

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

10/24/2024
Item No.: 6.2
RS/pcm

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ORDINANCE AMENDING: 1) PORT OF OAKLAND ("PORT") TARIFF NO. 2-A (ORDINANCE NO. 2833) TO UPDATE REQUIREMENTS AND SET A MAINTENANCE CHARGE FOR EMISSION CONTROLS FOR VESSELS AT BERTH, INCLUDING SHORE POWER; AND 2) CHAPTER 10.03 (UTILITIES RATES AND CHARGES) AND APPENDIX F (MASTER UTILITY FEE SCHEDULE) OF THE PORT OF OAKLAND ADMINISTRATIVE CODE ("POAC") TO REMOVE THE SHORE POWER MAINTENANCE CHARGE; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated October 24, 2024, ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, Section 706 of the City of Oakland ("City") Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to exercise various powers and duties relating to the Port's jurisdiction, including, but not limited to, the power and duty to "adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the port, and its facilities" (City Charter, Sec. 706(27)); and

WHEREAS, 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; now, therefore

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

Section 1. The Board hereby finds and determines that the proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15273 of the CEQA Guidelines because the proposed action is for the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges for: (1) meeting operating expenses, including employee wage rates and fringe benefits; (2) purchasing or leasing supplies, equipment, or materials; (3) meeting financial reserve needs and requirements; (4) obtaining funds for capital

projects, necessary to maintain service within existing service areas; or (5) obtaining funds necessary to maintain intra-city transfers as authorized under the City charter.

Section 2. The Board hereby:

A. Amends Section 10.03 (Rates and Charges) of the POAC to delete the reference to the Shore Power Maintenance Charge in Subsection E and references thereto, and states that such charge is governed by Tariff No. 2-A, as more specifically set forth in **Attachment A** to this ordinance, attached hereto and incorporated herein.

B. Amends Appendix F (Master Utility Fee Schedule) of the POAC to delete Maritime Area Rate Schedule: H - Shore Power Maintenance Charge, as more specifically set forth in **Attachment B** to this ordinance, attached hereto and incorporated herein.

C. The following pages, items, and sections of Tariff No. 2-A shall be amended as set forth herein and as more specifically set forth in **Attachment C** to this ordinance, attached hereto and incorporated herein. References in this Section 2.C of the ordinance to an Item Number, or to a Tariff Section number, mean the Item Number or the Tariff Section number, respectively, in Port Tariff Number 2-A, adopted by Port Ordinance No. 2833, as amended. Underlined words and phrases indicate modified language to the portions of the Item Numbers references in this ordinance:

a. Section I, Item No. 01307 is amended to add a new definition of vessel.

b. Section II, Item No. 02500 is amended to add and modify definitions needed to provide meaning to the revisions in subsequent Items that address at-berth vessel emission control strategies (VECS) and the shore power maintenance charge.

c. Section II, Item No. 02505 is amended to update the purpose and applicability.

d. Section II, Item No. 02510 is amended to update the Construction of Shore Power System or Connection to Existing Shore Power System requirements to clarify the Tenant responsibilities to operate and maintain shore power systems.

e. Section II, Item No. 02525 is amended to update the technical requirements for shore power operations obligations.

f. Section II, Item No. 02530 is amended to update the responsibilities for shore power maintenance obligations of the Port and Tenants.

g. Section II, Item No. 02535 is amended to set a shore power maintenance charge equal to \$4,100 per substation per month or \$140 per substation per day for tenancies shorter than one month; and to make said charge payable in accordance with Item 02135(g).

h. Section II, Item No. 02540 is amended to modify and clarify the general requirements for VECS, including requiring Port approval to moor or operate a VECS at a Port wharf.

i. Section II, Item No. 02545 is amended to update tenant reporting obligations for VECS, including VECS that are not California Air Resources Board (CARB)-required or CARB-approved.

D. Authorizes the Executive Director or his designee to take all actions necessary to implement this adoption into the POAC and Tariff No. 2-A, provided that such actions do not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 3. This Ordinance is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this Ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

Section 4. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney

Attachment A

Section 10.03.030 Rates and Charges Subsection E is amended as follows with additions underlined and deletions in ~~strikethrough~~:

E. Shore Power Maintenance

The rates and charges ~~set forth in Section B.8 of the Master Utility Fee Schedule~~ shall apply for shore power maintenance shall be governed by Port Tariff No. 2-A.

Section 10.03.060 Shore Power for Vessels Subsection C.3 Rates is amended as follows with additions underlined and deletions in ~~strikethrough~~:

3. Rates

The rates and charges set forth in Subsections ~~10.03.030C and 10.03.030.E~~ shall apply to the Port's provision of Shore Power.

