights contravenes ICAO's policy on cost-based charging. There is no justification for an aircraft using the same landing facilities to be charged differently by virtue of where it came from. Contrary to what some may suggest, this is not common practice around the world. IATA has been urging AAI to correct this for many years already and now looks towards AERA to ensure that ICAO policies are 	<p>Keeping in view the AAI's mission, AAI has constructed the new integrated terminal building along with up-gradation of other airport infrastructure at Kolkata airport to provide better facilities to the Users and formulated the MYTP as per the AERA guidelines.</p> <p>The differential landing charges for domestic and international carriers/flights have been worked out considering market conditions. Such practice of charging different rates for domestic and international carriers/flights is prevalent at many foreign airports.</p>

<p>7.</p> <p>14b</p> <p>(i)</p> <p>(B)</p> <p>14b</p> <p>(iii)</p> <p>(C)</p> <p>8-9</p> <p>14b</p> <p>(iv)</p> <p>(D)</p>	<p>adhered to.</p> <ul style="list-style-type: none"> The differential between international and domestic UDF (at 2.5 times) does not justify the difference in usage of airport facilities between these two groups of passengers. AERA would be aware that the Competition Commission of India has issued an advisory to the Ministry of Civil Aviation mentioning the discriminatory development fees between international and domestic passengers that are charged at DEL which ideally should be the same. IATA agrees that international and domestic UDFs should be brought to parity. As mentioned previously, there is no justification for an annual increase in fuel throughput fee which is a concession fee without any cost basis. As mentioned previously, the 8% annual increase proposed by AAI is not supported as there was no evidence of user consultation. The rate is also significantly higher than the 5% per annum which AAI claimed was previously agreed with trade bodies. 	<p>Considering the facilities provided to the passengers, The different UDF rates have been proposed for domestic & international passengers.</p> <p>The Fuel Throughput Charges at Kolkata airport has been finalized based on transparent competitive bidding process and the expected revenue from Fuel Throughput Charges has been taken into consideration for determination of tariff.</p> <p>In case 5% increase in fuel throughput charges is not allowed the revenue shortfall on this account will have an impact on tariff of other revenue components (aeronautical services).</p> <p>Tariff increase for Cargo services by 8% p.a. is part of over-all Stakeholders consultation meeting on the current MYTP & ATPs for Kolkata airport.</p>
3)	HPCL	
<p>3.1)</p> <p>a</p> <p>7.8</p> <p>b</p> <p>8-1</p> <p>(i)</p>	<p>The Fuel Throughput Charges at NSCBIA Kolkata as proposed by AAI to be increased by 5% per annum for the year 2012-13 effective 1st November, 2012.</p> <p>Existing FTC rate Rs. 1213.72/ KL, to be revised as proposed by AAI Rs.1277.56/KL in this regard we wish to offer our comments as under:</p> <p>FTC as mentioned for the year 2012-13, may be approved effective 1st November, 2012 and order may please the 31st October.</p>	<p>Statement of fact.</p> <p>The existing FTC rate is Rs 1216.72/KL not Rs 1213.72/KL.</p> <p>AAI intends to implement tariff increase for fuel throughput charges as per ATP submitted to AERA.</p>
3.2)	<p>In case of delay in issuing order for any reason, the revision may please made effective prospective</p>	<p>AAI intends to implement tariff increase for fuel throughput charges as per ATP submitted to</p>

	basis, applicable from first day of the subsequent month, in which AERA issues the order.	AERA.
4)	Indian Oil Corporation Limited	
4.1) 7.4 (i)	The Fuel Throughput Fees or Airport Operator Fees of Rs.1216.72 per KL was approved by the Authority vide order no. 07/2010-11 dated 4 th Nov, 2010, for Kolkata Airport, w.e.f.1.04.2010an ad hoc basis.	Statement of fact.
4.2) (ii)	We have on earlier occasions requested the Authority that while approving tariffs/rates for various services related to supply of fuel, revisions if any, may please be made from prospective date.	As per para 3.2.
4.3) (iii)	It is noted that the Authority has proposed revision of Fuel Throughput Fees at Netaji Subash Chandra Boss International Airport, Kolkata, from Rs.1216.72 per KL to Rs/ 1277.56 per KL for Financial Year 2012-13, effective 1 st November, 2012. It is observed that the revised Fee is 5% escalated over the earlier approved Fees. It is further noted that the escalations in future are proposed @ 5% w.e.f 1.04.2013, 1.04.2014 and 1.04.2015.	Statement of fact.
4.4) (iv)	We welcome that proposed decision of the Authority with regard to revision of Fuel Throughput Fees on prospective basis, as was being requested by us. However, in case NIL escalation of the fuel Throughput Fees is proposed by Airports Authority of India, as mentioned during the stakeholder meeting of 17 th September, 2012, it would be welcome by all stakeholders.	As per para 3.2.
4.5) (v)	It is requested that final approved for Fuel approval for Fuel Throughput Charges by kindly issued before 1 st November, 2012, so that recovery of the revised fees can be started from the applicable date of 1 st Novembe, 2012. However, in case, final approval of the Authority is expected to be issued latter that 1 st November 2012, the effective date for applicability of the revised Fuel Throughput Fees may please be deferred accordingly	As per para 3.2.
5.	BPCL	
5.1)	Prospective Date of Order effecting increase: As	

<p>1(g)</p> <p>pg = 1</p> <p>1(b)</p>	<p>per Clause 7.8 of the Consultation Paper, the Authority proposes to approve 5% increase in throughput fee as per the contractual agreements with the Oil Marketing companies' w.e.f 01.11.2012, with further increase of 5% per annum w.e.f 01.04.2013 and Authority proposes to approve the above proposal. However, should there be any unforeseen delay in coming out of Order beyond 1st November, 2012, we request you to make the effective date of charging Throughput Fee on prospective basis as Oil companies are recovering from airlines at adhoc rate as approved by Authority.</p> <p>The reason we have been reiterating the above in all our replies, is that, it is very difficult to recover throughput fee from Airlines from any back date. It is very difficult to recover past differential charges, not only from some Scheduled Airlines, but also from any Non-Scheduled Airlines/aircraft as the transaction is consummate after fuelling and realization of invoice value recovering adhoc approved Throughput Fee.</p>	<p>As per para 3.2.</p>
---------------------------------------	---	-------------------------

<p>5.2)</p> <p>2(a)</p> <p>Pg-15</p> <p>2(b)</p> <p>2(c)</p>	<p>Overwhelming Market Power of AAI as Airport Operator and role of AERA: It is pertinent to note that in February 2007 when AAI came out with tender for Kolkata airport, AERA Act had not been enacted and there was no regulation of Fuel Throughput Fee as aeronautical charges. It meant that any eligible Oil Company participating in tender process for the piece of land has no compunction in quoting any throughput fee as it would be a pass-through item</p> <p>BPCL had represented to AAI that such steep rise in Fuel Throughput is grossly unjustified. However, despite our protests, we were asked to match and pay the fee quoted by highest bidder.</p> <p>As per AERA Act, 2008, the authority has to now perform functions, in respect of major airports, which include determining tariff for the aeronautical services taking into consideration the parameters and factors provided in Section 13 of Act. We feel that Fuel Throughput Fee should not be increased even by 5% for the following key reasons:</p> <ul style="list-style-type: none"> • There is no rationale for charging Fuel Throughput Fees as it does not have cost basis ; • Fuel Throughput Fees significantly increases the cost of fuel; and • Airport Operators had used overwhelming market power for fixation of charges. 	<p>The Fuel Throughput Charges has been finalized at Kolkata airport based on transparent competitive bidding process and the expected revenue from FTC has been taken into consideration for determination of tariff accordingly.</p>
<p>6)</p>	<p>Federation of Indian Airlines(FIA)</p>	
<p>6.1)</p> <p>B</p> <p>08/12</p>	<p>In the context of CP No. 17 of 2012-13, it is respectfully submitted that the following gaps/lacunae must be addressed by the Authority before concluding the present proceedings:-</p> <p>(a) The Consultation Paper does not at present prudently examine or explain the reasons for accepting escalation of project cost from Rs. 2,325 crores to Rs. 2,938 crores. There is almost 26.4% increase in the project cost from the figures approved by Ministry of Civil Aviation ("MoCA").</p> <p>(b)By leaving the project cost to be tried up,</p>	<p>The capex of Rs 2,938 crores for the control period comprises of cost of mega project works, including Integrated terminal building, extension of runway and additional Aircraft parking bays etc. amounting to Rs 2325 crores. Balance amount of Rs 613crs is towards other capital works, including cargo works, parallel taxi track etc. and not escalation of project cost.</p> <p>Since the PIB has already recommended for approval of project cost of Rs 2325 crores and AAI is the competent authority to approve the balance project works costing Rs 613 crores as per Delegation of Powers of AAI, the same has</p>

Authority is indirectly allowing AAI to further escalate the project cost without realizing that existing 26.4% escalation in project cost is way extra than what MoCA had approved.

