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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRANSPORT

NO. 3959

11 October 2023

REGULATING COMMITTEE**AIR TRAFFIC AND NAVIGATION SERVICES DRAFT PERMISSION FOR PUBLIC
COMMENTS****DRAFT PERMISSION TO LEVY AIR TRAFFIC SERVICE CHARGES FOR 2023/24 – 2027/28
PERIOD**

The Regulating Committee, *hereinafter referred to as “the Committee”*, is hereby inviting members of the public and all interested persons to submit comments on the draft Permission for the Air Traffic and Navigation Services (ATNS) for the 2023/24 – 2027/28 period. The Committee is a statutory body established in terms of section 11 of the ATNS Company Act No. 45 of 1993 to regulate air traffic service charges levied by ATNS to its customers.

The Committee is expected in terms of section 11(10) of the aforesaid legislation to, *inter alia*, **(i)** restrain the company (ATNS) from abusing its monopoly position in such a manner that as not to place undue restrictions on the company’s commercial activities; **(ii)** promote the reasonable interests and needs of users of any navigation infrastructure or air traffic services; and **(iii)** ensure that the company, after taking into consideration any compensation paid or to be paid to the company by the State in terms of the provisions of the ATNS Company Act or any other law, is able to finance its obligations and have a reasonable prospect of earning a commercial return, just to mention a few.

The deadline for submission of comments is **23 October 2023**. The comments should be sent to Ms Charmaine Mathonsi, Email: MathonsC@dot.gov.za; or Ms Motlalepula Kgagudi, Email: OwagengM@dot.gov.za.

PERMISSION TO LEVY AIR TRAFFIC SERVICE CHARGES FOR 2023/24 – 2027/28 PERIOD

In this Permission document, any word or expression to which a meaning has been in the Civil Aviation Act, 2009 (Act No. 13 of 2009) or the ATNS Company Act, 1993 or the Airports Company Act, 1993 as amended or any other relevant legislation, shall have the meaning so assigned to it unless the context otherwise indicates. ATNS is hereby authorised to levy air traffic service charges and conduct relevant activities from 1 April 2023 to 31 March 2028 on the following conditions:

1. Limits on air traffic service charges

- (1) In the event of the company contemplating modifying the structure of air traffic service charges, the company shall satisfy the Committee that the resultant charges will have the same material effect as the conditions on air traffic service charges of this Permission.
- (2) Notwithstanding subsection (4) below, the company shall submit to the Committee a gazette as a proof that the company had published new air traffic service charges three (3) months prior to coming into effect of such tariffs in accordance with section 5(2)(f) of the ATNS Company Act, 1993. This shall be done annually.
- (3) *Tariffs determination:*
 - (a) The company may during the period of validity of this Permission alter the level of air traffic service charges to the maximum limit set by the following formula:

$$RWPTI_t \leq (CPI_t - X_t + CF_t) + K_t$$

Where:

RWPTI_t	= The sum of the revenue weighted percentage tariff increases in year <i>t</i>
CPI_t	= The CPI forecast at the beginning of period <i>t</i> for the period <i>t</i>
X_t	= The subtractive X factor for year <i>t</i> set out in subsection (c) below
K_t	= The K factor for year <i>t</i> set out in subsection (d) below
CF_t	= The correction factor for period <i>t</i> , calculated as follows:

$$CF_2 = [CPI_{t-2} - X_{t-1} + CF_{t-1} - (RWPTI_{t-2} - K_{t-2})] \times (1 + Pr_{t-2})$$

Where: CPI _{t-2}	= Actual CPI for year (t-2)
Pr _{t-2}	= Predominant prime overdraft rate
RWPTI _{t-2}	= The sum of the permitted revenue weighted percentage tariff increases in year (t-2)

The Committee may, after taking into consideration comments from the public and interested parties, amend and implement a further regulatory adjustment to air traffic service charges where it deems such adjustments necessary in fulfilling its duties in accordance with the ATNS Company Act, 1993.