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Attachment B

Section B. Rates and Charges for the Maritime Area, Subsection 8 of Appendix F (Master Utility Rate Schedule Established by Chapter 10.03) is amended as follows with deletions in ~~strike through~~:

B. Rates and Charges for the Maritime Area (Section 10.03.030 B.)

~~8. Maritime Area Rate Schedule: H Shore Power Maintenance Charge (Section 10.03.030 E.)~~

Charge	Amount
Hourly Usage Maintenance Charge	\$31.00

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Attachment C

Tariff No. 2-A, Item Number 01307 of Section I, Definition of Technical Terms is added; and Item Numbers 02500 through 02545 in Section II, General Rules and Regulations, are hereby repealed and replaced with the following:

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

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1st REVISED PAGE 21

SECTION I: DEFINITION OF TECHNICAL TERMS

TERM	DEFINITION	ITEM NO.
Usage	Usage means the use of terminal facility by any person when such person performs their own car, lighter or truck loading or unloading, or the use of any facilities for any other gainful purpose for which a charge is not otherwise specified.	01305
Vessel	Vessel or vessels means container ships, auto carriers, bulk carriers, passenger ships, barges, lighters, tugboats, ferry boats, pleasure craft and any and all other watercraft, whether self-propelled or non-propelled.	(+) 01307
Wharf	Any pier, wharf, quay, landing or other structure to which a vessel may make fast or may be utilized in the transit or handling of cargo. It includes all the area between the pierhead and bulkhead lines; except, however, such locations as may be designated and set apart as public landings or for private use.	01310
Wharfage	Charge assessed against the cargo passing or conveyed over, onto, or under any wharf or wharf premises. Said charge also applies on cargo passage between vessels (to or from barge, lighter, or water) when berthed at wharf or when berthed adjacent to vessel so berthed or moored. Wharfage is assessed solely for use of wharf and does not include charges for any other service or facility.	01315
Wharf Area (Premises)	Defined to mean and include, in addition to the area included in the "Wharf" (Item 01310), other Port Terminal Facility areas, alongside of which vessels may lie or which are suitable for and are used in the direct loading, unloading, assembling, distribution or handling of cargo under, over, or onto a wharf.	01320

For explanation of abbreviations and reference marks see Page 10.

ADOPTED:

EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS

ITEM
NO.

AT-BERTH VESSEL EMISSION CONTROL STRATEGIES (VECS)

Definitions:

Definitions of terms used in Items 02505 through 02545 are contained in this Item 02500 and elsewhere in this Tariff. The following definitions shall apply to Items 02505 through 02545 unless otherwise provided herein or otherwise reasonably required given the context in which a term is used in those Items. In the event of any inconsistency between the definition given in this Item for a capitalized term, and the definition given elsewhere in this Tariff for that term, the definition given in this Item shall control for purposes of interpreting Items 02505 through 02545 hereinbelow. All capitalized terms not otherwise defined in this Item 02500 shall have the meaning given in Section I or elsewhere in this Tariff.

"At-Berth Vessel Emission Control Strategy(ies) (VECS)": means a method(s) or technology(ies) that reduces emissions from vessels at berth, typically by turning off the vessel's engines or capturing air pollutant emissions from said engines. A VECS includes a CAVECS as defined herein.

"Berth": means the designated location at a wharf where a vessel will dock and connect to a Shore Power System, which may or may not be part of a Terminal.

"CARB-Approved Vessel Emission Control Strategy (CAVECS)": a method of reducing emissions from vessel at berth to a satisfactory level for compliance with CARB Regulation that is verified and approved by CARB. CAVECS includes but is not limited to a Shore Power System.

"CARB": means the California Air Resources Board.

"PG&E": means Pacific Gas and Electric Company.

"PG&E Interconnection Agreement": means the Generating Facility Interconnection Agreement between PG&E and the Port executed in February 2012, as it may be amended from time to time.

"Port of Oakland" or "Port": means the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners.

"Port Utility": means the Port revenue division that is responsible for the provision of electricity and other related services for which fees or rates are charged, doing business as Port Public Power.

(Item 02500 continued on Next Page)

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For explanation of abbreviations and reference marks see Page 10.