(c) It is settled position of law that future consumers cannot be burdened with additional costs as there is no reason as why they should bear the brunt. Such quick-fix attitude is not acceptable. As such, the approach in the Consultation Paper does not appear to deal with the present economic realities and interests of consumers while proposing the tariff in its present form. Authority being a creature of statute is under a duty to balance the interest of all the stakeholders and consumers, which it is mandated to do under the AERA Act.

(d) Authority has proposed the determination of tariff for 5 years commencing from 2011-12. Therefore, Authority's proposal for tariff determination is retrospective, which is impermissible. In this regard, reliance is placed on Hon'ble Supreme Court's judgment in Binani Zinc Ltd. Vs. Kerala State Electricity Board & Others reported as (2009) 11 SCC 2442, wherein the Hon'ble Supreme Court has held that "It is only after the Regulatory Commission is constituted that it will be the sole authority to determine the tariff". Thus, Tariff cannot be determined retrospectively.

(e) There is also no clarity regarding the date on which from which the Multi Year Tariff Order pursuant to the present consultation will come into effect from. Authority has only indicated date for revised tariff of the cargo facility from 01.11.2012.

(f) In respect of the future projections, the Authority is cognizant of the fact that expenditure partly includes inflation e.g. in case of Salary and Wages (Dearness Allowance). It is submitted that considering, WPI of 6% has been separately considered, all the expenditure should be delinked from inflation and accordingly Annual Revenue Requirement ("ARR") needs to be adjusted.

been included in RAB for the control period. Moreover, Capex considered for the control period is subject to error correction mechanism. As per AERA guidelines all the investments during the control period are to be considered.

AAI formulated MYT proposal as per AERA's Guidelines and the same has been processed by AERA as per AERA Act/Guidelines on the subject.

AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.

The ARR calculation has been worked out considering the Control period of 5 years period commencing from FY 2011-12, however Tariff revision is proposed to be implemented prospectively as per ATP submitted to AERA.

		<p>AAI intends to implement tariff increase for all aeronautical services as proposed in the ATPs contained in annexure-IV of the Consultation Paper.</p> <p>The increase in salary and wages projected by 7% is on account of annual increment in basic salary, increase in perks including HRA, Provident Fund contribution, promotions etc., which are directly linked to basic salary. Whereas, WPI of 6% considered in the proposal caters to the increase in costs due to inflationary factors.</p>
6.2)	<p>Process</p> <p>IssuesA perusal of the CP No. 17/2012-13 points out that Authority has:</p> <p>(a) Not appointed its own Auditor/Consultant as per Section 14 of the AERA Act.</p> <p>(b) Not undertaken the exercise of 'Determination' or given reason for its consideration towards various airport charges.</p> <p>(c) Not directed AAI to conduct User Consultation in respect of major capital projects.</p> <p>(d) Left almost all the components of aeronautical tariff for 'Truing Up'.</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.</p>
6.3)	<p>Re Appointment of Auditor by the Authority</p> <p>It is submitted that the Authority ought to carry out its own assessment for determination of aeronautical tariff. The purpose of appointing an independent and external consultant is to enhance the credibility of data being relied upon by</p>	<p>The Consultant is appointed at the instance of AERA for examining the proposal submitted by the AAI. The Consultant reports to AERA only for the consultancy services provided to AERA. Hence there is no conflict of interest.</p>

	<p>obtaining written reasonable assurance from an independent source. It is submitted that in addition to technical competence, independence is the most important factor in establishing the credibility of the opinion. In current scenario, all the external consultants have been directly engaged by AAI which compromises the independence of opinions expressed by them.</p>	
<p>6.4)</p> <p>6- Pg-3</p>	<p>It is submitted that under Section 14(b) and Section 14(c) of the AERA Act, Authority is empowered to engage its own consultants or direct any of its officers or employees to make an inquiry in relation to the affairs of any service provider. There is nothing on record which shows that AAI has engaged any such Consultant of its own.</p>	
<p>6.5)</p> <p>B/7 Pg-3 14</p>	<p>Re. 'Determination' by the Authority</p> <p>Section 13(1)(a) of the AERA Act requires the Authority to 'determine' the tariff for aeronautical services. Any 'determination' by a statutory authority must clearly show the application of mind and analysis carried out by the authority. However, in the present case, the Authority has proposed increase in various charges (for instance FTC, Landing Charges, Parking Charges etc) but has failed to provide any justification or analysis for the same.</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.</p>
<p>6.6)</p> <p>B/8 Pg-3</p>	<p>It is submitted that Section 13(1)(4)(c) of the AERA Act mandates that any decision by the Authority <u>must be fully documented and explained</u>. In this regard judgment of the Hon'ble Supreme Court in the case of Ashok Leyland Ltd. Vs. State of Tamil Nadu and Anr. reported as (2004) 3 SCC 1 (FB)(at Para 94) is noteworthy. Hon'ble Supreme Court has held that the word 'Determination' must also be given its full effect to, which presupposes application of mind and expression of the conclusion. It connotes the official determination not a mere opinion or</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.</p>

	finding. The Hon'ble TDSAT has also held that determination requires application of mind in the Judgment dated 16.12.2010 in Appeal No 3(C) of 2010 titled as ZEE Turner Ltd. Vs. TRAI & Ors. (At Para 150).	
6.7) 8/9 11 13-74	It is submitted that Authority has proposed to: (a) Levy User Development Fee ("UDF") (b) Increase Fuel Throughput Charges ("FTC") However, Authority has neither provided any reason for considering either introducing levy of UDF, the purpose of UDF, justification of UDF at the rate of Rs. 400 per domestic embarking passenger and Rs. 1000 per international embarking passenger nor provided any reason for considering 5% increase in FTC.	AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators. The Aggregate Revenue Requirement (ARR) for the 1 st control period worked out as per the AERA Guidelines has been split in to various components like Landing, Parking, UDF, Throughput Charges etc. Any reduction in one component will automatically lead to increase in the other.
6.8) 8/10 15-4	It is submitted that order passed by an administrative authority, affecting the rights of parties, must be a speaking order supported with reasons. Attention is invited to the judgment of the Hon'ble Supreme Court in the case of Kranti Associates Private Limited & Another Vs. Masood Ahmed Khan & Others reported as (2010) 9 SCC 496. The Hon'ble Supreme Court's findings are reproduced below for ease of reference: <i>"51. Summarizing the above discussion, this Court holds:</i> <i>a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.</i> <i>b. A quasi-judicial authority must record reasons in support of its conclusions.</i> <i>c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.</i> <i>d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even</i>	Present proposal is only a Consultation paper where stakeholder Comments have been invited. Refer para 15.3 of C.P.

administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision

B/10

PS-9/5

AS

<p>B/P Pg 45</p>	<p>making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737). n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya v. University of Oxford 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions". o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process"."</p>	
<p>6.9) Pg 55</p>	<p>In view of the foregoing submissions, it is submitted that the Authority ought to undertake the exercise of 'Determination' by application of mind and pass reasoned order on any issue and the increase in aeronautical tariff.</p>	
<p>6.10) 45 4/12 Pg 55</p>	<p>User Consultation should be undertaken by the Airport Operators The Authority in its AERA Guidelines has stated that the Airport Operator shall undertake user consultation with Airport Users Consultative Committee (AUCC) on major capital projects planned at the airport. The major capital projects shall be defined as capital investment projects that may AAA 重鐵教地 07 11 14 A??A??A??A??A??A?? s Base ("RAB") at the beginning of the control period or Rs.50 crores, whichever is the lower amount.</p>	<p>The present project at NSCBIA for construction of new integrated terminal building and up-gradation of other airport infrastructure has been planned and taken up prior to issue of AERA guidelines on User Consultations. However, subsequent major capital investment projects will be undertaken as per the AERA Guidelines.</p>
<p>6.11)</p>	<p>AAI has not undertaken the User Consultation and has stated that the work on the Project of construction of New</p>	<p>As per para 6.10 above.</p>

