



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: MAY 28, 2024

FROM: CARGO MARKETING

SUBJECT: RESOLUTION NO. _____ - APPROVE PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, "GENERAL RATE INCREASE"

SUMMARY:

Staff requests approval of a Permanent Order to amend Port of Los Angeles Tariff No. 4 (Tariff) to increase rated tariff items based on the West Region Consumer Price Index for All Urban Consumers (CPI-U). 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 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.

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 through CAPA, effective September 1, 2023, applicable to Tariff No. 4 rated items, excluding rated tariff items that already had a scheduled rate increase.

The proposed CAPA GRI, effective July 1, 2024, of 3.6 percent, is applicable to almost all POLA Tariff rated items, excluding rated tariff items that have a scheduled rate increase as of the effective date. A separate action recommends a Temporary Order to make changes to Tariff No. 4 within the Board's authority to adopt rates for up to 90-days, with any rates to be effective beyond the 90-days requiring this Permanent Order and Ordinance to be approved by the City Council.

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. Approve the amendment to 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, subject to the California Association of Port Authorities’ review and approval, and authorize the Executive Director to work with the California Association of Port Authorities to secure this approval or proceed to take independent action in accordance with the California Association of Port Authorities’ procedure;
3. Adopt Permanent Order No. _____ with an effective date of July 1, 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;
4. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the Amendments to Port of Los Angeles Tariff No. 4 pursuant to City Charter 653(a);
5. Direct the Board Secretary to transmit to the City Clerk a Notice of Public Hearing for publication in accordance with the provisions of California Government Code sections 66018 and 6062a;
6. After the effective date of the Ordinance, transmit the Permanent Order and Ordinance to the Executive Director or his nominee for implementation and posting to the Port of Los Angeles website; and
7. Adopt Resolution No. _____.

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DISCUSSION:

Background and Context – In calendar years 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, direction was 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

Subsequently, 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 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 items, excluding rated tariff items that already had a scheduled rate increase.

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.

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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 a schedule rate increases as well as storage and demurrage fees which are not subject to a GRI.

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 Finance analysis, and may be updated in a future tariff update, if 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 would take effect on July 1, 2024.

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 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 – Los Angeles City Charter Section 653 requires the Board to approve any amendment by Order and approval of the City Council by Ordinance. A separate action recommends Board adoption of a Temporary Order within its Los Angeles City Charter authority to approve changes to Tariff No. 4, to be effective for a period not to exceed 90 days. The Temporary Order, if approved, will be effective July 1, 2024, and expire 90 days after the effective date or upon execution of the Permanent Order (Transmittal 3) and Ordinance (Transmittal 4) by the City Council, whichever occurs first. This action for Board and City Council adoption of a Permanent Order and Ordinance are required under the

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Charter to make changes to Tariff No. 4 beyond the Temporary Order's 90-day effective period.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Permanent 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 Permanent Order would implement a general rate increase 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 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 annual 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 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 Permanent Order and Ordinance.

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TRANSMITTALS:

1. POLA Tariff No. 4
2. Proposed CPI GRI Items
3. Permanent Order
4. Ordinance



ERIC CARIS
Director of Cargo Marketing

APPROVED:

Erica M. Calhoun for

EUGENE D. SEROKA
Executive Director

ES:MD:EC:JY:AA
Author: Eric Caris

FIS Approval: *JS* (initials)
CA Approval: *DC* (initials)
Dina Aryan-Zaklan for
MICHAEL DIBERNARDO
Deputy Executive Director