ADOPTED:

EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS	ITEM NO.
* Provisions of Item 02500 continued from Page 37AP	
<p>Definitions:</p> <p>"Regulation": means CARB final regulation orders for vessels operating at California ports, including without limitation Final Regulation Order: Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in a California Port.</p> <p>"Port-Owned Shore Power System": means the shore-side electrical infrastructure that enables vessels to plug into the electric grid while at-berth, that is owned by the Port without regard to the party that constructed or funded the infrastructure. The Port-Owned Shore Power System does not include infrastructure that is owned or managed by Port Utility.</p> <p>"Shore Power System" or "Shore Power": means the shore-side electrical infrastructure that enables vessels to plug into the electric grid while at berth. The Shore Power System includes but is not limited to the Port-Owned Shore Power System. The Port-Owned Shore Power System does not include infrastructure that is owned or managed by Port Utility.</p> <p>"Shore Power Substation": means a substation that (a) provides a Tenant exclusively with power for the Shore Power System, and (b) is maintained by the Port, without regard to (i) ownership or (ii) location inside or outside the Tenant premises, and (c) is not an asset owned or managed or operated by Port Utility or any other publicly- or investor-owned utility electric utility (e.g., PG&E).</p> <p>"Terminal": means a facility defined in Item 01265 of this Tariff.</p> <p>"Tenant": means an entity with contractual authority from the Port to operate at or with preferential access to a Berth and/or a Terminal with Berths where vessels connect to a Shore Power System.</p>	(^) 02500
<p>AT-BERTH VESSEL EMISSION CONTROL STRATEGIES (VECS)</p> <p>Purpose and Applicability:</p> <p>The following Items 02510 through 02545 set forth the rules, procedures and requirements for use of VECS at the Seaport to comply with the Regulation or any other applicable requirement.</p>	(^) 02505
<p>(Item 2510 moved to Next Page)</p>	(D) 02510
For explanation of abbreviations and reference marks see Page 10.	
ADOPTED:	EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS	ITEM NO.
* Provisions of Item 02510 moved from Page 37AQ	
<p style="text-align: center;">SHORE POWER SYSTEM</p> <p>Construction of Shore Power System or Connection to Existing Shore Power System:</p> <p>The Tenant and/or the Port shall have responsibility to construct any Shore Power System subject to agreement of the parties. Tenant shall not construct or connect to any Shore Power System without prior written approval from the Port, including but not limited to all necessary permits or agreements. Upon (a) substantial completion of construction of the Shore Power System by the Port or Tenant and/or (b) the Port granting Tenant the right to connect to an existing Port-Owned Shore Power System, Tenant shall be responsible to operate and maintain the Shore Power System in accordance with this Section 2, Items 02520 through 02545.</p>	(^) 02510
THIS SPACE LEFT INTENTIONALLY BLANK	(D) 02515
<p>Training:</p> <p>Tenant shall be responsible for all training of all Tenant and Tenant-related personnel, including the provision of personal protective equipment, involved in the operation and/or maintenance of the Shore Power System at Tenant's sole discretion and cost. Tenant's failure to train Tenant's personnel or to obtain a safety-trained and certified workforce in compliance with all applicable Laws is the sole responsibility of Tenant, and any damages that may result solely from Tenant's use of an improperly trained workforce shall be the sole responsibility of Tenant.</p>	(^) 02520
<p>For explanation of abbreviations and reference marks see Page 10.</p>	
ADOPTED:	EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS	ITEM NO.
<p>SHORE POWER SYSTEM</p> <p>Operations Obligations:</p> <p>Tenant is responsible for operating the Shore Power System in a safe manner that substantially complies with all applicable laws, regulations, standards and other applicable agreements and requirements, including, but not limited to, the PG&E Interconnection Agreement and the Standard IEC/ISO/IEEE 80005: 2012 Utility Connections in Port - Part 1: High Voltage Shore Connection (HVSC) Systems - General Requirements, and PG&E Electric Rule 21 Tariff, including but not limited to Section H.</p>	<p>(^) 02525</p>
<p>Maintenance Obligations:</p> <ol style="list-style-type: none"> 1. <u>Allocation of Maintenance Responsibilities:</u> Unless specified otherwise in an agreement between the parties, Port and Tenant maintenance responsibilities shall be shared by the parties as described in this Item 2530. 2. <u>Inspection & Transfer of Responsibilities:</u> The Port shall have the right to inspect the Shore Power System at any time to meet its maintenance obligations and to verify that the Tenant is performing its maintenance obligations. The Port may transfer its maintenance responsibilities to the Tenant by mutual agreement of the Port and Tenant or by the Port providing six (6) months prior written notice to the Tenant. 3. <u>Tenant Responsibilities:</u> Tenant shall be responsible to perform all minor maintenance and general housekeeping activities including but not limited to inspecting, cleaning/sweeping debris and lubricating hydraulic covers associated with shore power operations; inspecting condition of substations; and notifying the Port of any condition that may fall under the Port's maintenance responsibilities. Additionally, Tenant shall notify the Port in writing of any defect or condition appearing to require major maintenance or repair, regardless of the party responsible to perform said maintenance or repair, to any part of the Shore Power System immediately upon discovering such condition and no later than forty-eight (48) hours after discovery. In the event the Tenant discovers a condition that the Tenant believes may affect life or safety, the Tenant shall immediately notify the Chief Wharfinger and Director of Maritime upon discovery of said condition. <p style="text-align: center;">(Item 02530 continued on Next Page)</p>	<p>(^) 02530</p>

For explanation of abbreviations and reference marks see Page 10.