NS

<p>C/13 Pg 6</p>	<p>Integrated Terminal Building at NSCB International Airport, Kolkata commenced well before the Authority's AERA Guidelines on the User Consultation came into force and the project at the SCB International Airport, Kolkata already had the approval of the Competent Authority. However, AAI has conveyed that capital projects in future will be undertaken as per the Authority's User Consultation protocol. Further, AAI has clarified that the work on the Project of construction of New Integrated Terminal Building at NSCB International Airport, Kolkata, commenced with the approval of the Competent Authority much before the Authority's Airport Guidelines on the user consultation came into force. Thus, AAI has not conducted the User Consultation.</p>	
<p>C/14 Pg 6</p>	<p>6.12) First of all, in the CP No. 17/2012-13, Authority has not specified the 'Competent Authority', which has approved the 'Project of construction of New Integrated Terminal Building at NSCB International Airport, Kolkata'. This aspect is relevant since, AAI has not conducted the User Consultation on the strength of its approval from the 'Competent Authority'.</p>	<p>The competent authority to approve the project for construction of new integrated passenger terminal building, extension of secondary runway, construction of rapid exit taxi, aprons & associated works at a cost of Rs.2325 crores is Central Govt. and PIB (Public Investment Board) has already recommended for the same. As regards, remaining works costing Rs 613 crores is concerned; AAI is competent authority as per DOP.</p>
<p>C/15 Pg 6</p>	<p>6.13) It is submitted that the project is yet to be completed and AERA Guidelines are in place since 28.02.2011. Therefore, AAI ought to have undertaken a User Consultation process instead of only relying upon prior approval of the 'Competent Authority'.</p>	<p>It is reiterated that the mega project at NSCBIA for construction of new integrated terminal building etc. had been planned and taken up prior to issue of AERA guidelines on User Consultations. However, user consultation will be undertaken for future projects as per AERA Guidelines.</p>
<p>C/16 Pg 6</p>	<p>6.14) True-up exercise should be conducted sparingly by the Authority In the present CP No. 17/2012-13, the tariff plan is subject to truing up in next control period with respect to following variables: (a) Project Cost (b) RAB, Roll Forward RAB and depreciation (c) Traffic Forecast (d) Non Aero Revenue (e) Operation and Maintenance expenditure (f) Taxation</p>	<p>Statement of fact.</p>

	(g) Shortfall in collection of UDF	
<p>6.15)</p> <p>D/17</p> <p>PJ/17</p>	<p>It is submitted that in the present case not only Authority has not applied its mind but indiscriminately left aforementioned components for future in the garb of truing up exercise during next control period. In this context, judgment of APTEL in the case of BSES Rajdhani Power Limited vs. Delhi Electricity Regulatory Commission reported as 2009 ELR (APTEL) 880 is extracted below</p> <p>It is submitted that in the present case not only Authority has not applied its mind but indiscriminately left aforementioned components for future in the garb of truing up exercise during next control period. In this context, judgment of APTEL in the case of BSES Rajdhani Power Limited vs. Delhi Electricity Regulatory Commission reported as 2009 ELR (APTEL) 880 is extracted below</p> <p>"116. Before parting with the Judgment we have to remind the Commission of the observations in our Judgment in Appeal No. 265 of 2006, 266 of 2006 and 267 of 2006 in the case of North Delhi Power Ltd. v. Delhi Electricity Regulatory Commission in which we said the following:</p> <p><u>Before parting with the Judgment we are constrained to remark that the Commission has not properly understood the concept of truing up. While considering the Tariff Petition of the utility the Commission has to reasonably anticipate the Revenue required by a particular utility and such assessment should be based on practical considerations.</u></p> <p>...The truing up exercise is meant (sic) to fill the gap between the actual expenses at the end of the year and anticipated expenses in the beginning of the year. When the utility gives its own statement of anticipated expenditure, the Commission has to accept the same except where the Commission has reasons to differ with the statement of the utility and records reasons thereof or where the Commission is able to suggest some</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for the airport operators.</p>

<p>12/17 Pg 7</p>	<p>method of reducing the anticipated expenditure. This process of restricting the claim of the utility by not allowing the reasonably anticipated expenditure and offering to do the needful in the trueing up exercise is not prudence.</p> <p><u>117. All projections and assessments have to be made as accurately as possible. Trueing up is an exercise that is necessarily to be done as no projection can be so accurate as to equal the real situation. Simply because the trueing up exercise will be made on some day in future the Commission cannot take a casual approach in making its projections. We do appreciate that the Commission intends to keep the burden on the consumer as low as possible. At the same time one has to remember that the burden of consumer is not ultimately reduced by under estimating the cost today and trueing it up in future as such method also burdens the consumer with carrying cost."</u></p> <p>This judgment has been followed by APTEL in various other cases like NDPL vs. Electricity Regulatory Commission reported as 2010 ELR (APTEL) 891</p>	
<p>6.16) D/18 Pg 8</p>	<p>In view of the foregoing, it is submitted that Authority should not leave everything to true up and attempt to make all the projections and assessments as accurately possible on the basis of available data.</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.</p>
<p>6.17) II/19 Pg 8</p>	<p>Material issues for tariff determination</p> <p>It is submitted that the present consultation paper raises <i>inter alia</i> the following important and critical questions for consideration of the Authority:-</p> <p>(a) Whether the claim of AAI for increase in Aeronautical Tariff is justifiable on financial economic basis?</p> <p>(b) Under what circumstances, when and to what extent can such diversion in project cost be permitted to be revised without complying with the requirements of prudence?</p>	<p>AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators.</p> <p>There is no deviation in cost of mega project at NSCBIA.</p> <p>The rule 89 of the Aircraft Rules, 1937 permit</p>

29	<p>(c) Is levy of UDF permissible under the relevant law? If so, for what purposes can levy of UDF be termed justifiable?</p> <p>(d) Is Authority's reliance only on AAI's data for determining following is justifiable:-</p> <p>(i) Operating Expenditure is one of the major components for determining ARR?</p> <p>(ii) Non-aeronautical revenue i.e. revenue generated from services other than aeronautical services?</p> <p>(e) Can the proposed Aeronautical tariff be considered as a fair, just or reasonable claim of AAI in a prudent, regulated, price cap mechanism as envisaged under the Act read with the AERA Guidelines of the Authority?</p>	<p>the licensee to levy and collect at a major airport the User Development Fee at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008.</p> <p>The proposal of AAI is as per the Guidelines issued by AERA for airport operators and AERA has processed the proposal as per the provision of AERA Act.</p>										
6.18)	<p>ISSUEWISE SUBMISSIONS IN RESPONSE Escalation in Project Cost should not be allowed</p> <p>Project cost of Rs.2,938 crores (Rs.2,325 crores for New Integrated Terminal Building and associated works and additional capex of Rs.613 crores) is under consideration in the present consultation for the purpose of the current tariff determination.</p>	Statement of fact.										
6.19)	<p>As per the CP No. 17/2012-13, additional project cost aggregating to Rs.613 crores include Rs.458 crores towards strengthening of Runway, Airfield Lighting etc. and Rs.155 crores toward cargo facilities up-gradation and is approved by AAI Board prior to the issue of Airport Guidelines. However, the CP No. 17/2012-13 does not mention about any approval from MoCA for such additional CAP EX of Rs.613 crores.</p>	The competent authority for approving the other capital projects planned at a cost of Rs 613 crores& considered in the MYTP is AAI as per the delegation of powers.										
6.20)	<p>FIA has done a comparison between the increase in capex from the original sanctioned amounts between IGI Airport, Delhi and NSCB International Airport, Kolkata. It is noteworthy that on the basis of cost per square meter of built up area, it seems that check on project cost at NSCB International Airport, Kolkata is suffering from the same infirmities which was noticed in the case of escalated project cost at IGI</p>	<p>The Total area of the new Integrated Terminal building at NSCB International Airport Kolkata is as follows:</p> <table border="0"> <tr> <td>Passenger areas</td> <td>67700 sq m</td> </tr> <tr> <td>E&M services in basement</td> <td>29000 sq m</td> </tr> <tr> <td>Relocated sub station</td> <td>3000 sq m</td> </tr> <tr> <td>Service yard</td> <td>11000 sq m</td> </tr> <tr> <td>Total</td> <td>233000 sqm</td> </tr> </table>	Passenger areas	67700 sq m	E&M services in basement	29000 sq m	Relocated sub station	3000 sq m	Service yard	11000 sq m	Total	233000 sqm
Passenger areas	67700 sq m											
E&M services in basement	29000 sq m											
Relocated sub station	3000 sq m											
Service yard	11000 sq m											
Total	233000 sqm											

