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Tariff Authority for Major Ports

G.No. 413 **New Delhi,** **27 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 Syama Prasad Mookerjee Port (SPMP) [Erstwhile Kolkata Port Trust (KOPT)] for fixation of tariff for the project of setting up of Railway Wagon Gantry for LPG on common user basis at Haldia Dock Complex (HDC), as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/24/2021-SPMP (KOPT)

Syama Prasad Mookerjee Port … Applicant

QUORUM

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

O R D E R

(Passed on this 07th day of September 2021)

This case relates to a proposal received from Syama Prasad Mookerjee Port (SPMP) [Erstwhile Kolkata Port Trust (KOPT)] for fixation of tariff for the project of setting up of Railway Wagon Gantry for LPG on common user basis at Haldia Dock Complex (HDC).

2.1. The submissions made by SPMP in its proposal dated 02 April 2021 are summarized below:

(i). A number of port based industries have been set up at Haldia including on SMP leased land where LPG is handled through riverine Oil Jetties at HDC and dispatched. More than 4.01 Million MT of LPG has been handled through HDC in the year 2019-20 clocking a growth of more than 16% over the previous year. HDC of SPMP plays a vital role in LPG distribution in the entire Eastern India. There is also growth in demand for LPG in the region as well as North East India.

(ii). To cater to the need for efficient and cost effective transportation of LPG, the Competent Authority of SPMP has decided to set up a rail wagon loading gantry for LPG on common user basis on SMP land at HDC through Land Lease Model through tender-cum-auction. The lessee shall charge the users of the proposed railway siding facility at rates not exceeding pre-determined ceiling rates to be notified by TAMP.

(iii). Considering that the issue of fixation of tariff and notification thereof by TAMP in respect of the user charges recoverable for use of the common user siding is to take some time, it was decided to invite the land lease tender in two stages in the pattern of RFQ and RFP mode of tendering. It was also decided that simultaneously, action for filing of Tariff Proposal to TAMP be taken.

(iv). Based on the above, the Request for Qualification (RFQ) for allotment of about 22.63 acres land on lease for 30 years for setting up of a rail wagon loading gantry for LPG on common user basis has already been invited for pre-qualification of applicants. [Copy of the RFQ document alongwith Corrigendum / Addendum / replies to queries has been furnished by SPMP].

As per the said RFQ, the ceiling rates that the successful bidder shall be entitled to levy and recover from the users of the facility will be intimated to the qualified bidders during the RFP/ Price Bid Stage.

(v). HDC, SPMP has since prepared the proposed reference tariff in respect of the ceiling rates that the successful bidder shall be entitled to levy and recover from the users of the common user rake loading facility for LPG along with the draft Scale of Rates (SOR) and proposed Performance Standard. [The draft Scale of Rates (SOR) and proposed Performance Standard has been furnished by SPMP.]

(vi). Thus, considering that SPMP has already received application against the RFQ which is under examination and the notified ceiling rates are to be intimated to the qualified bidder in RFP stage, a aforesaid reference tariff proposal in respect of subject project alongwith draft SOR and performance Standard is furnished to TAMP for its approval.

2.2. The other main submissions made by the SPMP in Project Report for the subject project are summarized below:

(i). The Salient features of the LPG Rail Gantry facilities proposed to be built are discussed herein. The LPG Rail Gantry shall be capable of handling one full rake for loading (32 Wagons of 8 wheeler BTPGLN / BTPGLC wagons or 64 wagons of 1 wheeler TPGLR wagons).

(a). One spur loading is considered.

(b). Rails provided alongwith the Length of the gantry shall accommodate guard wagon length also towards dead end side.

(c). Locomotive Engine (Non flame proof by design) shall be suitably distanced from the loading premises (Gantry) as per the prevailing safety standards. This space to be accommodated by suitable number of dummy wagons.

(d). In motion weigh bridge of minimum 100 MT capacity shall be provided (Standard diesel engine weight is 125 MT). The in motion weigh bridge shall be designed for weighment of 8 wheeler and 4 wheeler wagons.

(e). The distance between gantry and weigh bridge shall be sufficient to meet the requirement specified in point (c).

(f). Unloading facilities for handling the sick wagon shall be provided all along the gantry (For 32 or 64 BTPGLN/ BTPGLC wagons as the case may be).

(g). Vapor balancing facilities with source LPG storage vessel to wagons shall be provided.

(h). Unloaded LPG from the sick wagons shall be routed back to product source vessel via recycle line. Hence, recycle line shall run from dead end of loading header.

(i). For Sick wagon unloading purpose, LPG vapor compressor shall be provided to pressurize the sick wagon.

(j). Flare header with branch network system to facilitate loading arm connection / disconnection/ depressurization shall be provided. KOD shall be provided in series before the flare header joint the main flare header in-case Flare System is envisaged.

(k). Main Header shall be designed for affecting loading operations of complete rake in 3.5 hours. (Total free time available for empty rake placement in the gantry till pullout of filled rake is 5 hours without demurrage.)

(l). Velocity of product loading through each loading arm shall not exceed 6 Meters / Sec. (Available Limits 2-7.6 Meter/Sec.)

(m). Scully earthing (intelligent earthing with interlock to strop loading in case of earth failure) facility shall be provided to full rake.

(n). Weigh bridge software and terminal automation software shall communicate each other (Software compatibility and integration issues shall be addressable). As far as possible, weigh bridge shall be located along the straight path of track (Minimum 5 wagon straight length - 2 wagons length before-one wagon length on the weigh bridge and two wagon length after weigh bridge to enable accurate weighment of wagons).

(o). Gas/ flame detection facilities shall be provided. Vapour Compressor room shall also have these facilities.

(p). Suitable Firefighting facilities (Deluge water spray system) shall be provided to cool wagons and gantry facilities in the event of fire. The facilities shall be split into such no of equal parts to address localized leak dispersal or firefighting. Vapour Compressor room shall also have these facilities.

(q). Access to approach wagon nozzles shall be provided by swing ladder platforms.

(r). Emergency shutdown switches shall be provided along the gantry, on actuation of ESD push button, loading header, recycle header, vapour balance header shall also be provided with ESD isolation systems.

(ii). As per Para 2.2 of the Revised Guidelines for Determination of Tariff for Projects at Major Ports, 2013 (30th Sept 2013), "The Reference Tariff will be the highest tariff fixed for that commodity in the concerned Major Port Trust under the 2008 Tariff Guidelines. Since no tariff fixed under upfront tariff guidelines 2008, which is representative enough for the project proposed to be developed is available, the present tariff proposal has been formulated based on the Upfront Tariff Guidelines 2008 in the terms of clause 2.4 of "Revised Guidelines for Determination of Tariff at Major Port, 2013.

(iii). **Design Throughput Envisaged:**

PXQXR = S (MTPA)

Where,

P : Capacity of filling per day.

Q : No. of working days in a year.

R : No. of Batch per day.

1200 X 300 X 2 = 7,20,000 MTPA.

(iv). **Calculation of Optimal Capacity:**

The optimal capacity of the terminal is reckoned as 70% of the maximum capacity.

(a). Maximum number of rakes that can be handled per day at the proposed siding - 2.0 nos.

(b). Maximum anticipated cargo volume of LPG per rake at the proposed siding - 32x36.5=1168 MT

(c). The number of working days in a year - 350

Hence the optimal capacity of proposed terminal comes to 0.7 (2 x 1168 x 350) = 0.7 x 817600 = 5,72,320 MT per annum.

(v). **Capital Cost:**

The total capital cost of the project is estimated at ₹117.64 Crores including GST. The summary break-up of the estimate is given as under:

Sl. No.	Description	Amount (₹ in Crores)
A.		
I.	**Civil Cost & Structural Works:**	
(a).	Development of Land (Considering i) Cleaning of wild bushes from proposed project area about 185350 Sqm, Development of land in proposed road area 957x25m=23925 sqm, project area 665x50m=33250 sqm and rail track 477x20m=9540 sqm. Avg. filling of earth about 2.50m and lead 10.0KM)	6.10

(b).	Development of Road Network (Considering 957 m length of road, box cutting, subbase - laying geotextile, sand filling 300mm, moorum 150mm, Laterite boulder-350mm, WMM-150mm,bituminuous mechadam 75mm , premix 25mm th.)	2.00
(c).	Railway Network (Considering 2339 m track @ ₹60000.00 per m)	14.04
(d).	Construction of Rail Boundary Wall (Considering 1550 m length wall @ ₹15000.00 per mtr. and three nos. M.S. gate)	2.40
(e).	RCC Box culvert (10.0 m width) (Considering 10.0 m width culvert x 665 m length)	10.50
(f).	FW Tank, pad 2 nos. (considering 2 nos 16.0 m dia tank pad, 16 nos. 1.0 m dia vertical RCC pile of depth 25 m in each tank with 1.50 m th. RCC pile cap.)	3.00
(g).	Facilities inside project area (building for office, canteen, control room, Engg. Store, security room, watch tower, Sub-station, DG room, Deluge value room, shed for fire water pump & air compressor, Bullet mound foundation, pipe support, weighbridge foundation, drainage system etc.)	3.45
(h).	Detailed Design & Engineering (2% of the capital cost)	0.70
(i).	Contingencies (3% of the capital cost)	1.24
(j).	GST @ (18% of Civil Cost)	7.82
	Civil Cost including GST	**51.25**
II.	**Mechanical and Allied Works**	
(a).	Mechanical equipment, pipelines & storage facilities	16.30
(b).	Fire protection system and gas protection system	10.35
(c).	Wagon Loading Gantry	11.11
(d).	Detailed Engineering & Supervision Cost (2% of capital cost)	0.76
(e).	Contingencies (3%)	1.13
	Total Capital Cost Mechanical and allied Equipment	**39.65**
III.	**Electrical and Instrumentation Equipment**	
(a).	Electrical Works	4.72
(b).	Instrumentation	14.84
(c).	11 KV power supply with cabling works	0.58
(d).	Detailed Engineering & Supervision (2% of capital cost)	0.40
(e).	Contingencies	0.60
	Total Electrical / Instrumentation / Allied Works Cost	**21.13**
IV.	**Miscellaneous Costs (Including IDC)**	
	5% of Capital cost of Civil, Mechanical, Electrical and Instrumentation works	5.60
	Total Capital Cost for Handling Activity (I+II+III+IV)	**117.64**

