

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: September 22, 2022

CAO File No. 0150-03656-0103

Council File No. --

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

  
for

Reference: Correspondence from the Harbor Department dated May 5, 2022

Subject: **PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES  
TARIFF NO. 4 WITH A GENERAL RATE INCREASE**

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### RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 22-9996 authorizing the adoption of Permanent Order No. 22-7327 and a corresponding Ordinance to amend Port of Los Angeles Tariff No. 4 with a 7.1 percent General Rate Increase; and, return the Resolution documents to the Port for further processing, including Council consideration.

### SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 22-9996 authorizing the adoption of Permanent Order No. 22-7327 and a corresponding Ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 Port Fee, Rules and Regulations (Tariff) with a General Rate Increase (GRI), affecting 10 Sections and over 100 Items and rates, effective August 1, 2022. The proposed Tariff Amendment GRI increases rates applicable to nearly all rate items in Tariff No. 4, except certain items that were recently changed, are on a separate rate increase schedule, or are set at specific amounts not intended to be influenced by economic indices. The Port proposes a GRI of 7.1 percent to better keep pace with inflation and market rates, which are currently experiencing further increases and are only partially contemplated in this GRI request. Tariff rates have not increased as a whole under a GRI since 2005. The Port estimates that approval of the proposed GRI will result in an operating revenue increase of approximately \$15.7 million in the first year of implementation, comprised primarily of wharfage revenue generated from the Merchandise Not-Otherwise-Specified (NOS) rate and representing an approximate 3.8 percent increase in overall wharfage revenue.

### BACKGROUND

The POLA Tariff sets rules, regulations, and fees for access to and usage of POLA facilities and services and across POLA-controlled waterways. Tariff fee receipts make the bulk of the Port's operating revenue, which the Port uses to administer the Department and the POLA and maintain and improve its facilities and infrastructure. The Port periodically reviews and updates Tariff rates

and rules to keep pace with market rates and comply with Port Financial Policies. The Port may make amendments to the Tariff rules, regulations, and fees subject to Board and Council approval.

While the Port periodically adjusts specific Tariff rates, it has not implemented a permanent GRI in over 15 years, leaving several rates behind market and inflation increases. The Port most recently proposed a 1.7% GRI increase in 2013, but the Council did not take action to implement it permanently (C.F. 13-0695). The United States Bureau of Labor Statistics West Region Consumer Price Index for All Urban Consumers (CPI-U) increased by 48.1 percent from 2005 to 2021. The Port states that wharfage revenues grew by 45.6 percent over the same time period, but primarily due to a 39.5 percent increase in cargo volumes, not due to rate increases. Tariff Section Five, Wharfage, encompasses a majority of the Tariff's rates and generates the most revenue. Wharfage is the charge for passage of merchandise onto, over, through, or under wharves, or between vessels berthed at wharves. Without a GRI, wharfage revenue would be negatively impacted if cargo volumes experienced a sustained reduction. The Port additionally states that further cargo processing volume growth is limited and will not keep up with future market rate increases without additional infrastructure investment to increase capacity.

The Port proposes a 7.1 percent GRI based on the CPI-U increase from December 2020 to December 2021. The Port is a member of the California Association of Port Authorities (CAPA), which adopted a GRI methodology for tariffs based on the CPI-U and has recommended and adopted the 7.1 percent GRI commencing August 1, 2022. Inflation has continued at a steep rate, reflecting an 8.3 percent CPI-U increase in the 12-month period ending July 2022.

The following chart summarizes the Tariff Sections, Items and rates affected by the proposed GRI:

Section No.	Section Name	Item No.	Item Name	Item Rate Examples
4	Dockage	450	Penalty for Failure to Pay When Due	Flat rate in addition to double the dockage incurred
		480	Full Dockage	Charge per 24-hour day based on vessel length
5	Wharfage	550	Wharfage Rates	Merchandise NOS, Bananas, Cargo containers (empty), Fresh fruit and vegetables, Lumber, Automobiles, Clothing and Footwear, Furniture, Electrical and electronic equipment, Fresh fish, Petroleum products, Merchandise NOS in bulk
7	Free Time, Wharf Demurrage, Wharf Storage	780	Rates for Wharf Demurrage After Expiration...	Flat rate minimum wharf demurrage charge, Merchandise NOS charge per day, Automobiles charge per day
		790	Wharf Storage	Minimum charge per lot, Merchandise NOS stored in cargo containers or trailers
9	Container Cranes	900	Rules and Regulations...	First hour flat rate charge for use of container cranes and subsequently per 15 minute increments
11	Charges for Occupancy of Office Space...	1100	Monthly Charges for Occupancy of Office Space, etc.	Class A, B, and C office space rates per square foot per month subject to a minimum charge
12	Water and Electricity	1200	Fresh Water Rates	Maximum monthly charge, service charge for portable meter

Section No.	Section Name	Item No.	Item Name	Item Rate Examples
14	Cargo Handling	1415	Handling Permit Fees	Flat rate per annum or fraction thereof
15	Public Landings	1525	Unlawful for Vessels to Remain	Flat rate per day in addition to quadruple the dockage rates applicable
		1530	Vessels Over 80 Gross Tons...	Flat rate per day in addition to quadruple the dockage rates applicable
18	General Rules and Regulations – Misc	1802	Diving and Related Activities	Flat rate for first year permit fee and flat rate for each yearly renewal
19	Commercial Fishing Vessel	1910	Unlawful for Commercial Fishing Vessels...	Flat rate per day in addition to quadruple the dockage rates applicable
		1930	Dockage Rates and Charges...	Annual Permit rate by length of vessel per meter per day

On May 31, 2022, Council approved wharfage rate increases for Petroleum Products (Tariff Item Nos. 550-600 through 550-625), effective January 1, 2022 (C.F. 22-0510), by an average of 10.2 percent, or an average annual increase of 1.1 percent since the last Petroleum Products rate increase in 2013. The Petroleum Products rates increase again with approval of the proposed GRI.

