



September 14, 2018

Mr. Mark Johnson, Executive Director and Secretary  
Washington Utilities & Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
PO Box 47250  
Olympia, WA 98504-7250

Submitted via E-mail to [records@utc.wa.gov](mailto:records@utc.wa.gov)  
Submitted via Web Portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)

Received  
Records Management  
09/14/18 16:50  
State Of WASH.  
UTIL. AND TRANSP.  
COMMISSION

**RE: Docket TP-18042**  
**Comments of the Pacific Merchant Shipping Association Regarding CR-101**  
**Rulemaking to Consider Adoption of Rules Relating to Marine Pilotage Rate-setting**

On behalf of the Pacific Merchant Shipping Association (PMSA) and its members, thank you for the opportunity to submit comments regarding the proposed rulemaking to implement SSB 6519 (Chapter 107, Laws of 2018). We look forward to this rulemaking process establishing the rules for general rate proceedings to establish state tariffs which are fair, just, reasonable, and sufficient for the provision of marine pilotage.

PMSA represents numerous owners and operators of ocean carriers and oceangoing vessels doing business on the U.S. West Coast, including a majority of those plying Washington state waters as the customers of the compulsory Puget Sound pilotage monopoly. PMSA worked diligently for the passage of SSB 6519 during the most recent legislative session in order to improve and reform the administration of marine pilotage rate and tariff setting processes. In the same vein, we participate in this rulemaking with the intent to assist the state in the implementation of these important reforms.

We applaud the UTC staff for an exemplary draft discussion document circulated as part of this CR-101 process. The draft discussion document successfully outlines a process to facilitate the application of UTC expertise to marine pilotage, as envisioned by SSB 6519, by relying on the integrity and rigor of the existing framework of UTC ratesetting processes. The process as proposed fits squarely with the tariff-setting reforms envisioned by the Joint Transportation Committee study which preceded SSB 6519.

This comment letter is submitted by PMSA to support this proposed rulemaking process generally. In addition, PMSA respectfully suggests refinements, deletions, and edits to improve the language under consideration in the CR-101 as explained below and as detailed in the proposed attachments.

With respect to the framework of procedures proposed, PMSA supports the CR-101 draft discussion document. We support the integration of pilotage into the UTC's rules (Title 480 WAC) through amendments to existing Chapter 480-07 WAC and the creation of new Chapter 480-160 WAC specific to marine pilotage.

With respect to the use of the term "pilotage district," PMSA suggests that the CR-101 draft discussion document be revised to limit the use of this term to describe the geographical limitations of licensing areas of pilots subject to a UTC tariff. Since there is no "pilotage district" entity which charges vessels for pilotage services, it should be made clear that when an individual pilot licensee or a company of pilot licensees conduct their business, or petition the commission for rates, that they do so with respect to services provided in a "pilotage district," but they are not doing so as a "pilotage district."

With respect to the evaluation of the number of pilots licensed by the Board of Pilotage Commissioners, PMSA suggests that the CR-101 draft discussion document be revised to clearly communicate the Legislature's bifurcation of the roles of the UTC and BPC and the assignment of responsibilities between the two bodies. The UTC and BPC should embrace a comity of respect for the decisions of one another, abide by a principle of a presumption of correctness for the actions of the other, and generally direct petitioners and the public to address their issues to the correct forum for their resolution.

One of the tremendous policy advantages of bifurcating responsibilities in this new system for the BPC is the resulting refocus on, and prioritization of, the core safety, service, efficiency, and licensing requirements of the Pilotage Act. By holding these functions effectively away from the historically contentious debates regarding compensation and tariffs now managed by the UTC, the BPC need not be distracted any further from its primary focus. Accordingly, no petition to the UTC for rate and tariff changes should be based on arguments meant to second guess or undermine the licensing or safety decisions made by the BPC. Likewise, no action should be taken by the BPC based on an argument that rates set by the UTC were wrong, inadequate, or should be remedied by collateral means outside the scope of the process proposed in this WAC.