ADOPTED:

EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS

**ITEM
 NO.**

* Provisions of Item 02530 continued from Page 37AS

SHORE POWER SYSTEM

Maintenance Obligations

4. Port Responsibilities: For a Port-Owned Shore Power System, or a Shore Power System where maintenance has been allocated to the Port by written agreement, the Port shall be responsible to perform all other maintenance (i.e., all maintenance not performed by Tenant) including but not limited to the following:

- a. Repairing and replacing circuit breakers per manufacturer's recommendation.
- b. Maintaining and updating software and programming for human machine interface.
- c. Testing and calibrating meters and electronic equipment required for logging of connection data.
- d. Removing rust and resealing and painting weathered surfaces as necessary.
- e. Replacing and repairing receptacles and space heaters.
- f. Exercising all equipment at the substation, including circuit breakers, load interrupter switches, and lockout relays.
- g. Repairing damage to vault and conduit systems due to normal wear and tear, including damage caused by flotsam; provided, however, that damage caused by tugboats, pilot boats, other vessels, and terminal equipment may be subject to additional charges if found to be in excess of normal wear and tear.
- h. Repairing and maintaining all elements of the substation required to comply with applicable standards and best utility practices, including IEC/ISO/IEEE 80005-1.
- i. Repairing and maintaining transformers, including 7.5MVA, and neutral grounding resistors.
- j. Repairing and maintaining distribution equipment, including 12kV equipment directly serving 6.6kV substations.

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(Item 02530 continued on Next Page)

For explanation of abbreviations and reference marks see Page 10.

ADOPTED:

EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS	ITEM NO.
* Provisions of Item 02530 continued from Page 37AT	
<p style="text-align: center;">SHORE POWER SYSTEM</p> <p>Maintenance Obligations:</p> <p>4. <u>Port Responsibilities (Continued):</u></p> <ul style="list-style-type: none"> k. OSHA-required fire extinguisher and eye wash station inspections. l. Testing, repair, and replacement of battery systems, including any PG&E-required battery system. m. Repair and replacing of outdoor lighting and indicators. n. Inspection and repair of the power bus system. o. Inspection and repair of components on or under wharf deck. p. Any other necessary repair and replacement work required to operate the system safely and effectively. 	(^) 02530
<p>Maintenance Charge:</p> <p>For Port-performed maintenance of the Shore Power System, whether Port-owned or Tenant-owned, the Tenant shall be subject to the following Maintenance Charge:</p> <ul style="list-style-type: none"> 1. Tenant shall pay the Port \$4,100 per Shore Power Substation per month. 2. For tenancies shorter than 30 days, Tenant shall pay the Port \$140 per Shore Power Substation per day, rounded to the nearest day. 3. For tenancies longer than one month, the Maintenance Charge shall be deemed a pre-determined recurring charge and shall be payable in accordance with Item 02135(g) of this Tariff. For other tenancies, the Maintenance Charge shall not be deemed recurring, and shall be payable also in accordance with Item 02135(g). 	(^) 02535
Item 02540 moved to Next Page	(D) 02540
For explanation of abbreviations and reference marks see Page 10.	
ADOPTED:	EFFECTIVE: January 1, 2025

SECTION II: GENERAL RULES AND REGULATIONS

ITEM
NO.

NON-SHORE POWER VECS

General Requirements

1. At Tenant's sole cost, Tenant has the sole responsibility to procure and implement any VECS other than a Shore Power System, if Tenant deems it necessary to comply with the Regulation or any other applicable requirement.
2. Tenant shall not moor to the wharf or construct, place, and/or connect to any VECS on the wharf or landside of the wharf without prior written approval from the Port, including but not limited to all necessary permits or agreements.

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Tenant Reporting Obligations

1. Within five (5) business days of the Port's written request, Tenant shall submit documentation of the usage of any CAVECS at Tenant's facility including, without limitation, type, duration of use, berth identification, vessel identification, and data regarding emissions captured or controlled. Tenant shall report using an electronic format acceptable to the Port.
2. Within fifteen (15) business days of the Port's written request, Tenant shall provide the same documentation as Item 02545(1) for any VECS that is not a CAVECS.

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For explanation of abbreviations and reference marks see Page 10.

ADOPTED:

EFFECTIVE: January 1, 2025