

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

DOCKET TP-190976

ORDER 11

GRANTING MOTION FOR LEAVE  
TO FILE REPLY; ACCEPTING  
PROPOSED REPLY

**BACKGROUND**

- 1 On November 25, 2020, the Washington Utilities and Transportation Commission (Commission) entered Order 09, Final Order Rejecting Tariff Sheets; Authorizing and Requiring Compliance Filing (Order 09) in this docket. This was the final order on the first general rate case filed by Puget Sound Pilots (PSP) with the Commission.
- 2 On August 26, 2021, TOTE Maritime Alaska, LLC, (TOTE) filed a Petition for Amendment, Rescission, or Correction of Order 09 (Petition)
- 3 On August 30, 2021, the Commission issued a Notice of Opportunity to Respond, allowing the parties until October 15, 2021, to file responses to the Petition.
- 4 On October 15, 2021, the Commission received written responses from PSP, Pacific Merchant Shipping Association (PMSA), and Commission staff (Staff).
- 5 On October 21, 2021, TOTE filed a Request for an Extension of Time to File Request for Leave to File Reply.
- 6 On November 1, 2021, the Commission issued Order 10, Granting Extension of Time for Motion for Leave to File Reply. The Commission allowed TOTE to file its Motion for Leave to File a Reply on or before November 12, 2021.
- 7 On November 12, 2021, TOTE filed a Motion for Leave to File a Reply in Support of Petition (Motion). TOTE argues that it could not have anticipated that PSP would have essentially recast the Petition as a request for rehearing. TOTE also argues that it could

not have anticipated Staff's alternative recommendations, such as the possibility of special contracts with PSP, which affect TOTE's rights. TOTE requests the opportunity to address Staff's recommendation. TOTE attaches a Proposed Reply Re WAC 480-07-875 Petition to Amend Order (Proposed Reply) to its Motion.<sup>1</sup>

### DISCUSSION AND DECISION

8 Pursuant to WAC 480-07-370(5)(b), a party that wishes to reply to a response must file a motion requesting leave to do so. The party must explain why a reply is necessary and should attach the proposed reply to the motion for leave. The motion is deemed denied unless the Commission grants the motion within five business days.

9 TOTE's Motion satisfies the standard set forth in WAC 480-07-370. TOTE credibly argues that Staff's response raises new legal arguments and recommendations. Staff raises certain procedural concerns with the Petition and makes certain recommendations, such as the possibility of a rulemaking for special contracts, which TOTE may not have anticipated. It is reasonable to allow TOTE an opportunity to respond to these specific arguments.

10 Because TOTE's Motion is deemed denied unless the Commission grants it within five business days,<sup>2</sup> it is appropriate to grant TOTE's Motion without further delay.

### ORDER

**THE COMMISSION ORDERS THAT** TOTE Maritime Alaska, LLC's Motion is GRANTED.

**THE COMMISSION ORDERS FURTHER THAT** TOTE Maritime Alaska, LLC's Proposed Reply is accepted for consideration in this proceeding.

Dated at Lacey, Washington, and effective November 15, 2021

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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<sup>1</sup> While TOTE cites WAC 480-07-825 in both its Motion and its Proposed Reply, this rule applies to the review of initial orders. The rule does not directly apply here because TOTE seeks to modify a final order.

<sup>2</sup> WAC 480-07-370(5)(b).

*/s/ Michael S. Howard*  
MICHAEL HOWARD  
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.  
Administrative review may be available through a petition for review, filed within  
10 days of the service of this Order pursuant to WAC 480-07-810.**