

2022-23 Tariff Compliance Statement

Appendix S

Compliance with Pricing Order – Cross-Reference Table

31 May 2022

Port of Melbourne



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REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Introduction

This document provides a summary that cross-references the requirements of the Pricing Order and the relevant provisions of the undertaking agreed with the Victorian Government on 20 May 2022 (UT) against the most relevant sections of our 2022-23 Tariff Compliance Statement (TCS), which comprises the General Statement (GS) and Appendices A to S as follows:

Appendix A - 2022-23 Reference Tariff Schedule

Appendix B - Regulatory Model

Appendix C - Regulatory Model User Guide

Appendix D - Regulatory Model revisions (confidential)

Appendix E - 2022 Consultation Paper

Appendix F - 2022 Industry Consultation Presentation

Appendix G - Summary of consideration of stakeholder comments

Appendix H - GHD 2022 Industry Consultation Post Engagement Review

Appendix I - HoustonKemp, Estimation of the weighted average cost of capital for the Port of Melbourne

Appendix J - HoustonKemp, WACC data (confidential)

Appendix K - BISOE Trade Outlook

Appendix L - BISOE Demand models (confidential)

Appendix M - PoM Demand models (confidential)

Appendix N - KPMG 2020-21 Audited Revenue

Appendix O - Contracts for prescribed services (confidential)

Appendix P - Capitalisation of costs (confidential)

Appendix Q - Opex analysis models (confidential)

Appendix R - Regulatory Cost Allocation Guideline (confidential)

Appendix S - Compliance with Pricing Order - Cross-Reference Table

This summary is a guide only and is intended to assist readers to navigate these materials

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
1	COMMENCEMENT AND APPLICATION	Not applicable (N/A)
2.	PRICING PRINCIPLES: GENERAL	
2.1	Prescribed Service Tariffs Pricing Principles	
2.1.1	(a) Prescribed Service Tariffs must be set so PoM has a reasonable opportunity to recover the efficient costs of providing Prescribed Services determined by the building block methodology in clause 4	TCS GS – sections 8 and 10 and Appendix A, B, C, D and Q
	(b) Prescribed Service Tariffs must be set so PoM has a reasonable opportunity to recover for each Prescribed Service Bundle revenue between the stand alone and avoidable costs	TCS GS – section 10 and Appendices A, B, C and D
2.1.2	PoM may set different Prescribed Service Tariffs for different Port Users of the same or similar service provided they are consistent with section 48 of the Port Management Act and clauses 2.1.3, 2.2.1 and 2.3.1	N/A – we have not set different Prescribed Service Tariffs for different Port Users of the same or similar service
2.1.3	PoM must set Prescribed Service Tariffs having regard to: (a) its efficient costs; (b) transaction costs; and (c) the ability of Port Users to respond to price signals	TCS GS – sections 8, 9 and 10 and Appendices A, B, C and D (noting that Prescribed Service Tariffs have not changed from the Initial Prescribed Service Tariffs other than annual escalation under the Tariffs Adjustment Limit)
2.1.4	Clause 2.1.1(b) does not apply if PoM expects to receive revenue from: (a) Initial Prescribed Service Tariffs; (b) during the period in which clause 3.1.1 applies, any subsequent increase to any Initial Prescribed Service Tariffs; and (c) in any period in which clause 3.1.1 no longer applies, any subsequent increase to Initial Prescribed Service Tariffs that would exceed the standalone cost of providing the Prescribed Service Bundle.	TCS GS – section 9 and Appendices A, B, C and D (i.e. clause 2.1.1(b) does not apply)
2.1.5	This Order establishes maximum tariffs for Prescribed Services and PoM will not be in breach of this Order if it sets actual tariffs for Prescribed Services at a level that is lower than permitted under clause 2.1.1(a) in any relevant period	TCS GS – sections 8 and 9 and Appendices A, B, C and D
2.1.6	PoM must not recover Rail Asset Costs other than by a Prescribed Service Tariff for 'Full – inward' Wharfage Fees	TCS GS – section 6 and Appendices A, B, C, D and R
2.2	Specific Shared Channel Tariffs Pricing Principles	
2.2.1	(a) Prescribed Service Tariffs for Shared Channels must be set using the same building block methodology in clause 4 (b) so as not to discriminate between Port Users	TCS GS – sections 8 and 9 and Appendices A, B, C and D