With respect to the inclusion of numerous substantive definitions in Chapter 480-160 WAC (Proposed) which are otherwise not utilized in the RCW or WAC, PMSA respectfully requests that these terms be stricken as surplusage. We appreciate that one of the criticisms by the Joint Transportation Committee report of the BPC's ratesetting process was the lack of consistent utilization of terms to analyze their rates and tariffs; indeed, that was one of PMSA's constant frustrations with the inconsistency and ad hoc nature of the previous process. But importantly, we believe that the lack of consistent application of terms was a by-product of an ad-hoc process and lack of ministerial consistency. We are confident that none of the symptoms of the BPC's ad-hoc approach to tariff-setting will exist at the UTC, including neither the lack of consistent definitions nor with respect to the lack of findings, evidentiary record, hearing transcripts, and accounting from year to year as to the purpose of specific charges.

In this context, we would ask that any presumption as to what substantive details or data may or may not be relevant should be avoided from inclusion in the WAC and should instead occur within the context of the ratesetting process itself – at least at this initial point in time. We make this recommendation while noting our appreciation of the fact that many of these substantive definitions as proposed are similar to the types of metrics that industry utilizes when it is evaluating and disputing the claims of the pilots with respect to the need for additional tariff revenues, such as “revenue per assignment.” However, at this stage, any definitions that imply what might be relevant could create an inadvertent bias towards one party or another based on the utilization of these terms in a petition. Certainly, this should be avoided. Hence, we strongly recommend that all surplusage definitions be removed.

With respect to the specific question posed in the CR-101 Notice of Opportunity To File Written Comments, PMSA respectfully submits the suggested edits and related annotation comments attached to this cover letter. We do not believe that any additional procedural elements need to be addressed with respect to this initial draft at this time.

Finally, with respect to Stakeholder participation, PMSA wishes to continue to receive further information on this rulemaking, requests addition to the appropriate service list if not already included, and reserves the right for further response, revision, and expansion of comments on this draft discussion document, future components of this rulemaking, and to respond to other public comments submitted.

Please feel free to contact PMSA at any time with questions, comments, or any additional follow-up to this letter regarding the rulemaking process, Docket TP-180402, or on any other matter related to the provision of compulsory state pilotage services. Our best contacts with respect to this matter are Capt. Mike Moore, PMSA Vice President, in our Seattle office at [mmoore@pmsaship.com](mailto:mmoore@pmsaship.com) or (206) 441-9700 or, Ms. Michelle DeLappe, Garvey Schubert Barer PC, counsel to PMSA at [mdelappe@gsblaw.com](mailto:mdelappe@gsblaw.com) or (206) 816-1403, or to me directly at (510) 987-5000 or at [mjacob@pmsaship.com](mailto:mjacob@pmsaship.com).

Thank you for the consideration of our comments.

Respectfully submitted,



Mike Jacob  
Vice President & General Counsel

attachments

cc: Jason Lewis, UTC  
Michelle DeLappe, Garvey Schubert Barer, PC  
Mike Moore, PMSA

**Discussion Draft Pilotage Rules**  
Revisions to WAC 480-07 proposed in  
CR 102 Procedural Rules in Docket A-130355

WAC 480-07

WAC 480-07-140 **General requirements for submitting documents to the commission.**

(1) **General.**

- (a) *Informal submissions.* Informal submissions are oral or written comments or communications directed to the commission that do not seek, or respond to, formal commission action, are not required by statute or commission rule, and generally are not filed in a docket. Informal submissions include, but are not limited to, consumer complaints other than complaints requesting commencement of an adjudicative proceeding, and public comments made on matters the commission considers at an open public meeting or in an adjudication when submitted by persons who are not, and do not seek to be, parties to that adjudication. A person may make informal submissions by using the comment form available on the commission's web site or by contacting the commission records center or consumer protection section by telephone, letter, or email at the contact information listed in WAC [480-07-125](#).
  - (b) *Formal filings.* Formal filings are written submissions that seek or respond to formal commission action or are required by statute or commission rule and that the commission may file in a docket. Unless otherwise provided in this chapter, all documents submitted to the commission for formal filing, including documents that contain confidential information, must be submitted electronically to the commission records center in conformance with this rule. The commission will not accept a document for formal filing unless the commission receives that document in electronic form.
- (2) **Where to send written communications.** Persons should send written communications to the commission using the contact information contained in WAC [480-07-125](#) or on the commission's web site. Correspondence directed to the commission should be addressed to the commission secretary.
  - (3) **Cover letters.** Persons submitting documents to the commission for formal filing must include a cover letter with the submission unless the sole document submitted is a letter or the document is one page in length and includes the information identified in subsection (4) of this section.
  - (4) **Requirements.** The following requirements enable the commission to identify submissions and to facilitate prompt delivery of communications to commission personnel.
    - (a) *Identification of sender.* All persons who communicate with the commission should provide their full name, mailing address, telephone number, and email address to assist the commission in responding. Persons who communicate with the commission on behalf of a business, organization, or other entity must state their name and title or position, and the name of the entity on whose behalf they are sending the communication. All submissions on behalf of a company the commission regulates must identify the company using the exact name of the company in the commission's records. The commission's web site includes a list of all such companies by the names in the commission's records. The commission may reject or require resubmission of any submission that does not comply with this requirement.

