

**Docket No. TP-190976 - Vol. III**

**WUTC v. Puget Sound Pilots**

**August 12, 2020**



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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION Commission  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,  
DOCKET TP-190976  
Complainant,  
v.  
PUGET SOUND PILOTS,  
Respondent.

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VIDEOCONFERENCE EVIDENTIARY HEARING BEFORE  
ADMINISTRATIVE LAW JUDGES  
RAYNE PEARSON AND MICHAEL HOWARD

Volume III  
Pages 55 - 356  
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8:37 a.m.

(All participants appeared via videoconference.)

REPORTED BY: CRYSTAL R. MCAULIFFE, RPR, CCR, #2121

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4	MM-65X	Fall Protection
5	MM-66X	BPC Tariffs
6	MM-67X	PSP Bylaws (Nov. 2018)
7	MM-68X	San Francisco Bar Pilots Fatigue Study
8	MM-69X	2006 Tariff
9	MM-70X	BPC Charts
10	MM-71X	DR 142
11	MM-72X	DR 158
12	MM-73X	Dr. Flynn Evans Q&A
13	MM-74X	Marine Incident Costs
14	MM-75X	OP-RULES Feb. 2020
15	MM-76X	1996 MOU and Related
16	MM-77X	BPC Minutes May 1995
17	MM-78X	DR 139
18	MM-79X	DR 150
19	MM-80X	DR 151
	MM-81X	DR 153
20	MM-82X	DR 154
21	MM-83X	DR 161
22	MM-84X	DR 163
23	MM-85X	DR 176
24		
25		

1	EXHIBIT INDEX (Continued)	
2	No.	Description
3	MM-86X	DR 180
4	MM-87X	DR 196
5	MM-88X	DR 198
6	MM-89X	DR 200
7	MM-90X	DR 201
8	MM-91X	DR 202
9	MM-92X	DR 206
10	MM-93X	Obit Sandy Hook Pilot Capt. Timothy M. Murray
11	MM-94X	PSP Bylaws (Nov. 2018)
12	MM-95X	Sandy Hook Pilots Fatal Accidents
13	MM-96X	PMSA Fatigue Management Comment Memo 8/15/18
14	MM-97X	1983 MOU
15	MM-98X	1986 Tariff Hearing
16	MM-99X	Ordering Policies
17	MM-100X	Pilot Ladder Photos.
18	MM-101X	PSSOA Letter to Membership (2004).
19	MW-1T	Monique Webber Direct Testimony
20	MW-2	Resume
21	MW-3	Washington Pilotage Exemption Application
22	MW-4	PSP Invoice MY Kogo 3.12.2019
23	MW-5	PSP Invoice MY Big Fish #1 10.6.2018
24		
25		



EXHIBIT INDEX (Continued)

1	No.	Description
3	MW-6	PSP Invoice MY Big Fish #2 10.6.2018
4	MW-7	Unified Port of San Diego Pilotage Exemption Application
5	MW-8	Pacific Pilotage Authority Pilotage Waiver Standard of Care
7	MW-9	Pacific Pilotage Authority Declaration of Compliance Vessel Holders Annual Waiver Renewals New Waiver Applications
9	MW-10	Pacific Pilotage Authority Guidelines Pleasure Craft Waivers
10	MW-11	Pacific Pilotage Authority Waiver Application Form Pleasure Craft
12		
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1 VIDEOCONFERENCE UTC EVIDENTIARY HEARING

2 August 12, 2020

3 8:37 a.m.

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5  
6 JUDGE PEARSON: All right. Let's go ahead  
7 and be on the record. Good morning. Today is Wednesday  
8 August 12, 2020, and the time is approximately 8:37 a.m.

9 My name is Rayne Pearson and joining me on  
10 the bench today is Judge Michael Howard. We are  
11 Administrative Law Judges with the Washington Utilities  
12 & Transportation Commission, and we will be presiding in  
13 this matter along with the Commissioners who will join  
14 us in a moment.

15 We're here today for an evidentiary hearing  
16 in docket TP-190976, which is a general rate case filed  
17 by Puget Sound Pilots that proposes revisions to the  
18 tariff that sets rates for Marine Pilotage Services in  
19 the Puget Sound District. The Commissioners are on the  
20 line, and they will turn on their cameras once we are  
21 done addressing preliminary matters.

22 So let's start by taking short appearances  
23 beginning with Puget Sound Pilots.

24 MR. FASSBURG: Good morning. Blair Fassburg  
25 and Dave Wiley on behalf of Puget Sound Pilots.

1 JUDGE PEARSON: Okay. And for staff.

2 MR. FUKANO: Good morning. Harry Fukano and  
3 Sally Brown here on behalf of Commission Staff.

4 THE COURT: All right. And for PMSA?

5 MS. DeLAPPE: Michelle DeLappe on behalf of  
6 PMSA.

7 JUDGE PEARSON: And Pacific Yacht  
8 Management.

9 MS. WEBBER: Monique Webber on behalf of  
10 Pacific Yacht Management.

11 JUDGE PEARSON: Okay. Thank you.

12 Next we will address exhibits. PSP provided  
13 in advance a list of exhibits to which it objects, so we  
14 will hear arguments on those exhibits.

15 Mr. Wiley or Mr. Fassburg, will you be  
16 giving those arguments?

17 MR. FASSBURG: I will be giving those  
18 arguments, Your Honor.

19 JUDGE PEARSON: Okay. And would you like to  
20 address them individually or all three, since the  
21 objection is the same for all three?

22 MR. FASSBURG: I'll be happy to address all  
23 at the same time. They are all on the same basis.

24 Would you like me to proceed.

25 JUDGE PEARSON: Yeah. Let me just identify

1 for the record that we are referring to cross Exhibit  
2 IC-42X, Exhibit JN-12X, and Exhibit GQ-11X. And you can  
3 go ahead, Mr. Fassburg.

4 MR. FASSBURG: Thank you. So, Your Honor,  
5 as we identified in the written objection that we filed,  
6 in each of those identified exhibits there were included  
7 quite a number of data request responses and objections,  
8 and within each of those sets there were specific  
9 requests to which a legal objection was made without a  
10 response.

11 Now, those legal objections were written by  
12 me as the attorney for Puget Sound Pilots. The  
13 information contained therein is an objection and not  
14 evidence. And so if there were a discovery dispute  
15 about whether or not a response should have been given,  
16 ordinarily that would be resolved through first a  
17 discovery conference and then, if necessary, a motion to  
18 compel.

19 In this case we had a number of discovery  
20 conferences with PMSA about its stated requests. And  
21 although I do not recall whether any of these were the  
22 subject of a specific discovery conference, no motion to  
23 compel was filed.

24 And so questioning a witness about the basis  
25 of the legal objection is inappropriate. That's not

1 evidence. If they had an issue with it, that was  
2 something that should have been brought up with me.

3 JUDGE PEARSON: All right. Ms. DeLappe.

4 MS. DeLAPPE: Good morning, Your Honor. The  
5 purpose of our exhibits is not to discuss the objections  
6 or to engage in any discussion about any discovery  
7 disputes. There is substantive information that  
8 accompanies PSP's response; the objections to each of  
9 the data requests. I'd be happy to address that in  
10 turn, but for purposes -- for each of the specific page  
11 numbers that PSP has raised their objection for. But  
12 for purposes of this process and efficiency, I think  
13 that it is easy to go ahead and raise the objection if  
14 PSP feels that the line of questioning is going in that  
15 direction, which I assure you it will not.

16 JUDGE PEARSON: Okay. And does staff want  
17 to weigh in on this?

18 MR. FUKANO: Staff takes no position on the  
19 objection.

20 THE COURT: Okay. All right. Thank you.

21 I'm going to let the exhibits in. I agree  
22 with you, Ms. DeLappe, that we'll see how the line of  
23 questioning goes.

24 Mr. Fassburg, Mr. Wiley, you can raise  
25 objections at that time if you feel that the line of

1 questioning is going somewhere that is impermissible.

2 MR. FASSBURG: Your Honor, in the past it  
3 has been not uncommon for you to wait on a line of  
4 questioning before admitting the exhibit.

5 Would that not be appropriate here instead  
6 of preadmitting the exhibit and then determining --

7 JUDGE PEARSON: That's fine.

8 MR. FASSBURG: -- its usefulness based on  
9 our objection?

10 JUDGE PEARSON: That's fine. Yes.

11 MR. FASSBURG: Thank you.

12 JUDGE PEARSON: Okay. So we will just take  
13 those up as they are offered.

14 All right. So the parties have otherwise  
15 stipulated to the admission of the remaining exhibits,  
16 and we will provide a copy of the finalized exhibit list  
17 to the court reporter so that it can be made part of the  
18 record.

19 And before we discuss the procedure of the  
20 hearing today and are joined by the Commissioners, are  
21 there any motions or requests from any of the parties?

22 Okay. Hearing nothing. Let's discuss our  
23 schedule. So after the Commissioners join us, we will  
24 begin cross-examination by calling witnesses in the  
25 order agreed to by the parties. I will be presiding

1 today and Judge Howard will preside tomorrow.

2 All right. So with that, I will ask the  
3 Commissioners to please turn on their cameras.

4 Good morning, Commissioner Rendahl,  
5 Commissioner Balasbas.

6 COMMISSIONER RENDAHL: Good morning.

7 COMMISSIONER BALASBAS: Good morning.

8 JUDGE PEARSON: And, Chair Danner, good  
9 morning.

10 CHAIR DANNER: Good morning.

11 JUDGE PEARSON: So at this time we'd like to  
12 hear brief opening statements from each party. Each  
13 party will have three to five minutes to give their  
14 opening statement and we will begin with Puget Sound  
15 Pilots.

16 OPENING STATEMENT

17 MR. FASSBURG: Thank you. Good morning,  
18 Chair Danner, Commissioner Rendahl, and Commissioner  
19 Balasbas. To ALJ Howard as well.

20 On behalf of Puget Sound Pilots, I want to  
21 thank you all. I know this has been a long process from  
22 when the legislature first considered shifting the  
23 rate-setting authority from the Board of Pilotage  
24 Commissioners over to the UTC. In the process of  
25 getting familiar with what pilotage is and how rates

1 have been set historically and some of the details that  
2 would be involved in this proceeding has been quite a  
3 process so far. So, again, thank you all for getting to  
4 this point and being here today.

5 The process of setting rates for pilotage is  
6 probably unique among all industries that this  
7 Commission has set rates for. And being this -- this is  
8 the first rate-setting process for the -- the UTC. Owe  
9 realize that there is an opportunity here. It is a  
10 clean slate.

11 At the Board of Pilotage Commissioners,  
12 rates were set for several decades in what I think the  
13 parties have all agreed you could describe as a black  
14 box. Although the individual Commissioners may have had  
15 their rationale for setting rates, the ultimate  
16 decisions were not announced. There was no order. And  
17 so there is not a specific precedent by which rates  
18 could be set.

19 In order to establish what that rate-setting  
20 process would be, PSP has set forth its proposal. And  
21 ultimately, we think that the proposal PSP has made and  
22 what staff has made are somewhat similar. I would like  
23 to overview that just a little bit so that we can focus  
24 on what some of the key issues will be, we believe, in  
25 this proceeding.



1 PSP proposes that in order to establish  
2 rates, a rate-setting methodology should include all of  
3 the permitted expenses as outlined in the formula that  
4 we've submitted, plus what I think is really the key  
5 focus of this proceeding, how pilots should be  
6 compensated for their work. Staff's proposal and PSP's  
7 proposal include very similar elements. We propose that  
8 there is a number of pilots that is funded within the  
9 rates. That number is not necessarily one based on the  
10 actual number of licensed pilots. Both Staff and PSP  
11 agree this should be a more theoretical construct. And  
12 it is how that number is determined that is one of the  
13 key issues in this case. Another element is the amount  
14 of money by which that number will be multiplied, that  
15 being the value of pilot labor.

16 In this case, PSP proposes that the  
17 distributable net income amount should be based upon a  
18 comparison to what other pilots make. Staff proposes  
19 that be based upon a historic average of what pilots did  
20 make. And we believe the difference between staff's  
21 theory and policy behind why it proposes historic  
22 averages and why PSP proposes for the number of pilots a  
23 full-time equivalency and for the DNI a comparator are  
24 really two of the biggest key elements in this case.

25 The additional key element in this case, we

1 believe, or key issue in this case, is essentially a  
2 couple of hang-over issues. At the Board of Pilotage  
3 Commissioners, rates were not set using utility rate  
4 setting procedures or processes. And as a result, the  
5 way rates were set over many decades there are  
6 cumulative liabilities that PSP has built up. How to  
7 deal with those cumulative liabilities as rates are now  
8 set in the utilities rate-setting process are -- are  
9 difficult issues and we believe ones that cannot be  
10 resolved in the first filing.

11 And so, for example, how to fund within  
12 rates PSP's historic callback liability and how to treat  
13 that in the future going forward are two different  
14 issues that are very much in play here in this case.  
15 And staff takes a very different approach to treating  
16 those issues as to PSP's proposal.

17 We believe, however, that you can't wave a  
18 magic wand and eliminate those liabilities all at once.  
19 So we're asking that there be a transition period in  
20 dealing with those liabilities.

21 PMSA's proposal contrastingly is a little  
22 different than what PSP and staff has proposed. Thank  
23 you. PMSA has proposed a return-on-rate-base approach  
24 for a rate-setting methodology in which they propose  
25 pilots who are, in fact, independent contractors should

1 be treated like employees whose salary can be determined  
2 by looking at the Bureau of Labor Statistics information  
3 for a variety of maritime employees. And based upon  
4 that, they have built a return-on-rate-base approach  
5 that would demonstrate in their opinion that PSP earns  
6 more than enough already and have requested there be no  
7 rate increase.

8 Again, we believe each of these key  
9 features are what the hearing will focus on, and we  
10 believe our case will demonstrate PSP's proposal should  
11 be adopted. Thank you.

12 JUDGE PEARSON: Okay. Thank you.

13 Ms. DeLappe?

14 You're muted, Ms. DeLappe. We can't hear  
15 you.

16 MS. DeLAPPE: Am I audible now?

17 JUDGE PEARSON: Yes.

18 OPENING STATEMENT

19 MS. DeLAPPE: Thank you very much. Good  
20 morning, Commissioners and Judges Pearson and Howard.

21 For PMSA the threshold question here -- and  
22 I think for everyone, overall, is whether the existing  
23 tariff is fair, just, reasonable, and sufficient.

24 PMSA agrees with Commission Staff that this  
25 proceeding is to determine the regulatory principles and

1 methods to make that determination. Part of that is  
2 devising a sensible rate-making formula similar to the  
3 formulas this Commission uses in electric, natural gas,  
4 and water utilities. The formula should provide fair  
5 compensation for the pilots' labor and a fair return on  
6 investment. That resulting total revenue requirement  
7 should provide transparency for all forms of pilot  
8 compensation, properly labeled and accounted for as  
9 compensation.

10 Currently, under PSP's accounting, that is  
11 not the case, and the total revenue requirement should  
12 not be correlated to the number of pilots given the  
13 variety of factors involved that are beyond the scope of  
14 the Commission's task here, such as PSP's internal  
15 workload and assignment decisions.

16 In the end, however PSP wishes to manage its  
17 internal affairs is up to PSP within the requirements  
18 imposed by law, but rate payers should not have to  
19 suffer for PSP's choices on how it manages its affairs.  
20 The major items involved in that, as Mr. Fassburg  
21 pointed out, are the -- is the management of callback  
22 and retirement costs. PMSA agrees with staff that rate  
23 payers have already paid once for pilotage services.  
24 They should not pay again for PSP's choices on how it  
25 manages pilot availability or compensates former pilots

1 and employees for past services.

2 In the same vein, and just like in those  
3 other industries, PSP's costs that are covered by the  
4 tariff should be limited to only those that are  
5 essential to the provision of pilotage services.

6 For example, the tariff should not cover for  
7 paying for PSP's decision in recent years to take a  
8 licensed pilot almost entirely off the water to do  
9 administrative tasks as their vice president.

10 And there are a number of expenses that the  
11 tariff should not cover or should cover only to a  
12 limited extent. Even essential costs should be examined  
13 carefully to avoid there becoming profit centers  
14 directly or indirectly for PSP members. To address  
15 that, and to evaluate which expenses are essential, PMSA  
16 asks that the commission direct its staff to conduct a  
17 performance audit of PSP's financials. PMSA feels  
18 strongly that PSA -- PSP has not met its burden of  
19 proving that the existing tariff is not fair, just,  
20 reasonable, and sufficient. However, PMSA does support  
21 a revenue neutral restructuring of the pilotage tariff  
22 consistent with the principles announced by Staff.  
23 PMSA also endorses limited tariff increases to cover the  
24 Commission's costs and stipends for pilot trainees.

25 Thank you, Judge.

1 JUDGE PEARSON: Thank you. Please bear with  
2 me as I will be muting and unmuting my microphone as  
3 well.

4 Ms. Webber, would you like to make an  
5 opening statement?

6 OPENING STATEMENT

7 MS. WEBBER: Yes. Good morning to everyone.

8 Pacific Yacht Management is proud to be a  
9 very small part of the journey the UTC is taking for  
10 setting the pilotage rate and to offer a recreational  
11 vessel point of view to the hearing as PMSA does the  
12 commercial side.

13 PYM understands and acknowledges the  
14 importance of the work performed by PSP to protect the  
15 waterways in the Puget Sound. While PYM understands  
16 PSP's desire for a rate increase, we feel that the  
17 proposed tariff increase places an unfair burden on the  
18 smallest portion of the vessels they serve.

19 If the tariff is approved as it is proposed  
20 by PSP, then small freighters and recreational vessels  
21 will be subject to a more than 300 percent rate increase  
22 over the current tariff in the next three years. This  
23 increase places an unfair burden on these vessels and  
24 will have a negative economic effect on the maritime  
25 community in the state of Washington and will drive

1 recreational vessels that are subject to pilotage away  
2 from our state.

3           PYM requests any increase to the current  
4 tariff is applied equally to everyone, and we hope that  
5 the UTC Commissioners understand the importance of  
6 treating each vessel fairly and that there is no  
7 revenue-generating way for foreign flag transient  
8 vessels or yachts to make revenue or generate revenue  
9 for themselves in the state of Washington and that a  
10 pilotage tariff is simply an expense they pay to come  
11 visit us. So thank you very much.

12           JUDGE PEARSON: Thank you.

13           Staff?

14                           OPENING STATEMENT

15           MR. FUKANO: Good morning, Judges and  
16 Commissioners. I am Assistant Attorney General Harry  
17 Fukano, and I and my cocounsel, Senior Assistant  
18 Attorney General Sally Brown, are here today on behalf  
19 Commission Staff. Commission Staff has presented its  
20 review and recommendations in this case through three  
21 witnesses.

22           Danny Kermode has provided testimony  
23 regarding PSP's pension expenses and the unrecorded  
24 callback liability, made recommendations regarding PSP's  
25 accounting practices, and has responded to PMSA's

1 testimony regarding cost of capital.

2 Ann LaRue has testified regarding the  
3 overall revenue requirement model and adjustments to  
4 expenses, such as depreciation and transportation  
5 expenses.

6 Finally, Scott Sevall has filed testimony  
7 regarding Staff's proposed rate design and rate  
8 methodology, in particular, Staff's recommended number  
9 of pilots and target pilot compensation.

10 To briefly summarize, Staff recommends in  
11 part that the Commission not include the unrecorded  
12 callback liability in rates, require PSP to transition  
13 to GAAP accounting and require additional discussion  
14 regarding PSP's pension as described by Mr. Kermode,  
15 that the Commission accept the revenue requirement model  
16 and adjustments proposed by Ms. LaRue, and that the  
17 Commission fund 52 pilots with a distributable net  
18 income of \$400,855 per pilot, and adopt Staff's proposed  
19 rate design as discussed by Mr. Sevall.

20 Staff's recommendations in this case are  
21 guided by two general principles. First, Staff has  
22 applied traditional rate-making principles to its review  
23 of PSP's case. Where possible and practicable, Staff  
24 has attempted to import and apply rate-setting  
25 principles from other industries regulated by the



1 Commission to pilot rate setting. In doing so, Staff  
2 has drawn on its years of experience gained over the  
3 course of various Commission rate-making proceedings.

4 Second, Staff is conscious of the fact that  
5 maritime pilotage is regulated by two separate agencies.  
6 While the legislature has transferred rate-setting  
7 authority from marine maritime pilotage to the  
8 Commission, the Board of Pilotage Commissioners retains  
9 authority to regulate the training, licensure, and  
10 provision of pilotage service.

11 Under this division of authority, each  
12 agency provides complimentary expertise. The Commission  
13 offers expertise in rate setting and the Board offers  
14 expertise regarding pilotage service. Acknowledging the  
15 experience and authority of the BPC regarding regulation  
16 of pilotage service, Staff has endeavored to rely on  
17 historical data regarding pilotage in the Puget Sound  
18 Pilotage District to support its analysis.

19 Staff recognizes that the present case is  
20 unique in several respects. Not only is this the  
21 inaugural proceeding for maritime pilotage rate setting  
22 at the Commission, but this hearing is also occurring  
23 against the backdrop of a significant public  
24 health crisis regarding Coronavirus. While the full and  
25 lasting effects of the Coronavirus continue and are

1 still being studied and understood, it seems likely that  
2 at least some of the projections and assumptions at  
3 issue in this case may be influenced by the effect of  
4 the Coronavirus.

5 Dispute this uncertainty, Staff believes  
6 that the Commission should proceed with its review of  
7 PSP's tariff proposal and determine fair, just,  
8 reasonable, and sufficient rates based on the evidence  
9 in this proceeding. Commission Staff urges the  
10 Commission to find its recommendations persuasive and to  
11 adopt them in their entirety. Thank you.

12 JUDGE PEARSON: Okay. Thank you. So at  
13 this point we will begin calling witnesses in the order  
14 indicated on the parties' witness list. And the first  
15 witness is Captain Eric von Brandenfels for PSP.

16 Captain von Brandenfels, if you could please  
17 turn on your camera and I will swear you in.

18 THE WITNESS: Camera is on.

19 JUDGE PEARSON: Okay. And your audio is on  
20 as well. Okay. Please raise your right hand.

21 Do you swear that the testimony you offer  
22 today will be the truth, the whole truth, and nothing  
23 but the truth?

24 THE WITNESS: I swear.

25 JUDGE PEARSON: Okay. Thank you. And,

1 Mr. Fassburg, will you be handling cross for this  
2 witness?

3 MR. FASSBURG: Yes, I will.

4 JUDGE PEARSON: Okay. And would you like to  
5 introduce the witness?

6 MR. FASSBURG: I would.

7

8 ERIC VON BRANDENFELS, witness herein, having been  
9 first duly sworn on oath,  
10 was examined and testified  
11 as follows:

12

13 DIRECT EXAMINATION

14 BY MR. FASSBURG:

15 Q. Captain von Brandenfels, will you please state  
16 your full legal name and business address?

17 A. Eric von Brandenfels. Puget Sound Pilots. Our  
18 address is Suite 200 Western Avenue in Seattle.

19 Q. Are you adopting your testimony in Exhibit  
20 EVB-1T today under oath?

21 A. I am.

22 Q. Thank you, Captain von Brandenfels. We'll  
23 present the witness for cross-examination.

24 JUDGE PEARSON: Okay. So PMSA has indicated  
25 cross for this witness. Ms. DeLappe, you may proceed

1 when you're ready.

2 MS. DeLAPPE: Thank you.

3 CROSS-EXAMINATION

4 BY MS. DeLAPPE:

5 Q. Good morning, Captain von Brandenfels.

6 A. Good morning.

7 Q. So PSP is the sole pilotage service provider of  
8 state licensed pilots in the Puget Sound; isn't that  
9 right?

10 A. That is correct.

11 Q. And all of the individuals licensed to provide  
12 pilotage service in the Puget Sound are members of PSP?

13 A. That's correct.

14 Q. All large nonexempt foreign flagged vessels  
15 subject to the State of Washington's Pilotage Act are  
16 required to hire a state-licensed pilot; right?

17 A. That's correct.

18 Q. The only way to have a state-licensed pilot  
19 assigned to your vessel in the Puget Sound is to contact  
20 PSP to arrange for services of a state-licensed pilot;  
21 right?

22 A. I believe that to be correct.

23 Q. The benefits of PSP's monopoly is to ensure  
24 service to vessels, because otherwise pilots would be  
25 able to cherry-pick among vessels and not provide

1 services to the least lucrative routes; right?

2 A. That's among -- that's one of the many services  
3 that we provide; yes.

4 Q. All right. So the principal benefit of PSP's  
5 monopoly to industry is that PSP ensures that pilots  
6 cannot cherry-pick their jobs even for the most  
7 undesirable vessel moves?

8 A. I believe that to be true.

9 Q. Yeah. How does PSP ensure that pilots not  
10 cherry-pick their jobs?

11 A. Through a random rotation that is -- it's  
12 last-in/first-out type of rotation on -- on either side  
13 of the -- whether it's at the hub in Seattle or the hub  
14 in Port Angeles. It's last-in/first-out -- or last out.

15 Q. So a licensed pilot can only do piloting -- a  
16 piloting job in Puget Sound through getting an  
17 assignment through PSP?

18 A. Yeah, that's correct.

19 Q. And pilots can't choose their own assignments?

20 A. Pilots cannot choose their own. It's through  
21 random rotation. It's a strict random rotation.

22 Q. Thank you.

23 So no vessels should ever not be provided  
24 service; right?

25 A. When a pilot is rested and available, that ship

1 should be able to get a pilot.

2 Q. So to confirm, the PSP monopoly provides service  
3 to every vessel does so to ensure that no vessel can  
4 ever be denied service because of pilots cherry-picking  
5 their jobs?

6 A. That's correct.

7 Q. Would you agree that this is the central bargain  
8 of the compulsory pilotage monopoly of the state of  
9 Washington that no vessels can hire a pilot from a  
10 pilotage service that is not PSP, but that in turn, PSP  
11 must provide a pilotage service for all vessels without  
12 cherry-picking out those on unpopular or less lucrative  
13 routes?

14 A. One of the suite of things that the pilots  
15 provide; yes.

16 Q. The PSP bylaws contain a noncompete section;  
17 correct?

18 A. I -- I believe so.

19 Q. And, in fact, that's Section 20. If I -- you  
20 want to refresh your memory on that --

21 A. I have it here if you don't mind me looking at  
22 it.

23 Q. Of course.

24 MS. DELAPPE: That's Exhibit EVB-5X at pages  
25 22 to 23, if anyone else wants to look.

1 THE WITNESS: Okay. Yeah, I see it here.

2 BY MS. DeLAPPE:

3 Q. Great. And, additionally, there are liquidated  
4 damages where a pilot agrees to forgo his or her equity  
5 in PSP and any benefit -- pension benefits, right, as  
6 part of that?

7 A. I -- I believe that's what that says, yeah.

8 Q. Yeah. Section 20.3?

9 A. Okay.

10 Q. So, that's correct.

11 So you're the President and CEO of PSP; right?

12 A. That's correct.

13 Q. Okay. Should we understand that to mean that  
14 you are both the President of the Board of PSP and the  
15 Chief Executive ultimately responsible for the  
16 day-to-day operations of the organization?

17 A. That's -- that's correct.

18 Q. All right. You do not list the management of  
19 the Executive Director or the relationship between  
20 yourself as CEO and the PSP Executive Director in your  
21 testimony.

22 Can you please explain how you manage the  
23 Executive Director as President and CEO?

24 A. I would say that we collaborate.

25 Q. Okay. But as President and CEO, you are

1 ultimately responsible for all PSP management issues; is  
2 that correct?

3 A. It seems that way, yes.

4 Q. But you don't set the watch rotation or assign  
5 pilots to vessels; right?

6 A. I -- the dispatch handles the assigning the  
7 pilots to the vessels in strict random rotation.

8 Q. So that's not your job; right?

9 A. To the vessels. I don't assign pilots to the  
10 vessels; no. That's done by the dispatch.

11 Q. Who at PSP is in charge of the day-to-day? So  
12 you're saying that's the dispatch. The daily assignment  
13 of pilots; right?

14 A. The shifts, yes.

15 Q. Okay. And who's ultimately responsible for  
16 making an assignment decision? Is that the PSP  
17 President and CEO or a dispatch employee?

18 A. That would be -- that would be me. I would be  
19 the ultimate, you know -- I would be the arbitrator of  
20 something other than a ship assignment.

21 Q. How does that final assignment decision occur?

22 A. The final ship assignment, or --

23 Q. Correct. The final assignment decision. You  
24 just said that you're ultimately responsible.

25 A. It goes into the -- the dispatch system, which



1 as they have checked in and they've been given their  
2 opportunity for rest between the assignment, then  
3 they move to the board where they can be assigned to a  
4 job after their appropriate rest.

5 Q. They move to the board. What's --

6 A. It's on -- it's on a dispatch screen that we  
7 see. And they move into that rank in either above or  
8 below of someone that's finished assignment, either  
9 before them or after them.

10 Q. And -- and when you say that you're ultimately  
11 responsible for making the assignment decision, where  
12 does that part come into play?

13 A. If I were to remove a pilot from the board for a  
14 different assignment, then that would be where we, you  
15 know -- we would remove that pilot, assign them to a  
16 meeting, and then they would check in after that meeting  
17 and go back into rotation for moving shifts. If they  
18 were -- if they were in the rotation part of their duty  
19 cycle and not on -- on respite.

20 Q. Okay. Thank you.

21 If you could turn to -- I'm going to ask you to  
22 turn to Ivan Carlson -- Captain Carlson's testimony, the  
23 original testimony in this case, Exhibit IC-1T. And  
24 specifically page 3 in his testimony.

25 A. Can you bring that up? Was it loaded in my

1 cross exhibit list under a number?

2 Q. No. This is one of the exhibits that PSP filed  
3 in November in this case.

4 A. Okay. So it wasn't in the cross-testimony  
5 exhibit that you were going to file that I was to be  
6 aware of.

7 Q. These -- all of our -- as we stated in our cover  
8 letter with the cross-exhibits, we also reserved the  
9 right to ask witnesses about other exhibits that had  
10 been filed to avoid duplication.

11 A. Okay. Well, we'll work on getting that in front  
12 of me now, unless you can screen share it.

13 Q. Thank you.

14 A. Is it page 3?

15 Q. Yes, page 3 of that exhibit. Thank you.

16 CHAIR DANNER: Ms. DeLappe, can you give us  
17 that cite again? What Exhibit was it?

18 MS. DeLAPPE: Certainly, it's Exhibit IC-1T,  
19 that's for Ivan Carlson, IC.

20 JUDGE PEARSON: And what page reference are  
21 you on?

22 MS. DeLAPPE: Page 3, and specifically I'm  
23 looking at starting at line 16.

24 BY MS. DELAPPE:

25 Q. And I will go ahead and read the answers that

1 Captain Carlson provided there.

2 He said that providing board on approval service  
3 is a monumental task that requires constant proactive  
4 management of PSP's assets to ensure that we have pilots  
5 available in the places that they are needed at the time  
6 they are needed. There are a number of components to  
7 that active management that are required to move vessels  
8 on time. The most important component of providing  
9 board on arrival services is -- service -- excuse me --  
10 is having an adequate number of pilots licensed in the  
11 pilotage district so that PSP can dispatch a rested  
12 pilot when requested by the ship operator. We also  
13 engage our dispatchers to constantly monitor expected  
14 jobs and pilot availability in order to ensure we will  
15 have sufficient pilots available at the times for which  
16 the shipping agents order a pilot. Keeping ships moving  
17 on time also requires that we reposition pilots to and  
18 from the pilot station in Port Angeles to match demand  
19 wherever it may be.

20 And in the -- continuing again on line 5 of that  
21 second page. Although the vessel's schedule determines  
22 the timing of vessel movement, PSP relies upon an  
23 ordering system that gives PSP advanced notice of the  
24 need for pilotage service, and our dispatchers use that  
25 information to try to make sure there are adequate

1 pilots available to move the ships at the times for  
2 which the pilots are requested.

3 Do you agree with Captain Carlson's description  
4 of the dispatch system here?

5 MR. FASSBURG: Objection. This question  
6 exceeds the scope of Captain von Brandenfels initial  
7 testimony. The specific discussion of the board on  
8 arrival service and how PSP manages that was not in the  
9 testimony of Captain von Brandenfels. That question  
10 would be better directed to Captain Carlson.

11 JUDGE PEARSON: Ms. DeLappe, do you want to  
12 respond?

13 MS. DeLAPPE: I'm only asking whether, as  
14 President of PSP, Captain von Brandenfels agrees with  
15 this description of the dispatch system.

16 JUDGE PEARSON: All right. I'll allow it.

17 Mr. Von Brandenfels, it's just a yes-or-no  
18 question.

19 THE WITNESS: Yes.

20 BY MS. DeLAPPE:

21 Q. Thank you.

22 Do you agree with Captain Carlson that running  
23 the PSP pilotage service requires constant proactive  
24 management of PSP's assets to ensure we have pilots  
25 available in the places they are needed at the time they

1 are needed?

2 A. 24/7, 365.

3 Q. Thank you.

4 And as CEO of PSP, are you ultimately  
5 responsible for the management of this system which  
6 ensures and monitors pilot availability for assignment?

7 A. Yes, it feels that way.

8 Q. Can an on-watch PSP pilot refuse a job when  
9 assigned?

10 A. Yes, they can.

11 Q. So an individual cannot choose when they are --  
12 when they are or are not available, but they can refuse  
13 an assignment.

14 Can you explain that?

15 A. If there's an emergency situation, and they  
16 can't -- and they can't make the assignment, they can  
17 refuse the job. They have been allowed to -- to do that  
18 through recent Board of Pilotage Commission adjustment  
19 that says if, you know, they are fatigued, they can't do  
20 it.

21 Recently, we've had some COVID issues that have  
22 had pilots, you know, be able to refuse a job because  
23 they have been exposed to the virus and not want to  
24 spread it throughout the industry. So there are  
25 exceptions to whether a pilot can make an assignment.

1 Q. So aside from those exceptions, an individual  
2 cannot choose when or when they are not available --  
3 when they are available or not available; right?

4 A. Aside from those exceptions -- can you say that  
5 again?

6 Q. So you listed the exceptions: emergency,  
7 fatigue, and COVID issues. An individual pilot cannot  
8 choose when they are or are not available with the  
9 exception of those issues?

10 A. They can choose when they are or not available,  
11 yes. That's true, they can.

12 Q. They can choose.

13 A. They can choose, right, by having the out of  
14 being, you know, an issue that prohibits them from  
15 physically being able to show up.

16 Q. And that would be -- that out would be if  
17 there's an emergency or a fatigue or a COVID issue;  
18 correct?

19 A. Yeah. Along those lines, yes.

20 Q. Okay. If it's not one of those, the pilot can't  
21 choose, cannot choose?

22 A. Right.

23 Q. Okay. Would you expect a pilot to let you know  
24 if they were so fatigued as to not be able to complete a  
25 job?

1 A. Yes.

2 Q. And would you consider it a duty of the pilot to  
3 let you know if they were so fatigued as to not be able  
4 to complete a job?

5 A. Pilots aren't the best judges of their own  
6 fatigue. But when they would be able to do so, I would  
7 expect they would.

8 Q. Okay. So if you could turn to -- you might want  
9 to -- maybe we can do this without turning to it. But  
10 the PSP operating rules, they allow you to -- and that's  
11 Exhibit EVB-6X, and I'm specifically looking at page 26.

12 A. Okay. I got it right here.  
13 26, in the operating rules?

14 Q. Yes, page 26 of that exhibit.

15 A. Which operating rule number is that that you are  
16 referring to?

17 Q. If you look at page 26, you'll see that there's  
18 a provision on that page that allows you to penalize a  
19 pilot on-watch who refuses to do a job in rotation. Let  
20 me put on my glasses so I can see the exhibit myself.

21 JUDGE PEARSON: Just when --

22 MR. FASSBURG: For clarification,  
23 Ms. DeLappe, can you give him the page again because  
24 he's looking for that and can't find it.

25 THE WITNESS: The operating rule number

1 would be good.

2 BY MS. DeLAPPE:

3 Q. So if you can look at page 25, there's Rule 23  
4 at the bottom of the page.

5 A. Okay.

6 Q. Yeah. Sorry. One page off. So just to  
7 confirm, that allows you to penalize a pilot on-watch  
8 who refuses to do a job rotation; right?

9 A. Yes, that's -- that's without good and just  
10 cause.

11 Q. Right.

12 A. So it is not just -- it's not just because we  
13 can.

14 Q. Good. So you wouldn't penalize a fatigued  
15 pilot, for example, who let you know that they are too  
16 fatigued to complete a job safely?

17 A. Should any member without good and just cause  
18 fail to comply with one or more of these operating  
19 rules, they can be fined.

20 Q. Okay. So I'm understanding that correctly? If  
21 a pilot is too fatigued, you would not penalize them for  
22 not completing the job?

23 A. That's correct.

24 Q. Would it matter to you in deciding to penalize a  
25 pilot who's too fatigued to complete a job safely based



1 on whether or not the next pilot to take the job was on  
2 watch and next on rotation or coming in for -- from a  
3 callback -- for a callback? Would that matter to you?

4 A. Well, if the pilot that's number one on the  
5 board that's ready to be assigned to the next job had  
6 had his adequate rest, then that would be the pilot that  
7 would take the place of the pilot that was fatigued.

