

DATE: AUGUST 27, 2024

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), effective September 29, 2024, which would implement a 3.6 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 June 6, 2024 Board meeting, the Board approved Temporary and Permanent Orders amending various sections of Tariff No. 4 increasing rated tariff items by 3.6 percent. 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 September 28, 2024; 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 categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(31) of the Los Angeles City CEQA Guidelines;

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2. Adopt second Temporary Order No. ____ with an effective date of September 29, 2024, 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; Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, Items 780 and 790; 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 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 September 29, 2024, for a period not-to-exceed 90 days pursuant to City Charter Section 653(b); and
4. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – In calendar years 2004 and 2005, California Association of Port Authorities (CAPA) member ports imposed a 5 percent GRI. CAPA member ports opined that over the years, previously implemented GRIs have not kept pace with inflation. At the June 28-29, 2012 CAPA Advisory Committee meeting, direction was given to the CAPA Tariffs and Practices Committee to implement an annual Consumer Price Index (CPI) based GRI system. The GRI system was to consider the following items:

- Applicable to existing and new tariffs
- Based on the Consumer Price Index for all Urban Consumers (CPI-U)
- Effective Date: July 1, 2013
- No adjustments below zero
- Applicable to all CAPA member ports
- Member ports would be able to exercise selective hold-downs and independent action

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Subsequently, the Board adopted Temporary Orders for a 1.7 percent GRI for a temporary 9-month period between July 2013 - March 2014, which expired when they were not approved by City Council under Permanent Order. On November 4, 2021, the Board and City Council 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. 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 with an effective date of August 1, 2022. On July 20, 2023, the Board approved Order No. 23-7348, which was approved by City Council Ordinance No. 188194, adopting a 6.2 percent GRI effective September 1, 2023, applicable to Tariff No. 4 rated tariff items, excluding rated tariff items that already had a scheduled rate increase. On June 6, 2024, the Board approved Temporary and Permanent Orders, adopting a 3.6 percent GRI with an effective date of July 1, 2024, applicable to Tariff No. 4 rated tariff items, excluding rated tariff items that already had a scheduled rate increase. The City Council has not calendared and approved the Permanent Order and Ordinance. The first Temporary Order will expire on September 28, 2024; therefore, a second Temporary Order is proposed to allow additional time for the Permanent Order to pass through the City Council approval process.

Proposed 2024 GRI - The Bureau of Labor Statistics has identified a 3.6 percent increase in the CPI-U for the 12-month period ending December 2023. The implementation of the proposed GRI allows the Port to keep its rated tariff items up with the level of inflation. Although Tariff No. 4 covers more than 100 items, Item 550-001 is arguably the most important as 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 July 1, 2024 would apply to, but not necessarily immediately impact, wharfage 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
- China Shipping Holding Company, LTD
- Everglades Company Terminal, Inc.
- Everport Terminal Services, Inc.
- Yusen Terminals, Inc.

Container terminal permits, similar to 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 July 1, 2024:

- Fenix Marine Services' permit is subject to a GRI only when all other container terminal permits see increases in rates resulting from a GRI.
- The TraPac Inc. (Trapac) permit includes scheduled rate increases as well as storage and demurrage fees which are not subject to a GRI.

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Other non-container business wharfage rates for break bulk, liquid bulk, and auto terminals would be impacted by the GRI as well. Staff is recommending the Board approve the application of a 3.6 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. Pilotage rates are currently on a 5-year rate increase schedule (approved by the Board in April 2021).
- Item No. 600 – Passenger Fees. Scheduled to be increased on July 1, 2024 (approved by the Board in August 2023).
- Item No. 605 – Alternative Maritime Power (AMP) System Cost Passenger Fees. This rate is still pending further analysis, and may be updated in a future tariff update, if the future analysis determines that passenger fee increase is necessary to cover the cost of cruise ship AMP power.
- Item No. 810 – Space Assignments. Rates were recently reset and increased based on a CPI level going forward (approved by the Board in October 2020).
- Item No. 1300 – Parking Charges. On a separate rate increase schedule.
- Item No. 2040 – Clean Air Action Plan. Permit fees are not part of the GRI.
- Item Nos. 2300-2340 – Various incentives. Not part of a GRI.

Rate increases took effect on July 1, 2024 through the first temporary order, and will remain in effect if the proposed second temporary order is approved until September 28, 2024 given that the Permanent Order is not approved beforehand.

Need for Amendment – CAPA, of which the Port is a member, adopted an annual GRI methodology for tariffs based on the West Region CPI-U. The Bureau of Labor Statistics has identified a 3.6 percent increase in the CPI-U for the 12-month period ending December 2023. The implementation of a GRI allows the Port to keep its rated tariff item up with the level of inflation.

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 second Temporary Order (Transmittal 3). A companion action to this Resolution recommends a Permanent Order and Ordinance for approval by the Board and City Council, which are required to make changes to Tariff No. 4 beyond the second Temporary Order's 90-day effective period. At the June 6, 2024 Board meeting, the Board approved Temporary and Permanent Orders amending various sections of Tariff No. 4 increasing rated tariff items by 3.6 percent. 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 September 28, 2024; therefore, a second Temporary Order 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 be effective September 29, 2024, and expire 90 days after the effective date or upon execution of the Permanent Order and Ordinance by the City Council, whichever occurs first.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a second Temporary Order to amend the Port of Los Angeles Tariff No. 4, which is an activity that modifies 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:

Approval of the proposed Second Temporary Order would implement a GRI on all revenue-generating items, with certain exceptions, under Tariff No. 4. The NOS rate described within Item 550-001 would increase from 710 currently to 736 as proposed. If the proposed Second Temporary Order is approved, staff estimates that operating revenues through December 31, 2024 would increase by approximately \$2.2 million, or 0.5 percent, while operating revenues the following year through December 31, 2025, would increase by approximately \$4.7 million, or 1.0 percent.

The aggregate increase to the NOS rate will not generate a full 3.6 percent increase in operating revenues as certain key permits already include language which increase rates based upon the greater of the annual change in the CPI or the annual change in the NOS rate. In addition, certain permits include either exclusions or increases that are not subject to changes in the NOS rate.

CITY ATTORNEY:

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

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TRANSMITTALS:

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



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