<p>A/22 Pg. 9</p>	Airport, Delhi. Following table demonstrates the said comparison:-			Total cost of Project Rs 2325 Crores Less	
	Particulars				
	IGIAirport, Delhi				
	Terminal-3 and Associated Building (Rs. in crores)	6693		a) Payment to Electricity board	15cr
	Area (sq metres)	543321		b) Cost of Runway Extn	100cr
	Cost per sq metres (Rs)	123,187		c) Interest during construction	70 cr
	Kolkata Airport			Total	(-) 185cr
	Project cost for Modernisation and Expansion of CIA comprising domestic and international terminal building, elevated corridor and allied works including consultancy, extension of runway and construction of a bridge on the Adyar river (Rs in crores)	2325		Cost of project Rs 2325-185cr = 2140cr	
	Area (sq metres)	198692		Cost per sqmts 91,845 per sq. metre	
	Cost per sq metres (Rs)	117015		Therefore the cost per Sqm. of expanded terminal is less than IGIAirport due to cost prudence and value engineering was exercised in firming of the project proposals at the appraisal stage.	
Variation From IGI Airport, Delhi	5%				
<p>6.21)</p> <p>A/23 Pg. 9-10</p>	Further a comparison of capex per square meter between NSCB International Airport, Kolkata and Chennai International Airport reveals 36% difference in capex per square meter.			At Chennai Airport the total area of the new Terminal building is as follows:	
				Domestic Terminal	67700 sq m
				International Terminal	59300 sq m
				Air Side corridor bay 35	14590 sq m
				Total	141590 sqm
				Total cost of Project Rs 2015 Crores	
				Less	
				a) Face lifting works	141.60 cr.
				b) Payment to Electricity board	50 cr
				c) Cost of Runway Extn	465 cr
			d) Interest during construction	70 cr	
			Total	(-) 726.60 cr	
			Cost of project Rs 2015-726.60 cr = 1288.40 cr		
			Cost per sqmts 91,000 per sq. metre		
Particulars	NSCBIA, Kolkata	Chennai International Airport	Variance%		
Area (New)	198,692	127,000	64%		
Domestic	119,741	67,700			
International	78,951	59,300			
CAPEX for New Terminal Building (INR)	23,250	20,150			

NS

	Million)				Therefore the cost per Sqm. at NSCBI , Kolkata International airport and Chennai International airportis nearly the same.
	Cost per Sq. mts.	117015	158,661	36%	
6.22)	It is submitted that capex is the most critical factor in determination of aeronautical tariff. Hence, it is critical that a good industry benchmark with respect to optimal capex per square meter is established by the Authority. Any spend over and above should be absorbed by the airport operator as part of its business risk.				Suggestion noted.
6.23)	Without prejudice to the above, it is respect fully submitted that even if the claim be treated as valid and admissible, the Authority must consider and decide as to:- (a) Whether any capital investment so made must not go into the Regulatory Asset Base and be secured through return on equity/return on capital employed? (b) Prudence check on each claim of capex must be done along the lines of the established accounting standards and practices whichwould disallow unreasonable, unfair or extravagant expenditure. (c) There has been about 26.4% escalation in project cost, which raises question on the issue of cap on project cost. Such revision of the project cost should be strictly scrutinized by the Authority instead of merely placing its reliance on submissions of AAI				(a) AAI's MYT proposal has been formulated as per AERA guidelines. (b) AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and AERA Guidelines on MYTP for airport operators. (c) There has been no escalation in the cost of mega project amounting to Rs 2325 crores. The Rs 613 crores considered in the MYTP is the cost of other capital works planned at NSCBIA during the control period not the escalation in the cost of mega project.
6.24)	Being a creature of statute, the Authority is mandated to analyze the documents and conduct prudence check to ensure balance between reasonable recovery of efficient and prudent costs while preventing usurious wind falls, viz.- (a) Section 13 (1)(a)(i) of the AERA Act envisages that the Authority shall consider the actual expenditure incurred and timely in vestment in improvement of airport facilities. (b) It is submitted that prudence check is an				AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and tariff is being determined as per the AERA Guidelines on MYTP for the airport operators.

	<p>intrinsic and essential part of the process of tariff determination as is also evident from Section 13 of the AERA Act. Any expenditure incurred by AAI cannot be accepted by the Authority on the face of it and passed on to the consumers directly or indirectly. The Authority is required to evaluate the claims made by AAI and only after satisfying itself through a rigorous prudence check which involves:-</p> <p>(i) Scrutiny of the expenditure made by AAI and assessment of whether the same has been reasonably and properly incurred.</p> <p>(ii) Examining the resultant benefit from the said expenditure in terms of enhanced efficiency.</p> <p>(iii) Appraising the working parameters of the utility with the prevalent norms, benchmarks and standards.</p>	
6.25)	<p>In view of the foregoing, it is submitted that for any increase in cost, the Authority is mandated to conduct prudence check and it is vital to scrutinize each and every claim made by AAI.</p>	AERA has processed the proposal of AAI in accordance with the provisions of AERA Act and tariff is being determined as per the AERA Guidelines on MYTP for the airport operators.
6.26	<p>In this context, it is noteworthy that the Appellate Tribunal for Electricity in its judgment dated 29.08.2006 in the matter of KPTCL Vs. KERC &Ors. reported as 2007 APTEL 22310 has clearly held that utilities are free to decide their plans of investment for improvement of system or expansion to meet the demand including upgradation and maintenance for a better and quality supply. It is the commercial decision of the utility and its source to raise funds which falls within the domain of the utility. It is at a later stage that the Commission/Regulator shall undertake a prudent check and if deem fit allow the claim. In appropriate cases, the Regulator may disallow such cases of utility and it is for the utility to bear the brunt of such investment and it cannot pass it on to consumers.</p>	
6.27)	<p>Levy of User Development Fee ("UDF") Authority has proposed to levy UDF on the</p>	Statement of fact.

