

#6
9.7.23

RECOMMENDATION APPROVED;
RESOLUTION 23-10235 ADOPTED AND
ORDER 23-7352 APPROVED
BY THE BOARD OF HARBOR COMMISSIONERS

September 7, 2023
AM Klesges
Amber M. Klesges
Board Secretary



DATE: AUGUST 29, 2023

FROM: CARGO MARKETING

SUBJECT: RESOLUTION NO. 23-10235- APPROVE PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN "FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE"

SUMMARY:

Staff requests approval of a Permanent Order approving an amendment to Port of Los Angeles (Port) Tariff No. 4 (Tariff), Section Seven "Free Time, Wharf Demurrage, and Wharf Storage", Items 720 and 780. Item 720 would be modified to include Saturdays and/or Sundays as part of the allowable free time on inbound containerized merchandise, provided the marine terminal (terminal) operator's truck gates are announced or published as being open for container delivery on those days. Additionally, to deter Port terminal property from being used as a cargo storage facility, Item 780 would be modified to add a third demurrage tier for merchandise remaining on terminal for more than 10 days after the expiration of free time. The proposed amendment would become effective on October 1, 2023.

A separate action recommends a Temporary Order to make changes to the Tariff within the Board of Harbor Commissioners' (Board) authority to adopt rates for up to 90 days, with any rates to be effective beyond the 90 days requiring this Permanent Order to be approved by City Council ordinance.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(31) of the Los Angeles City CEQA Guidelines;
2. Approve the amendment to Port of Los Angeles Tariff No. 4, modifying rates and regulations in Section Seven "Free Time, Wharf Demurrage, and Wharf Storage", Items 720 and 780, subject to the California Association of Port Authorities' review and approval, and authorize the Executive Director to work with the California Association of Port Authorities to secure this approval or proceed to take independent action in

SUBJECT: PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN “FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE”

accordance with the California Association of Port Authorities’ procedure;

3. Adopt Permanent Order No. 23-7352 with an effective date of October 1, 2023, to amend Port of Los Angeles Tariff No. 4, to modify rates and regulations in Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, Items 720 and 780;
4. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the Amendments to Port of Los Angeles Tariff No. 4 pursuant to City Charter 653(a);
5. Direct the Board Secretary to transmit to the City Clerk a Notice of Public Hearing for publication in accordance with the provisions of California Government Code sections 66018 and 6062a;
6. After the effective date of the Ordinance, transmit the Permanent Order and Ordinance to the Executive Director or his nominee for implementation and posting to the Port of Los Angeles website; and
7. Adopt Resolution No. 23-10235.

DISCUSSION:

Background and Context – Port Tariff No. 4, Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, includes provisions relating to the duration merchandise can remain on-terminal without being assessed wharf demurrage upon discharge from a vessel or prior to loading to a vessel. Section Seven also lists fees to be charged after the expiration of such free time when cargo is not picked up by the receiver or is delivered to a terminal too early before a vessel’s commencement of loading operations and departure. Extended dwell times on inbound merchandise became evident as a result of the COVID-19 pandemic and its impact on container volumes. In an effort to deter prolonged dwell times, an excess dwell fee was put in place on inbound merchandise that would be charged to the container shipping lines for containers remaining on-terminal over 9 days. While no fee was ever charged, the threat of this fee changed the behavior of supply chain stakeholders and resulted in cargo moving off terminal faster, thus making space available for export cargo and new import cargoes.

Proposed Tariff Amendment - Staff recommends amending Port Tariff, Section Seven “Free Time, Wharf Demurrage, and Wharf Storage” (Transmittal 1), Item 720, to include Saturdays, Sundays or both as part of the allowable free time on inbound containerized merchandise, provided the terminal operator’s truck gates are announced or published as being open for container delivery on those days. The inclusion of Saturdays and/or Sundays as part of the wharf free time will encourage the import community to utilize weekend days to process cargo. It is anticipated that enhanced utilization of weekend hours will increase cargo velocity, increase available terminal space and potentially increase container equipment and truck chassis utilization.

DATE: AUGUST 29, 2023

PAGE 3 OF 5

SUBJECT: PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN "FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE"

Additionally, Item 780 would be modified to add a third demurrage tier for merchandise remaining on-terminal for more than 10 days after the expiration of free time in an effort to deter Port terminal property from being used as a cargo storage facility. Currently, there are only two demurrage tiers: one for the first five days after expiration of free time, and a second for each day after the fifth day. The daily charge for the third demurrage tier would be double that of the prior tier, for cargo remaining on-terminal for 6-10 days after the expiration of free time (see tables below).