- (b) *Identification of permit, license, or certificate.* Any person or entity holding a commission-issued permit, license, or certificate must identify the permit, license, or certificate number (if any), including the exact name under which the authority is held, when communicating with the commission concerning the permit, license, or certificate.
  - (c) *Identification of proceeding.* Persons who communicate with the commission concerning a formal commission proceeding (e.g., rule-making or adjudication) must identify the proceeding to the best of their ability, including the docket number and name of the proceeding.
  - (d) *Identification of documents.* All documents submitted to the commission must be named in conformance with subsection (6)(b) of this section.
- (5) **Electronic submission of documents.** The commission accepts only electronic versions of documents for formal filing. Unless required in a specific rule or order, the commission does not require a paper copy of the document.
- (a) *Electronic submission via web portal.* Documents submitted electronically must be submitted using the commission's records center web portal except as provided in this rule.
    - (i) How to use the web portal. To use the web portal to submit documents for filing, persons should navigate to, and follow the instructions on, the web portal at the address specified in WAC [480-07-125](#).
    - (ii) Official commission receipt. The commission officially receives a document submitted through the web portal on the date and at the time registered by the portal; provided that documents the commission receives after 5:00 p.m. are not considered officially received or filed until the next business day. The web portal will send an automated notification to the person submitting the document when the commission has received the document.
    - (iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's web portal for a single submission, the person may submit the documents in multiple web portal submissions, via one or more emails as provided in subsection (6)(c) of this section, or on a disc or other commonly used electronic storage medium delivered by mail or hand delivery. The commission includes on its web site the current size limitation of submissions on the web portal and instructions for making multiple web portal submissions.
  - (b) *Electronic submission via email.* If a person is unable to use the web portal to submit documents for filing, the commission will accept a submission via email. The commission may also accept correspondence or comments directed to the commission in the form of an email. An email transmitting documents must explain the reason the documents are not being submitted via the web portal and must comply with the following requirements:
    - (i) Where to send electronic documents. Emails and emailed submissions for filing must be directed to the commission's records center at the email address specified in WAC [480-07-125](#). Courtesy or informational copies may be sent to other email addresses for individual commission personnel. The commission will receive for filing only email submissions sent to the records center.
    - (ii) When deemed received. An email and any transmitted documents are deemed received only when the email and the entire document or set of documents successfully reach the commission's records center electronic mailbox. Emails or documents wholly or partly received by email in the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day.
    - (iii) Insufficient capacity. If a submission exceeds the size limitations of the commission's

email system for a single message, the person may submit the documents in multiple messages as provided in subsection (6)(c) of this section or on a disc or other commonly used electronic storage medium delivered via mail or hand delivery. The commission includes on its web site the current size limitation of a single email.

- (c) *Electronic submission by mail or hand delivery.* A person may submit for filing electronic copies of documents on a disc or other commonly used electronic storage medium by mail or hand delivery (e.g., courier delivery service) to the commission's business address. The commission deems it has received an electronic document submitted by mail or hand delivery when the commission's records center physically receives it. Documents delivered to the commission's records center after 5:00 p.m. are not considered officially received or filed until the next business day.
- (d) *Additional requirements.* The following additional requirements apply when submitting documents in the circumstances identified below.