AS

<p>IP 8/29 PJ-11</p>	<p>basis of AAI's Annual Tariff Proposal ("ATP"). It is noteworthy that UDF is being introduced on the embarking passengers w.e.f 01.01.2013 in the following manner: (a) Per Domestic Departing Passenger-Rs. 400.00 (b) Per International Departing Passenger-Rs. 1000.00</p>	
<p>8/30 PJ-11</p>	<p>6.28) Authority has introduced absolutely new stream of revenue in favour of AAI, which is not envisaged under the Airport Authority of India Act, 1994 ("AAI Act") or AERA Act.</p>	<p>The rule 89 of the Aircraft Rules, 1937 permit the licensee to levy and collect at a major airport the User Development Fee at such rate as may be determined under clause (b) of subsection (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008.</p>
<p>9/31 PJ-12</p>	<p>6.29) It is a settled position of law that any levy or compulsory exaction which is in the nature of tax/cess cannot be levied without a statutory foundation/charging section, as laid down in a catena of judgements by the Hon'ble Supreme Court. It is well settled principle of law that no tax, fee or any compulsory charge can be imposed by any bye-law, rule or regulation unless the statute under which the subordinate legislation is made specifically authorises the imposition. There is no room for intendment.</p>	<p>The User Development Fee is part of Airport Tariff structure charged by the airport operators and levied as determined by the AERA, under AERA Act & Aircraft Rules, 1937 as indicated in the para 6.28 above.</p>
<p>8/32 PJ-12</p>	<p>6.30) In view of the foregoing, it is submitted that:- (a) AERA Act nowhere provides for provision of determination or levy of UDF on passengers. (b) Authority in the present CP No. 17/ 2012-13 has not deliberated upon the rationale for levying UDF. It is submitted that Authority is bound under Section 13(4)(c) of the AERA Act to fully document and explain its decision. (c) Further, there is also no evidence that Authority has undertaken the exercise of determining the amount of UDF as there is no basis for levy Rs. 400 and Rs. 1000 towards UDF on embarking domestic and international passengers respectively.</p>	<p>The rule 89 of the Aircraft Rules, 1937 permit the licensee to levy and collect at a major airport the User Development Fee at such rate as may be determined under clause (b) of subsection (1) of section 13 of the Airports Economic Regulatory Authority.</p> <p>The annual tariff proposal for Kolkata Airport, including UDF, is based on the Aggregate Revenue Requirement (ARR) worked out as per the AERA Guidelines on MYTP for the airport operators.</p>
<p>6.31)</p>	<p>It is also noteworthy that UDF is recovered from each traveling passenger through the air ticket as a</p>	<p>AAI submitted its MYT Proposal in accordance with the AERA Guidelines and ARR worked out</p>

<p>8/33 Pg-12</p>	<p>component of the price of such air ticket and the same is payable by the airlines to the Airport Operator. It is reiterated that any increase on fees payable directly by passengers ultimately affects the interests of airlines. It is submitted that any passenger is concerned with the total cost of his travelling and not with the specific break-up of charges. Such enhancement in the cost of the air ticket not only works as a deterrent for the prospective traveler but also reduces the ability of the airlines to recover its costs and thus affecting the business interests <i>inter alia</i> of airlines and aviation industry.</p>	<p>based on the above to be recovered through available revenue stream, including UDF. In case the UDF is not levied, the entire amount of ARR to be recovered by way of airlines related charges in addition to fuel throughput charges.</p>
<p>6.32) T C/34 Pg-12</p>	<p>Fuel Throughput Charges ("FTC") The Authority had vide Order No. 07/2010-11 dated 04.11.2010, in the matter of suo moto revision of FTC by the Airport Operators had approved the FTC at NSCB International Airport, Kolkata (from Rs.1,158.78 to Rs.1,216.72 @ 5% increase as per contract actual terms) with effect from 01.04.2010, on an ad hoc basis.</p>	<p>Statement of fact.</p>
<p>6.33) C/32</p>	<p>In relation to the 5% increase in FTC by the Authority, it is submitted that there is no cost basis analysis for allowing 5% increase in FTC.</p>	<p>The fuel throughput charges at Kolkata Airport are based on the outcome of open bidding process as per the rate quoted by the oil companies.</p>
<p>6.34) C/36 Pg-13</p>	<p>It is submitted that the Authority ought to examine:- (a) The impact of FTC enhancement since the cost of the fuel constitutes around 40% of operating cost of an airline. (b) The impact of failure of the AAI to provide any justification for the revision in FTC. Since at the Airports the Fuel suppliers are already paying and loading exorbitant land rentals for locating fuel facility on airlines. In addition to such land rentals, the AAI are all owed to charge FTC with no cost basis. (c) AAI has only provided the land and access to the Oil Companies. The cost of land is recovered separately through the rentals. Therefore, it is the value of concessions which would have to be considered while fixing the FTC. (d) FTC is an impost not on the Oil</p>	<p>As already stated in para 6.33, the fuel throughput charges at Kolkata Airport are based on the outcome of open bidding process as per the rate quoted by the oil companies. In case the 5% increase in fuel throughput charges is not effected the revenue shortfall on this account will have an impact on the tariff of other revenue components (aeronautical service)</p>

NS

	Companies but on the airlines. Thus, in the form of FTC the airlines face a cost impost as the airlines cannot avoid purchasing fuel at locations with FTC, which is being charged by the AAI over and above the normal lease rental	
6.35)	It is further submitted that considering that Authority's Order No.07/2010-11 dated 04.11.2010 is pending adjudication before the Airports Economic Regulatory Authority Appellate Tribunal ("AERAAT") in Appeal No. 5/2012 (MIAL Vs. AERA & Others), it would be better if any decision regarding FTC should be taken pursuant to the outcome of the said Appeal.	AERA will determine the tariff in accordance with provision of AERA Act and AERA Guidelines on MYTP for the airport operators.
6.36)	Re. Non-Aeronautical Revenue AAI has submitted revenue generated through Non-Aeronautical Services or services other than aeronautical services by applying the growth rate to historical revenues and establishing the relationship with available commercial area. In the CP No. 17/2012-13, Authority has noted that the past growth of non-aeronautical revenue may not serve either as a benchmark or guide in making the forecast. This is because the new terminal at NSCB International Airport, Kolkata is about more than 4 times the existing terminal.	Based on the past trend and considering the increase in commercial area following the commissioning of new integrated passenger terminal, adequate increase in non-aeronautical revenue has been projected in the MYTP.
6.37)	The Authority has proposed that for the first control period it may consider the forecast of non-aeronautical revenue provided by AAI for determination of tariffs and true up the actual receipts from non aeronautical revenue while determining tariffs for the next control period.	Statement of fact.
6.38)	It is submitted that in the present consultation process, AAI has projected non-aeronautical revenue at merely 25% of total revenue during control period, whereas a quick glance at airports like Changi Airport Singapore; Hong Kong International Airport, etc. reveals that said airports are earning approximately 60% of their total revenues arising out of services other than	The non-aeronautical revenue, including cargo at Kolkata airport contributes to around 48 % of the total revenue (FY 2011-12) of the airport. Further, AAI projected the non-aeronautical revenue after taking into consideration various aspects including market potential at NSCBIA, which AAI feels more appropriate rather than comparing with the Airports like Changi. However, AAI will make efforts to maximise the revenue earning from Non-Aeronautical

	non-aeronautical services.	activities.
D/41 Pg-14	6.39) It is submitted that Authority should reasonably estimate or appoint a Consultant to determine revenue from new premises as it may not be appropriate to burden the airlines and passengers with higher tariff in this control period and provide relief for the same in subsequent period.	Suggestion noted. AERA will determine the tariff as per provision of the AERA Act after taking into various aspects.
JR E/42 Pg-14	6.40) Depreciation It has been stated that AAI is following the straight line method for depreciation and the depreciation rate applied to various assets is as per AAI's approved accounting policy considering the useful life of the assets. The salient aspects of AAI's depreciation policy areas under: (a) Method of Depreciation - Straight Line Method. (b) Additions to Fixed Assets:-Depreciation to be provided for full year irrespective of month of installation/completion. (c) No depreciation to be provided in the year the asset is disposed off/retired from active use. (d) Residual value for each asset to be taken as Re. 1 balance to be provided by way of depreciation as per prescribed rates.	Statement of fact.
E/43 Pg-14	6.41) In this regard it is observed that the AAI's accounts are maintained as per the provisions of the Section 28 (1) of the AAI Act.	Statement of fact.
E/44 5 Pg-14	6.42) As per Clause 5.3.3 of the AERA Guidelines, the minimum residual value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the original cost of the asset on straight line method.	AAI is charging depreciation as per the policy approved by AAI Board. The depreciation policy of AAI has been formulated after considering the factors such as minimum useful service life of various assets based on technical assessment, obsolescence rate etc. The depreciation policy adopted by AAI is also accepted by C&AG.
E/45 Pg-14	6.43) Authority has noted that AAI's Depreciation Policy is not in accordance with its Order No. 13/2010-11 dated 10.01.2011 ("Airport Order") and AERA Guidelines. However, Authority has ignored its own AERA	As per para 6.42