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
2.3	PoM container export pricing decision	
2.3.1	PoM must comply with the Export Pricing Decision for full outbound container wharfage services	N/A – the Export Pricing Decision no longer operates
3	PRICING PRINCIPLES: PRICE SMOOTHING MECHANISM	
3.1	Tariffs Adjustment Limit	
3.1.1	The Weighted Average Tariff Increase in Prescribed Services Tariffs in any financial year on or after 1 July 2017 must not exceed the Tariffs Adjustment Limit (TAL)	TCS GS – section 10 and Appendices A, B, C, D and N
3.1.2	Clause 3.1.1 does not apply to amendment of Prescribed Service Tariff for 'Full – inward' Wharfage Fees	N/A
3.1.3	Clause 3.1.1 applies to Weighted Average Tariff Increase implied by amendment of Prescribed Service Tariff for 'Full – inward' Wharfage Fees	N/A
3.2	Rebalancing	N/A
3.3	Duration of application of clause 3	N/A
3.4	Specification of Pricing Order transition period	N/A
4	PRICING PRINCIPLES: COST BASE FOR SETTING PRESCRIBED SERVICE TARIFFS	
4.1	General – Accrual Building Block Methodology	
4.1.1	PoM to determine Aggregate Revenue Requirement using accrual building block over the Regulatory Period comprising: <ul style="list-style-type: none"> (a) Return on capital; (b) Return of capital; (c) Opex; and (d) Indexation allowance 	TCS GS – sections 4, 5, 8 and 9 and Appendices B, C, D, I, J and Q
4.2	Capital Base	
4.2.1	Must be determined based on a roll-forward by: <ul style="list-style-type: none"> (a) taking the value at the start of the financial year; (b) adding indexation allowance; (c) adding efficient capex; and (d) deducting depreciation 	TCS GS – sections 4 and 9 and Appendices B, C and D

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
4.2.2	Initial capital base value is determined using clause 4.7	TCS GS – section 9 and Appendices B, C and D
4.2.3	Port Capacity Project (PCP) capex is added to the capital base in accordance with 4.2.1	TCS GS – sections 4 and 9 and Appendices B and C
4.2.4	PCP capex and capex required by Port Lease or other Transaction Arrangement obligations is prudent for clause 4.2.1	TCS GS – sections 4 and 9 and Appendices B, C and D
4.2.5	Clause 4.2.4 does not preclude an assessment of whether the capex is efficient	N/A
4.2.6	The capital base must not include capital contributions from a public sector entity for Prescribed Services	Confirmed. TCS GS – sections 4 and 9 and Appendices B, C and D
4.2.7	Existing Rail Assets and Rail Asset Deliverables capex is prudent for clause 4.2.1	TCS GS – sections 4 and 9 and Appendices B, C and D
4.2.8	Clause 4.2.7 does not preclude an assessment of whether the capex is efficient	N/A
4.2.9	Capex to acquire the Existing Rail Assets will be valued as at 1 January 2020 at \$21.4m	TCS GS – sections 4 and 9 and Appendices B and C
4.2.10	Capex incurred to achieve the Rail Asset Deliverables will be added to the capital base in accordance with clause 4.2.1	TCS GS – sections 4, 6 and 9 and Appendices B, C and D
4.3	Return on Capital	
4.3.1	PoM must calculate a weighted average cost of capital (WACC) using one or a combination of well accepted approaches that distinguish the cost of equity and debt	TCS GS – section 8 and Appendices I and J
4.3.2	The WACC must be based on pre-tax nominal basis	TCS GS – section 8 and Appendices I and J
UT 17	<p>“Well accepted approaches” means:</p> <p>(a) all parameter values have been calculated in an internally consistent manner that has regard to the interrelationships between parameters; and</p> <p>(b) the parameters have been estimated using methods and approaches applied by Australian and New Zealand regulators and courts for the purposes of calculating a revenue requirement; and</p> <p>the nominal pre-tax WACC is calculated using the following formula:</p> $\text{Nominal pre tax WACC} = \frac{1}{1 - \text{Tax rate} \times (1 - \text{Gamma})} \times (1 - \text{Gearing}) \times R_e + \text{Gearing} \times R_d$ <p>where</p> <p>Re is the return on equity</p> <p>Rd is the return on debt.</p>	TCS GS – section 8 and Appendices I and J
UT 18	In estimating the cost of equity parameter, PoM must use the Sharpe Lintner Capital Asset Pricing Model.	TCS GS – section 8 and Appendices I and J
UT 19	In estimating the return on debt parameter, PoM must use a transition to an arithmetic trailing average cost of debt approach.	TCS GS – section 8 and Appendices I and J
UT 20	In estimating the risk free rate, PoM must have reference to the effective annual yield on government bonds using a ten year term, and apply the calculation and formula in the UT.	TCS GS – section 8 and Appendices I and J

