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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 419 **New Delhi,** **28 September 2021**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Bharat Petroleum Corporation Limited (BPCL) for general revision of its Scale of Rates under Tariff Guidelines, 2019, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/59/2019-BPCL

The Bharat Petroleum Corporation Limited - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Sunil Kumar Singh, Member (Economic)

O R D E R
(Passed on this 15th day of September 2021)

This case relates to the proposal received from Bharat Petroleum Corporation Limited (BPCL) for general revision of its Scale of Rates under Tariff Guidelines, 2019.

2.1. The existing Scale of Rates of BPCL was last revised by this Authority vide tariff Order No. TAMP/46/2016- BPCL dated 8 February 2017. This Order was notified in the Gazette of India on 06 March 2017 vide Gazette no. 94. Vide the said Order, an across the board increase of 11% was granted over the then prevailing tariff of BPCL. The said Order prescribed a tariff validity upto 31 March 2019.

2.2. The BPCL vide its letter dated 1 February 2019 conveyed that it is in the process of formulating a proposal for new rates with effect from 01 April 2019 and as such requested for extending the validity of its existing Scale of Rates for a further period of three months i.e. upto 30 June 2019. Thus, based on the request made by BPCL, this Authority vide Order no. TAMP/46/2016-BPCL dated 25 February 2019 had extended the validity of the BPCL SOR till 30 June 2019.

2.3. Thereafter, based on the request made by BPCL on two separate occasions, this Authority has extended the validity of the BPCL SOR till 30 September 2019 and 31 December 2019 respectively.

3. The then Ministry of Shipping (MOS), in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, has vide its letter No.PR-14019/20/2009- PG (Pt-IV) dated 5 March 2019 issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. The Tariff Guidelines, 2019, has been notified in the Gazette of India on 7 March 2019 vide Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Guidelines, 2019, Working Guidelines to operationalize the Tariff Guidelines, 2019, has been notified in the Gazette of India on 11 July 2019, vide Gazette No.244.

4.1. In this backdrop, the BPCL vide its letter No. BPCL/JNP/OPS dated 28 November 2019, email dated 2 December 2019 and email dated 6 December 2019 has filed a proposal for general revision of its Scale of Rates under Tariff Guidelines, 2019.

4.2. The Highlights of the BPCL proposal are given below:

(i) Validity of existing Scale of Rates (order no. TAMP/46/2016-BPCL dated 20.02.2017) upto March, 2019 and extension for the same has been taken upto 31 December 2019.

(ii). For calculating the proposed Scale of Rates, Market and Cost based pricing strategy has been followed.

(iii). In case there is variation in the expenditure reported under IND AS and IGAAP (like depreciation), then necessary adjustments to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. In BPCL case, it is confirmed that there is no variation in IND AS and IGAAP.

(iv). Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March 2019 and working capital as per norms prescribed in clause 2.6. of this Tariff Guidelines.

In BPCL case, the figures are derived from the Chartered Accountant certified financial statement. Working capital of BPCL Jetty at JNPT has been considered as Nil.

(v). In BPCL case, the difference of percentage between ARR and actual revenue is **7.94%. So the existing SOR rate is proposed to be increased by 7.94% to arrive at the new rate.**

(vi). The details of the proposal have been furnished as per the specified forms provided by TAMP in their working guidelines.

4.3. The BPCL has furnished detailed computation of Annual Revenue Requirement (ARR) under Form-1 and Revenue estimation at the proposed rate in Form-4. A summary position of ARR computation furnished by BPCL is tabulated below:

(₹. in lakhs)

Sl. No.	Description	Y1 2016-17	Y2 2017-18	Y3 2018-19
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	4,882.45	5,523.92	5,430.08
(ii).	Finance and Miscellaneous expenses (FME)	-	-	-
	Total Expenditure 1=(i)+(ii)	**4,882.45**	**5,523.92**	**5,430.08**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	-	-	-
(ii).	Other expenditure items, if any, to be listed -Lease rent paid	-	-	-
	Total of Adjustments 2=(i)+(ii)+ -----	**-**	**-**	**-**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	2,038.31	2,410.07	2,586.65
(ii).	Interest on loans	-	-	-
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v)	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	**2,038.31**	**2,410.07**	**2,586.65**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	-	-	-
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	**2,844.14**	**3,113.85**	**2,843.43**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			2,933.81
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			38,277.12
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			-
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			-
	(a). Inventory			-
	(b). Sundry Debtors			-
	(c). Cash			-
	(d).Sum of (a)+(b)+(c)			-
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			**38,277.12**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			**6,124.34**
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**			**9,058.15**
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2018-19, then the applicable WPI is 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)**			-
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR)**			**9,058.15**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			**9,058.15**

4.4. The BPCL has furnished in Form 4, the working of revenue estimation at the existing level of tariff as well as the proposed level of tariff for the average of the actual traffic handled by BPCL during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is ₹ 9058.15 lakhs.

4.5. The BPCL has furnished the Certified Income and Expenditure statement and Capital Employed Statements for the BPCL Jetty for the years 2016-17, 2017-18 and 2018-19.

4.6. As stated above, the existing SOR rate is proposed to be increased by 7.94% by the BPCL. In addition, the BPCL has introduced new rates in respect of the following tariff items in the proposed Scale of Rates:

Sr. No.	Tariff category	Proposed	
		Foreign Rate per metric tonne (in ₹)	Coastal Rate per metric tonne (in ₹)
1	Ammonia	207.46	124.48
2	Methanol	207.46	124.48
3	Ethanol	207.46	124.48
4	Acetone	207.46	124.48
5	Butyl Acetate	207.46	124.48
6	Vinyl Acetate	207.46	124.48
7	Unenumerated rates for all other Chemical A, B, C Class And As Per MPCB approved list.	207.46	124.48
8	Sludge Oil	₹. 1000/ per truck/ 20kl	₹. 1000/ per truck/ 20kl
9	Fire Engine Charges	₹ 5900/per hour	₹ 5900/per hour
10	Charges for loading of Lubricant barrels and Paint barrels	20	20

5.1. In accordance with the consultative procedure prescribed, the proposal of BPCL was forwarded to the JNPT (licensor Port) and concerned users/ user organisations seeking their comments.

5.2. Some of the users/ user organisations viz., All India Liquid Bulk Importers & Exporters Association (AILBIEA) and JNPT Liquid Chemical Bulk Users Association (JLCBUA) have furnished their comments. The Licensor port JNPT has also furnished its comments. The comments of AILBIEA, JLCBUA and JNPT were forwarded to BPCL for feedback information. The BPCL has responded vide its letters dated 30 December 2019, 04 February 2020 and 06 February 2020.

6.1. As per Clause 1.9 of the Tariff Guidelines, 2019, the BOT operators shall agree to abide by the Guidelines by way of a Separate Agreement with the concerned Major Port. In this regard, the BPCL was requested vide letter dated 9 December 2019 to forward the copy of separate agreement duly signed by BPCL and JNPT.

6.2. Accordingly, the BPCL vide its email dated 4 September 2020 has furnished a copy of the Separate Agreement dated 24 August 2020 entered between BPCL and JNPT, duly signed by both the parties.

7.1. Based on a preliminary scrutiny of the proposal, additional information/ clarification has been sought from BPCL vide letter dated 18 February 2020. After a reminder dated 4 March 2020, the BPCL has responded vide its letter dated 17 March 2020**.** The information/ clarification sought and the response of BPCL thereon are tabulated below:

Sl. no.	Information sought by us	Reply of BPCL
A.	**<u>General:</u>**	
	As stipulated in Clause 1.9 of the Tariff Guidelines, 2019, the BPCL to execute a Separate Agreement with the Licensor port Jawaharlal Nehru Port Trust (JNPT) and forward a copy of the said Agreement duly signed by BPCL and JNPT.	
B.	**ARR Computation (Form – 1)**	
(i).	During the last general revision of tariff of BPCL vide Order dated 08 February 2017, the expenditure under the head 'MGT Expenses' was not considered as a pass through on the ground that the payment made by BPCL	During the last general revision of tariff of BPCL vide Order dated 08 February 2017, the expenditure under the head 'MGT Expenses' was not considered as a pass through on the ground that the payment made by BPCL

	to JNPT was penal in nature, arising on account of BPCL not meeting the minimum guaranteed throughput of any of the individual cargo item, even though the BPCL would have achieved the capacity utilization on aggregate basis. The expenditure under the head 'MGT Expenses' is reflected in the Statement showing Income and Expenditure of BPCL Jetty at JNPT for the years 2016-17 to 2018-19. The BPCL to exclude the said expenditure from the ARR computation.	to JNPT was penal in nature, arising on account of BPCL not meeting the minimum guaranteed throughput of any of the individual cargo item, even though the BPCL would have achieved the capacity utilization on aggregate basis. Earlier the format of SOR was not based on formula of current expenditure. The expenditure and income are to be estimated in earlier method of ARR computation and the MGT expenses can't be estimated for future years. Similarly in revised format of ARR computation the same has been considered because the same is cost to BPCL and paid to JNPT which impact the profitability of BPCL. And in "Working Guidelines, 2019 to operationalize the Tariff Guidelines, 2019 for Determination of Tariff for BOT Operators operating in Major Port Trusts", it has not been disallowed for ARR computation. So the same has been included for computation of ARR. If the same has been disallowed for ARR computation, the rate of increase for SOR is decreased to 1.59% from 7.93% which again will be loss to BPCL. So, the MGT expense for computation of ARR is included for revised proposal of SOR.
(ii).	The Statement of Capital employed for the years 2016-17 to 2018-19 reflects the figure of accumulated depreciation for the said years. Ideally the difference between the accumulated depreciation of the year 2017-18 and 2016-17 should reflect the depreciation for the year 2017-18 and so on. The said position is seen only with reference to the depreciation for the year 2018-19 (i.e. difference between accumulated depreciation of the year 2018-19 and 2017-18, matches with the depreciation for the year 2018-19). However, in respect of other years, this is not seen to be the case. Further, the depreciation figures shown in the Fixed Asset Statement (Form-7) for the year 2016-17 and 2017-18 do not match with the depreciation figures shown in the Income and Expenditure Account for the respective years. The BPCL is requested to look into the matter and reconcile the differences. The BPCL to rectify the depreciation figures, so that they fall in line with the Statement of Capital employed.	There is arithmetical error in preparing form 7 of SOR. The same has been corrected and revised Form 7 has been furnished. There is no material impact calculation of depreciation in Form 1 ARR computation. In earlier Form 1 submitted, total depreciation for ARR computation is considered amounting to ₹ 3,500.44 lakhs while after reconciliation of depreciation with Form 7 the revised amount of depreciation amounting to ₹ 3,490.43 lakhs. Due to slight change in depreciation amount, there is minor change in rate of increase in SOR. Earlier the same is 7.9354% now in revised SOR submitted the same is change to 7.9314% i.e. there is change in revenue estimated amounting to ₹. 33,139/-. The Revised Form 7, Form 1, Form 6A, Form 6B and Form 4 has been furnished.
(iii).	The reason for not considering any working capital component in the figure of Capital employed to be clarified.	As per discussion with our finance team and confirmation provided by them, BPCL is not having any inventory, sundry debtors and cash balances etc. as on 31.03.3019. So the working capital for computation of ARR is taken as NIL for the purpose of ARR computation.
(iv).	As per clause 2.8 of Tariff Guidelines 2019, the assessed ARR as per clause 2.1 to 2.7 is to be indexed by 100% of the Wholesale price index (WPI) applicable as communicated by TAMP to arrive at the indexed ARR for the immediate subsequent year. However, the BPCL is not seen to have indexed the ARR. The BPCL to, therefore consider the indexation factor so as to update its ARR. The indexation factor to be applied is available in the website of TAMP.	As per clause 2.8 of Tariff Guidelines 2019, the assessed ARR as per clause 2.1 to 2.7 is to be indexed by 100% of the Wholesale price index (WPI) applicable as communicated by TAMP to arrive at the indexed ARR for the immediate subsequent year. The WPI is taken when the Expenditure of 2017-18 is considered for ARR computation. BPCL has not considered indexation as Year 3 is itself 2018-19. So for the purpose of ARR computation expenditure of 2018-19 is considered, so no WPI is required on the same.
C.	**Revenue Estimation (Form – 4)**	
(i).	The proposed SOR as furnished by BPCL prescribes wharfage charges for 'Acetic Acid' at ₹ 167.94 per tonne. However, in the revenue estimation at proposed rates as given in Annexure – A, income has been captured for 'Acetic Acid' at two places (SL. No. 2.8 and SL. No. 2.10) ₹ 167.94 per tonne and at ₹ 207.46 per tonne respectively. In this regard, the BPCL to clarify the reasons for estimating revenue at two different rates for the same cargo i.e. "Acetic Acid". It is also observed that	There is arithmetical error while drafting revenue estimation in form 4. The same has been revised as per new ARR computed and furnished. In the revenue estimation at proposed rates, all the rates has been matching with rates as Proposed by the BPCL in chapter-III of its Proposed SOR. Copy of the Proposed SOR has been again attached herewith for your reference and also revised Form 4 is also been