	<p>Guidelines and proposed to follow AAI's Depreciation Policy and the depreciation calculated in accordance thereof for the purpose of determination of tariffs for aeronautical services at NSCB International Airport since</p> <p>(a) AAI is a statutory body established under the AAI Act. The Board of AAI has approved the Depreciation policy that has been adopted by AAI.</p> <p>(b) AAI's format of accounts have been formulated in consultation with the C&AG, who also conduct audit of the books of accounts of AAI as mandated under the AAI Act.</p> <p>(c) The C&AG has not commented adversely on the depreciation methodology adopted by AAI. Further, accounts of the AAI, certified by the C&AG, together with the audit report are laid before the Parliament.</p>	<p>Statement of fact.</p> <p>Statement of fact.</p> <p>Statement of fact.</p>
<p>E/46 Pg-15</p>	<p>6.44) Authority should determine the depreciation as per Airport Order and Airport Guidelines for the purpose of computing ARR as its settled position of law that the statutory authority is bound by its own Regulations/Guidelines.</p>	<p>AERA will determine the tariff as per provision of AERA Act after taking into consideration of various aspects concerning tariff determination.</p>
<p>E/47 Pg-15</p>	<p>6.45) It is noteworthy that by employing AAI's proposed rate of depreciation (10-12%) on its assets translates into accounting life of assets to only 8-10 years. It is submitted that assets of an airport have long useful life and usually last for 30 years. Hence, the Authority should spread out the useful life of the assets over a period of 30 years, which would reduce the target revenues by approximately Rs.208.05 crores in FY 2012-13 and over a period of 5 years the target revenues would be reduced by Rs.620.27 crores. It is noteworthy that though CP No. 17/2012-13 mentions that AAI has proposed a depreciation rate as 10-12% but a simple division of depreciation by RAB gives us a higher number. It may be noted that AAI at NSCB International Airport, Kolkata mentions</p>	<p>The minimum useful service life of various assets is reviewed fromtime to time for the purpose of scrappage and replacement considering the technical factors prevailing at the airports and also due to fast changes in technology and the obsolescence factor aviation sector etc. Accordingly, the depreciation rates for various asset were reviewed and revised depreciation rates were made effective from FY 2006-07. This has been accepted by C&AG .</p> <p>Further, the depreciation rates adopted by Beijing Capital Intl. airport are comparable (except runway) to the rates adopted by AAI. However, it is pertinent to note that assets value is subjected to annual review by the Beijing airport "The assets' residual values and</p>

<p>depreciation of Runways over a period of 7 years only, whereas FIA understands that Changi Airport, Singapore is depreciating it over 30 years and Beijing Capital International Airport over 40 years. Following table demonstrates the impact of depreciation due to application of useful life of assets at NSCB International Airport, Kolkata.</p>	<p>useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount" (Beijing Airport Annual report 2011 – Notes to financial statement 2(e)]</p>
--	---

E/47
Pg-15/16

Computation of impact considering useful life of asset as 30 years						
Rs in crores						
Particulars	Tariff year					Total
	1	2	3	4	5	
Opening RAB	246.47	400.24	2764.88	2792.97	2780.19	
Additions-WIP	163.62	2413.14	114.50	76.50	170.00	
Depreciation@3%	9.85	48.50	86.41	89.28	92.98	327.02
Closing RAB	400.24	2764.88	2792.97	2780.19	2857.21	
Average RAB	323.36	1582.56	2778.92	2786.58	2818.70	
A Reduction in depreciation	51.49	233.27	204.12	207.08	221.26	917.22
B Increase in Average RAB	25.75	168.13	386.82	592.42	806.59	
C Impact of increase RAB on return on equity @ 15%(B X 15%)	3.86	25.22	58.02	88.86	120.99	296.95
D Net impact of change in useful life to 30 years(a-c)	47.63	208.05	146.09	118.22	100.27	620.27
Assumptions:						
1	Method of depreciation-Straight Line Method					
2	Useful life of the asset is considered as 30 years. Hence, Depreciation considering 10% residual value would be 3%					
3	Additions during the year are depreciated @ 50% assuming in mid of financial year					
4	All figures are in INR crores					

E/48
Pg-16

6.46)	<p>In this regard it is submitted that depreciation-methodology (of using accounting life of assets) being presently considered by Authority is erroneous and ignores the reality that such an approach will have an unjust inflationary impact on passengers/airlines by front loading of tariff. Presently, the Authority is considering only the accounting life of</p>	<p>The depreciation policy adopted by AAI, which was considered in finalization of the MYTP, had considered all the relevant factors, including useful life of Assets & obsolescence rate and depreciation rates have been fixed accordingly, which is also accepted and audited by C & AG.</p>
-------	--	---

	<p>assets (8-10 years) instead of considering the useful life of assets (at least 30 years). Such reduced accounting life of assets compared to useful life would result in artificial increase in the depreciation charge and would have an adverse impact of increasing the tariff in the initial year.</p>	
<p>6.47)</p>	<p>Weighted Average Cost of Capital ("WACC") - Fair Rate of Return ("FRoR")</p> <p>AAI had engaged KPMG to determine the FRoR for its airport operation business. KPMG has worked with the assumption that the gearing ratio and cost of debt for the airport operation business at each airport of AAI is the same as that for AAI as a whole. In this regard, following is noteworthy:-</p> <p>(a) Gearing Ratio: The Gearing is the level of an entity's debt compared with its equity component and is calculated as $Gearing = Debt / (Debt + Equity)$. AAI has assumed that future capital funding requirement will be met in similar Debt-Equity proportion for AAI as a whole at the current levels and projected the expected gearing to be 8.84%.</p> <p>(b) cost of Equity: Using the Capital Asset Price Model (CAPM), KPMG in its report determined cost of equity as 15.64%.</p> <p>(c) Cost of Debt: Weighted average cost of existing debt of AAI is 8.03% and KPMG in its report has assumed that AAI will be able to raise the incremental debt requirement in the first control period on similar terms.</p>	<p>Statement of fact.</p>
<p>6.48)</p>	<p>On applying the above mentioned values of various parameters to the FRoR methodology prescribed by AERA, KPMG determined the FRoR for AAI's airports o</p>	<p>Statement of fact.</p>

Handwritten notes on the left margin:
 ✓
 P/09
 Pg. 16/17

Handwritten notes on the left margin:
 P/50
 Pg-17

Handwritten signature/initials: AS

	perations business as 14.96% or 15% p.a.	
6.49)	<p>Authority noted that vide its letter AV. 2 4032/037/2011-AD dated 12.03.2012, the MoCA forwarded report of SBI Capital Market Ltd (i.e. SBI Caps) in the matter of "Fair Rate of Return of Equity for Indian Airport Sector". On comparing reports and from analysis, the Authority observed following issues in computation of FRoR by KPMG:</p> <p>(a) For determining Asset Beta to compute Cost of Equity, the comparator set is only restricted to developing/emerging countries, however, such an approach is not appropriate and a wider set of airports may provide a more meaningful basis for estimation of Asset beta as advised by NIPFP, in the matter of determination of aeronautical charges at NSCB International Airport.</p> <p>(b) Based on its own framework, the Authority has also noted that average Asset Beta for NSCB International Airport can be taken at 0.61 as against 0.92 considered by KPMG.</p> <p>(c) The Authority notes that the higher WACC value is also on account of preponderance of equity in the capital structure of AAI. However, if the actual debt-equity ratio of NSCB International Airport, Kolkata (i.e. average outstanding debt of Rs.232 crores and average equity of Rs.2,009 crores giving actual D/E Ratio of 11.56%) specifically is taken into account the calculation yields a WACC of 14.03% or say 14%.</p>	Statement of fact as per consultation paper
6.50)	Evidently, though the Authority has noted that WACC/FRoR of around 14% is proper in view of its approach and calculations, but it has still allowed FRoR of 15%. The Authority is of the view that in the first control period, some allowance should be given for the uncertainties in estimation of different	