Rates on Merchandise, Not Otherwise Specified (NOS), not carried in cargo containers or trailers, and rates on containerized Merchandise, NOS, billed at either the weight per kiloton (KT) or by measurement per cubic meter, whichever creates the greatest revenue, would see an increase in demurrage charges, as stated below:

Commodity	Charge Per Day for First 5 Days	Charge Per Day for Days 6 – 10	Charge Per Day for Days 11+
Merchandise, NOS, not carried in cargo containers or trailers. Note: If measurement of the cargo is required but not available, the measurement shall be constructed on the basis of one (1) cubic meter for each 125 kilograms of cargo.	\$0.81	\$1.64	\$3.28
Merchandise, NOS, carried in cargo containers or trailers. Note: If measurement of the cargo is required but not available, the charge per day will be based on the overall length of the container or trailer as follows:	\$0.81	\$1.64	\$3.28

Overall Length in Meters Over	Overall Length in Meters but Not Over	Charge Per Day for First 5 Days	Charge Per Day for Days 6-10	Charge Per Day for Days 11+
0	7	\$24.83	\$49.60	\$99.20
7	9	\$30.34	\$60.69	\$121.38
9	13	\$49.66	\$99.32	\$198.64
13	Over	\$64.84	\$129.66	\$259.32

DATE: AUGUST 29, 2023

PAGE 4 OF 5

SUBJECT: PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN "FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE"

Rates on vehicles would see the addition of a third demurrage tier as follows:

Commodity	Charge Per Day for First 5 Days	Charge Per Day for Days 6 – 10	Charge Per Day for Days 11+
Vehicles, motor, self-propelling, set up on own wheels, viz.:			
Automobiles, passenger, seating capacity not exceeding 10 passengers per vehicle, including pick-up trucks or pick-up truck chassis.			
Shipped outbound by water carrier in domestic trade or shipped by manufacturers for distribution to automobile dealers, per vehicle.	\$2.42	\$4.82	\$9.64
Privately owned vehicles or used cars shipped inbound to the Port of Los Angeles, per vehicle.	\$8.07	\$16.14	\$32.28
Commercial or freight vehicles, including chassis, freight trailers or freight semi-trailers, per KT.	\$2.42	\$4.82	\$9.64
Agricultural, earth-moving equipment, or road-making equipment, NOS, per KT.	\$2.42	\$4.82	\$9.64

Need for Amendment – Reducing the on-terminal dwell time for containerized and non-containerized merchandise will provide more space on Port terminals to accept empty containers, export merchandise, and improve fluidity for the wide range of supply chain stakeholders that utilize the Port.

Need for Approval – Los Angeles City Charter Section 653(a) requires the Board to approve any amendment by Order and City Council approval of the Order by Ordinance.

A separate action recommends Board adoption of a Temporary Order within its Los Angeles City Charter Section 653(b) authority to approve changes to Tariff No. 4 (Transmittal 1), to be effective for a period not to exceed 90 days. The Temporary Order, if approved, will be effective October 1, 2023, and expire 90 days after the effective date or upon execution of the Permanent Order (Transmittal 2) and Ordinance (Transmittal 3) by the City Council, whichever occurs first. This action for Board and City Council adoption of a Permanent Order (Transmittal 2) and Ordinance (Transmittal 3) are required under the Charter Section 653(a) to make changes to the Tariff (Transmittal 1) effective beyond the Temporary Order's 90-day effective period.

ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a Permanent Order to amend the Port Tariff, which is an activity that modifies any rate, fee, or charge for the use of existing municipal facilities and services involving negligible or no expansion of use. Therefore, the Director of Environmental Management has determined that the proposed action is categorically

DATE: AUGUST 29, 2023

PAGE 5 OF 5

SUBJECT: PERMANENT ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN "FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE"

exempt from the requirements of CEQA in accordance with Article III Class 1(31) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed Permanent Order is expected to result in reduced dwell times and improved fluidity for the wide range of supply chain stakeholders that utilize the Port. Only minimal increases to demurrage revenues are expected as this amendment is operational in nature rather than financially driven.

Estimated Fiscal Year 2023 demurrage revenues were \$100,319, of which \$100,000 were derived from one container terminal permit which would not be affected by approval of this Order.

CITY ATTORNEY:

The Office of the City Attorney has approved as to form and legality the proposed Permanent Order and Ordinance.

TRANSMITTALS:

1. Proposed POLA Tariff No. 4 Revision
2. Permanent Order
3. Ordinance



ERIC CARIS
Director of Cargo Marketing

FIS Approval: MB(initials)
CA Approval: SO(initials)

Michael DiBernardo

MICHAEL DIBERNARDO
Deputy Executive Director

APPROVED:

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EUGENE D. SEROKA
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