

BEFORE THE STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

Docket TP-220513

**RESPONDENT PUGET SOUND PILOTS' PETITION
FOR RECONSIDERATION OF FINAL ORDER 08**

August 21, 2023

I. INTRODUCTION.

1. Pursuant to WAC 480-07-850, the Puget Sound Pilots petition for reconsideration of Final Order 08, specifically the following decision: Conclusion of Law No. 17 disallowing \$451,219 in known and measurable pension costs.

II. ARGUMENT.

A. Any Penalty for Noncompliance with Order 09 Should Be Limited to \$1,000 and the Balance of a Known and Measurable Pension Expense Reinstated.

2. In Conclusion of Law No. 17, the Commission decided to "allow one-half of PSP's proposed pro forma adjustment for continuing its current pay-as-you-go pension plan in rates until PSP's next general rate case."¹ In support of this decision, the UTC noted in its discussion of PSP retirement issues that "PSP's non-compliance with Final Order 09 influences our decision for both the proposed MEP and the recovery of test year retirement expense."² The Commission ultimately summarized its rationale for disallowing 50% of PSP's 2023 pension cost pro forma adjustment as follows:

Furthermore, while PSP's retirement costs may be considered known and measurable the Commission in its discretion determines that a portion of the pro forma retirement expense adjustment should not be allowed into rates because of PSP's non-compliance with Final Order 09. PSP also fails to account for offsetting factors which is an important consideration when proposing and evaluating pro forma adjustments.³

3. The UTC decision is unfair and should be reversed for two reasons. First, there is no basis for disallowing a known and measurable expense on the grounds of noncompliance with a Final Order. In doing so, the Commission effectively disallows a \$451,219 known and measurable cost funded in PSP's tariff for decades as a penalty in violation of RCW 81.04.387, which limits the penalty for a corporation's or association's violation of a Commission rule or order

¹ Final Order 08 ¶ 474.

² *Id.* ¶ 206.

³ *Id.* ¶ 217.

to a maximum of \$1,000.⁴ The statute also requires that any proposed penalty be the subject of both a complaint and notice of hearing on the purported violation, none of which occurred in this case.

4. Second, the suggestion that disallowing \$451,219 in pension expense is justified by PSP's failure "to account for offsetting factors" is not consistent with the record. In the case cited to support this point, Final Order 08 refers to the well-established principle "that utilities must account for offsetting costs when proposing pro forma adjustments."⁵ In fact, the record contains no evidence to support a conclusion that PSP failed to consider offsetting costs. Pension costs have been funded in the tariff for decades and are determined by very simple calculations based upon known fixed monthly payments to existing retirees and known monthly payments to working pilots who have given notice of their retirement date. PSP's audited financial statements show that pension costs are PSP's single largest expense, costing \$5.5 million in 2021, \$6.0 million in 2022⁶ and projected to be \$6.4 million in the 2023 pro forma. In her testimony, PSP CPA Jessica Norris noted that annual pension payments to PSP retirees increased steadily over the five-year period of 2017-2021.⁷
5. In his testimony at hearing, Staff witness Michael Young acknowledged that PSP's 2022 audited pension cost of \$6 million was "known and measurable in the sense that it – it was audited, and that amount appears to be paid out"⁸ and that "I am not contesting that they [pension payments] were not made."⁹ Nonetheless, he contended that Staff had "no idea how this was calculated or how the amounts were determined,"¹⁰ but acknowledged that Staff had

⁴ RCW 81.04.387.

⁵ *WUTC v. Cascade National Gas Corporation*, Docket U6-200568 Final Order 05 ¶305 (May 18, 2021).

⁶ Norris, Exh. JJN-02 at 29; Exh. JJN-07 at 30.

⁷ Norris, Exh. JJN-01T at 5:5-7.

⁸ *See* Young, TR at 826:13-15.

⁹ *Id.* TR at 827:2.

¹⁰ *Id.* TR at 826:15-16.

not issued any Data Requests regarding the PSP 2023 pension cost pro forma adjustment.¹¹ Given the long-standing history of tariff funding for PSP pension costs, the strong record evidence supporting the fact that this cost is increasing year to year and the lack of opposing evidence from any party, the Commission decision to disallow 50% of the pro forma adjustment in pension costs should be reversed and the sum of \$451,219 added back to the revenue requirement funded in the PSP tariff.

6. Further, it is worth noting that the pension adjustment proposed by PSP testifying accountant Weldon Burton in his testimony¹² and supported in PSP's Results of Operations model,¹³ follows the same methodology used in the previous case where Staff audited the pension adjustment and concluded the "pay-as-you-go" pension expense proposed by PSP was fair, just, reasonable and sufficient, and was subsequently accepted into the authorized revenue requirement.¹⁴ In this case, Staff admittedly did not audit the pension payment adjustment proposed by Mr. Burton and simply rejected it without any analysis.¹⁵

III. CONCLUSION.

7. Based upon the arguments above and the record in this proceeding, PSP's petition for reconsideration should be granted and Final Order 08 modified accordingly.

¹¹ *Id.* TR 826:17-23.

¹² Burton, Exh. WTB-04T at 7:1-11.

¹³ *Id.* Exh. WTB-5r (Pilot Pension Tab).

¹⁴ Final Order 09 ¶¶ 182, 191, Appendix, R-15.

¹⁵ Young, Exh. MY-1T at 22:15-23:2.

DATED this 21st day of August, 2023.

HAGLUND KELLEY LLP

s/ Michael E. Haglund

Michael E. Haglund, OSB No. 772030

Julie A. Weis, WSBA No. 43427

Eric J. Brickenstein, OSB No. 142852

HAGLUND KELLEY LLP

2177 SW Broadway

Portland, OR 97201

Telephone: (503) 225-0777

Facsimile: (503) 225-1257

Email: mhaglund@hk-law.com

jweis@hk-law.com

ebrickenstein@hk-law.com

Attorneys for Respondent