8 Q. Uh-huh. So that would not play any role in  
9 whether you decide to penalize the pilot who's too  
10 fatigued?

11 A. I can't think of any reason why, no.

12 Q. Okay. Mr. Tabler's testimony in this case says  
13 that pilots who are on duty but fatigued can take a day  
14 off without financial penalty because of the callback  
15 system.

16 So based on your previous answer, would you  
17 agree that a fatigued pilot would not be penalized  
18 whether there was a callback involved to cover his  
19 rotation or not?

20 A. In the light of the recent Board of Pilotage  
21 Commission adjustment to their -- was it a policy or the  
22 RCW? I can't recall. But it was -- it addressed that  
23 and pilots use those callback days when they are  
24 fatigued so that they don't have to make that call.

25 Q. Right. So your decision about whether there is

1 a penalty on the pilot who's fatigued is completely  
2 separate from whether the pilot who's top on the list is  
3 coming in for -- whether there's a callback involved?

4 A. Ultimately, the safety of the vessel and the  
5 pilot are the first -- the first priority.

6 Q. So your penalty decision does not involve  
7 whether there's a callback involved to cover that pilot?

8 A. No.

9 Q. Okay. Would it be responsible for pilots who  
10 are truly fatigued to condition their notice of fatigue  
11 based on whether other pilots are working on-watch or  
12 off-watch?

13 A. No.

14 Q. And would you expect that pilot to only tell you  
15 where they were fatigued so some other pilot could get a  
16 callback?

17 A. That wouldn't be -- that wouldn't be something I  
18 would expect, no.

19 Q. Is it your experience that pilots claim to be  
20 fatigued only so some other pilot can get a callback  
21 day?

22 A. No.

23 Q. No.

24 So would pilots knowingly work fatigued under a  
25 fear of penalty?

1 A. Would pilots knowingly work fatigued? No.

2 Q. Thank you.

3 So according to Mr. Tabler, because of PSP's  
4 operating rules which penalize on-duty pilots for  
5 refusing an assignment that pilots might feel compelled  
6 to accept, even when ill or fatigued, to avoid the  
7 application of that penalty, unless they knew another  
8 pilot was able to cover a job with a callback, would you  
9 say that you disagree with Mr. Tabler on that point?

10 MR. FASSBURG: I'm going to go ahead and  
11 object. Captain von Brandenfels did not testify on this  
12 subject matter. This is outside the scope of his  
13 initial testimony.

14 MS. DeLAPPE: So I -- if I may, I'd like to  
15 ask --

16 JUDGE PEARSON: Yes, you may.

17 MS. DeLAPPE: Thank you. I'd like to ask  
18 Captain von Brandenfels to go ahead and turn to Exhibit  
19 EVB-10X, 31.

20 JUDGE PEARSON: I'm sorry. You gave two  
21 numbers.

22 MS. DeLAPPE: Thank you. 10X, page 31.

23 JUDGE PEARSON: Okay.

24 THE WITNESS: Is that a data request from me  
25 on 10, or is that my testimony?

1 MR. FASSBURG: Would you mind repeating that  
2 exhibit one more time?

3 MS. DeLAPPE: Yes. Excuse me. EVB-10X, and  
4 I thought that this was -- I'm looking for the response  
5 to data request 186. It looks like I have maybe got  
6 that page wrong. Just a minute. 186. Excuse me.  
7 That's the very last part of this Exhibit 10X.

8 THE WITNESS: At Exhibit 10.

9 MR. FASSBURG: This is Walt Tabler's  
10 response to request 186.

11 MS. DELAPPE: Correct.

12 MR. FASSBURG: I'm going to make the same  
13 objection.

14 MS. DeLAPPE: Correct. I just wanted to put  
15 this in front of everyone so that it's clear that we are  
16 continuing just the line of questions about the  
17 financial penalty and fatigue issues and assignment  
18 management issues.

19 JUDGE PEARSON: I'm going to allow it. Go  
20 ahead.

21 MS. DeLAPPE: Thank you.

22 BY MS. DeLAPPE:

23 Q. So, Captain von Brandenfels, would you disagree  
24 with the statement that the pilots might feel compelled  
25 to accept an assignment even when ill or fatigued to

1 avoid application of that penalty unless they knew that  
2 another pilot was able to cover the job with a callback?

3 A. So can you restate -- so let me -- let me  
4 restate your question.

5 So you think that I -- that if a pilot wasn't --  
6 didn't feel rested and ready for the assignment, that  
7 they would go ahead and do it if they thought another  
8 pilot wasn't able to cover the job; is that what you  
9 said?

10 Q. If another -- yeah, to cover the job with a  
11 callback and if they thought that they would have a  
12 financial penalty because of that.

13 A. That's a -- it's hard for me to get inside of  
14 another pilot's mind. I can't answer that. I don't  
15 have an opinion on that.

16 Q. And, Captain von Brandenfels, earlier you said  
17 safety of the vessel is -- and everyone is first;  
18 correct?

19 A. Yeah, but I can't -- I can't -- I don't know --  
20 there's 50 different pilots. I can't -- I can't speak  
21 on behalf of 50 different pilots.

22 Q. Okay. So how would a PSP dispatcher know if a  
23 pilot is fatigued to take a pilotage job?

24 A. How would they know?

25 Q. Mm-hmm.

1           A.    There's no fatigue breathalyzer.  There's no  
2   fatigue test you can do.  The pilot was fatigued.  
3   There's -- there's no -- there's no way you would know.  
4   There's no way another person could know if another  
5   person that they are not in the room with is fatigued.

6           Q.    So you really rely on the pilots to self-report  
7   to the dispatcher; is that right?

8           A.    You rely on the pilot to -- yeah.  It's his  
9   responsibility that -- one of the many responsibilities  
10  that a pilot has.

11          Q.    Great.  Thank you.

12                   And how does a PSP dispatcher know whether an  
13  individual pilot is available for an assignment while on  
14  watch?

15          A.    Well, they don't call them until they've  
16  completed their respite.  I mean, the rest cycle of  
17  their assign.  You know, they are finished with their  
18  assignment.  They have done their travel.  And then they  
19  have got their rest, their 10-hour rest.  Then they are  
20  available to be assigned.  And after that, they get  
21  called.

22          Q.    Right.  And you mentioned earlier that you have  
23  the authority to determine whether on-watch pilots  
24  attend meetings.

25          A.    That's correct.

1 Q. Does anyone else have that authority?

2 A. I believe it's invested in me.

3 Q. Mm-hmm. Does the PSP President, you, ever  
4 assign the authority to a dispatcher to do the  
5 day-to-day task of approving when other assignments,  
6 like meetings, are undertaken by a pilot?

7 A. Nope. That's all on the president.

8 Q. So the president, ultimately, has authority to  
9 choose when someone is at a meeting instead of being  
10 available to be assigned to a vessel?

11 A. That's correct.

12 Q. Does the president ultimately have authority to  
13 suspend all meetings other than for BP -- BPC  
14 Commissioners to make pilots available to be assigned to  
15 a vessel?

16 A. We do for internal meetings, and that's done  
17 regularly. When we see a surge of traffic, we will  
18 suspend or reschedule an internal meeting. But our  
19 meetings that we've been invited to that have been, you  
20 know, like you say, Board of Pilotage Commission or area  
21 maritime security or harbor safety where we've been a  
22 part of that community in good standing for a long time,  
23 and those are -- those are meetings that all deal with  
24 oil spill prevention and security of our country and our  
25 sound. And oftentimes no matter how big that room is,

1 we are the only people in it that have live experience  
2 day-to-day moving large vessels on Puget Sound that run  
3 the risk of grounding, oil spill, collision, loss of  
4 life, damage of property. So if we're not at those  
5 meetings, that position is not being brought forth to  
6 that community.

7 Q. So my --

8 A. We're not going to meetings where we're planning  
9 a bake sale or a golf tournament. These are meetings  
10 that are in the -- in the interest of the public.

11 Q. Thank you.

12 My -- my only question there is that you're the  
13 one who ultimately has authority to suspend any meetings  
14 and decide which ones are essential except for the BPC  
15 commissioner meetings which are essential, obviously?

16 A. I probably would not suspend a meeting with the  
17 UTC as well.

18 Q. Thank you. Good.

19 Is it possible for the president or dispatch to  
20 sometimes not have enough pilots available to cover the  
21 number of vessels that need a pilot?

22 A. Is it possible?

23 Q. Uh-huh.

24 A. It happens all the time.

25 Q. How does the president or dispatch know that you



1 will not have enough pilots available in this situation?

2 A. When the number of jobs exceed the number of  
3 pilots that are available, that are rested and available  
4 for dispatch.

5 Q. What metrics or measurements do you use to  
6 measure pilot availability and institute a callback  
7 prior to that lack of availability impacting vessel  
8 movement?

9 A. When -- when there's not a rested pilot, or a  
10 pilot in rotation that can move that job, there -- the  
11 screen that shows the pilots in rotation won't fill in.  
12 It's a -- it's a program we have, a dispatching tool.  
13 And so it leaves a gap. And so when there's a gap  
14 there, that needs to be filled by an -- a pilot that's  
15 on their respite, which means they have done their --  
16 their duty time. And now they are on their earned  
17 respite. And then they get called from a list of  
18 available pilots that are not in rotation for that  
19 15-day period. That are -- those pilots are being  
20 called back from their 13-day respite.

21 Q. Uh-huh. So it's when the screen -- from that  
22 program shows the gap. That's when you create a  
23 callback to service a vessel.

24 A. That's correct.

25 Q. Can a PSP pilot refuse a job when assigned and

1 he is available but is off watch?

2 A. Yes.

3 Q. So a PSP --

4 A. I wouldn't call them available if they refuse  
5 the job. If they are available to work, they most  
6 likely do. But if they are, say, unavailable attending  
7 to a family member or if they are sick or just like  
8 anybody else that has a life outside of their career,  
9 you know, and the needs that -- that -- that are within  
10 that life. I don't know if that's available or not.  
11 They are not scheduled to work.

12 Q. They don't need to provide a reason for refusing  
13 the callback, do they?

14 A. No.

15 Q. Thank you.

16 So a PSP pilot can actually choose his  
17 assignments when off watch, but is only allowed --  
18 that's only allowed because the cherry-picking has  
19 occurred at a time when he is not on-watch; right?

20 MR. FASSBURG: Objection. Did you just say  
21 that they are cherry-picking by their callback? I think  
22 you are misconstruing what his testimony has said.

23 MS. DeLAPPE: I can rephrase.

24 JUDGE PEARSON: Thank you.

25 BY MS. DeLAPPE:

1 Q. So a PSP pilot can actually choose his  
2 assignments when off watch; correct?

3 A. No, that's not right. If there's a job  
4 that's -- that needs to be filled and that's the option  
5 that they have is to fill the job that can't be taken  
6 or -- or done by a pilot that's rested and in rotation.

7 Q. But your testimony just a moment ago is that if  
8 the pilot is off watch and says that he is unavailable,  
9 he does not have to provide any further reason; he can  
10 just refuse the assignment.

11 A. That's correct. But that's not the second part  
12 of your question.

13 Q. What's the second part of my question?

14 A. That they get to pick a job or -- I think you  
15 used the word "cherry-pick."

16 Q. The cherry-picking, I guess -- you referred to  
17 cherry-picking in your testimony originally. And we  
18 talked about the fact that cherry-picking can't occur as  
19 part of the bargain of the compulsory pilotage. But the  
20 point of this question is that it's a different paradigm  
21 when the pilot is off watch; correct?

22 A. I wouldn't agree to that. It's -- sometimes  
23 it's -- there's only one job that they can -- that they  
24 can do or their license level doesn't allow them to do a  
25 certain job. It's pretty much up to the dispatcher what

1 they need, the job that needs to be fulfilled, or  
2 whatever you want to call it --

3 Q. Okay.

4 A. -- by the pilot. So it's not -- it's not  
5 necessarily a choice.

6 Q. Understood.

7 And it's just that when they are off watch they  
8 can refuse the assignment?

9 A. That's correct.

10 Q. Okay. And you, as the President and CEO, get to  
11 decide when a pilot is available for a job by putting  
12 them on watch or off watch; right?

13 A. That's not correct.

14 Q. So as President you don't decide whether  
15 there -- whether, for example, you are on watch or off  
16 watch, do you?

17 A. Me personally?

18 Q. Correct.

19 A. Personally never on watch as a President.

20 Q. But you sometimes engage in vessel movements?  
21 You sometimes take an assignment?

22 A. Yeah. When it's -- it is allowed in the -- in  
23 the bylaws and in the operating rules I'm allowed to  
24 take a job when I am -- when I'm current and rested and  
25 ready to go, yeah. In order to manage, you know,

1 delays, I often take assignments.

2 Q. So is it at your direction that other pilots are  
3 required to perform office meeting work rather than  
4 vessel movements sometimes?

5 A. It's at my direction, yes.

6 Q. Okay. And you actively consult with Captain  
7 Carlson on vessel coverage issues when peak demand  
8 warrants and the -- and Captain Carlson has accepted --  
9 you know, as Vice President has accepted also taking  
10 assignments?

11 A. That's -- yeah, only because of the extreme  
12 nature of the pilot shortage in the last few years that  
13 we've had to address this just to avoid delays. We stay  
14 in very close communication.

15 Q. And the Vice President has not missed any vessel  
16 assignments for which he was dispatched; right?

17 A. No.

18 Q. Okay. Do you get to decide as President and CEO  
19 whether the Vice President is off watch or in performing  
20 administrative tasks?

21 A. Well, the Board of Directors guide that decision  
22 as well.

23 Q. And you do too, then?

24 A. Yeah. I'm a member of the Board. I'm the Chair  
25 of the Board of Directors, I guess, yeah. But we all --

1 it's a group decision.

2 Q. Okay. So the Vice President, does he have a  
3 regular watch rotation?

4 A. He does.

5 Q. The job description for the position of Vice  
6 President is extensive; correct?

7 A. It's an extremely extensive job.

8 Q. And his job responsibilities have mushroomed;  
9 right? I think that was your word in your testimony.

10 A. Yes. I mean, they have always been real -- you  
11 know, a lot -- there's always been a lot. When I served  
12 as Vice President, it was an all-consuming job  
13 supporting a president. And this one is no different.

14 Q. Is that expansion of the job duties at the  
15 direction of the PSP President?

16 A. And the Board.

17 Q. If you could turn to the bylaws, that's Exhibit  
18 EVB-5X. Hopefully I'll get the page number right this  
19 time, page No. 13, if that's Section 11.2 of the bylaws.

20 A. Okay. I'm there.

21 Q. Thank you.

22 So there it says, "The Vice President shall act  
23 in the place and stead of the President if a vacancy  
24 occurs in the Office of the Presidency or in the absence  
25 of the President for illness or while out of town or

1 while on authorized leave granted by the Board of  
2 Directors, or when the President is otherwise  
3 unavailable, the Vice President, while so acting, shall  
4 have all the powers of the President. The Vice  
5 President shall be a member of the Board of Directors."

6 The duties in that section are quite limited,  
7 aren't they?

8 A. They don't look limited to me. There -- if the  
9 Vice President is acting in the place of the President  
10 when the President is otherwise unavailable, then he's  
11 taking on the role of the President and -- and the role  
12 of the President is extensive.

13 Q. And so when you are not available and Captain  
14 Carlson is acting, he has all the powers, all your  
15 powers?

16 A. As in the bylaws right there before us, yeah.

17 Q. And so that's in limited occasions; isn't it?

18 A. There's -- well, limited to when I'm  
19 unavailable, which that happens pretty regularly,  
20 actually.

21 Q. So if the duties have mushroomed outside of --  
22 you wouldn't say they have mushroomed outside the limits  
23 of the bylaws at all then it sounds like?

24 A. Well, as the workload of the President  
25 mushrooms, then so does the workload of the Vice

1 President. I know -- and believe me, the workload of  
2 the President has mushroomed.

3 Q. So when the Vice President is required by you to  
4 attend a meeting or complete an administrative task, you  
5 would say that is within the scope of this provision in  
6 the bylaws? It's only -- he's acting as President  
7 because you are unavailable.

8 A. I mean, that's one way of looking at it.

9 Q. I'm trying to understand your way of looking at  
10 it, Captain von Brandenfels. I'm trying to connect this  
11 to your prior testimony.

12 A. I equate it to like a chief mate on a ship. You  
13 know, there's a shared responsibility to do the work  
14 that's required. You know, the entire bridge team and,  
15 and as the chief mate or the vice president, that work  
16 is, you know -- if the captain has a lot of work, the  
17 chief mate has a lot of work. If the president has a  
18 lot of work, the vice president has a lot of work.

19 Q. So it's either the -- the mushrooming of  
20 administrative tasks is either within the scope of this  
21 provision or it's outside of the scope of this  
22 provision, and by direction of the Board of Directors as  
23 a group; correct?

24 A. Yeah. I mean, it's -- it's hard for me to  
25 comment on that in the way that you are saying it. I



1 don't know. I know that it's vital that he's there and  
2 available.

3 Q. To -- to the extent his administrative tasks  
4 have mushroomed outside of the scope of this provision,  
5 is it any different from when other pilots are required  
6 to perform office meeting work rather than vessel  
7 movements?

8 A. Different? It's still dealing with the scope of  
9 work that's required by non-piloting services that we  
10 provide.

11 Q. Okay. Do you consider office work or attending  
12 meetings or completing administrative tasks to be the  
13 same work as actually done by pilots out on the water?

14 A. I consider it equally or sometimes more  
15 important.

16 Q. But the very least, when PSP is producing  
17 reports to the Board of Pilotage Commissioners regarding  
18 assignments, we're all talking about actually getting on  
19 board a vessel and providing pilotage service; right?

20 A. Would you repeat the question -- your question.

21 Q. So you -- PSP produces reports to the Board of  
22 Pilotage Commissioners regarding assignments; right?

23 A. That's correct.

24 Q. Okay. And in those reports, your -- your  
25 assignments that you're reporting are about getting on

1 board a vessel and providing pilotage service; correct?

2 A. We're not always. Sometimes the  
3 assignments that are -- I mean, sometimes the duties  
4 that are reported to the Board of Pilotage Commission  
5 include meetings and earned time off and major medical  
6 and other things like that so.

7 Q. And so I'm asking about when you're reporting  
8 assignments, just assignments, the meetings wouldn't go  
9 into that; right?

10 A. They would go into that?

11 Q. No. They would not; is that correct?

12 A. You go into the same report that I give monthly.

13 Q. All right. Let's -- let's look at one of those  
14 monthly activity reports. It's Exhibit JR-16R. And if  
15 you could turn to page 3. And, Captain von Brandenfels,  
16 I know that you know what these reports look like, so if  
17 you don't want to refer to it on paper, that's -- that's  
18 fine. But under the activity heading of one of those  
19 monthly activity reports it lists assignments; right?  
20 "Total pilotage assignments."

21 A. Correct.

22 Q. And then the one that is on page 3 of Exhibit  
23 JR-16 it lists a number of 572 assignments. So in  
24 that -- below that it lists "total ship moves"; right?

25 A. (Witness nods head.)

1 Q. And the -- to the side it says "cancellations";  
2 right?

3 A. (Witness nods head.)

4 Q. So if we add the total ship moves -- in this one  
5 it's 549 -- and the cancellations -- in this one it's  
6 23 -- then we have the total pilotage assignments, which  
7 here is 572. Is that how this works?

8 COMMISSIONER RENDAHL: I'm sorry,  
9 Ms. DeLappe. This is 16?

10 MS. DeLAPPE: Yes, JR-16.

11 COMMISSIONER RENDAHL: And what page?

12 MS. DeLAPPE: If you turn to page 3.

13 COMMISSIONER RENDAHL: All right. My  
14 electronic document shows nothing on a report.

15 MS. DeLAPPE: So on page 3, there should be  
16 a Puget Sound Pilotage District activity report.

17 COMMISSIONER RENDAHL: Got it. Okay. Thank  
18 you.

19 MS. DeLAPPE: Thank you. I'm relieved. So  
20 right there you see the activity, total pilotage  
21 assignments, and that number is equal to cancellations  
22 plus total ship moves.

23 MR. FASSBURG: And I'm sorry. Ms. DeLappe,  
24 Captain von Brandenfels does not have all of the  
25 witnesses' exhibits for all of the other witnesses with

1 him here in the room, so Captain von Brandenfels can't  
2 refer to that document. I'm not sure how we'll be able  
3 to address questions about specific documents we don't  
4 have. He does have his laptop here for some exhibits if  
5 no one objects to him looking. I don't know if he has  
6 that one. He just looked and said he does not have it.

7 MS. DeLAPPE: It sounds like that won't be a  
8 problem, since he is very familiar with how these forms  
9 work. And so I think we've covered what we wanted to on  
10 that particular one. So thank you. And I'll keep that  
11 in mind going forward.

12 BY MS. DeLAPPE:

13 Q. Are you ultimately responsible, Captain  
14 von Brandenfels, for the accuracy of these reports?

15 A. I report on them. Apparently, yes.

16 Q. All right. You wouldn't knowingly misrepresent  
17 the information on these reports?

18 A. No.

19 Q. Would you?

20 A. No. That would be not something I would do.

21 Q. And PSP wouldn't knowingly misrepresent  
22 information on these reports either?

23 A. No.

24 Q. And would you agree that for purposes of  
25 reporting the instances identified as pilots out of

1 regular dispatch rotation, which is also, as you know,  
2 on this form. You are informing the Board of Pilotage  
3 Commissioners that a pilot is not available for an  
4 assignment?

5 A. I believe it even gives the dates.

6 Q. Uh-huh. Good.

7 And you would not list on this report that a  
8 pilot was out of rotation when he was actually available  
9 to complete an assignment; right?

10 A. We list pilots that are out of rotation as  
11 meetings in that list.

12 Q. Uh-huh. Which means that that pilot is not  
13 available to complete an assignment because they are  
14 assigned to a meeting; right?

15 A. Right.

16 Q. Yeah. And as president and CEO of PSP, it's  
17 your responsibility to implement and enforce the PSP  
18 operating rules; correct?

19 A. Uh-huh. Yes.

20 Q. So we discussed earlier the penalties and  
21 consequences section of the operating rules. I believe  
22 the penalty -- well, we discussed that actually in  
23 context of the bylaws. In the operating rules --

24 A. It was the operating rules.

25 Q. What's that? Okay. Rule 23, the penalty for

1 failure to comply, should any member without good and  
2 just cause fail to comply with one or more of these  
3 operating rules, the president shall cause to have  
4 withheld from that member's distribution for the  
5 subsequent month following the infraction the sum of  
6 \$500 for each and every violation. So that's section --  
7 Rule 23 in the operating rules.

8 The president must penalize each pilot \$500 for  
9 every violation of the PSP operating rules; correct?

10 A. I don't think it says "must." But I -- I --  
11 I'll have to look.

12 Q. All right. That's -- again Exhibit EVB --  
13 let's see -- 6X, page 25, at the bottom of the page.  
14 And it says, "The President shall cause to have withheld  
15 from that member's distribution," et cetera.

16 A. Okay. Yep, I see it.

17 Q. Okay. And you'd agree that then this does say  
18 the President must penalize the pilot if they violate  
19 the operating rules?

20 MR. FASSBURG: Objection. She's calling for  
21 a legal interpretation of PSP's operating rules.

22 MS. DeLAPPE: I'm not. I am asking Captain  
23 von Brandenfels's what you understand the operating  
24 rules that you are then charged with enforcing what they  
25 mean.

1 JUDGE PEARSON: Okay. I'll allow it.

2 MS. DeLAPPE: Thank you.

3 THE WITNESS: I mean, to my knowledge, yeah.

4 BY MS. DeLAPPE:

5 Q. How often have you had to penalize pilots for  
6 violating the operating rules?

7 A. It's happened. But myself, personally, I  
8 haven't had to do it since I've been President. But I  
9 know it has happened.

10 Q. Would you agree that no financial penalties have  
11 been issued since January 1st, 2015?

12 A. No. I couldn't say that for sure.

13 Q. Okay. Let's turn to Exhibit EVB-10X, and I hope  
14 I get my page number right. I think it's page 30.

15 A. Is that UTC --

16 Q. That's the PSP response to PMSA data request  
17 number 185. And the last line on the page.

18 A. That's from Captain Carlson's testimony; is that  
19 right?

20 Q. Yes. And if you could look at the last line on  
21 the page, Captain Carlson says he's not aware of any  
22 financial penalties that have been issued since  
23 January 1, 2015. Are you aware of any?

24 A. I don't -- I don't recall any, no.

25 Q. So pilots follow these rules?

1 A. Yeah. For the most part, yeah.

2 Q. Otherwise, you would know about it and be  
3 required to fine them. That's a nod of your head.

4 A. Yes.

5 Q. So for the court reporter that's a "yes." Thank  
6 you.

7 All right. At PSP operating rules 1A, so we  
8 turn back to Exhibit EVB-6X, and that's on page 2. And  
9 there's -- right at the front there it says, "Rotation.  
10 Pilots shall be assigned to vessels in accordance with a  
11 strict rotation system which shall be adhered to";  
12 correct?

13 A. It is that, yes.

14 Q. Okay. And no PSP pilots have been fined by you  
15 as President for not following this Rule 1A regarding  
16 strict rotation?

17 A. Not to my knowledge. I don't recall any.

18 Q. Okay. And this rule is similar to the bylaws  
19 Section 17 that requires a pilot on -- who's -- we can  
20 turn to that. It's Exhibit 5X, EVB-5X at page 19.

21 A. Can you list the bylaw number?

22 Q. Certainly. Section 17.

23 A. 17.0?

24 Q. Yes. Misconduct.

25 A. Okay.



1 Q. Okay. And that says a little further down in  
2 that paragraph, "A pilot who is on duty and refuses an  
3 assignment for reasons other than fatigue or safety is  
4 subject to a mandatory deduction of two days'  
5 distribution. Such a refusal is considered misconduct  
6 for which additional penalties may be assessed in excess  
7 of \$5,000 or an expulsion may be assessed."

8 Would you agree that I read that correctly?

9 A. That -- that's correct. That's in our bylaws.

10 Q. Okay. And there are no times when a pilot took  
11 off a scheduled workday without using a callback day?

12 A. That's correct.

13 Q. As President, you have not assessed against any  
14 pilots a two-day deduction under that bylaw; correct?

15 A. Not as -- not in my time as President, no.

16 Q. Great.

17 So pilots that are scheduled to be on duty are  
18 on duty?

19 A. That's correct.

20 Q. Okay. And in order to be removed from on duty,  
21 they must be unfit for duty as determined by the Board  
22 of Pilotage Commissioners or they must be using one of  
23 their previously earned callback days?

24 A. I don't agree with that.

25 Q. Go ahead and explain your disagreement.

1           A.    It would be -- I would take them out of rotation  
2           for an assignment of either a meeting or to support my  
3           role as president.

4           Q.    Aren't they on duty at that time?

5           A.    Sometimes they are; sometimes they are not.

6           Q.    So can you describe -- explain the process for  
7           how a pilot decides that he wants to take a scheduled  
8           workday off by using a comp day.

9           A.    At the earliest convenience, they notify the  
10          dispatcher of their desire to use a callback day.

11          Q.    Okay.  So once a pilot has given the PSP  
12          dispatcher notice of their choice not to accept an  
13          assignment, they burn a comp day and the pilot is off  
14          duty for that day; right?

15          A.    That's correct.

16          Q.    Okay.  So this is also described in the  
17          operating rules, which says that a member who has an  
18          accumulated comp day may use one or more of them at the  
19          member's discretion in lieu of a workday provided that  
20          the pilot gives adequate notice to the dispatcher.  
21          That's what you described; right?

22          A.    Yes.

23          Q.    Yeah.  So aside from those requirements, you  
24          know, there's -- there are requirements against using a  
25          comp day on a holiday in the -- in the operating rules,

1 Rule 10; right?

2 A. Uh-huh.

3 Q. Aside from that, are there any other  
4 restrictions on when a pilot decides to use a comp day  
5 or any other reason that you or the dispatcher have to  
6 approve or disprove -- disapprove of the use of a comp  
7 day when notified?

8 A. Aside from the holiday, no.

9 Q. Okay. And under --

10 JUDGE PEARSON: Ms. DeLappe, I'm just going  
11 to ask you. We're now about 12 minutes past your  
12 45-minute time estimate.

13 Do you know about how much longer?

14 MS. DELAPPE: I do have a few minutes.  
15 Did -- it -- I would say, is ten minutes okay?

16 JUDGE PEARSON: I guess I'll survey everyone  
17 and see if they need a break now or if we can go for  
18 10 more minutes. I'm getting very close to needing a  
19 break.

20 MS. DELAPPE: Thank you.

21 JUDGE PEARSON: Is everyone okay to go for  
22 10 more minutes? You can just nod, Commissioners.  
23 You're good. Okay.

24 MS. DELAPPE: Thank you.

25 JUDGE PEARSON: You can proceed.

1 BY MS. DeLAPPE:

2 Q. All right. So I would just ask how many pilots  
3 have been fined by you as President for not following  
4 these -- the rules of not performing pilotage on vessels  
5 subject to the Pilotage Act unless duly assigned in  
6 accordance with the operating rules? None; right?

7 A. No, I have not fined a pilot.

8 Q. Yep. So between the Rule 1A, if pilot shall be  
9 assigned to vessels in accordance with a strict rotation  
10 system which shall be adhered to and Rule 19, would you  
11 please confirm, do you agree that this would prevent  
12 pilots from cherry-picking their vessel assignments?

13 MR. FASSBURG: Objection. It's vague and  
14 ambiguous.

15 What do you mean by "cherry-picking"?

16 MS. DeLAPPE: Cherry-picking is actually a  
17 word that Captain von Brandenfels used where -- and we  
18 discussed at the beginning of the testimony. I think  
19 Captain von Brandenfels understands what I mean about  
20 cherry-picking among vessels to not provide services for  
21 certain routes or certain assignments.

22 MR. FASSBURG: Can you refer him back to his  
23 testimony for your definition of cherry-picking then?

24 MS. DeLAPPE: Yes. I believe that's in  
25 EV -- Exhibit EVB-1T at page 14, line 14. Captain

1 von Brandenfels said, "Without an association to provide  
2 organization through centralized dispatch and billing,  
3 it would be problematic for vessels to find a pilot in  
4 many of the locations in which pilots are needed because  
5 pilots would otherwise be free to cherry-pick the most  
6 frequented harbors and ignore those with less or  
7 infrequent vessel traffic."

8 COMMISSIONER RENDAHL: I'm sorry,  
9 Ms. DeLappe, that's not my page.

10 MS. DeLAPPE: Exhibit EVB-1T at page 14,  
11 lines 12 to 16 is what I read.

12 COMMISSIONER RENDAHL: All right. I have a  
13 different version.

14 THE WITNESS: Was there a question in there  
15 somewhere? Wasn't there a question?

16 BY MS. DeLAPPE:

17 Q. Yes. Let me go back to the question. Thank  
18 you.

19 So between these operating rules, do you agree  
20 that this prevents pilots from cherry-picking their  
21 vessel assignments?

22 A. Yes.

23 Q. Thank you.

24 But these operating rules make tracking pilot  
25 availability and quantifying pilot availability and

1 evaluating pilot availability more manageable; right?

2 A. That's your opinion. I don't know. I mean -- I  
3 can't offer an opinion on that. That's a relative  
4 statement.

5 Q. Okay. Under what rules in the PSP operating  
6 rules is the President given authority to deviate from  
7 the strict rotation schedule?

8 A. I believe it's in the bylaws that allow me to --  
9 as the executive of the organization, I'm allowed to do  
10 that.

11 Q. And there's --

12 A. Let me look.

13 Q. Given our time constraints, I'm willing to move  
14 on from that question.

15 A. Well, I'm just getting ready to answer it.

16 Q. Oh, thank you. Go ahead.

17 A. Okay. In the bylaws, 11.1, the office of the  
18 President shall be a full-time position. However, he  
19 may -- wait. On the option -- office -- President can  
20 enter into an agreement. Maybe that's not it.

21 Q. Would you say that -- I will stipulate that  
22 there are certain exceptions where the President has  
23 authority to deviate from the strict rotations schedule,  
24 if -- if you agree with me on that, Captain  
25 von Brandenfels.

1 A. Can I give you an example of what --

2 Q. Yes.

3 A. So if a pilot commissioner for the Board of  
4 Pilotage Commission is in rotation and they want to  
5 attend a meeting that's during their duty cycle of on  
6 watch, and I believe that I have the power to assign  
7 them to that meeting.

8 Q. Uh-huh. Do you agree that for purposes of  
9 dispatch practices and fatigue mitigation, when the Vice  
10 President spends time fulfilling administrative duties  
11 to PSP, PSP correctly considers it an assignment?

12 A. Not consider it an assignment in the Board of  
13 Pilotage Commission policy letter that talks about what  
14 an assignment is.

15 Q. Okay. Good. So it's not an assignment under  
16 the board of -- under the BPC definition. And under  
17 your bylaws, is it an -- is that considered an  
18 assignment?

19 A. That would be an interpretation that I'm not  
20 going to make -- have an opinion on.

21 Q. Let's turn to the bylaws. That's Exhibit  
22 EVB-5X, page 2. At the bottom of the page on page 2,  
23 you see the definition of "assignment." And it says  
24 there, "Assignment shall mean an assignment to pilot a  
25 vessel."

1 A. I see that.

2 Q. Okay. So would having the Vice President spend  
3 time fulfilling administrative duties be properly  
4 considered an assignment under the bylaws?

5 A. I think you're conflating the word "assignment"  
6 and "assign."

7 Q. Can we turn to Exhibit EVB-10X at page 25?

8 A. Is that --

9 Q. Actually, that is a response to a PMSA data  
10 request, and it wasn't your response. I'm just checking  
11 to see whether you agree with it. So it's No. 79.

12 A. I don't -- I don't have 79 in my  
13 cross-testimony.

14 Q. It's EVB Exhibit 10X. There we go. Thank you.

15 A. 10X.

16 MR. FASSBURG: Yours aren't numbered.

17 THE WITNESS: So that's Ivan's testimony?

18 MR. FASSBURG: It's Ivan's data response.

19 THE WITNESS: Here we go.

20 BY MS. DeLAPPE:

21 Q. All right. And so I just wanted to at the -- in  
22 the first paragraph of the response, it says, "For  
23 purposes of dispatch practices and fatigue mitigation,  
24 when the Vice President spends time fulfilling  
25 administrative duties to PSP, PSP correctly considers it



1 a, quote, 'assignment.'"

2 And my only question is that is not an  
3 assignment under PSP bylaws; correct?

4 A. I think there's a -- I think an assignment has  
5 more than one meeting, I guess.

6 Q. And under the bylaws that's not an assignment?

7 A. That's correct.

8 Q. So where is it -- where is it that you see  
9 "assignment" defined to include the Vice President's  
10 office work?

11 A. I guess it would just be in the support of the  
12 president. I'm looking for my -- in support of the  
13 President's duties.

14 Q. Okay. So this isn't one of the explicit  
15 exceptions for not performing an assignment of a vessel  
16 in strict rotation system.

17 How are pilots required to perform office  
18 meeting work rather than vessel movements?

19 A. Can you restate that?

20 I guess at the direction of -- of my -- you  
21 know, in support of my role as President, as the  
22 Executive Director.

23 MS. DeLAPPE: All right. I have no further  
24 questions. I see we're out of time. Thank you.

25 MR. FASSBURG: Judge Pearson, did you want

1 take a break before redirect? Or actually, I guess  
2 there are other people who can ask questions  
3 theoretically. How did you want to handle this?

4 JUDGE PEARSON: We don't have anyone else  
5 slated to ask cross of this witness. I would like to  
6 take a break now. When we come back, we can do any  
7 redirect and take questions from the bench.

8 MR. FASSBURG: Okay. Thank you.

9 JUDGE PEARSON: So would 11 minutes be  
10 sufficient if we break now until 10:20?

11 MR. FASSBURG: It will suit for PSP.

12 MS. DELAPPE: Yes, thank you.

13 JUDGE PEARSON: Okay. Then we will be in  
14 recess and we will re-adourn at 10:20. Thank you.

15 (A break was taken from 10:13 a.m. to 10:26 a.m.)

16 JUDGE PEARSON: All right. Let's be back on  
17 the record following a brief recess. And, Mr. Fassburg,  
18 did you have redirect?

19 MR. FASSBURG: I do. I have a few questions  
20 for Captain von Brandenfels.

21 REDIRECT EXAMINATION

22 BY MR. FASSBURG:

23 Q. Captain von Brandenfels, I'd like in this series  
24 of questions for you to ignore exceptions where pilots  
25 are allowed to refuse an assignment due to fatigue or

1 COVID or some other emergency or safety-related  
2 situation and talk about what happens normally.

3 In this strict rotation system that PSP follows,  
4 what happens when a pilot completes an assignment and  
5 has checked in with dispatch on the rotation board?

6 A. They go to the bottom of the board.

7 Q. What does that mean in terms of when they will  
8 receive their next assignment?

9 A. After all the -- after all the people that are  
10 above them that checked in before them are assigned to  
11 jobs.

12 Q. Does it just follow sort of like a wheel where  
13 each person who gets a job goes to the bottom of the  
14 list, and the next person up gets the next job and they  
15 have no choice in which job they get?

16 A. That's exactly right.

17 Q. Okay. Now, with respect to someone who PSP has  
18 asked to attend a meeting, are they still on the board  
19 to receive jobs?

20 A. They are. Once they are checked in from their  
21 meeting or training or -- or whatever is they -- or day  
22 that they took off by comp day and number, that time is  
23 recorded. Then they are -- they go in as available, you  
24 know, in the rotation starting at the bottom and moving  
25 their way back up.