Clause	Summary of requirement	PoM's TCS cross-reference
UT 21	<p>PoM must calculate the market risk premium by:</p> <ul style="list-style-type: none"> (a) Applying an estimate that is consistent with the estimated value for Gamma, in accordance with the approaches of Australian and New Zealand regulators and courts; (b) not using the Wright method; (c) having regard to forward looking and Historical Excess Returns (HER) estimates of the prevailing market risk premium in line with approaches well accepted by Australian and New Zealand regulators and courts; (d) estimating the forward looking estimates using only a selection of approaches/estimates used by Australian and New Zealand regulators and courts, implementing those models/using inputs consistently with the approach of the relevant regulator or court; (e) relying on approaches adopted by Australian and New Zealand regulators and courts when implementing the HER approach and, in doing so: <ul style="list-style-type: none"> i. relying equally on NERA-adjusted and Brailsford Handley Maheswaran-adjusted stock market data unless an alternative weighting is more appropriate having regard to the requirements of the Pricing Order; and ii. having regard to stock market data from the periods starting 1883, 1937, 1958, 1980 and 1988, using arithmetic averages to estimate the MRP. 	TCS GS – section 8 and Appendices I and J
UT 22	<p>PoM must adopt the utilisation approach based on an equity ownership methodology when calculating Gamma (i.e. not use the market valuation or finance practitioner approaches), and use well accepted approaches and/or estimates for the distribution rate and utilisation rate.</p>	TCS GS – section 8 and Appendices I and J
UT 23	<p>PoM must calculate gearing levels based on the average gearing of the comparator set, and in doing so, first refer to the benchmark gearing that currently applies and then refer to the average gearing of the comparator sample as cross checks.</p>	TCS GS – section 8 and Appendices I and J
UT 24	<p>PoM must calculate credit rating based on the average credit rating of the comparator set, and in doing so, first refer to the benchmark credit rating that currently applies and then refer to the average credit rating of the comparator sample as cross checks.</p>	TCS GS – section 8 and Appendices I and J
UT 25	<p>PoM must select a sample of firms consistent with the general principles adopted by Australian and New Zealand regulators and courts, prioritising:</p> <ul style="list-style-type: none"> (a) obtaining a sample size that is sufficiently large to generate robust estimates that are not influenced excessively by individual observations, having regard to the comparability of businesses in the sample; (b) excluding comparators for which good quality data cannot be obtained, such as due to poor liquidity; and (c) including comparators with similar economic and systematic risk characteristics to PoM, ie, companies that own and operate container port and channel infrastructure. <p>PoM must follow the following steps in selecting the sample of comparator firms:</p> <ul style="list-style-type: none"> (a) searching Bloomberg's equity screening function (EQS) to identify potential comparators according to the relevant industry classifications, such as the Bloomberg Industry Classification Systems (BICS) and the Global Industry Classification Standard (GICS); (b) applying appropriate filters to exclude companies with insufficient data or illiquid data, or whose market capitalisations are too small to serve as appropriate comparators; (c) analysing the remaining companies manually to remove those that are not appropriate comparators, including 	TCS GS – section 8 and Appendices I and J