(vi). **Calculation of Total Operating Cost:**

Sl. No	**Particulars**	**Amount (₹ in Crores)**
1.	**Power Cost**	**3.56**
(i).	For illumination (Land area 9.1567 hectares @ 2.4 lakh unit per annum per hectare as per 2008 tariff guidelines for liquid Terminal & present rate charged by SMP, Kolkata of ₹11.91 per unit)	
(ii).	Power requirement for 2 nos. LPG pump, 10 HP air compressor, 20HP LPG gas compressor, 10 HP Jockey Pump, tank wagon only lighting load, Pump House (₹9427879.30 taking present rate charged by SMP, Kolkata of ₹11.91 per unit).	
2.	**Repair & Maintenance**	
(i).	Mechanical / Electrical / Instrumentation (2% of Capital Cost as per 2008 Tariff guidelines for Liquid Terminal)	1.28
(ii).	Civil - (1% of civil cost as per 2008 tariff guidelines for liquid Terminal)	0.54
3.	**Depreciation**	**6.45**
(i).	Civil Work @ 3.17%	
(ii).	Mechanical Work @ 6.33%	

(iii).	Electrical Assets @ 9.5%	
4.	**Insurance (1% of civil cost as per 2008 tariff guidelines for liquid Terminal)**	**1.18**
5.	**Lease rentals (Annual Rent for 91567 sq. mtrs. @ ₹1192/100 sqm / month)**	**1.31**
6.	**Other expenses (@1% of Capital Cost as per 2008 tariff guidelines for liquid Terminal)**	**1.18**
	Total Operating Cost	**15.49**

(vii). **Calculation of Annual Revenue Requirement**

As TAMP guidelines, the Annual Revenue Requirement is the aggregate of operating cost and Return on Capital @ 16% on capital employed. The following table provides the calculations.

(₹ in Crores)

Estimated Revenue Requirement	Amount
(a) Operating Cost	15.49
(b) Return of Capital Employed @ 16% (Capital cost ₹117.64*16%=₹18.82 crores)	18.82
Total Revenue Requirement (a) + (b)	**34.31**

2.3. Based on the Optimum capacity of the proposed rake loading facilities for LPG and the annual revenue requirement, the SPMP has calculated proposed tariff chargeable per ton from users of the facility and has sought approval for the proposed per ton Handling charges of ₹599.50 per tonne, as worked out below:

Sr. no.	Particulars	₹ in Crores
1.	Revenue Requirement	34.31
2.	Capacity of the Terminal (lakh tons per annum)	5.72
3.	Per ton Handling Cost (₹) **(1) / (2)** [Revenue Requirement ₹3431.04 lakhs / Capacity 5.72 lakh tonnes] (rounded off)	₹599.50 per tonne

2.4. The Performance Standards proposed by the SPMP is as follows:

(i). Time taken from positioning of wagons at loading points till making the rakes ready for drawing out after loading is 8 Hours.

(ii). The terminal operator is to ensure the above standards for all the rakes handled by it at all times. Calculation of performance shall be as per the notes given in the SOR.

3.1. From the proposal filed by the SPMP, it was seen that the land is being allotted by SPMP on lease basis for 30 years for setting up of a rail wagon loading gantry for LPG on common user basis through tender-cum-auction. Therefore, while acknowledging the proposal in reference to SPMP vide letter dated 09 April 2021 was requested to confirm whether the proposed arrangement of authorisation would fall under Section 42(3) of the Major Port Trusts (MPT) Act, 1963, or whether it will be governed by the stipulation contained in clauses 8.1 to 8.3 of Tariff Policy, 2018. The SPMP was also requested to furnish a copy of its Board Resolution approving the proposal under reference.

3.2. In this regard, the SPMP vide its letter No. Ad/0038/Railway Siding/ LPG II/449 dated 28 April 2021 has stated that the proposed authorization arrangement u/s 42(3) of the MPT Act, 1963, is other than by way of the BOT concession Agreement and hence the same would be governed by the stipulations contained in Clauses 8.1 to 8.3 of the Tariff Policy 2018 in terms of Clause 6 of the Working Guidelines issued to operationalize the Tariff Policy 2018.

3.3. Further, the SPMP vide its letter dated 28 April 2021 has also forwarded the copy of the Board Resolution approving the subject proposal.

4. In accordance with the consultation procedure prescribed, a copy of the SPMP proposal dated 02 April 2021 was forwarded to Users / User Organizations / Prospective Bidders (as per the list furnished by SPMP) vide letter dated 09 April 2021 for seeking their comments. Only M/s.

Indian Oil Petronas Private Limited (IOPPL) vide its e-mail dated 22 April 2021 has furnished its comments, which were forwarded to SPMP for its feedback comments. The SPMP has responded vide its e-mail dated 04 June 2021.

5. Based on a preliminary scrutiny of the proposal, the following additional information/ clarification have been sought from SPMP vide letter dated 13 May 2021. Subsequent to the reminder dated 16 June 2021, the SPMP vide its e-mail dated 17 June 2021 has responded. The information sought from SPMP and the reply of SPMP thereon is tabulated below:

Sr. No.	Information/ Clarification sought	Reply of SPMP
A.	**<u>Optimal Capacity:</u>**	
(i).	The basis to presume handling of maximum of 2 rakes per day at the proposed siding to be furnished.	Based on the point raised by the qualified bidder against the RFP issued in respect of concerned tender, the matter has been examined and as approved by Board in its meeting held on 10.06.2021, performance standard has been considered to be revised to 10 hrs. from 8 hrs. (The SPMP vide its e-mail dated 21 June 2021 has furnished a copy of the Board Resolution dated 10.06.2021 in respect of revision of Performance Standard from 8 hours to 10 hours.) Considering Performance Standard as 10 hrs. per rake which is the time taken for loading + time for shunting and placement in two spurs with the help of winch & pulley and balance time will be for placement and withdrawal to and from the exchange point. Therefore, maximum two rakes can be loaded per day.
(ii).	Generally a rake is said to consist of about 50+ wagons. In such a backdrop, the reason to consider only 32 wagons per LPG rakes to be justified.	The Standard rake size of POL Tank Wagon (BTPN, BTFLN) is 50 wagons as per Corrigendum No-35 of Rate Circular No. 62 of 2009 (No. TCR/1078/2009/13 dtd. 27.12.2012, Railway Board, Ministry of Railways). But the standard rake size of LPG Wagons (BTPGLN / BTPG) is 32 wagons as per Rate Circular No. 62 of 2009 (No. TCR/1078/2009/13 dtd. 10.11.2009, Railway Board, Ministry of Railways). [The SPMP has furnished documentary evidence in support of the standard rake size of LPG rake (BTPGLN / BTPG) at 32 wagons.]
(iii).	The basis to consider the quantum of LPG at 36.5 tonnes per wagon to be explained.	The design payload capacity is 37.6 Tonnes as per wagon maintenance manual issued by RDSO in 2015. Some space is left for vapour as per industry practice. [The SPMP has furnished documentary evidence in support of the pay load of a BTPGLN tank wagon at 37.6 tonnes.]
(iv).	The reason for considering the number of working days at 350 days per annum instead of the standard of 365 days per annum may be justified. It may be noted that a cushion of 70% utilization has been considered by SPMP in the calculation of optimal capacity.	It has been assumed that there will be planned maintenance of the plant for 15 days in year.
B.	**<u>Capital cost:</u>**	
(i).	The basis for considering contingencies @ 3% and project supervision @ 2% on the civil costs, mechanical costs and electrical costs may be furnished. Also, the basis for considering GST on civil works @ 18% of the civil capital costs to be furnished.	It is an established procedure in estimation to consider 3% for contingency and 2% for detailed Designs & Project Supervision costs to take care of preliminary expenses, tendering and Project Management Consultancy costs etc. As Input Tax Credit can be availed on GST paid on Mechanical/ Electrical costs, the same has not been considered in calculation of Capex. However, GST input tax credit is not available for Civil

<table>
<tr><th>Sr. No.</th><th>Information/ Clarification sought</th><th>Reply of SPMP</th></tr>
<tr><td></td><td></td><td>construction and hence the GST applicable on Civil construction has been considered as per of Cap-ex.

It is also mentioned that the same procedure was adopted in calculation of Capex in the tariff proposal for Mechanization of Berth No. 2 (erstwhile Berth No. 3) of Haldia Dock Complex and the same was approved and notified by TAMP (vide G. No. 42 dated 28.01.2021)</td></tr>
<tr><td>(ii).</td><td>The SPMP to be confirm that the base rate considered by it to estimate the civil capital costs as well as cost of each of the equipment considered, reflect the prevailing/ current market rates.</td><td>Confirmed.</td></tr>
<tr><td>(iii).</td><td>The documentary evidence furnished by the SPMP in support of the capital cost estimates do not match with the civil cost and cost of the equipment considered by SPMP in the workings. The SPMP furnish documentary evidence in support of the cost of each of the civil cost items and each of the Equipment as considered in the estimates.</td><td>The basis of the capital cost estimates for civil items along with rate reference is furnished.

The cost of equipment as well as the lumpsum amount considered for electrical works, instrumentation, 11 KV power supply with cabling works have been considered on the basis of the estimated capital cost submitted by Indian Oil Petronas Pvt. Ltd. (IPPL) against the EoI floated by HDC / SMPK and also subsequently along with the RFQ concerned which inter alia, contains details of costs of the project as prepared by IPPL's consultant M/s. Firecon Consultant Pvt. Ltd.</td></tr>
<tr><td>(iv).</td><td>The basis for the lumpsum considered for electrical works, instrumentation, power supply and cabling works, to be furnished justifying the cost considered in the estimates.</td><td>The component wise break-up of the aforesaid costs considered in terms of the said documents and the documentary evidences are furnished.