1 Q. Now, are pilots required to receive continuing  
2 education and training by the Board of Pilotage  
3 Commissioners?

4 A. Yes, they are. Every five years they are  
5 required to do so. And then as they move up from being  
6 a first-year pilot to a five -- an unlimited pilot, they  
7 are required to do a -- on-shift evaluations and  
8 training.

9 Q. Are some of those on-shift training and  
10 evaluations referred to as "upgrade trips"?

11 A. Those are upgrade trips, and they are off watch  
12 and there is an allowance for some to be done on watch.

13 Q. Would an upgrade trip be defined in PSP's bylaws  
14 as an assignment?

15 A. No, that would not be termed as an assignment.

16 Q. If someone goes to the manned-model training in  
17 Port Revel, France, which is part of their continuing  
18 education requirements from my understanding, is some of  
19 the -- can that be on watch?

20 A. The partially on-watch and partially off-watch  
21 is when that's done. It tends to shoulder both on and  
22 off watch.

23 Q. Is that also not considered an assignment under  
24 PSP's bylaws?

25 A. That is not considered an assignment under the

1 Board of Pilotage policy or PSP's bylaws.

2 Q. When that happens, when someone goes to Port  
3 Revel, France to receive that mandatory training, are  
4 they expected to take ship assignments by PSP?

5 A. No. They are assigned their --

6 Q. Sorry. Go ahead.

7 A. They are assigned to be at training.

8 Q. Does PSP view meetings at the Board of Pilotage  
9 Commissioners to be as important as other obligations  
10 pilots have, like upgrade trips or continuing education?

11 A. Yes, definitely. That's one of the more  
12 difficult assignments that we do.

13 Q. Okay. And they were currently and always are,  
14 in fact, two pilots who are Commissioners at the Board  
15 of Pilotage Commissioners; correct?

16 A. That's correct. They are also on the training  
17 evaluation committee which they are assigned. Even  
18 though it's not a ship job, they are assigned that duty  
19 as well.

20 Q. So just to be clear, when they are performing  
21 their obligations as Commissioners -- Board of Pilotage  
22 Commissioners, those aren't an assignment under PSP's  
23 bylaws?

24 A. No, that's correct.

25 Q. Does PSP nonetheless assign them to those

1 responsibilities so that they come off the board and are  
2 not available to move ships?

3 A. That's correct.

4 Q. When the Vice President is asked to perform  
5 administrative work, either filling in for the President  
6 when the President is unavailable or because the PSP  
7 Board or President has asked the Vice President to  
8 fulfill additional administrative responsibilities of  
9 PSP, is that work considered to be important and as  
10 important as these other reasons pilots might come off  
11 the board while they are on watch?

12 A. Equally or more as important in my case.

13 Q. In fact, as part of this rate case, didn't PMSA  
14 ask Captain Carlson 70 data requests just within the  
15 last couple of weeks?

16 A. Just within the last few weeks, yes, he was  
17 directed 70 data requests out of the 550 that they put  
18 forward.

19 Q. Did PSP expect Captain Carlson to continue  
20 moving ships while responding to those 70 data requests?

21 A. After their line of questioning, I believe they  
22 do.

23 Q. Well, I'm asking if PSP is --

24 THE COURT REPORTER: Excuse me. Sorry.

25 This is the court reporter. Could you two possibly

1 pause and let each other ask and answer the questions.

2 Thank you.

3 MR. FASSBURG: Thank you.

4 BY MR. FASSBURG:

5 Q. Now, when a pilot is off watch, and they are  
6 potentially available for a callback assignment, is that  
7 time that they are mandatorily (verbatim) required to be  
8 available for callbacks?

9 A. No, they are not mandatorily (verbatim) to be  
10 available for callbacks during their respite.

11 Q. Is a pilot respite time that they have earned  
12 off and are entitled to not work as a result of the time  
13 they did work?

14 A. Yes. As is normal in the maritime industry, for  
15 every day you work, you receive a day of respite.

16 Q. Does PSP consider a day on watch to be a day of  
17 work whether or not there's a ship assignment available  
18 for that pilot on a given day?

19 A. They are required to be rested and ready, and we  
20 consider that a day on duty.

21 Q. Is that considered a day of work for which they  
22 earn a day off?

23 A. That's correct. They do.

24 Q. When a pilot is on watch and is not unavailable  
25 for some other task that PSP has assigned them, can they

1 excuse themselves from that job by taking a comp day  
2 after they have already been assigned?

3 A. No, they can't.

4 Q. So if I understand you, once the dispatcher  
5 assigns a pilot to a job, they must accept that  
6 assignment?

7 A. That's correct. Unless for that -- you know, if  
8 something, you know, unforeseen has happened and they  
9 just -- you know, an emergency or whatever.

10 Q. Right. Right. Again, ignoring for this  
11 question --

12 A. Right. Yes.

13 Q. -- the emergency situation --

14 A. Yes.

15 Q. -- if there's no good excuse, if that pilot has  
16 been assigned, they don't have a choice, they either  
17 accept the job --

18 A. Yes, no choice.

19 Q. If they don't accept the job, will they be  
20 penalized by PSP?

21 A. Yes.

22 Q. Now, you were being asked questions earlier  
23 about the operating rules and whether pilots should be  
24 assessed penalties for not receiving a vessel assignment  
25 while on watch. I'd like to revisit that just for a



1 moment.

2 Does PSP consider it good cause to not receive  
3 vessel assignments when a pilot has been assigned to  
4 attend meetings, training, or upgrade trips?

5 A. That had not be considered due cause for a fine.

6 Q. So if a pilot has been assigned to some other  
7 responsibility, you don't consider it a violation of  
8 your operating rules?

9 A. Definitely not.

10 Q. Okay. Thank you.

11 MR. FASSBURG: We have no further questions.

12 JUDGE PEARSON: Okay. Thank you.

13 Are there any questions from the bench for  
14 this witness? Go ahead, Commissioner Balasbas.

15 EXAMINATION

16 BY COMMISSIONER BALASBAS:

17 Q. Thank you.

18 Good morning, Captain von Brandenfels.

19 A. Good morning.

20 Q. So in -- in the PSP bylaws -- and I'm looking  
21 specifically at Section 5.4.3, which is on page -- I  
22 believe it's on page 7 of the bylaws. And I'll give you  
23 a moment to get there.

24 A. 5.43. Here we go.

25 Q. Okay. It says there that when a new member

1 is -- becomes part of the association, they are given --  
2 informed of all the provisions of the bylaws, the  
3 operating rules, and the dispatch guidelines; is that  
4 correct?

5 A. That is correct.

6 Q. So how are the dispatch guidelines different  
7 from the PSP operating rules?

8 A. The dispatch guidelines are, in effect, the  
9 operating rules. The dispatch -- the dispatch  
10 guidelines -- actually, no. I'm sorry. The dispatch  
11 guidelines are what -- what a dispatchers -- I'm sorry.

12 The dispatch guidelines are what the dispatchers  
13 are likely to require a pilot to do on a job or, you  
14 know, the guidelines are something that we do on ship.  
15 Like, you know, for tug use. Like, let's say you're  
16 going into a waterway. The guidelines give you what's  
17 generally predicted that the pilot is going to want for  
18 use as far as tugs, the number of tugs, or that the  
19 vessel is going to go into that waterway during high  
20 water or an hour before high water. Those are the  
21 guidelines.

22 Q. So those are -- those are different and maybe  
23 perhaps more detailed than the operating rules?

24 A. Yes. Well, I mean, the operating rules are  
25 pretty detailed. But the guidelines deal with more ship

1 work and ship-side assignments.

2 Q. So aside from those, you know, ship-side  
3 assignments, as you referred to, what -- what else is in  
4 the dispatch guidelines?

5 A. I could go through them here. We have  
6 them there -- rules --

7 Q. I guess I would ask --

8 A. The guidelines are --

9 Q. I'm sorry. I guess I would ask a question  
10 before you do answer, Captain. If -- do we have the  
11 dispatch guidelines in the record?

12 A. I'm sure we do. I'm almost certain we do. I  
13 mean, there are -- they deal with parameters around  
14 arrival and departure that pilots are generally going to  
15 require of -- of the vessel. You know, like we  
16 wouldn't -- we would not -- they are kind of an internal  
17 document that we allow the public to see so that they  
18 understand what pilots are gonna consider when they're  
19 doing a job.

20 So a lot of them are -- a lot of the waterway  
21 jobs that we do, we want to make sure that the current  
22 isn't excessive. So we enter the waterway one to two  
23 hours before high water or one hour after low water.  
24 So, you know, those would be in the guidelines.

25 The different kinds of tugs that are required

1 for certain size ships, you know, that are going to be  
2 expected by the pilot, tide conditions going into a dock  
3 where you are going to be starboard side too alongside  
4 and what the current is there and when you can go in.  
5 Different things like that that are kind of operational  
6 and -- and deal with -- so allow the agent to order a  
7 tug, right. Sometimes there are daylight guidelines  
8 that set out daylight arrival conditions. If there's  
9 not the proper lighting at a berth, like in Bellingham,  
10 for instance, we do a daylight arrival for a small coal  
11 storage up there. So those are -- those are guideline  
12 issues around what pilots are expected to -- to require  
13 on the job itself. Those are different than the  
14 operating rules.

15 Q. Okay. All right. Thank you.

16 COMMISSIONER BALASBAS: Judge Pearson,  
17 pending a check of the current record and the exhibit  
18 list, if the dispatch guidelines are not currently in  
19 the record, I would like to note that as a potential  
20 bench request.

21 JUDGE PEARSON: Okay. Thank you.

22 Mr. Fassburg, are you able to confirm  
23 whether that's in evidence?

24 MR. FASSBURG: I don't know if they are off  
25 the top of my head. I'll tell you that -- the document

1 I believe he's referring to are their waterway  
2 guidelines as they are generally referred to. Those are  
3 on PSP's website. I'm more than happy to produce those  
4 or provide them in response to a bench request if they  
5 are not in the record.

6 JUDGE PEARSON: Okay. Thank you.

7 THE WITNESS: Okay. Sorry, I didn't --

8 JUDGE PEARSON: One moment.

9 THE WITNESS: They are known as "waterway  
10 guidelines" not dispatch guidelines. But in effect,  
11 that's what they do.

12 JUDGE PEARSON: We have a gentleman on  
13 the -- on the line who needs to turn off his camera.  
14 Peter Giese. Mr. Giese, can you hear me? There we go.  
15 Okay. Sorry. Go ahead.

16 BY COMMISSIONER BALASBAS:

17 Q. All right. So, Captain von Brandenfels, so are  
18 you saying that the waterway guidelines that you just  
19 described are -- are those the dispatch guidelines or is  
20 there a different --

21 A. That's the water --

22 Q. -- different set?

23 A. That's the waterway guidelines.

24 Q. Okay. So I guess I'm asking about not  
25 necessarily the waterway guidelines but dispatch

1 guidelines for dispatching a pilot to an assignment.

2 A. That would be the operating rules.

3 Q. So the dispatch -- so you're saying that the  
4 dispatch guidelines are -- are in the operating rules?

5 A. Not necessarily. They are referred to probably,  
6 maybe. But the operating rules are -- deal with member,  
7 you know, dispatching, availability, scheduling, --  
8 things like that. Those are in my testimony -- or those  
9 are in the record.

10 MR. FASSBURG: Commissioner Balasbas, I hate  
11 to interject, but I -- I'll have to say, it might be  
12 beneficial to ask if there are, in fact, current written  
13 dispatch guidelines, because I don't think there are.

14 COMMISSIONER BALASBAS: I was just about to  
15 go there. Thank you, Mr. Fassburg. And that's what I  
16 would -- Judge Pearson, that is what I would like to  
17 note for a bench request specifically for PSP's dispatch  
18 guidelines.

19 THE WITNESS: They are on our website.

20 MR. FASSBURG: The ordering policy.

21 THE WITNESS: No. The guidelines.

22 MR. FASSBURG: Sorry.

23 THE WITNESS: I'm sorry.

24 MR. FASSBURG: I'm not the witness. But I  
25 think, Captain von Brandenfels, the waterway guidelines

1 are a different document than what he's asking about.

2 THE WITNESS: Okay.

3 MR. FASSBURG: In the bylaws I think it  
4 refers to "dispatch guidelines," and he wants to make  
5 sure that if those exist that we produce them.

6 THE WITNESS: Right.

7 COMMISSIONER BALASBAS: Correct. I have no  
8 further questions.

9 JUDGE PEARSON: I will note a bench request  
10 for any written document that PSP maintains on their  
11 dispatching practices. That will be our first bench  
12 request.

13 Commissioner Rendahl, did you have a  
14 question?

15 COMMISSIONER RENDAHL: No. Commissioner  
16 Balasbas covered my question. Thank you.

17 JUDGE PEARSON: Okay. Anything else, Chair  
18 Danner?

19 CHAIR DANNER: Yeah, I have a few.

20 EXAMINATION

21 BY CHAIR DANNER:

22 Q. I know we're going to hear from the Executive  
23 Director later, but I just have a question.

24 In the bylaws, paragraph 4.2, it says, Captain,  
25 that the Board of Directors may delegate certain powers

1 to the Executive Director. And I guess my question is  
2 what are -- what roles of yours have been delegated to  
3 the Executive Director?

4 A. What were roles of mine? I would say the  
5 executing of contracts and the negotiation with our  
6 employees, the management of the employee pension trust,  
7 things like that. A lot of the employees' work is  
8 delegated to the Executive Director.

9 I'd have to look at some of the other things on  
10 mine, but those things along those lines. A lot of  
11 financial recordkeeping and audits, things of that  
12 nature. The reporting to the Pilotage Commission, some  
13 of the relations with the Pilotage Commission around  
14 reporting, and some of the work with the dispatch  
15 program that we use to maintain a strict rotation and  
16 give pilots good visibility on predictability of jobs;  
17 our Executive Director has been managing for the most  
18 part that as well.

19 Q. So does the Executive Director actually do the  
20 dispatch?

21 A. No. No, not at all. But there's certain things  
22 that the dispatch program -- it -- it produces reports  
23 and she works with that. What kind of reports they  
24 produce and -- even if we fired up that dispatch program  
25 right, as she started and she helped manage the



1 performance of that and bring it up to the standards  
2 that pilots wanted to see, it's something that we have  
3 on our phone. It allows great predictability for when  
4 we're managing our assignments, you know -- when to get  
5 rest and whatnot. So she's been basically dealing with  
6 the -- the dispatch program since she started, which has  
7 been a pretty large task.

8 Q. Okay. And so the actual dispatch is done by  
9 you?

10 A. No, not by me. It's done by the dispatchers.  
11 We have three dispatchers at work that are available, if  
12 necessary, around the clock that manage the dispatch.

13 Q. Okay. And --

14 A. And the pilots have another hub out in Port  
15 Angeles that have pilots are, you know, assigned -- not  
16 assigned jobs, but are put on ships in that location.  
17 And that's -- they are -- there are times that they get  
18 off the ships and on the float and depart the station  
19 are recorded by our employees out of the pilot station.  
20 So in a way, they are sort of kind of quasi de facto  
21 dispatchers in a way. They fulfill a role similar to  
22 what the dispatchers do.

23 Q. Okay. And can you tell me who it is that  
24 prepares the activity reports?

25 A. Those are done by our administrative staff in

1 our office. It would be our -- our dispatcher in  
2 conjunction with our accounts receivable.

3 Q. Okay. I see on that that it has a column called  
4 "pilot attendees." And I don't see your name anywhere  
5 there.

6 Are you not participating or are you  
7 participating in these activities?

8 A. In the rotation? You mean, like, being  
9 available for shipments?

10 Q. For example, I mean -- and I'm looking at March  
11 and one of them is Board of Directors and it has six  
12 sets of initials: BOU, KAL, KLA, NEW, SCM, THG.

13 A. Yeah, because -- that -- that would be correct.  
14 I just assumed it would be -- because I am on the Board  
15 of Directors as the President, I'm -- and -- always  
16 virtually on call. I guess I'm assumed to be at that  
17 meeting as well and, therefore, not needed to report.  
18 I'm not reported on that as being a Pilotage Commission  
19 meetings or virtually anything else to be honest.

20 Q. Okay. So train-the-trainer instructors on  
21 March 28th, then, it's two name -- or it's two sets of  
22 initials: MAY and SCR.

23 Were you in attendance at those?

24 A. I was not in attendance there, but those two  
25 pilots were Board of Pilotage Commissioners at that time

1 that were a part of that meeting.

2 Q. Okay. So sometimes when it says "pilot  
3 attendees," sometimes you're at those meetings and  
4 sometimes you are not at those activities?

5 A. Yes, that's correct. I would be -- I'm aware of  
6 those meetings, and I'm making sure that those pilots  
7 are, I guess, somewhat -- you know, assigned, for lack  
8 of a better term, even though it doesn't fit into some  
9 of our bylaws and operating rules or whatever. But they  
10 are -- I'm making sure that those pilots are attending  
11 those; however, I'm not always attending those. But at  
12 the same time, I'm -- I'm off and at meetings that are  
13 called out in that activity report.

14 Q. Okay. So, for example, on March 6th, there was  
15 a helicopter convention in Dallas. I assume that was  
16 the Heli-Expo. JRD/HAR attended. Were you there?

17 A. I did not attend that. And I believe that --  
18 that was done -- yeah. I'm not sure if that was all --  
19 I'm pretty sure that that was off watch. Those pilots  
20 did that on their own.

21 Q. So no one -- no one was dropping to the bottom  
22 of the board for that?

23 A. No.

24 Q. All right. And was that -- was that germane to  
25 what the pilot -- pilot -- the Puget Sound pilots are

1 doing?

2 A. There was a -- there was a considerable amount  
3 of effort put into considering whether or not that was a  
4 more feasible way to deliver pilots as they do that now  
5 in the Columbia River. And they have expedited the  
6 pilot delivery to those ships and, therefore, cut down  
7 on assignment time.

8 And because we were faced with a pretty serious  
9 pilot shortage and have been for a long time, it was  
10 thought that investigating that option for Puget Sound  
11 Pilots, because we have a very large region, among the  
12 largest in the country, our area of operation is vast.  
13 And it was considered by a group of -- of our  
14 associate -- of our pilots, of my partners, that that  
15 would be a way to mitigate the size of our district  
16 and -- and deliver pilots to those -- their assignments  
17 in a faster fashion than on-ground transportation. So  
18 we -- we gave it considerable thought, and those pilots  
19 did a lot of work on their own time --

20 Q. Okay.

21 A. -- to sort of position. And I, you know, an  
22 idea around doing that service; however, it -- it  
23 never -- it never took off for lack of a better term.

24 Q. Yeah. I was just wondering about, you know,  
25 these activities, do people drop off the board? I mean,

1 there's another one, for example, on October 12th, 2017,  
2 there was a -- a -- what looks like a legislative  
3 fundraiser. It's a Gail Carlton event. SCS went.

4 Did SCS drop off the board for that event? Did  
5 you attend that event?

6 A. I believe I did attend that event. I believe it  
7 was at Pier 70. And because she -- because that pilot  
8 was in her district and has a relationship with her, I  
9 think he wanted to attend. I can't remember if he was  
10 on or off duty, though.

11 Q. But that would be deemed to be a -- a Puget  
12 Sound Pilotage District activity?

13 A. That was --

14 Q. It's listed as such.

15 A. Yeah.

16 Q. Yeah. Okay. All right. Thank you. Those are  
17 my questions. Thank you.

18 A. Thank you.

19 JUDGE PEARSON: All right. Commissioner  
20 Rendahl?

21 COMMISSIONER RENDAHL: Thank you.

22 EXAMINATION

23 BY COMMISSIONER RENDAHL:

24 Q. Captain von Brandenfels, I want to follow up on  
25 this dispatch program, and you can let me know whether

1 you are the appropriate witness or whether it would be  
2 the Executive Director.

3 Is this program something that is -- that PSP  
4 developed on its own, or is this an off-the-shelf  
5 program that is used by other pilotage organizations for  
6 dispatch?

7 A. This is an off-the-shelf program that was  
8 developed by Charles Coe down in New Orleans, and it's  
9 used by at least -- at least six or eight other pilotage  
10 districts. And it's a -- it's a very interactive  
11 program that gives pilots good predictability, not great  
12 predictability, as much as they can. It outlines jobs  
13 and -- and you're able to get information from your  
14 phone and it also files reports. So, yeah, it is off  
15 the shelf.

16 Q. And what is the name? I'm sorry. What is the  
17 name of the program?

18 A. Coe, C-O-E, Dispatching.

19 Q. Okay. And has PSP made any -- specific to PSP,  
20 made any changes to that program for dispatching of --  
21 for the Puget Sound Pilots?

22 A. Yes. We made a number of -- we made a number of  
23 changes. Initially, we wanted it to look like the  
24 program that we developed on our own, which was  
25 successful for a while. But it needed considerable

1 amount of support. So we -- we went to an off-the-shelf  
2 program. And so in order for pilots to migrate to the  
3 new program, we wanted it to look like the old one. And  
4 so there was just a few custom things that we wanted to  
5 do that we've added on to make -- to make it more  
6 efficient. We continue to -- to make, you know, minor  
7 changes to it to increase efficiency and reporting  
8 ability, and -- and for just better transparency to all  
9 pilots.

10 Q. So would some of those changes be how  
11 assignments are made, or is that standard in the  
12 program?

13 A. Yeah, nothing -- nothing would ever interfere  
14 with the sacred nature of the rotation. It's a Guy v.  
15 Donald foundational ruling that, you know, we -- we  
16 adhere to strict rotation. And that's -- that's part of  
17 the reason why we want that transparency.

18 Q. So when you say "Guy v. Donald," I'm assuming  
19 you mean a court case?

20 A. Yeah. It's foundational for organizational  
21 insulation to liability from an individual pilot's  
22 actions.

23 Q. Okay. Thank you. I have no further questions.

24 A. Thank you.

25 JUDGE PEARSON: Great. Then, Captain

1 von Brandenfels, you are excused at this point.

2 THE WITNESS: Thank you.

3 JUDGE PEARSON: Our next witness is Dr. Sami  
4 Khawaja.

5 Dr. Khawaja, if you could turn on your  
6 camera.

7 MS. BROWN: Excuse me, Judge Pearson.

8 JUDGE PEARSON: Yes.

9 MS. BROWN: This is Sally Brown from  
10 Commission Staff. I just have a procedural question.

11 Is it possible for the Commissioners to  
12 remain with their -- with their cameras on, because I,  
13 for one, am interested in witnessing the experience --  
14 the facial expressions and whatnot of the judges in this  
15 case as the testimony is delivered.

16 JUDGE PEARSON: Commissioners?

17 CHAIR DANNER: Is my camera not on?

18 JUDGE PEARSON: It's not.

19 MS. BROWN: It wasn't on during your  
20 questioning either, Chairman.

21 CHAIR DANNER: I apologize for that.  
22 According to my toolbar here, it's on when it's off and  
23 it's off when it's on. So I was not trying to be  
24 anything less than transparent and fully exposed.

25 JUDGE PEARSON: Chair Danner, do you have



1 your laptop open?

2 CHAIR DANNER: Yes, I do.

3 JUDGE PEARSON: Okay. And your camera is  
4 not blocked?

5 CHAIR DANNER: Can you see me now?

6 JUDGE PEARSON: Yes, we can. Thank you.

7 MS. BROWN: Thank you very much.

8 JUDGE PEARSON: Okay.

9 THE WITNESS: Am I working okay too? You  
10 can hear me?

11 JUDGE PEARSON: Yes. Thank you.

12 THE WITNESS: Excellent. Thank you so much.

13 JUDGE PEARSON: So, Dr. Khawaja, if you  
14 could just raise your right hand and I will swear you  
15 in.

16 THE WITNESS: I'm assuming you can see me.

17 JUDGE PEARSON: I can but you are frozen.  
18 Is your hand -- there we go. Okay.

19 All right. Do you swear that the testimony  
20 that you give today will be the truth, the whole truth,  
21 and nothing but the truth?

22 THE WITNESS: I do.

23 JUDGE PEARSON: All right. Thank you.

24 And, Mr. Fassburg, are you handling cross  
25 for Dr. Khawaja?

1 MR. FASSBURG: I will be.

2 JUDGE PEARSON: Okay. Would you like to  
3 introduce the witness?

4 MR. FASSBURG: Yes. And I'm experiencing an  
5 echo. I'm going to try to figure out what's going on  
6 there.

7 JUDGE PEARSON: I hear that as well.

8 MR. FASSBURG: It may be because we have  
9 Teams open on two screens here in the conference room.

10 Is that better?

11 THE WITNESS: Yes.

12 MR. FASSBURG: Okay. Thank you. Sorry  
13 about that.

14 JUDGE PEARSON: It's happening again.

15 MR. FASSBURG: It is, and I don't think --

16 JUDGE PEARSON: Is the microphone muted on  
17 the other computer that's in the room with you?

18 MR. FASSBURG: I'm actually using that  
19 microphone and that's probably -- there we go.

20 JUDGE PEARSON: Yes. So mute one and --  
21 there you go. That should work.

22 MR. FASSBURG: Sorry about that. So, yes, I  
23 will be sponsoring Dr. Khawaja here.

24 //

25 //

1 M. SAMI KHAWAJA, witness herein, having been  
2 first duly sworn on oath,  
3 was examined and testified  
4 as follows:

5

6 DIRECT EXAMINATION

7 BY MR. FASSBURG:

8 Q. So, Dr. Khawaja, will you please state your  
9 legal name and business address?

10 A. Yes. My name is M, first initial "M," Sami,  
11 S-a-m-i. And I'm going to spell my last name because in  
12 the documents in front of you it is spelled three  
13 different ways, none of which is accurate. It is  
14 Khawaja, K-h-a-w-a-j-a, and it's pronounced "Ka-wa-ja,"  
15 for those who are going to be cross-examining me to make  
16 your lives a bit easier. The "H" is silent and the "J"  
17 isn't.

18 Q. And your business address, please.

19 A. 720 Southwest Washington, Suite 400, Portland,  
20 Oregon 97201.

21 Q. Dr. Khawaja, are you adopting your pre-filed  
22 initial and rebuttal testimony under oath here today?

23 A. Yes.

24 MR. FASSBURG: I present the witness for  
25 cross-examination.

1 JUDGE PEARSON: All right. Ms. DeLappe, you  
2 may proceed.

3 CROSS-EXAMINATION

4 BY MS. DeLAPPE:

5 Q. Good morning, Dr. Khawaja.

6 A. Good morning.

7 Q. So in your testimony you reviewed various  
8 scenarios on which -- of which deal with the global  
9 macroeconomic trends; isn't that correct?

10 A. That is accurate; yes.

11 Q. Okay. And your testimony is given on the basis  
12 of your economic background and expertise with various  
13 types of rate making?

14 A. That is correct; yes.

15 Q. But just to clarify, the projection of future  
16 vessel arrivals in Puget Sound does not necessarily  
17 implicate your experience with respect to rate making?

18 A. That is also correct; yes.

19 Q. To get your projections of future vessel  
20 arrivals, what were the various data sources that you  
21 used and considered to generate a basis?

22 A. So the data sources vary a little bit by vessel  
23 type. Each vessel type has its own econometric model  
24 and each model could pick any one of various explanatory  
25 variables such as U.S. GPP, China PGP, Japan, diesel

1 cost, labor cost, a bunch of variables that came from  
2 different sources. But, again, each vessel type had its  
3 own different model.

4 Q. Uh-huh. And do you also -- could you describe  
5 the methodology you applied, briefly, to these data  
6 sources to come to your projections?

7 A. Yes. We used a traditional econometric  
8 regression statistical model and the model more or less  
9 picked the right set of explanatory variables or the  
10 variables that explain the changes in vessel arrivals.

11 Q. So if I understand correctly, you made sure for  
12 these projections to consult multiple sources,  
13 cross-referenced data, and relied on verifiable and  
14 objective third-party trends over many -- the course of  
15 many years; correct?

16 A. That is correct; yes.

17 Q. Okay. Your analysis resulted in a table in your  
18 testimony; that's Exhibit SK-1T; starts at page 4. And  
19 it's Table 2, "predicted versus actual vessels";  
20 correct?

21 A. Correct. Yes.

22 Q. And then with the actual vessel data provided by  
23 PSP from the years 2005 to 2018, you were able to verify  
24 a confidence factor in your projections; right?

25 A. That is correct; yes.

1 Q. Great. And so that's what you used to complete  
2 your -- to finalize your 2020 prediction of vessels;  
3 right?

4 A. That is accurate; yes.

5 Q. Why is it important for your system's models and  
6 projections to be based on multiple independent sources  
7 of data as they are applied?

8 A. There's just not one source that contained  
9 everything that we needed.

10 Q. And why is it important to verify the results of  
11 your model against actual historical data?

12 A. That is just a typical forecast accuracy method  
13 is to compare how the model would have performed if we'd  
14 gone back to 2005 versus what actually happened.

15 Q. Okay. I understand from your CV that you are an  
16 adjunct professor.

17 A. That is correct; yes.

18 Q. And you teach courses in applied economics.

19 A. That is correct; yes.

20 Q. What do you tell your students about being  
21 thorough in the application of economic theory to  
22 real-life situations with respect to setting up a model  
23 and verifying results?

24 A. So without getting too overly technical, what we  
25 did is -- one approach is to build the model and compare

1 it against actual.

2 A better approach would have been to build the  
3 model using a portion of the data and then test it on an  
4 unused portion of the data. That luxury was not  
5 available to us due to the limited number of data  
6 points.

7 Q. Uh-huh. Okay. So those are basic principles?

8 A. Yes, they are.

9 Q. In your cross-answering testimony, and that's  
10 Exhibit SK-3T, you restate many of these principles  
11 regarding forecasting. And so I'm going to go ahead and  
12 turn to that. Exhibit SK-3T, and specifically I'm going  
13 to look at page 6.

14 A. Okay.

15 Q. And lines 18 through 21. You state: I believe  
16 that the most accurate forecast is one that develops  
17 econometric models for each vessel type and forecasts  
18 them individually. I do not believe that the use of  
19 year-to-year changes will work nearly as well and will  
20 basically be inaccurate; i.e., 50 percent of the time  
21 too high and 50 percent of the time too low. An  
22 econometric model on the other hand does indeed take  
23 into account economic conditions impacting different  
24 vessel types differently." Right?

25 A. That is correct; yes.

1 Q. As a practitioner and as a professor of applied  
2 economics, do you believe that these principles of  
3 review of a diversity of inputs, verification of  
4 results, and performing multiyear analysis are universal  
5 for good forecasting?

6 A. Yes, they are.

7 Q. Okay. And for your vessel projections, after  
8 you completed all of these steps and applications here,  
9 the conclusion you came to was that there would be fewer  
10 vessel calls in the future in 2020 and diminishing  
11 vessel activity based on your estimates; right?

12 A. That's correct.

13 Q. And you also compared the number of vessels and  
14 the number of assignments; right?

15 A. That is correct; yes.

16 Q. And your conclusion was that the ratio of  
17 assignments to actual vessel arrivals across multiple  
18 vessel times, over various time periods was relatively  
19 stable across the years; right?

20 A. That is correct; yes.

21 Q. So now turning -- you had a second part of your  
22 analysis that was reviewing PSP's callback system;  
23 right?

24 A. Yes. With caution, but yes.

25 Q. All right. So it was to make recommendations



1 regarding the number of assignments per pilot; right?

2 A. Correct. Yes.

3 Q. All right. And is it fair to say that PSP hired  
4 you to develop a model regarding callbacks as the basis  
5 for your testimony on assignments and setting the number  
6 of pilots?

7 A. Allow me to restate just a little bit. I was  
8 hired for a very simple task, and that task was to  
9 determine a forecast for the number of assignments in  
10 2020, and along with that, determine what is the most  
11 appropriate allocation of assignments per pilot. And  
12 based on those two components, I came up with what I  
13 call an appropriate or an optimum number of pilots.

14 Q. Thank you.

15 A. You're welcome.

16 Q. So you simulated a reduction in callbacks by  
17 creating hypothetical pilots on shift for that analysis;  
18 right?

19 A. Correct. I created -- yep. Sorry. Yes, you  
20 are accurate. Yes.

21 Q. Okay. And so is it also accurate to say that in  
22 addition to doing the macroeconomic analysis of vessel  
23 arrival projections, you were also hired to develop a  
24 simulation on how to reduce callbacks?

25 A. That is accurate; yes.

1 Q. Okay. And in doing this analysis, you state  
2 that you reviewed data -- a data set from 2018 called  
3 "Puget Sound Pilot Fatigue Study Report" regarding jobs  
4 and assignment data; right?

5 A. I will take your word for it that's what it is  
6 called. I believe that is true, yes.

7 Q. All right. And I will -- that -- that name  
8 was -- came from your testimony, so that -- that's fine.

9 A. Thank you.

10 Q. How many other data sets did you use for your  
11 model?

12 A. Many. I mean, some data sets on just pure  
13 vessel arrival to determine the vessel forecast. And a  
14 detailed data set from 2018 to determine the -- the  
15 activities of the pilots on a day-to-day basis. And  
16 so -- so what we really wanted to know more than  
17 anything was the right number of assignments per pilot.

18 So it primarily relied on 2018, but we used the  
19 entire data set, meaning 2005 to 2018 to verify what we  
20 computed based on 2018 data. I hope that doesn't create  
21 confusion.

22 Q. I am a little confused. So can we go back to  
23 your original testimony, Exhibit SK-1T at page 6. And  
24 let's look at line number 19.

25 A. Yes, I see it.

1 Q. And perhaps also up above there. It -- it seems  
2 there that you say -- okay, I think if we look at  
3 line 10 up above, that you said, "The primary basis of  
4 our analysis was the data set claimed by NASA for Puget  
5 Sound Pilot Fatigue Study Report for assignments."

6 Do you see that part?

7 A. I do, yes.

8 Q. Yes. So that was the main data set and -- for  
9 this model. And are you saying -- is your testimony  
10 today that there were additional data sets you used for  
11 this model that you didn't --

12 A. Okay. When you say "this model," I just want to  
13 be clear. There's a "this model" that created a vessel  
14 forecast which does not rely on the NASA study.

15 Q. Right.

16 A. And there is the model that creates the optimum  
17 number of pilots by determining the number of -- optimum  
18 number of assignments rely primarily on the NASA study.

19 Q. Yes. Yes, we're looking at that second model  
20 for my questions right now.

21 A. Okay. Very good.

22 Q. Okay. Great. So that -- those -- that was the  
23 only data set that you used for this second model?

24 A. That was the data set that was used to determine  
25 the number of assignments per pilot and to simulate the

1 reduction in callbacks. But then the rest of the data  
2 set was used, meaning going back to 2005, to verify that  
3 what we -- what we got out of the NASA study did indeed  
4 apply.

5 So it wasn't just taken at face value, it was  
6 used to determine a metric which was, you know,  
7 primarily assignment per pilot and assignment per vessel  
8 type, but then we used the entire data set to verify our  
9 finding.

10 Q. So from the entirety of the set you were able to  
11 verify -- I mean, you didn't have a fatigue study report  
12 or that --

13 A. No.

14 Q. -- type of data for other years; right?

15 A. No. No. The only thing we're able to verify  
16 was that the -- the assignments per vessel type.

17 Q. Okay.

18 A. Numbers we had created were accurate.

19 Q. Not the pilot level information --

20 A. No.

21 Q. -- correct? Okay.

22 Did you consider the fact that the data set you  
23 used was specifically created by consultants hired by  
24 PSP to be used in conjunction with a request for an  
25 increase in the number of licensed pilots and was not an

1 academic study or produced by an independent third  
2 party?

3 MR. FASSBURG: Objection. I object to the  
4 characterization of "independent third party." This was  
5 NASA.

6 JUDGE PEARSON: Ms. DeLappe, would you like  
7 to rephrase the question?

8 BY MS. DeLAPPE:

9 Q. In this situation, I -- and I don't want to have  
10 a question that's for Mr. Fassburg, but in this  
11 situation, NASA was commissioned by PSP for this to  
12 create this study. And, Dr. Khawaja, is that your  
13 understanding?

14 A. It was commissioned by PSP, but I also think  
15 that it remains an independent party.

16 Q. And did PSP disclose to you that the data set  
17 that they were using it as an advocacy piece in their  
18 hearing at the Board of Pilotage Commissioners in  
19 July 2019?

20 A. They did, yes.

21 Q. Okay. And when you have data provided to you by  
22 an interested party, PSP here, in conjunction with  
23 advocacy, would you typically look for an additional  
24 data source or review that data source with a skeptical  
25 eye?

1           A.    Absolutely.  Yes.  We found no reason to be  
2   skeptical, however.

3           Q.    Uh-huh.  So was it concerning to you that the  
4   data sets you were provided was from only one year of  
5   data instead of from multiple years?

6           A.    Nope, it wasn't.  I mean, maybe it should have  
7   been, but it wasn't.

8           Q.    With respect to the application of the data set  
9   regarding pilot assignments into a formula which  
10   predicts future callback outcomes, you applied a  
11   methodology for this assignment; correct?

12          A.    Correct; yes.

13          Q.    Yeah.  And in response to PMSA's discovery  
14   request in this case about the methodology you relied  
15   upon, we received a record entitled "PSP callback  
16   subbing methodology."

17                Are you familiar with that document?

18          A.    May I just seek clarification?  And Mr. Fassburg  
19   can help me.  Would this -- this would be the -- the  
20   memorandum from my subcontractor Apex Consulting?

