



AGENDA REPORT

PROPOSED ACTION: Ordinance: Approval of (a) Amendments to Tariff No. 2-A to Update Requirements and Set a Maintenance Charge for Emission Controls for Vessels at Berth, Including Shore Power, Effective January 1, 2025; and (b) Amendments to Chapter 10.03 (Utilities Rates and Charges) and Appendix F (Master Utility Fee Schedule) of the Port of Oakland Administrative Code to Remove the Shore Power Maintenance Charge, Effective January 1, 2025; and Finding the Proposed Action is Exempt Under the California Environmental Quality Act (**Maritime**)

Submitted By: Bryan Brandes, Director of Maritime; Danny Wan, Executive Director

Parties Involved:

Various tenants, customers, and users of the Seaport

Amount:

Revenue: (\$14,400) gross and \$0 net

EXECUTIVE SUMMARY: Amendments are being proposed to (a) Tariff No. 2-A, and (b) Chapter 10.03 (Utilities Rates and Charges) and Appendix F (Master Utility Fee Schedule) of the Port of Oakland Administrative Code (POAC) (together, Utility Rate Ordinance), each effective January 1, 2025, to (a) update requirements for operation and maintenance of at-berth vessel emission controls, including but not limited to shore power; (b) move the shore power maintenance charge from the Utility Rate Ordinance to Tariff No. 2-A; and (c) modify the maintenance charge to change the basis of billing and ensure continued cost recovery. Port Staff recommends these amendments to keep Tariff No. 2-A and the Utility Rate Ordinance current with Port operations and aligned with the allocation of Port assets across Port business lines, and to ensure adequate funding for Port activities. The proposed actions would have a de minimis impact on Port revenue. The impact to affected tenants will vary as described herein.

BACKGROUND & ANALYSIS

Background

Port Tariff No. 2-A (Tariff) sets forth rates, charges, and general rules and requirements for Port Maritime (Seaport) facilities. From time to time (typically, annually), Port Staff recommends amending the Tariff to reflect changes in Seaport facilities and operations, and ensure our land, facilities, and services are properly valued.

Chapter 10.03 (Utility Rates and Charges) and Appendix F (Master Utility Fee Schedule) of the POAC (together, Utility Rate Ordinance), set forth the rates, charges, and fees for costs of service to be collected by the Port for the Port’s provision of electric utility services. Similar to the Tariff, Port Staff recommends amending the Utility Rate Ordinance from time to time to ensure that the rates and charges reflect the Port’s costs of providing electric service to its customers and to examine its rate structures to ensure streamlined and simplified rate offerings.

In 2011-2013, the Port built a shore power system so that container vessels at berth could comply with certain California Air Resources Board (CARB) regulations. Shortly thereafter, requirements for the operation and maintenance of the system, as well as a maintenance charge, were incorporated into the Tariff and (later) also into the Utility Rate Ordinance. Since then, Port Staff has performed maintenance of the shore power system it constructed.

To recover the Port's cost of maintenance, the shore power maintenance charge was first established in 2014 in the Tariff and, in 2018, moved into the Utility Rate Ordinance at a rate of \$31 per hour of connection to shore power, which remains the current rate. The charge currently is billed by the Port's Utilities Division based on vessel connection data it maintains and is recorded as Utilities Division revenue. The Tariff defers to the Utility Rate Ordinance for application of the maintenance charge. For context, in FY 2019 through FY 2023 (the study period)¹ the maintenance charge generated average annual revenue to the Port of about \$851,000.

Recent Events & Changed Circumstances

Several changes have occurred at the Port (and Seaport in particular) that have prompted revisions to the Tariff and Utility Rate Ordinance, which are detailed in the section below (Recommended Actions). These changed circumstances are summarized as follows:

- Effective July 1, 2024, the Port formally separated the Utilities Division from other Port revenue divisions, necessitating a review of Port assets to determine which are deemed Utilities Division assets versus (in the context of this Report) Maritime Division assets. As part of this review, the Port determined that the shore power system assets located inside marine terminal areas are Maritime Division assets. Therefore, among other matters, maintenance and funding of the shore power system are Maritime Division responsibilities and should be managed through Maritime agreements, including the Tariff (not the Utility Rate Ordinance).
- On July 25, 2024, to streamline rates and ensure cost recovery, the Board of Port Commissioners approved changes to the Utility Rate Ordinance that include a new shore power electrical rate based on electricity consumption (kilowatt hours), rather than connection hours.
- Since 2013, there have been various changes to Seaport operations and tenancies, as well as Port policies regarding at-berth vessel emission controls and more specifically shore power. For example, (a) the original CARB regulation for at-berth vessel emissions has been revised, (b) some vessels use emission control technologies other than shore power, such as an emissions capture barge, (c) some vessels are plugged into a shore power connection almost continuously (i.e., layberths), (d) vessels using shore power are not exclusively container ships, (e) some shore power substations are outside current tenant leaseholds even

¹ Study period was FY 2019-FY 2023. FY 2024 data was not yet available when this analysis was conducted.

though they are used by the tenant, (f) certain shore power systems built by former tenants have transferred to the Port, (g) some tenants are ad-hoc and may connect to shore power for a very limited time, and (h) some tenants are connected to a low-voltage shore power connections that pre-date the Port's 2011-2013 investments.

Recommended Actions

Staff recommend the following revisions to the Tariff and Utility Rate Ordinance, each to be effective January 1, 2025.

Tariff No. 2-A, Items 02500-02545:

- Revise Items to broadly address at-berth vessel emission controls, which may include but are not limited to shore power, and which may or may not be required by the CARB.
- Establish a maintenance charge that is no longer based on connection hours.
 - The proposed charge is \$4,100 per substation per month or \$140 per substation per day for tenancies shorter than one month.²
 - The charge would be billed by, and recorded as revenue of, the Maritime Division.
- Revise Items of the Tariff to update the applicability of the maintenance charge to tenants, to reflect current and anticipated tenancies.
- Revise Items to set forth requirements and conditions for emission control technologies other than shore power.
- In conjunction with these revisions, Staff noted that a definition of “vessel” did not exist in the Tariff and proposes to add such a definition.
- Refer to Exhibit A for the current Tariff Items.
- Refer to Exhibit B for the proposed Tariff Items.

Utility Rate Ordinance:

- Modify Section 10.03.030(E) (Rates and Charges) of the POAC to delete the reference to the Shore Power Maintenance Charge in the Master Utility Fee Schedule and state that such charge is governed by Tariff No. 2-A.
- Delete Maritime Area Rate Schedule: H – Shore Power Maintenance Charge from Appendix F (Master Utility Fee Schedule).
- Refer to Exhibit C for the specific proposed deletions from the Utility Rate Ordinance.

² Substations defined to mean substations that provide exclusively power for shore power, are maintained by the Port regardless of ownership, and are not a Utilities Division asset. One day is defined as a 24-hr period, or any portion thereof.

Impacts to the Port & Tenants/Customers:

- The impacts to the Port are estimated as follows:
 - In aggregate, the financial impact to the Port is de minimis, compared to current maintenance charge revenue: In FY 2025 (annualized), the Port would collect about 1.7 percent or approximately \$14,400, less revenue annually than it did (on average) in the study period.³
 - The Port would continue to have no cost recovery for its maintenance for shore power infrastructure that is not in use (e.g., most recently, Berth 24) because there is no long-term tenant; however, the Port now would be able to recover some of its maintenance cost from short-term users by applying the proposed daily charge.
 - With the noted exception directly above, the maintenance charge is anticipated to reasonably recover the Port's maintenance costs through FY 2026 based on forecasted expenditures; however, the charge will be adjusted when needed to ensure cost recovery.
- The impacts to tenants would vary:
 - It is very difficult to project the impact of the proposed change to tenants because the basis of billing is changing (i.e., from connection hours to substations) and vessel connection hours vary from year to year. However, for general reference, Port Staff calculated that if future connection hours remain constant to the study period average, then (a) the proposed change to the maintenance charge would result in cost savings to some marine terminal tenants and cost increases to other marine terminal tenants, and (b) the impact would range from a savings of 31 percent to an increase of 11 percent.
 - At least one terminal tenant is anticipated to begin paying the monthly maintenance charge if the lease is extended past its current expiration with no other modifications to key terms.

Other Matters

Changes to the Tariff are typically submitted to the California Association of Port Authorities (CAPA), which reviews changes to port tariffs. Although not required, CAPA approval of changes to the Port Tariff is desirable. Port Staff has submitted the changes to CAPA for its approval at the regular meeting of the Tariffs and Practices Committee on October 22, 2024; Staff can provide an update on CAPA's vote upon presentation of this Report.

³ FY 2024 cost data were not yet available when this analysis was conducted. However, FY 2024 costs were estimated and then escalated through FY 2026 to set the proposed maintenance charge.

OTHER FINDINGS AND PROVISIONS

ENVIRONMENTAL REVIEW

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

- Categorically exempt under the following CEQA Guidelines Section:
Choose an item.
- Not a "Project" under CEQA, as defined in Public Resources Code Section 21065.
- "Common Sense" exemption under CEQA Guidelines Section 15061(b)(3).
- Other/Notes: The proposed action is statutorily exempt under CEQA Guidelines Section 15273, Rates, Tolls, Fares, and Charges.

BUDGET

- Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR
 - Operating
 - Non-Operating
 - Capital

Analysis: In FY 2025, the proposed action is anticipated to generate revenue of about \$836,300 (annualized), which is generally consistent with prior years and will be a positive variance to the adopted FY 2025 operating revenue budget because Port Staff under-budgeted the maintenance charge revenue at \$552,000. However, because the proposed maintenance charge is set to provide cost recovery, the net impact to the Port's finances in any given year (i.e., actual revenue offset by actual expense) is anticipated to be de minimis as described herein. Going forward, the charge will be adjusted as needed to ensure cost recovery.

PORT STAFFING

- No Anticipated Port Staffing Impact.
- Anticipated Change to Budgeted Headcount.
Reason:
- Other Anticipated Port Staffing Impact (e.g., Temp Help).
Reason:

<p><u>MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):</u></p> <p><u>Applies?</u> No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port’s Capital Improvement Program in Aviation or Maritime areas above the threshold cost.</p> <p><input type="checkbox"/> <u>Additional Notes:</u></p>	<p><u>LIVING WAGE</u> (City Charter § 728):</p> <p><u>Applies?</u></p> <p>No (No Covered Agreement) – proposed action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage requirements.</p> <p><input type="checkbox"/> <u>Additional Notes:</u></p>								
<p><u>SUSTAINABLE OPPORTUNITIES:</u></p> <p><u>Applies?</u> No.</p> <p><u>Reason:</u> The proposed action does not involve projects or development activities.</p>	<p><u>GENERAL PLAN</u> (City Charter § 727):</p> <p><u>Conformity Determination:</u></p> <p>No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility, or create a new facility.</p>								
<p><u>STRATEGIC PLAN.</u> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port’s Strategic Business Plan:</p> <table border="0"> <tr> <td><input type="checkbox"/> Grow Net Revenues</td> <td><input checked="" type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input type="checkbox"/> Strengthen Safety and Security</td> <td><input type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input checked="" type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input type="checkbox"/> Grow Net Revenues	<input checked="" type="checkbox"/> Modernize and Maintain Infrastructure	<input type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input type="checkbox"/> Strengthen Safety and Security	<input type="checkbox"/> Serve Our Community	<input checked="" type="checkbox"/> Care for Our Environment	
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