

Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R 23-0272
JUL 24 2023

REPORT RE:

**DRAFT ORDINANCE AMENDING PORT OF LOS ANGELES
TARIFF NO. 4 – GENERAL RATE INCREASE**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. Pursuant to Charter Section 653(a), this draft ordinance would approve Board of Harbor Commissioners Order No. 23-7348 amending the Port of Los Angeles Tariff No. 4, by implementing a General Rate Increase of 6.2% to all rates, tolls and charges, except for wharfage charges on petroleum products and the Clean Truck Program Concession and Temporary Access Permit fees.

Charter Findings

On July 20, 2023, pursuant to Los Angeles City Charter Sections 652(a), 652(c) and 653(a), the Los Angeles Board of Harbor Commissioners (Board) adopted Order No. 23-7348, approved the enclosed draft ordinance and recommended that the City Council adopt it. Under Charter Section 653(a), BOHC Order No. 23-7348 must be approved by the City Council, by ordinance, in order to become effective.

Background

The California Association of Port Authorities (CAPA), of which the Port of Los Angeles (Port) is a member, adopted an annual general rate increase (GRI) methodology for tariffs based on the Bureau of Labor Statistics' West Region Consumer Price Index for All Urban Consumers (CPI-U). The proposed GRI for this year, as announced by CAPA to its members, is 6.2%, to be effective September 1, 2023. The proposed increase of 6.2% was the increase in the CPI-U for the 12-month period ending December 2022. The Board approved the 6.2% increase for all Port Tariff No. 4 (Tariff No. 4) rated tariff items, with certain specified exceptions.

On April 28, 2022, the Board approved Order No. 22-7327, which was approved by City Council Ordinance No. 187649, adopting a 7.1 percent GRI through CAPA, effective August 1, 2022. Prior to that, the Port implemented GRIs in the POLA Tariff in calendar year (CY) 2004 and 2005, and a 1.7 percent GRI for a temporary 9-month period in July 2013- March 2014 under until such Temporary Orders only, which expired when it was not approved by City Council under Permanent Order.

The objective of the Tariff amendment is to implement a GRI for almost all rates in the Tariff.

Summary of Ordinance Provisions

The proposed ordinance amends Port Tariff No. 4 by increasing almost all Tariff rates by 6.2%, with certain specified exemptions below:

- Item No. 330 – Pilotage: Currently on a 5-year rate increase schedule (approved by the Board April 2021).
- Item Nos. 485, 600, and 605: These are part of a separate Cruise Passenger Fee/AMP Fee/Emergency Lay-up rate schedule, and will be reviewed prior to the expiration of the Cruise Passenger Fee in September 2023.
- Item No. 810 – Space Assignments: Rates were recently reset and increased based on a CPI level going forward (approved by Board in October 2020).
- Item No. 1300 – Parking Charges: Parking charges are on a separate fixed rate increase schedule.
- Item No. 2040 – Clean Air Action Plan Clean Truck Program Fees and Rates set at specific amounts not intended to be influenced by economic indices.
- Item Nos. 2300-2340 – Incentives Programs set at specific amounts not intended to be influenced by economic indices.

CEQA Findings

The draft ordinance approves an Order of the Los Angeles Board of Harbor Commissioners amending the Port of Los Angeles Tariff No. 4 by increasing tariff rates and charges by 6.2%. As an administrative activity and an activity involving the modification of a fee for the use of existing municipal facilities involving negligible or no expansion of use, the Harbor Department has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III, Class 1(31) of the Los Angeles City CEQA Guidelines.

Increase in Existing Fees

We note that, because this ordinance would effectuate increases in existing fees, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral


The Harbor Department is the proposing department, and the Tariff amendments were discussed and considered with Harbor Department management and staff present in a full public hearing of the Board of Harbor Commissioners on July 20, 2023.

If you have any questions regarding this matter, please contact Assistant City Attorney Joy Crose at (310) 732-3750. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By


VALERIE L. FLORES
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Transmittal