

5/28/15
Item: 6.2
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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

ORDINANCE AMENDING CERTAIN PORTIONS OF TARIFF NO. 2-A AND ORDINANCE NO. 3439 TO (i) INCREASE SPACE ASSIGNMENT RATES, (ii) MODIFY CERTAIN TERMS AND CONDITIONS OF SPACE AND WHARF ASSIGNMENTS, (iii) INCREASE SHORE POWER MAINTENANCE RATES, (iv) ADJUST SHORE POWER COMMISSIONING CHARGES, AND (v) MAKE CERTAIN ADMINISTRATIVE UPDATES EFFECTIVE JULY 1, 2015.

WHEREAS the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report dated May 28, 2015 (the "Agenda Report") for Agenda Item 6.2 and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. In acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.

Section 2. The Board hereby finds and determines as follows:

A. The proposed amendments to Port Tariff No. 2-A and Ordinance 3439 were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines. The proposed changes to rates and charges are statutorily exempt from CEQA under Section 15273(a) of the CEQA Guidelines since CEQA does not apply to the modification or approval of rates and other charges by public agencies that the public agency finds are for the purpose of meeting operating expenses or for funding capital projects necessary to maintain service within existing service areas. The proposed rate changes are for those funding purposes, so they meet the criteria for this exemption. CEQA also does not apply to the proposal to amend Port Tariff 2-A to modify the notice periods for notices of termination and boundary adjustments under Section 15061(b)(3) of the

CEQA Guidelines, since it can be seen with certainty that there is no possibility that changing a notice period may have a significant effect on the environment. Therefore, the Board hereby finds that the proposed amendments to Port Tariff 2-A and Ordinance 3439 are not subject to CEQA under the provisions of CEQA Guidelines Sections 15273(a) and 15061(b)(3).

B. The proposed administrative updates to Tariff No. 2-A also meet the criteria for this exemption. CEQA also does not apply to the other proposed updates to Tariff No. 2-A under section 15061(b)(3) of the CEQA Guidelines, since it can be seen with certainty that there is no possibility that the proposed minor updates and corrections to Tariff No. 2-A may have a significant effect on the environment.

Section 3. The Board approves and authorizes the proposed amendments to Tariff No. 2-A to (i) increase Space Assignment rates, (ii) modify certain terms and conditions of Space and Wharf Assignments, (iii) increase Shore Power Maintenance Rates, and (iv) make certain administrative updates - all effective July 1, 2015 and as more specifically shown in redlined revisions to the specific Items of Tariff No. 2-A attached to and incorporated into this Ordinance as Exhibit A.

Section 4. Section 8 to Port Ordinance No. 3439, as amended, is hereby amended and restated as follows:

"Section 8: Vessel Commissioning.

Applicability: The following information, rates and charges shall apply to the first vessel call of all shore power ready vessels and billed to a customer at one of the Port's marine terminals at which the vessel berths. If a vessel fails the commissioning process, this rate and charge shall apply to every ~~odd-number~~ vessel visit until the Notice of Completion of Vessel Commissioning has been issued to the vessel.

This rate and charge may also apply to a vessel call of a vessel whom has been issued a Notice of Completion of Vessel Commissioning but whose on-board shore power system has been modified since the issuance of the Notice of Completion of Vessel Commissioning. If a ship fails the commissioning process, this rate and charge shall apply to every ~~odd-number~~ vessel visit until the Notice of Completion of Vessel Commissioning has been reissued to the vessel.

Service Area: All service areas served by the Port's Davis and Cuthbertson substations.

Rates:

Vessel Commissioning Charge: \$34,430600
(flat rate billed per vessel call)

Billing: For all customers taking service under this rate schedule, the balance of monies owed to the Port shall be paid in accordance with the Port's normal billing cycle.

Operations: In order to obtain a Notice of Completion of Vessel Commissioning, a customer seeking power provided to the vessel under this Section shall complete the following actions:

1) Prior to the initial connection of any vessel to the Port-provided power, the customer shall coordinate with its shipping line customers to determine whether the shore power-related equipment on-board any vessel and the vessel's control system and protection scheme comply with: (1) Standard IEC 80005-1Ed1: Cold Ironing Part 1: High Voltage Shore Connection Systems - General Requirements, (2) Pacific Gas & Electric Rule 21 and (3) Generating Facility Interconnection Agreement between the Pacific Gas and Electric Company ("PG&E") and the Port (the "Interconnection Agreement").

2) The customer shall coordinate with its shipping line customers to provide all documents to the Port and/or PG&E, including without limitation, the settings of protective devices associated with the on-board shore power-related equipment, one-line and three-line diagrams of such equipment, specifications on grounding equipment and emergency stop control system, contact information for ship engineers, and any other documentation requested by the Port to establish a safe and effective initial vessel connection.

