

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,  
Complainant,

v.

PUGET SOUND PILOTS,  
Respondent.

Docket TP-190976

DECLARATION OF CAPT. IVAN  
CARLSON

I, Capt. Ivan Carlson, declare as follows:

1. My name is Ivan Carlson and I offer this declaration in support of Puget Sound Pilots' Response to TOTE Maritime Alaska, LLC's Petition to Amend Order. This declaration is based upon my personal knowledge.
2. I am the President of Puget Sound Pilots ("PSP") and previously served as PSP's Vice President. I have also served on PSP's rate committee and assisted with the preparation of the proposed tariff filed with the Utilities and Transportation Commission ("Commission") on November 19, 2019 (with an effective filing date of November 20, 2019).
3. When PSP was preparing to file a proposed tariff in 2019, I supplied customer invoice data to PSP's consultant, Weldon Burton, for the preparation of work papers to support how the proposed tariff rates had been calculated. I had also supplied Mr. Burton with the rates that Capt. Stephan Moreno and I had calculated for inclusion in PSP's tariff filing. At the time that rates were calculated and invoice data were supplied to Mr. Burton, I had not recalled that invoices for two vessels, the North Star and the Midnight Sun, had previously been based on Gross Register Tonnage ("GRT") rather than their International Gross Tonnage ("IGT"). As a result, the data that Mr. Burton relied upon in

DECLARATION OF CAPT. IVAN CARLSON-1-

**Williams, Kastner & Gibbs PLLC**  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

preparing workpapers included an inadvertent error; the gross tonnage for two vessels operated by TOTE, the North Star and the Midnight Sun, was stated in test period data and in rate calculations to be 35,825. That figure represents the GRT for these two vessels rather than their IGT.

4. Soon after the Commission entered Order 09, I worked with Capt. Stephan Moreno in an effort to follow Order 09 and prepare PSP's compliance filing. As Capt. Moreno and I worked through that process, we discovered that our spreadsheet had not previously been updated to include the IGT for the North Star and Midnight Sun. We then updated the tonnage for these vessels so that the rates we included in PSP's compliance filing would generate the Commission-approved revenue requirement using the correct tonnage for the North Star and Midnight Sun: 65,314 IGTs.
5. At the time Capt. Moreno and I were preparing PSP's compliance filing, a number of questions arose, so we accepted an offer for technical assistance from Commission Staff member Ann LaRue to review a draft of our compliance filing. We submitted two draft versions, both of which had been calculated using the corrected IGT data for TOTE's two vessels.
6. The two draft versions of our initial draft compliance filing were submitted to Ann LaRue through Weldon Burton on December 16, 2020. A true and correct copy of his email is being filed as **Exh. IC-2**.
7. Following submission of PSP draft compliance filing to staff, Staff advised PSP that the proposed rates would not correctly generate the revenue requirement. Both Ann LaRue and Scott Sevall advised Mr. Burton that the rates in PSP's draft were generating

DECLARATION OF CAPT. IVAN CARLSON-2-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

approximately \$1,700,000 less than the revenue requirement. Subsequently, Ms. LaRue and PSP agreed to hold a meeting via Microsoft Teams to discuss how the price out was being calculated by PSP and identify any reasons for the discrepancy. A copy of the meeting invitation from Ms. LaRue is being filed as **Exh. IC-3**.

8. To prepare for the meeting and understand Staff's analysis, Mr. Burton emailed Ms. LaRue on December 21, 2020 and requested a copy of the tool Staff was using to analyze the compliance filing. In her email response the following day, Ms. LaRue declined to provide the tool, but asked for work papers to demonstrate how PSP was calculating the rates included in the draft compliance filing. On December 22, 2020, Mr. Burton supplied an updated version of the draft compliance filings along with work papers to demonstrate how rates were being calculated. The work papers included test year shipping data in which the North Star and Midnight Sun's tonnage had been updated to reflect IGT of 65,314. A true and correct copy of the email exchange between Mr. Burton and Ms. LaRue is being filed as **Exh. IC-4**. A true and correct copy of the work papers spreadsheet attached thereto (original file name "PSP Compliance Filing Workpapers 12-21-20.xlsx) is being filed as **Exh. IC-4a** and a screen shot of that spreadsheet reflecting the tonnage data for the Midnight Sun and North Star is being filed as **Exh. IC-4b**.
9. During the Teams meeting on December 22, 2020, Staff and PSP discussed a number of topics regarding Order 09 and reviewed multiple possible reasons that Staff projected a significant shortfall in revenue when using the rates in PSP's draft compliance filing. Among the other possibilities for the projected shortfall discussed was an error in test

DECLARATION OF CAPT. IVAN CARLSON-3-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

year data for the North Star and Midnight Sun that PSP discovered and subsequently corrected. PSP explained that TOTE had previously been charged based on its vessels' GRT, but that the new Commission-issued tariff required that charges be calculated using their IGT and so PSP updated its test year data when calculating the new tariff rates.