	the BPCL has proposed the rate of ₹ 167.94 per MT in the proposed SOR.	submitted.
(ii).	In the revenue estimation at proposed rates as given in Annexure – B, it is noticed that all the proposed rates for the various miscellaneous services do not match with the rates as proposed by the BPCL in Chapter – III of its proposed SOR. The BPCL to consider the rates as proposed in its SOR for the purpose of revenue estimation. A revised Form – 4 to be furnished.	Revised Form 4 is furnished by the BPCL.
(iii).	The BPCL is seen to have not estimated any income from the charges proposed to be levied in respect of the following, as indicated in the proposed SOR:	
(a).	Charges for entry of Truck for removal of sludge oil at ₹ 1000/- per truck at Sl. No. 3.12 under Chapter – III – Miscellaneous Charges in the proposed SOR.	The new rates has been proposed by BPCL. The same has not been collected yet. It is not possible to estimate the revenue because there is no existing quantity or base for the estimation of income Also, once in a month BPCL receives a truck for such type of service.
(b).	Charges for Use of fire engine for pipeline cleaning at ₹ 5900/- per hour at Sl. No. 3.13 under Chapter – III – Miscellaneous Charges in the proposed SOR.	The new rates has been proposed by BPCL. The same has not been collected yet. It is not possible to estimate the revenue because there is no existing quantity or base for the estimation of income. Also, these service are not regularly provided but will be provided once pipelines connecting jetty to the tank farm need to be hydro tested, depending on the periodicity of hydro testing. So no revenue estimation can be provided.
(c).	Charges for Loading of Lubricant barrels and Paint Barrels at ₹ 20/- per barrel at Sl. No. 3.14 under Chapter – III – Miscellaneous Charges in the proposed SOR.	The new rates has been proposed by BPCL. The same has not been collected yet. It is not possible to estimate the revenue because there is no existing quantity or base for the estimation of income.
D.	**<u>Scale of Rates</u>**	
(i).	The notes relating to System of classification of vessel for levy of Vessel Related Charges (VRC), Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate and Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate, had been prescribed in the Scale of Rates of BPCL vide Order of February 2017, in line with the common Order no. TAMP/53/2015-VOCPT dated 26 November 2015 read with common Order no. TAMP/53/2015-VOCPT dated 10 June 2016. However, the said notes are seen to have been deleted by the BPCL in the proposed notes. It may be noted that the said notes have been prescribed commonly in the SOR of all Major Port Trusts and BOT operators. The said notes would be reinstated in the SOR of BPCL.	BPCL agrees to the reinstatement of the VRC charges in SOR. The revised SOR has been furnished.
(ii).	The general note no. (vi) (b) under Section 1.2 of the proposed SOR relating to conversion of dollar denominated tariff, to be revised in line with Clause 5.5.1 of the Tariff Guidelines, 2019.	The general note no. (vi) (b) under Section 1.2 of the proposed SOR relating to conversion of dollar denominated tariff, has been revised in line with Clause 5.5.1 of the Tariff Guidelines, 2019. The revised SOR is furnished by BPCL.
(iii).	The general note no. (iii) (a) under Section 1.2 of the proposed SOR relating to rate of interest on delayed payments, to be revised in line with Clause 5.4.1 of the Tariff Guidelines, 2019.	The general note no.(iii) (a) under Section 1.2 of the proposed SOR relating to rate of interest on delayed payments, has been revised in line with Clause 5.4.1 of the Tariff Guidelines, 2019. The revised SOR has been furnished.
(iv).	In Chapter – II – Wharfage Charges, under Section 2.1, various Petroleum Products have been listed. One such item under Sl. No. (6) is 'ATF/ Aromatic Feed Stock (AFS)'. Given that the said cargo item has been listed under Petroleum Products, the reason for proposing concessional rate at 60% on the proposed foreign rate to prescribe coastal rate, to be explained. Prima facie, it appears that this petroleum product may not be eligible for concessional rate.	There is clerical error in drafting of Chapter - II - Wharfage Charges, under Section 2.1. There is no such kind of concessional rate on the proposed foreign rate to prescribe coastal rate. Revised SOR and Form 4 have been furnished.
(v).	Though cargo item viz., 'Base Oil, Aromatic Heavy Ends (AHE)' has been listed under Section 2.2 – Chemicals, no concessional tariff has been proposed by BPCL for the coastal Base Oil, Aromatic Heavy Ends (AHE). The reason for the same to be explained.	No concessional tariff has been proposed by BPCL for the coastal Base Oil, Aromatic Heavy Ends etc. There is a clerical error in drafting the Proposed SOR. The Base oil should be considered as petroleum product. The same is wrongly considered as chemicals. The revised SOR has been submitted herewith for your reference.

(vi).	Under Chapter – III – Miscellaneous Charges in the proposed SOR, the BPCL has introduced new services viz., Charges for entry of Truck for removal of sludge oil at ₹ 1000/- per truck, Charges for Use of fire engine for pipeline cleaning at ₹ 5900/- per hour and Charges for Loading of Lubricant barrels and Paint Barrels at ₹ 20/- per barrel. In this regard, the BPCL to clarify/ furnish the following:	
(a).	The basis/ workings to arrive at each of the proposed new rates, keeping in view the stipulation contained in Clause 5.6.1 of the Tariff Guidelines, 2019.	Charges for use of fire engine for pipeline cleaning: As per Working guidelines clause 5.6.1, when a specific tariff for a new service is not available in the SOR of that particulars operator, the concerned BOT can approach TAMP for notification of tariff for the said new service adopting the tariff if any fixed for comparable service in any major port trust or BOT operator governed under this tariff guidelines. So on the basis of the same, BPCL has taken reference of Chennai Port Trust SOR for Use of fire engine for Pipelines cleaning. Reference is taken form notification no. 376 dated 30th Oct, 2019 of Chennai Port Trust.
(b).	Reason for introducing each of the new levy along with the nature of service proposed to be rendered by BPCL for levy of the aforesaid charges.	No specific response has been furnished by BPCL
E.	**Past Period Surplus:**	
	Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of operators who have not approached Courts, the surplus/deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below: *"The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or - 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50% of the benefit/ loss already accrued will be set off while revising the tariff."* The BPCL to, therefore, furnish the statement reviewing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle as done in earlier tariff revision under erstwhile Tariff Guidelines, 2005 and make necessary adjustments from the estimated ARR in case there is variation in both physical and financial parameters by +/-20%. The Form-8 submitted by the BPCL is relevant only for the next revision of its Scale of Rates.	The details for the same has already been submitted with separate letter no. BPCL/JNP/OPS dated 11.02.2020.

7.2. While furnishing the information/ clarification, the BPCL has revised its proposal. The revision is to the extent of rectification of some arithmetical errors. As such, as against the ceiling indexed ARR and income at the proposed level of tariff each assessed at ₹ 9058.15 lakhs in the initial proposal of November 2019, the ceiling indexed ARR and income at the proposed level of tariff each has been assessed at ₹ 9057.81 lakhs in the revised proposal of March 2020.

8. Further, the licensor port JNPT was requested vide letter dated 18 February 2020 to furnish its specific comments on few points. After reminders dated 8 July 2020 and 25 August 2020, the JNPT vide its email dated 16 September 2020 has responded. The response of JNPT was forwarded to BPCL vide letter dated 30 September 2020 for its comments. The BPCL vide its email dated 11 June 2021 has responded. The specific comments sought from JNPT, response of JNPT thereon and comments of BPCL on the response of JNPT are tabulated below:

Sl. no.	Specific comments sought	Reply of JNPT	Comments of BPCL thereon
(i).	Computation of ARR as furnished by BPCL in its Form no. 1.	As per Form 6A, under Other Expenses (k), MGT expenses are shown ₹ 514.42 lakhs, ₹ 557.55 lakhs & ₹ 524.77 lakhs for FY 2016-17, 2017-18 and 2018-19 respectively. It is submitted that the MGT expenses taken in Form 6A working is the payable amount and	BPCL has included the MGT expenses in form 6A working for ARR computation as MGT is a cost to BPCL. Though BPCL has achieved the capacity utilization of the jetty on

<table>
<tr><td></td><td></td><td>which is yet to be paid to JNPT by BPCL. MGT expenses are levied on the Licensee in the scenario where they do not meet the minimum guaranteed throughput of any individual cargo item, though the BPCL would have achieved the capacity utilization on aggregate basis. Since the said expenditure is penal in nature, it is not appropriate to burden the user for the penalty suffered by the BPCL. Therefore, the said expenditure may not be included while calculating ARR.</td><td>aggregate basis, JNPT levies MGT based on minimum guaranteed throughput for individual cargos. By virtue of having achieved the aggregate capacity utilization of the jetty and the fact that Jetty occupancy for berth LB01 was 96.4% during 2019-20 and overall jetty occupancy was more than 87%, it is clear that the current level of jetty occupancy does not provide any avenue for any further growth in jetty traffic. Neither JNPT has provided BPCL any exemption with regards to MGT. Hence MGT payable to JNPT is an additional cost to BPCL, similar to the royalty payment to the JNPT and hence has been included for the ARR computation. And also in the "Working Guidelines, 2019 to operationalize the tariff Guidelines, 2079 for determination of Tariff for BOT operators operating in Major Port Trusts ", it has not been disallowed for ARR computation, so the same has been included for computation of ARR. If the same has been disallowed for ARR computation, the rate of increase for SOR gets decreased to 1.59% from 7.93% which again is loss to BPCL. So, MGT expenses for computation of ARR is included for General revision proposal of SOR.</td></tr>
<tr><td>(ii).</td><td>In Form 4, the BPCL has indicated the average traffic at 66.21 Lakh tonnes for the years 2016-17 to 2018-19. The said average traffic at 66.21 Lakh tonnes to be confirmed by JNPT.</td><td>In computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts, actual royalty paid to JNPT for FY 2016-17 is ₹ 2048.99 lakhs instead of ₹ 2038.31 lakhs. For FY 2017-18 & 2018-19, royalty figures shown are correct.

