



Legislation Text

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SUBJECT:

PRESENTATION AND DIRECTION TO STAFF ON ARTICLE 12 OF THE SAN DIEGO UNIFIED PORT DISTRICT CODE - REQUIRED REPORTING OF UTILITY USAGE ON TIDELANDS, INCLUDING: AN UPDATE ON 2017 CALENDAR YEAR UTILITY DATA REPORTING PURSUANT TO ARTICLE 12 AND POLICY DISCUSSION CONSIDERING OPTIONS TO INCREASE THE EFFICIENCY AND RELIABILITY OF ENERGY USAGE DATA FOR CLIMATE ACTION PLAN MANAGEMENT

EXECUTIVE SUMMARY:

The presentation provides the Board of Port Commissioners (Board) with an update on the implementation of the San Diego Unified Port District Code Article 12, Required Reporting of Utility Use on Tidelands (Port Code Article 12), as well as follow up to the October 2017 presentation on options to increase efficiency and reliability of energy usage data reporting for Climate Action Plan (CAP) management.

In parallel to the District's implementation of Port Code Article 12, the State of California has rolled out the implementation process for Assembly Bill (AB) 802, Energy Efficiency benchmarking requirements. As implementation has been underway for both Port Code Article 12 and AB 802, new challenges have surfaced regarding the automated syncing process for utility account holders. For this reason, the Executive Director issued an extension of 2017 calendar year reporting until technical issues with SDG&E are resolved and staff could gain additional direction from the Board. Compliance rates for Calendar Year 2017 were affected by these technical issues. As of June 2018, 57% of the port-wide electricity was being reported and only 14% of port-wide natural gas usage was being reported. Since 2016 implementation of Port Code Article 12 has cost approximately \$800,000.

Given the technical difficulties, resource intensity, and progress with the implementation of state requirements, staff is currently considering potential options to increase the efficiency and reliability of obtaining energy data for CAP management and energy planning. Staff's presentation includes a preferred option to return to the Board with an amended "Agreement to Jointly Deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company" (Local Government Partnership) enabling sharing of data relevant to the CAP and energy management needs of the District.

This option, combined with disclosed usage available through AB 802 will result in more data transparency and will fulfill the Port's Goals for CAP monitoring and energy management and monitoring reductions.

RECOMMENDATION:

Receive presentation and provide direction to staff on “Article 12 of the San Diego Unified Port District Code - Requiring Reporting on Utility Usage on Tidelands” and options to increase the efficiency and reliability of energy usage data for Climate Action Plan Management, including a preferred option, and continued implementation of Port Code Article 12.

FISCAL IMPACT:

The item is a presentation and a request for Board direction. The respective costs for the CAP and implementation Port Code Article 12 are included in the approved FY 2018/2019 Planning & Green Port - Energy budget.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A Port that the public understands and trusts.
- A thriving and modern maritime seaport.
- A Port with a healthy and sustainable bay and its environment.
- A Port with a comprehensive vision for Port land and water uses integrated to regional plans.
- A Port with an innovative and motivated workforce.

DISCUSSION:

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DISCUSSION:

Background

As an overview, Port Code Article 12 is a requirement that all Utility Account Holders¹ on District tidelands report utility usage through the U.S. Environmental Protection Agency’s ENERGY STAR Portfolio Manager (Portfolio Manager) and share that information with the District’s selected third party Data Aggregator - Edison Energy (Document No. 65277, filed on July 18, 2016).

Throughout the continued evaluation and implementation of Port Code Article 12, it is important to note the goals driving the ordinance:

- **To obtain accurate and timely utility usage data to measure progress towards our CAP**

GHG goals. Analysis on aggregated usage by sector, geography, utility type, and trends over time can help inform policy measures and focus areas for implementation under the CAP.

- **To encourage reductions in utility usage through utility monitoring and benchmarking among Utility Account Holders.²**

Climate Action Plan - 2016 Inventory Update

In December 2013, the District adopted a Climate Action Plan (CAP), which establishes goals to reduce GHG emissions 10 percent (%) by 2020 and 25% by 2035, relative to a 2006 baseline. District staff recently completed a District-wide analysis of GHG emissions based on calendar year 2016. The results of the 2016 inventory indicate that the District is on track to meeting the 2020 goal, as shown in Table 1 below. **Currently, District-wide emissions are tracking 13% below the 2006 baseline.** Between 2016 and 2020, economic growth is expected to occur. As such, continued implementation of the CAP is critical to ensure the near-term goal is met.

