



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: OCTOBER 24, 2023

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 December 1, 2023, which would implement a 6.2 percent General Rate 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 July 20, 2023 Board meeting, the Board approved Temporary and Permanent Orders amending various sections of Tariff No. 4 increasing rated tariff items with an effective date of September 1, **2023**. 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 November 29, 2023; therefore, a second Temporary Order is being 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;
2. Adopt a second Temporary Order No. _____ with an effective date of December 1, 2023, 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 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

SUBJECT: SECOND TEMPORARY ORDER FOR GENERAL RATE INCREASE

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 December 1, 2023, 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 CYs 2004 and 2005, 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, directions were given to the CAPA Tariffs and Practices Committee to implement an annual CPI-U based GRI system. The GRI system was to consider the following items:

- Applicable to existing and new tariffs
- Based on the 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

The Bureau of Labor Statistics has identified a 6.2 percent increase in the CPI-U for the 12-month period ending December 2022. The Board adopted Temporary Orders for a 1.7 percent GRI for a temporary 9-month period July 2013 - March 2014, which expired when it was 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 effective August 1, 2022, applicable to Tariff No. 4 rated tariff items, excluding rated tariff items that already had a scheduled rate increase.

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. Importantly, any percent increase of Item 550-001 in Tariff No. 4, NOS rate, effective September 1, 2023 and December 1, 2023 would apply, but not necessarily immediately impact rates at five of the seven container terminal permits at the Port. Container terminal

SUBJECT: SECOND TEMPORARY ORDER FOR GENERAL RATE INCREASE

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 September 1, 2023 and December 1, 2023 are as follows:

- 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 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 would be impacted by the GRI as well. Staff is recommending the Board approve the application of a 6.2 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/Alternative Maritime Power (AMP) fee/Emergency Lay-up rate schedule. Rates were recently reset on a separate fixed rate increase schedule.
- 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: 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 took effect on September 1, 2023 through the first temporary order, and will remain in effect if the proposed second temporary order is approved until February 29, 2024 given that the Permanent Order is not approved beforehand.

Need for Amendment – CAPA, of which the Port is a member, adopted an annual general rate increase (GRI) methodology for tariffs based on the West Region CPI-U. The Bureau of Labor Statistics has identified a 6.2 percent increase in the CPI-U for the 12-month period ending December 2022. The implementation of a GRI allows the Port to keep its rated tariff item up with the level of inflation.

SUBJECT: SECOND TEMPORARY ORDER FOR GENERAL RATE INCREASE

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. The first Temporary Order will expire on November 29, 2023 before the Permanent Order and Ordinance can be fully executed. If Council is unable to calendar and approve the Permanent Order and Ordinance before the expiration date, 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 and Ordinance by the City Council, whichever occurs first.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a 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 maintain the general rate increase previously approved with an effective date of September 1, 2023 to all revenue-generating items, with certain exemptions, under Tariff No. 4. The NOS rate described within Item 550-001 would increase from 669 currently to 710 as proposed. If the proposed Temporary Order is approved, staff estimates that operating revenues through December 31, 2023 would increase by approximately \$2.6 million, or 0.6 percent, while annual revenues the following year through December 31, 2024 would increase by approximately \$11.7 million or 2.7 percent.

The aggregate increase to the NOS rate will not generate a full 6.2 percent increase in operating revenues as certain key permits already include language which increase rates based upon the greater of the annual change in CPI or the annual change in the NOS rate. In addition, certain permits include either exclusions or scheduled rate 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.

DATE: OCTOBER 24, 2023

PAGE 5 OF 5

SUBJECT: SECOND TEMPORARY ORDER FOR GENERAL RATE INCREASE

TRANSMITTALS:

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



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