The average traffic throughput at BPCL jetty is given below:
(Traffic Figures in MT)
<table>
<tr><th>Category</th><th>2016-17</th><th>2017-18</th><th>2018-19</th><th>Average</th></tr>
<tr><td>Total BPCL</td><td>6257018</td><td>6603322</td><td>6997784</td><td>6619375</td></tr>
<tr><td>Crude oil</td><td>1419622</td><td>1444234</td><td>1389247</td><td></td></tr>
<tr><td>BPCL (excl. Crude oil)</td><td>4837396</td><td>5159088</td><td>5608537</td><td>5201674</td></tr>
</table>
However, subsequently, the JNPT vide its letter dated 8 December 2020 conveyed that the royalty payment by BPCL to JNPT as per records for financial year 2016-17 is ₹ 2038.31 lakhs as submitted by BPCL.</td><td>We confirm that the royalty paid to JNPT for the year 2016-2017 was ₹ 2038.31 lakhs. v. BPCL has entered into a separate agreement with INPT, as per the stipulation contained in clause 'J.9 of the 2019 guidelines. Agreement was executed on 24.08.2020.

A copy of the letter from BPCL to JNPT of ref BPCL/JNPT /LPG/OPS dt. 23.07.2020 wherein the details of the cargo wise Annual throughput were provided to JNPT, is furnished by BPCL. A summary of the statement is reproduced below:
<table>
<tr><th></th><th>Throughput</th></tr>
<tr><td>2016-17</td><td>6257427.441</td></tr>
<tr><td>2017-18</td><td>6604921.145</td></tr>
<tr><td>2018-19</td><td>7004105.193</td></tr>
<tr><td>Average</td><td>6622151.260</td></tr>
</table></td></tr>
<tr><td>(iii).</td><td>The estimation of revenue at the proposed level of tariff as furnished by BPCL in its Form no. 4.</td><td>As per Form-1, Annual Revenue Requirement has been computed at ₹ 9057.81 lakhs. Against the said ARR, BPCL has a current revenue for F.Y. 2018-19 at ₹ 8392.19 lakhs. Accordingly, BPCL wishes to increase the current rate by 7.93%, resulting which the total estimated revenue will be within the calculated ARR.</td><td>In FORM 1, the Annual requirement has been computed at ₹. 9057.81 lakhs as BPCL jetty had a current revenue for the FY 2018-2019 at ₹ 8392.19 lakh and BPCL wishes to increase the current rate by 7.93%.</td></tr>
<tr><td>(iv).</td><td>The JNPT to coordinate with BPCL to enter into a Separate Agreement as per the stipulation contained in Clause 1.9 of the 2019 Guidelines. The copy of the Agreement to be entered by BPCL with JNPT, duly signed by both the parties to be furnished.</td><td>(The JNPT has furnished the copy of Separate Agreement dated 24 August 2020 entered by BPCL with JNPT, duly signed by both the parties.</td><td>BPCL has entered into a Separate Agreement with JNPT as per the stipulation contained in Clause 1.9 of the 2019 Guidelines.</td></tr>
</table>

9. A joint hearing on the case in reference was held on 13 January 2020 at TAMP office in Mumbai. The BPCL had made a Power point presentation of the proposal. At the joint hearing, the BPCL, JNPT and the concerned users/ organization bodies have made their submissions.

10.1. In view of the objection raised by JNPT at the Joint Hearing for the proposed increase in wharfage for crude oil, the BPCL was requested vide our letter dated 16 January 2020 to have a relook at its proposal and explore review of its proposed rates.

10.2. In this regard, the BPCL vide its letter dated 11 February 2020 conveyed that it appreciates the concerns of JNPT which were expressed by them during their interactive meeting on 13 January 2020 and has taken up these objections very seriously and has put up a new proposal to the top management of BPCL asking them for an in principle approval for reducing wharfage rates for crude loaded ex JNPT. BPCL being a PSU and having layered structure this could take some time.

10.3. After reminders dated 4 March 2020, 8 July 2020, 1 December 2020, 5 January 2021 and 12 May 2021, the BPCL has responded vide its email dated 11 June 2021. The submissions made by BPCL are as follows:

(i). Post the joint meeting of 13 January 2020 we had put up proposals for review of the proposed SOR to the senior management. The proposals and the review of the proposals both had taken time due to the COVID-19 pandemic that had gripped the country and we had requested TAMP for extension of the SOR vide our various letters.

(ii). However despite many reworking on the proposal, our proposals based on the JNPT request did not get the approvals because the senior management was not convinced about any additional financial benefit to the corporation on account of the proposals for reducing the crude oil Wharfage as –

(a). The actual reason for loss of crude business was because of the condition in the ONGC agreement with MBPT for crude loading wherein ONGC has to pay royalty to MBPT @ 50% of the Wharfage for crude loading Ex-MBPT for all the quantity of crude that is loaded from JNPT, which increases ONGC cost and was objected by their audit.

(b). The jetty occupancy for LB01 berth even during the COVID period from April 2020 to SEP 2020 was almost at 85% which increased to average 95.8% berth occupancy for balance part of the year post the relaxation in the Lockdown.

(c). BPCL and the PSU oil companies were already finding it difficult to berth the LPG import vessels at JNPT to meet the LPG demand of the Nation because of the congestion of vessels for berthing at BPCL Jetty.

(d). BPCL has massive expansion plans to increase the LPG imports through JNPT which is currently at 1 MMTPA to 3 MMTPA over the next 3 years keeping in view the forecasted spurt in LPG demand.

(iii). In view of the above, it is requested that our original proposal for General revision of the Scale of Rates (SOR) which was submitted to TAMP on 28.11.2019 along with the clarifications provided vide our letter of ref. BPCL/JNPT/OPS dated 17.03.2021 be considered as the firm and final Proposal.

(iv). The Current extension of the SOR is valid till 30.06.2021. Hence, TAMP is also requested to extend the existing tariff (SOR) of BPCL for a further period of 3 months i.e. from 01.07.2021 to 30.09.2021, or upto finalization of the new SOR, whichever is earlier.

11. As stated earlier, this Authority had extended the validity of the existing SOR of BPCL till 31 December 2019. In the meanwhile, based on the discussions that transpired during the Joint Hearing, the BPCL was requested to have a relook at its proposal and explore review of its proposed rates. However, considering the COVID-19 pandemic and the lockdown that followed thereon, there was delay on the part of BPCL to communicate its decision on this aspect. Nevertheless, based on the specific request made by BPCL and in order to avoid a vacuum in the levy of the SOR of BPCL, this Authority has on regular occasions extended the validity of the existing SOR of BPCL. On the last occasion, this Authority vide Order no. TAMP/46/2016-BPCL dated 28 December 2020 has extended the validity upto 30 June 2021.

12. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made in the joint hearing by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

13. With reference to totality of information collected during the processing of this case, the following position emerges:

(i). The Scale of Rates of Bharat Petroleum Corporation Limited (BPCL) was last approved by this Authority vide Order No. TAMP/46/2016-BPCL dated 8 February 2017, following the Tariff Guidelines of 2005. Vide the said Order, an across the board increase of 11% was effected on the then prevailing rates of BPCL. Subsequently, at the request of BPCL, the validity of the Scale of Rates of BPCL has been extended at regular intervals. As of now, the validity stands extended till 30 June 2021. The extension of validity of the SOR is subject to fully adjusting the additional surplus, if any, over and above the admissible cost and permissible return accruing to the BPCL for the period post 1 April 2019 in the tariff to be determined.

(ii). The Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the Ministry of Shipping (MOS), the tariff fixation exercise in respect of the BPCL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

(iii). In this backdrop, the BPCL has come up with its proposal dated 28 November 2019 for general revision of its SOR under the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019. The said proposal of BPCL alongwith the information/ clarification furnished by BPCL during the processing of the case are considered in this analysis.

(iv). (a). Clause 2.1 of the Tariff Guidelines, 2019, requires each BOT Operator to assess the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). In the case in reference, separate Annual Accounts are not prepared by the BPCL for the BPCL liquid cargo jetty at JNPT. In the past general revisions, the Income and Expenditure statement and the Capital employed Statement pertaining to the exclusive operations at the BPCL liquid cargo jetty, as certified by the Chartered Accountant has been relied upon. On the same lines, the Certified Income and Expenditure statement and Capital Employed Statements pertaining to the BPCL liquid cargo jetty of at JNPT, as furnished by BPCL, is relied upon, for the sole purpose of assessing the ARR, as stipulated in Clause 2.1 of the Tariff Guidelines of 2019.

(c). The BPCL has assessed the ARR based on Certified Income and Expenditure statement and Capital Employed Statements for three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by a practicing Chartered Accountant. The total operating expenditure considered by BPCL for the years 2016-17, 2017-18 and 2018-19 in Form 1 for arriving at the average sum of the Actual Expenditure for the respective years is seen to be as per the Certified Income and Expenditure statement of BPCL Jetty for the respective years.

(d). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments is to be done in the ARR computation by excluding IND AS figures and considering figures as per IGAAP. In this connection, the BPCL has confirmed that there is no variation in IND AS and IGAAP. Thus, the BPCL has not shown any adjustments under item no. 2 (i) and (ii) in the computation of ARR.

(e). Clause 2.2 of the Tariff Guidelines, 2019, interalia, stipulates that Royalty/ Revenue share' payable to the landlord port by the BOT operator in those cases where the bidding process was finalized before 29 July 2003 tariff computation will be taken into account to the extent of the next highest bidder in the ARR computation. In the case of BPCL, though it has signed the license agreement with JNPT in August 1999 and falls in the pre July 2003 era, Royalty has not been allowed as a pass through in the past general revisions of BPCL. This is because, the licence was awarded to BPCL on a nomination basis and no competitive bids were invited as per the directions of the Ministry of Petroleum. Since there is no second bid available for comparison and since the earlier Tariff Guidelines of 2005 did not cover the situation where there is single technically qualified bidder and no other bid is available for comparison, the matter has been referred by both this Authority as well as by BPCL to the Government. However, in the absence of any specific direction from the Government about the treatment of royalty, the royalty payable by BPCL to JNPT has not been treated as pass through in the past tariff fixing exercises. Even now in the current general revision under Tariff Guidelines, 2019, the BPCL has not made a mention about it receiving any direction from the Government on the royalty issue, contrary to the approach adopted by this Authority. The BPCL has thus, correctly excluded the royalty amount paid by it to JNPT as inadmissible expenditure to the tune of ₹. 2038.31 lakhs, ₹. 2410.07 lakhs and ₹. 2586.65 lakhs pertaining to the years 2016-17 to 2018-19 respectively, in its analysis.

(f). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, Interest on loans, provision for bad and doubtful debts, provision for slow moving inventory etc., are to be excluded. The BPCL has not reported any expenditure on account of Interest on loans, provision for bad and doubtful debts, and provision for slow moving inventory in its Certified Income and Expenditure statement of BPCL Jetty at JNPT for the respective years.

(g). The expenditure under the head 'MGT Expenses' is reflected in the Statement showing Income and Expenditure of BPCL Jetty at JNPT for the years 2016-17 to 2018-19. This expenditure is arising on account of BPCL not meeting the minimum guaranteed throughput of any of the individual cargo item, even though the BPCL would have achieved the capacity utilization on aggregate basis. Inspite of a specific request to exclude the said expenditure, the BPCL has not excluded the said item from the ARR computation on the ground that the same is cost to BPCL and is paid to JNPT and that the Tariff Guidelines 2019 and the Working Guidelines 2019, do not specifically stipulate exclusion of the said expenditure.