Clause	Summary of requirement	PoM's TCS cross-reference
	<p>reviewing their Bloomberg descriptions and carrying out desktop research; and if the above process does not generate a sample of comparable firms of sufficient size, repeating the steps using search criteria that are less restrictive.</p>	
UT 26	<p>PoM must calculate the asset beta and leveraging beta by:</p> <ul style="list-style-type: none"> (a) applying Ordinary Least Squares (OLS) regression analysis to estimate all betas from market data; (b) using well accepted approaches adopted by Australian and New Zealand regulators and courts in assessing the frequency of beta estimates, the use of end of period beta or average of each day beta, and the mean, median and portfolio of the sample betas; and (c) adopting the Brealey-Myers formulae to de-lever and then re-lever betas, unless an alternative approach is more appropriate having regard to the requirements of the Pricing Order. 	TCS GS – section 8 and Appendices I and J
UT 27	PoM must calculate the return on debt by transitioning to use an arithmetic trailing average cost of debt, adopting a ten year debt term, and using the formulae listed in the UT.	TCS GS – section 8 and Appendices I and J
4.4	Return of Capital	
4.4.1	<p>Apply straight-line depreciation for asset groups providing Prescribed Services using a period:</p> <ul style="list-style-type: none"> (a) no shorter than the economic life or the remaining term of the Port Lease; (b) no longer than the remaining term of the Port Lease; and (c) only once 	TCS GS – sections 9 and 11 and Appendices B, C and D
4.4.2	<p>PoM may use an alternative depreciation if:</p> <ul style="list-style-type: none"> (a) applying straight line depreciation would not allow it to recover its depreciation in that financial year; or (b) alternative depreciation is likely to reduce variance in Prescribed Service Tariffs over the lease 	TCS GS – sections 9 and 11 and Appendices B, C and D
4.4.3	Depreciation must not be below zero in any financial year	TCS GS – sections 9 and 11 and Appendices B, C and D
4.5	Opex	
4.5.1	Opex for the Aggregate Revenue Requirement is to include the Port Licence Fee and any Cost Contribution Amount payable under the Port Concession Deed for the financial year in which they are incurred	TCS GS – section 5 and 9 and Appendices B and Q
4.5.2	Actions required to comply with Port Concession Deed are prudent	TCS GS – sections 5 and 9 and Appendix Q

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
4.5.3	Excise of a Designated Area is a prudent act for the purpose of clause 4.1.1(c)	TCS GS – sections 5 and 9
4.5.4	Opex to include Designated Area rents and outgoings	TCS GS – sections 5, 6 and 9 and Appendices B and D
4.5.5	Amendments to, or expiration or termination of, Designated Leases	N/A
4.5.6	Reductions to Designated Areas	N/A
4.6	Indexation Allowance	
4.6.1	Indexation for each financial year is calculated as the sum of: (a) percentage change in CPI multiplied by the value of the capital base at the commencement of the financial year; and (b) one half of the percentage change in CPI multiplied by the efficient capex for that financial year.	TCS GS – section 9 and Appendices B, C and D
4.7	Initial Capital Asset Values	
4.7.1	The initial capital asset value at 1 July 2016 is: Shared Channel Services: \$592 million + Bundled Services: \$2,913 million = Total \$3,505 million	TCS GS – section 9 and Appendices B, C and D
4.7.2	Initial capital asset value at clause 4.7.1 excludes PCP capex which is to be added under clause 4.2.3	TCS GS – section 9 and Appendices B, C and D
5	COST ALLOCATION PRINCIPLES	
5.1	Cost Allocation Principles Objectives	
5.1.1	To provide a transparent and consistent methodology for allocating costs to establish Prescribed Service Tariffs	TCS GS – section 6 and Appendices B, C, D and R
5.2	Principles for allocating costs to set Prescribed Services Tariffs	
5.2.1	Costs must be allocated so that: (a) costs that are directly attributable to Prescribed Services are attributed to them; and (b) costs that relate to Prescribed Services and other services are allocated to Prescribed Services based on their share of total revenue	TCS GS – section 6 and Appendices B, C, D and R
6	REFERENCE TARIFF SCHEDULE (RTS)	
6.1	Provision/Publication of RTS	
6.1.1	By 31 May each financial year PoM must:	Appendix A
	(a) publish its RTS for the following financial year	
	(b) provide a copy to the ESC	Confirmed
	(c) provide any contracts with Port Users to the ESC	Appendix O

