

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

**DOCKET TP-190976**

**CROSS-EXHIBIT FOR**

**Jeremy Nielsen**

**PSP Responses to PMSA DRs 442, 444, 445, 454, 455, 460, 461, 464, 465, 466,  
467, 468, 470**

***August 7, 2020***

DATE PREPARED: Aug 4, 2020 DOCKET: TP-190976 REQUESTER: PMSA	WITNESS: Jeremy Nielsen RESPONDER: Puget Sound Pilots
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#### TESTIMONY OF JEREMY NIELSEN

DATA REQUEST NO. 442: With respect to your testimony that there exists “a lot of overlap in the types of ships that call on the Columbia River” and the Puget Sound (Exh. JJN-1T 2:13-14), please describe and provide documentation of the number of container ship, cruise ship, and tanker ship assignments that were completed by COLRIP pilots in 2018. Further, please provide documentation of the number of assignments that COLRIP pilots perform that involve vessels with redundant propulsion and redundant steering compared to the number of vessels that Puget Sound Pilots handle that have these design features.

#### RESPONSE TO NO. 442:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP objects further that the specific details requested are unlikely to assist the Commission in adjudicating PSP’s request, and that this request is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the Capt. Nielsen’s interest in the proceeding, and the relative unimportance of this issue in the adjudicative proceeding. WAC 480-07-400(3).

Subject to and without waiving the foregoing objection, PSP responds as follows:

PSP does not possess the specific information requested.

Capt. Nielsen responds:

While the numbers of each specific vessel type the grounds encounter differ, generally the same types of vessels call each area. This is what I meant by “There is also a lot of overlap in the types of ships that call...” It is a closer comparison than with a group such as SEAPA where they are 90+% cruise vessels. We have tankers, ATBs, containerships, occasional cruise ships, military ships, and handy, handymax & panamax bulkers, yachts, and occasional ferries just as Puget Sound does. We do not track types of vessels nor do we track specific propulsion or steering types.

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REQUESTER: PMSA	

DATA REQUEST NO. 444: You assert various bases for your belief that “pilotage on the Columbia River is similar to pilotage on the Puget Sound” (Exh. JJN-1T 2:8-16), but a comparison of the actual provision of the pilotage task is not included in your testimony. Please describe if you believe the act and skill required of river pilotage on the Columbia River is similar or dissimilar to the act and skill required of open-water steaming and non-river pilotage in the Strait of Juan de Fuca and waterways of Puget Sound in all of the following respects: (a) average working waterway depth, (b) average working waterway width, (c) traffic separation scheme, (d) anchorage options, (e) consideration of Columbia River flow and discharge water velocity, and (f) consideration of tidal action. For each, please describe the basis for your belief that the skill requisite for each pilotage ground is similar or dissimilar.

RESPONSE TO NO. 444:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP objects further that the specific details requested are unlikely to assist the Commission in adjudicating PSP’s request, and that this request is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the Capt. Nielsen’s interest in the proceeding, and the relative unimportance of this issue in the adjudicative proceeding. WAC 480-07-400(3).

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

As stated in my rebuttal testimony there are certainly differences in navigating the local waterways of one pilotage district vs another. However, vessels, scenarios, traffic, weather and water conditions are considerations that make the pilotage grounds similar. Does the Columbia River have a lesser average waterway depth and width? Of course we do. However, Puget Sound Pilots certainly consider vessel drafts, waterway depths and

underkeel clearances in their day to day operations. While Puget Sound has the additional burden of traffic separation scheme compliance we have an *internal* (COLRIP operated) traffic management system which, while of a different flavor, has similar considerations in managing other traffic including recreational and fishing vessels. While specific anchorage positions vary between the grounds the art of anchoring is similar in mental preparation, set up, approach, execution & summary. Finally, most certainly current from either river or tidal influences vary between the two pilotage grounds but they do so as well within different areas of the Columbia River itself and for various restricted waterways in Puget Sound. Each ground has multiple current characteristics that pilots need to consider. Weather influences are also very similar between the grounds. It is the consideration of all these common influences that make the grounds similar in a pilotage respect.