<p>52 28/1/18</p>	<p>parameters, hence, WACC of 15%, as proposed by AAI, is reasonable for this control period and provides for sufficiently generous allowance for such uncertainty in estimation. FIA is opposed to any such relaxation to AAI and the Authority must examine it in detail before allowing such high WACC/FroR when in other cases, for e.g. IGI Airport, (being operated by DIAL), the WACC/FroR determined is 10.33 % per annum</p>	<p>AERS is requested to consider FRoR of 15% as per MYTP proposal.</p>
<p>7/53 Pg-18 10</p>	<p>6.51) It is noteworthy that the Authority is also mindful of the fact that current Debt Equity ratio of the NSCBI Airport, Kolkata is not efficient and in order to moderate aeronautical charges, effort needs to be made to move towards efficient debt-equity ratio with higher proportion of debt. However, Authority is of the view that moving towards the efficient debt equity structure would take time and hence, this issue would be revisited at the time of tariff determination for the next control period and make appropriate decisions. It is submitted that in case airport is not efficiently managing their Debt Equity ratio to reduce cost of capital, airlines and passengers should not be penalized for the same.</p>	<p>Higher proportion of debt in the capital structure may be appropriate in case of new companies formed for the purpose of undertaking the new projects. This is not the case in case of AAI, which is already in existence and managing the airports and generating the internal resources from the airport operations. As such AAI opted to finance the project mainly from internal resources. Further, in case of higher debt also, there would be outflow on account of servicing the debt. Further, it is also mention that AAI Act also permits creation of Reserve fund for the purpose of up-gradation of existing infrastructure and creation of new facilities Accordingly, the accumulated reserve fund has been utilized by AAI for financing of the project.</p>
<p>F/54 Pg-18 10</p>	<p>6.52) Further, it is to be noted that the Authority had indicated in its Order No. 03/2012-13 dated 20.04.2012 ("MYTP Tariff Order of DIAL") that the proportion of debt of around 60% in the capital structure could be regarded as an efficient means of finance. FIA notes that WACC/FRoR for IGI Airport, Delhi was determined as 10.33% per annum, hence, 50% higher WACC in case of NSCBI Airport, Kolkata is not justifiable. Return on RAB, computed from WACC,</p>	<p>The proportion of debt of around 60% in the capital structure may be appropriate in case of new company formed for the purpose establishment of new Airport projects and not the existing airport operator like AAI. The MYTP proposal of AAI is as per the Guidelines of AERA .</p>

	has significant weightage in computin ARR of the Airport. Reducing WACC from 15 % to 10.33% in NSCBI Airport, Kolkata will reduce ARR by 14%. It is pertinent to note that higher RAB with higher WACC has a significant compounding impact on the aeronautical tariff.	
6.53)	It is pertinent to note that that for calculating WACC/FRoR, though the Authority has arrived at the figure of 14% but has allowed 15%. Thus, Authority has accepted KPMG's proposal in spite of finding loopholes in Asset Beta as determined by KPMG. It is submitted that for the difference of 1% in WACC/FRoR on this scale would unnecessarily increase the Aeronautical Tariff. In view of the foregoing, it is submitted that considering assumptions taken by KPMG w.r.t Asset Beta and gearing ratio are not appropriate, Authority should re-compute the WACC after appropriate adjustments.	WACC /FRoR worked out by M/s KPMG for AAI is 14.96 % or 15% . AAI Formulated the MYTP proposal is as per AERA Guidelines and reasonable
6.54)	Operation and Maintenance Expenditure Authority has considered all the expenses forecasted by AAI subject to following adjustments in other miscellaneous expenditure: (a) The expenditure – to the extent it relates to the payment of interest on long term debt – factored in the expenditures has been deducted there from. (b) In case of electricity and water charges – no increase in number of units has been allowed	Statement of fact as per CP
6.55)	Authority is of the view that for determining tariff only efficient operating and maintenance costs should be considered. In this regard, Authority has noted that the C&AG is the auditor of all the accounts of AAI –	Statement of fact

NS

	including the expenditures incurred and Audit Report of the C&AG is not only on the mathematical accuracy of accounts or their incurrence in accordance with the set procedure, but also on the propriety of such expenditure. Considering this, Authority has proposed to accept the historical figures as provided by AAI, for the present tariff period.	
6.56)	It is submitted that operating expenditure is one of the major component for determining ARR. Hence, the Authority should evaluate these expenses in detail rather than only relying on projections provided by AAI.	AAI has prepared the MYTP, including expenditure projection for the control period in accordance with the Guidelines issued by the AERA for the airport operators. The MYTP submitted by AAI has been reviewed by AERA accordingly.
6.57)	Further, it is submitted that Authority should establish some optimal operating benchmarks be laid down for the airports to keep operations efficient e.g. opex per passenger or per landing. The same can be based on some model efficient airports. In absence of such a benchmark, there is no check and balance mechanism to ensure that passengers are not bearing extra cost on account of non-efficient operations.	Suggestion noted
6.58)	It is noteworthy that in respect of the future projections, the Authority is cognizant of the fact that expenditure partly includes inflation e.g. in case of Salary and Wages (Dearness Allowance). It is submitted that considering, WPI of 6% has been separately considered, all the expenditure should be delinked from inflation and accordingly ARR needs to be adjusted.	The increase in salary and wages projected by 7% is on account of annual increment in basic salary, increase in perks, including HRA, Provident Fund contribution etc., which are directly related to basic salary. Whereas, WPI of 6% considered in the proposal caters to the increase in costs due to inflationary factors.
6.59)	Quality of Service Authority has considered the issue of specifying a transition period for implementation of the scheme of quality of service measurement and determination of any rebates as relevant for NSCB International Airport, Kolkata. In this	AAI agrees with the views of AERA

	regard, Authority has proposed a period of one year from the date of tariff determination for AAI to appropriately align their process/ procedures and make any other required interventions.	
6.60)	Further, the Authority has proposed that in the current determination of aeronautical tariff(s) for NSCB International Airport, Kolkata, a period of about two years of the first control period have already elapsed and given the transition period of one year, for implementation of the above scheme would be applicable only from the fourth tariff year of the Control period i.e., 2014-15. Accordingly, the Authority has noted that it will be possible to calculate the rebate for the year 2014-15 only in the tariff year t+2, viz., in 2016-17, which is the first tariff year of the next control period.	AAI supports the views of AERA
6.61)	In this regard, it is submitted that Authority has noted that the New Integrated Terminal Building will be completed and commissioned in forthcoming months. Thus, it is submitted that for such transition, Authority should not grant one year to AAI and limit it to not more than 2 months as benefit of any rebates arising out of implementation of the scheme of quality of service measurement to the consumers of NSCB International Airport, Kolkata would not be available for almost a year. It is submitted that denial of such benefit for one year would not be in the interest of airlines.	Considering the fact that one & half year of current control period has already elapsed. A transition period of one year for implementation of quality service measurement and determination of any rebate is reasonable for making appropriate systemic and procedural changes in line with Service quality requirement of AERA guidelines. AAI will put in place systems/procedures at the earliest within the time frame fixed the AERA
6.62)	Landing Fee It is submitted that Authority has proposed minimum Landing Fee of Rs. 50 00/-per landing. It is submitted that though the Minimum rate has been prescribed, but for proper regulation, maximum bracket should also be	The landing charges vary for different categories of aircraft depending on the weight of the aircraft. Accordingly, no maximum rate of landing charges has been fixed.