It is added that considering price escalation factor, the cost for mechanical, electrical & instrumentation works items have been escalated by 15% to arrive at the estimated cost.</td></tr>
<tr><td>C.</td><td><u>Operating Costs:</u></td><td></td></tr>
<tr><td>(i).</td><td>The Documentary evidence furnished in support of unit cost of power does not reflect the power cost at ₹ 11.91 per unit. The same to be furnished.</td><td>The unit power cost of ₹ 11.91 has been considered based on similar unit power cost taken in the case of upfront tariff calculation of Berth No. 3 mechanization project approved by TAMP.</td></tr>
<tr><td>(ii).</td><td>In addition to cost of illumination, the SPMP is also seen to have considered power cost in respect of 2 nos. of LPG pump, air compressor, LPG gas compressor, Jockey pump, tank wagon and pump house. The workings furnished by SPMP in support of the power cost in respect of these items, lacks clarity. Hence, proper workings in support of the power consumption for each of the items listed above to be furnished.</td><td>As per documents submitted by the bidder as referred under item B (iii) above, the estimated power cost towards LPG pump, air compressor, LPG gas compressor, jockey pump, tank wagon and pump house have been arrived at considering the rate of power @ ₹ 10.00 per unit.

The power consumption against each of the items have been derived from the corresponding power cost. Such power consumption value has been multiplied by the unit power rate of 11.91 to arrive at the revised power cost for each of the items. The Calculation sheet is given below:

<table>
<tr><th>Power</th><th>Estimated Power Cost taking Rs 10 as unit power rate as per IPPL submission</th><th>Power consumption</th><th>Estimated Power Cost taking unit power rate as Rs 11.91 as per HDC</th></tr>
<tr><td>2 Nos. LPG pump</td><td>7391250.00</td><td>369562.50</td><td>8802978.75</td></tr>
<tr><td>10 HP air compressor</td><td>24000.00</td><td>240.00</td><td>5716.80</td></tr>
<tr><td>20 HP LPG gas compressor</td><td>4106.00</td><td>20.53</td><td>489.02</td></tr>
</table></td></tr>
</table>

<table>
<tr><th>Sr. No.</th><th>Information/ Clarification sought</th><th>Reply of SPMP</th></tr>
<tr><td></td><td></td><td>
<table>
<tr><td>10 HP jockey pump</td><td>27375.00</td><td>273.75</td><td>6520.73</td></tr>
<tr><td>tank wagon only lighting load</td><td>131000.00</td><td>13100.00</td><td>312042.00</td></tr>
<tr><td>Pump house</td><td>126000.00</td><td>12600.00</td><td>300132.00</td></tr>
<tr><td>Total</td><td></td><td>395796.78</td><td>9427879.30</td></tr>
</table>
</td></tr>
<tr><td>(iii).</td><td>SPMP to confirm that the rates of depreciation considered in respect of civil, mechanical and electrical capital costs are as per the Companies Act, 2013.</td><td>Confirmed.

It is mentioned that the depreciation rates considered in the upfront tariff calculation of Berth No. 3 mechanization Project approved by TAMP are as follows:

Civil-3.17%, Mechanical-6.33%, Electrical-9.5%. Similar rates of depreciation have been considered in this proposal as well.</td></tr>
<tr><td>D.</td><td><u>Performance Standards:</u></td><td></td></tr>
<tr><td>(i).</td><td>The basis for considering the time taken from positioning of wagons at loading points till making the rakes ready for drawing out after loading at 8 hours, to be explained.</td><td>As mentioned under item 1(i), the performance standard has been revised to 10 hours considering factors including:

(a). LPG Loading / Transportation is a new and promotional traffic at HDC.

(b). LPG is a harzardous cargo, it needs additional safety precautions for LPG tank wagon handling.

(c). Loading / placement of wagons will be done in two spurs and it will take some more time that the time taken for normal placement.

(d). No demurrage charge is levied on privately owned wagons at private siding as per Para 6.5 of Railway Board, Ministry of Railway, Rates Master Circular-Demurrage-Wharfage-Waiver/2016/0 (NO-TC-I/201/1 dtd. 19.05.2016)
[The SPMP attached the above said circular.]</td></tr>
</table>

6. In view of the outbreak of COVID – 19 and in pursuance of the 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 18 June 2021 through Video Conferencing. At the joint hearing, SPMP made a brief power point presentation of its proposal. The SPMP and the users / prospective bidders have made their submissions during the joint hearing.

7.1. As decided at the joint hearing, the users / user organisations were requested vide letter dated 23 June 2021 to furnish their comments. Thus, subsequent to the joint hearing, M/s. Hindustan Aegis LPG Limited (HAPL) and the IOPPL vide their respective e-mails dated 28 June 2021 have furnished their comments / additional comments. The same were forwarded to SPMP for its comments. The SPMP has responded vide its e-mail dated 20 July 2021.

7.2. The SPMP vide its email dated 20 July 2021 has also furnished its reply to the additional comments of IOPPL, which had been addressed by IOPPL vide its letter dated 05 July 2021 to SPMP.

8. 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 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.

9.1. During the joint hearing, while responding to the comments of the one of the stakeholders, the SPMP has indicated that if the operator achieves performance standards, he will be entitled to levy higher tariff to the extent of 15% more as per Tariff Guidelines. In this regard, since the proposed authorization arrangement u/s 42(3) of the MPT Act, 1963, is other than by way of the BOT

Concession Agreement, as confirmed by the SPMP, the proposal on the reference is governed by the stipulations contained in Clauses 8.1 to 8.3 of the Tariff Policy 2018. Given that the Tariff Policy, 2018 does not provide any provision of entitlement of 15% increase in tariff on achievement of performance standards, the SPMP was requested vide letter dated 23 June 2021 to furnish clarification as to under which clause of Tariff Policy 2018, the operator is entitled to levy 15% indexed tariff on the tariff (to be) approved on achievement of performance standards as stated by SPMP during the joint hearing.

9.2. In this regard, the SPMP vide its email dated 25 June 2021 has stated that SPMP agrees that the Tariff Policy, 2018 only has an enabling provision for proposing productivity linked tariff and that it does not have any provision of allowing the Operator to increase their rate by 15% on achievement of performance standards. In the instant case, since the authorization arrangement would be other than by way of a BOT concession agreement, the tariff of the facility would be guided by the Tariff Policy 2018 and as such the SPMP has confirmed that the Operator would not be entitled to 15% increase in tariff if they achieve the productivity.

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

(i). With a view to enable efficient and cost effective transportation and distribution of LPG in the entire Eastern India and North East India, the Syama Prasad Mookerjee Port (SPMP) has decided to set up a rail wagon loading gantry for handling LPG on common user basis on SPMP land at Haldia Dock Complex (HDC). In this connection, an operator is envisaged to be appointed by SPMP through tender-cum-auction, who is entitled to levy and recover the charges from the users of the facility on a common user basis. The SPMP has confirmed that the authorization arrangement by SPMP to the operator under Section 42(3) is other than by way of a BOT Concession Agreement.

As per Clauses 8.1 to 8.3 of the Tariff Policy 2018, in cases where authorisation arrangement u/s 42(3) of the Major Port Trusts (MPT) Act, 1963, is other than by way of a BOT concession agreement, ceiling rates will be prescribed for such services, based on the proposal to be initiated by the concerned Major Port Trust, if no tariff for a particular service/ facility is prescribed in the Scale of Rates of the concerned port trust. As regards the ceiling tariff, the port can either adopt the tariff prescribed for the similar service/ facility prescribed in any other Major Port Trust, if it is representative enough, or file a proposal with reference to optimal capacity following the principles of 2008 guidelines or based on rated capacity with reference to the technical specification of the service/ facility/ equipment.

Thus, the SPMP has come up with a proposal for prescription of handling charges to be levied by the operator on a common user basis, for the use of the facility, based on the stipulations contained in Clauses 8.1 to 8.3 of the Tariff Policy 2018. The proposal of the port has the approval of its Board of Trustees.

(ii). The proposal filed by SPMP in April 2021 and the additional information/ clarification furnished by SPMP in June 2021 during the processing of the case have been considered in this analysis.

(iii). The SPMP has proposed a handing rate of LPG at ₹ 559.60 per tonne, by taking into account the optimal capacity of the facility. However, since the 2008 tariff Guidelines do not prescribe any norms relating to setting up a rail wagon loading gantry for handling LPG, the port is generally seen to have adopted the norms as stipulated for the Liquid terminal in the 2008 Tariff Guidelines, so as to arrive at the proposed tariff. Each of the cost component considered by the SPMP to arrive at the proposed rate is discussed in the subsequent paragraphs.

(iv). **Optimal capacity -**
Considering that a maximum of 2 number of rakes can be handled per day at the proposed siding and considering 32 wagons per LPG rake and the quantum of LPG at 36.5 tonnes per wagon and considering 350 working days in a year, the SPMP has

determined the optimal capacity of the facility at 70% utilisation at 5,72,320 MT per annum (i.e. 2 rakes x 32 wagons per rake x 36.5 tonnes per wagon x 350 days x 70% utilisation).

As regards 2 number of rakes, given that the port has considered the Performance Standard of 10 hours per rake towards the time taken for loading, shunting and placement in two spurs with the help of winch and pulley and the balance time towards placement and withdrawal to and from the exchange point, the SPMP is of the view that only a maximum of two rakes can be loaded per day. The judgment of the port in this regard is relied upon.

The SPMP has given documentary proof in support of the position that the LPG rake consists of 32 wagons and that the load capacity of 36.5 tonnes of LPG per wagon. The same is, therefore, considered in the analysis.

With reference to the number of days considered in the calculation of the optimal capacity, the port has categorically considered 350 working days in a year, instead of the standard of 365 days generally considered in the calculation of the optimal capacity, on the ground that there will be a planned maintenance of the plant for 15 days per annum. Maintenance is essential for the smooth functioning of the facility and as such the facility cannot be put into use when the maintenance is in progress. Thus, based on the reasoning given by the port, the proposal of the port to calculate the optimal capacity based on 350 working days is relied upon.

Accordingly, the optimal capacity of the facility at 70% utilisation as worked out by SPMP at 5,72,320 MT per annum, is considered in the analysis.

One of the user/ prospective bidder viz., Indian Oil Petronas Private Limited (IOPPL) has opined that though the volume of 5.72 TMTPA at 70% of the optimal capacity is achievable, it cannot be achieved immediately and can be achieved only in due course of time. In this regard, it is to state that the exercise in hand is to determine the tariff that is to be levied at the facility. The tariff is being fixed taking into account the optimal capacity of the facility. As such, the volume of the traffic that would be handled at the facility is immaterial.