- (b) The consumer price index (CPI), as per the Bureau for Economic Research (BER) report submitted by ATNS for the next five (5) financial years, shall be as follows:

4.4%	in financial year 2023/24 (<i>Year 1</i>)
4.5%	in financial year 2024/25 (<i>Year 2</i>)
4.5%	in financial year 2025/26 (<i>Year 3</i>)
4.5%	in financial year 2026/27 (<i>Year 4</i>)
4.5%	in financial year 2027/28 (<i>Year 5</i>)

- (c) The **X-factors** for the next five (5) financial years were calculated as follows **after applying efficiency factors** of **0%** in year 1; **1.0%** in year 2; **1.83%** in year 3; **1.83%** in year 4; and **1.83%** in year 5:

- 0.100%	in financial year 2023/24
- 5.83%	in financial year 2024/25
- 6.38%	in financial year 2025/26
- 5.37%	in financial year 2026/27
+ 1.09%	in financial year 2027/28

The Committee uses its regulatory discretion to apply efficiency factors in order to encourage efficiencies within the company. As it can be seen in **Table 1**, the efficiency factors resulted in the weighted tariff increase being slightly lower than the initial amount calculated. In view of the aforesaid, the final air traffic service charge increases to be applied by ATNS from 2023/24 to 2027/28 financial years are as follows, as shown in **Table 1** below:

+ 4.50%	in financial year 2023/24
+ 10.33%	in financial year 2024/25
+ 10.88%	in financial year 2025/26
+ 9.87%	in financial year 2026/27
+ 5.59%	in financial year 2027/28

Table 1: Tariff methodology for ATNS

Description	2023/24	2024/25	2025/26	2026/27	2027/28
RAB beginning of the year	1 593 890 384	1 698 753 209	1 645 351 422	1 767 566 195	1 685 824 058
WACC (Allowance rate of return)	11,21%	11,21%	11,21%	11,21%	11,21%
Maximum profit (before interest and tax)	178 722 929	190 481 197	184 493 255	198 197 197	189 031 452
Add: Depreciation	182 810 568	200 735 625	181 504 336	175 855 407	183 492 055
Add: Operating expenses	1 333 221 418	1 480 287 699	1 609 594 563	1 704 695 725	1 806 457 948
Add: Tax on operating profit	48 255 191	51 429 923	49 813 179	53 513 243	51 038 492
Revenue	1 743 010 105	1 922 934 445	2 025 405 332	2 132 261 573	2 230 019 947
Less Non-regulated revenue	236 874 902	247 534 273	258 673 315	270 313 615	282 477 727
Less Claw back	117 184 470				
Less Capital proceeds (Sale of assets/Disposal)	-	-	-	-	-
Total Regulated Revenue	1 388 950 733	1 675 400 172	1 766 732 017	1 861 947 958	1 947 542 219
Uninflated revenue with forecast traffic	1 211 708 419	1 525 301 765	1 977 553 421	1 909 114 097	2 111 906 738
Anticipated tariff escalation		11,33%	12,71%	11,70%	7,42%
Efficiency factor (less)		1,00%	1,83%	1,83%	1,83%
Applied tariff escalation (incl. regulating formula cap)	4,50%	10,33%	10,88%	9,87%	5,59%

- (d) Important to note is that the Committee, in accordance with the “**Approach Document to the 2023/24 – 2027/28 Permissions**” applied a smoothing mechanism to base tariff calculations to minimise undue tariff volatility. This was done on a net present value neutral basis which works hand-in-hand with Goal-seek excel function.
- (e) In estimating a reasonable rate of return for the company, the Committee determined the appropriate rate of return based on the principles of Weighted Average Cost of Capital (WACC). The Committee also took into consideration various economic and market indicators, including bond yields, market risk premiums, the industry risk profile, cost of debt and ideal gearing levels, as well as factors specifically applicable to the company. The company’s WACC was calculated as **11.21%**. In arriving at the **X-factors** for the Permission period, the Committee has taken into consideration the Permission application presented by the company including, *inter alia*, the anticipated traffic volumes, capital expenditure (capex) projects and cost efficiencies as well as the rates of return anticipated.
- (f) *K-factor*:
The K-factor provides for extraordinary or especially lumpy once-off capital expenditures which are so extensive that they can neither be financed under the terms of the Permission in place nor, for strategic reasons or delayed until the next Permission. Similarly, where a major capex programme is significantly curtailed or cancelled, a negative K-factor may be required. At the time of publishing this draft Permission, the K-factor was set at zero (nil). If such circumstances arise during the

period of the Permission that the Committee deems it necessary and appropriate, a K-factor may be published by the Committee during the period of this Permission.