21          Q.    Yes, that I can confirm.

22          A.    Thank you for confirming.  Yes.  Very familiar  
23   with that document, yes.

24          Q.    All right.  So did you create the callback  
25   subbing methodology?

1 A. I did not, no.

2 Q. Okay.

3 COMMISSIONER RENDAHL: Ms. Fassburg, I'm  
4 sorry. Is this an exhibit in the record?

5 MS. DELAPPE: I can actually --

6 JUDGE PEARSON: Ms. DeLappe.

7 MS. DELAPPE: I can answer that question.

8 COMMISSIONER RENDAHL: Okay.

9 MS. DELAPPE: It's Exhibit IC-41X. So it  
10 was provided by another witness in this case, Captain  
11 Carlson. So IC-41X.

12 BY MS. DeLAPPE:

13 Q. Okay. So it sounds -- Dr. Khawaja, it sounds  
14 like you know the -- the authors of this memo, the Apex  
15 group, and the two individuals named on that memo.

16 A. These -- these were the analysts that were  
17 working under my supervision, yes.

18 Q. Okay. But you did not actually create your own  
19 methodology to present to the Commission regarding the  
20 analysis of the callback issue?

21 A. I supervised the creation and the determination  
22 of the best methodology, but I personally did not do it,  
23 no.

24 Q. And were you hired by PSP to present your own  
25 economic opinion on callbacks based on your own study?

1 A. Yes.

2 Q. Did you develop your own data sets based on  
3 multiple sources in your study?

4 A. Not personally. My analysts did.

5 Q. Did you develop a multiyear data set in your  
6 study?

7 A. My analysts did, yep. Yes.

8 Q. So that Apex memo reflects a multiyear data set?

9 A. That primarily relies on 2018 to determine the  
10 appropriate metrics but relies on other data from other  
11 time periods to confirm the findings.

12 Q. Did you review the -- the data from other  
13 periods or are you referring to the vessel data?

14 A. I'm referring to the vessel data and the  
15 associated assignments, yes.

16 Q. Okay. Thank you. Let's see.

17 So in your opinion, why didn't PSP submit the  
18 testimony of the Apex authors of that study to generate  
19 both the data in question and the methodology in this  
20 proceeding?

21 A. Because I was the primary investigator. And I  
22 have always been the one submitting testimony and not my  
23 analysts.

24 Q. Okay. So turning to your application of that  
25 model, aside from the issue of who created the



1 methodology, now you have your hypothetical pilots on  
2 shift model.

3 A. Yes.

4 Q. And you ran the simulation; right?

5 A. Correct. Yes.

6 Q. Okay. And you ran the model and compared it  
7 against historical data prior to coming to a conclusion.

8 A. We ran the model to determine the impact of  
9 adding individual pilots, a hypothetical pilot to the  
10 reduction in callbacks, and there was no way to compare  
11 it to any other time period.

12 Q. Okay. So you ran it without comparing it to  
13 historical data?

14 A. It's not possible.

15 Q. And why didn't you apply the same economic rigor  
16 to your callback reduction model as you did to your  
17 vessel arrival model?

18 A. Because it's not possible.

19 Q. So you would say for -- when you're -- you're  
20 teaching your courses in applied economics, you teach  
21 your students to build a model and compare it to  
22 actuals, but in this situation, what would you tell your  
23 students?

24 A. This is a simulation model and it is simply  
25 creating random events and checking what happens. And

1 you -- you -- you test it by doing it many, many times.  
2 That's the test. Not by comparing it to other time  
3 periods. It's not possible.

4 Q. In your opinion, the expansion of a callback  
5 calculation accrual is unpredictable; right?

6 A. I'm sorry. The -- can you say that again? The  
7 expansion?

8 Q. The expansion of callback calculation accrual is  
9 unpredictable; is that your opinion?

10 A. In real life, yes.

11 Q. Yes. That's where we are. So thank you.

12 A. I thought you were still in the simulation  
13 model.

14 Q. I can direct you to your testimony. The same  
15 page we were looking at before, SK-1 -- 1T, page 6.

16 A. Yes.

17 Q. Line 6. So you said, "Additionally, this trend  
18 implicates the need for additional licensed pilots in  
19 order to avoid the unpredictable expansion of the  
20 callback calculation accrual."

21 A. Yes.

22 Q. Okay. If your impression of the callback system  
23 is that it is unpredictable, why would you make a  
24 multiyear projection and recommendation based on a model  
25 that involved only a single data set from a single year?

1           A.    It's the -- the data set from a single year was  
2           a very good data set.  In the sense it included data up  
3           to the minute level of what was going on.  In my  
4           opinion, that was sufficient.  In my expert opinion,  
5           that was sufficient.

6           Q.    But wouldn't you agree that things can vary  
7           quite a bit from year to year?

8           A.    Absolutely they can.  That's why you use a  
9           simulation model.  And you allow all these variables to  
10          vary to their extreme and see what happens.  That is the  
11          purpose of the simulation model.

12          Q.    Did your -- in your initial testimony regarding  
13          callbacks, you focused on a methodology of workload;  
14          correct?

15          A.    Yes.

16          Q.    Did your original testimony mention once the  
17          amount of money that a PSP pilot makes or could make?

18          A.    No.

19          Q.    Okay.  Do the vessel projection model or does  
20          the vessel projection model or the callback model use  
21          PSP revenues or a tariff as a variable or a factor?

22          A.    No.

23          Q.    Okay.  And did you review the 2018 PSP audited  
24          financials before your initial testimony in November?

25          A.    I did not.

1 Q. In your cross-answering testimony, which is  
2 Exhibit SK-3T, you have a lot to say about the financial  
3 aspects of callbacks; right?

4 A. Yes.

5 Q. And did you review the 2018 PSP audited  
6 financials before submitting that testimony?

7 A. I did not.

8 Q. Okay. And did you review the PSP bylaws prior  
9 to submitting that testimony?

10 A. Partially to recognize -- to understand what  
11 certain terms meant.

12 Q. Okay. In your testimony, you conclude that the  
13 value of a pilot -- pilotage services should be based on  
14 a finite unit of work that a pilot performs.

15 A. That's correct.

16 Q. So what's the actual unit of work that is finite  
17 that the pilot should be compensated for?

18 A. That's actually the center point of my testimony  
19 is what -- what is that number? So I conclude it's 118  
20 assignments.

21 Q. But what's the unit? It's 118 assignments is  
22 the unit?

23 A. That is the unit. That could be -- there could  
24 be some on-duty days with no assignments and there could  
25 be other on-duty days that have multiple assignments.

1 Q. When you say on-duty days are you saying  
2 on-watch?

3 A. On-watch. Thank you for correcting me. That  
4 was one of the reasons I reviewed the bylaws, because I  
5 got confused by it. It is on-watch, yes.

6 Q. Thank you.

7 So is getting paid for a unit of work -- and you  
8 say the unit of work is 180 days?

9 A. Eighteen. 118 --

10 Q. 118 days.

11 A. -- assignments.

12 Q. That's the unit?

13 A. Assignments.

14 Q. Of assignments, whether they have assignments or  
15 not is -- okay.

16 So that's the same as getting paid for your  
17 time, getting paid for that unit is the same as getting  
18 paid for your time?

19 A. Yes. And your time could be spent doing an  
20 assignment or could be spent waiting to do an  
21 assignment, yes.

22 Q. Okay. So you're saying the finite unit of work  
23 is a function of time. So, like, the pilot gets paid by  
24 the hour, as an example?

25 A. Possibly, yes.

1 Q. You are not saying it's the function of a task,  
2 such as the pilot getting paid for an assignment?

3 A. I'm -- I'm saying that the pilot's are expected  
4 to do 118 assignments in a year. I don't know what that  
5 translates to in terms of days on-watch, and I don't  
6 know what it translates to in terms of hours either.

7 Q. Thank you for the clarification. Okay.

8 MS. DELAPPE: I have just a few more  
9 minutes, Judge Pearson. I know that I'm a little over  
10 time. May I proceed?

11 JUDGE PEARSON: Go ahead.

12 MS. DeLAPPE: Thank you.

13 BY MS. DeLAPPE:

14 Q. From your next statement in your testimony you  
15 talk about DNI. DNI is the value of work performed by  
16 pilots while on the clock. It sounds like you believe  
17 that they are getting paid as a function of time, right,  
18 from that?

19 A. Yes. Okay.

20 Q. And if -- in the PSP financials, you said that  
21 you have not reviewed that document?

22 A. That's correct.

23 Q. Okay.

24 A. I have not.

25 Q. So I'll just skip that.

1           Are you aware that the payment for pilots under  
2 the bylaws is for 365 days of service in a calendar  
3 year?

4           A.    I imagine that to be the case.  That's -- that  
5 they are available 365 days for duty.  That's my  
6 interpretation of that.

7           Q.    "Duty" meaning --

8           A.    Meaning that they could be called --

9           Q.    -- they are on the --

10          A.    On the clock they could be called for a callback  
11 while they are off the clock.

12          Q.    And you say that DNI should be for duty time not  
13 for total time; right?

14          A.    Correct.  That is my opinion.

15          Q.    So how do you describe the difference between  
16 duty time and total time?

17          A.    I believe a pilot should be paid for 118  
18 assignments.  Whatever the DNI amount is, that is for  
19 118 assignments.  If they do more than 118 assignments  
20 during the year, payment is above and beyond DNI.

21          Q.    So PSP's view regarding their payments is that  
22 their compensation is based upon duty days during a  
23 given month not based on the number of assignments  
24 worked by an individual pilot, thus no pilot receives  
25 income tied directly to the performance of a callback

1 job.

2 So that -- you still agree with your testimony  
3 on that?

4 A. I do.

5 Q. Okay. Are you advocating that when a pilot does  
6 extra work on a callback and he spends more time  
7 piloting than his fellow pilots that he should get paid  
8 more than his fellow pilots that do not do a callback?

9 A. I believe that the organization as a whole  
10 should get paid for callbacks. How that money is  
11 distributed internally, it's not something I can judge.

12 Q. And so you identify that there is no premium  
13 component to the compensation, that the revenue  
14 requirement methodology should provide additional  
15 compensation for callbacks, or there would be no  
16 incentive for a pilot to come in from their off-duty day  
17 and to take a vessel assignment.

18 As an economist, do you believe that a system  
19 where every pilot receives the same distribution of net  
20 revenue from every job, whether the pilot receives --  
21 whether a pilot was working or not, is maximizing the  
22 efficiency of the piloting system?

23 A. This is a little bit outside of what I was asked  
24 to do. But my opinion, if people don't get compensated  
25 for their time, they are less likely to want to give



1 their time.

2 Q. Okay. And so you testified about pilots working  
3 callbacks for free. That was how you term it?

4 A. Yes.

5 Q. All right. And Staff recommendation results in  
6 a situation where pilots have earned, as you say,  
7 \$400,000 in compensation but they had to work numerous  
8 callbacks for free to get it; right?

9 A. Correct.

10 Q. How can someone who is paid whether they are  
11 working or not be working for free?

12 A. The \$400,000, in my opinion, should be for  
13 conducting 118 assignments. And if they do more than  
14 118 assignments, they get more. In this case, they did  
15 many more than 118 assignments and they are still  
16 receiving 400,000.

17 MS. DeLAPPE: I can -- I can wrap up here.  
18 Thank you.

19 JUDGE PEARSON: Okay. Thank you.

20 Mr. Fassburg, do you have any redirect based  
21 on Ms. DeLappe's questions?

22 MR. FASSBURG: I do, but I believe Staff  
23 announced time for Dr. Khawaja.

24 JUDGE PEARSON: No, they did. I just  
25 typically offer the attorneys a chance to do redirect

1 after each attorney questions if they would like to.

2 MR. FASSBURG: Thank you. No, I'd love to  
3 do that.

4 REDIRECT EXAMINATION

5 BY MR. FASSBURG:

6 Q. I have a couple questions for you, Dr. Khawaja,  
7 just because I think your original testimony explained  
8 something I want to make sure is still clear.

9 The work that you did with respect to  
10 determining a workload for which pilots would earn a  
11 DNI, would -- when a pilot performs a callback, in your  
12 understanding, is that pilot on watch or off watch?

13 A. It -- a callback is off watch.

14 Q. In your recollection, is a pilot on watch  
15 365 days a year?

16 A. A pilot is not on watch 365 days a year. A  
17 pilot had to be in 365 days of on duty. I apologize. I  
18 don't remember the exact term.

19 Q. Sure.

20 A. Duty days. They have 365 duty days, but they  
21 are not on watch 365 days a year.

22 Q. So I just want everyone to make sure we're clear  
23 on the terminology.

24 In the PSP bylaws, when it defines a "duty day,"  
25 is it your understanding that that's part of the

1 distribution formula? The 365 duty days, are those part  
2 of the distribution formula?

3 A. I'm sorry. That question is for me?

4 Q. Yes. I'm sorry. I wanted to make sure everyone  
5 understands your testimony.

6 Just to be clear, you're not testifying that a  
7 pilot is available to work on watch 365 days a year?

8 A. That is not my testimony.

9 Q. Okay. And when you refer to the 118 assignments  
10 that a pilot should be required to perform to earn their  
11 DNI, is that the number of assignments that you  
12 calculate an on-duty pilot would perform if callbacks  
13 were minimized under your analysis?

14 A. Correct.

15 Q. So those represent work for when a pilot is on  
16 watch not work when they are off watch; is that right?

17 A. Correct.

18 MR. FASSBURG: I don't think I have anything  
19 else right now. Thank you.

20 JUDGE PEARSON: Okay. Thank you.

21 Mr. Fukano or Ms. Brown, do you have  
22 questions for this witness?

23 MR. FUKANO: Staff did have a time estimate  
24 for this witness, but Staff is currently willing to  
25 waive cross of this witness.

1 THE COURT: Okay. Thank you.

2 Do we have any questions from the bench for  
3 Dr. Khawaja? Commissioner Balasbas?

4 COMMISSIONER BALASBAS: All right. Thank  
5 you.

6 EXAMINATION

7 BY COMMISSIONER BALASBAS:

8 Q. All right. Thank you.

9 Good morning, Dr. Khawaja.

10 A. Good morning to you.

11 Q. I just wanted to follow up on some of the  
12 questions that Ms. DeLappe was asking you about your  
13 testimony.

14 So first, your -- your testimony is that the  
15 pilots should perform 118 assignments in a year to  
16 receive -- to receive a distribution of net income; is  
17 that correct?

18 A. That is correct; yes.

19 Q. And so if a pilot does not perform 118  
20 assignments in a year, are -- under your -- is it your  
21 testimony that they should not receive a distribution or  
22 should receive less of a distribution?

23 A. I never really addressed that issue, but I think  
24 it -- I think it is -- it's false, right?

25 I mean, if you have a job and you're supposed to

1 do 2080 hours a year but you do less than that, you get  
2 paid less than your full-time equivalent.

3 Q. All right. And then just to clarify of the --  
4 of the unit that we're talking about here, because in  
5 some of your answers to Ms. DeLappe you mentioned 118,  
6 it sounded like days.

7 But what your testimony is, is that in your  
8 testimony the pilots should perform 118 assignments,  
9 which is irrespective of the time for each of that  
10 assignment?

11 A. That is my testimony; yes, sir.

12 Q. Okay. All right. Thank you.

13 COMMISSIONER BALASBAS: I, at this point, do  
14 not have any further questions.

15 JUDGE PEARSON: Okay. Commissioner Rendahl  
16 or Chair Danner?

17 COMMISSIONER RENDAHL: I have no questions.

18 JUDGE PEARSON: All right. And --

19 CHAIR DANNER: Nor do I.

20 JUDGE PEARSON: Okay.

21 THE WITNESS: May I -- may I just say one  
22 quick summary, if I may. If I'm allowed.

23 JUDGE PEARSON: Go ahead.

24 THE WITNESS: Without a question. So  
25 this -- this -- I mean, allow me first to state the

1 obvious. This is about revenue requirement obviously.  
2 And there's an ask and there's an offer. And this is  
3 really about two things and two things ultimately what  
4 determines everything here, and that is the number of  
5 assignments per pilot that determines the number of  
6 pilots and the compensation for the pilots.

7 My analysis shows that the delta between  
8 what is being asked and what is being offered, about  
9 60 percent of that delta is driven entirely by the  
10 amount of compensation requested versus being offered,  
11 the 400,000 versus 500,000, and that's outside of my  
12 testimony.

13 What's in my testimony, which is like  
14 40 percent of that difference, is due to number of  
15 assignments per pilot. And what is -- what I did the --  
16 the Staff offered 143. I came up with 118. I think we  
17 all agree that staffing or building capacity to peak --  
18 if I was here testifying on behalf of Puget Sound Energy  
19 or aVista or Pacific Corp, I would be arguing that  
20 you've got to staff for peak plus just in case you're  
21 wrong. But we all know that whether it's pilots or a  
22 pizza parlor or any other place, staffing for peak does  
23 not make sense. It's inefficient. So Staff are asking  
24 to -- Staff are asking that we build capacity for  
25 average --

1 MR. FUKANO: I beg your pardon. I'd like to  
2 object. Mr. Khawaja is now testifying about Staff's  
3 position with no question being offered to him.

4 THE WITNESS: I apologize.

5 MS. BROWN: Your Honor, this is Sally Brown  
6 with Commission Staff. I'd like to inquire whether --

7 JUDGE PEARSON: Sally, we can't hear you.  
8 Hold on.

9 MS. BROWN: All right.

10 JUDGE PEARSON: All right. Go ahead,  
11 Ms. Brown.

12 MS. BROWN: Okay. This is Sally Brown for  
13 Commission Staff. I would also like to inquire as to  
14 whether or not the opportunity to deliver a lengthy  
15 soliloquy or narrative without a question pending is  
16 going to be extended to Commission Staff's witnesses as  
17 well.

18 JUDGE PEARSON: We'll need you --  
19 Dr. Khawaja, we'll need you to wrap up. And if any of  
20 the other parties have additional questions based on  
21 what he just said, I will allow those as well.

22 Does Staff or PMSA have any additional  
23 questions based on what Dr. Khawaja just relayed?

24 MR. FUKANO: Not at this time.

25 MS. DeLAPPE: No, not at this time. Thank

1 you.

2 JUDGE PEARSON: All right. All right,  
3 Mr. Khawaja -- or Dr. Khawaja, you are excused.

4 THE WITNESS: Thank you very much.

5 JUDGE PEARSON: And our next witness is  
6 Weldon Burton for Puget Sound Pilots.

7 Mr. Burton, if you could turn on your  
8 camera. Mr. Burton, can you hear me? Do you have your  
9 microphone on?

10 THE WITNESS: Yes, I can hear you. And do  
11 you hear me?

12 JUDGE PEARSON: Yes. All right. If you  
13 could please raise your right hand.

14 Do you swear under penalty of perjury that  
15 the testimony you offer today is the truth, the whole  
16 truth, and nothing but the truth?

17 THE WITNESS: I do.

18 JUDGE PEARSON: Okay. Thank you.

19 And, Mr. Wiley, are you going to be handling  
20 cross for Mr. Burton?

21 MR. WILEY: Yes, I am, Your Honor.

22 JUDGE PEARSON: Okay. So go ahead and  
23 introduce the witness.

24 MR. WILEY: Yes. Before I do that, can I  
25 just make one comment as it's getting to be the senior



1 hour with me, cross-examining, I just wanted to say that  
2 I'm very impressed with the next generation of not only  
3 Commissioners and Judges and practitioners and it's  
4 really gratifying to see a next generation coming up the  
5 ranks in these kind of very specialized cases, so I feel  
6 honored to be in your company today.

7 So let's -- maybe with the exclusion of some  
8 other senior up in the right-hand corner, anyways.

9 COMMISSIONER RENDAHL: Watch it.

10

11 WELDON BURTON, witness herein, having been  
12 first duly sworn on oath, was  
13 examined and testified as  
14 follows:

15

16 DIRECT EXAMINATION

17 BY MR. WILEY:

18 Q. Mr. Burton, could you please provide your name  
19 and business address for the record?

20 A. Weldon Burton. Business address is 2 South 56th  
21 Place, Suite 201E, Ridgefield, Washington 98642.

22 Q. And, Mr. Burton, do you understand that we have  
23 admitted the direct and rebuttal testimony and your  
24 accompanying exhibits without objection?

25 A. Yes.

1 MR. WILEY: Okay. I tender the witness,  
2 Your Honor.

3 JUDGE PEARSON: Okay. Thank you.

4 MS. DeLAPPE: Thank you.

5 JUDGE PEARSON: Go ahead. Ms. DeLappe.

6 CROSS-EXAMINATION

7 BY MS. DeLAPPE:

8 Q. Hello, Mr. Burton.

9 A. Good morning.

10 Q. Would you -- do you disagree with Captain  
11 Moore's statement that only expenses that are essential  
12 to the provision of pilotage services to vessels should  
13 be recovered under the revenue requirement?

14 A. Yes, I disagree with that.

15 Q. And the Commission Staff has said that they  
16 evaluate whether an expense is essential or nonessential  
17 to the provision of the pilotage service. You agree  
18 with that, don't you?

19 A. I agree that Staff evaluates expenses and  
20 sometimes removes a part of the expense from the pro  
21 forma, and -- maybe in -- 100 percent or less than  
22 100 percent.

23 Q. Thank you.

24 Commission Staff has said that a review of  
25 expenses as essential versus nonessential determinations

1 require them to review expenses to ensure all items  
2 contained in the regulatory financial presentation are  
3 required and reasonably incurred in the provision of  
4 services. Do you agree with that?

5 A. Could you repeat that question, please? I'm  
6 sorry.

7 Q. Yes. In fact, if you -- I could direct you to  
8 an exhibit. It's -- do you have exhibit labeled  
9 AMCL-15X?

10 A. AMCL-16?

11 Q. 15X.

12 A. Just a minute.

13 Q. Let me know when you are there.

14 MR. WILEY: Is that a cross-exhibit,  
15 Ms. DeLappe?

16 MS. DeLAPPE: Yes.

17 THE WITNESS: I'm afraid --

18 BY MS. DeLAPPE:

19 Q. That's all right, Mr. Burton.

20 A. I can't find that exhibit readily.

21 Q. That's not a problem. I understand there are a  
22 lot of exhibits here.

23 In that exhibit, Ms. LaRue from the Commission  
24 Staff said that all regulatory audits review expenses to  
25 ensure all items contained in the regulatory financial

1 presentation are required and reasonably incurred in the  
2 provision of -- in the provision of services.

3 So do you agree with that, Mr. Burton?

4 A. Yes, I do.

5 Q. So please explain then how you --

6 COMMISSIONER RENDAHL: Ms. DeLappe.

7 MS. DELAPPE: Yes.

8 COMMISSIONER RENDAHL: Can you tell us which  
9 response to the data request within that exhibit that  
10 you are referring to?

11 MS. DeLAPPE: It's page 1, and it's Data  
12 Request No. 38.

13 COMMISSIONER RENDAHL: Thank you.

14 MS. DELAPPE: Does that get you there?

15 Thanks.

16 BY MS. DeLAPPE:

17 Q. So, Mr. Burton, please explain then how you can  
18 disagree with Captain Moore's statement but you agree  
19 with Staff when they both state that they agree that  
20 only essential services should be captured by the  
21 tariff?

22 MR. WILEY: Objection to the form of the  
23 question. I think she mischaracterized the testimony of  
24 Ms. LaRue in the response.

25 JUDGE PEARSON: Ms. DeLappe, do you want to

1 respond to that?

2 MS. DeLAPPE: Excuse me, so I read what  
3 Ms. LaRue wrote. And I -- in that -- on that page, so  
4 I'm not certain what mischaracterization occurred. I'd  
5 need to have some clarification.

6 MR. WILEY: I think it was the essential  
7 services -- the reference.

8 MS. DeLAPPE: So I would direct Mr. Wiley to  
9 the question, the data request, which asks --

10 MR. WILEY: Yes. I don't have it in front  
11 of me. Do you want to read it? I can't find it.

12 MS. DeLAPPE: I'd be glad to. It asks: Did  
13 UTC Staff evaluate if an expense is essential or  
14 nonessential to the provision of pilotage service?

15 And Ms. LaRue's answer is: Yes, period.  
16 All regulatory audits review expenses to ensure all  
17 items contained in the regulatory financial presentation  
18 are required and reasonably incurred in the provision of  
19 services.

20 So if I may proceed?

21 MR. WILEY: Yes.

22 MS. DeLAPPE: Thank you.

23 BY MS. DeLAPPE:

24 Q. So, Mr. Burton, can you please explain, given  
25 that information, how you can disagree with Captain

1 Moore and -- but agree with Staff when they are saying  
2 that only essential services should be captured by the  
3 tariff?

4 A. For example, Captain Moore suggests that the  
5 medical insurance for pilots should not be includable as  
6 an expense. However, in my experience in 40 years  
7 approximately working with Commission Staff, they have  
8 consistently allowed medical insurance for not only  
9 owners, but employees.

10 So his suggestion is that it's not an allowable  
11 rate making expense for this proceeding is not correct  
12 in my opinion.

13 He also suggests that political contributions  
14 are not an allowable expense. And I, in fact, removed  
15 political contributions from the pro forma before  
16 submission to the Commission.

17 Q. Thank you for that clarification. Let's take up  
18 your first point about medical insurance coverage.

19 MS. DELAPPE: Judge Pearson --

20 JUDGE PEARSON: Just a moment. Mr. Gilbert,  
21 can you please mute your microphone and turn off your  
22 camera?

23 MS. DeLAPPE: I can proceed, if you'd like.

24 JUDGE PEARSON: There we go. Okay.

25 BY MS. DeLAPPE:

1 Q. All right. So let's take up that first point  
2 that you made, Mr. Burton, regarding medical insurance  
3 coverage. The medical insurance coverage that PSP  
4 provides to pilots is consistent with the Commission  
5 decisions regarding medical benefits; right?

6 A. That is my -- that is correct.

7 Q. And medical benefits are a customary operating  
8 expense for public service companies; correct?

9 A. That is correct.

10 Q. And they are routinely covered in rates  
11 authorized by the Commission; right?

12 A. Correct.

13 Q. And it's common among privately held public  
14 service companies that the owners who work for their  
15 companies receive employee benefits like health  
16 insurance; right?

17 A. That is correct.

18 Q. And those benefits are not traditionally  
19 excluded from reasonable operating expenses by the  
20 commissions, as you pointed out; right?

21 A. Correct.

22 Q. Is it common among these other privately held  
23 service companies that they must evaluate whether to  
24 provide medical benefits to its employees who already  
25 have other coverage, such as through a spouse or who may

1 prefer a plan other than the company plan or perhaps  
2 offer a payment in lieu of coverage when the employees  
3 may have already some alternative coverage?

4 A. Most of the companies have union-sponsored plans  
5 that do not provide for the exceptions that you're  
6 quoting.

7 Q. Is it correct that at least one PSP pilot does  
8 not participate in the PSP plan?

9 A. That's my understanding.

10 Q. And PSP does not inquire as to how many pilots  
11 both active and retired have medical insurance other  
12 than the PSP plan?

13 A. The retired pilots do not qualify or are not  
14 included in the PSP plan.

15 Q. And PSP doesn't inquire for active pilots about  
16 medical insurance other than the PSP plan?

17 A. Not to my knowledge.

18 Q. Does -- PSP does not inquire as to what other  
19 medical insurance plans, if any, that the  
20 non-subscribing pilots and retired members might have,  
21 right, that's --

22 A. I'm sorry. Can you say that again? You're --

23 Q. So PSP does not inquire as to what other medical  
24 insurance plans, if any, the non-subscribing pilots and  
25 retired members have?



1           A.    Again, retired members do not qualify or are not  
2 covered under the -- the current medical plan offered by  
3 PSP. And the other pilot I have, I do not know why he  
4 is not covered.

5           Q.    So I'm focused on the PSP's practice of not  
6 inquiring as to the medical insurance status of its  
7 members.

8                    So as you point out, this would be applicable to  
9 its active members. So they don't inquire, but they  
10 provide the benefit anyway; right?

11          A.    That is an operating question that management  
12 has made the decision of. That is not within the  
13 purview of my work in this case.

14          Q.    Do you know whether that's typical when compared  
15 with other employers?

16          A.    No, I don't.

17          Q.    The benefits provided to employees or to owners  
18 are a form of compensation to the employee by a public  
19 service company that provides them; right?

20          A.    They are a form of non -- of exempt  
21 compensation; that is correct.

22          Q.    Okay. So --

23          A.    Exempt from federal income tax, I should say.  
24 Excuse me.

25          Q.    Yes. But you don't believe it should matter

1 whether the medical benefits are recovered by pilots as  
2 members of PSP rather than as employees; right?

3 A. I don't know how they could recover. I -- I  
4 don't understand your question completely. The rates  
5 are -- the -- the rate is designed to cover the cost of  
6 that medical insurance.

7 Q. Right. And so whether it's as being provided to  
8 the pilots as PSP members or as PSP employees doesn't  
9 matter; right?

10 A. PSP employees are covered by collective  
11 bargaining agreements. That is a separate medical plan  
12 as compared to the pilots medical plan.

13 Q. Uh-huh. And the pilots are treated as members  
14 or owners of PSP, not as employees. But it doesn't  
15 matter that they are treated -- how they're treated for  
16 purposes of medical benefits; right?

17 A. I don't know the answer to that. It depends on  
18 the plan qualifications.

19 Q. So if they're a form -- benefits are a form of  
20 compensation and it -- I would say it doesn't -- doesn't  
21 sound like it matters whether they're -- how they're  
22 recovered in terms of the revenue requirement here, why  
23 are you opposed to labeling these payments as part of  
24 pilot compensation?

25 A. That the -- there is -- there are some income

1 tax issues regarding that qualification.

2 Q. Are you saying that the taxation of the medical  
3 benefits would change if the accounting labels those  
4 benefits as part of pilot compensation?

5 A. Potentially.

6 Q. Do you -- have you received any --

7 A. This is an area that is very complex and almost  
8 outside of this proceeding.

9 Q. So was it your understanding that -- it sounded  
10 like you thought that PMSA was proposing to completely  
11 exclude these benefits from the revenue requirement?

12 A. It said that's the way Captain Moore described  
13 it, as I understand it.

14 Q. Do you have Captain Moore's testimony? The  
15 Exhibit MM-1TR.

16 JUDGE PEARSON: Ms. DeLappe, I just want to  
17 remind you that you are past your ten minutes now.

18 MS. DeLAPPE: Thank you. This has been  
19 taking a little more time than I expected. I think if I  
20 can just ask this one question, I think it's a -- an  
21 important clarification.

22 JUDGE PEARSON: Go ahead.

23 BY MS. DeLAPPE:

24 Q. If -- if you do have his testimony, and you turn  
25 to page 103 of the testimony, I think you'll see that

1 he -- Captain Moore is actually describing a situation  
2 that incorporates the value of pilot compensation into a  
3 net income distribution. And --

4 MR. WILEY: Your Honor, is that a question  
5 or a statement?

6 MS. DeLAPPE: I -- the problem is I don't  
7 know if the witness has it in front of him, and I'm  
8 feeling a little time-pressure, so I will just point out  
9 that that's there and the witness is off screen. So I  
10 have nos idea --

11 THE WITNESS: Yeah. No, I'm --

12 MS. DELAPPE: -- whether he's going to be  
13 able to look that up.

14 THE WITNESS: Yeah, I've got the testimony  
15 here.

16 BY MS. DeLAPPE:

17 Q. So it's -- if you are looking at the revised  
18 testimony, so it's 1TR, it's on page 103, line 24 is  
19 where it starts. And it goes through to line --

20 A. I do not have the revised testimony.

21 Q. All right.

22 MS. DeLAPPE: So I think that we can -- we  
23 can leave off the questioning there. I can cover the  
24 rest with others.

25 JUDGE PEARSON: Okay. Thank you.

1 MS. DeLAPPE: Thanks.

2 JUDGE PEARSON: Mr. Wiley, did you have any  
3 questions or can we move on to Staff?

4 MR. WILEY: Just one question at this point,  
5 Your Honor. Subject to me checking the testimony more  
6 closely.

7 REDIRECT EXAMINATION

8 BY MR. WILEY:

9 Q. Mr. Burton, you were asked about PSP's practices  
10 as to inquiring about coverage.

11 Do you have any idea as to whether HIPAA  
12 regulations limit the scope of inquiry by employers into  
13 the employee medical coverage?

14 A. No, I do not.

15 MR. WILEY: No further questions, Your  
16 Honor.

17 JUDGE PEARSON: Okay. Ms. Brown or  
18 Mr. Fukano, do you have questions for this witness?

19 MR. FUKANO: Yes, I have just a few  
20 questions for Mr. Burton.

21 JUDGE PEARSON: Okay. You can go ahead.

22 CROSS-EXAMINATION

23 BY MR. FUKANO:

24 Q. Hello, Mr. Burton. How are you this day?

25 A. Quite well, sir.

1 Q. I just have a few questions about the two  
2 pilotage boats that are operated by PSP.

3 Are you familiar with the two pilot boats that  
4 are used by Puget Sound Pilots?

5 A. Yes, I am.

6 Q. In your opinion, do you have -- what is the  
7 remaining useful life of the pilot boat, the Puget  
8 Sound?

9 A. Sir, I'm not a marine surveyor or marine  
10 engineer, so I have no method of evaluating the  
11 remaining useful life of those vessels.

12 Q. And so you have -- you have no opinion then on  
13 the remaining useful life?

14 A. No, I don't.

15 Q. And would that hold the same for the second  
16 pilot boat, the Juan de Fuca?

17 A. That's correct.

18 Q. Thank you. No further questions.

19 JUDGE PEARSON: Okay. Thank you.

20 Mr. Wiley, did you have any follow-up?

21 MR. WILEY: Yes.

22 REDIRECT EXAMINATION

23 BY MR. WILEY:

24 Q. Mr. Burton, are you familiar with any policy,  
25 accounting policy or regulation that establishes a

1 useful life premise for depreciation purposes?

2 A. Yes, I am. In my testimony -- and I will find  
3 it -- I cite a federal regulation published by -- or  
4 it's a MARAD regulation that suggests that vessels that  
5 are purchased new have a depreciated -- this is MARAD  
6 policy 46 CFR Section 382.3(b)(2)(i). That says that  
7 vessels purchased new should have a depreciable life of  
8 20 years. Vessels purchased used should have a -- a  
9 depreciable life of 10 years. And these vessels were  
10 both purchased new in -- in 2001 and 1999.

11 Q. And, Mr. Burton, my question also went to the  
12 useful life theory that Staff has used on its  
13 depreciation premise here.

14 Were you aware of a useful life as opposed to a  
15 depreciable life metric before Staff's testimony?

16 A. No.

17 MR. WILEY: No further questions, Your  
18 Honor.

19 JUDGE PEARSON: Okay. Thank you.

20 Do we have any questions from the  
21 Commissioners for this witness?

22 Commissioner Rendahl.

23 EXAMINATION

24 BY COMMISSIONER RENDAHL:

25 Q. Good morning, Mr. Burton.

1 A. Good morning, Commissioner.

2 Q. So this is primarily just a clarifying question  
3 as to who is the appropriate witness for PSP to address  
4 the question of the -- what's been called the  
5 three-month transportation pilot project or the study.  
6 Have -- what was your involvement in that effort?

7 A. My involvement was to receive a three-page  
8 document that summarized all the costs and used the  
9 calculated number of one ninety-eight thirty-seven as a  
10 reasonable transportation cost.

11 Executive Director Linda Styrk compiled all the  
12 information and presented the -- basically the printout  
13 or the three-page summary to me for use in my  
14 preparation for the case.

15 COMMISSIONER RENDAHL: Okay. Thank you. I  
16 don't have any questions for you about the analysis.  
17 Thank you.

18 JUDGE PEARSON: Okay. Anything further?  
19 I'm not seeing any signals from the other  
20 two Commissioners. Okay.

21 Thank you, Mr. Burton.

22 THE WITNESS: Thank you.

23 JUDGE PEARSON: You are excused. And I  
24 think this would probably be a good time to take a lunch  
25 break, because the next witness has an estimated



1 30 minutes of cross.

2 I just want to check in with the  
3 Commissioners about how long of a break you think we  
4 should take. And I also just want to remind Ms. DeLappe  
5 that -- to be mindful of the cross-examination time  
6 estimates, because at this point, it looks like we're  
7 not going to be able to get through all of PSP's  
8 witnesses, if we continue at the pace that we've been  
9 going, which would then put us here until very late  
10 tomorrow evening, which is definitely not our  
11 preference.

12 MS. DeLAPPE: Duly noted. Thank you.

13 JUDGE PEARSON: With all that in mind,  
14 Commissioners, how long of a lunch break would you like  
15 to take? Is 45 minutes sufficient or would you like an  
16 hour?

17 COMMISSIONER RENDAHL: 45 minutes is fine.

18 JUDGE PEARSON: Okay.

19 CHAIR DANNER: 45 minutes is fine.

20 JUDGE PEARSON: Okay. Then we will -- we  
21 will reconvene at 12:40 and we will be in recess until  
22 then.

23 (A luncheon recess was taken from  
24 11:58 a.m. to 12:46 p.m.)

25

1 AFTERNOON SESSION

2

3 JUDGE PEARSON: We'll go back on the record.  
4 I apologize to the court reporter for that. And our  
5 next witness is Jessica Norris for Puget Sound Pilots.