In this regard, it is relevant to mention here that though it is an actual expenditure paid by BPCL to JNPT, the nature of the expenditure is penal in nature. In this context, it is noteworthy that even during the last general revision of tariff of BPCL vide Order dated 08 February 2017 based on the Tariff Guidelines 2005, the expenditure under the head 'MGT Expenses' was not considered as a pass through on the ground that the payment made by BPCL to JNPT was penal in nature. Though the tariff fixing methodology stipulated under the Tariff Guidelines 2019 has changed, the basic premise of both the set of Tariff Guidelines of disallowing certain expenditure in the tariff fixation exercise has not undergone any change. Given that the expenditure which is penal in nature need not be passed on to the users in the form of tariff, the said expenditure is excluded from the operating expenditure for each of the years under consideration.

(h). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines and based on the adjustments as discussed above, the average expenses for the years 2016-17 to 2018-19 has been worked out to ₹ 2401.23 lakhs as per the stipulation prescribed in clause 2.4 of the Tariff Guidelines, 2019, instead of ₹.2933.81 lakhs, as assessed by the BPCL.

(v). (a). Based on the stipulation contained in Clause 2.5 of the Tariff Guidelines of 2019, the BPCL has worked out the figure of Capital Employed. As per Certified Capital employed Statement for the BPCL Jetty at JNPT, Gross Fixed Assets as on 31 March 2019 is reported to be ₹ 38,277.12 Lakhs. No capital Work-in-progress is reported. Thus Gross Fixed assets including capital work in progress as on 31 March 2019 is reported as ₹38,277.12 lakhs. The workings furnished by BPCL in Form 7 has been duly certified by a Chartered Accountant.

(b). Clause 2.6. of the Tariff Guidelines, 2019 prescribes the norms for determining the working capital comprising of Inventory, Sundry debtors and Cash balances. Limit on inventory for capital spares will be one year's average consumption and in case of other items of inventory the limit will be six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and lease rental / license fee to the landlord port flowing from the contractual obligations is to be treated as sundry debtors.

(c). The BPCL has not considered any Inventory excluding fuel, Sundry Debtors and Cash balances towards working capital requirement for the facility for all the years under consideration. It is noteworthy that even during the last revisions of tariff of BPCL, working capital requirement has not been considered by BPCL itself, on the ground that all the dealings are done by BPCL without any credit. Based on this position, no working capital has been considered by BPCL in this analysis.

(d). However, it is felt fair and reasonable to consider Cash balance as part of Working Capital. Accordingly, cash balance is considered at one month cash expenses.

(e). Thus, the total capital employed works out to ₹ 38371.84 lakhs as against ₹.38,277.12 Lakhs as worked out by BPCL.

(vi). As per Clause 2.7 of the Tariff Guidelines, 2019, Return on Capital Employed (ROCE) at 16% is worked out on the Capital Employed, which works out to ₹. 6139.49 lakhs which is considered in the ARR computation, as against ₹.6124.34 lakhs assessed by the BPCL.

(vii). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. Accordingly, the ARR has been worked out to ₹ 8540.72 lakhs instead of ₹. 9057.81 lakhs as assessed by BPCL.

Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI. The BPCL in its analysis has not factored applicable WPI indexation to arrive the ceiling indexed ARR for the year 2019-20. Also, considering the time that has passed in finalizing the case, WPI indexation as applicable for the year 2020-21 also needs to be taken into account. Therefore, the 100% WPI indexation as applicable for the years 2019-20 and 2020-21 which is 4.26% and 1.88% respectively is considered, so as to arrive at the indexed ARR for 2020-21.

Further, it is to state that considering the time involved in passing this Order, notification of the said Order in the Gazette of India and the lead time for the revised Scale of Rates of BPCL to come into effect, it is most likely that the revised Scale of Rates of BPCL would come into effect only during the month of October 2021. In view of this position, this Authority is inclined to consider an additional escalation factor of 0.55% over the indexed ARR of 2020-21, in the computation of ARR of BPCL. Such an approach has been considered in the general revision proposal of Kolkata Port Trust (KOPT) (Order no. TAMP/34/2019-KOPT dated 20 February 2020), JNPT (Order no. TAMP/52/2019-JNPT dated 01 June 2020 and Order no. TAMP/18/2020 – JNPT dated 13 May 2021)

Thus, the ceiling indexed ARR works out to ₹. 9121.86 lakhs as against the indexed ARR as assessed by the BPCL at ₹. 9057.81 lakhs.

(viii). Subject to above analysis, the revised computation of ARR is attached as **Annex –I**. A summary of the ceiling indexed ARR furnished by the JNPT and as considered by us is given below:

(Amount ₹. in lakhs)

Sr. No.	Particulars	As estimated by the BPCL	As considered by us
1.	Average Expenses for the years 2016-17, 2017-18 and 2018-19	2933.48	2401.23
2.	Capital employed including net fixed asset, capital work-in- progress as on 31.03.2019 and working capital as per norms	38277.11	38371.84
3.	Return on capital employed @ 16%	6124.34	6139.49
4.	ARR as on 31 March 2019 (4=1+3)	9057.81	8540.72
5.a	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26%)	9057.81	8904.56

5.b	Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 (1.88%)	--	9071.97
6	Indexation in the ARR @ 100% of the WPI applicable for the year 2021-22 (0.55%)	--	9121.86
6.	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**9057.81**	**9121.86**
7.	**Revenue estimated by BPCL at the proposed Scale of Rates**	**9057.81**	**9057.81**

(ix). Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of operators who have not approached Courts, the surplus/ deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below:

"The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If performance variation of more than + or - 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50% of the benefit/ loss already accrued will be set off while revising the tariff."

The tariff of BPCL was last fixed vide tariff Order no. TAMP/46/2016-BPCL dated 8 February 2017, by relying upon the estimates for the years 2016-17 to 2018-19. Thus, the estimates as relied upon in the Tariff Order dated 8 February 2017 for the years 2016-17 to 2018-19 vis-à-vis actuals for the corresponding period are to be analyzed to assess the surplus/ deficit, to comply with clause 3.1.2. of the Tariff Guidelines 2019.

(x). BPCL has not furnished past period workings for the years 2016-17 to 2018-19. Thus, an exercise has been undertaken to analyze the past period, which is discussed as given below:

(a). The actual traffic handled by BPCL during the years 2016-17 to 2018-19 is reported to be 6.26 MMTPA, 6.60 MMTPA and 7.00 MMTPA respectively, aggregating to 19.86 MMTPA, as against the aggregate traffic of 17.23 MMTPA as estimated in the tariff Order of February 2017 for the corresponding period. The JNPT has confirmed the traffic figures as considered by BPCL for the years 2016-17 to 2018-19. The positive variation in traffic is seen to be 15.26%.

(b). The opinion of Attorney General for India conveyed by Ministry of Shipping (MOS) vide its letter dated 12 June 2015 is that the actual income earned by the operator based on their Audited Accounts should be considered and not any notional income. Therefore, for the purpose of analysis of the past period, the actual income as reported in the certified financial statement furnished by BPCL for the years 2016-17 to 2018-19 has been considered. Further, the estimated income for the years 2016-17 to 2018-19 as relied upon in the Order of February 2017 has been updated to reflect the 11% increase in the tariff as effected by the said Order.

(c). The Expenses have been considered as reflected in the Certified Income and Expenditure Statement for the years 2016-17 to 2018-19, except for the Royalty expenses and MGT expenses. Given that the Royalty expenses and MGT expenses paid by BPCL to JNPT has not been allowed as a pass through in the last general revision Order of February 2017, the actual Royalty and MGT expenses as reflected in the Certified Income and Expenditure Statement for the years 2016-17 to 2018-19 has also not been considered in the past period analysis.

(d). (i). In line with the approach adopted during the last review based on 2005 Guidelines, the value of Net Fixed Assets to the tune of ₹ 226.81 crores, ₹ 225.26 crores and ₹ 216.56 crores as reflected in the Certified Capital Employed Statement for the years 2016-17 to 2018-19 respectively has been considered for arriving at the capital employed.

(ii). Since no working capital had been considered in the estimates of Capital employed in the Order of February 2017, Working capital has been considered as NIL in the analysis.

(e). A copy of the cost statement reviewing estimates of 2016-17 to 2018-19 vis-à-vis actuals of the corresponding period is attached as **Annex – II.** A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

Particulars	**Aggregate for the years 2016-17 to 2018-19 (₹. in lakhs)**		**Variation in %**
	Estimates as per tariff Order	**Actuals**	
Traffic (in MMTPA)	17.23	19.86	15.26%
Total Operating Income	17640.87	22015.56	24.80%
Total Expenditure including FME less FMI, Depreciation and overheads	7694.31	7204.70	-6.36%
Surplus/ deficit before Return	9946.56	14810.86	48.90%
Capital Employed (Average)	20831.99	22287.66	6.99%
16% Return on Capital Employed (Average)	3333.12	3566.03	6.99%
Net Surplus after ROCE (before adjustment of past surplus)	6613.44	11244.83	70.03%

The details regarding the Actual Return earned by BPCL on the Capital Employed are given in the following table:

(₹. In lakhs)

Sr. no.	**Particulars**	**2016-17**	**2017-18**	**2018-19**	**Average**
(i).	Actual Surplus before Return earned by BPCL	3499.79	5237.54	6073.53	4936.95
(ii).	Actual Capital Employed	22681.11	22526.18	21655.68	22287.66
(iii).	Actual Return on Capital Employed as a percentage.	15.43%	23.25%	28.05%	22.15%
(iv).	Variation in Return on Capital Employed @ 16%	-3.56%	45.31%	75.31%	38.44%

(f). As per clause 2.13 of the tariff guidelines of 2005 read with the opinion of AG, if review of actual physical as well as financial performance for the previous tariff cycle shows the variation of more than + 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle.

It can be seen from the above analysis that though the variation in the financial performance in terms of return on capital employed is positive and the same is more than 20%, the variation in the physical performance in terms of actual traffic handled is less than 20%. Hence, there is no case for adjustment of past period surplus of BPCL for the years 2016-17 to 2018-19

(g). As per Clause 3.1.2 of the Tariff Guidelines, 2019, surplus/ deficit upto the period of first tariff fixation is to be dealt with as per Clause 2.13 of the Tariff Guidelines, 2005. The period covered for analysis of past performance is 3 years i.e. 2016-17 to 2018-19.

The performance of BPCL for the years 2019-20 and 2020-21 could not be analysed due to lack of audited accounts for the years 2019-20 and 2020-21. Hence, the performance of BPCL for the years 2019-20, 2020-21 and upto the period in 2021-22 when the revised tariff based on this Order, comes into effect, shall be analysed during the fixation of tariff for next tariff cycle, and the surplus if any, over and above the admissible cost and permissible return of 16% shall be adjusted in the ratio of 60:40 borrowing the opinion of Attorney General of India, as obtained by the then MOS on clause 2.13 of the Tariff Guidelines, 2005.

(xi). (a). As per Clause 2.11.1 of Tariff Guidelines, 2019, the BOT Operators have the flexibility to determine the rates to respond to the market forces based on commercial judgment and draw the SOR within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant.

While drawing up the proposed SOR, the BPCL is seen to have proposed an across the board increase of 7.93% over the existing tariff. The BPCL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1. of the Tariff Guidelines, 2019, so as to realize revenue to the tune of ₹. 9057.82 lakhs. The said revenue estimation statement as assessed by the BPCL has been duly certified by a Chartered Accountant.