(v). **Capital Costs -**

(a). The capital cost as estimated by the SPMP in its proposal for the handling activity is ₹ 117.64 crores of which ₹ 51.25 crores is towards civil capital costs, ₹ 39.65 crores is towards mechanical and allied works, ₹21.13 crores is towards electrical works and ₹5.60 crores is towards Miscellaneous capital costs.

(b). Civil Cost:
The civil capital costs as estimated by the SPMP to the tune of ₹ 51.25 crores is towards development of Land, development of Road and Rail network, Construction of Boundary Wall, construction of facilities inside Project area (building for office, canteen, control room, Engineering Store, security room, watch tower, Sub-station, DG room, Deluge valve room, shed for fire water pump & air compressor, Bullet mound foundation, pipe support, weighbridge foundation, drainage system etc). The SPMP has also considered contingencies @ 3% and project supervision @ 2%.

The SPMP has confirmed that the estimated cost of Civil works have been prepared based on existing/ prevailing market/ contract rate of HDC. Further, since GST input tax credit is not available for Civil construction, the GST applicable on Civil construction is reported to have been considered by SPMP in the estimation of Capital costs.

As per Clause 4.1 of 2008 Tariff Guidelines, civil cost is to be considered as per the estimates given by the port. In view of the above said confirmation given by the SPMP, the civil cost estimates as furnished by the SPMP are relied upon.

With regard to considering contingencies @ 3% and project supervision @ 2%, the SPMP is of the view that it is an established procedure in estimation, to take care of preliminary expenses, tendering and Project Management Consultancy costs etc.

(c). The Mechanical cost of ₹ 39.65 crores as estimated by the Port is towards Mechanical equipment, pipelines, storage facilities, Fire protection system, gas protection system and Wagon Loading Gantry. The SPMP has also considered contingencies @ 3% and project supervision @ 2%.

The SPMP has stated that cost of equipment have been considered on the basis of the estimated capital cost submitted by one of the bidder. The SPMP has also confirmed that the cost of each of the equipment considered in the workings, reflect the prevailing/ current market rates. Further, considering price escalation factor, the cost for mechanical items have been escalated by 15% to arrive at the estimated cost. Also, since Input Tax Credit can be availed on GST paid on Mechanical costs, the same has not been considered in calculation of Capital costs as confirmed by SPMP.

(d). The Electrical & Instrumentation Equipment cost to the tune of ₹ 21.13 crores as estimated by the Port is towards Electrical Works, Instrumentation and power supply with cabling works. The SPMP has also considered contingencies @ 3% and project supervision @ 2%.

The SPMP has stated that cost of electrical equipment have been considered on the basis of the estimated capital cost submitted by one of the bidder. The SPMP has also stated that the electrical costs has been estimated on a lumpsum basis and that it reflects the prevailing/ current market rates. Further, considering price escalation factor, the cost for electrical & instrumentation works have been escalated by SPMP at 15% to arrive at the estimated cost. Also, since Input Tax Credit can be availed on GST paid on Electrical costs, the same has not been considered in calculation of Capital costs as confirmed by SPMP.

(e). The miscellaneous capital cost is estimated at 5% on civil, mechanical and electrical equipment cost which is seen to be based on the stipulations prescribed for the liquid terminal in the 2008 Guidelines.

(f). Given that none of the users/ prospective bidders have raised any pointed objection to the proposed equipping plan and cost of various capital costs, this Authority is inclined to consider the capital cost as proposed by the port. For the reasons given above, contingencies @ 3% and project supervision @ 2% have also been considered in the estimation of the capital costs.

(vi). **Operating Costs -**

(a). Power costs:

Power cost has been estimated by the port for illumination of the Land area 9.1567 hectares as well as for operating LPG/ Jockey pumps, air/ LPG gas compressor, tank wagon, Pump House etc. In the estimation of power cost, the unit cost of power has been considered at ₹ 11.91 per unit.

For illumination of the Land area, power cost has been estimated @ 2.4 lakh unit per annum per hectare, which is seen to be as per the norms prescribed in the 2008 tariff guidelines for liquid Terminal.

As regards power cost for operation of various types of equipment, based on the workings furnished by the port, the power consumption for the various equipment as furnished by the port is relied upon.

The unit cost of power at ₹ 11.91 per unit is reported to be seen as considered by the port in the case of upfront tariff calculation of Berth No. 3 mechanization project and which had been considered by this Authority in its Order no. TAMP/47/2020-SPMP (KOPT) dated 28 December 2020. As such, the same is considered.

(b). As per the norms prescribed for a liquid terminal in the 2008 Guidelines, the repairs and maintenance cost on civil work is estimated by SPMP at 1% on the civil cost and 2% on mechanical equipment and electrical equipment cost. The said estimation is also considered at 1% on the component of civil assets and 7% on the component of equipment cost forming part of the miscellaneous assets.

(c). Depreciation has been computed by SPMP @ 3.17% on civil assets, 6.33% on Mechanical assets and 9.5% on Electrical assets. The SPMP has confirmed that the depreciation rates are as per the Straight line method as per the Companies Act, 2013.

(d). Insurance cost as well as other expenses are each estimated at 1% of the gross fixed assets by SPMP, which is in line with the norms prescribed for a liquid terminal in the 2008 Guidelines.

(e). The guidelines for upfront tariff fixation stipulate that lease rent for port land is to be estimated based on the rates prescribed in the Scale of Rates of the respective Major Port Trusts. Lease rental has been estimated by the port for a land area of 91567 square metres. The license fee for the Industrial Zone at HDC has been fixed at ₹ 10.80 per sq.m per month vide the Order no. TAMP/62/2016-KOPT dated 29 March 2017. As per the said Order, the said license fee has come into effect from 07 April 2016. Therefore, in April 2021, the said license fee would have got escalated five times by 2% and the license fee as applicable as on date would be ₹ 11.92 per sq.m per month, which has been considered by SPMP in its workings.

(f). The total operating cost for the Cargo Handling Activity as discussed above is works out to ₹ 15.49 Crores.

(vii). The Upfront Tariff Guidelines, 2008 prescribes 16% return on the Capital Employed. Accordingly, the SPMP has worked out return on Capital Employed at the rate of 16% on the total Capital Cost of ₹ 117.64 crores, which works out to ₹ 18.82 Crores.

(viii). (a). The Annual Revenue Requirement (ARR) for the handling activity which is the sum of the operating cost and return on capital employed is estimated at ₹ 34.31 crores.

(b). Considering the optimal capacity at 5,72,320 MT per annum and the ARR at ₹ 34.31 crores, the handling rate works out to ₹ 599.50 per tonne. The cost statement in this regard is attached as **Annex - I.**

(ix). One of the prospective bidder viz., Indian Oil Petronas Private Limited (IOPPL) has indicated that the rate proposed by the SPMP is very low and that the rate should be around ₹ 715/- per tonne, on the ground that this is a high capital investment project covering huge risk and also due to increase in the cost of the equipment, plant and machineries. In this regard, the SPMP has stated that it has formulated its proposal taking into account the cost of equipment and machinery by considering an escalation of 15% over the estimates given by the prospective bidder. Further, the port has stated that it has considered 3% of capital cost towards contingencies, which would be sufficient to deal with the increase in the capital costs. Also, it is stated that IOPPL has not furnished any documentary evidence in support of the increased capital costs warranting a review in the capital cost estimation made by SPMP. Hence, this Authority is inclined to approve the rate of ₹ 599.50 per MT as arrived by the SPMP for handling of LPG through Railway Wagon Gantry.

(x). In the proposed Scale of Rates, the SPMP has proposed definitions for the terms viz., LPG loading, Rake, Tariff and Date of commercial operation, each of which is discussed below:

(a). LPG Loading means receiving LPG in common manifold inside leased premises, transferring it through pipeline(s) to the loading gantry for loading on to rakes and dispatch of the rakes. LPG loading does not constitute storage. Since the proposed definition gives clarity as to the scope of services included within the term ‘LPG loading’, the proposed note is approved.

(b). Rake means a railway rake consisting about 32 LPG wagons each with a capacity to carry about 36.5 Tonne per LPG wagon. Since the proposed definition reflects the factual position and also since the same parameters have been considered in the calculation of the optimal capacity of the facility, the proposed definition is approved.

(c). Tariff specified in the SOR refers only for the service of providing the pipeline and the loading facility by the LPG loading gantry. It does not include the terminal and haulage charges. Since the proposed definition gives clarity and removes ambiguity, the proposed definition is approved.

(d). Date of Commercial Operation (CoD) means the date on which the first LPG rake is handled at the siding. Since the proposed definition gives clarity, the proposed definition is approved.

(xi). The SPMP has proposed a note to the effect that services offered at the terminal include (a) providing connectivity to the pipeline of the terminal to the pipeline of users (b) providing loading connectivity of the gantry to each tank wagon (c) Disconnecting the pipeline of the terminal to the pipeline of users. Since the proposed note gives clarity as to the scope of services envisaged to be offered at the facility, the proposed note is approved.

(xii). As per Clause 8.2 of the Tariff Policy, 2018, the Port shall propose the Performance Standards to be achieved by the service provider and tariff linked to Performance Standards. Thus, the SPMP has proposed Performance Standards to the effect that the time taken from positioning of wagons at loading points till making the rakes ready for drawing out after loading would be 10 hours. In this connection, the port has stated that the time taken for handling a rake for the purpose of evaluation of Performance Standards is “Time taken from positioning of the rake at the terminal, loading of cargo into wagons and making the rake ready for drawing out”. The said time limit of 10 hours has been proposed by the SPMP after taking into account the following factors:

(a). LPG Loading / Transportation is a new and promotional traffic at HDC.

(b). LPG is a hazardous cargo, it needs additional safety precautions for LPG tank wagon handling.

(c). Loading/ placement of wagons will be done in two spurs and it will take some more time that the time taken for normal placement.

The Tariff Policy, 2018 does not prescribe any method or basis for proposing performance standards. Thus, based on the reasoning furnished by SPMP, the proposed performance standards is also approved.

(xiii). The SPMP has not proposed any validity of the proposed tariff and the performance standards. However, the port in its proposal has indicated that it envisages allotment of land to the successful bidder on lease basis for setting up of a rail wagon loading gantry for LPG on common user basis for a period of 30 years. Since the project is envisaged for a period of 30 years and inorder to give stability in tariff to the successful bidder, it is felt appropriate to prescribe the tariff for the project of setting up of Railway Wagon Gantry for LPG, for a period of 30 years.

