



**DATE: SEPTEMBER 28, 2022**

**FROM: CARGO MARKETING**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVE SECOND TEMPORARY ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, "GENERAL RATE INCREASE"**

**SUMMARY:**

Staff requests approval of a second Temporary Order to amend Port of Los Angeles Tariff No. 4 (Tariff No. 4), effective August 1, 2022, which would implement a 7.1 percent General Rates increase (GRI), applicable to Tariff No. 4 rated tariff items, excluding rated tariff items that currently have a scheduled rate increase. This second Temporary Order is being proposed within the Board of Harbor Commissioners' (Board) authority to adopt rates for up to 90 days.

At the April 28, 2022 Board meeting, the Board approved Temporary and Permanent Orders amending various sections of Tariff No. 4 increasing rated tariff items. Changes in the Tariff require City Council approval. The City Council has not calendared and approved the Permanent Order and Ordinance. The first Temporary Order will expire on October 29, 2022; therefore, a second Temporary Order is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. This second Temporary Order, if approved, will expire in 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1 (31) of the Los Angeles City CEQA Guidelines;
2. Adopt a second Temporary Order No. \_\_\_\_\_ with an effective date of October 30, 2022, to amend Port of Los Angeles Tariff No. 4, increasing rates to Section Four "Dockage", Items 450 & 480; Section Five "Wharfage", Items 550-001 through 550-801;

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Section Nine “Container Cranes” Item 900; Section Eleven “Charges for Occupancy of Office Space, etc. In Transit Sheds and on Wharves and Wharf Premises””, Item 1100; Section Twelve “Water and Electricity”, Item 1200; Section Fifteen “Public Landings”, Items 1525 & 1530; Section Eighteen “General Rules and Regulations – Miscellaneous”, Item 1802; and Section Nineteen “Commercial Fishing Vessel”, Items 1910 & 1930;

3. Authorize the Board Secretary to certify the adoption of a second Temporary Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect on October 30, 2022, for a period not-to-exceed 90 days pursuant to City Charter Section 653(b); and
4. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background and Context – On April 28, 2022, the Board approved a Temporary and Permanent Order amending Tariff No. 4 increasing rated tariff items by 7.1 percent effective August 1, 2022. Tariff items that already have a scheduled rate increase were excluded. The percentage increase was based on the Bureau of Labor Statistics identified increase in the CPI-U for the 12-month period ending December 2021. In 2012, the California Association of Port Authorities, of which the Port is a member, adopted a GRI methodology whereby each member port would look to increase rated tariff items based on the Bureau of Labor Statistics identified CPI-U. Member ports would be able to exercise selective hold-downs and independent action.

Prior to the April 28, 2022 Board actions, the Port had imposed a 5 percent GRI in calendar year 2004 and 2005. On May 16, 2013, the Board approved a 1.7 percent GRI applicable to almost all rated tariff items of Tariff No. 4, effective July 1, 2013. A Second and Third Temporary Order was approved by the Board. Upon expiration of the last Temporary Order, rated tariff items reverted to pre-Temporary Order levels. On November 4, 2021, the Board approved Temporary and Permanent Orders amending Tariff No. 4 increasing petroleum products rates by 9.4 and 11.8 percent effective January 1, 2022, and deleting tariff items no longer relevant. The Permanent Order was approved by the City Council on May 25, 2022.

Although Tariff No. 4 covers more than 100 items, Item 550-001 is arguably the most important; this is wharfage on Merchandise Not Otherwise Specified (NOS). The NOS rate applies to commodities that are not specifically listed in Tariff No. 4, but more importantly any percent increase of Item 550-001 in Tariff No. 4, NOS rate, effective August 1, 2022, would apply, but not necessarily immediately impact rates at five of the seven container terminal permits at the Port. Container terminal permits whose compensation schedule is tied to the NOS rate are:

- APM Terminals Pacific, LTD

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- China Shipping Holding Company, LTD
- Everglades Company Terminal, Inc.
- Everport Terminal Services, Inc.
- Yusen Terminals, Inc.

Container terminal permits, as do other permits, include a scheduled compensation review process. The scheduled compensation adjustment can be a fixed value or a percentage increase based on a CPI.

Tariff items and/or permits not subject to the proposed GRI effective August 1, 2022 or upon approval of this second Temporary Order are:

- Everport Terminal Services, Inc.'s (ETS) permit would not be impacted in the first year of implementation of this GRI. Any GRI would first be reduced by the CPI increases applied to ETS since the last tariff increase in 2005. Subsequent GRIs could affect ETS's permit if the CPI increase exceeds a 3 percent cap as stated in their permit.
- Fenix Marine Services' permit is subject to a GRI only when all other container terminal permits see increases in rates resulting from a GRI
- TraPac Inc. (TraPac)'s permit includes a schedule rate increase. TraPac's annual storage and demurrage is not subject to a GRI as well.

Other non-container business wharfage rates for break bulk, liquid bulk and auto terminals are impacted by the GRI as well.

Staff is recommending the Board approve the second Temporary Order continuing the application of a 7.1 percent GRI based on the CPI-U to all rated items in Tariff No. 4 (Transmittals 1 and 2), except the following tariff items:

- 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 Oct 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.

Rate increases would take effect under the second Temporary Order on October 30, 2022.

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Need for Amendment – GRIs have not kept pace with inflation. The Port, through CAPA, last imposed a 5 percent GRI in CY 2004 and 2005. A temporary GRI was implemented in 2013, but was not sustained due to a Permanent Order and Ordinance not being adopted by City Council. On November 4, 2021, the Board approved Temporary and Permanent Orders increasing petroleum products rates by 9.4 and 11.8 percent effective January 1, 2022. The Permanent Order increasing petroleum products rates was approved by the City Council on May 25, 2022. A Temporary Order was approved imposing a GRI of 7.1 percent effective August 1, 2022, with exceptions.

Need for Approval – Pursuant to the Los Angeles City Charter, the Board has authority to make changes to Tariff No. 4 for a period of 90 days by Temporary Order (Transmittal 3). The first Temporary Order will expire on October 29, 2022, before the Permanent Order and Ordinance can be fully executed. Council is unable to calendar and approve the Permanent Order and Ordinance before the expiration date, therefore, a second Temporary Order (Transmittal 3) is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. The second Temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a second Temporary Order to amend Tariff No. 4 to increase rated tariff items based on the CPI-U, which is an activity 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 Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of CEQA in accordance with Article III Class 1 (31) of the Los Angeles City CEQA guidelines.

**FINANCIAL IMPACT:**

If approved, the proposed Amendment for the GRI to Tariff No. 4 to all revenue generating tariff items, with exceptions, would result with an increase to operating revenue estimated at \$15.7 million for Fiscal Year 2022/2023.

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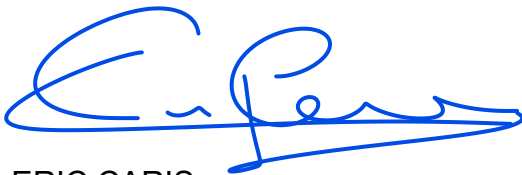
**CITY ATTORNEY:**

The Office of the City Attorney has approved the proposed second Temporary Order as to form and legality.

**TRANSMITTALS:**

1. POLA Tariff No. 4
2. Proposed CPI GRI Items
3. Second Temporary Order

FIS Approval: *MB* (initials)  
CA Approval: *J.C.* (initials)



ERIC CARIS  
Director of Cargo Marketing



for MICHAEL DIBERNARDO  
Deputy Executive Director

APPROVED:



EUGENE D. SEROKA  
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