(b). As per the ARR computation as brought out in the preceding paragraph, the ceiling indexed ARR has been worked out to ₹. 9121.86 lakhs. The revenue estimate at ₹.9057.82 crores at the proposed level of tariff is within the ceiling indexed ARR, thereby leaving a gap of ₹. 64.04 lakhs, which has been left uncovered by the BPCL.

(c). The BPCL has introduced charges for 3 services in Chapter-III Miscellaneous charges viz., Charges for entry of Truck for removal of sludge oil, Use of Fire Engine for pipeline clearing and Charges for loading of lubricant barrels and paint barrels. The charges proposed for the entry of Truck for removal of sludge oil at ₹ 1000/ truck/ 20 kl and the Charges for loading of lubricant barrels and paint barrels is reported to be based on the decision made by the Management of BPCL. The charges for the use of Fire Engine for pipeline clearing at ₹ 5900/- per hour is reported to be based on the rate taken from the Chennai Port Trust (CHPT) for use of fire engine at ₹ 5880/- per hour plus 20% service charges. Since, none of the users have specifically objected to the introduction of proposed levy for the above mentioned three services, the judgment of BPCL in this regard is relied upon.

The prescription of new charges for the above mentioned charges will generally lead to accrual of some revenue to the BPCL. However, the BPCL has not estimated any revenue on account of levy of these charges. However, it is presumed that the revenue to be accrued on account of levy of these charges is likely to get subsumed in the revenue gap of ₹. 64.04 lakhs, which has been left uncovered by the BPCL as brought out above.

In view of the above, the introduction of charges for 3 services in Chapter-III Miscellaneous charges viz., Charges for entry of Truck for removal of sludge oil, Use of Fire Engine for pipeline clearing and Charges for loading of lubricant barrels and paint barrels, as proposed by BPCL is approved.

(xii). The comparative statement giving the existing conditionalities and the conditionalities wherever the BPCL has proposed modification in the existing conditionalities or has proposed introduction of new provisions, with the reasoning furnished for recommending acceptance or refusal to the proposed amendments is attached as **Annex - III**. The proposed modification/ deletion in the existing conditionalities is approved taking into consideration the remarks/ analysis thereon given in the said Annex-III.

(xiii). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31st December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. It is relevant here to state that in the instant case, indexation for the year upto 2021-22 has already been considered in the ARR and for drawing the SOR. The next annual indexation in SOR is applicable from 1 May 2022. That being so, a note is inserted in the SOR to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 60% of the WPI to be announced by this Authority. The annual indexation will be from 01 May 2022. The indexed SOR shall be intimated by the BPCL to the JNPT, users and to this Authority.

(xiv). Based on the stipulation contained in Clause 1.9 of the Tariff Guidelines, 2019, the BPCL and the Licensor port JNPT have already entered into a Separate Agreement on 24 August 2020. The BPCL has made available a copy of the Separate Agreement to this Authority.

(xv). The validity of the existing SOR of the BPCL was last extended till 31 June 2021 or till the effective date of implementation of the revised SOR, whichever is earlier. By the time this Order is notified in the Gazette and comes into effect, it would be around October 2021. That being so, the validity of the existing SOR is deemed to have been extended from 01 July 2021 till the revised SOR of BPCL comes into effect.

14.1. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves the SOR and conditionalities of the BPCL attached as **Annex – IV**.

14.2. The revised SOR and conditionalities of the BPCL shall come into force after expiry of 30 days from the date of notification of this Order in the Gazette of India and shall be in force for a period of three years thereafter, subject to annual indexation. The approval accorded to the SOR shall automatically lapse thereafter, unless specifically extended by this Authority.

14.3. As per clause 7 of the Tariff Guidelines 2019, the BPCL shall furnish to this Authority, annual reports on cargo traffic handled and ship berth day output. The annual reports shall be submitted by the BPCL within 90 days following the end of each of the year. Any other information which is required by this Authority from time to time shall also be furnished.

14.4. An analysis of variation in the tariff and revenue will also be made at the time of the next general review of tariff of BPCL at the end of the tariff validity period and adjustment of additional surplus will be made in the tariff to be fixed for the next cycle, subject to the provisions contained in Clauses 3.2.1 and 3.2.2 of the Tariff Guidelines, 2019.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts.

Rs. in lakhs

Sl. No.	Description	Y1	Y2	Y3
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	4,953.50	5,451.88	5,430.08
(ii).	Finance and Miscellaneous expenses (FME)	-	-	-
	Total Expenditure 1=(i)+(ii)	4,953.50	5,451.88	5,430.08
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation			
(ii).	Other expenditure items, if any, to be listed			
	Total of Adjustments 2=(i)+(ii)	-	-	-
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	2,038.31	2,410.07	2,586.65
(ii).	Interest on loans	-	-	-
(iii).	Provision for bad and doubtful debts	-	-	-
(iv).	Provision for slow moving inventory	-	-	-
(v).	MGT Charges	514.42	557.55	524.77
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	2,552.73	2,967.62	3,111.42
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	-	-	-
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	2,400.77	2,484.26	2,318.66
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			2,401.23
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March 2019			38,277.11
	(ii). Add: Capital Work in Progress as on 31st March 2019			-
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			-
	(a). Inventory			-
	(b). Sundry Debtors			-
	(c). Cash			-
	(d). Sum of (a)+(b)+(c)			94.73
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			38,371.84
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			6,139.49
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**			8,540.72
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26%) [as considered by TAMP]**			8,904.56
(11).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2020-21 (1.88%) [as considered by TAMP]**			9,071.97
(12).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2021-22 (0.55%) [as considered by TAMP]**			9,121.86
(13).	**Ceiling Indexed Annual Revenue Requirement (ARR)**			**9,121.86**
(14).	**Adjustment of past period Surplus pertaining to the years 2016-17 to 2018-19 adjusted in Ceiling Indexed ARR**			**-**
(14).	**Adjusted Ceiling Indexed Annual Revenue Requirement (ARR)**			**9,121.86**
(15).	**Revenue Estimation at the Proposed indexed SOR**			**9,057.81**

Annex - II

BHARAT PETROLEUM CORPORATION LIMITED
Analysis of the performance of BPCL for the years 2016-17 to 2018-19

(Rupees in Lakhs)

Sr. No.	Particulars	Estimates relied upon in the Tariff Order dated 8 February 2017			Actuals		
		2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
	Traffic (In MTs)	**5,706,800**	**5,744,500**	**5,775,800**	**6,257,427**	**6,601,325**	**7,004,105**
I	**Total Operating Income**	**5,447.16**	**6,082.66**	**6,111.05**	**5,829.52**	**7,793.85**	**8,392.19**
II	**Operating Costs (excluding depreciation)**						
	(i) Operating & Direct Labour.	237.93	243.79	249.78	119.45	314.08	275.15
	(iii) Equipment Running Costs	479.04	490.83	502.90	518.08	579.56	498.97
	(viii) Insurance	1.68	1.72	1.76	0.58	2.81	2.84
	(ix) Other expenses	249.81	255.95	262.25	217.27	338.08	132.15
	Total (i to v)	**968.46**	**992.29**	**1016.70**	**855.38**	**1,234.53**	**909.11**
III	Depreciation	1244.45	1323.62	1381.67	1,252.21	1,066.34	1,181.89
IV	Overheads						
	(i) Management & Administration overheads	249.52	255.66	261.95	222.14	255.44	227.66
	Total (i & ii)	**249.52**	**255.66**	**261.95**	**222.14**	**255.44**	**227.66**
V	**Total Expenditure (II + III + IV)**	**2462.43**	**2571.57**	**2660.31**	**2329.73**	**2556.31**	**2318.66**
VI	**Operating Surplus (I) – (V)**	**2984.73**	**3511.10**	**3450.73**	**3499.79**	**5237.54**	**6073.53**
VII	**Surplus Before Interest and Tax**	**2984.73**	**3511.10**	**3450.73**	**3499.79**	**5237.54**	**6073.53**
VIII	**Capital Employed**	20401.63	21018.00	21076.34	22,681.11	22,526.18	21,655.68
IX	**Return on Capital Employed**	3264.26	3362.88	3372.21	3,628.98	3,604.19	3,464.91
X	**Capacity Utilization**	87.80%	88.38%	88.86%	96.27%	101.56%	107.76%
XI	**RoCE adjusted for capacity utilization**	3,264.26	3,362.88	3,372.21	3,628.98	3,604.19	3,464.91
XII	**Net Surplus/(Deficit) (VII) - (XI)**	**-279.53**	**148.22**	**78.52**	**-129.19**	**1633.35**	**2608.62**

Annex-III

Comparison of existing SOR and conditionalities vis-à-vis proposed tariff and conditionalities

Sr. No.	Existing SOR		Proposed SOR		Analysis
	Section No.	**Tariff and Conditionalities**	**Schedule No.**	**Tariff and Conditionalities**	
1	1.1 (i).	**"Coastal vessel"** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the **Director General of Shipping/** Competent Authority.	1.1 (i).	**"Coastal vessel"** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by Competent Authority.	In the proposed SOR, the words "Director General of Shipping" has been omitted by BPCL in the definition of Coastal Vessel. The existing definition of Coastal vessel with the words 'Director General of Shipping' may be retained in fall in line with the SOR approved for the Other Major Ports Trust/ Terminals.
2	1.2 (i) (a)	(a). A foreign going vessel of Indian flag having a General Trading License can convert to coastal run on the basis of a Customs Conversion Order. **Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast**	1.2 (i)	(a). A foreign going vessel of Indian flag having a General Trading License can convert to coastal run on the basis of a Customs Conversion Order.	The sentence as contained in the existing SOR i.e. "Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast" has been propsoed to be omitted by BPCL in the proposed SOR. The BPCL has not given any reason for deletion of the said sentence. Further, the proposed deletion is not in in line with the prescription approved for the JNPT/ NSICT SOR. Hence, the clause as per existing SOR may be retained.
3	1.2 (i) (b)	(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a **License for Specified period or voyage** issued by the Director General of Shipping **and a custom conversion order.**	1.2 (i) (b)	(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a **Coastal Voyage License** issued by the Director General of Shipping.	The existing prescription at Clause .2. (i) (b) has been modified in the proposed SOR. However, the said modification is seen be in accordance with the prescription approved for the JNPT/ NSICT SOR. Hence, the Authority may be inclined to approve the proposed modification.
4	1.2 (ii) (b)	In cases of such conversion, coastal rates shall be chargeable till the vessel completes discharging operations **at the last call of Indian Port;** immediately thereafter, foreign going rates shall be chargeable by the discharge ports.	1.2 (i) (d)	In cases of such conversion, coastal rates shall be chargeable till the vessel completes **coastal cargo** discharging operations immediately thereafter, foreign going rates shall be chargeable by the discharge ports.	The existing prescription at Clause .2. (i) (b) has been modified in the proposed SOR. The BPCL has not given any reason for modification of said clause. Further, the proposed modification is not seen to be in line with the prescription approved in the JNPT/ NSICT SOR. Hence, the clause as per existing SOR may be retained.
5	1.2 (iii) (a)	Foreign going Indian Vessel having General Trading License issued for "worldwide and coastal" operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:		Not Proposed in SOR	The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
6	1.2 (iii) (a) (i)	Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.		Not Proposed in SOR	The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
7	1.2 (iii) (a) (ii)	Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port. * The Central Board of Excise and Customs Circular no.15/2002- Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion		Not Proposed in SOR	The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.

