

PACIFIC MERCHANT SHIPPING ASSOCIATION
RESPONSES TO PUGET SOUND PILOTS' DATA REQUEST NOS. 165-177

DATE PREPARED:	June 24, 2020	WITNESS:	Capt. Michael Moore, Vice President, PMSA
DOCKET:	TP-190976		
REQUESTER:	Puget Sound Pilots	RESPONDER:	Pacific Merchant Shipping Association, Capt. Michael Moore

PSP DATA REQUEST NO. 176:

Is it PMSA's contention that compulsory pilotage requires individual pilots to accept assignments when they are out of rotation (off watch)?

PMSA RESPONSE TO PSP DATA REQUEST NO. 176:

It is PMSA's contention that compulsory pilotage in the State of Washington has provided the privilege of monopoly to PSP, and that the compulsory pilotage monopoly must be subject to rigorous state oversight to ensure just, fair, reasonable, and sufficient rates for these pilotage services and "Determine from time to time the number of pilots necessary to be licensed in each district of the state to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district;" RCW 88.16.035 (1)(d).

The State of Washington only licenses individual pilots but, as a result of private agreement amongst those individual pilots, we do not have a marketplace pilotage system made up of individual pilot licensees who can compete for business and exercise independent judgment about when or where they work vessels within the limitation of a license. Rather, we have a compulsory pilotage monopoly which is exercised by PSP and which has eliminated all competition and market activity with respect to the options of vessels and individual pilots alike.

Therefore, vessels have no discretion to hire any pilot other than through PSP and must accept whoever is assigned and PSP has no discretion to accept or not accept assignments outside the provisions regarding fitness, rest and safety, or to organize itself in a manner which frustrates the purposes of the state of Washington. Within this system vessels have no commercial options and are obliged to hire pilots assigned by PSP, and in-turn PSP is obliged to assign pilots to every vessel which presents itself through proper ordering procedures to hire a pilot. When vessels are subject to compulsory pilotage, then the provision of pilotage to those vessels by the State of Washington and PSP is compulsory.

The State of Washington does not dictate a watch schedule for pilots, that is agreed to by private agreement amongst the monopoly. As a practical matter, the legal obligation of PSP is such that it must organize itself to achieve the goals of the Pilotage Act as overseen by the Board and the Commission and, therefore, at a very minimum its watchkeeping and duty cycles must be done in such a way where individual licensed pilots are provided to vessel assignments for which they are trained and competent, safe and not fatigued.

Little else is required of PSP with respect to its internal operations. If this pilot collective is managed such that the watchkeeping is done effectively, efficiently, and strategically and that results in a watch system that involves a fair and safe distribution of work with minimal pilots

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being called off-watch for assignments, so much the better. But, if it is managed ineffectively, inefficiently, and without a strategy for minimizing off-watch assignments, that should also be of no consequence and transparent to a customer. PSP must still provide the service which is compulsory by law.

Therefore, no, it is not the condition of compulsory pilotage which compels any pilot to work on or off of an efficient or inefficient watchstanding schedule, but depending on the adequacy of the watchstanding schedule and management of pilot availability, a pilot may be compelled to work off-watch. Clearly, there has to be some reasonable expectation that a watchstanding schedule makes sufficient pilots available to cover demand. PSP should be allowed to implement any watchstanding system it desires so long as the BPC optimizes the number of pilots in an efficient system to have safe properly licensed pilots safely available for assignment to meet demand.

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PSP DATA REQUEST NO. 177:

If the answer to the immediately preceding data request is anything other than an unqualified “no,” identify every pilotage district in the United States that does not utilize a watch schedule by which pilots work while on watch and are free to refuse callback assignments while off watch.

PMSA RESPONSE TO PSP DATA REQUEST NO. 177:

Objection: This Data Request seeks information that is irrelevant to any fact that would assist the UTC determine that the current Tariff is unfair, unjust, and unreasonable; seeks production of information equally available to PSP from third-party sources.