Table 1. Comparison of the 2006 CAP Baseline and 2016 GHG Emissions

GHG Emissions Sources	GHG Emissions (MT CO ₂ e/year)		
	Original 2006 Baseline	Recalibrated 2006 Baseline	2016 Emissions
Electricity	173,192	117,526	101,381
Natural Gas	135,516	162,556	137,183
On-Road Transportation	314,870	137,664	121,728
Off-Road Transportation	172,929	131,597	113,175
Water	13,166	13,169	9,741
Waste	16,757	19,239	21,346
Totals	826,429	581,750	504,554
Recalibrated 2020 GHG Target	523,575		
Aligned with the 2020 Goal (10% below 2006)			

It is important to note that between 2006 and 2016, operating revenue at the District increased by 29%-from \$124.5M in 2006 to \$160.3M in 2016. As stated, over the ten year period, GHG emissions decreased 13% indicating that the District's GHG footprint is improving with economic growth.

Assembly Bill 802 - Implementation and Technical Difficulties

In parallel to the District's implementation of Port Code Article 12, the State of California has rolled out the implementation process for Assembly Bill (AB) 802, Energy Efficiency benchmarking requirements. At the onset of adopting Port Code Article 12 in December 2015, the rulemaking process for AB 802 was not known. As implementation has been underway for both Port Code Article 12 and AB 802, new information is now available that impacts the current approach for obtaining utility data.

Assembly Bill 802 requires owners and operators of all commercial, multifamily and mixed-use properties 50,000 square feet or greater (and for multifamily and mixed-used properties both 50,000 square feet or greater and with 17 or more residential utility accounts) to benchmark and publicly disclose building energy usage to the California Energy Commission (CEC) annually starting June 1, 2018 for non-residential buildings and June 1, 2019 for buildings with one or more residential utility

accounts. Additionally, AB 802 includes provisions for building owners and operators to obtain whole-building energy usage information directly from utilities, providing certain aggregation thresholds are met. The data access provisions ensure building owners can access the data they need from sub-tenants within their facilities to properly benchmark the total energy consumption of the building.

In order to fulfill the utility's responsibility to provide whole-building energy usage information to building owners, operators and managers, San Diego Gas and Electric (SDG&E) has been converting a longstanding Automated Benchmarking Service (ABS) platform into a Benchmarking Data Request Portal. Meaning that any utility account holder, the District included, that was previously syncing utility usage data into Portfolio Manager using ABS were suddenly not compliant with the Port Code Article 12 due to technical issues during the conversion process.

Provided that SDG&E is only required to fulfill the state reporting requirements, and not local reporting requirements, District staff and consultants Edison Energy and the Center for Sustainable Energy (CSE) have been working to understand the expanse of the issue and help resolve utility reporting gaps that were observed for calendar year 2017 reporting. A couple of issues still remained as of May 2018, including the inability for SDG&E's Benchmarking Data Request Portal to support multiple service addresses, which causes issues for those attempting to sync their meters in the new SDG&E system. An example of this would be a large hotel that may have meters located on two different ends of the property serving the same building, resulting in two different addresses with SDG&E. Once support for multiple service addresses is available later this summer, SDG&E customers will have to provide all service addresses to SDG&E and select all valid meters to obtain data as part of the verification process in the Portal.

Additionally, as SDG&E has rolled out this new portal, there have been observations of meters being added to Portfolio Manager accounts that do not belong to that SDG&E customer or conversely, properties that are missing meters due to how SDG&E is handling mapping service addresses in their system to property addresses in Portfolio Manager.

Comparison of Port Code Article 12 and Assembly Bill 802

As presented to the Board in October 2017, Port Code Article 12 requires that all utility usage to be reported, including non-building / meter level energy usage (non-aggregated), such as shore power. Termed Utility Account Holders within the Port Code Article 12, the requirements focused compliance on those responsible for paying utility bills within District tidelands to report usage. AB 802 on the other hand includes provisions for building owners and operators to obtain whole-building energy usage information directly from utilities, providing certain aggregation thresholds are met. AB 802 requirements, as applicable to the District, require commercial buildings 50,000 square feet or more to benchmark and disclose building-level (aggregated) energy usage to the CEC, starting June 1, 2018.

An early assessment, pending some additional guidance from the CEC, indicates that approximately 24-30 tenants and three District facilities are required to report under AB 802. For example: San Diego Convention Center, hotels, and large commercial tenants. The data access provisions of AB 802 that require utilities to provide whole-building energy usage information directly to the building owner, operator or manager, in support of the associated building benchmarking requirements under AB 802 were not known at the time of adopting Port Code Article 12. For this reason, the requirements that were established for Port Code Article 12 are different than those of AB 802.

Overlaps with the Port Code Article 12 and AB 802 will cause large commercial tenants to have to double efforts and benchmark buildings in two different formats. Attachment B includes a summary comparison of these issues and the technical impacts associated with two varying requirements.

