

**BEFORE THE STATE OF WASHINGTON**  
**UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

Docket TP-220513

**RESPONDENT PUGET SOUND  
PILOTS' MOTION FOR LEAVE TO  
FILE REPLY IN SUPPORT OF  
EMERGENCY MOTION IN LIMINE  
TO PRECLUDE THE  
INTRODUCTION OF ATTORNEY-  
CLIENT PRIVILEGED MATERIAL  
IN EVIDENCE**

**MOTION**

1. Pursuant to WAC 480-07-370(5)(b), Respondent Puget Sound Pilots (“PSP”) moves for leave to file the Reply in Support of Emergency Motion in Limine to Preclude the Introduction of Attorney-Client Privileged Material in Evidence (“Motion in Limine”) that is attached hereto as Exhibit A. In support of this motion, PSP relies on the record previously filed herein and the following points and authorities.

**MEMORANDUM**

**I. BACKGROUND.**

2. PSP filed its Motion in Limine on March 28, 2023. The Motion seeks an order excluding from evidence a legal memorandum prepared by PSP’s retired General Counsel Walt Tabler (the “Legal Memorandum”) on grounds that the memorandum and information contained therein is protected by the attorney-client privilege.

**RESPONDENT PUGET SOUND PILOTS' MOTION FOR LEAVE TO FILE REPLY 1  
IN SUPPORT OF EMERGENCY MOTION IN LIMINE TO PRECLUDE THE  
INTRODUCTION OF ATTORNEY-CLIENT PRIVILEGED MATERIAL IN  
EVIDENCE**

3. On March 29, the Commission entered Order 07 allowing Commission Staff and the Intervenors until 5:00 p.m. on April 3, 2023 to respond.
4. Intervenor Pacific Merchant Shippers' Association ("PMSA") filed its response in opposition to the Motion in Limine on March 31, 2023.

## II. ARGUMENT.

5. WAC 480-07-370(5)(b) grants the Commission discretion to allow a reply where necessary to address new facts or legal arguments raised in a response. Here, PMSA's opposition raises multiple new arguments in support of its position that the Legal Memorandum is purportedly not privileged. Leave to reply is appropriate in these circumstances to respond to PMSA's arguments and the Commission should exercise its discretion to allow PSP to file the proposed reply in substantially the form attached hereto as Exhibit A.

## III. CONCLUSION.

6. PSP's motion should be granted, and the proposed reply should be entered in the record.

Respectfully submitted this 3rd day of April, 2023.

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