### Container Terminal Operator Impacts

While the proposed Tariff Amendment GRI increases over 100 Tariff rates by 7.1 percent, the Port reports that the cost and revenue impacts fall largely on the Merchandise Not-Otherwise-Specified (NOS) rate (Tariff Item No. 550-001). The Merchandise NOS is a wharfage rate charged on merchandise carried in and measured by cargo containers that otherwise does not have a wharfage rate specified in the Tariff. It is a catch-all rate applicable to a majority of items that travel through the POLA. The Port reports that the Merchandise NOS wharfage rate increase affects five of its seven container terminal operator (CTO) permit compensation schedules. The proposed GRI's largest direct impact is on the CTOs. The Port reports that three CTO permit agreements have at least some exemption from a GRI:

- Everport Terminal Services, Inc. (Everport) – Any GRI impact would first be reduced by the CPI increases applied to Everport's rates since the last tariff increase in 2005. Everport's permit also includes a three percent CPI increase cap threshold.
- Fenix Marine Services – Rates are subject to a GRI only when all other CTO permits see GRI increases in rates.
- TraPac Inc. – The permit agreement includes a separate schedule rate increase and is exempt from GRIs.

The Merchandise NOS GRI impact is further limited by a recent Tariff amendment (C.F. 22-0510) clarifying that CTOs would only have to pay the higher rate of an effective permit compensation increase or Merchandise NOS rate in a year where the Merchandise NOS rate is increased. Scheduled increases would not be compounded. The Port reports that CTO and other permits adjust rates periodically under scheduled compensation review processes, as required under Charter Section 607(b). Some, but not all, of the permit agreements build in regular CPI increases.

Additional Tariff Items exempted from the proposed GRI include:

- Item No. 330 – Pilotage: Currently on a 5-year rate increase schedule, approved by the Board in April 2021 (C.F. 17-0164)
- Item Nos. 485, 600 and 605 – Passenger Vessels: These were changed or added under separate rate schedules by Board approval, including in 2016 and 2020 (C.F. 12-1316-S3), and will be reviewed again prior to the expiration of the Cruise Passenger Fee in August 2024 (C.F. 16-1218)
- Item No. 810 – Space Assignments: Rates were recently reset under Board approval in October 2020 and increase based on an annual CPI (C.F. 16-1218-S1)
- Item No. 1300 – Parking Charges: On a separate fixed rate increase schedule, last approved by the Board effective June 1, 2019 (C.F. 14-1106-S2)
- Item No. 2040 – Clean Air Action Plan: Clean Truck Program fees and rates were approved by the Board effective April 1, 2022 and are set at specific amounts not intended to be influenced by economic indices (C.F. 12-1316-S4)
- Item Nos. 2300-2340 – Incentive Programs – rates set at specific amounts not intended to be influenced by general economic indices.

Adoption of the proposed Tariff Amendment is subject to CAPA review and approval.

A Temporary Order, authorized by the Board at its meeting on April 28, 2022 and effective August 1, 2022, authorizes the same provisions as the proposed Tariff Amendment, but is only effective for 90 days pending Council approval of the Permanent Order and corresponding Ordinance, pursuant to Charter Sections 653(a) and (b). The Board has authority to issue additional 90-day temporary orders.

The Port estimates that approval of the proposed Tariff Amendment will generate approximately \$15.7 million primarily in increased wharfage revenue from the Merchandise NOS rate in the first year of implementation. The City Attorney has approved the proposed Amendment, Order and ordinance as to form and legality. In accordance with Charter Section 653, the Council must approve the ordinance to amend the Tariff before it can become effective permanently. The Port states that the approval of the proposed Order and ordinance and proposed actions are activities involving modification of any rate fee or charge for the use of existing municipal facilities and services involving negligible or no expansion of use. Therefore, the Port Director of Environmental Management has determined that the proposed actions are 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.

## **FISCAL IMPACT STATEMENT**

The proposed Harbor Department (Port) Resolution No. 22-9996 authorizing the adoption of Permanent Order No. 22-7327 and a corresponding Ordinance to amend Port of Los Angeles Tariff No. 4 Port Fee, Rules and Regulations to implement a General Rate Increase is anticipated to generate \$15.7 million in additional revenue to the Port in the first year of implementation, primarily from the Merchandise Not-Otherwise-Specified wharfage rate. All funds are deposited in the Harbor Revenue Fund. The proposed action meets Port Financial Policies. There is no impact on the City General Fund.

*MWS:JCY:10230019*