10. PSP also pointed out to Staff that the error correction would increase the total tonnage of vessels served in the test year and that the result lowered the tonnage rate for all vessels than otherwise needed to collect the portion of the revenue requirement that was allocated to tonnage in Order 09. In response, Staff advised that errors can favor either ratepayers or regulated service providers, but that test year data should not be modified after the record closes. Staff then stated that it would confer with the Attorney General's office about whether PSP should calculate rates in reliance upon corrected data. Staff also requested that PSP supply an additional spreadsheet calculator to show the mechanics of how PSP had calculated the rates in its draft compliance filing in order to investigate additional reasons why PSP's draft compliance filing would lead to such a significant shortfall in revenue.

11. On December 23, 2020, following the meeting with Staff, Mr. Burton emailed the spreadsheet calculator to Ms. LaRue. In his email, Mr. Burton reminded Ms. LaRue that the tonnage for the North Star and Midnight Sun had been corrected in the test year data. A true and correct copy of Mr. Burton's email is being filed as **Exh. IC-5**, and a true and correct copy of the spreadsheet attachment is being filed as **Exh. IC-5a** (with file label "Exh. IC-5a PSP Priceout Calculator (TP-190976)12-23-20.xlsx").

DECLARATION OF CAPT. IVAN CARLSON-4-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

12. Following the holiday season, PSP and Staff resumed discussions regarding the compliance filing and an additional Teams meeting was coordinated for January 7, 2021. A true and correct copy of an email exchange between PSP's attorneys and Ann LaRue regarding the compliance filing and coordinating the meeting is filed as **Exh. IC-6**. A true a correct copy of the calendar invitation from Ms. LaRue is being filed as **Exh. IC-7**.
13. During the January 7, 2021 meeting, Staff and PSP reviewed the spreadsheet rate calculator that Mr. Burton had supplied on December 23, 2020. Staff provided further guidance as to how PSP should determine rates for inclusion in its final compliance filing and confirmed that the Attorney General's office had advised that test year data should not be corrected or changed after the record closes, while preparing the compliance tariff.
14. Based upon the advice of Staff, Capt. Moreno and I recalculated tariff rates for the two years of the rate plan and prepared new tariff pages. Those tariff pages were filed with the Commission on January 12, 2021 but excluded an effective date. On January 20, 2021, PSP filed an amended compliance filing to include the issue date and an effective date of January 25, 2021. After Staff's review, they recommended approval via letter dated January 19, 2021. The tariff pages were ultimately approved by the Commission with an effective date of January 25, 2021.
15. Following the effective date of the new pilotage tariff, PSP began invoicing pilotage customers in accordance with the new tariff rules and rates, invoicing for tonnage charges based upon vessels' IGT. An example of PSP's invoices to TOTE is being filed as Exh. IC-8. **Exh. IC-8** reflects the Midnight Sun's IGT of 65,314.

DECLARATION OF CAPT. IVAN CARLSON-5-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

16. In the following weeks, TOTE began submitting partial payments for pilotage service.

When I investigated the amount of their payment, I determined that TOTE was paying the amount that would be due under the new tariff if its vessels were charged for gross register tonnage rather than international gross tonnage.

17. In March 2021, I called Phil Morrell, who I knew from his work at the Board of Pilotage Commissioners, to discuss TOTE's underpayments. During our call, he requested that PSP reduce its charges to TOTE and recalculate its invoices based upon the vessels' GRT. I explained to him that PSP was legally required to charge TOTE based upon the language in the Commission-issued tariff, which required that tonnage charges be imposed based upon IGT. I also relayed to Mr. Morrell that if he thought PSP was charging TOTE incorrectly he could submit a complaint to the UTC. I then emailed Mr. Morrell to confirm our discussion and provide information on how to submit a complaint to the UTC. A true and correct copy of my email to Mr. Morrell is being filed as **Exh. IC-9**.

18. Prior to the effective date of the Commission-approved tariff, PSP invoiced TOTE based upon its vessels' GRT. However, there are other domestic shipping companies that PSP invoiced based upon their vessel's IGT under the tariff issued by the Board of Pilotage Commissioners. It is my understanding that PSP previously agreed to a request from TOTE to be billed based upon its vessels' GRT only after examining the BPC-issued tariff and concluding it was ambiguous as to how tonnage charges should be applied to domestic vessels. There is no similar ambiguity in the Commission-issued tariff.

DECLARATION OF CAPT. IVAN CARLSON-6-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

19. Although TOTE is now paying PSP's invoices in full, the additional revenue to PSP resulting from those payments has not resulted in a windfall of revenue to PSP. PSP fully recognizes that a Commission-approved revenue requirement is only an opportunity to earn that authorized amount, but I currently project that PSP will fall well short of the revenue requirement in 2021.

THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE  
UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF  
WASHINGTON.

SIGNED this 15th day of October, 2021, at Seattle, Washington.

  
Ivan Carlson

DECLARATION OF CAPT. IVAN CARLSON-7-

Williams, Kastner & Gibbs PLLC  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600