Update on Calendar Year 2017 Reporting

For the reasons mentioned above, compliance rates for Calendar Year 2017 were affected by technical issues observed due to benchmarking platform changes conducted by SDG&E where utility account holders were utilizing a syncing process offered by the utility. Edison Energy and CSE focused their efforts between February and June 2018 to increase compliance amongst the utility account holders that were affected by changes in the benchmarking platform. Although some improvements have been made, with an increase in electricity reported from 23% when the issues were first observed, to now 57% electricity reported, there are still large disparities between reported natural gas in 2016 at 97% to now 14% reported through Portfolio Manager. There has also been a decline from 122 utility account holders reporting to now 89 utility account holders in reporting 2017. Issues observed attributable to the roll-out of the AB 802 Benchmarking Data Request Portal, include data gaps and/or overlaps from the shift from billing period data reporting under the previous Automated Benchmarking System and calendar-month data reporting under the new Benchmarking Data Request Portal. Additionally, some utility account holders and the District are unable to sync all of the meters to the new Portal as it still does not have support for multiple utility service addresses. Staff and consultants have been working to explain these issues to tenants, including multiple pathways to resolve the data conflicts. Additionally, for those utility account holders required to comply with AB 802, Staff and consultants have helped tenants navigate the differences between reporting to the District and to the state per AB 802.

Implementing Port Code Article 12 - Resource Needs

As the District has adopted Port Code Article 12, staff has been tracking the resources needed to manage the implementation requirements. To-date, Port Code Article 12 has resulted in approximately 1 full time District staff person, half a staff person at the San Diego Port Tenants Association, and approximately \$470,000 in consultant expenses to implement the requirements, equating to approximately \$800,000 between February 2016 to June 2018. Attachment C includes a summary of the key milestones and actions since implementing Port Code Article 12.

Potential Amendment Options

Provided the technical difficulties, resource intensity presented above, and progress with the implementation of state requirements, staff is currently considering potential options to increase the efficiency and reliability of obtaining energy data for CAP management and energy planning. Staff is seeking Board direction prior to pursuing one of the below options:

Option 1 - Preferred Option: Staff has coordinated diligently with SDG&E to identify more efficient opportunities to obtain data associated with energy consumption within the District's jurisdiction and this is staff's preferred option. This option directs staff to conduct the following:

- Return to the Board with an amended "Agreement to Jointly Deliver the Energy Efficiency Partnership Program between the San Diego Unified Port District and San Diego Gas & Electric Company" (Local Government Partnership) by including provisions for the non-disclosure and retention safeguards of tenant data. An Amendment to the Local Government Partnership Agreement would allow staff to obtain data directly from SDG&E, improving data

reliability, and would save the District money and time through reporting efficiency. Provided that the data from SDG&E serves a *primary purpose* of the District's CAP reporting and energy management needs, obtaining regular energy data from the utility has been determined by SDG&E to fulfill expressed needs in the District's Local Government Partnership Agreement.

- Staff would be required to return to the Board with a report that represents total energy consumption on District tidelands aggregated to the maximum extent allowed by the California Public Utilities Commission. Depending on the data received and reported, this Option may substantiate the repeal of Port Code Article 12 and instead establish a BPC Policy that requires annual reporting and analysis of District-wide utility usage.
- This option removes the reporting requirement for total water consumption by utility account holders. Currently, GHG emissions associated with water use account for roughly 2% of District-wide GHG emissions. District staff proposes additional engagement with the three water districts servicing tenants and District operations within the District's jurisdiction to identify better approaches for obtaining water data. District staff will review best available methodologies and guidance to obtain water data for the CAP to evaluate the District's approach for future District GHG inventories. This approach on water consumption would also apply to Option 2 below.
- Staff proposes providing continued education and training on energy and water benchmarking utilizing Portfolio Manager, including continued assistance to tenants that are required to report under AB 802.
- Staff estimates that this option would cost approximately \$20,000 annually to cover costs associated with coordinating with SDG&E to review provided data, prepare an aggregated report that ensures consistency with the CPUC aggregation requirements, and ensure quality assurance reviews of the data provided by SDG&E. In addition, the staff resources needed would be reduced significantly to approximately a quarter of a staff person's time per year.

Option 1 helps fulfill the goals of the District for Climate Action Plan's monitoring, energy management, and emissions reduction through:

- Increased Data Quality;
- Complete Datasets;
- Continued evaluation and regular collection of energy data for aggregated reporting;
- Provides the District with the ability to leverage individual tenant data to develop strategically focused programs (e.g. Green Business Network, CAP implementation, etc.); and
- Provides the District with data on energy efficiency achievements, energy efficiency program participation through SDG&E's programs, and areas of opportunity for future energy efficiency.

