

**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 DOCKET TP-190976  
TRANSPORTATION COMMISSION,

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  
August 12, 2020  
8:37 a.m.

(All participants appeared via videoconference.)

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

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<p>1 VIDEOCONFERENCE UTC EVIDENTIARY HEARING                  2 August 12, 2020                  3 8:37 a.m.                  4 -oOo-                  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 &amp; 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.</p>	<p>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</p>
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<p>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</p>	<p>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</p>



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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

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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

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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.

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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 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 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 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.

<p style="text-align: right;">Page 91</p> <p>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</p>	<p style="text-align: right;">Page 93</p> <p>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</p>
<p style="text-align: right;">Page 92</p> <p>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</p>	<p style="text-align: right;">Page 94</p> <p>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</p>

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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,

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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

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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**

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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 **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 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 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

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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**

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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**

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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**

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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.

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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?**

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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

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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**

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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**

<p style="text-align: right;">Page 111</p> <p>1 <b>a penalty on the pilot who's fatigued is completely</b>  2 <b>separate from whether the pilot who's top on the list is</b>  3 <b>coming in for -- whether there's a callback involved?</b>  4 A. Ultimately, the safety of the vessel and the  5 pilot are the first -- the first priority.  6 <b>Q. So your penalty decision does not involve</b>  7 <b>whether there's a callback involved to cover that pilot?</b>  8 A. No.  9 <b>Q. Okay. Would it be responsible for pilots who</b>  10 <b>are truly fatigued to condition their notice of fatigue</b>  11 <b>based on whether other pilots are working on-watch or</b>  12 <b>off-watch?</b>  13 A. No.  14 <b>Q. And would you expect that pilot to only tell you</b>  15 <b>where they were fatigued so some other pilot could get a</b>  16 <b>callback?</b>  17 A. That wouldn't be -- that wouldn't be something I  18 would expect, no.  19 <b>Q. Is it your experience that pilots claim to be</b>  20 <b>fatigued only so some other pilot can get a callback</b>  21 <b>day?</b>  22 A. No.  23 <b>Q. No.</b>  24 <b>So would pilots knowingly work fatigued under a</b>  25 <b>fear of penalty?</b></p>	<p style="text-align: right;">Page 113</p> <p>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 <b>Q. So, Captain von Brandenfels, would you disagree</b>  24 <b>with the statement that the pilots might feel compelled</b>  25 <b>to accept an assignment even when ill or fatigued to</b></p>
<p style="text-align: right;">Page 112</p> <p>1 A. Would pilots knowingly work fatigued? No.  2 <b>Q. Thank you.</b>  3 <b>So according to Mr. Tabler, because of PSP's</b>  4 <b>operating rules which penalize on-duty pilots for</b>  5 <b>refusing an assignment that pilots might feel compelled</b>  6 <b>to accept, even when ill or fatigued, to avoid the</b>  7 <b>application of that penalty, unless they knew another</b>  8 <b>pilot was able to cover a job with a callback, would you</b>  9 <b>say that you disagree with Mr. Tabler on that point?</b>  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?</p>	<p style="text-align: right;">Page 114</p> <p>1 <b>avoid application of that penalty unless they knew that</b>  2 <b>another pilot was able to cover the job with a callback?</b>  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 <b>Q. If another -- yeah, to cover the job with a</b>  11 <b>callback and if they thought that they would have a</b>  12 <b>financial penalty because of that.</b>  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 <b>Q. And, Captain von Brandenfels, earlier you said</b>  17 <b>safety of the vessel is -- and everyone is first;</b>  18 <b>correct?</b>  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 <b>Q. Okay. So how would a PSP dispatcher know if a</b>  23 <b>pilot is fatigued to take a pilotage job?</b>  24 A. How would they know?  25 <b>Q. Mm-hmm.</b></p>



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 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 **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 **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**

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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:

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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

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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,

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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 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 **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 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**

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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.)