6 So, Ms. Norris, if you could please turn on  
7 your camera.

8 THE WITNESS: Okay. I think I'm on.

9 JUDGE PEARSON: We just see a dark screen.

10 MR. WILEY: There she is.

11 JUDGE PEARSON: There we go. All right.  
12 And does Mr. Burton have his camera on? He's taking up  
13 space on my screen for some reason.

14 MR. WILEY: Mr. Burton?

15 JUDGE PEARSON: All right. Well, we'll go  
16 ahead --

17 MS. BROWN: I think it's just a --

18 MR. WILEY: It's not a -- the video,  
19 Mr. Burton.

20 JUDGE PEARSON: Mr. Burton, if you could  
21 turn off your camera when you get a chance. All right.

22 Ms. Norris, if you could please raise your  
23 right hand, I will swear you in.

24 Do you swear or affirm the testimony you  
25 give today will be the truth, the whole truth, and

1 nothing but the truth?

2 THE WITNESS: Yes.

3 THE COURT: All right. Thank you.

4 And Mr. Wiley, I take it that you will be  
5 handling cross for Ms. Norris?

6 MR. WILEY: I am, Your Honor.

7 THE COURT: All right. You can go ahead and  
8 introduce the witness.

9

10 JESSICA NORRIS, witness herein, having been  
11 first duly sworn on oath,  
12 was examined and testified  
13 as follows:

14

15 DIRECT EXAMINATION

16 BY MR. WILEY:

17 Q. Hi, Ms. Norris, could you please state your name  
18 and provide your business address and employer for the  
19 record?

20 A. Yes. My name is Jessica Norris, and I'm  
21 employed by Shannon & Associates. Our business address  
22 is 1851 Central Place South, Suite 225, Kent, Washington  
23 98030.

24 Q. Thank you.

25 Just for your information, your direct testimony

1 and rebuttal, with all exhibits, have been admitted  
2 previously. So I now tender the witness to Ms. DeLappe.

3 MS. DeLAPPE: Hello, Ms. Norris.

4 THE WITNESS: Hi.

5 MS. DELAPPE: I'm sorry, Judge Pearson.

6 JUDGE PEARSON: I just wanted to see if  
7 Mr. Burton could hear me and ask him again to please  
8 turn off his camera.

9 MR. WILEY: I think his audio is off. It  
10 showed, your Honor. So hopefully we'll get this --

11 MR. BURTON: Your Honor, I'm trying. I  
12 thought I had it turned off. I'm sorry.

13 MS. DeLAPPE: All right.

14 JUDGE PEARSON: Okay. It's okay. Go ahead,  
15 Ms. DeLAPPE.

16 CROSS-EXAMINATION

17 BY MS. DeLAPPE:

18 Q. I have until one clock with you, Ms. Norris.  
19 I'm going to try to speed through some questions.

20 A. Okay. I'll go fast.

21 Q. But in lay terms, I'm referring to the 2018 PSP  
22 financial statement, which is your Exhibit JN-4.

23 A. Okay.

24 Q. Is it fair to say that that's a clean financial  
25 document that can be relied on as representing the

1 financial aspect of the pilots' business?

2 A. Yes.

3 Q. Thank you.

4 And one of those aspects for you as auditors to  
5 review the PSP revenues to ensure accuracy with the  
6 tariff and the rates that they are required to charge?

7 A. Yes.

8 Q. Did you find any instances in which PSP's  
9 charges were violated -- in violation of the rates  
10 prescribed by the tariff because they varied with some  
11 aspects of the day-to-day operations of PSP  
12 impermissibly?

13 A. Not in our testing.

14 Q. Do any of the PSP revenues under the tariff vary  
15 with the number of pilots licensed by the State of  
16 Washington?

17 A. Not to my knowledge.

18 Q. And do any of the PSP revenues vary with the  
19 number of assignments that any individual pilot  
20 completes?

21 A. No.

22 Q. So you've also observed that the total number of  
23 jobs worked does not change whether a pilot -- an  
24 off-watch pilot works the vessel, or an on-watch pilot  
25 works the vessel; is that right?

1 A. That is correct.

2 Q. Do any of PSP's revenues vary with how many  
3 pilots are made available by PSP?

4 A. No. The tariff charges are the same regardless  
5 of who or when the ship is moved.

6 Q. Great. And do any of their revenues under the  
7 tariff vary based on internal staffing or licensing or  
8 watch rotation decisions?

9 A. No.

10 Q. Does the charge to a ship ever vary based on  
11 whether the individual pilot dispatched is on watch or  
12 off watch?

13 A. No.

14 Q. When a ship calls on a port, the pilots are  
15 obligated by law to charge only those rates set by the  
16 tariff to that vessel; right?

17 A. To my knowledge, yes.

18 Q. Yeah. And when the invoice is collected with  
19 proceeds from the ship by PSP, that payment's applied  
20 pursuant to the PSP bylaws; right?

21 A. To the best of my knowledge, yes.

22 Q. Okay. On -- in that PSP financial statement,  
23 Jan '04, if you could turn to page 26. You have some  
24 notes to schedule of days of service and distribution of  
25 pilotage revenue and expense on that page?

1 JUDGE PEARSON: Ms. DeLappe, can you tell me  
2 the exhibit number?

3 MS. DeLAPPE: Yes. It's Exhibit JN-4. And  
4 we're looking at page 26.

5 JUDGE PEARSON: Thank you.

6 MS. DeLAPPE: Thank you.

7 BY MS. DeLAPPE:

8 Q. All right. Are you there, Ms. Norris?

9 A. Yes, I am.

10 Q. Great. In that first section there at the  
11 beginning you note that the PSP bylaws provide for  
12 distribution of revenues for piloting services in  
13 proportion to days of duty and distributions of pooled  
14 expenses equally with some exceptions; is that right?

15 A. Yes.

16 Q. Okay. When establishing pilot days of service,  
17 you define that as the total number of days the pilot  
18 was an active pilot on the pilot roster in that note  
19 section; right?

20 A. Yes. Also known as days on distribution.

21 Q. Great. And if we can turn back to page 23,  
22 that's the beginning of the table that that is the notes  
23 to.

24 Looking at Column 1, where you see it's labeled  
25 "days of service," if you look down -- it's through this

1 table.

2 Would it be accurate to say that except for  
3 those pilots with an asterisk next to their names,  
4 because they were new licensees or retiring their  
5 license, every pilot on the PSP roster for the full year  
6 in 2018 was credited with 365 days of service?

7 A. Yes.

8 Q. And then looking at Column 2 labeled "credit for  
9 pilotage revenue." Is it accurate to say that every  
10 pilot with 365 days of service received a credit to  
11 their account of \$675,421 as their share of total  
12 pilotage revenue?

13 A. Yes.

14 Q. So it's your conclusion as PSP auditor that the  
15 PSP bylaws were complied with in 2018 when each pilot on  
16 the roster for all of 2018 earned their full 675,  
17 et cetera, credit of all pilotage fees charged and  
18 collected from vessels?

19 A. Yes. The equal share of pilotage revenue, less  
20 expenses.

21 Q. Yes. Good.

22 Is there any pilotage revenue collected from  
23 vessels in 2018 that is not reflected in that credit per  
24 pilot?

25 A. Not that I am aware.



1 Q. Yeah. So it reflects every dollar collected  
2 under the tariff?

3 A. Every dollar. I would like to correct that.  
4 Every dollar billed. There's a difference between  
5 billed and collected.

6 Q. Yes. Generally, the ships all -- with a few  
7 exceptions, minuscule amount of bad debt, the ships pay  
8 their invoices; correct?

9 A. Yes. However, the payment could be in a  
10 different year than the bill. So this is based on  
11 invoice, not -- not collected.

12 Q. Great.

13 And for every pilot on the roster, does this  
14 mean that they received some portion of every ship call  
15 credited to their account?

16 A. In theory, I think that would be accurate.

17 Q. Okay. So what if a pilot on the roster actually  
18 piloted the vessel in question that generated the  
19 pilotage engagement, does that pilot earn a premium or  
20 any additional money?

21 A. No.

22 Q. Is the one pilot actually on board the vessel  
23 the one who's doing the work, are they credited the same  
24 share of pilotage revenues as the 49.3 other pilots who  
25 were not on that vessel?

1 A. Yes.

2 Q. Okay. So whether you -- and whether you measure  
3 the pilotage services by the day or the pilotage  
4 engagement, every PSP member is paid the same; right?

5 A. Correct.

6 Q. Okay. Is there any vessel move that's done by  
7 PSP that generates revenue under the tariff and does not  
8 generate any credit toward the total pilotage revenue  
9 for every pilot on the roster?

10 A. There are tariff charges, which I think in one  
11 of my testimonies I discussed that are specifically not  
12 included in revenue as pass-through items, and I believe  
13 the training surcharge is one of them. And they're a  
14 pass-through to the Board of Pilotage Commission, I  
15 believe. So those are billed by Puget Sound Pilots but  
16 are liabilities of Puget Sound Pilots and not part of  
17 the pilotage revenue.

18 Q. Okay.

19 A. They are specifically called out in the tariff.  
20 There is a couple instances of that.

21 Q. Well -- well -- okay. So it's impossible,  
22 though, under the PSP bylaws for dollars from a pilotage  
23 job -- with those exceptions -- to not ultimately be  
24 distributed to every pilot on the roster, no matter how  
25 the pilotage service is provided?

1 A. That would be accurate to my knowledge.

2 Q. All right. And whether you measure them --  
3 those services by the day or by the engagement, no  
4 member of PSP has paid more for actually moving any one  
5 specific vessel; right?

6 A. That's correct.

7 Q. Okay. As auditor, you don't -- that means you  
8 don't have to evaluate the watch schedule to -- for your  
9 work; right?

10 A. No.

11 Q. And you don't have to ask how many assignments a  
12 pilot has completed?

13 A. No. That's not part of this statement.

14 Q. Yeah.

15 Do you adjust the days of service based on  
16 whether they performed any callbacks that year or not?

17 A. That does not go into the days of service.

18 Q. Uh-huh. So the only service factor that is  
19 applied under the bylaws to arrive at a credit for  
20 pilotage revenue is the number of duty days on the PSP  
21 roster; correct?

22 A. That is correct.

23 Q. Okay. So -- and callbacks and comp days are  
24 completely irrelevant to calculating the credit for  
25 pilotage revenue?

1           A.     With the exception of if somebody is burning  
2     callback days, they are credited what days -- a day of  
3     service.

4           Q.     So there is -- is there something --

5           A.     They don't -- sorry.

6           Q.     Go ahead.

7           A.     They don't get an additional day of service.  If  
8     they are burning callback days subsequent to their time  
9     of, you know, being on watch or being an active pilot,  
10    you would not be able to distinguish that from here.  
11    They are -- they are paid as if they were an active  
12    pilot.

13          Q.     So you're referring to the burn down of -- you  
14    know, when a pilot otherwise would have retired?

15          A.     Yes.

16          Q.     So at the end of their career.

17          A.     Correct.

18          Q.     Otherwise, they're treated the same for purposes  
19    of their distributions.

20          A.     Correct.

21          Q.     All right.  And as the PSP auditor reviewing the  
22    financials, would you find that PSP was acting in a  
23    matter inconsistent with its bylaws if it paid pilots  
24    differently based on who was off watch and took a  
25    callback?

1 MR. WILEY: Your Honor, objection to the  
2 extent that she's being asked, as I understand the  
3 question, a legal question about how the operating rules  
4 would apply, whether it's -- you know, correct or  
5 incorrect legally.

6 MS. DELAPPE: I'm asking a question --  
7 specifically as auditor of PSP, if she would have to  
8 make any finding that they are violating -- or acting in  
9 a matter inconsistent with PSP bylaws if they did that.

10 JUDGE PEARSON: Okay. I'll allow it. Go  
11 ahead.

12 THE WITNESS: Okay. To my knowledge, the  
13 bylaws dictate that the distribution of income is evenly  
14 among pilots; and so as part of our audit, we'd look at  
15 that. And so if there was an exception to that, it  
16 would be some kind of financial exception. But to my  
17 knowledge, that is not happening.

18 BY MS. DeLAPPE:

19 Q. Okay. So under the bylaws, the requirement to  
20 distribute equal shares is the same no matter what  
21 specific tariff applies to any specific ship; right?

22 A. To my knowledge, there's one tariff. I mean,  
23 there's different tariff charges. Is that what you're  
24 asking?

25 Q. Right. Yes. So for an example, if a big ship

1 comes in and pays a \$20,000 invoice or a smaller ship  
2 comes in and pays a \$6,000 invoice, the same equal  
3 credits for pilots on the roster will be required and  
4 applied, so pilots receive the same distribution of  
5 compensation under the bylaws?

6 A. Yes.

7 Q. Thank you.

8 And under the bylaws, would you agree that the  
9 distribution is based on duty days during a given month  
10 not the number of assignments worked by an individual  
11 pilot?

12 A. Yes.

13 Q. Okay. So have you or your colleagues -- oh, and  
14 I would just also say, I had one related question.

15 You criticized the Commission Staff and their  
16 computations regarding callbacks because you feel that  
17 they ignore completely the need to compensate pilots for  
18 overtime when they work an off-duty day; right?

19 MR. WILEY: Can you direct her to that  
20 testimony, please, Ms. DeLappe?

21 MS. DeLAPPE: Yes.

22 BY MS. DELAPPE:

23 Q. That is in Exhibit JN-6T at page 4. And on  
24 page 4 it starts at line 14. And I'll go ahead and read  
25 the statement.

1 "But that ignores completely the need to  
2 compensate pilots for overtime when they work an  
3 off-duty day to avoid ship delays and the slowdown of  
4 Maritime trade by moving vessels on demand."

5 A. Can I ask again what page that is of JN-6T?

6 Q. Yeah. It's page 4.

7 A. Okay. Just give me one second to read it.

8 Q. Thank you. I have two minutes.

9 A. Okay. So the question in this case is if -- if  
10 accrual accounting would clean up the problem of  
11 callback days and my response on line 14 says --

12 Q. You basically say that they need to compensate  
13 pilots for overtime; right?

14 A. Yes. I'm saying, just by booking a liability,  
15 it doesn't fix the problem of pilots currently getting  
16 equal share of distribution and not being compensated  
17 for the time worked and accrual accounting, you know,  
18 doesn't just solve the operational problem. It's just a  
19 response to an operational decision, and that could be,  
20 you know, determined based on the decisions here. But  
21 it doesn't fix the operational problem of callback days.

22 Q. Okay. And so I just want -- just one question  
23 on that.

24 When you've already credited payment against a  
25 pilot's account for 365 days of service, wouldn't you

1 agree that there is no such thing as overtime?

2 A. That is just days on distribution. There's no  
3 linkage there to the number of watches or ships moved.

4 Q. And when you've already compensated every pilot  
5 the same for every job whether they worked the job or  
6 not, is there any way to calculate an additional way to  
7 compensate pilots?

8 A. Not under the tariff that we were auditing  
9 under. If there was a different arrangement, possibly.  
10 However, under the -- the acting tariff that we were  
11 auditing under and the operation, or the operating rules  
12 that I don't believe was possible.

13 Q. And just one last question. I believe you have  
14 not been asked -- you have not been asked to audit the  
15 PSP revenue and income levels for the 12 months ending  
16 on June 30, 2020; correct?

17 A. That is correct.

18 MS. DeLAPPE: All right. I have no further  
19 questions. Thank you.

20 JUDGE PEARSON: Okay. Thank you.

21 Mr. Wiley, did you want to follow up before  
22 we turned to Staff?

23 MR. WILEY: Yes. Just a couple questions,  
24 Your Honor.

25 //



1 REDIRECT EXAMINATION

2 BY MR. WILEY:

3 Q. First of all, Ms. Norris, you were asked a lot  
4 of questions about the operating rules. And I just want  
5 to make sure the record is clear in terms of the  
6 questions that were posed to you.

7 Operating rules regarding duty days are  
8 different than on-watch days, are they not?

9 A. Yes; that is correct.

10 Q. And did you -- are you aware of the operating  
11 rules on -- callback day compensation, specifically  
12 16.4.4.2, which is -- it's the operating rules on  
13 page 16, and it discusses how -- if -- if a pilot who  
14 takes a scheduled day off without using a callback  
15 days -- day, it says they lose two days' distribution.  
16 Are you aware of that?

17 A. Yes.

18 Q. Thus, every callback day used would entitle you  
19 to two days distribution; correct?

20 A. That is correct.

21 MR. WILEY: No further questions, Your  
22 Honor.

23 JUDGE PEARSON: Okay. Thank you.

24 Mr. Fukano or Ms. Brown, do you have  
25 questions for this witness?

1 MR. FUKANO: Yes, a few questions.

2 CROSS-EXAMINATION

3 BY MR. FUKANO:

4 Q. Hello, Ms. Norris. How are you this day?

5 A. Great.

6 Q. Would you please turn to your rebuttal  
7 testimony, JN-6T on page 2.

8 A. Okay. Just give me one minute to get there.

9 Okay. Page 2.

10 MR. WILEY: I don't know what that noise is.

11 BY MR. FUKANO:

12 Q. Are you there?

13 A. Yes.

14 Q. On lines 1 to 2 you state that "PSP's financials  
15 are performed on the modified accrual basis."

16 I just wanted to clarify what you had -- what  
17 you had intended by the term "performed."

18 A. Or prepared. I think that may be a typo.

19 Prepared.

20 Q. Okay. And are you familiar -- you are familiar  
21 with the three-month transportation study filed by PSP  
22 in this case; correct?

23 A. I am aware of it, yes.

24 Q. Would you please refer to JN-10.

25 A. Okay.

1 Q. And to page 4, which should be UTC Staff Data  
2 Request 100.

3 A. Okay.

4 Q. And it's true that this request asked whether  
5 the three-month study performed by PSP for  
6 transportation charges accounted for the seasonality of  
7 pilot work performed throughout the year; is that  
8 correct?

9 A. Yes.

10 Q. And you stated that it did, or it attempted to.

11 A. Yes. Looking at it after the fact, it appears  
12 it picks up a variation of activities going on with  
13 pilots with the cruise season specifically.

14 Q. And did this data request also ask for any  
15 supporting documentation and calculation relied upon for  
16 that conclusion?

17 A. Yes.

18 Q. And did this data request response provide any  
19 calculation or supporting documentation or citation?

20 A. No. I --

21 Q. Thank you.

22 A moment ago you were asked some questions by  
23 PMSA regarding the uniformity of distribution of  
24 pilotage revenue to the pilots; is that correct?

25 A. Yes.

1 Q. And as part of your response, you referenced the  
2 tariff and the operating rules; is that correct?

3 A. Yes.

4 Q. Would the uniformity of distribution also be  
5 controlled by PSP's bylaws or is that what you meant --  
6 sorry. Single question.

7 A. I would need to check the specific -- I think  
8 when I said operating rules, I unilaterally combined  
9 those. So I would need to check the specific references  
10 to where it speaks to that.

11 Q. I see. In that case --

12 A. I can check that here. So I was specifically  
13 referring to -- or more specifically referring to the  
14 bylaws Section 16.

15 Q. Okay. And so the reference to operating rules  
16 was intended to be to the bylaws?

17 A. Yes.

18 Q. Okay.

19 MR. FUKANO: No further questions for this  
20 witness at this time.

21 JUDGE PEARSON: Okay. Thank you.

22 Mr. Wiley?

23 MR. WILEY: Yes, just a couple.

24 REDIRECT EXAMINATION

25 BY MR. WILEY:

1 Q. Ms. Norris, you were just asked about whether  
2 you had supplied backup documentation in answer to Data  
3 Request No. 100.

4 Are you aware whether the transportation  
5 receipts and work papers had been supplied by other  
6 witnesses in previous data request responses?

7 A. To my knowledge, yes.

8 MR. WILEY: No further questions.

9 JUDGE PEARSON: Okay. Thank you.

10 Did the Commissioners have any questions for  
11 Ms. Norris?

12 MR. FUKANO: Can Staff have a brief recross?

13 JUDGE PEARSON: Sure. Go ahead.

14 RECCROSS-EXAMINATION

15 BY MR. FUKANO:

16 Q. Ms. Norris, referring again to Staff's Data  
17 Request 100, did the data request specifically ask for  
18 documentation supporting the application towards the  
19 seasonality of the pilotage?

20 A. Yes.

21 MR. FUKANO: Thank you. No further  
22 questions.

23 JUDGE PEARSON: All right. Commissioner  
24 Rendahl, did you have a question?

25 COMMISSIONER RENDAHL: Sure.

1 EXAMINATION

2 BY COMMISSIONER RENDAHL:

3 Q. Ms. Norris, in your rebuttal testimony you  
4 respond to some questions about the transportation pilot  
5 program. And just to clarify, you were not involved in  
6 preparing that, you were just testifying to the affect  
7 in the -- in the tariff?

8 A. Correct. I was not involved in preparing that.

9 COMMISSIONER RENDAHL: Okay. Thank you.

10 That's all I have.

11 JUDGE PEARSON: Okay. Anything else?

12 Commissioner Balasbas.

13 COMMISSIONER BALASBAS: Thank you.

14 EXAMINATION

15 BY COMMISSIONER BALASBAS:

16 Q. Good afternoon, Ms. Norris.

17 A. Hi.

18 Q. So just to clarify, as auditor, you have access  
19 to all the invoices that PSP generates; correct?

20 A. We have access to request any of the invoices  
21 that they generate. We are not provided with a hundred  
22 percent of the invoices. We make selections based on  
23 testing and we request those invoices.

24 Q. So you do -- so you effectively conduct, then, a  
25 sample audit of the universe of invoices in a given

1 year?

2 A. Correct.

3 Q. All right. Thank you. No further questions at  
4 this time.

5 JUDGE PEARSON: All right. I believe that  
6 is it.

7 CHAIR DANNER: I want to follow-up on that.

8 EXAMINATION

9 BY CHAIR DANNER:

10 Q. With regard to the invoices, how many -- how  
11 many do you usually request in a year?

12 A. So we do a number of tests on invoices and in a  
13 number of ways. So just to talk about the audit process  
14 a little bit, one of the things that we test, which I  
15 believe is probably our more comprehensive test, is we  
16 test the tariff schedule, which is in the back end of  
17 their system which generates the invoices based on  
18 the -- or based on the dispatch, you know, ship length,  
19 distance, all that. So we test that back-end report  
20 that we get from their IT to the actual tariffs.

21 So in verifying that, invoices are generated  
22 accurately based on the inputs. We test that -- every  
23 single line item to the tariff. So that touches every  
24 invoice. To say that we get a copy of every invoice and  
25 recalculate it, that would not be accurate. But we test

1 the data set that generates the invoices at a hundred  
2 percent.

3 Q. Okay. It's not a sample of invoices as selected  
4 by the pilot or provided by PSP?

5 A. No. And then we further select a sample of  
6 invoices as well as provide analytical testing on the  
7 invoices. So our sample size -- I was just going to  
8 pull that up here. Taking me just a minute. We perform  
9 a large number of revenue tests, so I'm just getting our  
10 work papers up here. It's a little slow as it's in a  
11 prior year file.

12 Q. So a ballpark would be fine.

13 A. Okay. I'm just about there. I would say we  
14 test, probably, 30-some invoices, 30-plus invoices.  
15 Actual invoices.

16 Q. A year?

17 A. Annually, yes.

18 Q. Okay. And how do you determine that sample  
19 size? There's, what, thousands of invoices; right?

20 A. Right. So we take -- we have -- so I talked  
21 about testing the back-end system, and then we run a --  
22 some data analytics on the subset of all jobs. And we  
23 pull out things that look like anomalies. So we pull  
24 out anything that looks like it might be in an incorrect  
25 period. So if the job date -- I'm just going to say,



1 showed in 2017 but it's showing up in '18, we would test  
2 that. We test anything that was generated on a weekend.  
3 We test any invoices that had a credit to them, like a  
4 negative invoice. For -- you know, why that would be.  
5 Why there was a credit. We test any invoices that --  
6 let's see, we have a whole bunch of tabs here. So it  
7 happened on a weekend. We reconcile the summary of all  
8 job movements to the actual revenue per the financial  
9 statements, so that we make sure that the revenue on the  
10 financial statements is actually job ship movements. So  
11 through all those tests, we test a number of invoices.

12 Q. Okay. And so -- again so -- how do you  
13 determine the sample size for verification of the  
14 invoicing?

15 A. So the sample size is because of the anomalies.  
16 We're testing the actual revenue through our tariff  
17 charge table testing, as well as looking at it  
18 analytically and then testing anything that sticks out  
19 as an anomaly based on our data analytics. We have a  
20 software that pulls out any of those negative ones or  
21 corrections or ones that look like they would be  
22 variations from the tariff table.

23 CHAIR DANNER: All right. Thank you very  
24 much. That's all I have.

25 MR. WILEY: Your Honor, just one follow-up

1 to that if I might?

2 JUDGE PEARSON: Go ahead.

3 REDIRECT EXAMINATION

4 BY MR. WILEY:

5 Q. Ms. Norris, calling your attention to -- to  
6 JN-1T, page 6 and 7, which describes the process you  
7 just alluded to with Chairman Danner. You also talk  
8 about a due diligence directly with customers of PSP to  
9 validate the amounts charged; do you not?

10 A. Yes, that is correct. So that was not included  
11 in that sample size that I was talking about. So we  
12 send direct -- we send direct confirmation letters to a  
13 sample size of customers that have not paid their  
14 invoices as of year end, so they are outstanding, they  
15 have been billed but not paid, to verify that they agree  
16 with the charge -- the tariff charges.

17 Q. All right. So that's in response on page 9 of  
18 your testimony you say we send confirmation to a sample  
19 array of customers to validate the aggregate amount  
20 owed, thus that is for unpaid invoices only?

21 A. Correct.

22 Q. And so what -- how many is that?

23 A. So that is for 2018. That was 20 -- 20  
24 invoices -- or 20 customers so with each customer, that  
25 could include one invoice. It could include 20 invoices

1 or more.

2 CHAIR DANNER: Thank you. Just curious.

3 Thank you.

4 THE WITNESS: Yeah, thank you.

5 MR. WILEY: Thank you.

6 JUDGE PEARSON: All right. Thank you,

7 Ms. Norris.

8 THE WITNESS: Thank you.

9 JUDGE PEARSON: You are excused.

10 THE WITNESS: Thank you.

11 JUDGE PEARSON: And our next witness will be

12 Linda Styrk -- sorry. Go ahead, Mr. Fassburg.

13 MR. FASSBURG: I was going to interject -- I  
14 was going to -- I'm sorry. I've got an echo once again.

15 Let me see if I can fix that. Sorry for all the audio  
16 technical difficulties today. I don't think that we  
17 need to interject this right now.

18 I did want to bring it up before we go too  
19 much longer that we were notified due to how long we're  
20 running today, Captain Nielson of the Columbia River  
21 Pilots is only available today. So hopefully we can  
22 keep an eye on the clock and get him on the witness  
23 stand today.

24 JUDGE PEARSON: Okay. We can -- we can also  
25 probably come to an agreement about taking him out of

1 order since he is scheduled to go last today.

2 MS. DeLAPPE: And for PMSA, that would be  
3 fine.

4 MR. WILEY: Thank you.

5 MR. FUKANO: Staff has no objection.

6 JUDGE PEARSON: All right. Shall we call  
7 him next, Mr. Fassburg?

8 MS. DeLAPPE: I'd actually like him -- to  
9 interject, I'm ready to go with Ms. Styrk, so I would  
10 prefer to move on with that.

11 JUDGE PEARSON: Why don't we do Ms. Styrk  
12 and then do Captain Nielsen immediately after that.  
13 Will that work?

14 MS. DeLAPPE: Yes. Thank you.

15 JUDGE PEARSON: Okay. It looks like  
16 Ms. Styrk has turned on her camera. Hi, Ms. Styrk.

17 THE WITNESS: Hello.

18 JUDGE PEARSON: If you could raise your  
19 right hand, I will swear you in.

20 Do you swear or affirm that the testimony  
21 you give today will be the truth, the whole truth, and  
22 nothing but the truth?

23 THE WITNESS: I do.

24 JUDGE PEARSON: All right. Thank you.

25 And Mr. Fassburg or Mr. Wiley, which one of

1 you will be introducing this witness?

2 MR. WILEY: Your Honor, I will despite  
3 Mr. Fassburg being on the video right now. Thank you.

4 LINDA STYRK, witness herein, having been  
5 first duly sworn on oath, was  
6 examined and testified as  
7 follows:

8

9 DIRECT EXAMINATION

10 BY MR. WILEY:

11 Q. Good morn -- good afternoon, I should say,  
12 Ms. Styrk. Could you please state and spell your last  
13 name and provide your business address for the record.

14 A. Yes. Linda Styrk, S-t-y-r-k. And the business  
15 address is 2003 Western Avenue, Suite 200, Seattle  
16 98121.

17 Q. And you may have heard, Ms. Styrk, that your  
18 testimony at LS-1T and your two accompanying exhibits  
19 have been admitted without objection into the record.  
20 With that qualification, I would tender her to  
21 Ms. DeLappe for cross-exam.

22 MS. DELAPPE: Thank you very much.

23 CROSS-EXAMINATION

24 BY MS. DeLAPPE:

25 Q. Good afternoon, Ms. Styrk.

1 A. Good afternoon.

2 Q. You have a quick 15 minutes to spend with me, so  
3 we're going to run right through it.

4 A. Okay.

5 Q. So as the Executive Director of PSP, you are  
6 directly responsible for all the day-to-day management  
7 and operations, including management of all the expenses  
8 that you've already testified to in this proceeding;  
9 correct?

10 A. Yep. Day to day business operations; correct.

11 Q. Yes. So regarding the expenses at PSP, I'd like  
12 to start by asking about the callback day expenses,  
13 which you have identified as the most material balance  
14 sheet concern that you have; right?

15 A. And I would just restate it to say that it's a  
16 liability. It's an unrecorded liability. It's not an  
17 expense.

18 Q. Great. Okay. So we had you down in your  
19 original file testimony referring to it as an item of  
20 operating costs, but you were clarifying that today that  
21 that's not the case?

22 A. Yeah, just to be clear for everybody.

23 Q. Okay. And so that is the most material concern  
24 that you had about pilot expenses isn't really an  
25 operating expense?

1           A.     It's an unrecorded liability. But it's not  
2 reported as an expense line item with our other  
3 operating expenses. Does that clarify for you?

4           Q.     I think it does.

5           A.     Great.

6           Q.     We certainly agree it's not an operating  
7 expense. So regarding your testimony also you refer to  
8 a difficulty -- or that you've been unable to recuperate  
9 in rates the growth in expenses; right?

10                   MR. WILEY: Could you refer her to an actual  
11 specific --

12                   MS. DeLAPPE: I'd be happy to, yes.

13 BY MS. DeLAPPE:

14           Q.     And that is in your testimony LS-1T, page 4.  
15 And there's a question on that page, page 4 at line 19.  
16 The question is: Did PSP have any growth in expenses  
17 during the time -- that time period that it was unable  
18 to recoup in rates? And you said "absolutely."

19           A.     Yes. And so just to confirm the time period  
20 that you're asking about, can you please confirm the  
21 time period?

22           Q.     Yes. I believe in -- and if you look a little  
23 higher on that page, it looks to me like you were  
24 talking about the time period during which there had  
25 been a freeze in the tariffs, so from 2015 --

1 A. Right. Yes.

2 Q. -- to 2019.

3 A. Okay. Just want to make sure we're on the same  
4 page.

5 Q. Yes.

6 A. So since 2015, we have had a growth in expense,  
7 substantial, and also a decline in revenue that's fairly  
8 substantial. And when you combine that, it's a net  
9 difference of, you know, about 750,000. It's actually  
10 more than that annually. So, yes, we've had impacts,  
11 not to mention that when you just look over a five-year  
12 span like that, you know, that's just a general summary.  
13 But we've had individual pilot boat expenses that were  
14 major maintenance due to their age that we've been  
15 unable to recoup and also the Edith Cook, that is our  
16 barge that supports and acts as a dock for our two pilot  
17 boats out at the pilots station. And we were unable to  
18 recoup those major expenses as well.

19 Q. So thank you, Ms. Styrk. If you will help me in  
20 getting through in my time period, so short answers  
21 would be great.

22 A. Okay.

23 Q. My focus -- I appreciate the information. But I  
24 think we're on the same page about the fact that your  
25 expenses have increased. And, in fact, we have -- PMSA



1 submitted -- pre-filed an exhibit of total annual  
2 reported operating expenses for PSP. It's Exhibit  
3 MM-17. I'm not sure if you have that available.

4 A. I do not have that handy. I don't know if  
5 somebody else --

6 Q. Is there someone in the room who might be able  
7 to get that in front of you?

8 MR. FASSBURG: Unfortunately, I do not have  
9 that with me.

10 BY MS. DeLAPPE:

11 Q. MM-17 is just the one page -- it just says total  
12 annual reported operating expenses. And so, for  
13 example, I can read to you and I believe these numbers  
14 might be familiar to you since you've been looking at  
15 the expenses. In 2015, your total annual operating  
16 expenses were 12,055,872.

17 A. Okay.

18 Q. And in 2018, they grew to 12,470,372. So --

19 A. Okay.

20 Q. -- that growth supports what you're saying;  
21 right?

22 A. Yeah. I mean, I was looking over the five-year  
23 span that you asked about, but if you pick individual  
24 years, yeah, there's going to be variations as well.

25 Yes.

1 Q. Yes. Yes. It shows -- it shows a gradual trend  
2 on that table. So there's also -- looking at the  
3 revenues per calendar year, PMSA also submitted a table  
4 that shows that -- it's Exhibit MM-4, and so it shows  
5 numbers that you'll also be familiar with.

6 A. Yeah. Well, it would be nice to be actually  
7 looking at what you are looking at too, but I'll listen  
8 to what you're saying. So what are you -- the  
9 information you are trying to convey and the question to  
10 me is?

11 Q. Yeah. I would just say, all of these exhibits  
12 are available on the UTC's website for the public, so it  
13 is -- I hope that, Mr. Wiley and Mr. Fassburg, if you  
14 could have your witnesses have access to the exhibits --

15 A. I can -- actually, sorry to interrupt. But all  
16 morning I was trying to access through the UTC website  
17 and it was down. And I even chatted with the person,  
18 and they said just keep trying. So actually, I wasn't  
19 able to access it directly from my computer. So I -- so  
20 you might be aware of that for other potential witnesses  
21 might be struggling with that.

22 MR. WILEY: Ms. DeLappe, I have the exhibit  
23 in front of me. So if you want to question, there it  
24 is.

25 BY MS. DeLAPPE:

1 Q. Thank you. It's unfortunate that we are doing  
2 this in a remote platform. I can't hand you the piece  
3 of paper, Ms. Styrk. But I will say revenues in 2015  
4 were 32,881,000 rounded. Okay.

5 A. Okay.

6 Q. And in 2018, revenues were 33,997,000 rounded.  
7 So --

8 A. Okay.

9 Q. -- we're looking at 32.8 versus 33 point -- you  
10 know, 34 rounded.

11 A. And did you have the 2016 and 2017 numbers as  
12 well?

13 Q. All of that is on the table but I --

14 A. Yeah.

15 Q. On the same table.

16 A. Yeah, because I know it kind of goes up and down  
17 in that range. 32 to 33. So I just -- yeah, okay.

18 Q. Yes. And there's 34 is in there for 2016. So  
19 the revenues moved around. But wouldn't you agree that  
20 there has -- if you compare 2015 and 2018, there's been  
21 an increase in revenue from those numbers I just gave  
22 you of more than \$1 million; right?

23 A. From the numbers you gave me, that would be  
24 slightly more than 1 million. My earlier comments were  
25 about, you know, through to the end of 2019. I thought

1 that's what we were referring to before --

2 Q. And 2019 --

3 A. -- so we would see 788,000 net off the revenue  
4 with less the expenses.

5 Q. So if we're just comparing to 2015, since that  
6 was the beginning of the time when the tariff froze, and  
7 that was related to your earlier testimony, wouldn't you  
8 agree from the numbers that I've talked about was  
9 comparing 2018 and 2015, that your increase in operating  
10 expenses is less than half your increase in revenue?

11 A. I didn't hear you report that operating expenses  
12 for those same two years. I only heard the revenue.

13 Q. That was earlier with MM -- Exhibit MM-17.

14 A. Okay.

15 Q. And we talked -- yeah.

16 A. Well, I mean -- if the numbers show that, I'm  
17 just going to take your word for it, because I didn't  
18 jot those two numbers down. But if the math shows one  
19 went up, one went down, I would concur that's what  
20 the math showed.

21 COMMISSIONER RENDAHL: Judge Pearson. Judge  
22 Pearson, this is Commissioner Rendahl. Maybe to make  
23 this easier, Ms. DeLappe, you can ask some questions  
24 subject to check, which she can then go back and find  
25 those exhibits and verify, so we can get through this

1 more quickly.

2 JUDGE PEARSON: Another option I have is I  
3 can share my screen. I have the exhibit pulled up.

4 THE WITNESS: I mean, I think at this point  
5 just -- to be expeditious, I mean, I'm sure -- if those  
6 are the numbers she's reading off the screen, those are  
7 the numbers. I just didn't happen to jot down the  
8 expense numbers, so I mean --

9 JUDGE PEARSON: Okay. And, Ms. DeLappe, we  
10 understand what you're getting at, so you can move on.

11 MS. DeLAPPE: Thank you. I would be glad  
12 to.

13 BY MS. DeLAPPE:

14 Q. All right. I'd like to turn to the  
15 transportation study that we have in the information  
16 here. Do you agree with Captain Moreno that the  
17 transportation charge has existed in the pilotage tariff  
18 since at least 1964 and has been traditionally based on  
19 taxi fairs?