H/62
19/12

H/63
19-20

11

H
I/64
19-20
14

AS

	prescribed by the Authority.	
6.63)	<p>'Doctrine of Infrastructural Essential Facilities'</p> <p>It is submitted that under the competition law, an enterprise is under an obligation to extend its essential infrastructural facility at a reasonable cost. AAI's control over NSCB International Airport, Kolkata renders it a monopolist having control over 'essential infrastructural facility' of the airport in the city of Kolkata and the eastern region of the country. The requirement of access to essential facility was first articulated by the Supreme Court of United States of America in United States vs. Terminal Railroad Assn, reported as 224 U.S. 383 (1912). Under the principles of access to essential facility, the following four factors must be proven:-</p> <p>(a) Control of the essential facility by a monopolist;</p> <p>(b) A competitor's inability practically or reasonably to duplicate the essential facility;</p> <p>(c) The denial of the use of the essential facility to a competitor; and</p> <p>(d) The feasibility of providing the essential facility to competitors.</p>	<p>Airport sector is highly capital intensive and viability of airport depends on large number of factors, including local economic conditions and the aircraft and passenger traffic etc., In Indian context, there is no example of two airports operating commercially in the same city. However, airports do compete with each other in the country. It is not correct to infer that Kolkata airport is operating in a monopolistic manner in the country. Private Airports at Delhi, Mumbai, Hyderabad and Bangalore are competing with Kolkata in addition to AAI airport at Chennai for aircraft and passenger traffic.</p>
6.64)	<p>Further, it is submitted that to seek access to essential facility, the asset in question also must not be available from other sources or capable of duplication by the firm seeking access. Reliance is placed on the case of Apartment Source of Philadelphia vs. Philadelphia Newspaper</p>	<p>No such investment has been considered in the MYTP proposal for NSCB Airport.</p>

	ers, reported as 1999 WL 191649.	
3/67 Pg 2/21	6.65) In view of the foregoing judicial precedents, it is submitted that AAI assumes the position of a monopolist since it exercises control over NSCB International Airport, Kolkata which is a crucial infrastructural facility for a city like Kolkata and eastern region of country due to its political and economic significance at both national and international levels. Airport is an essential facility, and thus, per this doctrine, the monopolist should not be allowed to charge an exorbitant price for accessing his facility.	There are very few international instances, where two airports operate commercially in the same city. Considering the Indian and International airports scenario, It would totally incorrect to infer that Kolkata airport is operating in monopolistic manner. As already indicated above, Kolkata airport is competing with Private international airports in the country.
3/68 Pg-21	6.66) It is submitted that such enormous hike in tariff by a monopolist AAI may be viewed as 'abuse of its dominance' and accordingly liable under Section 4 of the Competition Act, 2002 (" Competition Act ". Further, the Competition Act promulgates the "economic development of the country" amongst other things, protect the interests of the consumers.	The tariff increase proposed for aeronautical services is worked out on the basis of Aggregate Revenue Requirement (ARR) computed for the control period following the AERA Guidelines.
3/69 Pg-21	6.67) In view of the foregoing, it is submitted that the Authority is mandated to prevent any opportunity which lead to the abuse of monopolistic power by the airports and that stand in the way of effective economic regulation.	As per para 6.66.
3/70 Pg-21/22	6.68) Increase in Aeronautical Tariff should be kept in check Following revision in the tariff(s)(excluding taxes/any levies) proposed by AAI is pending consideration by the Authority and are subject matter of discussion in CP No. 17/2012-13: (a) Increase of 118% in International landing charges and 48% in Domestic landing charges w.e.f 01.11.2012. (b) Minimum Landing Fee of Rs. 5,000/- per landing for all flights except training flights operated by Flying Clubs. (c) Uniform increase of 83% in parking a	Statement of fact

	<p>nd housing charges.</p> <p>(d) PSF (Security) proposed to be continued at the existing rates i.e. Rs. 130/-per departing pax.</p> <p>(e) Passenger Service Fees (PSF): No increase is proposed in current PSF (Facilitation) rate i.e. Rs. 77/- per embarking passenger. From 01.01.2013 this PSF (Facilitation) is proposed to be merged with proposed UDF levy.</p> <p>(f) Introduction of User Development Fees w.e.f 01.01.2013 –</p> <p>(i) Per Domestic Departing Passenger- Rs. 400 and</p> <p>(ii) Per International Departing Passenger- Rs.1000.00</p> <p>(g) As per the understanding with the Oil Companies the FTC have been proposed by AAI to be increased by 5% per annum. For FY 2012-13, revision in rates is proposed to be effective from 01.11.2012 from existing Rate Rs. 1216.72 per Kilolitre to proposed rate Rs 1277.56 per Kilolitre.</p> <p>(h) For the ensuing tariff years 2013-14 onwards in the current control period, annual escalation @ 6 % p.a. w.e.f. 1st April of each tariff year proposed on Landing, Housing, Parking and UDF. In the case of FTC in FY 2011-12 and thereafter an annual increase of 8% w.e.f 01.04.2013, 01.04.2014 and 01.04.2015.</p>	
6.69)	<p>In addition to the above submissions, it is respectfully submitted that airlines and consequently passengers will have to bear the burden of increase in Aeronautica Tariff as proposed in the CP No. 17/2012-13.</p>	<p>Substantial capital investments have been made at NSCBI, Kolkata for providing better facilities to passenger and airlines. The additional capacity created will be able to meet traffic growth upto 2021 (International Terminal) and 2019 (Domestic Terminal) and ARR for the control period has been computed as per the AERA Guidelines, the increase in tariff proposed at Kolkata airport is unavoidable.</p>
6.70)	<p>The Authority is aware that airlines have been going through difficult times. Increase in various components of Aeronautical Tariff as proposed by the Authority</p>	<p>AAI is also affected by the slowdown of Indian & world economy.</p> <p>AERA has laid down the detailed Guidelines for filing of MYTP by the airports and AAI has prepared MYTP</p>

NS

	<p>y will erode airlines capabilities to increase fares to sustain its operational capabilities. It is pertinent to note that the Authority must also take into account the difficulties being faced by the airlines and passengers before granting levies to the airport operators. As Airlines have suffered losses significantly in the last two years due to high ATF and recent depreciation of the rupee, there is a need for Airlines to raise fares to recoup the past losses, rather than fund the Airport development program which is the responsibility of the Airport operator.</p>	<p>for Chennai as per the Guidelines and AERA after considering the all relevant aspects relating to Chennai MYTP has issued the CP no. 16/2012-13. As indicated above, tariff increase proposed at Kolkata airport is unavoidable.</p>
<p>6.71)</p> <p><i>Conclusion</i> <i>Para-73</i> <i>11-22</i></p>	<p>It is submitted that since the determination of aeronautical tariff of various major airports is evolving, it would be relevant if a standard benchmarking with respect to optimal capex per square meter and opex per passenger/landing is established by the Authority. This would be useful for all the Stakeholders while examining the various tariff proposals.</p>	<p>AERA may set up the standards for benchmarking.</p>
<p>6.72)</p> <p><i>74</i> <i>11-22</i></p>	<p>There is a need for guidance to the industry by the Regulator so that norms for operation are determined for the industry base on the technology, industry performance and in order to ensure optimum utilisation of assets with efficient and economic operation. Normative level can be determined by the Regulator on the basis of Benchmarking</p>	<p>AERA may set up the standards for benchmarking.</p>
<p>6.73)</p> <p><i>75</i> <i>11-22/13</i></p>	<p>The purpose behind using a benchmarking approach is that to the extent that a utility is more efficient than the industry or is able to achieve higher rates of productivity changes, it will retain these benefits forever. Thus, the advantage of using a benchmark is that it creates an incentive for an enterprise to be more efficient.</p>	<p>Suggestion noted. AERA has processed the MYT Proposal of AAI for determination of tariff as per the Guidelines issued on the subject.</p>

	Further, it is emphasised that the Authority is bound by its AERA Guide lines and various Orders.	
6.74)	FIA reiterates its submission that there is a critical relationship between passenger traffic and growth of the civil aviation sector. What would benefit both the airport as well as the airlines is a reasonable and transparent passenger tariff, both direct and indirect – since then the airlines will be able to attract more passengers and the airports would benefit both through higher collection of aeronautical charges as also enhanced non aeronautical revenue at the airports. It is submitted that the Authority must balance the interest of airlines and the passengers which is of paramount importance or the aviation industry.	The MYTP proposal of AAI has been formulated as per the Guidelines of AERA and after taking into consideration of all the relevant factors.
6.75)	In view of the above, it is respectfully prayed that FIA is opposed to the increase in Aeronautical Tariff without conducting prudence check and appointing its own independent auditor. The Authority must keep in mind the interests/implications of/on the airlines before finalizing any decisions regarding increase in Aeronautical Tariff and other charges.	The MYT proposal of AAI for NSCBIA is as per the Guidelines of AERA and the tariff increase proposed is reasonable considering the investment made at Kolkata airport for providing better facilities to Users. AAI proposed to recover only part of ARR computed as per AERA Guidelines in the current control period and balance in the next control period.

Para 76
19-23

Para 77
19-23 - 14

NS