(xiv). The port has proposed a general note to the effect that the prescribed tariff will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2021 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st April of the relevant year to 31st March of the following year.

Though the proposal filed by the SPMP is under the Tariff Policy 2018 presently applicable in respect of Major Port Trusts, it is relevant to reiterate that the tariff proposed by the port for the new service is following the normative approach and the principles of upfront tariff of 2008 guidelines which is one of the options available under the said Tariff Policy for fixing common tariff where the authorization arrangement under Section 42(3) is other than by way of a BOT arrangement. In case of upfront tariff under 2008 guidelines, the tariff is for the project period and is subject to automatic annual indexation at 60% of the WPI.

Since the proposal of the SPMP is following the principles of the upfront tariff Guidelines of 2008, the SPMP has proposed the note as brought out above, which is approved. However, while doing so, the note is slightly modified so as to reflect the position that the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year, based on the stipulation contained in Tariff Policy, 2018.

11.1. In the result, and for the reasons given above and based on a collective application of mind, the Tariff Schedule relating to operation of the Railway Wagon Gantry for LPG at HDC of SPMP, as attached as **Annex - II**, is approved.

11.2. The SPMP is directed to incorporate the above said provisions in its Scale of Rates, suitably.

11.3. The said provision shall come into effect when the facility of the Railway Wagon Gantry for handling LPG comes into operation at HDC of SPMP and shall remain valid for a period of 30 years thereon, subject to automatic annual indexation.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

Cost sheet for preparation of Tariff

Particulars	Unit of Levy	As proposed by SPMP	As per TAMP
Optimal Capacity:			
a) Maximum number of rakes that can be handled per day	Nos.	2	2
b) Cargo volume of LPG per rake (32 wagons per LPG rake * 36.5 tonnes per wagon)	Tonnes	1168	1168
c) Number of working days in a year	Days	350	350
d)Terminal Capacity	Tonnes per annum	817600	817600
e) **Optimal capacity at 70% utilisation**	Tonnes per annum	**572320**	**572320**

Particulars	Unit	As proposed by SPMP	As per TAMP
Capital Cost:			
I. Civil and Structural Works:			
a) Development of Land (Considering Cleaning of wild bushes from proposed project area about 185350 Sqm , Devlopement of land in proposed road area 957x25m=23925 sqm, project area 665x50m=33250 sqm and rail track 477x20m=9540 sqm. Avg. filling of earth about 2.50m and lead 10.0KM)	Rs	61000000	61000000
b) Development of Road network (Considering 957 m length of road, box cutting, subbase - laying geotextile, sand filling 300mm, moorum 150mm, Laterite boulder-350mm, WMM-150mm,bituminuous mechadam 75mm , premix 25mm th.)	Rs	20000000	20000000
c) Railway Network (Considering 2339 m track @ Rs 60000.00 per m)	Rs	140400000	140400000
d) Construction of Boundary Wall (Considering 1550m length wall @ Rs 15000.00 per mtr. and three nos M.S gate)	Rs	24000000	24000000
e) RCC Box culvert (10.0m width) (Considering 10.0 m width culvert x 665 m length)	Rs	105000000	105000000
f) FW Tank pad 2 nos. (considering 2 nos 16.0m dia tank pad , 16nos 1.0m dia vertical RCC pile of depth 25m in each tank with 1.50m th. RCC pile cap.)	Rs	30000000	30000000
g) Facilities inside Project area (building for office, canteen, control room, Engg. Store, security room, watch tower, Sub-station, DG room, Deluge valve room, shed for fire water pump & air compressor, Bullet mound foundation, pipe support, weighbridge foundation, drainage system etc.).	Rs	34500000	34500000
h) Detailed Design & Engineering (2% of the capital cost)	Rs	7008000	7008000
i) Contingencies (3% of capital cost)	Rs	12447000	12447000
GST @18% of Civil Cost	Rs	78183900	78183900
Total Civil Cost	Rs	**512538900**	**512538900**
II. Mechanical and Allied Works:			
a)Mechanical equipment,pipelines & storage facilities	Rs	163041250	163041250
b)Fire protection system and gas protection system	Rs	103520700	103520700
c) Wagon Loading Gantry	Rs	111090000	111090000
d) Detailed Engineering & Supervision Cost (2% of Capital cost)	Rs	7553039	7553039
e) Contingencies (3%)	Rs	11329559	11329559
Total Capital Cost Mechancial and allied Equipments	Rs	**396534548**	**396534548**
III. Electrical & Instrumentation Equipments			
a) Electrical Works	Rs	47150000	47150000
b) Instrumentation	Rs	148384500	148384500
c) 11 KV power supply with cabling works	Rs	5750000	5750000
g) Detailed Engineering & Supervision (2% of Capital Cost)	Rs	4025690	4025690
i) Contingencies (3% of capital cost)	Rs	6038535	6038535
Total Electrical/ Instrumentation / Allied Works Cost	Rs	**211348725**	**211348725**
IV. Miscelleneous Costs (Including IDC)			
5% of Capital cost of Civil, Mechanical, Electrial and Instrumentation works	Rs	**56021109**	**56021109**
V. Total Capital Cost	Rs	**1176443281**	**1176443281**
VI. Operating Cost			
a) Power Cost :	Rs.	35601390.58	35601390.58
i) For illumination (Land area 9.1567 hectares @ 2.4 lakh unit per annum per hectare as per 2008 tariff guidelines for liquid Terminal & present rate charged by SMP, Kolkata of Rs 11.91 per unit)			
ii) Power requirement for 2 nos. LPG pump, 10 HP air compressor, 20HP LPG gas compressor, 10 HP Jockey Pump, tank wagon only lighting load, Pump House (Rs 9427879.30 taking present rate charged by SMP, Kolkata of Rs 11.91 per unit).			
b) Repairs & Maintenance - Mech./ Elec./ Instrumentation @ 2% of Capital Cost	Rs.	12765548.72	12765548.72
c) Repairs & Maintenance - Civil @ 1% of civil cost	Rs.	5381658.45	5381658.45
d) Depreciation (Civil- 3.17%, Mechanical- 6.33%, Electrical/ Instrumentation- 9.5%)	Rs.	64497561.30	64497561.30
e) Insurance @1% of capital cost	Rs.	11764432.81	11764432.81
f) Lease rentals (91567 sq. mtrs. @ Rs. 1192 per 100 sqm per month)	Rs.	13097743.68	13097743.68
g) Other expenses (@1% of Capital Cost)		11764432.81	11764432.81
		154872768.36	**154872768.36**
VII. Estimated Revenue Requirement			
a) Operating Cost	Rs.	154872768.36	154872768.36
b) Return of Capital Employed @ 16%	Rs.	188230924.98	188230924.98
c) Annual Revenue Requirment	Rs.	343103693.34	343103693.34
VIII. Proposed Tariff [Per Tonnne Handling Cost (Rs.)]	Rs. Per tonne	**599.50**	**599.50**
Revenue Requirement / Optimal Capacity			

Annex - II

Tariff Schedule for operating rail wagon loading gantry for LPG on common user basis at Haldia Dock Complex, Syama Prasad Mookherjee Port, Kolkata

I. Definitions:

In the Scale of Rates (SOR) unless the context otherwise requires, the following definitions shall applied:-

(i). LPG Loading means receiving LPG in common manifold inside leased premises, transferring it through pipeline(s) to the loading gantry for loading on to rakes and dispatch of the rakes. LPG loading does not constitute storage.

(ii). Rake means a railway rake consisting about 32 LPG wagons each with a capacity to carry about 36.5 Tonne per LPG wagon.

(iii). Tariff specified in this SOR refers only for the service of providing the pipeline and the loading facility by the LPG loading gantry. It does not include the terminal and haulage charges.

(iv). Date of Commercial Operation (CoD) means the date on which the first LPG rake is handled at the siding.

II. Charges for bulk loading at the railway siding:

Charges for bulk LPG loading at the railway siding	₹599.50 per Tonne

Notes:

(i). Time taken for handling a rake for the purpose of evaluation of Performance Standards is "Time taken from positioning of the rake at the terminal, loading of cargo into wagons and making the rake ready for drawing out".

(ii). "Tonne" means a quantity of 1,000 Kgs., or part thereof

(iii). The services offered at the terminal include (a) providing connectivity to the pipeline of the terminal to the pipeline of users (b) providing loading connectivity of the gantry to each tank wagon (c) Disconnecting the pipeline of the terminal to the pipeline of users.

III. Performance Standards:

Activity	Performance Standard
Time taken from positioning of wagons at loading points till making the rakes ready for drawing out after loading	10 Hrs.

The terminal operator is to ensure the above standards for all the rakes handled by it at all times. Calculation of performance shall be as per the Notes given in this SOR.

IV. General Notes:

(i). The Tariff will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2021 and 1 January of the relevant year. Such automatic adjustment of Tariffs will be made every year and the adjusted tariff caps will come into force from 1st May of the relevant year to 30th April of the following year:

(ii). From the date of Commercial Operation (CoD) till 30th April of the following year, the tariff would be limited to the indexed Tariff relevant to that year, which would be the ceiling.

However, the Terminal operator will be free to propose a tariff alongwith performance standards from the second year onwards, over and above the indexed tariff for the relevant financial year.

The proposal of tariff shall be submitted to TAMP along with a certificate from a Chartered Engineer to the appointed by the Terminal Operator for the purpose, indicating the achievement of Performance Standard as incorporated in this SoR in the previous 12 months or for the actual number of months of operation in the relevant year of operation, as the case may be.

(iii). In the event of failure by the terminal operator to load the cargo within the period specified in the performance standard for reasons attributable to the terminal operator, the consequent dumurrage incurred by the user (if any) is to be compensated by the terminal operator to the user.