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DATA REQUEST NO. 445: With respect to your testimony on “assignments” and “hours on task per pilot” (Exh. JJN-1T 4:13-16), please describe an “assignment” and an “hour on task per pilot,” clarify whether you count a car ride or a drug test as an “assignment,” and clarify whether the “hour on task per pilot” metric includes only the time a pilot is completing a ship assignment, and if not, please explain all tasks and documented timeframes which are included in this metric.

RESPONSE TO NO. 445:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

Please see page 4 line 14 of my testimony for clarity on car rides and drug tests. “Assignments” as referred to in my testimony only include dispatch of a pilot to attend to a vessel. “Hours on task” per pilot includes time for preparation, travel and checking in with dispatch after the assignment is completed.

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REQUESTER: PMSA	

DATA REQUEST NO. 454: Please describe your definition of “FTE” (Exh. JJN-1T 4:18-19) as applied to the number of unlimited licensed COLRIP pilots in 2018 and 2019.

RESPONSE TO NO. 454:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

Subject to and without waiving the foregoing objection, PSP responds as follows:

The definition of FTE is set forth in the order that PMSA obviously possesses, but which it has requested in discovery anyway: 2010 Oregon Board of Maritime Pilots Final Order 10-01 issued May 19, 2010.

Additionally, Capt. Nielsen responds as follows:

An FTE is an ideal standard. A pilot who only is available to work every day of their assigned duty (i.e. a pilot who takes no days off and works no days extra).

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REQUESTER: PMSA	

DATA REQUEST NO. 455: With respect to your testimony that COLRIP pilots “work on a schedule of two-weeks on and two-weeks off” (Exh. JJN-1T 3:4), please clarify whether that is a 14-day-on and 14-day-off rotation (or what other type of rotation, if not) and how many watchkeeping rotations you maintain. Please also provide copies and documentation of the COLRIP by-laws or watchstanding guidelines which govern the watchstanding, pilot trades, pilot callbacks, and vacation time.

RESPONSE TO NO. 455:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP objects further that the specific details regarding COLRIP’s governing documents and policies are unlikely to assist the Commission in adjudicating PSP’s request, and that this request is unduly burdensome or expensive, taking into account the needs of the adjudicative proceeding, limitations on the parties' resources, scope of the Capt. Nielsen’s interest in the proceeding, and the relative unimportance of this issue in the adjudicative proceeding. WAC 480-07-400(3).

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

COLRIP works a work schedule of 14 days on and 14 days off, although on the 15th day we are on duty until 0800 which we could consider a 15<sup>th</sup> day on. COLRIP’s “watchkeeping rotation” is based on a “wheel” where a pilot goes off duty and another comes on duty during the same day. We do not have a Port and Starboard type watch system.



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DATA REQUEST NO. 460: Please describe the number of COLRIP pilots that have surrendered their state license to pilot on the Columbia River and moved to train and work in another pilotage ground beyond Oregon, including any pilots which have left the Columbia River to train and work in the Puget Sound.

RESPONSE TO NO. 460:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objections, Capt. Nielsen responds as follows:

None.

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DATA REQUEST NO. 461: Please describe the number of COLRIP pilots that piloted elsewhere under a state pilotage license before training and being licensed to pilot on the Columbia River; please document the other pilot grounds they came from.

RESPONSE TO NO. 461:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objections, Capt. Nielsen responds as follows:

One, from Coos Bay.

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DATA REQUEST NO. 464: Please describe (a) when COLRIP “gives the pilot a choice of . . . receiving additional pay” for performing a callback assignment (Exh. JJN-1T 3:14), (b) what the rate of additional pay offered to a pilot is, and (c) how much revenue was used to pay pilots in excess of the average distribution to pilots.

RESPONSE TO NO. 464:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objections, Capt. Nielsen responds as follows:

The rate is the value of a day for that particular month. There is no additional revenue used for the additional pay. The average distribution takes into account extra work days paid, meaning that the value of a particular day in a given month is reduced by the number of extra days worked.

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DATA REQUEST NO. 465: When COLRIP “gives the pilot a choice of ... an additional day off that can be used later” for performing a callback assignment (Exh. JJN-1T 3:15), does COLRIP offer a pilot two additional days off for performing a callback assignment or one additional day off for performing a callback assignment?

RESPONSE TO NO. 465:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objections, Capt. Nielsen responds as follows:

No, a pilot receives one additional day off for a callback assignment.