20 A. Yeah, that is my understanding. It's been in  
21 the tariff for many decades, and it's based on taxi  
22 fairs and also I think ferry fairs as well.

23 Q. And that hasn't been a controversial part of the  
24 tariff, has it?

25 A. Not to my knowledge.

1 Q. Yeah. Is there -- I'm going to turn now to  
2 exhibit -- let's -- -- this is taking much longer than I  
3 expected. So if we could turn to page -- exhibit -- do  
4 you have Exhibit WTB-20X? These are invoices. Invoices  
5 that were part of the transportation study.

6 A. You know, I -- I probably have them somewhere.  
7 And I'm familiar with invoices, in general, related to  
8 the transportation study. So I will do my best to  
9 answer your information in general. This -- I have my  
10 cross-exhibits on me that were for my cross here, but I  
11 didn't, you know, have everything here.

12 Q. We realized after filing them, these are better  
13 directed to you. I'm just going to ask. I have a lot  
14 of questions about the invoices. But regarding the  
15 Green Car Club, there are invoices for those who have  
16 Exhibits WTB-20X starting at page 73.

17 And I was wondering, the Green Car Club, the  
18 invoice address is 7165 Beach Drive Southwest, Seattle,  
19 Washington 98136. Is that the home address of Captain  
20 Newman who is a member of PSP?

21 A. I don't have the ability to affirm that. I  
22 can't say.

23 Q. Have you ever looked at the Secretary of State  
24 website for the Green Car Club, LLC?

25 A. I have not looked at the Secretary of State

1 website for that entity.

2 Q. So you are not aware of the fact that the sole  
3 governing person for that entity is Alec Newman?

4 A. I am aware of an entity called the Green Car  
5 Club. And I am aware that pilots are involved in that.  
6 And it is not an entity under Puget Sound Pilots, the  
7 association that I'm, you know, representing here today.

8 Q. So did you know that PSP members are driving  
9 Green Car Club cars themselves during their statutory  
10 rest hours before or after their assignments?

11 A. I don't have knowledge of what the pilots are  
12 doing before and after their -- their assignments  
13 related to their transportation modes.

14 Q. And so PSP does not report or in any way  
15 disclose to state regulators that it is making  
16 additional payments to PSP members out of tariff  
17 revenues that are not for pilotage services?

18 A. It's -- we are not -- I have no awareness that  
19 Puget Sound Pilots is making direct payments to direct  
20 pilots for transportation services.

21 What we were making during the transportation  
22 trial is entities who were providing transportation  
23 services for pilots who were submitting those expenses  
24 for providing transportation services for pilots, and we  
25 were paying for those transportation services during the

1 trial period.

2 Q. And would you agree, however, that every member  
3 of the Green Car Club gets paid twice out of the PSP  
4 proposed tariff charge for transportation, once as a  
5 member of PSP when it receives the payment for the  
6 vessel -- from a vessel and again as a member of the  
7 Green Car Club when it receives a reimbursement from  
8 PSP?

9 A. No, I do not agree with that.

10 Q. You do not agree with that because you don't  
11 know who owns Green Car Club?

12 A. No, because I don't believe there's a double  
13 payment occurring.

14 Q. And -- and would you agree that with the  
15 transportation charge, that there is going to be a  
16 charge made for pilots commuting from their homes?

17 A. I think what is different in Puget Sound Pilots  
18 organization, and many pilot organizations, is they go  
19 from job to job from location to location. It's not a  
20 traditional, single base that individuals are operating  
21 from.

22 So there are many occasions where that  
23 transportation is occurring to or from their home base,  
24 which is frequently either business entity based.

25 And, in addition, there's many occasions that



1 transportation is happening between one point to another  
2 point within the Puget Sound area that they service that  
3 is not their home.

4 Q. Ms. Styrk, would you agree that under the  
5 current tariff at WAC 363.116.300 there is not an  
6 allowance for transportation charge for commuting from a  
7 home, a pilot's home?

8 A. I would say that the tariff says it's commuting  
9 to the vessel. It doesn't say the origin point. If you  
10 want to point that out to me where it speaks to the  
11 origin, that would be helpful.

12 Q. So you don't believe that the current tariff is  
13 for a charge based on -- between a business location and  
14 the vessel?

15 A. Well, you might recall that I mentioned that the  
16 pilots business entity is often located at your home  
17 address, so that would be from a business entity in many  
18 occasions if that's the context you meant.

19 Q. And that's not how the current tariff works,  
20 however, is it? It's from --

21 A. The tariff says transportation to these points  
22 in Puget Sound. It's -- it's to the points. It doesn't  
23 say originating from -- it doesn't specify where it's  
24 originating from. It specifies where it's going to.

25 Q. But you know how those dollar amounts were

1 calculated and that they were based for many of those  
2 points as being from the Seattle PSP office; correct?

3 A. Yes. Yeah, you have to pick a point that you're  
4 going to base your allowances off of and that point was  
5 based on Seattle as the hub.

6 MS. DeLAPPE: All right. I do have many  
7 other questions about the tariff invoices, but I am out  
8 of time. No further questions. Thank you.

9 THE WITNESS: Thank you.

10 JUDGE PEARSON: Mr. Wiley, did you have any  
11 redirect?

12 MR. WILEY: Yes. A few, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. WILEY:

15 Q. Ms. Styrk, you were asked about MM-17, which I  
16 understand you don't have in front of you. But you were  
17 asked about the increase in expenses as compared to the  
18 increase in revenues.

19 Do you understand that in 2015, the expenses  
20 reported on MM-17 were 12,055,000 and in 2018 they were  
21 12,471,000 or about a 400-plus-thousand increase over  
22 the time period of the freeze that Ms. DeLappe was  
23 asking you about?

24 A. I mean -- I'm assuming, yes, that would be a  
25 true statement. I apologize for not having that in

1 front of me, but I trust what you're conveying.

2 Q. That's okay.

3 As Commissioner Rendahl said, you can accept  
4 that subject to check.

5 A. I accept it subject to check.

6 Q. And you were describing -- I believe you were  
7 almost interrupted, but you were describing the type of  
8 attrition and expenses that the pilots have experienced  
9 in the five-year rate freeze period. You referenced  
10 that the Edith Cook issue. I'm not sure that that's  
11 completely clear in the record.

12 You talked about the pilot boat expenses, but  
13 you also had a move -- a relocation, et cetera, did you  
14 not, in that time period?

15 A. Yeah, in 2019, we had -- we had a relocation,  
16 but some of those expenses also were carried into this  
17 year. But, you know, I just wanted to do some of the  
18 major highlights.

19 And, for example, those major maintenances when  
20 you have old assets, marine assets like pilot boats and  
21 pilot barges, they are -- they are substantial. Just  
22 the barge was 155,000, and that's a 10-year maintenance  
23 cycle. And the Juan de Fuca -- excuse me -- the Puget  
24 Sound was nearly 400,000 in 2016; that just we could not  
25 address through tariff revenue. Those are just a couple

1 of examples.

2 Q. And are other examples, say the transition from  
3 the BPC to the UTC in terms of rate case expenses?

4 A. Yes. Yes, I would say the rate case expense  
5 during that span of time, probably incrementally would  
6 be in the neighborhood of, you know, 600,000. And if  
7 you're counting this year to upwards of that, and then  
8 naturally, like most businesses, the pension expense has  
9 continued to grow over the years, and those specific  
10 years especially in excess of \$1 million during that  
11 span of time.

12 Q. In terms of the shift, or the proposed shift, I  
13 should say, to a different basis for transportation --  
14 ground transportation, could you just describe for the  
15 record why you -- you instituted that pilot project and  
16 what the goal was versus the current tariff?

17 A. Yes. I think, you know, the primary goal was we  
18 were under an allowance system. We understood we were  
19 moving to the UTC. We understood that the UTC  
20 prefers -- you know, a validation, an expense-based cost  
21 of service approach, receipts that document, you know,  
22 the actual expenses incurred. And through that insight,  
23 we thought it was important for us to implement a  
24 transportation trial where we would shift from an  
25 allowance system to, you know, actually getting invoiced

1 for those services and having the association pay those  
2 direct for all the transportation in and around the  
3 sound including repositioning pilots to and from the  
4 pilot stations.

5 So but we did that. We did that for three  
6 months, and when you look at it in aggregate for the  
7 total transportation costs and how they have been  
8 trending over the years for Puget Sound Pilots, relative  
9 to revenues, it's actually fairly stable. We didn't  
10 see, you know, a radical change in the magnitude of the  
11 of expense when you look at it at that higher level.  
12 But what we also -- it gave us the opportunity to look  
13 at transportation costs wholistically. And for the  
14 first time we had an understanding about what the  
15 transportation cost was per assignment, which is  
16 roughly, you know -- just around \$200. I think it's  
17 198-and-change is the number. But I think it was very  
18 helpful, and we had a lot of diversity and  
19 transportation modes viewed and had the opportunity to  
20 ride share and other things. And I just think it was  
21 hugely beneficial for the organization. And I hope  
22 you'll find that it's beneficial for the UTC as well.

23 Q. Just two final questions. You alluded to the --  
24 the -- the norm that the charges wound up being.

25 There's an Exhibit JN-7 in Ms. Norris's

1 testimony that shows what the percentage of revenue, the  
2 ground transportation charges were.

3 Is that an example of how you would say that it  
4 was within the range of historic experience?

5 A. Yes. I think that that exhibit -- and I had  
6 looked at it earlier, is -- yeah, is a good way to look  
7 at the transportation cost trend.

8 Q. And would you say that the transportation --  
9 you've been criticized about the -- the duration of the  
10 study on -- you decided to implement it towards the end  
11 of the test period.

12 Could you tell us whether you think the months  
13 that you selected with the remaining time available in  
14 the test period were representative of seasonality?

15 MS. DELAPPE: Can I object? I think that's  
16 beyond the scope of recross -- of yeah. Of redirect.  
17 Excuse me. That's beyond the scope of the cross.

18 JUDGE PEARSON: Mr. Wiley, can you please  
19 direct back to any of the questions that were asked by  
20 Ms. DeLappe?

21 MR. WILEY: It was a question raised by --  
22 I'll hold off until -- I forgot Staff hasn't crossed  
23 yet, so -- except Staff doesn't have cross; correct?

24 So that was raised by Mr. Fukano of  
25 Ms. Norris who wasn't involved in the study. So I

1 thought it was a pertinent question to ask Ms. Styrk.

2 JUDGE PEARSON: Okay. I'm going to sustain  
3 the objection because it is beyond the scope of  
4 Ms. Styrk's cross-examination.

5 So at -- at this time, did the Commissioners  
6 have any questions for Ms. Styrk?

7 Commissioner Rendahl, are you raising your  
8 hand? I can't see the full screen.

9 COMMISSIONER RENDAHL: Sorry. Yes, I am.

10 EXAMINATION

11 BY COMMISSIONER RENDAHL:

12 Q. Afternoon, Ms. Styrk.

13 A. Good afternoon.

14 Q. So were you the one responsible for preparing  
15 the -- this analysis that's been used -- it's been  
16 referred to as a study, as a pilot project. Were you  
17 the one responsible for putting this together?

18 A. I assembled the transportation trial results,  
19 the summary that calculated what that cost per  
20 assignment was when you looked at all the transactions  
21 that were handled during that trial.

22 Q. And were all of the invoices and receipts that  
23 you used for that in those cross-exhibits that were  
24 submitted to Mr. Burton?

25 A. All that we were able to compile were submitted,

1 every one. There was -- I think a few credit card ones  
2 that we couldn't find the exact -- every receipt for.  
3 Just some miniscule amount that we didn't have receipts.  
4 But yes, I would say yes. You have all the receipts in  
5 the record.

6 Q. So can you describe for the Commissioners what  
7 are the various methods of travel that the pilots use  
8 for getting to their assignment locations and for  
9 repositioning?

10 A. So my understanding, the various methods that  
11 they use are -- they can use a personal vehicle, and  
12 then, you know, taxi, or use their personal vehicle and  
13 transport on the ferry. They can take a ride share  
14 service. They can take other public transportation. I  
15 think there's just a mix of anyone who's a reliable  
16 transportation service provider in the Puget Sound area  
17 and will work the erratic schedule that pilots have,  
18 they're using a multitude of those. The new one that we  
19 use in the study was a ride share. I don't know that  
20 pilots were using that as much until we got involved in  
21 the study. I don't know. I don't track pilots'  
22 individual transportation needs.

23 Q. So you weren't aware of the different types  
24 until you started putting the study together?

25 A. Correct. So before and after the study, I -- I



1 do not have any knowledge of the individual uses of  
2 transportation by individual pilots.

3 Q. So just to clarify, so in the proposed tariff  
4 compared to existing, so you're saying that under the  
5 current tariff is there is some level of expense  
6 included for transportation charges. Is that -- is that  
7 what your testimony is?

8 A. So my testimony is, in the tariff, there's a  
9 transportation schedule of allowances for transportation  
10 to a vessel. There's additional transportation that  
11 pilots are involved in transporting to and from the  
12 pilot station for repositioning because the ships don't  
13 come in and depart in balance, so we have to get pilots  
14 on -- in balance with where the ship demand is. And  
15 that --

16 Q. Okay.

17 A. -- that ends up in another account called  
18 "transportation" in Port Angeles. "Port Angeles  
19 transportation." So you will see that expense reported  
20 there.

21 Q. So how much of this cost currently is being  
22 reimbursed by PSP directly to the pilots for their  
23 transportation cost?

24 A. So that's all reported in our financial  
25 statements for the -- the tariff transportation expense.

1 It shows what is paid out to pilots for those charges in  
2 total. And then for the repositioning expenses, those  
3 are reported in our financials as well under that PA,  
4 Port Angeles transportation expense.

5 Q. Okay. So -- so under the new tariff, though,  
6 the assumption is that all transportation charges would  
7 be included in this amount of 198-and-change?

8 A. Correct. And so there wouldn't be, you know, a  
9 separate transportation expense reimbursement, how the  
10 tariff is defined today, and there wouldn't be a  
11 separate Port Angeles transportation expense like there  
12 is in our operating expenses today. Instead, there  
13 would be a single charge that we would be applied  
14 equally to every invoice, the same flat fee on every  
15 invoice for a vessel assignment. And then that's where  
16 the -- we just come in as pilotage revenue, and then  
17 whatever transportation service was performed would get,  
18 you know, reimbursed at actual expense or mileage  
19 reimbursement.

20 Q. So because, as you just said, this pilot --  
21 this -- this -- under the proposed tariff, the  
22 transportation charges would be paid by the vessel when  
23 the assignment is -- is completed. And so that amount  
24 is -- there's no reimbursement directly to a pilot for  
25 that transportation; correct?

1 A. Correct.

2 Q. Okay. So at this rate, are there any incentives  
3 there for pilots to use a personal car that might  
4 increase their individual fatigue, rather than choosing  
5 a mode that might be more expensive that would then  
6 result in essentially increasing and not decreasing  
7 their -- their total distributed net income or their  
8 revenue?

9 A. You know, I -- I can't speak to how individual  
10 pilots might react to that shift. But I -- I believe  
11 during the trial, their reaction to the shift was very  
12 positive, especially for their families, because they  
13 felt like they were more rested using those other  
14 transportation service providers, rather than driving  
15 themselves around or the other options that they were  
16 using. And a lot of logistics coordination in the past  
17 outside the trial I think was relieved during the trial,  
18 so I -- in my impression is it would have a positive  
19 impact not a negative impact in that regard.

20 Q. So was the assumption for the trial that pilots  
21 not drive themselves but they use a transportation  
22 option? Was that what the trial was about?

23 A. The trial was about using the option that made  
24 the most sense for your situation. Don't try to use  
25 some option you wouldn't normally use if you were paying

1 for it yourself or if someone else was paying for it.  
2 Use the option that made the most sense for that  
3 movement.

4 Q. So there could be some individuals driving?

5 A. Yeah. I think because one of the things you all  
6 should be aware of, there's not always a transportation  
7 service provider who can accommodate the irregular  
8 schedule or the irregular combination of points that a  
9 pilot needs to transport to and from. So sometimes your  
10 own vehicle is your only option. And, in fact, we found  
11 it very challenging in our trial the first month of our  
12 trial with the snowstorm, and so a lot of these new  
13 methods we were trying there was a real reliability  
14 concern on the part of pilots, are they going to get to  
15 their job because this other provider, they didn't feel  
16 as confident about the reliability yet. They were just  
17 getting to know them. So that's -- yeah, that's all  
18 part of it. There's a lot of factors that weigh into  
19 the pilot's transportation choice.

20 COMMISSIONER RENDAHL: All right. Thank  
21 you. I have no further questions.

22 JUDGE PEARSON: Commissioner Balasbas.

23 COMMISSIONER BALASBAS: Thank you.

24 EXAMINATION

25 BY COMMISSIONER BALASBAS:

1 Q. Good afternoon, Ms. Styrk.

2 A. Good afternoon.

3 Q. So just to follow up a little bit on  
4 Commissioner Rendahl's question.

5 Aside from the ground transportation options you  
6 mentioned, do pilots take other modes of transportation  
7 such as, you know, air and you mentioned ferries as  
8 well?

9 A. Yeah, I think ferries is part of road  
10 transportation for certain combinations of point to  
11 point, because it's the most efficient time-wise for  
12 certain people. And -- and then I would say, you know,  
13 occasionally there -- and this happened in the trial  
14 too, is there's air transportation is used when that  
15 seems to be the most practical and efficient option for  
16 an individual pilot.

17 Q. So under -- so under the current system of the  
18 transportation allowance you mentioned, that's -- and  
19 that is -- my understanding is that's the current  
20 practice for PSP is to have pilots submit a  
21 reimbursement request; is that correct? And then they  
22 receive that allowance for transportation expenses?

23 A. Well, I might clarify that today that that  
24 charge that's shown in the tariff, it's all automated.  
25 That it reads the systems, the dispatch system. It

1 knows what pilot got dispatched for a job and the point  
2 to which they were dispatched to and then the system  
3 processes on a monthly basis how many transportation  
4 charges, tariff transportation charges are linked to  
5 that individual pilot. So it just gets -- you know, no  
6 one's hand-doing reimbursement requests or anything like  
7 that. It's all systematic.

8 And then the same with the repositioning. It  
9 reads our system. It knows when pilots are  
10 repositioning, and then it -- it knows, you know, to  
11 process that against that individual pilot who performed  
12 the assignment that's linked to that reposition. So  
13 those things are all systematic.

14 So that was another thing that was quite unusual  
15 about the trial. Pilots for the first time, you know,  
16 unless it was a rare occasion, are submitting  
17 reimbursement requests with receipts and all this other  
18 stuff.

19 Q. So as Executive Director, part of your job is to  
20 sign off on expenses reimbursement; correct?

21 A. If there was an individual expense  
22 reimbursement, myself or the president, we would, you  
23 know, review that individual request. But not the  
24 systematic ones. I'm looking at it, you know, like any  
25 financial control or you're looking at the monthly

1 reports and numbers looking for trends and anomalies and  
2 maybe doing some random selections if you see something  
3 unusual.

4 Q. Okay. So -- okay. So you went -- kind of went  
5 to my next question is, is what kind of scrutiny is  
6 applied to some of those expense -- either for  
7 reimbursement requests or those systematic expenses that  
8 you've mentioned?

9 A. The systematic expenses, which is the  
10 preponderance of the transportation expenses, I feel  
11 confident in our system. You know, I've been -- as  
12 earlier testimony from Captain von Brandenfels mentioned  
13 that when I started, they were right in the midst of  
14 introducing these new systems. So I became quite  
15 familiar with what was working well and what wasn't.

16 And I have a high level of confidence now that,  
17 you know, what it's calculating is calculating  
18 correctly. And when we do find discrepancies, they get  
19 addressed immediately. So I feel confident in the  
20 payouts. It's a rare occasion where there would be a  
21 submission that was not calculated by the system, you  
22 know, for a pilot. And those that come through are few  
23 and far between, and they get looked at closely by me  
24 personally or, again, the president could potentially be  
25 the reviewer and approver as well.

1                   COMMISSIONER BALASBAS: All right. Thank  
2 you. No further questions.

3                   JUDGE PEARSON: All right. Chair Danner,  
4 did you have anything?

5                   CHAIR DANNER: No, my colleagues' questions  
6 covered it. Thank you.

7                   JUDGE PEARSON: All right. Thank you,  
8 Ms. Styrk.

9                   THE WITNESS: All right. Thank you.

10                  JUDGE PEARSON: You are excused. And at  
11 this point we are going to take Captain Nielsen.

12                  Good afternoon, Captain Nielsen.

13                  THE WITNESS: Good afternoon.

14                  JUDGE PEARSON: If you could raise your  
15 right hand, I will swear you in.

16                  Do you swear or affirm that the testimony  
17 that you give today will be the truth, the whole truth,  
18 and nothing but the truth?

19                  THE WITNESS: I do.

20                  JUDGE PEARSON: All right. And is this  
21 going to be Mr. Wiley or Mr. Fassburg's witness?

22                  MR. WILEY: I'm -- it's clear. I'm off.

23                  JUDGE PEARSON: All right.

24                  MR. FASSBURG: Okay.

25



1  
2 JEREMY JAMES NIELSEN, witness herein, having been  
3 first duly sworn on oath,  
4 was examined and testified  
5 as follows:  
6

7 DIRECT EXAMINATION

8 BY MR. FASSBURG:

9 Q. Captain Nielsen, will you please state your full  
10 legal name?

11 A. Jeremy James Nielsen.

12 Q. And your legal -- I'm sorry. Your business  
13 address, please.

14 A. 13225 North Lombard, Portland, Oregon 97203.

15 Q. Are you adopting your pre-filed testimony under  
16 oath here today?

17 A. Yes.

18 MR. FASSBURG: I will present Captain  
19 Nielsen for cross-examination.

20 MS. DELAPPE: Thank you.

21 CROSS-EXAMINATION

22 BY MS. DeLAPPE:

23 Q. Good afternoon, Captain Nielsen.

24 A. Good afternoon.

25 Q. So the Columbia River -- you guys have a

1 financial statement that had been introduced into  
2 testimony -- into the exhibits. Do you have that? It's  
3 Exhibit IC-25B, and it's page 9 of that exhibit, the  
4 page that I'm going to be looking at. Columbia River  
5 Pilots Special Purpose Financial Statement.

6 A. I don't have the page number you described. We  
7 also cannot get on UTC's website. But I do have a  
8 printout, so I can go --

9 Q. Wonderful.

10 A. What year? Was that 2018 or 2019?

11 Q. Yes. And this is what it looks like. I'll do  
12 my own share screen.

13 A. Is that 2018 or '19?

14 Q. Yes, 2018. Year ended December 31, 2018.

15 CHAIR DANNER: And, Ms. DeLappe, what is  
16 the -- I'm sorry. What is the exhibit number? IC what?

17 MS. DeLAPPE: IC-25B as in "Bravo." And I'm  
18 looking specifically at page 9. If you're looking in a  
19 PDF, I think that's the right numbering.

20 CHAIR DANNER: All right. Thank you.

21 MS. DeLAPPE: Thank you.

22 BY MS. DeLAPPE:

23 Q. So, Captain Nielsen, the Columbia River Pilots  
24 2018 financial statement does not include pilot benefits  
25 in the expenses section; is that right?

1 A. That is correct.

2 Q. Good. And, in fact, you're not allowed to;  
3 right?

4 A. That is correct. The format was dictated to us  
5 by our board, the Oregon Board of Maritime Pilots.

6 Q. And this -- it also includes payment to  
7 retirees, however, in the expenses; right?

8 A. Yes, it does.

9 Q. Payments to retirees includes all payments to  
10 prior retirees receiving payouts under the prior plan;  
11 right?

12 A. That's correct.

13 Q. But it includes a pension line to fund qualified  
14 401(k) programs for active pilots in the pilots benefit  
15 section; correct?

16 A. That's correct.

17 Q. So that's not an association expense?

18 A. No. That -- that is -- it's in the tariff, in  
19 the amount. And we are in a 401(k) plan, so it's -- it  
20 not an association expense, I guess, if you will.

21 Q. Correct. Great. And do you have under that  
22 pilot benefits the next line down is medical insurance;  
23 right?

24 A. Yes.

25 Q. And the -- I would just say, there's no

1 additional federal tax cost of putting medical insurance  
2 under the pilot benefit section of the -- of the  
3 financial statement, is there, as opposed to expenses?

4 MR. FASSBURG: Objection. It calls for a  
5 legal conclusion and a tax accounting question. Captain  
6 Nielsen has not held himself out to be either a legal  
7 expert or a tax accounting expert.

8 MS. DeLAPPE: Thank you.

9 BY MS. DeLAPPE:

10 Q. I just want to know to what you're aware of.  
11 Is -- are -- Columbia River Pilots, are the pilots  
12 paying anything extra for having that line item in a  
13 different spot?

14 A. I -- I'm not a tax expert or a legal -- but I  
15 don't believe we're paying anything extra for having  
16 that line item in a different spot, no.

17 Q. Thanks. That's all.

18 And so you have for the medical insurance cost  
19 it's a little over \$1 million; right?

20 A. Correct.

21 Q. So if we divide that by the number of pilots in  
22 2018, would you agree that the average cost of this  
23 benefit per pilot is a little under \$22,000?

24 A. That is correct.

25 Q. And we have sick leave in the same column there

1 at \$613,678?

2 A. Yes.

3 Q. And that -- the value of that benefit per pilot  
4 in 2018 was approximately \$13,431?

5 A. I struggle with the word "value," because it --  
6 it's -- like I said, in my testimony, it's -- or my  
7 rebuttal, it's a cost. For those who didn't use it,  
8 there's no value to them.

9 Q. Oh, I -- I'm sorry, Captain Nielsen, I thought I  
10 was using the word that you preferred and that you  
11 didn't like the word "cost" for it. But I'm not going  
12 to quibble -- use our time to quibble over that. I'll  
13 use whichever word you prefer.

14 A. Okay.

15 Q. All right. All right. So those are my  
16 questions about the financial part. Thank you for  
17 indulging me on those.

18 I'd like to turn now to some discussion of  
19 comparing pilotage grounds. And I think it might be  
20 helpful here if you could open Exhibit JJN-4 -- 4X. So  
21 JJN-4X. And specifically, I'm going to be at page 2.  
22 And some of this will also be talking about your  
23 testimony, but I think that will be enough to have in  
24 front of you.

25 So you -- you testified that there's a lot of

1 overlap in the types of ships that call on the Columbia  
2 River and the Puget Sound; right?

3 A. Yes.

4 Q. But you'd agree that because the Columbia River  
5 Pilots don't track the types of vessels, nor the  
6 specific propulsion or steering types, that you can't  
7 specifically quantify the extent of that overlap; right?

8 A. That is correct. We do not count how many car  
9 carriers we have every year. We know but it's not  
10 something we actively track. We know that there is a  
11 multiple type -- same type of vessel, but actual numbers  
12 I do not have a comparison for.

13 Q. And in your view, the pilotage in the Columbia  
14 River is similar to the pilotage in the Puget Sound?

15 A. Yes, there are similar aspects of it.

16 Q. So I'm looking at the next page of this exhibit;  
17 you talk a little bit about that. And while there are  
18 similar aspects, you note at Exhibit JJN-4X, near the  
19 bottom of the page, that there are certainly differences  
20 in navigating the local waterways too?

21 A. Yes.

22 Q. So let's talk a little bit about those  
23 similarities and differences. One of the similarities  
24 is, of course, that the profession is the same; right?

25 A. Correct.

1 Q. Yeah. And another is the overlap in the way  
2 pilotage service is provided; right?

3 A. Correct.

4 Q. Because both of them are associations, COLRIP  
5 and PSP; right?

6 A. Yes.

7 Q. Yeah. And that the vessels, the scenarios, the  
8 traffic, weather, water conditions are all  
9 considerations that make these two pilotage grounds  
10 similar; right?

11 A. Yes.

12 Q. So does Columbia River have a lesser average  
13 waterway width and depth? I think you've stated that  
14 they -- they do have a different -- some differences on  
15 that?

16 A. That's correct. Less depth and less width.

17 Q. Okay. And do you agree that describing the  
18 differences in the waterways is actually an  
19 explanation -- it says why the waterways are dissimilar,  
20 even though the tasks of the pilots are similar?

21 A. I'm not -- I'm not sure I understand your  
22 question. Can you ask it another way?

23 Q. Uh-huh. Yes. Thank you.

24 So your statement about the lesser average  
25 waterway depth and width is a description of a

1 difference in the waterways; right?

2 A. Yes, it is.

3 Q. Yeah. And then you've also talked about traffic  
4 separation schemes, that there's a difference in that  
5 also; isn't there?

6 A. They are of a different flavor. Both grounds  
7 have different methods for dealing with traffic of a  
8 different flavor, but we both have traffic, yes.

9 Q. Yes, of course. All right. And so the -- the  
10 main thing that's similar is that the tasks that the  
11 pilots have to perform is similar; right?

12 A. Yes.

13 Q. Okay. And you've also talked about differences  
14 in specific anchorage positions?

15 A. Yeah. Well, the positions obviously are  
16 different, but the actual method of anchoring is very  
17 similar I would say.

18 Q. Yes, so the tasks are the same, but they are  
19 different. Okay.

20 And then, I guess, currents you said also vary,  
21 though the tasks are the same; right?

22 A. Correct. Yes.

23 Q. All right. So do you agree that the differences  
24 in currents and tides is actually -- so there's that  
25 dissimilarity, but really what we're saying is the



1 overlap is in the tasks mainly?

2 A. I'm -- I'm saying the overlap is -- yes, it's in  
3 the tasks, in everything a pilot needs to consider and  
4 deals with. While I don't anchor a vessel in the Puget  
5 Sound, they don't anchor a vessel in the Columbia River,  
6 anchoring is the same.

7 Q. Great. I'm with you.

8 So you've also talked about weather influences  
9 being very similar; right?

10 A. Yes.

11 Q. Okay. So that is the -- the actual similarity  
12 in the physical environments in the -- between the  
13 Columbia River and the Puget Sound pilotage grounds;  
14 wouldn't you say?

15 A. Yes.

16 Q. Okay. And then would you agree that -- you  
17 know, of all these common influences that makes the  
18 grounds similar, what it really boils down to, setting  
19 aside weather, is that the skill sets required of the  
20 pilots are similar to address the local conditions?

21 A. I would agree with that. Skill sets are very  
22 similar.

23 MS. DeLAPPE: I have no further questions.  
24 Thank you.

25 JUDGE PEARSON: All right. Mr. Fassburg,

1 did you have any redirect before we turn to Staff?

2 MR. FASSBURG: I do not.

3 JUDGE PEARSON: Okay. And Mr. Fukano or  
4 Ms. Brown?

5 MR. FUKANO: Staff will waive cross of this  
6 witness.

7 JUDGE PEARSON: All right. Do we have any  
8 questions from the Commissioners for Captain Nielsen?  
9 Nope. All right.

10 Thank you, Captain Nielsen, you are  
11 dismissed.

12 THE WITNESS: You're welcome.

13 THE COURT: So we will return now to our  
14 regular order of witnesses, which means that Captain  
15 Quick is up next. If Captain Quick could turn on his  
16 camera and join us.

17 Good afternoon, Captain Quick.

18 THE WITNESS: Hello.

19 JUDGE PEARSON: We can't hear you.

20 MR. WILEY: Judge Pearson, while he's doing  
21 that, can you tell us when you want to take the  
22 mid-afternoon break?

23 JUDGE PEARSON: Let's see. I'm thinking  
24 potentially -- I guess I would check in with Mr. Fukano.  
25 Will you be doing the cross for Captain Quick or will it

1 be Ms. Brown?

2 MR. FUKANO: I think it would be me.

3 JUDGE PEARSON: Okay. And do you still  
4 estimate 45 minutes?

5 MR. FUKANO: It likely will not be that  
6 long. Although, if we do take a break, I -- I'm  
7 considering it.

8 JUDGE PEARSON: Okay. I think probably  
9 we'll let PMSA cross-examine Captain Quick and then take  
10 a break after that, because we will have reached almost  
11 the 90-minute mark at that point and I think that's as  
12 long as anyone can make it.

13 All right. Captain Quick, can you hear me?

14 THE WITNESS: Yes, I can, but I'm hard of  
15 hearing, and I have a couple of assistants here to help  
16 me.

17 JUDGE PEARSON: Okay.

18 THE WITNESS: So they will repeat if I don't  
19 understand.

20 JUDGE PEARSON: Okay. And do you have  
21 access to the realtime reporting so that you can see  
22 what we're saying in writing as we're saying it?

23 THE WITNESS: Yes, I understand.

24 JUDGE PEARSON: Okay. Mr. Wiley, if you  
25 want to --

1 UNIDENTIFIED SPEAKER: Stop for a minute.

2 THE WITNESS: What?

3 Unidentified SPEAKER: They want to know if  
4 you have access to the realtime reporting, so --

5 THE WITNESS: No. No assets in Portland.

6 Unidentified SPEAKER: Realtime reporting.

7 THE WITNESS: No -- do I have any --

8 UNIDENTIFIED SPEAKER: Access to real --  
9 ma'am, could you repeat the question about the realtime  
10 reporting or the realtime recording?

11 JUDGE PEARSON: Reporting. So -- so the  
12 court reporter had e-mailed a link so that Mr. Quick can  
13 see in realtime on his computer screen the words that  
14 we're speaking.

15 THE WITNESS: Oh, that would be a big help.

16 UNIDENTIFIED SPEAKER: The court reporter  
17 has e-mailed a link that you should be able to get  
18 either on your computer or on there.

19 THE WITNESS: Yeah.

20 UNIDENTIFIED SPEAKER: So do you want to  
21 look for the link?

22 THE WITNESS: Yeah. If I can get it. Where  
23 do we get it?

24 COMMISSIONER RENDAHL: Judge Pearson, maybe  
25 we should take our break now?

1 MS. DeLAPPE: I was going to suggest the  
2 same.

3 JUDGE PEARSON: Okay. All right. Why don't  
4 we go ahead and take a break. We'll come back at 2:20,  
5 and hopefully we'll be up and running by that time.  
6 We'll be off the record until 2:20.

7 (A break was taken from 2:13 p.m. to 2:26 p.m.)

8 JUDGE PEARSON: All right. Let's go ahead  
9 and be back on the record.

10 Captain Quick, if you could raise your right  
11 hand, I will swear you in.

12 THE WITNESS: Yep.

13 JUDGE PEARSON: Do you swear or affirm that  
14 the testimony you give today will be the truth, the  
15 whole truth, and nothing but the truth?

16 THE WITNESS: I do.

17 JUDGE PEARSON: All right. Thank you. All  
18 right. Mr. Wiley, are you going to introduce the  
19 witness?

20 MR. WILEY: I am, Your Honor. Thank you.  
21 GEORGE A. QUICK, witness herein, having been  
22 first duly sworn on oath, was  
23 examined and testified as  
24 follows:  
25

1 DIRECT EXAMINATION

2 BY MR. WILEY:

3 Q. Good afternoon, Captain Quick. And thank you  
4 very much for your stamina through this process. We  
5 know you're three hours ahead on the East Coast, so we  
6 appreciate it. And if you have difficulties  
7 understanding the questioner, please let us know. We're  
8 working in realtime, and if everybody could bear with us  
9 if there are glitches, we apologize in advance.

10 So, Captain Quick, could you please state your  
11 name --

12 JUDGE PEARSON: One moment here. I want to  
13 make sure that Commissioner Rendahl is with us.

14 COMMISSIONER RENDAHL: Can you hear me?

15 JUDGE PEARSON: Yes.

16 COMMISSIONER RENDAHL: Okay. I can't make  
17 the camera work right now, but I'm here.

18 JUDGE PEARSON: Okay. And you can hear us  
19 okay?

20 COMMISSIONER RENDAHL: I can do that, yes.

21 THE COURT: Okay. All right. Go ahead,  
22 Mr. Wiley.

23 BY MR. WILEY:

24 Q. Captain, I hope the echo isn't mine, because I  
25 don't know how to fix it.

1 Captain Quick, could you please state your name  
2 and provide your business address for the record?

3 Okay. Now his audio is off.

4 A. My name is George Arthur Quick. And you want my  
5 address?

6 Q. Yes. Your business address.

7 A. 3400 North Furnace Road, Jarrettsville,  
8 Maryland, ZIP code 21084.

9 Q. And that's your home address, is it not?

10 A. It's North Furnace, F-u-r-n-a-c-e, Road. And  
11 that's in Jarrettsville, J-a-r-r-e-t-t-s-v-i-l-l-e, in  
12 Maryland. I don't have to spell Maryland I guess, and  
13 the ZIP code is 21084.

14 Q. Thank you, Captain Quick.

15 And you may have heard that your testimony GQ-1T  
16 and GQ-5T and all supporting exhibits are admitted into  
17 the record, so I would tender the witness now to  
18 Ms. DeLappe.

19 THE WITNESS: Thank you.

20 JUDGE PEARSON: Ms. DeLappe, we can't hear  
21 you.

22 MS. DeLAPPE: Thank you. Can you hear me  
23 now?

24 JUDGE PEARSON: Yes.

25 MS. DELAPPE: Thank you very much.

1 CROSS-EXAMINATION

2 BY MS. DeLAPPE:

3 Q. I was saying good afternoon, Captain Quick.

4 A. Yes, I can read what you're saying.

5 Q. Great. I would like to start our conversation  
6 by comparing several numbers that you used in your  
7 testimony and in your responses to discovery questions.  
8 So to avoid any confusion based on using this platform,  
9 I'm going to address each number set in turn and then  
10 ask for your opinion. Okay?