3) The customer shall coordinate with its shipping line customers and the Port and/or PG&E to schedule the vessel commissioning.

4) The Port may board the vessel to verify, inspect and test, without limitation, the settings of protective devices associated with the on-board shore power-related equipment, grounding equipment, and emergency stop control system.

5) Upon completion of vessel commissioning, the Port shall issue a "Notice of Completion of Vessel Commissioning" to the customer for forwarding to its shipping line customer."

Section 5. Section 9 to Port Ordinance No. 3439, as amended, is hereby amended and restated as follows:

"Section 9: Provision of Power to Vessels.

Applicability: The following information, rates and charges shall apply to the Port Department's provision of shore

power to all vessels receiving shore power at any time, including during the vessel commissioning process, who have been issued a Notice of Completion of Vessel Commissioning and billed to a customer at one of the Port's marine terminals at which the vessel berths.

Service Area: All service areas served by the Port's Davis and Cuthbertson substations.

Rates:

Hourly Customer Charge: \$267
(to be billed for every hour
Rounded up to full hour of provision
of power to vessel and plus all
applicable taxes)

Billing: For all customers taking service under this rate schedule, the balance of monies owed to the Port shall be paid in accordance with the Port's normal billing cycle.

Operations: Each customer that provides power to vessels at berth is responsible for ensuring that a ~~"Notice of Completion of Vessel Commissioning"~~ has been issued to a vessel and such power is provided in a manner that promotes safety and substantially complies with all applicable laws, regulations, standards and other applicable agreements, including, but not limited to, the applicable Interconnection Agreement, and the Standard IEC 80005-1Ed1: Cold Ironing Part 1: High Voltage Shore Connection Systems - General Requirements."

Section 6. The Board approves and authorizes the Executive Director or his designee to make administrative updates to reflect current staff titles, contact information, and other non-substantive matters.

Section 7. If any provision of this Agreement, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other Person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

Section 8. This ordinance shall be effective on July 1, 2015.

Section 9. Upon the effective date of this Ordinance, the Board authorizes the Executive Director or his designee to make the changes to Tariff 2-A and Ordinance 3439 as authorized and approved hereinabove.

DRAFT

President.

Attest

Secretary.

Approved as to form and legality:

Port Attorney

EXHIBIT A TO ORDINANCE NO. _____

THE BOARD OF PORT COMMISSIONERS PORT OF OAKLAND TARIFF NO. 2-A

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278th REVISED PAGE 1

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For explanation of abbreviations and reference marks see Page 10.
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ADOPTED: July 11, 2014
20154

EFFECTIVE: July 12, 2014

PORT OF OAKLAND

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MARITIME DIVISION HOMEPAGE INFORMATION
<http://www.portofoakland.com/maritime>

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For explanation of abbreviations and reference marks see Page 10.

ADOPTED: July 24, 2014

EFFECTIVE: July 24, 2014

THE BOARD OF PORT COMMISSIONERS
PORT OF OAKLAND
TARIFF NO. 2-A

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2nd REVISED PAGE 138

SECTION X - A: WHARF ASSIGNMENTS

ITEM
NO.

WHARF ASSIGNMENT

- (a) A Wharf Assignment shall commence on the date specified by the Director of Maritime or his/her designee.
- (b) A Preferential or Secondary Wharf Assignment may be terminated by the Assignee effective not sooner than 30 days after giving written notice of termination to the Port, and may be terminated by the Director of Maritime or his/her designee at any time, effective not sooner than 30 days after giving written notice of termination to the Assignee. Either the Port or Assignee may terminate on less than 30 days' written notice, subject to mutual written agreement of the Assignee and Director of Maritime or his/her designee. Termination of the assignment will not terminate any obligations or liabilities that arose under the assignment prior to termination, including the Assignee's obligation to remove all items brought upon the assignment premises by Assignee.
- (c) A Temporary Wharf Assignment may be terminated by the Assignee when the use for the assigned area has ended; but not before all cargo involved, and all dunnage and debris has been removed by the Assignee from the assigned area. The Temporary Wharf Assignment may be terminated by the Director of Maritime or his/her designee at any time, effective not sooner than 30 days after giving written notice of termination to the Assignee.; provided further that such Temporary Wharf Assignment may be terminated sooner at the discretion of the Director of Maritime or his/her designee.

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For explanation of abbreviations and reference marks see Page 10.