8	1.2 (iii) (b)	In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
9	1.2 (iii) (b) (ii) (a)	A foreign going vessel of Indian Flag having a General Trading License can convert to Coastal run on the basis of a Customs Conversion Order		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
10	1.2 (iii) (b) (ii) (b)	A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage License issued by the Director General of Shipping.		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
11	1.2 (iii) (b) (ii) (c)	In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
12	1.2 (iii) (b) (ii) (d)	In cases of such conversion coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
13	1.2 (iii) (b) (ii) (e)	For dedicated Indian coastal vessels having a Coastal License from the Director General of Shipping, no other document will be required to be entitled to Coastal rates.		Not Proposed in SOR				The BPCL has not furnished any reason for deletion of that clause. Hence the said clause as per existing SOR is retained.
14		Not in existing SOR		The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.				The BPCL has not furnished any reason for deletion of that clause. However the said clause is seen to be inline with the SOR approved for NSICTPL. Hence the Authority may be inclined to approve to incorporate the said clause in the proposed SOR, as proposed by BPCL..
15	1.2 (iii) (vi) (b)	The rate of penal interest will be 16.75%. The penal interest rate will apply to both the BPCL-IOCL liquid Cargo Jetty and the port users equally.		The rate of penal interest will be 15%. The penal interest rate will apply to both the BPCL-IOCL liquid Cargo Jetty and the port users equally.				The proposed rate of Penal Interest is seen to be inline with the Tariff Guidelines 2019. Hence the Authority may incline to approve.
16	1.2 (x)	In case a vessel idles due to non-availability or breakdown of the shore based facilities of the BPCL-IOCL liquid Cargo Jetty or any other reasons attributable to the BPCL-IOCL liquid Cargo Jetty, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the BPCL-IOCL liquid Cargo Jetty.		Not Proposed in SOR				The BPCL has proposed deletion of the Clause because mechanical faults can happen at any time for e.g. even though preventive maintenance is being followed, few breakdowns are bound to occur. Further some period is required to resolve the issue and restart operation. Hence for these delays since BPCL can't be penalized, it has proposed deletion of the said clause. In this regard, it is to state that such prescription flows from Clause 5.3 of Tariff Guidelines 2019, which stipulate that Users will not be required to pay charges for delays beyond a reasonable level attributable to the BOT operator. Similar prescription is available in the SOR of NSICT. Hence the said clause as per existing SOR may be retained.
				Chapter III - Miscellaneous Charges				
				Particulars	**Unit**	**Foreign Rate Rs.**	**Coastal Rate Rs**	
17				**Charges for entry of Truck for removal of Sludge Oil**	Per Truck/20 KL	1000	1000	Flexibility is available to the BOT Operators to determine the rates based on the market forces and commercial judgment as per the Tariff Guidelines, 2019. Further, there is no pointed objection from any of the users/ user organization on the proposed modification. Hence, the Authority may be inclined to approve the inclusion of rates as proposed by BPCL.
				Use of Fire Engine for pipeline cleaning	Per Hour	5900	5900	
				Charges for Loading of Lubricant barrels and Paint Barrels.	Per Barrel	20	20	

ANNEX- IV

BPCL- IOCL LIQUID CARGO JETTY
JN-PORT, SHEVA, NAVI MUMBAI.

SCALE OF RATES

CHAPTER - I

1.1. Definitions

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

(i). **"Coastal vessel"** shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.

(ii). **"Foreign-going vessel"** shall mean any vessel other than Coastal vessel.

(iii). **"Hazardous Chemicals"** mean and include the chemicals referred under Schedule I, Schedule II and Schedule III of Manufacture, Storage and import of Hazardous Chemicals Rules, 1989 framed under Environment (Protection) Act, 1986 and Rules, as applicable from time to time.

(iv). "**Marine Loading Arm"** means by which liquid cargo is loaded to/ discharged from vessel used for petroleum products.

(v). **"Vaporizer"** means by which liquid nitrogen is vaporized for use of pigging of dock lines after completion of cargo operation of class hazardous chemicals.

(vi). **"Wharf Management"** means various services provided by BPCL – IOCL liquid cargo jetty during the cargo operation of vessel at the jetty.

(vii). **"Compressor"** means equipment by which compressed air is supplied for pigging of dock lines after completion of cargo operation of vessel at jetty.

(viii). **"Pigging"** means clearing/ emptying/ cleaning of dock lines before/after cargo operation using compressed air/ nitrogen/ water.

1.2. GENERAL TERMS & CONDITIONS

(i). **System of classification of vessel for levy of Vessel Related Charges (VRC):**

(a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping and a custom conversion order.

(ii). **Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate:**

(a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(b). In cases of such conversion, coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(c). For dedicated Indian coastal vessels having a Coastal License from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

(iii). **Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate:**

(a). Foreign going Indian Vessel having General Trading License issued for "worldwide and coastal" operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

i. Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

ii. Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.

* The Central Board of Excise and Customs Circular no.15/2002- Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(b). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.

(iv). (a). A foreign going vessel of Indian Flag having a General Trading Licence can convert to Coastal run on the basis of a Customs Conversion Order.

(b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.

(c). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(d). In cases of such conversion coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.

(e). For dedicated Indian coastal vessels having a Coastal Licence from the Director General of Shipping, no other document will be required to be entitled to Coastal rates.

(v). (a). All dollar denominated tariff shall be recovered in Indian rupees after conversion of US currency to its equivalent Indian rupees at the market-buying rate notified by the Reserve Bank of India, State Bank of India or its associates or any public sector banks as may be notified from time to time.

(b). The date of entry of the vessel into the port limit shall be reckoned with as the day for such conversion.

(c). A regular review of exchange rate shall be made once in thirty days from date of arrival of the vessels in cases of vessels staying in the Port for more than thirty days. In such cases the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of review.

(vi). For the purpose of calculating the dues the unit by weight shall be 1 tonne or 1,000 kilograms, the unit by volume measurement shall be 1 cubic metre and the unit by capacity measurement for liquids in bulk shall be 1,000 litres.

(vii). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

(viii). (a). The Vessel related charges for all Coastal vessels should not exceed 60% of the corresponding charges for other vessels.

(b). The cargo related charges for all Coastal cargo, other than POL including crude oil, should not exceed 60% of the normal cargo related charges.

(c). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship-shore transfer and transfer from / to quay to / from storage area including wharfage.

(d). For the purpose of this concession, cargo from a foreign port which reaches an Indian Port 'A' for subsequent transhipment to Indian Port 'B' will also qualify insofar as the charges relevant for its coastal voyage. In other words, cargo from /to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.

(e). The charges for coastal cargo shall be denominated and collected in Indian Rupee.

(ix). Interest on delayed payments / refunds:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the BPCL-IOCL liquid Cargo Jetty shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 15%. The penal interest rate will apply to both the BPCL-IOCL liquid Cargo Jetty and the port users equally.

(c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

(d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the BPCL-IOCL liquid Cargo Jetty. This provision shall, however, not apply to the cases where payment is to be made before availing the services / use of the BPCL-IOCL liquid Cargo Jetty's properties as stipulated in the Major Port Trust Act and / or where payment of charges in advance is prescribed as a condition in this Scale of Rates.

(x). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.

(xi). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.

(xii). The users will not be required to pay charges for delays beyond a reasonable level attributable to the BPCL-IOCL liquid Cargo Jetty.

(xiii). In case a vessel idles due to non-availability or breakdown of the shore based facilities of the BPCL-IOCL liquid Cargo Jetty or any other reasons attributable to the BPCL-IOCL liquid Cargo Jetty, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the BPCL-IOCL liquid Cargo Jetty.

(xiv). (a). Wherever a specific tariff for a service/cargo is not available in the notified Scale of Rates, the BPCL-IOCL liquid Cargo Jetty can submit a suitable proposal to the TAMP.

(b). simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis till the rate is finally notified.

(c). The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services/ cargo; and, it must be mutually agreed upon by the BPCL-IOCL liquid Cargo Jetty and the concerned user(s).

(d). The final rate fixed by the TAMP will ordinarily be effective only prospectively. The interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively.

(xv). The SOR approved by the Authority is subject to automatic annual indexation at 60% of the Wholesale Price Index (WPI) to be announced by the Authority. The Annual Indexation will be from 1st May 2022. The Indexed SOR shall be intimated by the BPCL to the JNPT, users and to the Authority

CHAPTER-II

WHARFAGE CHARGES

Sr. No.	Tariff Category	Foreign Rate Per Metric Tonne (In ₹)	Coastal Rate Per Metric Tonne (In ₹)
2.1	**Petroleum Products**		
(1)	SKO, LDO	54.33	54.33
(2)	HSD, FO, CBFS, LSHSD	83.96	83.96
(3)	Naphtha, Motor Spirit,	133.35	133.35
(4)	Crude Oil	74.09	74.09
(5)	LPG	181.50	181.50
(6)	AFS	167.93	167.93
(7)	Base Oil	83.96	83.96
(8)	ATF	167.93	167.93
(9)	Refinery Intermediate C5 (PX Feed Stock)	167.93	167.93
2.2 Chemicals			
(1)	Butyl Acrylate, Mix Xylene, Ortho Xylene, Styrene Monomer, Para Xylene, Phosphoric Acid, Acetic Acid, Crude Glycol, Meg, Lab, Meta Xylene	167.93	100.75
(2)	Ammonia, Aniline, Bio Diesel, Caustic Soda, IPA, VAM, N. Butanol, MMA, Phenol, Toluene, Acetone	207.46	124.48
2.3 Unenumerated Chemicals			
(1)	Methanol	207.46	124.48
(2)	Ethanol	207.46	124.48
(3)	Sulphuric Acid	207.46	124.48
(4)	Methylene Chloride	207.46	124.48
(5)	Vinyl Acetate	207.46	124.48
(6)	Butyl Acetate	207.46	124.48
(7)	All Chemicals A, B & C Class and as per MPCB Approved List.	207.46	124.48
2.4 Other Liquid Cargo:			
(1)	Edible Oil	88.91	53.35
(2)	Molasses	69.14	41.49

NOTES:

a) BPCL-IOCL liquid cargo jetty will provide only wharf facilities. Pumping in/out through pipelines shall be arranged by importers/ exporters through tank farm operators registered with the JNPT.

b) Handling of liquid bulk cargo will normally be permitted through pipelines only.

c) Assessment of cargo shall be done on the basis of the description of the cargo as given in the bill of entry/coastal bill of lading in case of import cargo and shipping bill in the case of export cargo, that best fits the item description covered under the schedule.

d) Before classifying any cargo under unspecified category in the wharfage schedule, the relevant Customs classification shall be referred to find out whether the cargo can be classified under any of the specific categories mentioned in the schedules.

e) Wharfage dues shall be collected at the rates specified in the schedule on the basis of the manifested tonnage/measurement or volume of cargo given in the bill of entry/bill of lading/ coastal bill of lading in the case of import cargo and shipping bill/ bill of coastal goods in the case of export cargo.

f) The gross tonnage/ measurement shall be reckoned with as specified in the related document such as out-turn report / intake certificate duly signed by central excise/ ullage certificate issued by ship's surveyor. In the absence of these details, the tonnage/measurement arrived at by actual test check by the BPCL-IOCL Liquid cargo jetty administration shall be taken as gross tonnage/measurement.

g) Requests for amendments in the import or export application or import general manifest or delivery order shall be accompanied by certificate duly signed by central excise/customs.