11 A. Okay.

12 Q. Okay. The first one is in your original  
13 testimony in this proceeding, Exhibit GQ-1T. If you can  
14 open that up please, and turn to page 27.

15 A. The original. I've got that.

16 MR. WILEY: Ms. DeLappe.

17 THE WITNESS: I have it here.

18 BY MS. DeLAPPE:

19 Q. So page 27.

20 A. Page 27. All right. I've got page 27.

21 Q. Thank you. And lines 4 and 5 on that page.

22 COMMISSIONER RENDAHL: Ms. DeLappe, this is  
23 Commissioner Rendahl. If he's using the paper copy, it  
24 may be page 29 of his copy. That's what mine looks  
25 like.



1 THE WITNESS: I believe I received that  
2 information from the Puget Sound Pilots.

3 BY MS. DeLAPPE:

4 Q. Okay. Thank you. Yes. I'm on paper actually  
5 also. So on numbers 4 -- lines 4 and 5 it says that the  
6 average workload in 2018 for a Puget Sound pilot was  
7 2,661 hours for 182 on-duty days for the year; right?

8 A. I believe they gave me time on-duty.

9 Q. Yes. And I imagine "on-duty" there means on  
10 watch. So there is no citation listed for the data.  
11 Do you recall where -- what the source was?

12 A. No, I don't have any citations. Sorry.

13 Q. Okay. So if we divide 2,661 workload hours by  
14 182 days, would you agree that that's approximately  
15 14.6 hours of work per day?

16 A. Well, I guess your math is right. But I suspect  
17 that they were probably giving me time onto -- on watch.

18 Q. Okay. So --

19 A. I can validate this or check it out myself. I  
20 just took what the Puget Sound Pilots told me.

21 Q. Understood.

22 A. That's the best information. I don't have any  
23 sources outside of Puget Sound. They are the one to go  
24 to for information on Puget Sound.

25 Q. And in other portions of your testimony, you've

1 referred to many pilotage grounds across the country as  
2 being rather opaque and nontransparent or having  
3 information regarding compensation or workload that is  
4 hard to acquire; right?

5 A. Yes, that's correct.

6 Q. Do you find the Puget Sound to be one of those  
7 jurisdictions where it's hard to get good data?

8 A. No. They have always been very forthcoming in  
9 giving me whatever information I've asked for.

10 Q. I'd like you now to turn to your workload  
11 comparison table in your rebuttal testimony, and that's  
12 Exhibit GQ-5T, specifically page 13. And there's a  
13 table on it.

14 A. Okay. I've got my rebuttal testimony.

15 Q. Thank you.

16 And are you on page 13?

17 A. Do you have a copy? Yep -- okay. I have it.

18 Q. Great. Thank you.

19 So on that table, you see close to Row 9, Line 9  
20 there it says "PSP 2018"?

21 A. No. No -- my copy is different than your copy.  
22 I've got one that was filed.

23 COMMISSIONER RENDAHL: So try page 15.

24 MS. DeLAPPE: Thank you, Commissioner

25 Rendahl.

1 THE WITNESS: I might have a draft. But  
2 okay, I've got Puget Sound Pilots on page 14, Line 3 and  
3 4.

4 BY MS. DeLAPPE:

5 Q. Okay. So I'm looking at this table that you  
6 made.

7 A. Yeah. That's what we're talking about, yeah.

8 Q. Great. Okay. And it says "PSP 2018" and it has  
9 a footnote, footnote 14, that says that you sourced this  
10 information from PSP's 2018 audited financial statement;  
11 correct?

12 A. Yes.

13 Q. Okay. And so if you look at that line, across  
14 the line you have per pilot. You have, I believe, the  
15 number of hours per pilot as 1,324.

16 A. 1,324. Yeah. But that's --

17 Q. And that would be --

18 A. Total time on task which is a different  
19 measurement.

20 Q. Yes.

21 Can you explain to us how that is different,  
22 total time on task for the year per pilot?

23 A. Well, the -- the first one you referred to,  
24 two-thousand-some hours, I think was referring to total  
25 time on watch. And this is total -- this is total time

1 on task, which means the time you're working when you're  
2 on watch. So there's quite a big difference.

3 Q. Mm-hmm. And so is it normal that the time on  
4 watch is approximately twice the time on task?

5 A. No, there's no -- I'm talking about time on  
6 watch meaning time on duty. On watch. Not on watch on  
7 your shift; that's on assignment.

8 Q. Okay.

9 A. You've got to clarify the words. I think you  
10 are using "watch" to mean "bridge time." That's not  
11 what I'm referring to.

12 Q. Yeah, I'm just trying to understand what's  
13 different between the 2,660-hour workload and the  
14 1,324-hour total time on task. I think you've clarified  
15 that the difference is -- the first one --

16 A. The first number, 2,660, I believe they were  
17 probably giving you the numbers that they were on duty  
18 or on watch. You know, 24 hours a day for 14 days times  
19 180 -- or 26, I think. Something like that. And -- and  
20 on -- on time -- total time on task is the time you  
21 leave the dock until you get back to the dock. It's the  
22 time that you're working on your shift. It's a broader  
23 indication of workload than just bridge time. So  
24 we're --

25 Q. Thank you.

1           A.     So bridge time, which is the actual time aboard  
2     the ship, and then there's sort of enhanced bridge time  
3     or total time on task, which is -- dock-to-dock or  
4     pilot-office-to-pilot-office until you get back.

5           And then usually, they will add some time to  
6     that because your work doesn't begin at the pilot  
7     station or end at the pilot station. You have to be  
8     there at least 30 minutes early to do a pilot passage  
9     plan and check the -- any safety notices or changes in  
10    the route when you start and figure out which traffic  
11    you are going to be meeting. And when you finish your  
12    job and get back to the office, probably another  
13    20 minutes to a half an hour to fill out your paperwork  
14    and your billing information and such.

15          Q.     On the page that I was referring to with this  
16    table, you have a number of ports listed here; correct?

17          A.     That's correct.

18          Q.     And earlier on the previous page in your  
19    testimony, page 12, lines 22 to 23, your testimony is  
20    that the workload table sets out factors to  
21    demonstrate --

22          A.     Yeah.

23          Q.     -- how the workloads and incomes compare for  
24    available pilotage districts.

25          A.     Page 12. Yeah.

1 Q. Okay.

2 A. I see where you are pointing now.

3 Q. Thank you.

4 Does that mean that the data from these ports  
5 were publicly available for consideration?

6 A. Well, for Florida they were publicly available  
7 because we just had a -- a finishing rate here in Port  
8 Everglades where it was on the record. And for -- for  
9 Louisiana, it's publicly available, because it's in the  
10 file things that were presented to the Louisiana Pilot  
11 Fee Commission on July 1st, I think, or July 2nd just  
12 recently. I think we were very lucky that we had two  
13 recent rate cases that provided the information we  
14 wanted.

15 Q. Are you familiar, Captain Quick, with Captain  
16 Carlson's testimony and exhibits in this proceeding?

17 A. No, I'm not.

18 Q. Okay. He submitted information about several  
19 other ports that are not in your table as part of his  
20 net income worksheets. They were NOBRA, Lake Charles,  
21 Corpus Christi, and the Columbia River Bar.

22 Do you know why these ports aren't included in  
23 your table as well?

24 A. I was just doing a rough sample for the Staff  
25 that said you couldn't do a comparison. And I was

1 trying to indicate to them that there are ways to do a  
2 comparison and there is more ways than what I did in  
3 this exercise. So I didn't think that any -- any more  
4 was really necessary.

5 Q. So it was about which ports are comparable?

6 A. What?

7 Q. Was it --

8 A. Yeah, I put in what I believed were comparable  
9 ports. I don't think Lake Charles is a comparable port.  
10 I think, you know, the other ports are fairly  
11 comparable, yeah.

12 Q. Can you look on page 13 of your rebuttal  
13 testimony, footnotes 5 and 8.

14 A. Five -- yeah.

15 Q. And you have in those footnotes that Canaveral  
16 and Key West are cruise ship ports, and that they are,  
17 therefore, not comparable ports.

18 A. That's correct. All they handle is -- are  
19 cruise ships and they are very high tonnage and the  
20 pilots are very high paid. And the -- and they are very  
21 seasonal. They only handle cruise ships during the  
22 winter months. And during the summer months, the cruise  
23 ships go to Alaska. So it's a very seasonal operation  
24 and with just one type of ship. There's no diversity in  
25 their mix of ship types or profiles.

1 Q. You said that the cruise ships go to Alaska.  
2 Isn't that true for the Puget Sound Pilotage District?

3 A. I don't think Puget Sound is anywhere near  
4 comparable to Key West or -- or -- Port Canaveral,  
5 because Puget Sound has a mix of ships. The cruise  
6 ships don't drive the traffic here. There are some  
7 cruise ships coming here, but they are not the main  
8 source of revenue and they are not what the whole port  
9 is built about. In Key West and Port Canaveral, the  
10 port is basically a cruise ship port, period. No other  
11 ships come in there except an occasional tanker.

12 Q. But you would agree that this port in Puget  
13 Sound also handles high tonnage cruise ships on a  
14 seasonal basis?

15 A. I'm not familiar what "high tonnage Navy  
16 Exchange cruise ships" are. I've never heard the term  
17 before.

18 Q. I think. "Navy Exchange" was not an accurate  
19 transcription. Just "high tonnage cruise ships."

20 UNIDENTIFIED SPEAKER: Just high tonnage  
21 cruise ships, not Navy Exchange.

22 MS. DELAPPE: Thank you.

23 THE COURT REPORTER: I was trying to correct  
24 it but couldn't.

25 BY MS. DELAPPE:



1 Q. I know it's difficult in realtime.

2 A. Oh, it's not difficult.

3 Q. I mean for the court reporter.

4 A. Yeah. You have -- you have a seasonal trade  
5 here probably the same as Alaska, I would assume. But  
6 they are not -- they are not the -- the -- the -- the --  
7 element or the sector to drive to Portland is not your  
8 primary source of revenue. It's just one of a whole mix  
9 of types of ships, where Key West and Port Canaveral,  
10 they are almost solely dependent upon the cruise ships,  
11 so it's not a comparable port.

12 Q. Though I have additional questions, I realize I  
13 am past my time, so I will close there. No further  
14 questions.

15 JUDGE PEARSON: Mr. Wiley, did you have  
16 something that you wanted to say? Did you have redirect  
17 before we turned to Staff?

18 MR. WILEY: Your Honor, in this case I would  
19 like to do it at the end if that's possible.

20 JUDGE PEARSON: Sure. Sure.

21 MR. WILEY: Thank you.

22 JUDGE PEARSON: All right. Mr. Fukano.

23 MR. FUKANO: Hello. Staff is willing to  
24 waive cross of this witness.

25 JUDGE PEARSON: All right. Mr. Wiley, go

1 ahead.

2 MR. WILEY: Okay. That was a little faster  
3 than I thought.

4 REDIRECT EXAMINATION

5 BY MR. WILEY:

6 Q. Captain Quick, you were asked about the workload  
7 and -- and -- in terms of comparing your -- your chart  
8 on -- on -- on your page 13 of your rebuttal testimony  
9 to IC-14.

10 Do you know if there was distinction in the type  
11 of -- of hours that were being totaled there? I believe  
12 yours were not time on task, but -- but workload -- all  
13 workload related, correct?

14 A. Well, the time -- time on tasks for Puget Sound  
15 was provided by Ivan Carlson. I didn't develop that  
16 information independently.

17 Q. And in your chart there were different  
18 measurements; is that correct?

19 A. What?

20 Q. In your chart there were different measurements,  
21 or are you saying that you used the information that  
22 Captain Carlson tried to import on time on task from  
23 him, or did you do your own calculations is my question?

24 A. Well, I asked Captain Carlson for time on task,  
25 and it would be time on task. So I don't believe it is

1 different measurements. I believe he was giving me what  
2 I asked for.

3 Q. Okay. And you concluded in your chart on  
4 page -- my page 13 of your rebuttal testimony that on --  
5 on a per-hour basis --

6 A. Let me see.

7 Q. -- that -- that PSP was one of the lowest paid  
8 pilotage groups in your chart; is that correct?

9 A. Oh, yeah. Okay.

10 Q. The answer is "yes," did you say?

11 A. Yeah, that's correct.

12 MR. WILEY: Okay. No further questions.

13 JUDGE PEARSON: All right. Are there any  
14 questions from the Commissioners?

15 Nope. All right. Thank you, Captain Quick.  
16 Thank you, you're excused.

17 THE WITNESS: I'm excused?

18 JUDGE PEARSON: Captain Quick, can you turn  
19 off your audio and video? Thank you.

20 All right. Now I muted myself. Looking for  
21 Captain Carlson. If he can turn on his camera. Thank  
22 you.

23 Good afternoon, Captain Carlson.

24 THE WITNESS: Good afternoon.

25 JUDGE PEARSON: Mr. Fassburg, will this be

1 your witness?

2 MR. FASSBURG: Yes, he will.

3 JUDGE PEARSON: All right. All right,  
4 Mr. Carlson, Captain Carlson -- excuse me. If you could  
5 raise your right hand, I will swear you in.

6 Do you swear or affirm that the testimony  
7 you give today will be the truth, the whole truth, and  
8 nothing but the truth?

9 THE WITNESS: I do.

10 JUDGE PEARSON: All right. Thank you.

11 Mr. Fassburg, go ahead when you're ready.

12 IVAN J. CARLSON JR., witness herein, having been  
13 first duly sworn on oath, was  
14 examined and testified as  
15 follows:

16

17 DIRECT EXAMINATION

18 BY MR. FASSBURG:

19 Q. Will you please state your legal name.

20 A. Ivan James Carlson Junior.

21 Q. And your business address?

22 A. 2003 Western Avenue, Seattle, Washington 98121.

23 Q. So your -- your pre-filed testimony and exhibits  
24 have been admitted into the record.

25 Do you adopt your pre-filed testimony under oath

1 here today?

2 A. I do.

3 MR. FASSBURG: I will tender Captain Carlson  
4 for cross-examination.

5 MS. DELAPPE: Thank you.

6 CROSS-EXAMINATION

7 BY MS. DeLAPPE:

8 Q. Good afternoon, Captain Carlson.

9 A. Good afternoon.

10 Q. Just to start with, attending a meeting is  
11 not -- can you not hear me?

12 A. No, I was just wanting to see the whole screen.  
13 There was a problem with seeing the whole screen. I can  
14 see it now.

15 Q. Great.

16 So attending a meeting is not the same as moving  
17 a ship; right?

18 A. That is correct. They are different functions.

19 Q. And when PSP tracks assignments, it doesn't  
20 distinguish between attending a meeting or moving a  
21 ship, does it?

22 A. No. They're tracked as meetings or they're  
23 tracked as a particular ship movement and the details on  
24 that ship movement or track, and usually the details of  
25 a meeting are tracked.

1 Q. So PSP doesn't think that earning tariff  
2 revenues for moving a ship is the same thing as earning  
3 tariff revenues for attending a meeting, does it?

4 A. We don't earn tariff revenue at this time for  
5 attending a meeting.

6 Q. And the state licensing body, the Board of  
7 Pilotage Commissioners, doesn't report to the public  
8 that going to a meeting is the same thing as moving a  
9 ship; right?

10 A. Washington State Pilot Commission asks the Puget  
11 Sound Pilots to report the type and number of meetings  
12 we have monthly. Those are published on their website.

13 Q. Thank you.

14 And it doesn't mix those with vessel assignments  
15 in its reporting, does it?

16 A. They are reported separately.

17 Q. Thank you.

18 So in -- you state that the meetings for which a  
19 pilot has been dispatched are considered assignments by  
20 PSP as it pertains to the strict rotation system.  
21 Doesn't that conflict with what you're saying?

22 A. I said that in my testimony, or --

23 Q. If you could -- if you could open Exhibit  
24 IC-42X.

25 A. 42X.

1 Q. And you can go to page 46. You said this in  
2 response to a discovery request.

3 A. So, it was --

4 Q. And the discovery request is No. 507.

5 MR. FASSBURG: Do you have those here with  
6 you?

7 THE WITNESS: No, I can't distinguish  
8 between these 42Xs. The cross-exhibits I'm having a  
9 hard time with.

10 MR. FASSBURG: I'm sorry. Captain Carlson's  
11 notebook is just not tabbed very well. So it's going to  
12 take just a second to find it.

13 COMMISSIONER RENDAHL: And which --  
14 Ms. DeLappe, which data request are we looking at?

15 MS. DeLAPPE: This is Data Request No. 507.

16 COMMISSIONER RENDAHL: Thank you.

17 MS. DELAPPE: Thank you.

18 JUDGE PEARSON: It is on page 47 of the  
19 document.

20 MS. DeLAPPE: Yes, PDF page 47. Page 46.

21 THE WITNESS: Okay.

22 BY MS. DeLAPPE:

23 Q. Thank you.

24 So there you say that meetings for which a pilot  
25 has been dispatched are considered assignments by PSP as

1 it pertains to the strict rotation system; right?

2 A. That is correct. I did say that.

3 Q. And so isn't that -- doesn't that conflict with  
4 what you were saying about PSP and BPC not -- and the  
5 tariffs not treating meetings as assignments?

6 A. Can you restate that, please? So I understand  
7 the question.

8 Q. My -- the first questions that we talked about,  
9 Captain Carlson, were about the fact that for various  
10 purposes, meetings are not considered assignments;  
11 right?

12 A. Yes. Well, no. Wait a minute. I'm not sure  
13 that I answered that meetings are not considered  
14 assignments. I'm not sure that was my answer.

15 Q. We don't treat meetings the same as moving a  
16 ship; right?

17 A. We record them differently. That's the  
18 difference.

19 Q. So --

20 A. But we do consider them tasks. They are just  
21 recorded differently. In Column A of the spreadsheet it  
22 indicates meeting, and then there will be a notation  
23 towards the end. But -- but no, there -- they are  
24 assignments.

25 Q. Meetings are assignments?



1           A.    They are assignments.  I think your question was  
2   are they revenue assignments.

3           Q.    Okay.  So you talk about meetings as non-revenue  
4   activities under the BPC policy statement of April 16,  
5   2015; right?

6           A.    Correct.

7           Q.    Okay.  So you are not claiming that the BPC  
8   policy statement justifies considering meetings as  
9   assignments, are you?

10          A.    I think they are recognized as non-revenue  
11   activities.  Although it does say for the purposes they  
12   won't -- calculating the target assignment level, they  
13   won't be considered assignments.  But that is for the  
14   purposes of calculating the target assignment level.

15          Q.    You've introduced the BPC statement of policy as  
16   one of your exhibits in this case, Exhibit IC-12.  Could  
17   you please turn to that?

18          A.    Yes.  Okay.

19          Q.    Thank you.

20                   And in the first page of that exhibit, do you  
21   see where it says the definition of assignment?

22          A.    I do.

23          Q.    And it says it's a billable event relating to  
24   pilotage services?

25          A.    Right.

1 Q. Meetings aren't billable events under the  
2 current tariff, are they?

3 A. They are not billable events; that's correct.

4 Q. And they won't -- they are not billable events  
5 under the tariff being proposed by PSP; right?

6 A. That's correct.

7 Q. And they are not billable events under the  
8 tariff recommended by the Commission Staff either;  
9 right?

10 A. That's correct.

11 Q. Okay. So the BPC document -- policy document  
12 that you referenced in response to discovery is support  
13 for your claim that meetings should be treated the same  
14 as an assignment actually only applies to billable  
15 events relating to pilotage services; right?

16 A. I'm going to need you to restate that, because I  
17 think I heard you say that I'm trying to have them  
18 recorded as billable events, and that isn't what I'm  
19 saying.

20 Q. No. I'm just referring to your response to that  
21 Data Request No. 507 where you said that meetings for  
22 which a pilot has been dispatched are considered  
23 assignments by PSP as it pertains to the strict rotation  
24 system. These non-revenue activities are defined in the  
25 BPC policy statement, but that policy statement has a

1 definition for assignment that would not include  
2 meetings.

3 Are we in agreement so far?

4 A. We are in agreement there. Item 10 in that  
5 policy statement defines a non-revenue activity.

6 Q. Good. Yes. Let's turn to that. So that is  
7 page 2 of Exhibit IC-12, and No. 10, non-revenue  
8 activities is defined as a non-billable event in which a  
9 pilot, other than the President of PSP, is assigned by  
10 PSP to a license upgrade trip or a pilotage-related  
11 activity not involving a ship movement. Right?

12 A. Correct.

13 Q. Would you agree that this definition confirms  
14 that BPC does not equate meeting with assignment?

15 A. For purposes of calculating the target  
16 assignment level, I would agree.

17 Q. And would you agree that your statement that  
18 meetings for which a pilot has been dispatched are  
19 considered assignments by PSP as it pertains to strict  
20 rotation system is not consistent with this policy  
21 statement?

22 A. Please, I'm sorry. Can you -- I'm a little bit  
23 nervous. Can you please restate the question?

24 Q. Thank you. No problem.

25 MS. DeLAPPE: Could I ask the court reporter

1 to read that back?

2 (Question was read back.)

3 THE WITNESS: I would agree that -- that  
4 assignments for purposes -- that meetings for purposes  
5 of a TAL are not considered assignments. I think the  
6 Pilot Commission recognizes them as assignments but not  
7 for purposes of calculating a target assignment level.

8 BY MS. DeLAPPE:

9 Q. When you say that you think the Commission --  
10 you mean the Board of Pilot Commissioners recognizes  
11 them as assignments; is that --

12 A. No.

13 Q. Am I understanding you?

14 A. No, that's not what I said. I said they --  
15 well, they recognize them as a necessary item for the  
16 entire pilotage system for purposes of -- of calculating  
17 the appropriate number of pilots but not -- when they  
18 consider a TAL, the Pilot Commission normally sets a  
19 target assignment level. Now, they haven't this time,  
20 but they normally set a target assignment level. When  
21 measuring how many assignments, vessel assignments are  
22 accomplished, they use that against the target  
23 assignment level. But how they get to the target  
24 assignment level is they consider meetings in all the  
25 items listed in the WAC 065. I'm sure you've heard of

1 it -- or 363-116-065, and they consider meetings when  
2 they set the target assignment.

3 Q. But we're in agreement that meetings do not  
4 accrue towards fulfillment of the target assignment  
5 level?

6 A. That is correct.

7 Q. Okay. And under the PSP bylaws, meetings are  
8 not assignments either; right?

9 MR. FASSBURG: Can you refer him to the page  
10 and exhibit number?

11 MS. DELAPPE: Yes. I was hoping he might  
12 just know that, but I'd be happy to.

13 THE WITNESS: Yes, please do.

14 BY MS. DeLAPPE:

15 Q. Exhibit EVB-5X, page 2, Section 3.8.

16 A. What page? Excuse me. What bylaw number,  
17 please?

18 Q. Section 3.8. There's a definition of assignment  
19 that we looked at a little earlier today in the  
20 proceeding. And it says, "Assignment shall mean an  
21 assignment to pilot a vessel." Right?

22 A. Yes. Correct.

23 Q. All right. And if we turn just -- let's see --  
24 to Section 3.23. So that's page 4 of that exhibit. You  
25 have a definition for general membership meeting. Aside

1 from that definition of a meeting, is there another  
2 definition for meeting that you are aware of, Captain  
3 Carlson, in the bylaws?

4 A. I'm not sure if it addresses board meetings or  
5 not. It may or may not. I'm not sure.

6 Q. So would you agree -- actually, both the PSP  
7 bylaws and the PSP operating rules provide for meeting  
8 attendance by pilots for PBC board meetings, PSP  
9 directors meetings, PSP committee meetings, and PSP  
10 general membership meetings.

11 Is that your general understanding? One or  
12 other of the documents. You don't have to know which.

13 A. No. I'm not sure exactly whether every single  
14 meeting that pilots are required to attend is in the  
15 bylaws or the operating rules. It would be pretty  
16 difficult to -- to line item every single meeting that  
17 is required for the pilotage system.

18 Q. Right. And that's certainly not my focus in our  
19 questions. If we could turn to the operating rules,  
20 Exhibit EVB-6X.

21 A. Can you tell me the rule number, please.

22 Q. Yes. Rule 15. And so those, looking at the  
23 exhibit, it's Exhibit 19. Page 19. Excuse me.

24 A. Okay.

25 Q. All right. So in that rule, directors and

1 committee members who attend internal PSP meetings are  
2 explicitly told that they shall not be entitled to  
3 additional respite for their meetings; right?

4 A. I can attest to that.

5 Q. Do you agree that that restriction is not a  
6 characteristic of doing a vessel assignment under the  
7 PSP bylaws and operating rules?

8 A. I -- can you please say that one more time?

9 Q. For a vessel assignment you get a respite;  
10 right?

11 A. Yes.

12 Q. Okay. So that's a difference?

13 A. You -- you -- just to be sure, are you saying  
14 respite or a rest period after the assignment?

15 Q. I'm saying respite based on Rule 15, that it  
16 refers to -- shall not be entitled to additional  
17 respite.

18 A. Okay. I would agree.

19 Q. Okay. So in your testimony you said that you  
20 completed analysis of total assignment time pilots spend  
21 moving ships as well as the time spent in meetings,  
22 repositioning training and on standby at the pilot  
23 station. And you provided a summary of that analysis.  
24 If you'd like to turn to it, it's Exhibit IC-4TR.  
25 That's your rebuttal testimony.

1 A. I see. Yeah.

2 Q. And that's page 26, lines 6 through 10. And I'm  
3 getting --

4 A. Excuse me just a minute. I need to find my  
5 testimony here. And what page did you say?

6 Q. Page 26.

7 A. Okay.

8 Q. All right. So on that page when you talk about  
9 assignment time, you equated the time pilots spend  
10 moving ships with the time spent in meetings by  
11 providing a direct one-to-one ratio; didn't you?

12 A. What do you mean by direct one-to-one ratio?  
13 Can you --

14 Q. Are you -- are you seeing the place where I'm  
15 looking at your -- your testimony about that on page 26  
16 of the numbered pages? I suspect that that's PDF  
17 page 28, for those looking at electronic files.

18 A. I'm looking at 26. It does not include the  
19 table. The first question: Have you performed any of  
20 your own analysis of total pilot workload?

21 Q. So at lines -- if you look at lines 6  
22 through 10, you talk about your analysis. And you said,  
23 "I analyzed PSP's job history data for 2018 and 2019 to  
24 analyze the annual workload performed by pilots who  
25 worked the entire year. My analysis looked at the total



1 assignment time pilots spend moving ships, as well as  
2 time spent in meetings, repositioning training, and on  
3 standby at the pilot station"; correct?

4 A. Okay. Yes.

5 Q. So you're including meetings and training and  
6 total assignment time in your analysis?

7 A. I'm including total assignment time for the ship  
8 moves and meeting and training and standby at pilot  
9 station in my analysis.

10 Q. Yes. And so what I mean by a direct one-to-one  
11 ratio with meetings versus moving a vessel, would be  
12 that you didn't weigh -- give additional weight to a  
13 pilot moving a ship, time that was spent moving a ship,  
14 as compared to a non-revenue activities like a meeting;  
15 correct?

16 A. No. Because I consider it to be equally as  
17 important.

18 Q. Uh-huh. Even though there's no respite?

19 A. It's the pilotage system that we're paying for  
20 here.

21 Q. Right.

22 A. Yeah.

23 Q. Even though under the bylaws there's no respite  
24 provided for certain meetings; correct?

25 A. No additional -- no day off provided for

1 attending -- no -- no additional respite.

2 Q. Right.

3 A. Whereas the Commissioners receive additional  
4 respite.

5 Q. So in your analysis, isn't it -- isn't it  
6 predicated on the assumption that a meeting is the same  
7 thing as moving a ship?

8 A. It's equally as important, yes.

9 Q. And your work analysis is based on total  
10 assignment time compared to other work periods performed  
11 by pilots, you know, you -- you talk about that on the  
12 next page with your tables there, just where you  
13 describe the primary groupings of pilot work broken down  
14 into meetings, trainings, repos, and standby time at the  
15 pilot station?

16 A. Yes.

17 Q. Would you take another look at the BPC policy  
18 document, Exhibit IC-12, where on the same page, page 2,  
19 Section 10, non-revenue activities.

20 A. Uh-uh.

21 Q. And do you agree that this definition says that  
22 a non -- it is a non-billable event that an activity --  
23 any activity that doesn't involve a ship movement?

24 A. I would agree that it's a non-billable event,  
25 but it does add to the numbers of pilots calculation at

1 the Pilot Commission.

2 Q. And in that Section 10(i), it provides a very  
3 specific list of non-revenue activities: education,  
4 training, simulation sessions, license, upgrade trips,  
5 voyage planning sessions, and in that list, later in the  
6 list, it includes marine safety meetings, PSP business  
7 and professional meetings; correct?

8 A. Yes.

9 Q. But that list does not include standby time or  
10 repositionings, does it?

11 A. It -- no, it does not.

12 Q. Okay. So that standby time or repositionings,  
13 they're not work associated with an assignment.

14 A. The list --

15 Q. Right?

16 A. The list is not included, but WAC 363-116-065  
17 does.

18 Q. Can you elaborate how that is treated in that  
19 WAC, in your view?

20 A. Well, travel and the time associated with the --  
21 with getting to and from the assignment. If you're  
22 stuck at the pilot station, that's time associated with  
23 getting to or from the pilot station or to or from an  
24 assignment.

25 Q. So you would say that standby time and

1 repositioning should be included in an analysis of the  
2 primary groupings of pilot work?

3 A. Certainly, yes.

4 Q. So let's turn -- actually, on that same page in  
5 your rebuttal testimony, how many hours do you show for  
6 total work time per pilot?

7 A. On average.

8 Q. For 2018?

9 A. And that's an average.

10 Q. Sure.

11 A. 2,000 -- now, 2,603 hours.

12 Q. And you show a total pilot station standby time  
13 of 851 hours?

14 A. Correct.

15 Q. And total repositioning time was rounded  
16 159 hours?

17 A. Yes.

18 Q. And total of standby time and repositioning, if  
19 we do a little math in our heads, is a little over a  
20 thousand hours?

21 A. I guess so, yeah. Yeah.

22 Q. So if you exclude that thousand hours, a little  
23 over a thousand hours, your remaining total assignment  
24 meeting and training time total would be almost 1,600  
25 hours; right?

1           A.    Yep.  If that was excluded, yeah, but it would  
2   be an error.

3           Q.    So for it -- in terms of what total assignments  
4   and BPC recognized non-revenue activities, according to  
5   the policy document that we read, and the list in there,  
6   that would be your revised total, wouldn't it?

7           A.    It would be, but I wouldn't revise the total  
8   like that.

9           Q.    And would you agree that just over 90 percent of  
10  your almost 1,600 total work period time is on  
11  assignments and non-revenue activities?

12          A.    I would agree that they are non-revenue  
13  activities.  I wouldn't agree that they are  
14  non- assignments.

15          Q.    So, Captain Carlson, you've dedicated a  
16  significant portion of your pre-file testimony to  
17  different permutations of workload.  So I have a few  
18  questions for you on that.

19          A.    Okay.

20          Q.    Switch gears a bit.

21                In your testimony, you said that you quite --  
22  you said quite definitively that every single one of our  
23  181 duty days per year is a 24-hour workday; is that  
24  right?

25          A.    Can you please tell me where that is in my

1 rebuttal testimony?

2 Q. Certainly. It's in your rebuttal testimony at  
3 page 19. And I'm using the numbers of pages at the  
4 bottom of each page.

5 A. Yeah. So are you using 4TR?

6 Q. Yes, I am in 4TR.

7 A. Okay. So I'm there.

8 Q. Okay. And you see where you said that at  
9 line 2?

10 A. Yes.

11 Q. Okay. Are you saying that every member of the  
12 Puget Sound Pilots, barring major medical, is on duty  
13 for four -- 4,344 hours per year?

14 A. We say they are owned by the dispatchers, and  
15 that is how we look at it. We're owned by the  
16 dispatchers if they need us and we're rested, we need to  
17 go.

18 Q. So they need to be ready and available for  
19 assignments at a moment's notice that many hours per  
20 year?

21 A. They need to be ready and rested for their call  
22 time, yes.

23 Q. And when you say that every single one of your  
24 duty days is a 24-hour workday, or earlier in your  
25 testimony you say your pilot's on call 24-7, it seems to

1 imply that a pilot would actually be allowed to work  
2 24 hours in a 24-hour workday, but that's not true;  
3 right?

4 A. If that was the implication here, it's  
5 incorrect. We didn't total the hours 181 times 24.  
6 That is not the totalling in the table.

7 Q. Correct. And so later in your -- in your  
8 testimony, you reference mandatory rest rules that have  
9 been adopted by law; right?

10 A. Yes.

11 Q. And those rules restrict the total hours of  
12 service that can be performed by a pilot in a 24-hour  
13 period by requiring at least a 10-hour rest period  
14 between assignments?

15 A. Yes.

16 Q. And there I mean assignments as vessel  
17 movements; right?

18 A. Okay.

19 Q. Do you mean anything more than that with the  
20 ten-hour rest period that's required?

21 A. That's the way the statute's written. And  
22 actually if -- if you have a meeting over four hours,  
23 you don't need 10 hours.

24 But I will say that the Pilot Commission, this  
25 is one of the things they're addressing right now.

1 Dr. Tonn has done a really good job of trying to get her  
2 hands around definitions. Rest periods she brought in.  
3 Dr. Czeisler and his rest period or his fatigue  
4 analysis. And so that's what's going on right now.

5 And so right now, repositions are being  
6 considered by the Safety Committee on whether they  
7 should count as assignments. Meetings are being  
8 considered on whether they should be counted as  
9 assignments. So there's a lot that's fluid right now.

10 Q. And in terms of our -- your workload analysis,  
11 Captain Carlson, it seems that with the ten-hour rest  
12 rule in place, the absolute maximum work that a pilot  
13 could legally do while on duty in a 24-hour is a 14-hour  
14 assignment; would you agree with that?

15 A. No.

16 Q. What is there to disagree with?

17 A. We have many assignments that are over 14 hours.  
18 The maximum that a pilot can do, if they are performing  
19 multiple harbor ships, is 13 hours. We have many  
20 assignments that are over 20 hours.

21 Q. Without any change in the pilot?

22 A. No. They are -- they are -- a pilot does change  
23 if the ship goes to Canada.

24 Q. Right.

25 A. Which -- but the assignment --



1 Q. So any --

2 A. -- duration doesn't changed.

3 Q. Any individual pilot will not work more than  
4 14 hours in a 24-hour period; correct?

5 A. They will not stand a bridge watch. Most  
6 likely, no, they won't stand a bridge watch. They may  
7 not get rest for over 20 hours, but they won't stand a  
8 bridge watch.

9 Q. Do you think that a PSP pilot would ever  
10 knowingly and deliberately exceed a 14-hour assignment  
11 limit as an individual pilot unless perhaps it were  
12 necessary due to an emergency or extremely rare  
13 circumstance?

14 A. Yes.

15 Q. Do you want to explain why you think that?

16 A. I'm -- I'm sorry. I thought you said would not  
17 knowingly.

18 Q. No. No. That's fine. So a PSP pilot would  
19 not -- okay. That's fine. Would not knowingly and  
20 deliberately exceed that. Okay. I think we agree.  
21 Good.

22 Okay. So then if you're really left with a  
23 14-hour maximum workday and you multiply that by the  
24 181 days per year, would you agree that you result --  
25 your results is approximately 2,534 hours?

1 A. Can I use my phone to get on my calculator or  
2 what?

3 Q. Yes, that's fine with me.

4 A. I have to turn it on now, but maybe someone else  
5 can cross-check that math.

6 Q. That's fine. Here's some easier math. So if  
7 you have 10 hours of rest per day, 181 times, that's  
8 1,810 hours, rest hours, during those duty days; right?

9 A. Yes.

10 Q. All right. So over the course of a year, at  
11 181 days of duty time, the maximum time that a pilot  
12 could actively work is 2,534, which I understand you're  
13 trusting my calculation. And a pilot would legally be  
14 required to take at least 1,810 rest hours during that  
15 time?

16 A. Okay.

17 Q. So is there anything you disagree with in that?

18 A. No.

19 Q. Okay. So we also have an average assignment  
20 time of 9.2 hours; is that right?

21 A. Yes.

22 Q. Okay. And so that would be an average maximum  
23 of piloting 9.2 hours. If we multiply that by the  
24 181 days -- and I understand you don't have a calculator  
25 handy -- but that would result in a lower number of

1 hours annually for active piloting; right?

2 A. Well, now I'm breaking out my calculator. 181  
3 times 9.2.

4 Q. Right.

5 A. 1,665 hours.

6 Q. Yeah. So subtracting that from the full  
7 4,344 hours that we started with, that comes from your  
8 181 times 24 hours. That leaves a significant amount of  
9 rest and nonworking time, 2,678 hours, during the  
10 181 days on duty; right?

11 A. It -- can you say the question again, please.

12 Q. Yes. So earlier from your testimony we have 181  
13 duty days, 24 hours a day; right?

14 A. Right.

15 Q. Multiply those, you have 4,344 hours.

16 A. Okay.

17 Q. You subtract your two -- you subtract the -- the  
18 number that you just calculated, 1,665, and you have  
19 remainder of time that's for rest or nonworking time?