(g) *Correction factor:*

As per the Approach Document, the tariff increases are based on forecasted CPIs and as a result, they are retrospectively measured against published or actual CPIs figures. The tariff increases for the next period are then adjusted to take account of any over- or under recovery due to over- or under-estimates in CPI in the previous period. The performance of the company for the 2018/19; 2019/20; 2020/21 and 2021/22 financial years has been considered. The correction factors for the said financial years were calculated and determined to be insignificant, and were therefore set at zero (nil).

(h) *Base tariffs:*

The tariff increases determined as set out in paragraph 1(3)(a) to (g) of this Permission, shall be applied from 2023/24 financial year. In other words, the conditions of the current Permission that is being implemented (*i.e. Inflationary Permission issued to ATNS in December 2022*) shall be amended by this Permission subsequent to the approval by the Minister of Transport in terms of section 11(11) of the ATNS Company Act, 1993, as amended.

(i) *Regulatory Asset Base (RAB):*

There are two possible approaches to arrive at the RAB. The first is the “*fixed asset basis*”; and the other one is the “*enterprise value basis*”. The model provided by ATNS uses the enterprise value basis to determine the RAB in each financial year. The main difference between these two methods is that the enterprise value basis includes working capital and other non-regulated assets.

(j) *Clawback Calculation:*

The Committee calculated the clawback amount of **R117 184 470** which was applied in year 1. The calculated amount was subjected to the present value to cater for time value of money as recommended by the paragraph B.1.2.1 (16) of the Approach Document. Clawback results from the underspending on capex projects by the company.

- (4) The company shall furnish the Committee with such information as may be agreed upon from time to time. In the absence of such agreement, any information as may be requested

by the Committee in order to enable the Committee to apply the conditions of this Permission shall be furnished to the Committee.

- (5) Notwithstanding subsection (4) above, the company shall submit annually to the Committee a detailed audited variance analysis report, including key performance indicators, setting out how the main underlying assumptions of the business plan on which this Permission is based compared to the actual events. In addition, the company shall furnish an audited certificate setting out the actual revenue weighted percentage tariff increase for the period.
- (6) The Committee expects the company to set its total revenues such that it reflects an efficient underlying total cost base and a reasonable profit margin. It also encourages the company to exercise a degree of restraint implementing its tariff increase where it anticipates that excessive profits will be generated.
- (7) The tariff increases implemented should be fairly balanced between the users (i.e., passengers and airlines). The revenue weighted percentage increase applied to passengers may not exceed the revenue weighted percentage tariff increase applied to airlines.
- (8) *Deferral of capex projects:*
In an event whereby the company deems it necessary not to implement (to defer) the remunerated capex projects, the Committee expects the company to consult with both the users and the Committee and provide valid reasons before such decisions are taken.

2. Service Standards

- (1) The company shall maintain the level of service of any relevant activity at the same level or higher as that provided immediately before the date of the issuing of this Permission. The company may be allowed to alter a level of service only if:
 - (a) It has applied to the Committee for the approval of such an alteration; and
 - (b) It has satisfied the Committee that such an alteration will not materially or negatively affect users of any such relevant activity.
- (2) The company shall be responsible for the monitoring, on a regular basis, of those relevant activities as may be agreed from time to time between the company and the Committee. In the absence of such an agreement, the Committee shall determine those relevant activities

to be monitored. The company shall report the results of such monitoring to the Committee in the format and at such intervals as the Committee may prescribe from time to time.

3. The draft Permission for ATNS for the 2023/24 – 2027/28 period is hereby published for public comments.

Regards,



MS KENOSI SELANE

CHAIRPERSON: REGULATING COMMITTEE FOR ACSA AND ATNS

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