CHAPTER-III

MISCELLANEOUS CHARGES

Sr. No.	Particulars	Unit	Foreign rate	Coastal rate
3.1.	**Wharfage Management charges** –for the use of loading arm/ intermediate pipeline	Per MT	₹ 10.56	₹ 6.32
3.2**.**	**Loading Arm charges** –for the use of the loading arm while handling petroleum cargo at the jetty.	Per MT	₹ 11.72	₹ 7.02
3.3.	**Pipeline charges** - for the use of BPCL- IOCL Liquid Cargo Jetty's cross country pipeline.	Per MT	₹ 64.39	₹ 38.64
3.4.	**Compressor charges** - for the use of BPCL- IOCL Liquid Cargo Jetty's compressor for pipeline blowing/ pigging operation	Per hour	₹ 6439.90	₹ 3863.95
3.5.	**Hard pigging charges -** for the use of hard pig for pigging operation incase BPCL-IOCL Liquid Cargo Jetty's pipeline is used	Per operation	₹46367.31	₹27820.39
3.6.	**Foam pigging charges -** for the use of foam pig for pigging operation incase BPCL-IOCL Liquid Cargo Jetty's pipeline is used	Per operation	₹30911.55	₹18546.93
3.7.	**Liquid nitrogen charges -** for purchase of nitrogen for pigging operation in case of imports/ exports of class 'A' product.	Per MT	₹51519.24	₹30911.55
3.8.	**BPC vaporizer charges -** for the use of BPCL-IOCL Liquid Cargo Jetty's nitrogen Vaporizer	Per operation	₹19319.71	₹11591.84
3.9.	**Bunkering charges –**for handling bunker fuel at the jetty.	per MT	₹54.80	₹30.84
3.10.	**Water charges –**for supply of fresh water to vessels.	per MT	$6.16	₹149.28
3.11.	**Charges for vessel over stay -** due to user's fault beyond 2 hours after completion of operation.	per hour	₹51395.89	₹30838.66
3.12	**Charges for entry of Truck for removal of sludge oil**	Per Truck/ 20kl	₹1000	₹1000
3.13	**Use of fire engine for pipeline cleaning**	per hour	₹5900	₹5900
3.14	**Charges for Loading of Lubricant barrels and Paint Barrels**	Per barrel	₹20	₹20

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SUMMARY OF THE COMMENTS RECEIVED FROM THE USERS/ USER ORGANISATIONS AND THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F.No.TAMP/59/2019 - BPCL	**:**	**Proposal received from Bharat Petroleum Corporation Limited (BPCL) for General revision of its Scale of Rates (SOR) under Tariff Guidelines, 2019.**

The summary of comments received from the user associations and the Licensor Port Jawaharlal Nehru Port Trust and the reply of BPCL thereon is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Comments of Licensor Port & Users/ user association.</th><th>Reply of BPCL</th></tr>
<tr><td>1.</td><td>All India Liquid Bulk Importers & Exporters Association (AILBIEA)</td><td></td></tr>
<tr><td>(i).</td><td>At the very outset, we strongly protest the increase, which is totally unjustified and uncalled for. The wharfage tariff and other charges at JNPT are the highest in the country and are detrimental to attract more traffic at JNPT. However, some of the users are compelled to avail of BPCL facility at JNPT since they have no other option / alternative and hence are paying huge sum towards the wharfage and other cranes only to survive.</td><td rowspan="5">(i). BPCL LC jetty has the state of art Marine loading Arms, which are well maintained and is being used on both LB-1 and on LB-2 side for all POL products.

(ii). The firefighting system has also been upgraded to international standards and as per OISD standards. This is kept on auto mode continuously. 45 KL foam tanks with foam are readily available for use.

(iii). All pipelines are hydro tested regularly as per norms.

(iv). Due to the constant vagaries of nature, concreting of the liquid cargo jetty has got damaged, we intend to repair jetty by strengthening the columns and concreting of liquid cargo jetty structure.

(v). To ensure that the state of art Facilities are made available to the jetty Users and to bring the Jetty at Par with international standards in safety and operations, BPCL has been undertaking a lot of Capital investments and investing in maintenance expenditure too constantly. The New proposals that are being pursued for FY 20-21 are-

(a). Putting up 2 high mast for better lighting at the cost of Rs.35 lakhs.

(b). 02 nos. Bio - toilet at the LC jetty at the cost of Rs. 05 lakhs.
(c). Fenders are continuously replaced in a planned manner at a cost of
Rs. 1.15 Cr.
(d). Install 02 nos. of DBBV valves on white oil lines at the cost of ₹ 40 lakhs.</td></tr>
<tr><td>(ii).</td><td>The world over at all major ports, the tariffs are reduced periodically (not even yearly) to attract more business and to provide a level playing field to the trade and industry. Unfortunately, in case of BPCL, it is evidentially monopolistic field and sheer monopoly of BPCL.</td></tr>
<tr><td>(iii).</td><td>Under the Government's determined aim of infusing ease of doing business and making available Government's facility at a very competitive rate to encourage trade and industry, it is imperative that instead of hiking the existing rate, it would be prudent to reduce them by at least minimum of 15% from the existing rate.</td></tr>
<tr><td>(iv).</td><td>Before any decision in the above matter is arrived at, we would like to be heard in person.</td></tr>
<tr><td>(v).</td><td>It is requested that no increase is made and our request to reduce the rates by 15% may be considered.</td></tr>
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<tr><td></td><td></td><td>(e). New water curtains are being provided at a cost of Rs 10 lakhs.
(f). A Nitrogen storage plant at a cost of Rs 100 lakhs.
(g). Strengthening of the jetty at cost of Rs 21 Cr.

These are to mention only a few projects. There are more in the pipeline.

(vi). The existing rates were applicable from March 2017 and was valid till March 2019. During the last rate revision in 2017 TAMP had sent letters with BPCL SOR to all stake holders. The rates are set by TAMP as per their working as per their guidelines to protect the interests of all the stakeholders. This rates approved by TAMP was acceptable to all. A proposal for fresh revision in SOR rates has been sent to TAMP.

(vii). As the cost is escalating continuously it would be very difficult to reduce the rates but in case the jetty users provide a minimum quantity of assured business in EO/ chemicals and if any such proposal, does not have a negative effect on the Jetty’s finances, we can look in to such a proposal.

(viii). In the present condition, we cannot change/ revise Wharfage charges, and would find it very difficult to rationalize the wharfage charges at BPCL Liquid Cargo Jetty.

(ix). In fact BPCL is sure that all the operators would be happy to bring in additional business to the jetty because of the ease of doing business with BPCL LCJ and the transparent working style adopted.</td></tr>
<tr><td>2.</td><td>Jawaharlal Nehru Port Trust (JNPT)</td><td></td></tr>
<tr><td>(i).</td><td>M/s. BPCL to clarify the reason for amendment in Clause viz. Chapter-I, Clause-1.2 (ix) proposed in proposed SOR in 2019 amendment</td><td>This was a typographical error and was discussed at TAMP office, even before the joint hearing on 13.01.2020. “NOT” has been added to the SOR.</td></tr>
<tr><td>(ii).</td><td>M/s. BPCL to clarify the reason for proposing complete deletion of the following existing Clause- 1.2 (x) in Chapter-I, in proposed SOR –
“In case a vessel idles due to non-availability or breakdown of the shore based facilities of the BPCL-IOCL liquid Cargo Jetty or any other reasons attributable to the BPCL-IOCL liquid Cargo Jetty, rebate equivalent to berth hire charges payable to JNPT accrued during the period of idling of vessel shall be allowed by the BPCL-IOCL liquid Cargo Jetty.“</td><td>This Clause was deleted because mechanical faults can happen at any time for e.g. even through preventive maintenance is being followed, few breakdowns are bound to occur. Further some period is required to resolve the issue and restart operation and would depend on case to case basis. Hence for these delays BPCL can’t be penalized.</td></tr>
<tr><td>(iii).</td><td>Clause 3.15 “Penalty for late starting and stoppage (Berth Hire)” Classification:

<table><tr><td>3.15.1</td><td>Upto 6 Hr.</td><td>Rate per GRT</td><td>$0.0511</td><td>$1.34</td></tr></table></td><td>BPCL has withdrawn the above points from its SOR.</td></tr>
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<tr><td>3.15.2</td><td>Above 6 Hr. to 12 Hr.</td><td>Rate per GRT</td><td>$0.1534</td><td>$4.02</td></tr>
<tr><td>3.15.3</td><td>Above 12 Hr. to 18 Hr.</td><td>Rate per GRT</td><td>$0.3068</td><td>$8.03</td></tr>
<tr><td>3.15.4</td><td>Above 18 Hr. per day or part thereof</td><td>Rate per GRT</td><td>$0.4092</td><td>$10.71</td></tr>
</table>
(i). Applicable coastal rates is to be in Rupees instead of Dollars. However, as per BPCL license agreement, Licensee shall be entitled to recover from owners/ agents rates and / or charges due and payable by them for the services provided by the licensee in respect of cargo and other facilities at the Terminal.
(ii). The charges on account of Berth hire, Port dues and pilotage shall be raised and recovered directly by the licensor from the users.
(iii). Accordingly, JNPT is already collecting Penalty for Late Starting and Stoppage (Berth Hire) as per the provisions in JNPT SOR. Hence, this clause need not be included in BPCL SOR.
</td>
<td>(Subsequently, BPCL vide its email dated 02 July 2021 has again confirmed withdrawal of prescription of penal berth hire provision)</td>
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<td>3.</td>
<td>JNPT Liquid Chemical Berth Users Association (JLCBUA)</td>
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<tr>
<td>(i).</td>
<td>The subject BPCL jetty is 17 years old whereas the New Pirpau Jetty at Mumbai Port situated just opposite side of the creek is @ 3 years old. The wharfage charges at this Mumbai Port jetty for chemicals is @ 62.34 ₹/MT whereas the proposed revision at BPCL jetty is ₹. 207.46/ MT for similar type of cargo which is more than 200% higher for some chemicals. Hence the same is not justified by any justification.</td>
<td rowspan="2"> Income earned by BPCL jetty is shared with JNPT on a percentage basis as per the agreement. If vessel belongs to PSU Vessel then the wharfage charges are shared i.e. 20% to JNPT. If the vessel is non PSU then the wharfage charges is shared as 50% to JNPT.
The wharfage rates of MBPT cannot be compared with BPCL rates as we (BPCL) are paying 50% for foreign vessels (all non PSU vessels are foreign) of our wharfage earnings to JNPT as royalty, apart from the above BPCL have to pay salaries for 16 CISF security guards, JNPT water bills, air monitoring charges, way lease charges and electricity charges along with 20% service charges. Earnings of MBPT is with MBPT only no sharing is there. </td>
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<tr>
<td>(ii).</td>
<td>
In the similar lines, below table mentions more wharfage comparison of different products with Mumbai Port.
<table>
<tr><th>Sr. No.</th><th>Product category/ Name</th><th>Proposed Wharfage Charges at BPCL Jetty (₹/MT)</th><th>Wharfage Charges at Mumbai Port (₹/MT)</th><th>% difference</th></tr>
<tr><td>(1)</td><td>SKO, LDO</td><td>54.33</td><td>43.44</td><td>25.07</td></tr>
<tr><td>(2)</td><td>HSD, FO, CBFS</td><td>83.96</td><td>43.44</td><td>93.28</td></tr>
<tr><td>(3)</td><td>Naphtha, Motor Spirit</td><td>133.35</td><td>76.44</td><td>74.45</td></tr>
<tr><td>(4)</td><td>Crude Oil</td><td>74.1</td><td>66.03</td><td>12.22</td></tr>
<tr><td>(5)</td><td>LPG</td><td>181.5</td><td>-</td><td>-</td></tr>
<tr><td>(6)</td><td>ATF/ Aromatic Feed Stock</td><td>167.94</td><td>-</td><td>-</td></tr>
<tr><td>(7)</td><td>Butyl Acrylate, MixXylene, Ortho</td><td>167.94</td><td>62.34</td><td>169.39</td></tr>
</table>
</td>
</tr>
</table>