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DATA REQUEST NO. 466: The COLRIP 2018 Financial Statement (PSP Supplemental Response to UTC DR 25, PSP\_000069 – PSP\_000074) at Page 3 (PSP\_000073) lists “Income” and “Expenses” above the “Total cash available for distribution to Pilots” line and “Pilot benefits” and “Net cash available for distribution to Pilots” below the “Total cash available for distribution to Pilots” line. Admit that COLRIP does not include “Pilot benefits” in its association “Expenses” category.

RESPONSE TO NO. 466:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objections, Capt. Nielsen responds as follows:

The format of COLRIP’s Special Purpose Financial Statement was dictated to us by the OBMP. However, yes, per OBMP COLRIP cannot include “pilot benefits” in the “expenses” category.

DATE PREPARED: Aug 4, 2020 DOCKET: TP-190976 REQUESTER: PMSA	WITNESS: Jeremy Nielsen RESPONDER: Puget Sound Pilots
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DATA REQUEST NO. 467: Please describe the difference in the COLRIP 2018 Financial Statement (PSP\_000073) between the expense category “payments to retirees” in “Expenses” and the benefit category “Pension” in “Pilot benefits” and how these payment categories relate to payments to current pilots under the existing COLRIP tariff.

RESPONSE TO NO. 467:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

In COLRIP’s Special Purpose Financial Statement “Payments to retirees” includes all payments to retirees such as earned but unused leave at retirement & farebox pension payments. “Pension” is solely COLRIP’s qualified 401k program for active pilots.

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DATA REQUEST NO. 468: The COLRIP 2018 Financial Statement (PSP\_000073) lists “Medical insurance” in the “Pilot benefits” section at \$1,002,202. Please describe the medical coverage provided to COLRIP pilots as a pilot benefit. Please additionally confirm that with 45.69 pilots the value of this benefit in 2018 per pilot was approximately \$21,935.

RESPONSE TO NO. 468:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

As per format dictated by the OBMP, COLRIP lists “medical insurance” as a “pilot benefit” on its Special Purpose Financial Statement. Individual costs differ based on single vs. family plans, vs. medicare, etc. However, yes, \$21,935 was the average cost of COLRIP’s medical insurance per pilot in 2018.

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REQUESTER: PMSA	

DATA REQUEST NO. 470: The COLRIP 2018 Financial Statement (PSP\_000073) lists “Sick leave” in the “Pilot benefits” section at \$613,678. Please describe the sick leave benefit provided to COLRIP pilots as a pilot benefit. Please additionally confirm that with 45.69 pilots the value of this benefit in 2018 per pilot was approximately \$13,431.

RESPONSE TO NO. 470:

Objection. WAC 480-07-400(1)(a)(3) defines “Data Request” as [a] party's written request that calls for another party to produce data in connection with an adjudicative proceeding is a data request.” Although it was served to Puget Sound Pilots, this request appears to have been directed to Capt. Nielsen for response. Capt. Nielsen is not a party to this proceeding, nor is he an expert witness retained by or offering expert testimony on behalf of PSP (i.e., he is not in any way within PSP’s control) and thus this is not by definition a proper data request if it is intended for his answer. Accordingly, to the extent to which no objection is otherwise made, PSP will respond to this data request based upon the information in its possession, custody or control. PSP supplied the data requests to Capt. Nielsen as well. If Capt. Nielsen supplied information in response to a request for which no additional objection has been made, PSP provides Capt. Nielsen’s response here.

PSP further objects that this argumentative request exceeds the scope of Capt. Nielsen’s testimony and is therefore inappropriate cross-examination in the guise of a data request. This data request serves no legitimate discovery purpose and appears to be designed to harass or annoy.

Subject to and without waiving the foregoing objection, Capt. Nielsen responds as follows:

This was described in my initial rebuttal testimony on page 3 line 21. As per format dictated by the OBMP, COLRIP lists “sick leave” as a “pilot benefit” on its Special Purpose Financial Statement. If the “sick leave” was used equally amongst 45.69 pilots, then yes, the value would be approximately \$13,431. However, a more appropriate description would be to replace the word “value” with “cost” per pilot because sick leave is not evenly used.