<b>Submissions in these dockets or types of documents:</b>	<b>Must comply with these rules and:</b>
Rule-making dockets	Part II of this chapter
Adjudicative dockets	Part III of this chapter, <b>plus</b> any requirements in the specific adjudication
Utility tariffs and contracts	Chapter <a href="#">480-80</a> WAC and WAC <a href="#">480-07-141</a>
Transportation tariffs and time schedules (a) For auto transportation companies (b) For commercial ferry companies (c) For solid waste collection companies <b>(d) For marine pilotage services</b>	WAC <a href="#">480-07-141</a> ; and (a) Chapter <a href="#">480-30</a> WAC; (b) Chapters <a href="#">480-51</a> and <a href="#">480-149</a> WAC; (c) Chapter <a href="#">480-70</a> WAC <b>(d) Chapter <a href="#">480-160</a> WAC</b>
For public records requests	Chapters <a href="#">42.56</a> RCW and <a href="#">480-04</a> WAC

(6) **Electronic file format requirements.** Electronic versions of all documents filed with the commission must conform to the following file format requirements.

- (a) *Acceptable format.*
  - (i) All documents other than spreadsheets as described in (a)(ii) of this subsection and email correspondence or comments must be filed in searchable .pdf (adobe acrobat or comparable software) format and to the extent feasible should be saved or otherwise converted directly from the native format in which the document was created. Parties that cannot create .pdf files directly from the document in its native format must provide a copy of the document converted to .pdf via scanning or other available technology. Scanned documents must be searchable unless readily available software does not support searchable scanned documents.
  - (ii) Any document in the form of a spreadsheet that displays results of calculations based on formulas must be filed in its native Excel format (.xls, .xlsx, .xlsm) or the updated version of, or successor to, that software program. The commission will accept spreadsheets created using a different software program only if the commission has a license to use that program and personnel who know how to use

it. Spreadsheets must include all formulas and may not include locked, password protected, or hidden cells or tabs, or any other restrictions that impair or hamper the commission's ability to review or modify the data in those cells.

- (iii) Correspondence or comments in the form of an email must conform to generally accepted conventions for email communications.
- (b) *File naming conventions.* Documents must be named in a way that describes the contents. Each document a person submits must be labeled with the docket number of the proceeding (except in the case of original submissions), any confidentiality designation, the name of the document, the name of the person or party on whose behalf the document is submitted, the last name of any witness sponsoring the document, and the date the document is submitted. The prefix to the docket number (e.g., UE-, TG-, etc.) may be omitted, and words may be abbreviated as necessary in the file name of an electronic document if the full name is too long. The cover letter accompanying the submission must list all of the documents included in the submission using the same identifying information. The commission maintains a sample list of acceptable file names and abbreviations on its web site.
- (c) *Acceptable organization.* Except as provided in WAC [480-07-160](#) (4)(d)(vii) when submitting documents that include information designated as confidential, all files required to meet a single deadline must be submitted at the same time and in the same message, if possible, or on the same disc or commonly used electronic storage medium. A person may submit files in more than one submission or message when submitting those files via the commission's web portal or via email as authorized in subsection (5)(a)(iii) and (b)(iii) of this section if the total size of the submission exceeds the size constraints of the commission's web portal or email system for a single submission. If the documents are submitted in multiple email messages, each email message must prominently identify which one it is in the sequence of messages and, to the extent possible, the total number of messages used (e.g., "Message 2 of 4"). The first and final messages in the sequence must be identified as such. The first message also must explain the reason for the multiple messages and must include the cover letter and any required certificate of service. All such messages must be submitted as close to simultaneously as practicable.

[Statutory Authority: RCW [80.01.040](#) and [80.04.160](#). WSR 17-06-051 (General Order R-588), § 480-07-140, filed 2/28/17, effective 3/31/17; WSR 08-18-012 (Docket A-072162, General Order R-550), § 480-07-140, filed 8/22/08, effective 9/22/08; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-140, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-140, filed 11/24/03, effective 1/1/04.]

#### WAC 480-07-500 General rate proceedings – Statement of policy.

- (1) **Scope of this subpart.** This subpart explains the special requirements for certain filings to change rates charged by electric, natural gas, pipeline, telecommunications, and water companies, low-level radioactive waste sites, solid waste collection companies, ~~and~~ commercial ferries and pilotage services.
- (2) **Inconsistencies with subpart A requirements.** If there is any inconsistency between the requirements in subpart B of these rules and those in subpart A, the requirements in subpart B control.

- (3) **Purpose of special rules.** The special requirements in subpart B are designed to standardize presentations, clarify issues, and speed and simplify processing of general rate proceedings.
- (4) **Failure to comply.** The commission, pursuant to WAC 480-07-141, may reject, or require the company to revise, any filing to initiate a general rate proceeding that does not conform to the requirements of subpart B of these rules. The commission will provide a written statement of its reasons if it rejects a filing. The company may revise or refile a filing that remedies the noncompliance the commission has identified and otherwise fully complies with the rules consistent with the requirements in WAC 480-07-141(2), which governs the date on which the commission considers a filing to have been made.
- (5) **Less than statutory notice.** The commission may grant requests to alter tariffs on less than statutory notice for good cause shown, in accordance with RCW 80.28.060 or 81.28.050. A company ~~[or pilotage service district]~~ that seeks to implement general rate proceeding tariff changes on less than statutory notice must include with its filing a complete explanation of the reasons that support such treatment.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-500, filed 11/24/03, effective 1/1/04.]

WAC 480-07-505 General rate proceedings – Definition; tariff suspension.

- (1) **Filings that initiate general rate proceedings.** Except as otherwise provided in this rule or RCW 80.04.130(2)(a) (governing rate decreases for telecommunications companies), the commission will initiate a general rate proceeding in response to a filing by any public service company identified in WAC 480-07-500 requesting to change its rates if that filing meets any of the following criteria:
  - (a) The rates a company requests would alter its gross annual revenue from activities the commission regulates by three percent or more.
  - (b) The company requests a change in its authorized rate of return or a change in its capital structure.
  - (c) The company is a solid waste collection company regulated under chapter 81.77 RCW.
  - (d) Any petition to change the rates, charges, or rules of the commission-published pilotage tariff.
- (2) **Filings under Title 80 RCW that will not initiate general rate proceedings.** The commission generally will not initiate general rate proceedings in response to the following filings, even though the revenue the company requests may vary by three percent or more from the company's current gross annual revenue from Washington regulated operations:
  - (a) Periodic rate adjustments the commission has generally authorized for electric and natural gas companies (e.g., power cost adjustments, purchased gas cost adjustments, or decoupling adjustments);
  - (b) Emergency or other rate increases a company requests on short notice as a result of disasters, adverse weather, or other causes beyond the company's control that unexpectedly and substantially increase a public service company's expenses; or
  - (c) Rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to tax laws or local fees) or to comply with federal or state rules concerning the level of rates for telecommunications companies.
- (3) **Filings under chapter 81.77 RCW that will not initiate general rate proceedings.** The commission generally will not initiate general rate proceedings in response to the following filings by solid waste



collection companies regulated under chapter 81.77 RCW even though the request may meet one or more criteria identifying general rate proceedings:

- (a) Filings by the following companies:
  - (i) Companies that provide specialized hauling services restricted to certain specific waste products that are limited to specific customers; or
  - (ii) Companies that provide only on-call or nonscheduled service (i.e., Class C companies, as defined in WAC 480-70-041);
- (b) Filings seeking only to pass through a change in fees unilaterally established and imposed by governmental or unaffiliated private entities, including disposal, recycling, yard waste, or processing fees, or to pass through changes to such fees charged by affiliated entities if the public service company demonstrates that the total cost of transfer, transport, and fees at the affiliate's facilities is equal to or lower than other reasonable and currently available alternatives;
- (c) Filings for rate changes designed to recover only the costs a company incurs to comply with government actions that directly impact the company's costs to provide regulated service (e.g., changes to state or local fees, charges, or taxes directly related to the collection or disposal of solid waste);
- (d) Filings implementing new solid waste collection programs; or
- (e) Filings for periodic rate adjustments through a cost adjustment mechanism the commission has generally authorized for solid waste collection companies (e.g., fuel or recycling commodity adjustments).

**(4) Filings under chapter 81.116 RCW that will not initiate general rate proceedings. The following filings are not considered general rate proceedings for pilotage services regulated under chapter 81.116 RCW.**

- (a) Filings by a countywide port district located in part or in whole within the Grays Harbor pilotage district, as defined by RCW 88.16.050 that meets the filing requirements in RCW 53.08.390.
- (b) Filings to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.
- (c) Filings to reflect any ~~[automatic periodic or annual]~~ adjustment to pilotage rates previously established and approved by the commission in a general rate proceeding.
- (d) Any filing to collect by the port district the cost of the commission for setting tariff rates.
- (e) Any filing to collect tariff surcharges authorized by the legislature.

**(5) Commission discretion.** The commission retains discretion to determine whether to initiate a general rate proceeding in response to any filing described in this section or to convert any rate proceeding to a general rate proceeding, following notice and an opportunity to comment, if the commission finds that such action is consistent with the public interest. The commission may require that any filing or proposal by a public service company ~~[or pilotage service district]~~ to change rates for any customer class, or to restructure rates, be subject to the procedures and protections in subpart B of these rules.

**(6) Suspension of tariffs.** The commission may take action at a regularly scheduled open public meeting to suspend the tariff sheets included in any filing that seeks to change rates. A company may waive its right to commission consideration of the filing at an open meeting and request immediate suspension of the tariffs, either in the cover letter accompanying the filing or in a subsequent document. If commission staff confirms that the filing is complete and complies with the applicable rules in subpart B of these rules, the commission may enter a complaint and order suspending the tariffs without further process. The company ~~[r-pilotage service district,]~~ and statutory parties may

engage in discovery pursuant to WAC 480-07-400 through 415 after the commission issues a notice of prehearing conference prior to the commission entering a prehearing conference order.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-505, filed 11/24/03, effective 1/1/04.]

#### NEW SECTION

#### WAC 480-07-525 General rate proceedings – Marine pilotage services in Puget Sound.

General rate proceeding filings for marine pilotage services must include the information described in this section. The commission may reject a filing that fails to meet these minimum requirements, without prejudice to a petitioner’s right to refile its request in conformance with this section.

- (1) Testimony and exhibits. The petitioner must file with the commission one paper and one electronic copy of all testimony and exhibits ~~[that the petitioner intends to present as its direct case if the filing is suspended and a hearing held]. [The electronic copy of all filed material must be in the format identified in WAC 480-07-140(6).]~~
- (2) Proposed tariff. ~~[The p]~~ Proposed tariff sheets must be filed in electronic form supplemented by one paper copy. The proposed tariff sheets should be in legislative format (i.e., with strike-through to indicate the material to be deleted or replaced and underlining to indicate the material to be inserted) consistent with the requirements in WAC 480-160-066 through WAC 480-160-081, as well as copies of any tariff sheets that are referenced in the new or amended tariff sheets. ~~[The electronic copy must be submitted in the format identified in WAC 480-07-140(6).]~~
- (3) Transmittal letter. A transmittal letter prepared in compliance with the provisions of WAC 480-160-191 ~~[in electronic form supplemented by one paper copy].~~
- (4) Work papers. One paper and one electronic copy of all supporting work papers ~~[must be filed]~~ for the test period, which is the most recent twelve-month period for which financial data are available, not to exceed nine months prior to the filing date. ~~[The electronic copy of all filed material must be in the format identified in WAC 480-07-140(6).]~~ Work papers must include:
  - (a) Schedule of assets (rate base);
  - (b) Computation of revenue requirement for the rate effective year.
  - (c) An income statement and balance sheet audited by a certified public accountant with a year ended date not to exceed nine months prior to the date of filing.
  - (d) An income statement with restating actual and pro forma adjustments, including all supporting calculations and documentation for all adjustments. The filing must identify dollar values and underlying reasons for each restating actual and pro forma adjustment.
  - (e) A calculation of the revenue impact of the proposed tariff revisions.
  - (f) An income statement listing all revenue and expense accounts by month.
  - (g) ~~[A statement of total non-regulated revenue by type and percentage of total revenue.]~~ If non-regulated revenue represents more than ten percent of total test period revenue, a detailed separation of all revenue and expenses between regulated and non-regulated operations.
  - (h) A detailed list of all non-regulated operations, including the rates charged for the services rendered. Copies of all contracts must be provided on request.
  - (i) Schedule reconciling, within five percent, rates and charges:
    - (i) earned during the test year to actual reported revenues, and
    - (ii) expected to be earned during the rate year to computed revenue requirement.
  - ~~(j) [At the time the petitioner makes its general rate case filing, the petitioner must provide~~

- ~~to Commission staff one paper and one electronic copy of all supporting work papers of each witness in a format as described in this subsection. If the testimony, exhibits, or work papers refer to a document, including, but not limited to, a report, study, analysis, survey, article or decision, that document must be included as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided, but the petitioner must identify clearly the materials that are omitted and their content. Omitted materials must be provided or made available if requested.~~
- ~~(k) Organization. Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology.~~
- ~~(l) Electronic documents. Parties must provide all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be provided using logical file paths, as necessary, by witness, and using identifying file names.~~
- ~~(m) [(j)] Projected changes in vessel traffic and a detailed portrayal of vessel traffic for the previous [thirty-six][twelve] months along with the associated tariff and fees charged to vessel operators for pilotage services as required in WAC 480-160~~
- ~~(n) [A detailed portrayal of the] [(k) The] number of pilots [necessary to be] licensed in the [applicable] pilotage district of the state, [during the test period][to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service]. [If the current number of licensed pilots has changed from that of the test period, At a minimum,] work papers must provide [exhibits which demonstrate] the board of pilotage commissioners' process and factors to make such a determination pursuant to WAC 363-116-065(2). [In the event the petitioner deviates from the determination of the board of pilotage commissioners under WAC 363-116-065(2) then it is incumbent upon the petitioner to provide work papers with the necessary calculations, factors and rationale for an alternative minimum number of pilots and maximum safe assignment level for the district.]~~
- ~~(o) [(l)] The projected increase or decrease in state fees and/or taxes.~~
- ~~(p) [(m)] The annual costs of any major capital or other extraordinary expenses.~~
- ~~(q) [(n)] Revenues generated by tariff and fees for the previous year, the current year's budget and future budget projections, based on projected vessel traffic, vessel type, vessel tonnage, routes and number of pilots.~~
- ~~(r) [(o)] Necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.~~
- ~~(s) [(p)] Change in methodologies for adjustments. If a party proposes to calculate an adjustment in a manner different from the method that the commission most recently accepted or authorized for the petitioner, it must also present a work paper demonstrating how the adjustment would be calculated under the methodology previously accepted by the commission, and a brief narrative describing the change. Commission approval of a settlement does not constitute commission acceptance of any underlying methodology unless so specified in the order approving the settlement.~~
- ~~[(q) The reports filed by the board of pilotage commissioners with the governor and legislature pursuant to RCW 88.16.035(f) for the prior five years up to and including the latest available report period.]~~
- ~~(5) [Work papers filing. At the time the petitioner makes its general rate case filing, the petitioner~~

must provide to Commission staff one paper and one electronic copy of all supporting work papers of each witness in a format as described in this section. If the testimony, exhibits, or work papers refer to a document, including, but not limited to, a report, study, analysis, survey, article or decision, that document must be included as a work paper unless it is a reported court or agency decision, in which case the reporter citation must be provided in the testimony. If a referenced document is voluminous, it need not be provided, but the petitioner must identify clearly the materials that are omitted and their content. Omitted materials must be provided or made available if requested.

- (6) Work papers organization. Work papers must be plainly identified and well organized, and must include an index and tabs. All work papers must be cross referenced and include a description of the cross referencing methodology.
- (7) Witnesses' electronic documents. Parties must provide all electronic files supporting their witnesses' work papers. The electronic files must be fully functional and include all formulas and linked spreadsheet files. Electronic files that support the exhibits and work papers must be provided using logical file paths, as necessary, by witness, and using identifying file names.
- (8) Electronic copy filing. The electronic copy of all materials required by this section to be filed must be in the format identified in WAC 480-07-140(6).]

#### WAC 480-07-540 General rate proceedings – Burden of proof.

Public service companies and the petitioner for tariff rates for pilotage services bear the burden of proof in the general rate proceedings described in RCW 80.04.130 or 81.04.130. The burden of proof includes the burden of going forward with evidence and the burden of persuasion. The commission will consider the company's or petitioner's initial filing and any supplemental filings the commission authorized to be the company's or petitioner's full direct case in support of its rate change request for purposes of deciding any prehearing motion to dismiss under WAC 480-07-380.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-540, filed 11/24/03, effective 1/1/04.]

#### WAC 480-07-700 Alternative dispute resolution.

The commission supports parties' informal efforts to resolve disputes without the need for contested hearings when doing so is lawful and consistent with the public interest, and subject to approval by commission order. Alternative dispute resolution (ADR) includes any mechanism to resolve disagreements, in whole or in part, without contested hearings.

- (1) No delegation of commission authority. The commission cannot delegate to parties the power to make final decisions in any adjudicative proceeding. The commission retains and will exercise its authority in every adjudicative proceeding to consider any proposed settlement or agreement for approval.
- ~~(2) