

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

11/30/2023
Item No.: 5.1
RS/msr



**ORDINANCE ADOPTING THE UTILITIES RULES AND REGULATIONS
AS CHAPTER 10.01 OF THE PORT OF OAKLAND ADMINISTRATIVE
CODE (POAC).**

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 5.1, dated November 30, 2023, ("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 proposed action is not subject to the California Environmental Quality Act ("CEQA") as it does not qualify as a project under the Section 21065 of the CEQA Guidelines because it can be seen with certainty that the proposed action will not result in a direct physical change in the environment and therefore is not a "project" under CEQA.

Section 2. The Board hereby:

A. Adopts the Utilities Rules and Regulations as Chapter 10.01 of the Port of Oakland Administrative Code ("POAC"), as set forth in the attachment to this Ordinance.

B. Authorizes the Executive Director or his designee to take all actions necessary to implement this adoption into the POAC, 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 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.

DRAFT

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney

Chapter 10.01 Utility Rules and Regulations

Section 10.01.010 Purpose and General Statement

A. General Statement

This Chapter shall be referred to as the Port Utility Rules and Regulations. Port Utility will furnish Electric Services in accordance with this Chapter and all other applicable resolutions and ordinances of the Board, to Customers within the Port Area. The Port retains the sole authority to enforce this Chapter.

B. Purpose

The purpose of this Chapter is to ensure uniform treatment of and safe provision of Electric Service to all Port Utility Customers.

C. Application of Port Policies and Administrative Policies and Procedures Manual

These Port Utility Rules and Regulations shall be implemented in accordance with applicable Port policies and procedures, including but not limited to the Port of Oakland Administrative Policies and Procedures Manual and its rules governing the establishment of credit, rendering and payment of bills, and financial aspects of temporary service.

D. Sale and Distribution of Energy

Except as specifically allowed in these Port Utility Rules and Regulations, in the Port Utility Rate Schedule, or a valid franchise agreement authorized by the Charter, it shall be unlawful for any person or organization other than Port Utility to conduct, transmit, generate, or produce any electrical energy or power within the Service Territory for distribution or sale within the Service Territory. Except as set forth in Section 10.01.090, a Customer is not permitted to resell electricity that Port Utility supplies. Any transfer of energy across property lines for sale is deemed distribution and is only permitted with the express written permission of Port Utility.

E. Equitable and Nondiscriminatory Service

The Port Utility Rules and Regulations and the Port Utility Rate Schedule are based on rendering Electric Service to all similarly situated Customers at standard rates and under equitable and nondiscriminatory service conditions.

F. Provision of Electricity

Port Utility will exercise reasonable diligence and care to furnish and deliver a continuous and sufficient supply of Electric Service to Customers, but does not guarantee continuity or sufficiency of supply, or the maintenance of unvaried frequency or voltage. Port Utility will not be liable for any damage resulting from the interruption, shortage, or insufficient supply of Electric Services to Customers.

G. Enforcement

Port Utility reserves the right to verify information provided by Customers for purposes of determining compliance with Port Utility Rules and Regulations. Customers who are receiving Electric Service in conflict with the Port Utility Rules and Regulations and who fail to come into compliance shall have their Service Discontinued as more fully set forth in Section 10.01.040.

Section 10.01.020 Definitions

Unless otherwise noted herein, terms appearing with an initial letter capitalized, are defined terms. As used in this Chapter, the following words and phrases shall be construed and defined as follows.

“Applicant” means a Person requesting Port Utility to furnish Electric Service(s) by submitting an Application for Electric Service.

“Application for Electric Service” means a written request for Electric Service.

“APPM” means the Port Administrative Policies and Procedures Manual, as it may be amended from time to time.

“APPM-509” means the APPM policy regarding collections of delinquent accounts, as it may be amended from time to time.

“Bill” means a written statement of money owed for services provided or fees assessed relating to Electric Service.

“Billing Period” means the period of time for which the charges for Electric Service are computed; meters may not be read on the same day each month due to weekends, holidays, scheduling, access, or inclement weather. Port Utility generally reads uses around the twentieth (20th) of each month and generates invoices approximately three (3) weeks later. For Shore Power, the Billing Period is generally from the first to the last day of the month.

“Building Code” means the California Building Standards Code adopted by the City of Oakland as it may be amended.

“Business Day” means any day that is neither a Saturday, Sunday, observed Port holiday, or non-working day by the Port.

“CEC” means the California Energy Commission or its successor in interest.

“Cost of Service Charge” means the one-time fee for recovery of a portion of the cost of future improvements to the system based on the peak load required by a new or expanded service.

“Chief Operating Officer” means the Chief Operating Officer of the Port.

“Customer” means the Person in whose name service is rendered for a particular account as evidenced by the name on the Application for Electric Service. In the absence of a signed instrument, a customer shall be identified by the receipt of bills regularly issued in the name of the Person or the actual user(s) of the service.

“Customer-owned Generation” means electricity generated and owned by the customer that interconnects with or operates in parallel with Port Utility’s facilities.

“Demand” means the power delivered to the Customer at a defined point in time and measured in kilowatts (kW).

“Discontinue” means to stop the delivery of Electric Service to a Customer or physically limit or disconnect the Service Connection in such a way that only Port Utility can make full Restoration.

“Distribution System” means all overhead or underground equipment used to supply electricity to the Utility Connection Point.

“Due Date” means the date when payment of a Bill is due to Port Finance, as reflected on the Bill; the Due Date is normally thirty (30) days from the date of the Bill. If the Due Date falls on a weekend or Port Holiday, Port will accept payment on the next Business Day.

“Electric Service” or “Service” means service, including, but not limited to, the provision of electricity and other related services (e.g., maintaining the system) by Port Utility, for which fees or rates are charged.

“Eligible Customer-Generator” means a small commercial customer as defined in California Public Utilities Code § 331(h) (as it may be amended or superseded), commercial, industrial, or agricultural customer of Port Utility who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the Customer’s Premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer’s own electrical requirements. This is a type of Customer-owned Generation providing Parallel Generation.

“Energy” means the measure of power (kilowatt or kW) over a period of time (hour), referred to as kilowatt-hour or kWh.

“Interconnecting Generation Facilities” means any generation facility that interconnects to the Port’s Distribution System.

“Load Estimate” means the Customer’s projected monthly peak demand (kW) and monthly load forecast (kWh).

“Master Meter Service” means when multiple Tenants or units receive Electric Service on the same Premises through a single metered Service Connection.

“Net Energy Metering” or “NEM” means the Port’s net energy metering program, which permits Customer-Generators who install small (<1 MW) solar, wind, biogas, and fuel cell generation facilities to serve all or a portion of onsite electricity needs to serve their energy needs directly onsite and to receive a financial credit on their electric bills for any surplus energy fed back to the Distribution System. Participation in the NEM does not limit a Customer-Generator's eligibility for any other rebate, incentive, or credit provided by Port Utility.

“Owner” means the legal owner of Premises or person in legal possession of the Premises receiving or requesting Electric Service, or their authorized agent.

“Parallel Generation” means the production and delivery of electric power electrically connected to the Distribution System by generators not owned or controlled by Port Utility.

“Past Due Amount” means the amount of charges for Electric Services for a Billing Period not paid by the Payment Due Date.

“Past Due Date” means the date which is set forth on the Bill as the Past Due Date; customer shall be responsible for any applicable late payment charges, which begin to accrue the day following the Past Due Date. For most Customers, the Past Due Date is thirty (30) days from the date on the Bill.

“Port Employee” means any Port employee.

“Port Utility” or “Port Public Power” means the Port division(s), department(s), and/or subdivision(s) that are responsible for providing Electric Service, doing business as Port Public Power.

“Port Utility Manager” means the Manager of Utilities Administration of the Port.

“Port-Owned Generation” means electricity generated and owned by the Port that interconnects with, and operates in parallel with, Port Utility’s facilities including backup and emergency generation.

“Port Finance” means the Port division or department responsible for the billing and collection of fees and charges for Electric Service.

“Port Utility Equipment” means any property, facility, apparatus, or material associated with providing Electric Service including, but not limited to, ducts, conduits, conductors, transformers, protective devices, wiring, switches, and meters.

“Port Utility’s Operating Convenience” means the utilization of facilities or practices that contribute to the overall efficiency, safety, or reliability of Port Utility Electric Service operations. Port Utility’s Operating Convenience does not refer to Customer convenience or adoption of practices required to comply with applicable ordinances, rules and regulations, or similar requirements of public authorities.

“Port Utility Rate Schedule” shall mean the rates and charges for Electric Service. These are set forth in Port Ordinance Nos. 3439, 3521, 3621, 3651, 3674, 3714, 3727, 3798, 3926, 3944, 3950, 3982, 4028, 4034, 4064, 4143, 4225, 4260, 4339, 4354 and 4468, as they may be amended, superseded, or codified into the Code.

“Power Theft or Tampering” means Energy Theft, Diversion, Tampering, Unauthorized Connection, and/or Unauthorized Use as follows:

“Energy Theft” means the use or receipt of the direct benefit of all or a portion of Electric Service with knowledge of, or reason to believe that a diversion, tampering, or unauthorized connection existed at the time of the use or that the use or receipt was without the authorization or consent of Port Utility.

“Diversion” means to change the intended course of electricity without the authorization or consent of Port Utility.

“Tampering” means to rearrange, injure, alter, interfere with, or otherwise prevent from performing normal or customary function, any Property owned by Port Utility for the purpose of providing utility services without authorization or consent of Port Utility.

“Unauthorized Connection” means to make, or cause to be made, any connection or reconnection with property owned or used by Port Utility to provide utility service without the written authorization or consent of Port Utility.

“Unauthorized Use” means unauthorized use is defined as the use of electricity in noncompliance with Port Utility’s normal billing practices or applicable Law. It includes, but is not limited to meter Tampering, unauthorized connection or reconnection, theft, fraud, and intentional use of electricity whereby Port Utility is denied full compensation for Electric Service provided.

“Premises” means any building, lot, parcel, real estate, land, or portion of land within the Port Area, whether improved or unimproved, occupied or unoccupied, including adjacent streets, sidewalks, pathways, parking strips, all structures, electrical equipment, or portions thereof that are occupied or operated by a Customer (or Customer’s tenants, licensees, or agents) and situated on an integral parcel of land undivided by a public highway, street, or railway to which Electric Service is or could be provided. Customer Premises need not be owned by Customer.

“Prudent Utility Practice” means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with prudent business practices, reliability, safety, and expedition.

“Regular Business Hours” means the normal business hours of Port Utility, which are 9:00 a.m. to 5:00 p.m., Pacific Time, Monday through Friday, excluding Port holidays.

“Renewable Electrical Generation Facility or Distributed Energy Resources” means a Parallel Generation facility consisting only of generation equipment that meets the definition of “renewable electrical generation facility” as defined in California Public Resources Code § 25741, as it may be amended or superseded.

“Resell electricity” means the Customer resale of electricity to a third party with a markup or for profit.

“Restoration” means the reconnection of a Service Connection or other resumption of Electric Service that has been Discontinued.

“Service Connection” means a connection to the Port’s Distribution System for the purpose of acquiring electricity from Port Utility as measured by an electric meter or other charge for Electric Service.

“Service Lateral” means the group of conductors, whether overhead or underground, necessary to connect the billing site’s Utility Connection Point to Port Utility’s Distribution System, regardless of the location of Port Utility’s meters or transformers. An overhead Service Connection, sometimes referred to as a “Service Drop,” is the group of conductors between the Customer’s building or other permanent support and Port Utility’s adjacent pole or Utility Connection Point.

“Service Territory” means the Port Area, as defined in Section 725 of the Charter.

“Service Voltage” means the voltage at the point of metering.

“Shore Power” means Electric Service provided to a ship at berth while its main and auxiliary engines are not operating.

“Standby Charge” means that portion of the charge for standby service which is a fixed amount based on the maximum load Port Utility stands ready to supply in accordance with the Port Utility Rate Schedule.

“Sub-meter” means a meter that is located downstream from another meter.

“Supplemental Application for Electric Service” means a written request for the Electric Services that are specified in Section 10.01.070.

“Temporary Electric Service” means the provision of Electric Service for an enterprise or activity that is temporary in character, where it is known in advance that service will be of limited duration (not to exceed three (3) years) or the permanency of which has not been established.

“Tenant” means any Person with a right to occupy or use real property owned by the Port, including any agent, subtenant, or sublicensee of such Person.

“Total Cost” means the sum of all direct and indirect expenses incurred by Port Utility, including labor, material, overhead and use of Port Utility Equipment, necessary to complete a particular repair or addition to the Distribution System, for which Customer is liable, and the cost of associated resources consumed.

“Utility Connection Point” means the point of delivery of electricity to the Premises as determined by Port Utility.

Section 10.01.030 Application for Electric Service

A. Request for Electric Service

Electric Service will be supplied after submission of an Application for Electric Service and only under and in accordance with these Port Utility Rules and Regulations or any lawfully approved modifications or additions, and under the Port Utility Rate Schedule.

B. Load Estimates

Port Utility may require Customers to submit Load Estimates required for their facilities. The Customer may use service only for the purposes specified at the time of Application for Electric Service or in the service agreement and/or applicable Port Utility Rate Schedule.

C. Compliance with APPM

Applicants for Electric Service shall comply with Port policies, including applicable provisions of the APPM, related to establishment of credit and the rendering and payment of bills.

D. Liability For Joint Service

In any case where two (2) or more Persons join in one Application for Electric Service, each Person shall be jointly and severally liable thereunder, and only one Bill shall be rendered for Electric Service furnished in accordance therewith.

E. Electric Services Where Service Connection Is Not Installed

If Application for Electric Service is made to a Premises where no Service Connection is installed, the Applicant, in addition to making an Application for Electric Service, shall comply with all Law governing the installation of Service Connections, including but not limited to the Building Code and Port permitting requirements.

F. Start-Up of Electric Service

Whenever Service Connections are provided to a Customer, main circuit breakers must be turned off before meters are activated. For safety reasons, responsibility for turning on main circuit breakers lies with such Customer. Whenever a meter is activated, the Customer will be notified in person or in writing. If necessary, a Port Employee can assist in locating main circuit breakers.

G. Change of Name or Ownership Status

If a Customer undergoes a name change or a change in ownership or legal status, as a condition for continuing receipt of Electric Service, Customer shall notify Port Utility within five (5) Business Days of the change.

Section 10.01.040 Denial, Discontinuance, and Restoration of Electric Service

A. Denial of Electric Service

The Port Utility may deny an Application for Electric Service or an Application for Temporary Electric Service if Port Utility determines that: (1) an unsafe or hazardous

condition exists at the Premises in violation of applicable Law; (2) the connection to any new or existing equipment may interfere with the quality of Electric Service to its Customers; or (3) the use or condition of equipment or the Premises is unsafe, in violation of applicable Law, or poses a risk to Port Utility Equipment.

Upon denial of an Application, Port Utility shall inform the Applicant in writing of the reason for the denial, and the right to appeal the denial in accordance with Section 10.01.040 C.

B. Discontinuance of Electric Service

1. Disconnection

Only Port Employees or Port-authorized agents or Persons authorized by Port are allowed to disconnect the Electric Service Connection from Port Utility Systems. A Customer desiring termination of Electric Service shall give Port Utility not less than thirty (30) days' notice and state the date on which the termination is to become effective. Customer shall be responsible for all charges associated with all Electric Service furnished at the Premises until the time the Electric Service has been Discontinued.

2. Grounds for Discontinuance

Port Utility may Discontinue Electric Service for any of the following reasons. Prior notice is only required as specified herein. Nothing herein imposes any inspection obligations on Port Utility:

a. Noncompliance with any of these Port Utility Rules and Regulations if, after notice of at least thirty (30) days, the Customer has not cured all noncompliance.

b. Nonpayment of Undisputed Bill.

(1) For nonpayment of any undisputed Bill, following issuance of written notices from Port Finance as set forth in the APPM-509; and following written notice from Port Utility of the conditions the Customer is required to meet to avoid termination at least fifteen (15) days prior to termination of Electric Service.

(2) Notwithstanding the foregoing, Port Utility will not discontinue Electric Service for nonpayment if Customer is complying with a payment plan or settlement entered under APPM-509, provided the Customer's account remains current for Electric Service as charges accrue in each subsequent Billing Period. If a Customer fails to comply with a payment plan or settlement under APPM-509 arising out of nonpayment of Bill, Port Utility will provide notice of the conditions the Customer is required to meet to avoid termination at least fifteen (15) days prior to terminating Electric Service. Such notice shall not entitle the Customer to further investigation by Port Utility. Any such payment plan or agreement is personal to the Customer and is not transferable to any other Person or entity occupying the same Premises. Upon relocation, all unpaid balances shall become due and payable.

c. An unsafe or hazardous condition exists on the Premises.

d. Customer's failure to pay the undisputed amount of the Bill disputed pursuant to this Section, or if Customer's appeal is denied and the Customer fails to pay the Past Due Amount plus late payment charges, following written notice of the conditions the Customer is required to meet to avoid termination at least fifteen (15) days prior to termination of Electric Service.

f. If a Customer commits Power Theft or Tampering.

g. Expiration of the three-year time limit for Temporary Electric Service.

h. In the case of Master Meter Service to multiple Tenants, the electricity is resold in a manner other than as provided for in this Chapter.

i. Access to the Premises is insufficient to permit meter reading and inspection of Port Utility Equipment; or access to Customer-owned electric generators connected for Parallel Generation with Port Utility distribution system is not immediate and unhindered.

j. When it is necessary for Port Utility to construct, install, maintain, repair, replace, or inspect Port Utility Equipment, and for emergencies, forced outages, and for any reason related to operating conditions, as outlined in the Port Utility Rules and Regulations, Port Utility may temporarily Discontinue Electric Services. As circumstances permit, notice will be given to a Customer affected thereby, and the repairs or improvements will be completed as promptly as possible during Regular Business Hours, and where possible, by avoiding inconvenience to the Customer.

k. The Customer fails to select and install appropriate protective devices or to properly coordinate equipment with Port Utility protective devices in violation of this Chapter.

l. Port Utility determines that connection to any new or existing equipment may interfere with the quality of one or more Electric Service to its Customers.

m. In the sole judgment of Port Utility, the use or condition of equipment or Premises is unsafe, in violation of applicable Law, or poses a risk to Port Utility Equipment.

n. A Customer interconnects or attempts to interconnect an electrical generating facility located on its Premises with Port Utility's grid, without an interconnection agreement in effect or without the express written permission of Port Utility.

C. Appeal of Port Utility Denial or Disconnection of Electric Service

1. Customer Dispute

If the Applicant or Customer questions or disputes the denial or disconnection of Electric Service, the Customer must contact Port Utility as soon as practicable. Port Utility will investigate Customer's inquiry and respond promptly.

2. Undisputed Amounts Due and Payable

Regardless of the status of a dispute, any undisputed portions of a disputed Bill, or subsequent undisputed Bills, are due and payable without delay.

3. Port Utility Resolution of Dispute

After review of a dispute, Port Utility will determine and advise the Applicant or Customer of the resolution in writing; any amounts due will be payable according to applicable provisions of APPM-509. In resolving the dispute and in considering any appeal of the same, Port Utility may consider any and all evidence of power usage and the basis for Customer's nonpayment in determining the amount(s) owed in a disputed Bill. The administrative process described in this Section is an administrative process requested by the Applicant or Customer.

4. Appeal of Port Utility Determination and Appeal Fee

If Applicant or Customer does not agree with Port Utility's determination, Customer may appeal the determination as follows. Failure to file a written appeal within the time specified and failure to pay the requisite administrative appeal fee as set forth in the Port Utility Rate Schedule shall invalidate the administrative appeal. Failure to raise issues in the written appeal shall be deemed a waiver of such issues on appeal and upon any subsequent judicial review.

a. Appeal to Port Utility Manager

Applicant or Customer may appeal the determination to the Port Utility Manager. Such an appeal must be made in writing and received by the Port Utility Manager within ten (10) days after Port Utility has provided Applicant or Customer with its written resolution of the dispute. Applicant or Customer must provide a detailed explanation of the grounds upon which the appeal is based. The appeal shall include the payment of an appeal fee for an Appeal to the Port Utility Manager in such amount set forth in the Port Utility Rate Schedule. The Port Utility Manager shall review the request and notify the Applicant or Customer in writing of the Port Utility Manager's decision within twenty (20) days of receipt of the written appeal.

b. Appeal to Chief Operating Officer or Their Designated Hearing Officer

Within ten (10) days of the notice of the Port Utility Manager's decision referred to in Subsection 10.01.040 C.4.a., an Applicant or Customer shall either appeal the Port Utility Manager's determination to the Chief Operating Officer or comply with the decision of the Port Utility Manager. Such an appeal must be made

in writing and must be received by the Port Utility Manager within ten (10) days of the date on the written decision being appealed. The appeal to the Chief Operating Officer shall consist of: (1) a letter stating that it is an appeal, specifying the date of the Port Utility Manager's decision, and providing a detailed explanation of the grounds on which the appeal is based, and (2) the payment of an appeal fee for an Appeal to the Chief Operating Officer in such amount as may be set from time to time by resolution of the Board. The Chief Operating Officer may hear and resolve the appeal or may designate a Hearing Officer to hear and resolve the appeal.

c. Chief Operating Officer or Designated Hearing Officer Hearing

The appeal to the Chief Operating Officer or their designated Hearing Officer shall be heard as soon as reasonably possible. Upon request of the Customer, Port Utility shall mail a written notice to the Applicant or Customer informing him/her of the time and place that the appeal will be heard. Such notice shall be mailed to the address indicated in the notice of appeal. If an address is not provided in the notice of appeal, notice of the time and place for such hearing shall be sent to the last known address of Applicant or Customer.

(1). At the hearing, an equal opportunity will be afforded to the Applicant or Customer and Port Utility staff to make statements for the record regarding the facts in dispute and the circumstances surrounding the matter being appealed. Applicant/Customer and Port Utility will each be afforded equal time to make statements for the record, subject to adjustment by the Chief Operating Officer or their Designated Hearing Officer. A record of the hearing will be established.

(2). The Chief Operating Officer or their designated Hearing Officer shall render his or her decision within forty-five (45) days after the conclusion of said hearing. In its decision, the Chief Operating Officer or their designated Hearing Officer may reverse, set aside, affirm, amend, or modify the decision of the Port Utility Manager. The decision of the Chief Operating Officer or their designated Hearing Officer shall be final and conclusive and shall not be subject to further appeal and shall be considered final under California Code of Civil Procedure § 1094.6(f). Any petition for judicial review under California Code of Civil Procedure § 1094.5 must be sought within ninety (90) days following the date of service of the final decision.

(3). The Chief Operating Officer or their designated Hearing Officer may consider any and all evidence that a reasonable person would use in making a decision, provided that the hearing will be limited to the specific issues raised by the Customer in the hearing request.

D. Restoration of Electric Service

1. Authorized Restoration

Only Port employees or authorized agents are allowed to restore the Electric Service Connection.

2. Payment of Outstanding Balances

When Electric Service has been Discontinued for noncompliance under this Chapter, Electric Service will be restored only upon payment of all amounts then due and payable, including required deposits, under the Port Utility Rate Schedule.

3. Condition of the Premises

In the event Electric Service is Discontinued for reasons other than for Port Utility required repairs and non-payment of any Bills or deposits, Electric Service will not be restored until such time as the conditions on the Premises have been corrected by the Customer, at Customer's sole cost, and to the satisfaction of Port Utility.

Section 10.01.050 Billing; Payment of Bills

A. Rendering of Bills

1. Billing Periods

Bills will normally be rendered for scheduled Billing Periods of approximately one month, and in accordance with APPM-509.

2. Provision of Bills

Bills may be provided in physical or electronic form. Customers may receive Port Utility bills in electronic form after consenting to such delivery and providing to the Port adequate information to effectuate electronic service. Bills shall include a phone number by which Customers may contact Port Utility to report and resolve billing inquiries and complaints.

3. Basis for Bills

Except for Electric Service supplied under flat rate schedules, bills for Electric Service will be based upon: (a) electronic meter data; (b) meter readings where electronic metering is not available; or (c) an estimate when equipment fails, or an accurate meter reading is not obtained.

4. Lack of Access to Meter

If access to the meter is not provided for any reason (including, but not limited to, locked doors, fences, insufficiently restrained pets or vegetation), a Port Employee will require access to the meter by appointment or other arrangement for the purpose of reading the meter. If this is required more than once during any 12-month period, a charge may be made for each appointment thereafter.

5. Estimated Bills

Where metering equipment fails or an accurate meter reading is not obtained, Port Utility may estimate Demand or Energy, or both, for the period of Electric Service involved and use such estimates in computing a Bill, in accordance with the provisions set forth therein.

6. Billing Adjustments for Meter Error

a. Fast Meters

When, as a result of any test, a meter under normal conditions is found to be registering more than two percent (2%) greater than actual consumption, Port Utility shall make necessary adjustments to the Customer's bill (credit or charge) to correct the overcharge based on the corrected meter readings (zero percent (0%) greater than actual consumption) for the period in which the meter was in use.

b. Slow Meters

Upon testing, if a meter under normal conditions is found to register less than ninety-eight percent (98%) of the actual consumption, Port Utility may render a bill for the undercharge based on the corrected meter readings one hundred percent (100%) of actual consumption, for the period in which the meter was in use.

c. Non-registering Meters

Port Utility may bill the Customer for energy consumed while the meter was not registering. At Port Utility's option, the bill will be computed on an estimate of consumption based on the Customer's use during the same season of the preceding year or based on an alternate method of estimation determined by Port Utility, which includes, but is not limited to, the Port's experience with Customer's usage on the same Port Utility Rate Schedule; and the general characteristics of Customer's operations.

7. Combined Bills

Meter readings of two (2) or more meters will not be combined for billing purposes unless the convenience of Port Utility is served thereby or with a totalized metering arrangement.

8. Receipt of Bills

The non-return of Bills which are properly prepared and delivered pursuant to these Port Utility Rules and Regulations will be regarded as proof of delivery and receipt of Bills.

B. Payment of Bills

1. Payment Due Date

Unless otherwise provided herein, Customers are responsible for payment of Bills on the Payment Due Date.

2. Payments Location

Payment shall be made at a Port office, or by customer-initiated electronic means.

3. Determination of Delinquent Account

Accounts with unpaid balances(s) thirty (30) days from the date of issuance will be regarded as delinquent.

C. Late Payments; Nonpayment of Bills

1. Late Payments

Payments are considered late if not received by Port Utility by 5:00 p.m., Pacific Time, on the Payment Due Date.

2. Delinquent Accounts

Port may apply a late payment charge to delinquent accounts.

3. Notice of Delinquent Account

Port Utility may notify Customer(s) after the Bill has become delinquent that the Electric Service will be disconnected if payment is not made. If the Past Due Amount plus all applicable fees remains unpaid beyond the Past Due Date on the notice provided to Customer, then Port Utility shall send the Customer notice that Electric Service will be Discontinued in fifteen (15) days prior to Discontinuing Electric Service.

4. Payment of Past Due Amounts

To prevent Electric Service Discontinuation, or to restore Electric Service following receipt of a notice of Electric Service Discontinuation, Customer must pay the Past Due Amount plus all applicable fees and any current charges due shown on the shut-off notice bill by cash, credit card, wire, or money order.

5. Payment of Past Due Amounts and Fees

The Customer's account shall not be considered current unless and until all current charges and the entire Past Due Amount plus all applicable fees are paid. The Port reserves the right to apply any payments to the oldest delinquent Bill.

6. Changes to Late Payment Charge

Any changes to late payment charges and Past Due Amounts are subject to APPM-509.

7. Payment of Closing Bills

Closing Bills are due and payable on presentation.

8. Transfer of Outstanding Balance

Port Utility may elect, but is not obligated, to transfer the outstanding account balance of any Customer with an unpaid Closing Bill to any existing or future Electric Service account of that Customer. In no event shall a Customer transfer their outstanding balance to any other Person.

9. Transfer of Outstanding Balance

If a Customer is receiving Electric Service from Port Utility at more than one electric service location, unpaid Closing Bills from one location may be transferred to other electric service accounts of the Customer.

10. Disconnection for Unpaid Accounts

Electric service may be refused or disconnected pursuant to this Chapter until the Past Due Amount for Electric Service to a Customer at all locations have been paid or have otherwise been discharged.

11. Reconnection Charges

In the event a Customer is disconnected for nonpayment, any reconnection charge shall be reflected on the next monthly Bill following restoration of Electric Service.

D. Other Charges

Payments received that are subsequently dishonored, will be assessed the returned payment charge in addition to the amount originally paid. If Port Utility exercises its rights under California Civil Code § 1719 (as it may be amended or superseded) or any other statute or law authorizing the imposition of damages in addition to the amount owing, Port Utility shall be entitled to such additional damages in lieu of the dishonored payment charge.

Section 10.01.060 Notices

A. Notices to Customer

Any notice that Port Utility may give to a Customer shall be given in writing, either delivered in person or transmitted by United States Mail addressed to the Customer's last known address.

If a Customer consents to take delivery of notices and invoices via electronic mail, however, Port Utility may deliver notices via electronic mail to the email address provided by the Customer to Port Utility.

B. Notices to Port Utility

Customers shall provide written notice to Port Utility, at the address below for any of the following: disconnection of Electric Service; request for increase in connected load; a relocation of Electric Service; an increase in Electric Service; installation of an electric vehicle charger; installation of a backup generator; or installation of a distributed energy resource.

Port Utility
Attention: Manager of Utilities Administration
530 Water Street
Oakland, CA 94607

C. Notices regarding Change in Load Estimate

Customers must provide twelve (12) months prior written notice to Port Utility of any proposed or anticipated operational changes that will result in a change (increase or decrease) in Load Estimate of ten percent (10%) or more. Failure to provide such notice may result in Electric Service being limited or Discontinued.

Section 10.01.070 Supplemental Application for Electric Service

In addition to the Application for Electric Service, a proposed customer must submit a Supplemental Application for Electric Service on a form acceptable to Port Utility prior to obtaining Electric Service in the following situations:

- A. For electric extensions for Temporary Electric Service or speculative projects. An Electric Service Contract for Temporary Electric Service shall not exceed three (3) years.
- B. For street lighting service.
- C. For Electric Service for construction purposes.
- D. For Electric Service which in the judgment of Port Utility requires special operating conditions or is required for Port Utility's Operating Convenience.
- E. For non-Port Utility-owned Parallel Generation or Distributed Energy Resources.
- F. To provide digital signals that carry instantaneous energy use information (energy data pulses), produced by Port Utility installed pulse generating equipment.
- G. To provide NEM for photovoltaic interconnection, fuel cell, wind, or other types of generation.
- H. For Electric Service to a substation facility that is furnished and maintained by Customer.
- I. For Electric Service that Port Utility, in its sole discretion, finds is unusually large in comparison to Port Utility's other Customers or is subject to variations that impose an unacceptable economic risk.

Section 10.01.080 Electric Rates, Optional Rates, and Rate Schedules

A. Electric Rates

The rates to be charged by and paid to the Port for Electric Service shall be the rates legally in effect and on file with the Port, where they shall be available for public inspection. Charges for Electric Service will be computed according to the Port Utility Rate Schedule and applicable to the class of Service supplied to each Customer. Unless otherwise stated on the Port Utility Rate Schedule, the Port Utility Rate Schedule are only applicable for Electric Services furnished entirely by Port Utility without interconnection with any other source of supply.

B. Notice to Customers Regarding New or Optional Rates for Electric Service

1. New or Modified Rates for Electric Service

Whenever the Port Utility Rate Schedule is amended to provide for new rates or modify rates for Electric Service, Port Utility will take such measures as may be practicable to inform all Customers who may be affected that such new rates are in effect.

3. Multiple Rate Schedules

In the case where the Port Utility Rate Schedule is amended to allow a Customer to qualify for more than one rate or schedule, the Customer may request assistance in selecting the most appropriate rate or schedule, resulting in the lowest charges for the Customer. Port Utility shall have the authority to make the selection based on the information provided by the Customer and available to Port Utility.

C. Reassessment of Rate Schedule Qualification

A Customer may request a reassessment of their qualification for a particular rate schedule. A change to a different applicable rate schedule, as approved by Port Utility, shall become effective after the next regular meter reading following the date of such approval. The effective date may be delayed if a charge in Electric Service hardware, electric meter or other associated equipment is required. Port Utility is not required to make a change in rate schedules.

Section 10.01.090 Meters; Location, Reads, Tests, and Billing Adjustments

A. Meter Location

1. Physical Access

Unless otherwise authorized by Port Utility, all electric meters shall be located on the Premises outside of Customer's building or in a utility room in Customer's building directly accessible from the outside of the building by an unalarmed door. Customer shall ensure that Port Utility has all keys or codes necessary for access to the electric meters at all times.

2. Electronic Communication

All metered Electric Services require a path for meter communication with Port Utility communication networks. Installation of meters that fail to reliably and consistently communicate with Port Utility communication networks will require additional equipment, which equipment must be approved by Port Utility and provided at Customer's sole expense.

B. Request by a Customer for a Meter to be Re-Read

A Customer may request Port Utility to re-read the electric meter and make adjustments, if necessary, to render an accurate billing in accordance with these Port Utility Rules and Regulations. Port Utility shall respond to requests for meter re-reads once every six (6) months at no charge; a fee shall be charged for each additional request within the same six (6) month period, unless the reread indicates that a read error has resulted in an incorrect billing to the Customer.

C. Meter Test Initiated by Port Utility

Each electric meter will be tested as determined by Port Utility. If the meter in question falls outside the tolerance guidelines of more than two percent (2%) fast or slow under conditions of normal operations, subsequent charge or credit adjustments will be limited by the parameters set forth in the APPM.

D. Meter Test Initiated by a Customer Request

1. Making a Request

A request for a meter test must be submitted to Port Utility, and the meter shall be tested in accordance with this Chapter.

2. Free Meter Test

Each Customer is entitled to one free meter test per calendar year. A fee will be charged for every meter test thereafter within the same one-year period. If the meter is found, upon testing, to register more than two percent (2%) fast or slow under conditions of normal operations, no fee will be charged regardless of how many times the meter is tested in one year.

E. Master Meter Service

1. On-site Secondary Service Distribution

When multiple Tenants are served at the same Premises through a single metered Electric Service Connection, Port Utility, at its option, may require Customer to install and maintain on-site secondary service distribution to final service voltage, as well as multi-meter panels for individual unit metering using Port Utility-owned meters, at designed intervals throughout the Premises. Port Utility will meter for losses and recover associated metering costs and the cost of any power losses.

2. Communication Infrastructure

Port Utility may require Customers to install, own, and maintain, at no cost to Port Utility, communication infrastructure and equipment at their Premises for Port Utility to utilize for advanced metering capabilities.

3. Port Right to Discontinue

If electricity is separately metered and billed to Persons by Customer in a matter not compliant with this Chapter, Port Utility may Discontinue Electric Service to Owner, or furnish Electric Service directly to the individual Tenants or units through separate Port Utility meters installed at Customer's sole expense.

4. Obligation for Payment

In the absence of an on-site secondary service distribution, the responsibility for payment of all Electric Services furnished through a single metered connection, shall be the obligation of the Customer. It shall further be the responsibility of Customer to inform individual tenants or units of the method of metering Electric Services. Port Utility will have no contractual relationship with Customer's tenants, licensees, or agents receiving Electric Service through a single metered connection, nor is any contractual relationship created by payment made directly to Port Utility on behalf of Customer by Customer's tenants, licensees, or agents.

5. Compliance and Inspection

As a condition of Electric Service for Master Meter Service, Customer agrees to comply with all applicable Port Utility Rules and Regulations. As a further condition of Electric Service for Master Meter Service, Customer agrees that Port Utility may inspect and examine Customer's billing procedures from time to time to determine that such Electric Service is made in accordance with this Chapter.

1. Sub-metering

Any sales of power to the end-user that exceed the Port Utility Rate Schedule are prohibited. This applies to all Customers, including those providing Electric Vehicle charging. Sub-metering for billing purposes (direct pass-through of charges) are only allowed under the following specific circumstances and with prior written approval from Port Utility.

2. Marinas and Berths

Sub-metering will, in most circumstances, be approved for use by marinas and berths only. Sub-metering by marinas and berths for this purpose will be approved at the sole discretion of Port Utility and with the written consent of Port Utility Manager.

3. Impractical to Individually Meter

Sub-metering for billing purposes will, in most circumstances, be approved for use where, in the sole opinion of Port Utility, it is impractical to individually meter each

Customer premises or space. Sub-metering for billing purposes will be approved at the sole discretion of Port Utility and with the written consent of Port Utility Manager.

4. Pre-existing Sub-Metered Customers

Customers who sub-metered electricity to Customer's tenants as of July 1, 2021, and continuously thereafter for billing purposes, will be allowed to continue to sub-meter and bill using their existing methodology only until such time as permitted by Port Utility, subject to the sole discretion and written consent of Port Utility. Any sales of power to the end-user that exceed the Port Utility Rate Schedule are prohibited.

Section 10.01.100 Port Utility Distribution System on Customer Premises

A. New Developments

All new developments shall be in accordance with applicable Law. All applicable rates and charges are applied to new developments.

B. Expansion of Existing Developments

1. Permitting

For any changes to an existing development that require changes to existing Electric Service, the Customer shall provide, without cost to Port Utility and in accordance with applicable Law, any required facilities associated with the changes to the existing development, prior to initiating any changes to Electric Service. Additionally, if applicable, the Customers shall pay to Port Utility a Cost of Service Charge as listed in the current Port Utility Rate Schedule.

2. Demonstration of Compliance

Port Utility may require demonstration of compliance with all applicable Law as a condition of restoring Electric Service whenever there has been a modification or potential damage to a Customer's electric equipment or wiring on Premises or an Electric Service has been Discontinued for more than thirty (30) days. For 12kV Electric Service, third-party testing and verification may be required, at Customer's expense, to verify proper operation and protection functions prior to Port Utility re-energizing Electric Service.

C. Relocation of Existing Port Utility Equipment

Any relocation of existing Port Utility Equipment necessitated by changes to an existing development shall be paid for by the requesting Person and subject to prior written approval by Port Utility.

D. Easements

Customers who are provided Electric Service on property that is not owned by the Port shall provide Port Utility with electric easements, at no cost to Port Utility, for all Port Utility Equipment

except overhead Service Drops. Port Utility will determine the location of any necessary easements and prepare document(s) for the Customer's signature, unless such easements are dedicated to Port Utility on a tract or parcel map. Each electric easement must be signed by the property owner and processed to be recorded with the County of Alameda prior to the Electric Service energization. Port Utility's right of access to the electric easement shall be consistent with this Chapter.

Section 10.01.110 Access, Interference, Power Theft Or Tampering

A. Port Utility Right of Access

1. Access to Customer's Premises

The Customer shall grant all necessary permission to enable Port Utility to install, maintain, and if necessary, make appropriate modifications to the Electric Service on Customer's Premises. Port Utility will have the right through its agents or Port Employees to enter the Customer's Premises at all reasonable times for the purpose of installing, reading, inspecting, repairing, or removing Port Utility Equipment, facilities, and wiring, and to verify rate applicability of the Customer's Electric Service. In the event the Customer is not the owner of the Premises occupied, the Customer shall obtain such permission from the owner as Port Utility may require. If the Electric Service on the Customer's Premises are not accessible upon the third attempt, Customer may incur an access charge, which may include afterhours fees, if applicable.

2. Delayed or Hindered Access

When access to the Customer's Premises is not immediate and unhindered, Port Utility may take any enforcement actions and use any civil or criminal remedies available to Port Utility under applicable Law. If the Electric Service on the Customer's premises are not accessible upon the third attempt, Customer may incur an access charge, which may include afterhours fees if applicable. Furthermore, Port Utility may require Customers to provide, at its sole cost, a new approved location for access to Port Utility Equipment.

B. Interference

Any person preventing or interfering with any Port Employee in the lawful discharge of his or her duties is subject to arrest, prosecution, and punishment in accordance with California Penal Code § 71, as it may be amended or superseded.

C. Power Theft or Tampering

Power Theft or Tampering by a Customer shall constitute grounds for the Discontinuation of Electric Service by Port Utility until arrangements satisfactory to Port Utility are made to reimburse Port Utility for the full value of Electric Service unlawfully obtained.

Section 10.01.120 Shortage of Supply and Interruption of Delivery

All customers receiving electrical service from Port Utility do so with the express understanding that:

A. Shortage of Supply

If a shortage of electric supply occurs, Port Utility will make an apportionment of the available supply of energy among Customers as ordered or directed by the Board in the manner deemed most efficient and equitable; in the absence of such direction, the Chief Operating Officer will apportion the available supply of energy among Customers in a reasonable manner deemed most efficient and equitable.

B. Interruption of Supply

Electric service is inherently subject to interruption, suspension, curtailment, and fluctuation. Neither Port Utility, nor its agents or employees, shall be liable for any interruption of service or any insufficiency of supply of electrical energy, or any loss or damage of any kind or character caused thereby, or due to any condition existing within any wiring or equipment owned by or under the control of any Customer. By accepting Electric Service from Port Utility, the Customer agrees that Port Utility will have no liability to its Customers or any other Persons for any interruption, suspension, curtailment, insufficient supply or fluctuation in Electric Service or for any loss or damage caused thereby, including but not limited to, if such interruption, suspension, curtailment, or fluctuation results from any of the situations listed below:

1. Causes Beyond Port Utility's Control

Causes beyond Port Utility's reasonable control including, but not limited to, fire, flood, drought, winds, earthquakes, acts of the elements, court orders, insurrections or riots, generation, transmission or distribution failure(s), lack of sufficient generating capacity, breakdowns of or damage to Port Utility or third-party facilities, acts of God or public enemies, strikes or other labor disputes, civil, military or governmental authority, electrical disturbances originating on or transmitted through electrical systems with which Port Utility's system is interconnected and acts or omissions of third parties.

2. System Repair or Improvements

Repair, maintenance, extension, improvement, renewal, or replacement work on Port Utility's electrical system, which in its sole judgment is necessary or prudent. Port Utility will attempt to minimize inconvenience to the Customer and give the Customer notice of such work when practicable. When requested by the Customer, and where circumstances permit some flexibility in scheduling of necessary repairs or improvements, Port Utility may at its sole option perform the work outside of Port Utility Regular Business Hours for the increased convenience of the Customer, providing Customer agrees in writing, prior to the performance of the work, to pay for the additional costs incurred as a result of performing the work outside of Regular Business Hours.

3. Protection of the System

Actions taken by Port Utility, which in its sole judgment are necessary or prudent to protect the performance, integrity, reliability, or stability of its electrical system or any electrical system with which it is interconnected, which actions may occur automatically or manually.

4. Emergency Energy Conservation Measures

Actions taken to conserve energy at times of anticipated deficiency of resources. Actions taken may include planned outages or reductions in voltage supplied to specific geographic areas.

Section 10.01.130 Description of Port Utility's Standard Electric Service

A. General Requirements

1. Service Frequency

Alternating current of approximately sixty (60) Hertz (cycles per second) frequency is furnished by Port Utility in conformance with American National Standard for Electric Power Systems and Equipment – Voltage Ratings (sixty (60) Hertz), also known as ANSI C84.1. Such frequency may vary from time to time due to any unscheduled loss of generation, or disturbance within the Western Interconnection that causes a change in frequency, or other condition beyond the control of Port Utility.

2. Utility Connection Point

Port Utility will determine the location of the Utility Connection Point, service voltage, and whether Electric Service will be provided via overhead or underground conductor. The Customer shall run its Service Lateral to this point. Port Utility will make the necessary Electric Service connections at the Utility Connection Point.

3. Service Lateral

The Customer shall provide, install, and maintain its Service Lateral in accordance with all applicable Law. The Customer's service conduits and conductors shall be continuous, without any splices, from the Utility Connection Point to Port Utility metering equipment.

4. Service Connection

Single Customer substation service shall comply with any Port Utility design requirements and specifications, including but not limited to those specified in the approved Application for Electric Service.

5. Electric Equipment Furnished by Customer

a. All service switches, fuses, meter sockets, meter and instrument transformer housings, and similar devices, regardless of voltage, required in connection with Electric Service and meter installation on Customer Premises will be furnished, installed, and maintained by Customer, and subject to Port Utility approval.

b. If it is necessary for Customer to have access to equipment previously sealed by Port Utility, Customer shall contact Port Utility for the removal and replacement of the seal.

c. If Electric Service is provided to Customer's equipment attached to any Port Utility structure, Customer must have an approved agreement with Port Utility. Port Utility may Discontinue Electric Service to Customer if Customer's equipment is not in compliance with the applicable agreement at all times.

d. If Electric Service is provided to Customer from a single substation facility maintained and/or operated by Customer, Customer shall submit a Supplemental Electric Service Application and enter into an agreement with Port Utility that describes the substation equipment that will be furnished and maintained by Customer to Port Utility specifications.

e. Customer shall be responsible for maintaining all Customer furnished equipment in good working order and consistent with Prudent Utility Practice, and Port Utility shall have the ability to inspect the equipment and verify its working condition.

6. Equipment Furnished by Port Utility

a. Port Utility will furnish and install necessary instruments, transformers, meter test facilities, meters, and writing hardware required to complete the metering system.

b. If Customer opts to maintain Port Utility Equipment, and Port Utility approves, Customer shall maintain Port Utility Equipment in good working order and consistent with Prudent Utility Practice, and Port Utility shall have the ability to inspect equipment and verify its working condition.

7. Ownership of Equipment

a. All electrical equipment installed by Port on Customer's Premises for purposes of, but not limited to, delivery and metering of Electric Service shall continue to be the property of Port, unless otherwise specified in the terms of an agreement with the Port; no rent or other charge shall be made for placing or maintaining Port Equipment on Customer's Premises unless otherwise specified in the terms of an agreement with the Port.

b. All facilities within a Port portion of a substation, whether installed by Port or Customer, shall become the property of Port upon energization of the substation facility, unless otherwise specified in the terms of an agreement with Port that

describes the substation equipment that will be furnished and maintained by Customer to Port specifications.

8. Unusual Power Requirements

If the Customer's power requirements are, in Port Utility's discretion found to be unusually large in comparison to other Customers, or subject to variations such that a large and unacceptable economic risk may be imposed on Port Utility, Customer may be required to submit a Supplemental Electric Service Application and may be required to enter into a usage contract for a period which, in Port Utility's judgment, is commensurate with the nature of the power requirements involved. Port Utility may require Customer to enter into a usage contract in the event that Customer fails to provide the required Notices regarding Change in Load Estimate required pursuant to Section 10.01.060 C.

9. Load Balancing

Customer's system should be designed and operated to maintain a reasonably balanced load between phases to maintain balanced voltage. When single phase or three-phase service is furnished by Port Utility, Customer must maintain a balanced load as practicable between any two (2) legs or phases. In no case shall the imbalance between any two (2) legs or phases for single load or three-phase load be greater than thirty percent (30%). Port Utility reserves the right to require the Customer to correct the imbalance in their load that causes an increase of more than five (5) percent in the voltage unbalance of the supply system.

10. Overhead Service Requirements

All applicable facilities shall meet applicable Law, including Port Utility overhead service requirements.

11. Underground Service Requirements

All applicable facilities shall meet applicable Law, including Port Utility underground service requirements.

12. Underground Service Riser

Customer shall run a Service Lateral to a quadrant on a pole designated by Port Utility. Customer shall terminate the Service Lateral conduit eight (8) feet above ground level and provide sufficient cable to reach the secondary cable and coil wire at an eight (8) foot level. The Port will run cables up the pole, install molding, and make connections to the secondary cable. Customer shall be required to comply with all applicable Law, including any Port Utility requirements for underground service risers.

B. Customer Service Voltages

1. Voltage Limits

Under normal Distribution System conditions, Port Utility distribution circuits will be operated to the extent practicable to maintain secondary service voltage levels at the meter within service voltage ranges of +/- five percent (5%) of the Standard Service voltages shown in Table 10.01.130 B.2.

2. Exceptions to Voltage Limit

Voltage may be outside the limits specified when variations arise from:

- a. Disturbances from acts of nature;
- b. Infrequent momentary fluctuations;
- c. Service interruptions;
- d. Material or equipment failure; or
- e. Starting of motors that have higher than normal locked rotor currents of three (3) times' running current.

Table 10.01.130.B.2 - Service Voltages

SERVICE TYPE	OVERHEAD	MAX MAIN SIZE	UNDERGROUND	MAX MAIN SIZE
COMMERCIAL/INDUSTRIAL	120/208V 1 Φ 3W	400 Amp	120/208V 1 Φ 3W	400 Amp
	120/240V 1 Φ 3W	400 Amp	120/240V 1 Φ 3W	400 Amp
	120/208V 3 Φ 4W	1200 Amp	120/208V 3 Φ 4W	3000 Amp
	120/240V 3 Φ	1200 Amp		
	480V 3 Φ 4W	600 Amp	480/277V 3 Φ 4W	4000 Amp
	12,000V 3 Φ 3W	*	12,000V 3 Φ 3W	*
	6,600V 3 Φ 3W			
	4,160V 3 Φ 3W			

*By Agreement

Note: Service voltages listed are not available at all locations.

V=Volts, 1 Φ = Single Phase, 3 Φ = Three Phase, W = Wire.

3. Allowable Motor Starting Currents

The starting current of an AC motor (these currents to be determined by test or based on published data by manufacturer) must not exceed the allowable locked rotor current values for AC motors show in National Electric Code Table 430-7(b), with a correction allowed in order to compensate for the difference between the voltage supplied at the motor terminations and the motor's rated voltage.

4. Conditions Beyond Control

Conditions beyond the control of Port Utility or Customer, or both, may result in periods when sustained voltages outside of the service voltage ranges will occur. Utilization equipment may not operate satisfactorily under these conditions, and Port Utility or Customer protective devices may operate to protect equipment. Customer is responsible for the protection of Customer-owned equipment.

5. Voltage Regulation

When operation of Customer's equipment requires unusually stable voltage regulation or other stringent voltage control beyond that furnished by Port Utility in the normal operation of its Distribution System, the Customer, at no expense to Port, shall be responsible for installing, owning, operating, and maintaining any special or auxiliary equipment on the load side of the utility meter.

6. Customer Responsibility

The Customer shall be responsible for designing and operating the service facilities between the Utility Connection Point and the utilization equipment to maintain proper utilization voltage at the line terminals of the utilization equipment.

C. Power Factor Correction

Maintaining a higher power factor benefits both Customer and Port Utility. Port Utility may include a charge for power factor correction in the Port Utility Rate Schedule if the power factor of a Customer's load is found to be less than the value determined by Port Utility needed to correct the power factor in order to lower system losses and stabilize system voltage. The Customer may provide, at its own expense and subject to approval, power factor corrective equipment to increase power factor as measured by Port Utility to avoid any additional charges contained in the applicable Port Utility Rate Schedule.

Section 10.01.140 Responsibility for Equipment and Protective Devices

A. Responsibility for Equipment

1. Customer Standard of Care for Equipment

Customer shall, at Customer's risk and sole expense, furnish, install, and keep in good and safe operating condition, equipment and suitable housings that may be required for receiving, controlling, applying, and utilizing electricity, regardless of the location of the transformers, meters, or other Port Utility equipment. Port Utility shall not be responsible or liable for any loss or damage caused by the improper installation of such electrical equipment, or the negligence, want or proper care, or wrongful act of Customer or any of Customer's tenants, agents, employees, contractors, licensees, or permittee in installing, maintaining, using, operating, Tampering, or interfering with such equipment. Port Utility shall not be responsible or liable for damage to Customer's property or equipment, either when the electricity is turned on originally or when turned on after a temporary shutdown, during normal operating conditions, times of local or Distribution System trouble, or after Restoration. Port Utility shall not be responsible for, liable for damage to, or the failure of, any component of Customer's equipment due to a defect in Customer's equipment or failure to maintain adequate protection as described in these Port Utility Rules and Regulations.

2. Customer Responsibility for Equipment

Customer shall exercise care to prevent Port Utility Equipment located on the Customer Premises from being Tampered or interfered with, damaged, or destroyed. Customer shall be liable for damage to Port Utility Equipment arising from Customer's negligence, want of proper care, or wrongful act of the Customer or Customer's tenants, agents, employees, or contractors. If any defect, damage, or Tampering is discovered by Customer, Customer shall promptly notify Port Utility. Customer shall be solely responsible for and shall fully indemnify, protect, and hold harmless Port Utility from and against any and all claims, suits, liability, and expense for any loss of, or damage, injury or death to, any person or property or violation of any Law, which directly or indirectly arises out of Customer's (or Customer's tenants, agents, employees, or contractors) use of Port Utility Equipment or activities related thereto in all circumstances unless such loss, damage, injury or death is caused solely by negligence or wrongful conduct of Port Utility.

3. Customer Liability for Equipment

In the event that Port Utility Equipment located on Customer's Premises is damaged, Port Utility will replace damaged equipment and Customer shall pay for the Total Cost of such replacement regardless of the circumstances of cause of the damage.

B. Protective Devices

1. Customer Responsibility to Install Protective Devices

Customer shall be responsible to furnish, install, inspect, and keep in good and safe operating condition at Customer's own risk and expense, all appropriate protective devices of any kind or character that may be required to properly protect Customer's facilities and equipment from any event caused by Port Utility or from any event caused by another Customer. These may include, but are not limited to, switching surges, voltage spikes,

phase loss, phase reversal, random voltage and/or frequency fluctuations. Port Utility shall not be responsible or liable for any loss or damage occasioned or caused by the action, omission, or negligence of Customer, or its agents or licensees in omitting, installing, maintaining, using, operating, or interfering with any such protective devices.

2. Appropriate Protective Devices

Customer shall be solely responsible to select and install protective devices as may be necessary to coordinate properly with Port Utility's protective devices to avoid exposing other Customers to unnecessary Electric Service interruptions. Failure to provide and maintain appropriate devices or to properly coordinate equipment with Port Utility's protective devices may result in Discontinuance of Electric Service.

C. Generation Equipment

Parallel or stand-by generation equipment shall be provided with controls and protective devices in accordance with all applicable Law and requirements for Interconnecting Generation Facilities.

Section 10.01.150 Interconnecting Generation Facilities; Parallel and Emergency Generation

A. Parallel Generation

Except as provided in this Section, any Customer-owned Generation (including from Eligible Customer-Generators) used for temporary power shall not be connected to Port Utility's Distribution System without the express written consent of Port Utility. Port Utility may, in its sole discretion, withhold such express written consent in consideration of impact to its operations.

1. General Requirements for Non-Port Utility-Owned Electric Generators

a. Subject to minimum requirements provided herein, non-Port Utility-owned electric generators may be connected with Port Utility's Distribution System.

b. Customers owning or operating Parallel Generation will be solely responsible for compliance with these Port Utility Rules and Regulations, as well as all applicable Law before any non-Port-owned generation source may be operated and shall demonstrate compliance to Port Utility.

c. A contract with Port Utility shall be required for all Parallel Generation and charged/priced according to the applicable Standby Charge.

d. Customer shall submit to Port Utility, for review and written acceptance, equipment specifications and detailed plans for the proposed installation of all interconnection facilities to be furnished by Customer. Port Utility review and written acceptance of Customer's proposed equipment specifications and detailed plans does not constitute confirmation or endorsement of Customer's design, or the equipment's safety, durability, or reliability. Port Utility shall not be responsible

for strength, details of design adequacy, or capacity of the equipment, nor is Port Utility's acceptance of the specifications and detailed plans an endorsement of any equipment.

e. No generation source will be operated in parallel with Port Utility's Distribution System until the interconnection facilities have been inspected and approved by Port Utility, and Customer received written confirmation of approval. Where rated output is greater than one hundred (100) kW, Customer shall be solely responsible for the cost of inspection.

f. Only Port Utility is authorized to connect or Discontinue the Service Connection.

g. Consistent with Section 10.01.110, Port Utility shall have immediate and unhindered access, without notice, to and from Port Utility's Equipment on Customer's Premises, including access to any Parallel Generation Facilities.

h. When access to Port Utility Equipment at Customer's Parallel Generation is not immediate and unhindered, Port Utility may Discontinue the interconnect facilities without liability or notice, from Port Utility's Distribution System, and when Customer is an electric Customer of Port Utility, may also Disconnect Electric Service.

i. Only generating facilities that qualify as Renewable Electrical Generation Facilities as defined in these Port Utility Rules and Regulations will be connected for Parallel Generation with Port Utility's Distribution System. Except for installations of solar photovoltaic systems, which are considered inherently renewable, Customer shall be required to provide evidence that the generation facility has been certified as an eligible renewable generating facility by the CEC prior to interconnection and upon request by Port Utility. All precertification and certification must be completed consistent with the CEC approved processes. Customer shall provide an annual attestation demonstrating continued compliance with the CEC's renewable certification status or documentation from a CEC approved reporting entity.

j. Except as otherwise provided in writing, Port Utility will supply, own, and maintain all necessary meters and associated equipment utilities for billing and monitoring Customer's generation load, including telemetering equipment. Customer shall supply, at no cost to Port Utility, panels, meter sockets, or any other connection equipment on which meters will be mounted as required by Port Utility at a location approved by Port Utility. Customer may be required to pay for any equipment that is in addition to the required equipment for retail power Customer.

k. Port Utility may install special meters to prevent reverse registration so that power deliveries to and from Customer's equipment can be separately recorded.

2. Interconnection of Non-Port Utility-Owned Electric Generators

- a. Customer shall be fully and solely responsible to furnish, install, operate, and maintain in good working order and repair, without cost to Port Utility, equipment, including any control, protective and safety device as may be required by Port Utility for Parallel Generation with Port Utility's Distribution System.
 - b. Customer may be required to reimburse Port Utility for installation of any equipment required as a result of the installation of a non-Port Utility-owned generator in parallel with Port Utility's Distribution System. Customer shall be required to provide rights of way, easements, or actual dedications or real property for location of Port Utility interconnection facilities if deemed by Port Utility to be necessary.
3. Additions to Port Utility Facilities for Non-Port Utility-Owned Electric Generators
 - a. All additions, reinforcements, increases of capacity, and extensions of Port Utility Equipment needed to make connection to non-Port Utility-owned generators will be constructed at Customer's sole expense and must be approved by Port Utility. Any continuing ownership costs are the sole responsibility of Customer.
 - b. Customer shall be solely responsible for the costs of performing a preliminary or detailed engineering study that Port Utility, in its sole discretion, deems necessary to identify any Customer-related Distribution System additions and reinforcements, and shall pay in advance for all studies.
4. Operation of Non-Port Utility-Owned Electric Generators
 - a. Customer shall notify Port Utility prior to energizing and start-up testing of any parallel generator, and Port Utility shall have the right to have a representative present at any test.
 - b. Customer generation shall be subject to this Chapter at all times it is operating in parallel with Port Utility's Distribution System.
 - c. Customer shall maintain operating communications with Port Utility and shall coordinate in advance all Distribution System paralleling, separation, shutdowns, and equipment clearances.
 - d. Port Utility may Discontinue the Parallel Generation Customer to construct, install, maintain, repair, replace, or inspect Port Utility facilities, and for emergencies, forced outages, and for any reason deemed necessary by Port Utility in its sole discretion due to operating conditions on the Distribution System.
 - e. Port Utility shall not be responsible for lost generation from Non-Port Utility-Owned Electric Generators.
 - f. Customer shall at all times keep and maintain a detailed generator operations log, which shall include, but not be limited to, information on unit availability, maintenance outages, circuit breaker trip operations, and unusual

events. Port Utility shall have the right to review Customer's operation logs at mutually agreed upon intervals.

g. Customer shall furnish reactive power as may be reasonably required by Port Utility.

5. Interference with Quality of Electric Service and Communications

a. Port Utility may refuse to connect or remain connected to any new or existing equipment that may interfere with the quality of Port Utility operation or Electric Service to its Customers.

b. Customer shall not operate equipment that imposes upon Port Utility Distribution System, a voltage or current, which causes interference with Port Utility operations, Electric Service to Port Utility Customers, or interference to communication facilities. If Customer causes Electric Service interference to others, Customer shall take corrective action at Customer's sole expense, upon notice of interference; if interference cannot be tolerated by the affected Customer, Port Utility may Discontinue service to Customer for as long as necessary for Customer to complete the corrective actions. If Customer does not take corrective actions or continues to operate equipment causing the interference without restriction or limit, Port Utility may, at Customer's sole expense and without liability, disconnect Customer's equipment from Port Utility's Distribution System until a suitable permanent solution provided by Customer and acceptable to Port Utility is operational.

6. Customer Responsibility for Non-Port Utility-Owned Electric Generators

Customer shall be solely responsible for the transmission and delivery of all Electric Service over and through Customer's wires and equipment, and Port Utility shall not be responsible for any loss or damages associated with such transmission and delivery. Customer shall also be responsible for the installation and maintenance of all equipment not installed by Port Utility, including conduits, maintenance holes, and vaults.

B. Emergency or Standby Generation

1. General

This Emergency or Standby Generation Section applies to all Customer-owned or leased, permanent, or portable, conventional or unconventional (solar, fuel cell, and other) emergency or standby Generator installations (serving as a secondary source of power only when primary energy supply is disrupted or discontinued during power outages or natural disasters that are beyond the control of the owner or operator of a facility) that are capable of being connected in emergency situation to Customer's electric system which is normally furnished from Port Utility's Distribution System. This Section does not apply to any generator installations that are specifically permitted by a written agreement or service contract to operate in parallel with Port Utility's Distribution System.

2. Notification

Customer shall notify Port Utility of the location or intended location of Emergency or Standby Generation on Customer's Premises and furnish Port Utility with all generator information as required by Port Utility's Portable or Permanent Electric Generator Report Form. Customer shall not install or activate any customer-owned Emergency or Standby Generation without first receiving written approval from Port Utility. Customer shall notify Port Utility prior to energizing and start-up testing of any Emergency or Standby generator, and Port Utility shall have the right to have a representative present at any test.

3. Requirement for all Emergency and Standby Generator Installations

Customer, at its sole expense and in a fail-safe manner, shall cause to be controlled any non-Port Utility-owned Emergency or Standby Generation equipment that can be operated to supply power to facilities that are normally supplied from Port Utility's Distribution System, with Port Utility-approved protective and isolation devices to prevent parallel operation with Port Utility's Distribution System.

4. Requirements for Portable Emergency or Standby Generation

- a. Any portable Emergency or Standby Generator intended to be temporarily connected to Customer's electric system shall be connected only after opening Customer's main switch so that Customer's electric system is isolated from Port Utility's Distribution System.
- b. The portable electric generator must be disconnected to isolate it from Customer's electric system before Customer's main switch can be closed to re-establish normal service from Port Utility's Distribution System.

5. Requirements for Permanent Emergency or Standby Generation

- a. Prior to installation of any permanent Emergency or Standby Generation, Customer shall submit complete documentation regarding the generator installation to Port Utility for written approval. Information must include, at a minimum, description of the generator, controls, interlocks, single line diagrams, description of transfer operation, and Port Utility required protective devices.
- b. Customer shall not operate the emergency generator prior to the installation approval granted by Port.

6. Customer Responsible for Non-Port Utility Owned Emergency or Standby Generators

Customer shall be solely responsible for the transmission and delivery of all Electric Service over and through Customer's wires and equipment, and Port Utility shall not be responsible for any loss or damages associated with such transmission and delivery. Customer shall also be responsible for the installation and maintenance of all equipment not installed by Port Utility.

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