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

TAMP/24/2021-SPMP (KOPT) : **Proposal received from Syama Prasad Mookerjee Port (SPMP) [Erstwhile Kolkata Port Trust (KOPT)] for fixation of tariff for the project of setting up of Railway Wagon Gantry for LPG on common user basis at Haldia Dock Complex (HDC).**

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The comments received from Indian Oil Petronas Private Limited (IOPPL) and comments of SPMP thereon are tabulated below:

Sl. No.	Comments received IOPPL	Reply of SPMP
(i).	IPPL being a JV of two Fortune 500 Companies namely Indian Oil Corporation Limited and Petronas of Malaysia, began its Terminalling operations in 2001 with an annual throughput of 94 TMT. It may be noted that the market has evolved over a period of 20 years to enable IPPL to register its present terminalling volume. Moreover, BPC and HPC also subsequently started availing Terminalling services from IPPL.	The proposed authorisation arrangements for operating the rake loading siding for LPG on common user basis on SMPK leased land are to be governed by the stipulations contained in clauses - 8.1 to 8.3 of the Tariff Policy for Major Ports, 2018. Further, clause - 8.2 of the Tariff Policy for Major Ports 2018, inter aila, stipulates that regarding regulation of charges levied by other authorized service providers, the Port Trust may file a proposal with reference to optimal capacity following the principles of 2008 guidelines in terms of the 2008 guidelines for upfront tariff setting, the optimal capacity of the terminal is to be reckoned as 70% of the maximum capacity. Calculation of the above optimal capacity based on which the Reference Tariff (ceiling user charge per MT) has been worked out as per Tariff Guidelines is as under: (a). Maximum number of rakes that can be handled per day at the proposed siding - 2.0 nos. (b). Maximum anticipated cargo volume of LPG per rake at the proposed siding - 32 X 36.5 = 1168 MT (c). The number of working days in a year – 350 Considering above, the optimal capacity of proposed terminal comes to 0.7 (2 X 1168 X
(ii).	It took IPPL 8 years from inception to attain an annual volume of 0.60 MMT at rated capacity whereas HPC and BPC could achieve the same volume in the very first year of their incorporation. Movement of LPG to the North-East in Rail Wagon shall be the first of its kind in the North-Eastern market, and shall take substantial time to become steady. Thus, the volume of 5.72 TMTPA at 70% of the optimal capacity as considered by SPMP is although achievable but in due course of time and not immediate.	

Sl. No.	Comments received IOPPL	Reply of SPMP
		350 = 0.7 X 817600) = 5,72,320 MT per annum. SMPK has with approval of the Board, filed the proposal to TAMP for formulation of Reference Tariff in respect of ceiling level charges recoverable from users of the facility, in terms of the above and taking the norms for fixation of upfront tariff for services rendered at a liquid bulk terminal.
(iii).	In response to letter No. TAMP/24/2021-SPMP (KOPT) dated 09 April 2021 the maximum tariff chargeable from the user of the facility is arrived at ₹599.50 per MT based on the estimated operating cost and 16% return on capital investment at 70% of optimal capacity. The said rate is not acceptable to us at the outset.	The capital cost towards civil and structural works have been taken based on the prices prevailing at this point of time. Further, for all Mechanical Equipment and Allied Works, Electrical & Instrumentation / Allied works, an escalation factor of 15% in block cost estimate as per project report submitted by IPPL along with their RFQ in respect of the subject tender has been considered. In addition, contingency @3% have been considered for both civil and mechanical / electrical / instrumentation / equipment / works for calculation of the Capital Cost. As such, required adjustments / escalation have been considered to arrive at the estimated capital cost for the project. The Cost Sheet (sent along with our Tariff Proposal) may be referred to in this regard.
(iv).	Also, the estimations in the project report submitted by us to KOPT was made in the year 2018, and inflation factor in the capital investment has to be considered. Also, we would like to bring to your notice how steel prices have excessively increased in the past 6 months and hence the cost of the equipments, plant and machineries will also go up.	
(v).	Since this is a high capital investment project covering huge risk, hence we propose to charge ₹715.00 per MT from the common users for using the rail wagon gantry set up. The same may be subsequently revised based on good performance in the form of incremental volumes.	
(vi).	Hence, it is requested to kindly reconsider the provisional TAMP rate communicated to us.	

2.1. In view of the outbreak of COVID – 19 and in pursuance of the 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 18 June 2021 through Video Conferencing. At the joint hearing, SPMP made a brief power point presentation of its proposal. The SPMP and the users/ prospective bidders have made the following submissions during the joint hearing:

<u>Dy. Chairman, HDC, SPMP</u>

(i). To cater to the need for efficient and cost effective transportation of LPG, it has been decided to set up a rail wagon loading gantry for LPG on common user basis on SMP land at HDC, to enable distribution of LPG in the entire Eastern India and North East India.

(ii). Indian Oil Petronas Pvt. Ltd. (IOPPL) has qualified in the RFQ and RFP has been issued. As such, a provisional ceiling tariff is required, for which a proposal has been sent to TAMP.

(iii). The optimal capacity of proposed terminal has been assessed at 5.72 lakh MT per annum. The total capital cost of the project is estimated at ₹ 117.64 Crores. The operating cost has been estimated at ₹ 15.49 crores.

(iv). Based on the workings, the ceiling tariff chargeable per tonne from users of the facility is ₹ 599.50 per MT. Approval from TAMP is sought for the same.

<u>Indian Oil Petronas Pvt. Ltd.</u>

(i). There is no commitment from any oil company for two Rakes in a day. As such, the capacity of the facility based on two Rakes per day is on higher side.

(ii). What would be the frequency of the revision of tariff?
[TAMP: In similar cases in past in SPMP, tariff has been prescribed for a period of 10 years with Annual indexation. So it depends on the contract terms.]

(iii). This is a huge capital intensive project and at the unloading end, the oil companies have to invest. So we request port not to take terminal and haulage charges.
[HDC: The terminal and haulage charges are notified by Ministry of Railways. This charge is recovered as per the Railway's SOR and these services are not a part of the current proposal.].

(iv). Tariff is being prescribed based on the optimal capacity of the facility. It may take time to built in traffic. Hence, tariff should be fixed depending upon the actual volume.
[HDC: The tariff is being fixed upfront as per the 2008 Tariff Guidelines. The Guidelines prescribe fixing tariff based on optimal capacity. The guideline does not have any scope to reduce the tariff in future. However, the operator can levy lower tariff than the upfront tariff so fixed. He can in no case levy higher tariff.
If the operator achieves performance standards, he will be entitled to levy higher tariff to the extent of 15% more as per Tariff Guidelines.]

(v). The operating cost arrived for tariff fixation has not taken into account the terminal and haulage charges. Why has this not been considered?
[HDC: The terminal and haulage charges are levied on cargo interests and not on the operator of this facility. There is no relevance of terminal and haulage charges to the operator of the terminal. So, these are not considered in calculation of upfront tariff.]

(vi). Cost of cross country pipeline is not factored in the capital cost schedule of the tariff proposal.

[HDC: The cost of pipeline does not form part of the proposal. The onus is on the importer or exporter to lay the pipeline to connect to the project facility.]

(vii). Security Deposit of two years for rent with 15% markup for administrative expenses is very high. The port to relook this aspect.

[HDC: This aspect does not form part of the proposal. It is a part of the concession agreement. You may discuss with port.]

Hindustan Aegis Ltd.

(i). The capacity considered is very high and may not be practical.

BPCL

(i). As users, we find the tariff of ₹600/- per tonne appears to be very high and unattractive. The port may relook and bring down the rate and make it more attractive. The port may look at the proposal holistically, as the facility may bring additional cargo and revenue to the port and as such the viability of the project is not defeated.

[HDC: The proposal is based on the Tariff Guidelines.]

2.2. As decided at the joint hearing, the users / user organisations / prospective bidders were requested vide letter dated 23 June 2021 to furnish their comments. Thus, subsequent to the joint hearing, M/s. Hindustan Aegis LPG Limited (HAPL) and the IOPPL vide their respective e-mails dated 28 June 2021 have furnished their comments/ additional comments. The same were forwarded to SPMP for its comments. The SPMP has responded vide its e-mail dated 20 July 2021. The comments/ additional comments received from HAPL and IOPPL and comments of SPMP thereon are tabulated below:

Sl. No.	Comments of users	Reply of SPMP
1.	**Hindustan Aegis LPG Limited (HAPL)**	
(i).	The basis of this project has been the utilization of the LPG Rail gantry by the Oil Companies i.e. IOCL, BPCL & HPCL. As they are the major distributors of LPG, without their firm willingness to utilize this proposed facility, the project may not be successful. Hence, it is paramount that the details of the planned Oil company volumes be furnished. This will also help the users assess the performance standards mentioned in the proposal for calculating the tariff.	As per the provisions of the concerned RFQ, the selected bidder (Lessee) shall be responsible for planning, designing, construction, operation and maintenance of a Rail Wagon Loading Gantry for LPG on Common User basis on the demised land. The matter regarding utilizing the proposed facilities and the extent thereof is a matter to be dealt between the operator of the siding and perspective users. Also, calculation of

Sl. No.	Comments of users	Reply of SPMP
		ceiling tariff is not based on Performance Standard proposed.
(ii).	The proposal and the accompanying documents state that each user, including our terminal, will be allowed to lay the pipeline to the facility. The operations of such facility will be on common user basis. While operational modality is not given, like any other Port facility, this should be on first-cum-first-serve basis. It should be emphasized this is independent of terminal operations and this is a facility being developed by the port. The operator is developing on behalf of the port for port users, like a jetty and port rules should follow. **It is important to establish this point as the proposed tariff of ₹599.50 per MT is expected to be common for all users, hence the principle of fair usage has to be adhered to.** A line of confirmation on this will be helpful.	The issue had been dealt at a time of submission of RFQ. The following clause has been incorporated in the RFQ in terms of Addendum/Corrigendum-III as under: "Clause No. I. (B)(ix) of Annexure-II: The lessee will not set up preferential /priority norms for any loading / dispatch of rakes of any user of the Rail wagon loading gantry for LPG created on the demised land. However, the lessee shall enjoy the right to load / dispatch any rake of any user among the rakes scheduled to call at the said facility. Further, the rake of a user will be placed in the siding for operation only after getting No Objection of the lessee." [The SPMP has furnished a copy of the Addendum/ Corrigendum-III]
(iii).	The proposal states that the user will have to pay up to ₹599.50 per MT for availing loading facilities. It is likely that this ceiling rate will be charged by the operator. As an interested party who shall be looking to invest in the pipeline to be connected to this facility, it is important for us to understand whether it has been confirmed by the Oil companies (i.e. the primary users) that they are ready to pay any additional charges for rake loading, as it has been conveyed by Oil companies on multiple occasions that they do not pay any additional charges at other locations. This is important for all the parties involved as the success of the project depends on this aspect.	Required due diligence, if any, in this regard may be done by concerned parties viz. user and operator for the siding as necessary.
(iv).	As per Appendix 1 of Annex II (2. General notes), this rate of ₹600 per MT is the reference index tariff being proposed and the operator shall be free to propose revision of these rates from 2nd year onwards depending on operation performance standard achieved. This rate has been derived considering more than 1 rake loading per day. The calculation provided is as follows: Max no. of wagons per day = 2 Per Wagon qty. = 1168 MT No. of days = 350 Capacity = 817,600 MT	With regards to frequency of rate revision as per TAMP Guidelines, it has been clarified to TAMP vide mail dated 25th June, 2021 which inter alia, states as under: *"The issue has been examined and we agree with the observation of the Authority that the Tariff Policy, 2018 does not have any provision of allowing the Operator to increase their rate by 15% on achievement of performance standards. The Policy only has an enabling provision for proposing productivity linked tariff ".* As in the instant case the