Option 2: This option directs staff to amend Port Code Article 12 to require reporting from all industrial and hotel utility account holders, which account for approximately 87% of total energy usage on District tidelands. An aggregated report annually would then be prepared in order to meet aggregation thresholds of three or more utility account holders. Alignments with AB 802 with regards to building-level (vs. meter-level) reporting are recommended in order to ensure that District tenants have consistent reporting requirements. Staff estimates that implementing Option 2 would be approximately \$150,000 annually, as this option affects approximately half of the utility account holders currently reporting under Port Code Article 12 which has an annual reporting cost of approximately \$270,000 annually (combining staff, SDPTA and consultant expenses).

Option 3: This option directs staff to make no changes to Port Code Article 12. This is not a preferred option, as there are differing reporting requirements by the State and the District.

Attachment B provides an overview and additional details for each option.

Conclusion - Preferred Option

As the preferred option, Option 1, combined with disclosed usage available through AB 802 will result in more data transparency and will fulfill the achievement of the Port's goals for:

- Climate Action Plan monitoring by increasing the data quality and completeness of data obtained on total energy usage by providing an efficient method for the District to evaluate progress toward CAP goals.
- Energy management and emission reductions by leveraging individual tenant data to develop programs that are strategically focused.

In addition, data obtained by SDG&E can also include energy efficiency achievements and areas of opportunity by including a review of utility customers that have taken advantage of energy efficiency programs.

General Counsel's Comments:

The Office of the General Counsel has reviewed and approved this agenda as to form and legality.

Environmental Review:

This presentation and Board direction to staff on Article 12 of the San Diego Unified Port District Code - required reporting of utility usage on tidelands including an update on 2017 calendar year utility data reporting, and policy discussion considering options to increase the efficiency and reliability of energy usage data for Climate Action Plan management does not constitute an "approval" or a "project" under the definitions set forth in California Environmental Quality Act (CEQA) Guidelines Sections 15352 and 15378 because no direct or indirect changes to the physical environment would occur. CEQA requires that the District adequately assess the environmental impacts of projects and reasonably foreseeable activities that may result from projects prior to the approval of the same. Any project developed as a result of Board's action or direction that requires the District or the Board's discretionary approval resulting in a physical change to the environment will be analyzed in accordance with CEQA prior to such approval. CEQA review may result in the District, in its sole and absolute discretion, requiring implementation of mitigation measures, adopting an alternative, including without limitation, a "no project alternative" or adopting a Statement of Overriding Consideration, if required. The current Board direction in no way limits the exercise of this discretion. Therefore, no further CEQA review is required.

In addition, this Board item complies with Section 87 of the Port Act, which allows for the establishment, improvement, and conduct of a harbor, and for the construction, reconstruction, repair, maintenance, and operations of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient, for the promotion and accommodation of commerce and navigation. The Port Act was enacted by the California Legislature and is consistent with the Public Trust Doctrine. Consequently, the proposed project is

consistent with the Public Trust Doctrine.

The presentation and prospective Board action does not allow for “development,” as defined in Section 30106 of the California Coastal Act, or “new development,” pursuant to Section 1.a. of the District’s Coastal Development Permit (CDP) Regulations because they will not result in, without limitation, a physical change, change in use or increase the intensity of uses. Therefore, issuance of a Coastal Development Permit or exclusion is not required. However, development within the District requires processing under the District’s CDP Regulations. Future development, as defined in Section 30106 of the Coastal Act, will remain subject to its own independent review pursuant to the District’s certified CDP Regulations, PMP, and Chapters 3 and 8 of the Coastal Act. The prospective Board’s action in no way limits the exercise of the District’s discretion under the District’s CDP Regulations. Therefore, issuance of a CDP or exclusion is not required at this time.

Equal Opportunity Program:

Not applicable.

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Attachment(s):

Attachment A: Port Code Article 12, Required Reporting of Utility Use on Tidelands

Attachment B: Port Code Article 12, Required Reporting of Utility Usage - Updates on 2017
Calendar Year Reporting and Recommendations
(Prepared by the Center for Sustainable Energy)

Attachment C: Implementing Port Code Article 12 - Summary of the Key Milestones and Actions

¹ "Utility Account Holder" means an entity or person, as defined by California Public Resources Code Section 25116 or any successor legislation, who has an account with any provider of Utilities that is separately metered.

² According to a 2012 EPA analysis, average savings from energy benchmarking is 2.4% per year and 7% over 3 years
https://www.energystar.gov/sites/default/files/buildings/tools/DataTrends_Savings_20121002.pdf