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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

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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**

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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**

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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.

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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?

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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.

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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.

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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,**

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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.

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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

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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**

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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.**

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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."**

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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**

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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 **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 **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 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 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 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 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 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 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 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 **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 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 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 **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 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 **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**

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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

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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

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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

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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?

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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 //

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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.

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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

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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.

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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

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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.

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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**

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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.

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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.

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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

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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**

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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?**



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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?**

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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?**

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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**

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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 **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 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. 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 **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 **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 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

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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**

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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.

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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

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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

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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 --

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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

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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

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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.

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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**

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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**

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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

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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**

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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:

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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**

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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?**

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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**

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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

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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**

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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.

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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.



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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**

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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.**

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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

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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

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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

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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**

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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**

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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?**

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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?**

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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**

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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.

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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 reliabilities 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. 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 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 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 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 "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

REDIRECT EXAMINATION

1 BY MR. WILEY:

2 Q. First of all, Ms. Norris, you were asked a lot  
3 of questions about the operating rules. And I just want  
4 to make sure the record is clear in terms of the  
5 questions that were posed to you.

6 Operating rules regarding duty days are  
7 different than on-watch days, are they not?

8 A. Yes; that is correct.

9 Q. And did you -- are you aware of the operating  
10 rules on -- callback day compensation, specifically  
11 16.4.4.2, which is -- it's the operating rules on  
12 page 16, and it discusses how -- if -- if a pilot who  
13 takes a scheduled day off without using a callback  
14 days -- day, it says they lose two days' distribution.  
15 Are you aware of that?

16 A. Yes.

17 Q. Thus, every callback day used would entitle you  
18 to two days distribution; correct?

19 A. That is correct.

20 MR. WILEY: No further questions, Your  
21 Honor.

22 JUDGE PEARSON: Okay. Thank you.

23 Mr. Fukano or Ms. Brown, do you have  
24 questions for this witness?  
25

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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.

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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.

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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:

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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 RECROSS-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.

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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**

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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

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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,

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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

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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

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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

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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

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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. 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 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 **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.

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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:

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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

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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

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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 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 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 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

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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

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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

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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

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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 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 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 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.

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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?**

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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

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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:

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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 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 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  
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**

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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?**

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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**

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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**

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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 JN-4 -- 4X. So**  
 21 **JN-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**



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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.

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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**

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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**

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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,

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<p>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</p>	<p>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?</p>
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<p>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 --</p>	<p>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</p>

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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.**

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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.

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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.

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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**

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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.

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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

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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.**

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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.

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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

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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.

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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:

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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

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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

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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 **piloting 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

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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**

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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.

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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.

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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**

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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?**

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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.

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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**

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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

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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

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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**



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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

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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.

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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

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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

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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

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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**

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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?**

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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

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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**

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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.

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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 --

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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?**

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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**

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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

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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**

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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 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 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 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 --

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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**

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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.

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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

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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.

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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.

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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

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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?**

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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?

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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

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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.

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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**

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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 **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 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 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 **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 **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 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 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 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 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:

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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.

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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

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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.**

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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.  
16  
17 (Hearing adjourned at 4:31 p.m.)  
18  
19  
20  
21  
22  
23  
24  
25

1 CERTIFICATE  
2  
3 STATE OF WASHINGTON )  
4 ) ss.  
5 COUNTY OF KITSAP )  
6  
7 I, CRYSTAL R. McAULIFFE, a Certified Court  
8 Reporter in and for the State of Washington, do hereby  
9 certify that the foregoing transcript of the remote UTC  
10 Hearing of AUGUST 12, 2020, is true and accurate to the  
11 best of my knowledge, skill and ability.  
12 IN WITNESS WHEREOF, I have hereunto set my hand  
13 and seal this 21st day of August, 2020.  
14  
15   
16 CRYSTAL R. McAULIFFE, RPR, CCR #2121  
17  
18  
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