ADOPTED: May 28 June 11, 2015

EFFECTIVE: May 28 July

THE BOARD OF PORT COMMISSIONERS
PORT OF OAKLAND
TARIFF NO. 2-A

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2nd REVISED PAGE 142

SECTION X - B: SPACE ASSIGNMENTS	ITEM NO.
ASSIGNMENT (a) A Space Assignment, and charges therefore shall commence on the date specified by the Director of Maritime or his/her designee. (b) A Space Assignment may be terminated by the Assignee effective not sooner than 30 days after giving written notice of termination to the Port, and may be terminated by the Director of Maritime or his/her designee at any time, effective not sooner than 30 days after giving written notice of termination to the Assignee. <u>Either the Port or Assignee may terminate on less than 30 days' written notice, subject to mutual written agreement of the Assignee and Director of Maritime or his/her designee.</u> Termination of the assignment will not terminate any obligations or liabilities that arose under the assignment prior to termination, including the Assignee's obligation to remove all items brought upon the assignment premises by Assignee. (c) <u>By mutual written agreement of the Assignee and Director of Maritime or his/her designee, the Port may modify a Space Assignment may be modified to provide operational flexibility, including modifications such as adjustments to area boundaries, reclassification of space type, and relocation of Assignee operations. terminated on less notice than required in the immediately preceding paragraph (b), provided however, that a new Space Assignment is made to increase the total space required for the same facilities or space. If a new Space Assignment is made for the purpose of increasing space prior to the monthly anniversary date of the assignment, charges for the period used will be prorated on a daily basis.</u>	(^) 10140
For explanation of abbreviations and reference marks see Page 10.	
ADOPTED: <u>May 28 June 11, 2015</u>	EFFECTIVE: <u>May</u>

THE BOARD OF PORT COMMISSIONERS
PORT OF OAKLAND
TARIFF NO. 2-A

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SECTION X - B: SPACE ASSIGNMENTS

ITEM
NO.

SPACE ASSIGNMENT RATES

Space Assignment rates will be assessed as contained in the following table which designates the types of areas used and assigned; if and as available: (See Item 10155):

TYPE OF AREA	DOLLARS PER SQUARE FOOT PER MONTH					(I) 10160
	UNPAVED	ROCKED		PAVED		
Land	\$.12317	Without Lighting or Fencing	With Lighting and Fencing	Without Lighting or Fencing	With Lighting and Fencing	
		\$.15245	\$.17365	\$.18273	\$.22615	
Warehouse Space	First Floor Level \$.36574	THIS SPACE LEFT INTENTIONALLY BLANK				
In Bond Storage (See Item 10155)	\$.39897					
OFFICE SPACE N.O.S.	Non-Air Conditioned		Air Conditioned			
	\$1.193		\$1.3529			

For explanation of abbreviations and reference marks see Page 10.

ADOPTED: May 28 June 11, 2015

EFFECTIVE: July 1, 2015

Maintenance Rates:

The Tenant shall reimburse the Port for all actual costs of labor and materials incurred to perform the Port's maintenance activities identified in Item 02530.

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02535

1. ~~Prior to December 31, 2014, the Tenant shall not be required to reimburse the Port for any such maintenance costs, which exceed \$1,285 per month, per berth. Effective July 1, 2015, the Tenant shall be required to pay any and all maintenance costs, up to \$2,265 per berth per month, of which \$1,981 comprises routine maintenance, with the remaining \$284 comprising a flat monthly charge towards 3-year major maintenance events. The Tenant will be billed only for actual costs incurred for routine maintenance services, up to \$1,981 per berth per month, plus the flat monthly charge of \$284 for the 3-year service event.~~

2. ~~After December 31, 2014, the Tenant shall be required to pay any and all maintenance costs, including those in excess of \$1,285 per month, per berth, provided that the Port provides the Tenant with notice of such increase above \$1,285 per month, per berth, either by delivering Tenant sixty (60) days prior written notices. The charge set forth in this Item 02535 will be applied on an aggregated basis across a Tenant's berths, such that the maximum charge to the Tenant is equal to the per berth, per month charge multiplied by the number of berths at the Tenant's marine terminal.~~

1.3. ~~The Port shall provide the Tenant with an invoice for the actual costs of labor and materials associated with the maintenance activities contemplated in Item 02530. The Director of Maritime or his/her designee may change the charges set forth in this Item 02535, and After December 31, 2014, the Tenant shall be required to pay any and all maintenance costs, including those in excess of \$1,285, \$2,265 per berthmonth, per berthmonth, provided that the Port provides the Tenant with notice of such increase above \$1,285 per month, per berth, either by delivering Tenant sixty (60) days prior written notice of such increase.~~

4.23. ~~The Port shall provide the Tenant with an invoice for the actual costs of labor and materials associated with the maintenance activities contemplated in Item 02530 and in accordance with the charges set forth in this Item 02535.~~

For explanation of abbreviations and reference marks see Page 10.

ADOPTED: ~~November 14~~ June 11, 2015

EFFECTIVE: July 1,

Correction No. 700

Correction No.