	Xyloene, Styrene Monomer, Para Xylene, Phosphoric Acid, Acetic Acid, Crude, MEG, LAB, Meta Xylene			
(8)	Ammonia, Aniline, Bio Diesel, Caustic Soda, IPA, Meth Cloride, VAM, N.Butanol, MMA Phenol, Toluene, Butyl Acetale, Acetone	207.46	62.34	232.79
(9)	Base Oil, Aromatic Heavy Compounds	83.96	62.34	34.68
(10)	Methanol, ethanol, sulphuric Acid, methylene chloride, vinyl acetate	207.46	62.34	232.79
(11)	All chemicals A,B, & C class and as per MPCB approved list	207.46	76.44	171.40
(12)	Edible Oil	88.92	62.34	42.64
(13)	Molasses	69.14	62.34	10.91

(iii).	The BPCL jetty which is 17 years old must have claimed depreciation benefits on the entire project, the same should be included in the computation of the annual revenue requirement, The benefits after the depreciation value should lead to the cargo handling charges to be cheaper. The same is not included in the attached sheet.	To ensure that the state of art facilities are made available to the jetty Users and to bring the Jetty at par with international standards in safety and operations, BPCL has been undertaking a lot of Capital investments and investing in maintenance expenditure too constantly. The New proposals that are being pursued for FY 20-21 are: (i). BPCL is putting up 2 high mast for better lighting at the cost of ₹. 35 Lakhs. (ii). 02 Nos. Bio-toilet is also being planned at the LC jetty cost of ₹ 05 Lakhs. (iii). Fenders are being continuously replaced in a planned manner at a cost of ₹ 1.15 Crore. (iv). BPCL proposes to install 02 nos. of DBBV valves on white oil lines cost of ₹ 40 lakhs.
(iv).	The BOT operator had just invested only in the jetty infrastructure while all the other investments have been done by the liquid storage terminal operators for eghoses, pigging arrangement and nitrogen/air, sometime water etc.	
(v).	BPCL had invested in the Jetty primarily to handle LPG/POL products for their own captive purpose whereas the burden of those investments is passed on to other users.	
(vi).	The present market condition is in declining state (very bad) and increasing the wharfage at this stage adds more cost on handling material may shift the entire trade	

	from the JNPT port resulting in loss of revenue to all including BPCL as well as JNPT. (very bad) and increasing thewharfage at this stage adds more cost on handling material may shift the entire trade from the JNPT port resulting in loss of revenue to all including BPCL as well as JNPT.	(v). New water curtains are being provided at a cost of ₹ 12.5 Lakhs. (vi). Strengthening of the jetty is going to cost BPCL ₹ 29.29 Crores. (vii). 06 electrical Actuators for operating valves cost around ₹ 16.5 lakhs. (viii). New quick opening and closing pig doors as the old ones are very old and obsolete at a cost for around ₹ 17 lacs. (ix). Capex cost of 1.5 km 6" pipe line for continuous supply of water from BPCL raw water tanks to jetty at a cost of ₹ 25 lakhs. These are to mention only a few projects. There are more in the pipeline. The existing rates were applicable from March 2017 and was valid till March 2019. During the last rate revision in 2017 TAMP had sent letters with BPCL SOR to all stake holders. The rates are set by TAMP as per the guidelines to protect the interests of all the stakeholders. This rates approved by TAMP was acceptable to all. A proposal for fresh revision in SOR rates has been sent to TAMP. As the cost is escalating continuously it would be very difficult to reduce the rates but in case the jetty users provide a minimum quantity of assured business in EO/ chemicals and if any such proposal, does not have a negative effect on the Jetty revenue, we can look in to such, a proposal. In the present condition BPCL cannot change/ revise Wharfage charges. In view of the above we would find it very difficult to rationalize the wharfage charges at BPCL Liquid Cargo Jetty. In fact we are sure all the operators would be happy to bring in additional business to the jetty because of the ease of doing business with BPCL LCJ and the transparent working style adopted.
(vii).	The material handling cost is increasing due to interruption of grid electrical power supply and all the units are using the DG sets where the cost of power is very high. Hence, we are adding additional cost on material handling. We had in the past also raised the issue of exorbitant wharfage charges levied by the BOT operator which is exorbitantly higher than the Mumbai Port Trust which is across the creek. Hence, it is requested to look into the matter and reduce the wharfage and other charges at BPCL jetty at par with Mumbai port. Hence, we are adding additional cost on material handling	
4.	**Additional comment of JNPT Liquid Chemical Berth Users Association (JLCBUA)**	
(i).	Due to huge gap between the wharfage charges at BPCL jetty and Mumbai Port Trust jetties, the entire traffic/cargo is diverted to MPT which not only adds to the pollution of Mumbai and surrounding area but also adds to the carbon foot prints of the already stressed city.	The wharfage rates of MBPT cannot be compared with BPCL. Earnings of MBPT is with MBPT only and there is no sharing of income with anybody. Whereas Income earned by BPCL jetty is shared with JNPT on a percentage basis as per their agreement. If it is a PSU Vessel then the wharfage charges is shared as 50% to JNPT.

		There are no expenses on account of maintenance etc. is shared with JNPT. Apart from above, BPCL have to pay salaries for 16 CISF security guards, air monitoring charges, way lease charges and electricity charges along with 20% service charges.
(ii).	Moreover, the cargo meant for JNPT and surrounding catchment area is diverted to Mumbai Port and then transported back to the JNPT and surrounding industrial area adding to the traffic woes of already congested Mumbai city and increasing the levels of air pollution.	The cargo being discharged to MBPT goes to an altogether different tank farm and is owned by Agies. Customers of Agies will definitely be different from the customers who uplift cargos from JNPT. The products go to various markets. It cannot be constructed that it is the same customers buying cargo from JNPT and Agies. While we appreciate the concerns of JLCBUA about the congestion and pollution it is pertinent to note that Mumbai traffic dept. does not allow trucks which are more than eight years old which are non-polluting, hence the question of pollution does not arise.
(iii).	The BPCL/ PSU vessels berthing at BPCL jetty enjoy the benefits of priority berthing as well as lowest wharfage charges while private vessels are burdened with high demurrage charges along with wharfage charges and other berth related charges.	In fact their contention is totally out of context and misplaced. Following are the facts: (i). BPCL has to pay priority berthing charges for every LPG berthing which is to a tune of around ₹. 170,000/- approximately. (ii). If the berth is occupied by another vessel, we even have to pay shifting charges which is around ₹. 60,000/- approximately. (iii). Even though the product (LPG) is for BPCL own consumption of , BPCL still have to pay royalty of 20% on wharfage.
(iv).	The issue of exorbitant wharfage charges levied by the BOT operator is not only detrimental to the environment of Mumbai city but also for the trade of JNPT. Hence, it is requested to look into the matter in the interest of trade and public at large.	

2. In view of the outbreak of COVID – 19 and in pursuance of the then Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020 to hold virtual meetings, a joint hearing on the case in reference was held on 13 January 2020 through Video Conferencing. A summary of the arguments made by the JNPT and the users/ user organisations during the joint hearing held on 13 January 2020 is given below:

<u>Bharat Petroleum Corporation Limited (BPCL)</u>

(i). Jetty is designed with a capacity of 4.5 MMT to handle all types of petroleum products, oil and chemicals. More than 2 vessels can be handled at a time.

(ii). BPCL and Indian Oil Corporation (IOC) have joint ownership of assets, Income and expenditure with equal share.

(iii). Berth used by all cargo owners and various services i.e. pipeline, compressor, water supply, Marine loading arms, Vaporizers etc. are provided to all cargo owners. Pipelines are of Tank farm operators.

(iv). Our proposal is based on Tariff Guidelines, 2019. The ARR has been worked out at ₹ 90.58 cr, based on the average expenses for 3 years viz., 2016-17 to 2018-19 and Return on capital employed @ 16%. Since the difference of percentage between ARR and actual revenue is 7.94%, the existing rate is proposed to be increased by 7.94% in the proposal.

(v). We have proposed introduction of a new charge for entry of removal of sludge oil at ₹ 1,000/- Per truck/ 20 kl. Since no exact similar comparable rate is available, the rate has been proposed based on the Feasibility and Technical study.

(vi). We have also introduced charges for use of fire engine for pipeline cleaning at ₹ 5900/- per hour. This is as per the rate prescribed in October 2019 for a similar service at Chennai Port Trust.

(vii). We have also proposed incorporation of penal berth hire charges for late starting and stoppage, as per JNPT SOR.

(viii). Also, Charges for Loading of Lubricant barrels and Paint Barrels at 20$ for foreign going vessels and ₹ 20/- for coastal vessels has been proposed based on the Feasibility and Technical study.

(ix). The proposed rates will enable BPCL to, sustain the current earning and maintain the existing facilities on its capital employed, enhance berth utilization and efficiency of the jetty by attracting high discharge of cargo and provide better facility and services to the users at the jetty.

Bombay Custom Brokers Association (BCBA)

(i). We have no objection to the BPCL proposal.

Jawaharlal Nehru Port Trust (JNPT)

(i). We have given our written comments.

(ii). We have been requested by the Liquid Chemical Berth Users Association to convey that the wharfage charges at BPCL are very high and that status quo be maintained in the wharfage charges.

(iii). As regards, the proposal of BPCL to levy penal berth hire charges, it is to state that as per the provisions of the Licence Agreement entered between JNPT and BPCL, the penal berth hire is to be collected by the JNPT only. BPCL cannot ask for penal charges.

(BPCL: The vessels have a tendency to stay and idle at the berth after completion of their operations. Due to which, we are unable to handle other vessels. The penal berth hire charges in such instances goes to the port. Though the BPCL suffers, JNPT gets the penal charges.)

(iv). Some mechanism may have to be evolved to discourage stayal of the vessel. However, BPCL cannot be allowed to levy penal berth hire charges.

(BPCL: We are ready to withdraw the proposed levy of penal berth hire charges.)

(v). Instead of the existing note that the users will not be required to pay charges for delays beyond a reasonable level attributable to the BPCL, the BPCL has proposed a note to an effect that the users will be required to pay charges for delays beyond a reasonable level attributable to the BPCL. No reason for the proposed amendment has been furnished by the BPCL.

(BPCL:It is a typographical error. We will rectify.)

(vi). The rates proposed by BPCL are higher for crude oil. Reduce it.

BPCL

(i). We are planning to make investments to the tune of ₹ 45 cr. during the next three years. The proposed rates will enable BPCL to sustain the current earnings and maintain the existing facilities.

(ii). ONGC has withdrawn its operations at BPCL jetty, because as per the terms of the Agreement it has to pay 50% wharfage to MBPT, if it handles cargo at BPCL jetty. This has affected our traffic. Cargo is diverted to MBPT.

(JNPT also mentions this issue)

(iii). There are also talks in various Government forums on placing embargo on the import of palm oil. This decision of Government will definitely hit our traffic.

Member (F), TAMP:

(i). JNPT objects to the proposed wharfage for crude oil. BPCL can have a relook of its proposal and explore review of its proposed rates, so as to attract more cargo.
(BPCL:We will review.)