Sl. No.	Comments of users	Reply of SPMP
	Optimal Capacity (70% of above capacity) = 572,320 MT The above is the best case scenario which is not possible for mainly three reasons; (a). Demand for such loading (b). Availability of receiving plants (c). Availability of rakes. This means that the operator is likely to propose further increase in the rates due to less volume achieved attributable to reasons mentioned above (in addition to the potential Wholesale Price Index related increment). This will result in the whole project being economically unviable for the user. Hence, it is important to establish the frequency of rate revision in such a case. We request to kindly advise on frequency of rate revision, as per TAMP guidelines.	authorization arrangement would be other than by way of a BOT concession agreement, the tariff of the facility would be guided by the Tariff Policy 2018 and accordingly, the Operator would not be entitled to 15% increase in tariff if they achieve the productivity.”
(v).	The proposal states that the total loading time taken will be 8 hrs. As per the circular issued by Indian Railways, the allowed free time for LPG loading operations is as follows: Railway Ref. document : Compendium: Guidelines regarding demurrage, stabling, wharfage, stacking Waiver and Write off. Page no. 5, Point 2.2 (a) (vii) Loading free time for TANK wagons (in all cases other than those specified as black oil) : 6 hrs. During meeting it was stated that the allowable free time is 10 hours. We request to provide any supporting document for this as the existing norms state 6 hours. This clarification is required as this would be mean additional charges on account of demurrage that would be borne by the user due to insufficient loading capacity.	Regarding Performance Standard, it is to mention that the same has been revised to 10 hours per rake which is time taken for loading + time for shunting and placement in two spurs with the help of winch & pulley and balance time will be for placement and withdrawal to and from the exchange point. Further, the performance standard has been revised to 10 hours considering factors including :- • LPG Loading /Transportation is a new and promotional traffic at HDC. • LPG is a hazardous cargo, it needs additional safety precautions for LPG tank wagon handling. • Loading/placement of wagons will be done in two spurs and it will take more time than the time taken for normal placement. • No Demurrage charge is levied on privately owned wagons at private siding as per Para 6.5 of Railway Board, Ministry of Railway, Rates Master Circular-Demurrage-Wharfage-Waiver/2016/0 (NO-TC-I/201/1 dated 19.05.2016). [The SPMP vide its e-mail dated 21 June 2021

Sl. No.	Comments of users	Reply of SPMP
		has furnished a copy of the Board Resolution No. R/317/HDC/Admn. Dated 3/06/2021 approving the revision of Performance Standards from 8 hours to 10 hours.
(vi).	Ref. to Appendix B of Checklist (Page no. 2, VI. Operating Costs, sr. no. f), the lease rentals are considered as ₹1192/100 sqm / month. **<u>Please advise the basis of this rate considered as the RFP stage has not been completed yet. This will have a direct impact on the tariff proposed here.</u>** Ideally, the process of tariff fixation by TAMP of such operations should be completed before RFQ process as it will give more prospective operators chance to assess the project and increased competition may result in a more viable tariff fixation.	With regard to lease rentals, it is to mention that the next revision of the Rent Schedule for land & buildings of SMPK at Haldia [SoR] (revised every 5 years) is due w.e.f. 07.04.2021. Also, all the rate indicated in the SoR get automatically escalated by 2% per annum every 7th of April and the escalated rates are considered as prevailing schedules rent for the concerned year. Considering above, the Reserve Price of Rs 1192.40 per 100 sq. mtrs. per month has been arrived at by escalating the scheduled rate prevailing as on 06.04.2021 by 2%. Also, the following are stipulated in the RFP document / Addendum to RFP issued to the techno-commercially qualified bidder viz. M/s. Indianoil Petronas Pvt. Ltd.: <u>Clause-3.2.1 of RFP</u>: The Schedule of Rent for land and buildings of SMP at Haldia is revised every 5 years. The next revision is due on 07.04.2021. In light of above, in case TAMP/ Competent Authority subsequently fixes the revised rate of rent applicable for the concerned land, higher than the rate of rent quoted by the successful bidder, the annual advance rent for the 1st year of lease and Security Deposit calculated taking the revised rates so fixed by TAMP / Competent Authority , would be recoverable. [The SPMP had furnished a copy of Addendum] Based on the same, successful bidder will have to make additional payment, on all accounts along with applicable GST etc. In case TAMP/ Competent Authority fixes the rate of the concerned land lower than the Reserve Price, the annual rent and Security Deposit calculated on the basis of the rate of rent quoted by the bidder for the land concerned, would be recoverable. **Note**: The clause c (c) (ii)(a) of General Instructions to the Applicants of Annexure –II at page 21 of RFQ document will stand amended to the above extent.

Sl. No.	Comments of users	Reply of SPMP
		Clause-3.2.2 of RFP: The rate of rent will be enhanced from 7th April every year or every year from the date as would be notified in revised Schedule of Rent for land & buildings of SMP at Haldia presently under revision, by 2% of the rent payable in the preceding year or the scheduled rent then in force, whichever is higher. During the tenure of the lease, if the scheduled rate of rent becomes higher than the rate of rent at which rent is being paid by the lessee, the scheduled rate of rent will be applicable straightaway from the date the scheduled rent becomes applicable. Note: This clause will replace clause-c (e) of General Instructions to the Applicants of Annexure –II at page 22 of RFQ document.
(vii).	It was also noted in the meeting that requests were made to change certain terms of the tender, which forms part of the proposal. This was specifically with regards to 'Lease rentals' and 'Security Deposit', where the request for regarding the reduction in amount/liability. Please note that the rates proposed here are on the basis of existing terms and the liabilities arising thereof for the operator. Any changes as such has a direct impact on the rate of ₹599.50 per MT being proposed here. Thus, in case of any such step, we request the Port to keep the parties involved in the TAMP discussion duly informed.	No reduction in amount towards Lease Rental / Security Deposit than that provided in the RFQ/RFP and Addenda/ Corrigenda thereof, is now being proposed.
(viii).	In continuation with point no.7, it is assumed that the documents provided along with the proposal form the complete set. This ascertains the liabilities of the operator and the consequent proposed tariffs. Hence, please confirm that there are no deviations in the bid received by the Port.	TAMP may be in a position to confirm regarding documents provided to Hindustan Aegis LPG Limited. [The TAMP vide its letter dated 09 April 2021 has forwarded entire proposal along with all the enclosures to the Users / User Organizations / Prospective Bidders (as per the list furnished by SPMP) as received from the SPMP vide its letter no. 02 April 2021, for seeking their comments.] Regarding confirmation that there are no deviations in the bid received by the Port, the query is not clear. However, if the observation is about the RFP bid, it may be mentioned that no bid has been received by the port against

Sl. No.	Comments of users	Reply of SPMP
		the RFP document issued to be single techno-commercially bidder viz. M/s. IPPL. It may also be mentioned that the due date of submission of RFP has been lastly extended upto 14.07.2021.
2.	**Additional Comments of IOPPL**	
(i).	**LPG Volume:**	
(a).	The optimal capacity of 5.72320 Lakhs Tonnes at 70% capacity cannot be achieved initially. It has been assumed that 2 rakes per day may be filed by other OMCs using the facility. In the absence of any confirmation of quantity of LPG to be handled by the OMCs, and considering the upcoming project to lay, build & operate petroleum & petroleum product (LPG) pipeline from Haldia to Panagarh as announced on 15.06.2021 by PNGRB, the quantity considered is overstated.	Reply of SPMP to IOPPL comments at Para no. 1. (i). and (ii). may be referred.
(b).	As per information gathered by us, we estimate a demand of 15 rakes per month from the third party users. Therefore, the quantity of LPG that may be handled by the third party users annually arrives at 2.10240 Lakhs Tonnes.	
(ii).	**Increase in Steel etc Cost:**	
(a).	As gathered estimate working has been on the basis of estimate of 2018.	Reply of SPMP to IOPPL comments at Para no. 1. (iii), (iv), (v) and (vi). may be referred.
(b).	Since then steel prices has gone up by around 25%.	
(c).	Also because of COVID many other costs have also increased. Hence, it is requested to revise CAPEX accordingly.	
(iii).	**GST Implications:**	
(a).	This is to bring to the notice of TAMP that the railway siding capital cost shared was exclusive of GST on the premise that IPPL shall get the input tax credit. However, the whole infrastructure which is referred as 'Railway Siding' shall bear the nature of composite works contract supply as held by AAR. Gujrat in Satyesh Brine Chem Pvt. Ltd.	The Railway siding capital cost considered in the tariff calculation is not exclusive of GST. The portion of capital cost of the project relating to construction of Railway Siding, like construction of Culverts, Railway Network, Boundary wall, Land development cost etc which are in the nature of immovable property, and not in the nature of Plant & Machinery, has been considered in the capital cost estimate with GST. Only the portion of capital cost, which are in the nature of 'Plant and Machinery', has been considered exclusive of GST element.
(b).	In an another case, AAR, Chhattisgarh in the matter of NMDC Ltd. has taken the same view and stated that in the Companies Act, 2013 'railway siding' has not been included under 'plant & machinery' and accordingly construction of private railway siding will not be eligible for ITC being an immovable property and not classifiable as 'plant & machinery' in view of the bar provided in Section 17 (5) (d) of the CGST Act, 2017.	