20 A. Okay.

21 Q. During the 181 days.

22 A. Well, I consider other things working, like  
23 repositioning to get out to the pilot station. I  
24 consider that working. I consider meetings working. So  
25 I don't like the term non-working when we're actually

1 working.

2 Q. And you do also have a remainder of the year,  
3 outside of the 181 days, that is supposed to be vacation  
4 and respite and nonworking; right? You would agree with  
5 that?

6 A. That's what it's supposed to be, yes.

7 Q. Okay. So returning to the -- your term "duty  
8 days" in your statement, we've had some issues with the  
9 usage of that term. Have you -- I would say, have you  
10 used that term to mean "on watch" in your testimony?

11 A. Maybe I could clear it up. There's -- there's  
12 some -- there's some items in our bylaws that maybe  
13 aren't artfully worded and haven't been artfully worded  
14 in the past. And so pilots sometimes interchange the  
15 term "duty day" with "distribution day" with -- with,  
16 you know. So in the bylaws, it refers to duty days as  
17 for distribution purposes and also for other purposes as  
18 well. So it's -- we have 181 days where we need to be  
19 on watch. Maybe we can stick with that right now.  
20 181 days where we need to be on watch. And we have  
21 three hundred and -- if you are on watch for that entire  
22 time, you'll end up with 365 distribution days.

23 Q. Thank you.

24 And I -- I would just say, I think you were  
25 discussing the part of the bylaws that is at

1 Section 3.19, so that is Exhibit EVB-5X, Section 3.19,  
2 and there's a definition there for "duty day."

3 Captain Carlson, if I understand this correctly,  
4 the extensiveness of this definition to include respite,  
5 vacation, et cetera, it means -- it ends up meaning  
6 every day that the active pilot is on the roster; right?

7 A. That's correct.

8 Q. All right. Thank you.

9 So on your rebuttal testimony at page 4 -- so  
10 I'm looking at Exhibit IC-4TR, page 4.

11 A. Okay. So you're looking -- okay. I'm sorry.  
12 Yeah.

13 Q. So page 4, lines 12 and 13. And you say,  
14 "Captain Moore claims that each duty day is a day that a  
15 pilot is on PSP's roster. That is not accurate."

16 Based on what you have explained to us in your  
17 testimony today, would you say that that actually is  
18 accurate under PSP's bylaws?

19 A. Well, we were referring -- or I was referring to  
20 his testimony. This may not have been artfully worded  
21 here. But it appeared as though his testimony on pages  
22 50 and 51 were actually stating the pilots needed to  
23 move ships, be available at that time, and that was my  
24 angst with that particular portion of his testimony.

25 Q. Because in your own testimony you've used the

1 term "on duty" to refer when pilots are scheduled to be  
2 on watch; right?

3 A. Yeah. The term has been back and forth.

4 Q. Yes. So I think this clarification is helpful.  
5 Thank you.

6 And you've used also the words "scheduled to  
7 work." For that, do you mean that the days that the  
8 pilots are actually assigned to provide pilotage  
9 services?

10 A. Can you cite the reference?

11 Q. Yes, I believe I can. It -- excuse me, not your  
12 testimony but a response to a discovery request that is  
13 in Exhibit IC-42X.

14 A. What DR is that?

15 Q. Yeah. For me it's on page 42. And that's Data  
16 Request 499. And you say on that page, if you're with  
17 me, the term "on duty" used in the testimony of  
18 witnesses testifying for PSP relates to the days pilots  
19 are scheduled to work.

20 A. Okay.

21 Q. So what does "scheduled to work" mean?

22 A. They are on duty.

23 Q. Are they -- are they on watch?

24 A. They are on watch. They are scheduled to work.  
25 They are on watch. In rotation. On watch.

1 Q. It's not that they are actually assigned to  
2 provide pilotage services that day?

3 A. Well, they are on -- they are on watch.

4 Q. Right. But they can be --

5 A. And so it doesn't -- I'm not quite sure -- I  
6 mean, it doesn't mean that they are moving a ship that  
7 hour or that day.

8 Q. Right.

9 A. But they are on watch and available to move  
10 ships.

11 Q. Thank you for that clarification.

12 So even when a pilot is not actually scheduled  
13 to do anything during that time, you would include that  
14 day in scheduled to work?

15 A. Yes.

16 Q. When a pilot is sitting at home, for example,  
17 or spending time with their family, or golfing, as long  
18 as they are ready and available to work and they are  
19 on-watch, they are scheduled to work, or on duty in your  
20 terms?

21 A. Well, again, I -- most pilots don't get the  
22 opportunity to just spend time with their family,  
23 whether they're at home or not because -- because of the  
24 hours they keep and the difficulty in getting sleep.  
25 You may get to have dinner with them, but you may not.

1 It may be breakfast with them.

2 Q. And it may be that they receive no assignment  
3 that whole day that they were on-watch and they do get  
4 to have that time. But they --

5 A. It may be that they have received no assignments  
6 that day because they might be three-and-out or  
7 whatever, yes.

8 Q. Right. Okay. So let's take a -- you -- you've  
9 talked about the -- let's look at two situations.

10 In one, a pilot is on watch but there are not  
11 enough vessels to go through the on-watch rotation. So  
12 that pilot stays at home and enjoys an unexpected day  
13 off but still gets paid their fair share of revenues  
14 regardless of whether or not they were scheduled to work  
15 on the vessel that day; right?

16 And there's the second scenario where a pilot is  
17 off watch, but there are more vessels than pilots  
18 available on the rotation, so the pilot goes to work and  
19 works on his day off. He still gets -- either way the  
20 pilot gets paid their fair share of revenues regardless  
21 of whether they were scheduled to work; right?

22 A. Yes.

23 Q. So do you agree in both scenarios a pilot's  
24 getting paid regardless of their scheduled-to-work  
25 status on that day?



1 A. With them getting paid?

2 Q. Correct.

3 A. If you're scheduled to work, you cannot make  
4 plans for anything else. You need to be available, so  
5 you should be. Otherwise, you just couldn't predict  
6 when you're going to get a phone call 365 days a year.  
7 You need to have a schedule.

8 Q. I'm not sure exactly what question that was in  
9 response to, but my question was just that a pilot who's  
10 a member of PSP receives their distribution regardless  
11 of the status for schedule to work and whether they  
12 actually do an assignment that day --

13 A. That's correct.

14 Q. -- is that correct? Okay. Thank you.

15 So PSP is asking the Commission to adopt a  
16 tariff based on treating a pilot who's working a vessel  
17 on an off -- off-watch day, the callback situation,  
18 differently from a pilot who's not working the vessel on  
19 an on-watch day; right?

20 A. We're asking the UTC to fund a certain level of  
21 full-time equivalent pilots, yes.

22 Q. And I'm referring to the treatment of callbacks.

23 A. Are you referring to the already accumulated  
24 callbacks or callbacks in the future?

25 Q. Either one. That the --

1 A. Well, they are different.

2 Q. So the treatment of a pilot who works on an  
3 off-watch day, that pilot receives their distribution  
4 from PSP either way; right? They still get paid?

5 A. Right.

6 Q. And if the treatment of a pilot who's on watch  
7 but doesn't actually do an assignment also gets the same  
8 amount of money that day?

9 A. Yeah. And the decision that the UTC makes will  
10 impact what PSP does moving forward with those callback  
11 days --

12 Q. Even --

13 A. -- who we call "Class B."

14 Q. Regardless of what happens with the tariff, PSP  
15 treats these two pilots the same just because they are  
16 on the roster and independently of whether they move  
17 ships; isn't that right?

18 A. Under the system as it is now, yes, that's  
19 right.

20 Q. All right. Do you think that a 365-day duty  
21 schedule is realistic?

22 A. Now, again, scheduled for watch, on watch, in  
23 rotation, or do I mean something different? I mean --  
24 what do you mean?

25 Q. Ultimately, you do acknowledge, regardless of

1 how we define "duty," that pilots are being paid for --  
2 on the basis of 365 days of active service; right?

3 A. I -- I don't agree with that. Pilots are paid  
4 365 days, the same as someone else that works  
5 week-on/week-off or month-on/month-off. They're  
6 compensated with respite. The same as somebody who  
7 works five days a week but only eight hours a day;  
8 they're compensated as well.

9 So -- so the -- and the same as most pilots and  
10 most districts, if you work a day, you're entitled to  
11 two days' distribution.

12 Q. Captain Carlson, were you present for our --  
13 Ms. Norris' testimony today?

14 A. I was actually really studying the materials  
15 before.

16 Q. All right.

17 A. I'm sorry.

18 Q. I was hoping we could take a shortcut.

19 In Exhibit JN-04, which is Ms. Norris' exhibit  
20 submitting the --

21 A. I don't have it.

22 Q. That's all right. I think everyone else who is  
23 here saw that there are days of service in the summary  
24 of the 2018 PSP financials with 365 days of service?

25 A. Yes. Yeah.

1 Q. In your testimony, you've estimated, as based on  
2 your calculation of an average assignment time, that  
3 even including time spent on assignments that were  
4 ultimately canceled, that gets included in the average  
5 assignment time of 9.2 hours; correct?

6 A. Yes. And it would be higher if we didn't factor  
7 in the cancellations.

8 Q. Okay. Do you agree with the testimony of  
9 Dr. Khawaja that if the Commission adopts the Staff  
10 recommendation, that the Staff methodology puts the  
11 entire burden of callbacks on the pilots?

12 A. I really wasn't even paying that much attention  
13 to his -- to his testimony or his hearing?

14 Q. That's in his rebuttal testimony in this case,  
15 exhibit --

16 A. Well, I'm thinking -- anyway, I think I can  
17 safely agree that if the Staff methodology is adopted,  
18 yes, it does put the burden on the pilots.

19 Q. So would you think that the pilots would have to  
20 work numerous callbacks for free?

21 A. That's the way I see it, yes.

22 Q. Even though each of the pilots is earning for  
23 365 days just for being on the roster in active service?

24 A. Again, what's common nationwide is you work a  
25 day, you get paid for two. So -- so, yes, I think that

1 it would be working for free.

2 Q. And do you agree with Dr. Khawaja's solution  
3 that DNI should be for duty time not for total time?

4 A. I didn't quite hear you.

5 Q. He -- Dr. Khawaja's solution is that DNI should  
6 be for duty time, not for total time; do you agree with  
7 that?

8 A. Again, what's your -- your definition of "duty  
9 time"? 181 days?

10 Q. I think -- for Dr. Khawaja, I think he  
11 established in his testimony that it was on-watch time.

12 A. And do I agree with his testimony that -- I  
13 don't believe that was his testimony. I don't know.

14 Q. Do you happen to have his rebuttal testimony?

15 A. I think I -- I think I do. Hold on just a  
16 second.

17 Q. It's Exhibit SK-3T.

18 A. I do, by golly. So what page?

19 Q. Hallelujah. So that's on page 11, and I can  
20 specify that the line number is line 20.

21 A. I --

22 MR. FASSBURG: Can you repeat your question?  
23 And do you have the right page?

24 THE WITNESS: I have the right page. But I  
25 want to tell, Your Honor, I have written on this page.

1 Is that okay? I didn't --

2 MS. DELAPPE: Yes.

3 THE WITNESS: I mean, I didn't think it  
4 would be asked to --

5 MS. DeLAPPE: I have no objection to that.

6 THE WITNESS: Okay. So --

7 COMMISSIONER RENDAHL: Just to clarify, so  
8 it's 3T page 11.

9 MS. DeLAPPE: Yes.

10 COMMISSIONER RENDAHL: Lines?

11 MS. DeLAPPE: Line 20.

12 COMMISSIONER RENDAHL: Thank you.

13 MS. DeLAPPE: Thank you.

14 BY MS. DeLAPPE:

15 Q. So it says there, DNI should be for on-duty time  
16 not for total time.

17 And I can assure you, Captain Carlson, that  
18 Dr. Khawaja agreed there that his definition of duty was  
19 supposed to be watch, on-watch.

20 A. And I -- and I believe I can't speak for  
21 Dr. Khawaja exactly.

22 Q. No, no. That's not --

23 A. But I believe that this means -- not for total  
24 time, in other words, not for coming in off-watch and  
25 moving a ship.

1 Q. So do you think that DNI should be for the time  
2 the pilot is on watch or, as you say, scheduled to work  
3 and not for total time?

4 A. I think that's misrepresenting this testimony.

5 Q. I would just like to know your opinion of -- of  
6 that concept. Let's separate it from Dr. Khawaja right  
7 now.

8 A. Okay.

9 Q. Do you think that pilots should be compensated  
10 for the time that they are on watch or scheduled to work  
11 rather than their total time?

12 A. I think they should be compensated for their  
13 time on-watch and for their respite time.

14 Q. Uh-huh. Right. So if a pilot works a callback  
15 job and gets paid an additional amount for working it,  
16 would you say that that would be appropriate?

17 A. It wouldn't be in keeping with the past practice  
18 of the MOUs of the past where those comp days were  
19 funded if a pilot burned a comp day, but it would be in  
20 keeping with the system we would like to transition to.

21 Q. So why would it -- what's the system that you  
22 would like to transition to? Can you explain that?

23 A. We would like those callback days funded.

24 Q. It -- does that mean --

25 A. On the front end -- on the front end rather than

1 on the back.

2 Q. Does that mean that pilots are going to receive  
3 more compensation for working a callback? The  
4 individual pilot who comes in for the callback.

5 A. Yeah. These are rules that would have to be  
6 adopted by our membership. And to change the bylaws is  
7 a two-thirds vote. I'm not sure how they'll look at it.  
8 But I think it's appropriate to, if a pilot is required  
9 to come in off watch -- of which we've had that happen  
10 many times in the past years -- that there should be  
11 some extra compensation for it, and now there isn't.

12 Q. For that individual pilot. So --

13 A. I didn't say that.

14 Q. Oh, okay.

15 A. I --

16 Q. Just general pooled compensation.

17 A. I can't speak for the entire -- I cannot speak  
18 for the entire membership as it pertains to what we'll  
19 do moving forward. If the members vote that -- to pay  
20 the individual pilot, if -- if they vote for that  
21 amendment to the operating rules, then great. If they  
22 don't, then the pilot is working the callback for free.

23 Q. And so is there anything intrinsically unfair in  
24 paying pilots who work more, paying them more and paying  
25 less to pilots who work less?



1 A. Not under a system where the pilots were -- or  
2 the pilots burning callback days were funded in the  
3 past.

4 Q. Okay. So I have some questions for you about  
5 one of your data request responses, so that's in IC-42X.

6 A. Can you tell me what DR response --

7 Q. Yes, I'm getting there. And I'm sorry. There's  
8 a lot of information here.

9 So I think that's on page 6?

10 A. What DR number?

11 Q. IC-42X, page 6. I'm getting there. You're  
12 faster than me, Captain Carlson.

13 So the DR number is 28. This is UTC Staff Data  
14 Request 28.

15 A. Oh, shoot. I don't think I even have that one.

16 Q. That's in your -- in the cross-exam exhibits  
17 that PMSA submitted for you. It's Exhibit 42X.

18 JUDGE PEARSON: It's on page 3 of 69.

19 THE WITNESS: Sorry. Sorry.

20 BY MS. DeLAPPE:

21 Q. It is on page 3. Thank you. That's where it  
22 starts.

23 And the part I want to focus on --

24 A. No, it's not going to be in there. Those are  
25 just -- can I -- can I open my computer?

1 Q. That's fine with me.

2 THE WITNESS: I mean, Your Honor, can I open  
3 my computer?

4 JUDGE PEARSON: That's fine. And while you  
5 do that, I'd actually like to take a five-minute break.

6 MS. DeLAPPE: Thank you.

7 JUDGE PEARSON: All right. So we will be in  
8 recess for approximately five minutes.

9 (A break was taken from  
10 3:52 p.m. to 4:00 p.m.)

11 THE COURT: All right. Let's be back on the  
12 record. And that, Ms. DeLappe, you can resume.

13 MS. DeLAPPE: Thank you very much.

14 BY MS. DeLAPPE:

15 Q. So on that page that we were looking at,  
16 regarding the response to UTC Data Request 28, Captain  
17 Carlson, you provided four examples of situations in  
18 which PSP had insufficient pilots to meet demand; right?

19 A. Well, I thought she said -- excuse me. I'm  
20 sorry, didn't you say DR 28?

21 BY MS. DeLAPPE:

22 Q. UTC. DR 28; correct.

23 A. I'm sorry. I thought it was -- I'll pull that  
24 up. I have it.

25 MS. DeLAPPE: Judge Pearson, I'm worried

1 about my amount of time.

2 JUDGE PEARSON: Ms. DeLappe, we're going to  
3 let you finish out the day here and then we'll resume  
4 and let Staff pick up cross for this witness in morning.

5 MS. DeLAPPE: Thank you very much. I  
6 appreciate it.

7 THE WITNESS: Okay. I have DR-28 there.  
8 UTC DR-28.

9 BY MS. DeLAPPE:

10 Q. Wonderful. Thank you very much. If you turn to  
11 example three, which is page 6 of that exhibit for those  
12 who are looking at the exhibit numbers.

13 You have example 6, August 6, 2018; right? And  
14 there's a little table there.

15 A. Yes.

16 Q. Can you tell me -- just quickly what the  
17 headings on that table mean?

18 A. "Watch" is the number of pilots that were on  
19 watch.

20 "Pilot delays" are the number of -- of delays  
21 due to pilots.

22 "Customer delays" are the number of delays by  
23 vessel.

24 "Cancellation" is the cancellation by vessel.

25 "Vessel assignment" is vessel assignment.

1 "Repos" are repositioning where pilots usually  
2 need to move to the pilot station or they need to come  
3 in from the pilot station.

4 And comp time -- "CTJ" is how many comp time --  
5 comp time jobs there were and also how many pilots  
6 performed those jobs.

7 Comp day taken, or "CDT," I'm sorry, is comp day  
8 taken. So pilots who earn the callback day use the  
9 callback day to take it off. There were two, either,  
10 meetings or training. I'm not sure which one this was.  
11 And two on major medical. And two pilots said do not  
12 call. And that do not call list, which off-watch pilots  
13 who are saying "I'm not available to take a callback day  
14 that day."

15 Q. Thank you.

16 Would you agree that there were approximately 50  
17 licensed pilots at that time?

18 A. I'm not quite sure how many there were at that  
19 time, but -- somewhere 47, 48, maybe 50, I'm not sure.

20 Q. Thank you.

21 So back to this day, there were only 21 pilots  
22 assigned to be on watch. So you had approximately 29  
23 who were unavailable as being off rotation; right?

24 A. Yes.

25 Q. And so you'd agree that you are already about

1 58 percent down of your pilotage core just due to the  
2 rotational schedule; right? That's just how rotation  
3 works; right?

4 A. Yeah.

5 Q. Okay.

6 A. That sounds about right.

7 Q. Roughly. I understand. You don't have to  
8 calculate it.

9 But when you ran through the headings of the  
10 pilot status, I noticed there was no heading or column  
11 for the number of pilots who were, you know, on vacation  
12 or earned time off this particular day.

13 Why is this omitted from the examples?

14 A. Because all that was really required was to  
15 demonstrate why there was a delay. And I indicated how  
16 many pilots were on watch in the very first column. So  
17 that's all that was really required. I also didn't list  
18 the number of pilots that were just on their regular  
19 respite either.

20 Q. Mm-hmm. And why do you -- I mean, how does PSP  
21 track those, you know, pilots on vacation or earned time  
22 off?

23 A. The dispatcher enters "ETO" in column one and --  
24 in their job history report, of which I provided, you  
25 know, to everybody. And -- and usually, you know, our

1 dispatchers aren't real super consistent. There's three  
2 of them. One dispatcher may put that ETO for an entire  
3 seven days in one row and one dispatcher may do it daily  
4 for seven rows. Like, that's how it's tracked.

5 Q. So -- on this --

6 A. When you're on respite, you're just not there.  
7 You're not on the screen unless you've worked the  
8 callback day.

9 Q. Got it. Thank you.

10 On this particular day with only 13 vessel  
11 assignments that was a relatively low demand day; right?

12 A. Yes.

13 Q. And on a typical day with 21 pilots on watch you  
14 presume 21 pilots would be able to cover 13 vessel  
15 assignments without complications; right?

16 A. Well, I think you need to look at -- I think it  
17 would benefit the conversation if we looked at the last  
18 sentence of the -- of that paragraph. It would -- it  
19 would be a little more clear as to what was going on  
20 that day.

21 Q. Which sentence are you referring to?

22 A. "Combined with the number of assignments  
23 commencing late on August 5th and early on August 6th,  
24 there were simply no respite pilots available."

25 So what happens is that -- if -- so pilots go to

1 work August 5th, and they -- and I don't have the exact  
2 stats here. I created this. So -- but right now I  
3 don't have them off the top of my head.

4 But they may go to work at 1600. There's a lot  
5 of ships that leave Tacoma between 1500 and 2000. And  
6 so by the time they get out to the pilot station, they  
7 are not -- they are -- they are midnight, 2300s, 0100 on  
8 the 6th. Well, they need to get their ten hours rest  
9 before they're even available. And so that's part of  
10 the problem. And then they are out at the pilot station  
11 and if the delay -- and I forget -- but if the delay was  
12 on the Seattle side, it's not going to do any good  
13 because the pilots are in Port Angeles. They need their  
14 ten hours rest and they can't get back in time to do  
15 that assignment.

16 Q. Captain Carlson, you also noted that there's a  
17 column there for pilots who are choosing to take comp  
18 days that they earned from completing earlier callback  
19 jobs on some prior day; right?

20 A. Yes.

21 Q. There are six of those here; right?

22 A. Yes.

23 Q. So that further reduced after major medical and  
24 the comp days, you're left with 19 pilots to -- for  
25 13 -- you get down to 13 pilots; right? For this day.

1 Subtracting 21, major medical, and the 6 comp day folks;  
2 right?

3 A. Yeah, I -- I mean, it was quite a while ago that  
4 I created this. And I'm not sure if I included those  
5 two, I guess two on major medical, and so the math would  
6 be 21.

7 Q. Minus eight?

8 A. If the pilot is repositioning, though, they are  
9 working. They are doing something. And so that's part  
10 of the equation. And whether or not the assignments  
11 were ordered waking up time to reposition the pilot  
12 back, it is unclear to me.

13 Q. So Captain Carlson, in order for us to get  
14 through your testimony in time today, I'm really going  
15 to ask -- need to ask you to focus on the specific  
16 question that I'm asking. Okay?

17 A. I'll try.

18 Q. So I will try very hard to make sure that  
19 question is clear.

20 You start off with 21 pilots who are on watch;  
21 right?

22 A. Yes.

23 Q. Subtract two pilots for major medical; right?

24 A. I think. Like I say, I did this report quite  
25 some time ago. I think, probably, you would subtract



1 those two.

2 Q. Okay. And then if you have 6 pilots on --  
3 taking comp days, you'd be down to 13 available pilots  
4 on watch; right?

5 A. Yes.

6 Q. And does the PSP president or PSP dispatcher  
7 ever have the right or ability to say -- if it's not a  
8 holiday, to say to the six pilots who are choosing to  
9 take comp that day that they can't take one that day?

10 A. No.

11 Q. So they can't say --

12 A. Any comp days that were taken, were also most  
13 likely -- there's only so many train-the-trainer  
14 classes. Dr. Tonn wanted us to get through these Pilot  
15 Commission train-the-trainer classes. And pilots may  
16 have taken comp days to attend those train-the-trainer  
17 classes. I don't know if they did or didn't, because  
18 I --

19 Q. Now, don't you have a separate category there  
20 for meetings and training that says "two pilots"?

21 A. Yes.

22 Q. And would those pilots be listed there?

23 A. That -- no, because if that pilot was unable to  
24 go to a previous train-the-trainer class while they were  
25 off watch, and we really wanted to get all the pilots

1 through the train-the-trainer classes, they would take a  
2 comp day on watch to go to the train-the-trainer class,  
3 which is a Pilot Commission class.

4 Q. So back to the question that I asked earlier,  
5 Captain Carlson, the PSP president or the PSP dispatcher  
6 have no right to tell a pilot who wants to use their  
7 comp day, "No, you can't today. There are too many  
8 other people unavailable today"; right?

9 A. Except for the -- for the holidays that are  
10 listed, the eight holidays that are listed --

11 Q. Right.

12 A. -- in the comp rules. And also most pilots  
13 don't take a comp day if they know that the -- we're  
14 going to be shorthanded. That doesn't always happen.

15 Q. Captain Carlson, I would like you to really  
16 focus on listening to my questions and answering what I  
17 asked. Which is, the PSP president doesn't have a right  
18 to say, "No, you can't take a comp day today"; right?  
19 Unless it's a holiday.

20 A. That's correct. He can --

21 Q. Thank you.

22 A. -- but he doesn't have the right.

23 Q. Thank you.

24 So out of -- then we also have two more pilots  
25 reduced from the on-watch pool there for meetings and

1 training; right?

2 A. Yes.

3 Q. So that means that out of approximately 50  
4 licensed pilots, we have only 11 pilots available to  
5 move all vessel traffic on the Puget Sound on August 6,  
6 2018?

7 A. That can't be, if we only delay -- delay one  
8 vessel. We moved 12. I mean, that math says, yeah, 11,  
9 so we moved 12.

10 Q. So may I -- let's see. May I -- you moved all  
11 of those vessels because you used the callback system;  
12 correct?

13 A. Yes.

14 Q. Okay. But as far as the ones who are on watch  
15 without callbacks you had only 11 available?

16 A. Correct.

17 Q. Thank you.

18 I -- I took the liberty of looking up what day  
19 of the week August 6, 2018, was, and you can take my  
20 word for it, it was a Monday.

21 On what day does PSP have its change day?

22 A. Tuesday.

23 Q. And when you are on a change day, do 100 percent  
24 of the pilots come on to rotation?

25 A. Not the ones that are on ETO.

1 Q. Okay. Otherwise --

2 A. Otherwise -- otherwise, we have a full  
3 compliment of pilots. Yes, we have the oncoming watch  
4 and the off-going watch.

5 Q. So subtracting those -- the major medical, the  
6 president -- you had on August 7th about 47 pilots on  
7 watch before accounting for meetings and comp days,  
8 compared to 21 on August 6th; right?

9 A. I don't know if we had 47 pilots.

10 Q. About.

11 A. Yeah. We had -- like I say, we had somewhere  
12 around that number of pilots. And then we had the  
13 pilots who were on ET -- excuse me, on ETO unavailable.

14 Q. So on August 6th, you had -- the dispatchers had  
15 to call off -- off-watch pilots, and two pilots  
16 performed two callback jobs that day; right?

17 A. Yes.

18 Q. So while you had six pilots taking comp days and  
19 not working while on watch, you had two pilots earning  
20 comp days by working while off watch; right?

21 A. Yes.

22 Q. So, in part, wouldn't you agree that the  
23 callback system is self-perpetuating, whereby taking  
24 old -- taking an old comp day can create the need to  
25 create a new comp day?

1 A. Yes.

2 Q. In fact --

3 A. Yes.

4 Q. In fact, looking at examples 1, 2, and 4, in  
5 this same response to the UTC data request, each of  
6 those days also has comp days taken and comp days earned  
7 on the same day; would you agree?

8 A. Yes.

9 Q. In your description of the August 6th event,  
10 which is right below that table, you explained that one  
11 of the main drivers of the extreme pilot shortage was  
12 the need for pilots to obtain rest in advance of  
13 meetings on August 7th; right?

14 A. Yes.

15 Q. And you also explained that the two pilots on  
16 watch would be attending a BPC training meeting on  
17 August 7th in order to ensure compliance -- so that in  
18 order to ensure in compliance with rest rules, none were  
19 available to take an assignment with a late check-in  
20 time on August 6th; right?

21 A. Yes. And I believe that those were two pilot  
22 Commissioners that their attendance was required at  
23 those meetings.

24 Q. So are the two pilots listed in the table as  
25 unavailable on August 6th, in the "meetings and

1 training" column, the same two as who were unavailable  
2 due to the meeting scheduled the next day?

3 A. They may have been the same two pilots that were  
4 unavailable for an assignment later in the day, but they  
5 may have also been the same two pilots that were not  
6 available until noon that day described in the first  
7 couple of sentences.

8 So they may have completed an assignment at  
9 eight o'clock in the morning, and then they couldn't be  
10 reassigned at 1800 because of their requirement to be  
11 checked in five hours later.

12 Q. When PSP is giving instructions to its  
13 dispatchers regarding pilot availability, does it  
14 typically give pilots the day off before a meeting?  
15 That's "yes" or "no."

16 A. They -- they need to be checked in by 2300.

17 Q. So does that mean that the dispatcher  
18 instructions are to give the pilot the day off before  
19 the meeting?

20 A. The instructions aren't specific that way. The  
21 instructions are, if you can get them an assignment and  
22 get them checked in by 2300, give them an assignment.

23 And we have a provision in -- and we have a  
24 provision that allows us to -- if they are on the  
25 Seattle side, to dispatch pilots outside of rotation for

1 harbor work if they have a meeting the next day so as to  
2 get -- to utilize them in some way the day before.

3 Q. So when you have two pilots, in this example,  
4 attending a BPC meeting on August 7th, why do you say  
5 that their unavailability on August 6th is required for  
6 compliance with rest rules?

7 A. I didn't say that they were unavailable on  
8 August 6th. I said they were unavailable at that time.  
9 But we don't know if they didn't complete an assignment  
10 sometime on August 6th in the morning or whatever. It's  
11 just that they couldn't take an assignment that would  
12 take them past 2300 on August 6th.

13 Q. So it's not PSP's policy to apply the State's  
14 rest rules to the day before a meeting; right?

15 A. I believe we have nine hours the day before a  
16 meeting. I think that's what it was. It might be -- it  
17 might be ten hours. They need to be checked in by it  
18 2300 and be ready for a meeting at 0800. So that's nine  
19 hours.

20 Q. So you're providing the -- you're following the  
21 mandatory rest rules for meetings; right?

22 A. We're following a procedure that we've had in  
23 our operating rules for a long time, outside of the RCW  
24 rules. They don't apply -- the RCW rules do not apply  
25 to our internal rules regarding rest periods before

1 meetings.

2 Q. And so the pilot for earned -- each employed  
3 earned a respite day plus a portion of vacation day for  
4 earned time off for each day that they were on watch  
5 completely independent of whether or not they performed  
6 any vessel assignments, so even if they were assigned to  
7 go to a meeting the next day?

8 A. Yes.

9 Q. So the real and total cost for PSP asking two  
10 pilots to go to the August 7th meeting may, in some  
11 situations, mean taking two days off while they were  
12 on -- supposed to be on watch and sacrificing additional  
13 days for respite and earned time off?

14 A. I can't say that happened in this case.

15 Q. But it's hypothetically possible?

16 A. I would say it's seldom that a pilot has a day  
17 off the day before a meeting. That would be -- I just  
18 don't see that happening very often at all.

19 Q. And going back to your comment about the primary  
20 driver of the -- of the pilotage storage -- the pilot  
21 storage that day.

22 Wouldn't you say that having six pilots  
23 unavailable by taking comp days was a more significant  
24 driver than having two pilots off for a meeting?

25 A. The six pilots taking a comp day the day it



1 earned off, you -- I don't know if I would say -- I  
2 mean, the way you phrased the question. I pretty much  
3 have to say "yes."

4 Q. It's okay to say yes. It's okay to agree with  
5 me.

6 A. Well -- yeah, I mean, it's the way you phrased  
7 the question.

8 Q. Captain Carlson, I understand you now have your  
9 laptop open, so I'm hoping that you can now open Exhibit  
10 IC-39X, which is a native Excel spreadsheet. File name  
11 is "Pilot Analysis."

12 A. Okay. Let me get to that.

13 JUDGE PEARSON: And, Ms. DeLappe, we're  
14 going to go ahead and end for the day after this  
15 question.

16 MS. DeLAPPE: Yes.

17 JUDGE PEARSON: Is this your last question?  
18 Or do you still have more?

19 MS. DeLAPPE: Yes, I can -- I can wrap up.  
20 I have more than one question, but I can make it brief.

21 JUDGE PEARSON: Okay.

22 MS. DeLAPPE: Thank you. I know we have to  
23 finish.

24 THE WITNESS: Okay. I have it open.

25 BY MS. DeLAPPE:

1 Q. Okay. Captain Carlson, so you have here on the  
2 tab "workload and recalls"; is that the tab you have it  
3 open to?

4 A. Now, I do.

5 Q. Okay. And Dr. Khawaja -- you said that this is  
6 the primary basis of analysis that Dr. Khawaja used and  
7 relied on for analyzing pilot callbacks and the number  
8 of pilots; is that right?

9 A. I don't recall saying that.

10 Q. I'll just refer you to Exhibit IC-42X, page 24.

11 A. Yeah, see, we didn't get these numbers.

12 Q. I realize that. I'll just stay -- you know, for  
13 the record, that is in response to request No. -- Data  
14 Request No. 220. But we can -- let's not --

15 A. I have the IC 1-2-3-4-5. Do you know those  
16 numbers or no?

17 Q. No. Let's not tarry there. I do want to just  
18 make sure that we get your input on this spreadsheet.

19 In Row 2, if we look across Row 2 of this  
20 spreadsheet. So each of these rows is a job; right?

21 A. I have 224, is that what you said?

22 Q. No, it was 220. But I'm -- I'm move moving on  
23 from there, Captain Carlson. I only have you for a  
24 couple more minutes.

25 A. Okay.

1 Q. All right. So on this spreadsheet, workload and  
2 recalls, each of these rows is a job; right? A vessel  
3 assignment job; right?

4 A. Yes.

5 Q. Okay.

6 A. Yes.

7 Q. Okay. So if we just look at Row 2 on this job,  
8 and we have here Column R is the job time; right?

9 A. Yes.

10 Q. And Column W is the completion time? For a job  
11 that was -- it all occurred on July 8th, 2018; right?

12 A. Yes.

13 Q. Okay. So we have a job time, it says "1530."  
14 Is that when the job started?

15 A. The call time --

16 Q. 3:30 p.m.

17 A. Yeah. No, the -- yeah, the job started at 1530,  
18 yes.

19 Q. Yeah. So 3:30 p.m. And then, you know, for us  
20 nonmilitary time folks, it ended at 8:10 p.m.; right?

21 A. Correct.

22 Q. All right. And so you have a job -- Column Y,  
23 it says "job dur"; is that job duration?

24 A. I don't even know what that -- I mean, I guess  
25 it is. I mean, it's -- it seems to mathematically add

1 up.

2 Q. All right.

3 A. I didn't create this, so I don't know.

4 Q. Yes. You provided this to us, so that's why I  
5 thought these were appropriate questions to you. But if  
6 you just stay with me.

7 So I -- I believe that this was about four  
8 hours, 40 minutes long; 3:30 to 8:10 p.m. It is a job  
9 sheet.

10 A. Excuse me, but I don't think I don't think I  
11 provided this to you.

12 Q. Yes. Actually, so that is in that response to  
13 Data Request 220. Oh, I'm sorry, it's Dr. Khawaja, and  
14 I believe that he was saying that this was the data that  
15 he received for his analysis on workload.

16 A. Okay.

17 Q. So is this spreadsheet totally unfamiliar to  
18 you?

19 A. Well, there -- there are some job headers that  
20 are -- they are worded differently than what I'm  
21 familiar with.

22 Q. Okay.

23 A. I -- I mean, like, "job dur" seems like job  
24 duration.

25 Q. Right. That's what I guessed. Right.

1           Okay. And so you also see in Column AA, it says  
2 "check-in time." It looks like the pilot checked in  
3 with the dispatch to say that the job was completed on  
4 the following day at a little after -- 12:30 in the  
5 morning, 12:35 in the morning; right?

6           A. Well, that doesn't --

7           Q. -- 035?

8           A. Yeah. It doesn't square with completion time,  
9 but yeah.

10          Q. Right. Exactly. It is much later.

11                 So we have the -- in column -- we have "duty  
12 dur" in Column AC; right? Which I think is the duration  
13 of the duty time?

14          A. Was this job a --

15          Q. So you're not familiar with that?

16          A. No, I'm not familiar with this. Honestly, I'm  
17 not familiar with this sheet at all. So --

18          Q. I see.

19          A. It's not adding up to me.

20          Q. So the data --

21          A. I don't understand the headers or -- okay.

22                         JUDGE PEARSON: So, Ms. DeLappe and I --  
23 Captain Carlson, why don't we give you the evening to  
24 look that over, Captain Carlson, and Ms. DeLappe can  
25 resume her questions tomorrow morning.

1 MS. DeLAPPE: I'm sorry.

2 JUDGE PEARSON: It's okay. I think it would  
3 be better if you had time to look it over and then you  
4 can finish your cross in the morning because we have  
5 reached a point in the day where we do need to stop for  
6 today.

7 MS. DeLAPPE: Thank you.

8 JUDGE PEARSON: All right.

9 THE WITNESS: We'll see you tomorrow.

10 JUDGE PEARSON: So our plan is to reconvene  
11 immediately following the open meeting. It should be --  
12 you can plan on 9:45 a.m. I think that that's a safe  
13 bet. So we will be in recess until tomorrow morning and  
14 we will reconvene tomorrow at 9:45 a.m. You will use  
15 the same link to join the meeting that you used today.

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17 (Hearing adjourned at 4:31 p.m.)

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STATE OF WASHINGTON )  
                          ) ss.  
COUNTY OF KITSAP        )

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the remote UTC Hearing of AUGUST 12, 2020, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 21st day of August, 2020.

*Crystal McAuliffe*



CRYSTAL R. McAULIFFE, RPR, CCR #2121