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
6.1.2	PoM will satisfy clause 6.1.1(a) if it publishes its RTS on its web-site	Confirmed
6.1.3	PoM must provide its RTS to any Port User who requests it within five business days	Ongoing requirement
6.1.4	The RTS must specify: (a) the Prescribed Service Tariff for each Prescribed Service; and (b) a description of the Prescribed Service	Appendix A
6.1.5	Prescribed Service Tariffs in the RTS must: (a) not include charges for services that are not Prescribed Services; and (b) separately identify Prescribed Service Tariffs for Shared Channel Services	TCS GS – section 6 and Appendices A, B, C and D
6.1.6	PoM must offer to provide Port Users with Prescribed Services based on the RTS	Ongoing requirement
6.1.7	PoM must not require a Port User to acquire non-Prescribed Services in order to receive Prescribed Services	Ongoing requirement
6.2	CONTRACTS FOR PRESCRIBED SERVICES	
6.2.1	PoM may have contracts with Port Users on terms and conditions that: (a) differ from the RTS; or (b) do not satisfy clause 6.1.5; but only if (c) PoM has made an offer based on the RTS; and (d) the contract complies with clause 2.1.1- 2.1.3 and 2.3.1.	Appendices A and O
6.2.2	Notwithstanding contracts under 6.2.1, (a) the services remain Prescribed Services (b) revenue earned under the contract must be included in the Aggregate Revenue Requirement under clause 2.1.1	TCS GS – section 9 and Appendices B, C, D and O
6.3	CHANGES TO PRESCRIBED SERVICES TARIFFS	
6.3.1- 6.3.2, 6.3.5	PoM must notify Port Users and the ESC of its intention to amend its RTS, and provide Port Users and the ESC with 30 days' notice of the final version of the RTS.	Appendix A
6.3.3	The Reference Tariff Schedule for the Financial Year commencing 1 July 2019 is amended to increase the Prescribed Service Tariff for 'Full – inward' Wharfage Fees from \$110.77 (GST-exclusive) to \$120.52 (GST-exclusive) on and from 1 June 2020	See 2020-21 TCS
6.3.4	Clause 6.3.3 not to apply if amendments gazetted on or after 1 July 2020	N/A (as amendments gazetted before 1 July 2020)

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
7	TARIFF COMPLIANCE STATEMENT (TCS)	
7.1.1	PoM must provide its TCS: (a) to the ESC by no later than 31 May each year; and (b) to Port Users under clause 6.3 if it has new or varied Prescribed Service Tariffs	Confirmed N/A
7.1.2	PoM's TCS must: (a) set out its Prescribed Service Tariffs for the forthcoming financial year; (b) detail the basis on which PoM has (i) made any adjustments to its Prescribed Service Tariffs or (ii) introduced any new Prescribed Service Tariffs; (c) provide information on all contracts with Port Users; (d) detail how PoM has consulted and incorporated feedback from Port Users in developing its TCS; (e) explain how Prescribed Service Tariffs comply with the Pricing Order; (f) contain any other information required under clause 9; and (g) comply with clause 8	TCS GS and Appendices A to R
UT 10-16	PoM must conduct its consultation process consistently with the requirements of the Pricing Order Engagement Protocol.	N/A – protocol not finalised.
8	INFORMATION REQUIREMENTS	
8.1	Basis on which financial information is to be provided	
8.1.1	Financial information in the TCS must be in constant or current price terms	Confirmed. TCS GS – section 1 and Appendices B, C and D
8.2	Forecasts and estimates	
8.2.1	Estimates and forecasts must be supported by a statement of their basis	Appendices I, J, K, L, M and Q
8.2.2	Estimates and forecasts must (a) be arrived at on a reasonable basis (b) be the best in the circumstances	TCS GS – sections 4, 5 and 7 and Appendices I, J, K, L, M and Q
8.3	Inferred or derivative information	N/A
9	COMMISSION MAY DETERMINE FORM AND CONTENT OF SUPPORTING DOCUMENTATION	N/A – no determination made by Commission
10	COMMISSION MAY DETERMINE INDICES TO BE USED	N/A – no determination made by Commission
11	INITIAL PRESCRIBED SERVICE TARIFFS	No action required
12	PROTECTED PROVISIONS	No action required

REFERENCE TABLE LINKING PRICING ORDER PROVISIONS

Clause	Summary of requirement	PoM's TCS cross-reference
13	REGULATORY PERIOD	
13.1.1	PoM may determine the regulatory period and may adopt different lengths over the term of the Port Lease	TCS GS – section 2