Sl. No.	Comments of users	Reply of SPMP
(c).	In view of the above classifications, we have reworked our capital investment after including ineligible ITC (i.e. GST @ 18%), and the revised capital cost arrives at ₹138.82 Crores.	The same position has been considered in other tariff proposals approved by TAMP earlier. Further, there is no blocking mechanism of ITC in GST in respect of Lease Premium paid.
(d).	The AAR, Telangana in the matter of M/s Daicel Chiral Technology (India) Pvt. Ltd. has observed that the activity of payment of annual lease rental and maintenance charges to the lessor towards lease of lands fall within the ambit of 'immovable property' i.e. a railway siding and as such not eligible for ITC. Hence, applicable GST on these payments also needs to considered as part of opex.	With regard to the Advance Ruling given by the Advance Ruling Authority of Telangana in the case of M/s Daicel Chiral Technology India Private Limited, it may be mentioned that judgement of Advance Ruling authority is applicable only to specific assessee for whom the judgement was given

2.3. The SPMP vide its email dated 20 July 2021 has also furnished its reply to the additional comments of IOPPL, which had been addressed by IOPPL vide its letter dated 05 July 2021 to SPMP. The comments of IOPPL and comments of SPMP thereon, as furnished by SPMP, are tabulated below:

Sl. No.	Comments of Indian Oil Petronas Private Limited (IOPPL) addressed to SPMP vide its letter dated 05.07.2021.	Reply of SPMP
1.	This is in response to the joint hearing held on 18th June, 2021 at 1600 hrs. regarding fixation of the ceiling rate to be levied and recovered from users of the facility as will be pre- determined and notified by TAMP we would like to appeal for waiver of Haulage and terminalling charges for first give years of commissioning, reduced haulage and terminalling charges from sixth year onwards, relax the amount of security deposit to 1 years' rental plus 5% towards administrative deposit and defer the payment by one year and not immediate on the awarding of the tender in view of following:	• Regarding appeal of waiver/ reduction of haulage & terminalling charges, such charges are not part of the proposed ceiling rate, for which the instant tariff proposal is under consideration by TAMP. Also, the same issue had been raised at the time of processing of the RFQ for the project and the request was not acceded to. **[SPMP has collectively furnished a copy of relevant extract of its Reply to Queries-III and IV of RFQ report (Sl. 1 and 3 of Reply to Queries-III and IV of RFQ)].** • Regarding relaxing the amount of Security Deposit and deferring the payment by one year, it is to mention that the requirement for payment of security deposit equivalent to two years rental is as per the prevailing Land Policy Guidelines issued by the Ministry. The request is not acceded to. **[SPMP has collectively furnished a copy of relevant extract of its Reply to Queries-I RFQ report (Sl. No.9) and Sl.**

Sl. No.	Comments of Indian Oil Petronas Private Limited (IOPPL) addressed to SPMP vide its letter dated 05.07.2021.	Reply of SPMP
		No. 5 of Corrigendum / Addendum – III of RFQ].
2.	**<u>New LPG pipeline:</u>**	
(i).	A public notice was issued vide no. PNGRB/Auth/3-PPPL(06)/2021 dated 15.06.2021 to lay, build and operate petroleum & petroleum product (LPG) pipeline from Haldia to Panagarh (West Bengal) under Regulation 4.	Matter of Record.
(ii).	This implies that HPCL will not utilize this facility as they are laying pipelines.	The matter regarding utilization of the proposed facility depends on the facilities developed / provided and the user concerned.
3.	**<u>LPG Volume:</u>**	
(i).	The optimal capacity of 5.72320 lakhs tonnes at 70% capacity cannot be achieved initially. It has been assumed that 2 rakes per day may be filled by other OMCs using the facility. In the absence of any confirmation of quantity of LPG to be handled by the OMCs and considering the upcoming project to lay, build & operate petroleum & petroleum product (LPG) pipeline from Haldia to Panagarh as announced on 15.06.2021 by PNGRB, the quantity considered is overstated.	Reply of SPMP to IOPPL comments at Para no. 1 (i). and (ii). may be referred.
(ii).	As per the information gathered, It is estimated that a demand of 15 rakes per month from the third party users. Therefore, the quantity LPG that may be handled by the third party users annually arrives at 2.10240 lakh tonnes.	
	Hence as per volume is very less, therefore, there is a need to reduce haulage terminalling and SD charges.	Reply of SPMP to IOPPL comments at Para no. 2.3. (i). may be referred.
4.	**<u>Increase in Steel etc. cost:</u>**	
(i).	As gathered estimate working has been on the basis of estimate of 2018. Since then steel prices has gone up by around 25%. Also because of COVID many other costs has also increased. TAMP is requested to revise CAPEX accordingly.	Reply of SPMP to IOPPL comments at Para no. 1. (iii), (iv), (v) and (vi) may be referred.
5.	**<u>GST Implications:</u>**	
(i).	This is to bring to the notice of TAMP that the railway siding capital cost shared was exclusive of GST on the premise that IPPL shall get the input tax credit. However, the whole infrastructure which is referred as 'Railway	Reply of SPMP to IOPPL comments at Para no. 2.2. (2). (iii). (a), (b) and (c) may be referred.

Sl. No.	Comments of Indian Oil Petronas Private Limited (IOPPL) addressed to SPMP vide its letter dated 05.07.2021.	Reply of SPMP
	Siding' shall bear the nature of composite works contract supply as held by AAR, Gujrat in Satyesh Brine Chem Pvt. Ltd.	
(ii).	In an another case, AAR, Chhattisgarh in the matter of NMDC Ltd. has taken the same view and stated that in the Companies Act, 2013 'Railway Siding' has not been included under 'plant & machinery' and accordingly construction of private railway siding will not be eligible for ITC being an immovable property and not classifiable as 'plant & machinery' in view of the bar provided in Section 17(5)(d) of the CGST Act, 2017.	
(iii).	In view of the above clarifications, we have reworked our capital investment after including ineligible ITC (i.e. GST @18%) and the revised capital cost arrives at Rs 138.82 crores.	
(iv).	The AAR, Telangana in the matter of M/s. Diacel Chiral Technology (India) Pvt. Ltd. has observed that the activity of payment of annual lease rental and maintenance charges to the lessor towards lease of lands fall within the ambit of 'immovable property' i.e. a railway siding and as such not eligible for ITC. Hence, applicable GST on these payments also needs to considered as part of OPEX.	Reply of SPMP to IOPPL comments at Para no. 2.2. (2). (iii). (d) may be referred.
(v).	We request to kindly consider the above said GST implications for arriving at the rate to be charged from the third party for common user facility. Hence, as we will not get GST input, the cost increases by 18%, therefore, there is a need to reduce haulage, terminalling and SD charges.	
6.	**Constraints at Haldia Port:**	

Sl. No.	Comments of Indian Oil Petronas Private Limited (IOPPL) addressed to SPMP vide its letter dated 05.07.2021.	Reply of SPMP
(i) (ii)	The product that we receive in Haldia arrives after discharging part of the cargo at Mangalore/ Vishakhapatnam/ Ennore etc. because of Haldia being a river port and having draft restriction. The consumption centre of LPG is the central part of India, which is landlocked and can be fed from the western coast also where OMC will save on account of Ocean freight.	A number of port based industries have been set up at Haldia including on SMP leased land where LPG is handled through riverine Oil Jetties at HDC and dispatched. More than 4.01 Million MT of LPG has been handled through HDC in the 2019-20 clocking a growth of more than 16% over the previous year. Haldia Dock Complex, SMP plays a vital role in LPG distribution in the entire Eastern India. There is also growth in demand for LPG in the region as well as North East India. To cater to the need for efficient and cost effective transportation of LPG, it has been decided to set up of a rail wagon loading gantry for LPG on common user basis.
	In view of points enumerated from 2 to 6, we appeal to consider waiving off of terminalling and haulage charges or at least grant concession on the same or keep the rates fixed for next 10 years for terminalling and haulage charges, relax the amount of security deposit to 1 years' rental plus 5% towards administrative deposit and defer the payment by one year and not immediate on the awarding of the tender. It may be noted that we are already paying Wharfage charges, port dues, pilotage charges etc. to the port on the import of the product. The existing Wharfage charges, port dues, pilotage charges levied by the port are very high as compared to other products. The cost of terminalling and haulage charges over and above the filing fee chargeable by IPPL and other expenses involved makes the proposed project less favourable for us. We also have to lay a cross country pipeline to the proposed site from our terminal involving capital expenditure of approximately Rs 40 crores. This project shall not only increase our import quantity and the number of vessels we berth but shall also generate additional revenues for the port. In view of above, we request to reconsider the charges so as to safeguard our interest and make the issue of the proposed siding feasible for us. We would also like to reiterate that the presumptive rate for common user as given by	Reply of SPMP to IOPPL comments at Para no. 2.3. (i). may be referred. The issue of charges payable by importers of LPG through HDC/SMPK's jetties is a separate matter & should not be linked with fixation of tariff for a rake loading facility to be set up on HDC/SMPK land by a Service Provider. Reply of SPMP to IOPPL comments at Para no. 2.3. (i). may be referred. Noted. The proposed ceiling tariff recoverable from the users of the common user rake loading facility proposed to be set up on HDC/SMPK land is in terms of clauses 8.1 to 8.3 of the Tariff Policy of Major Ports 2018. Based on

Sl. No.	Comments of Indian Oil Petronas Private Limited (IOPPL) addressed to SPMP vide its letter dated 05.07.2021.	Reply of SPMP
	TAMP is Rs 599.50/MT is not feasible and we may not be able to construct siding at these rates.	the above, SMPK has with approval of the Board filed the proposal to TAMP for fixation of ceiling tariff recoverable from users of the common user facility. Regarding the ceiling rate of Rs. 599.50/MT being not feasible, TAMP may examine HDC/SMPK's proposal and the various comments / replies along with the RFQ, RFP /Addendum/Corrigendum thereof and take action as may be appropriate.
	We also appeal to allow us to make it a multiproduct siding so that the facility can be utilized in a productive way and will also bring more revenues to the Port.	The request for allowing to set up of multiproduct siding appears to be an afterthought. Request cannot be acceded to at this stage.

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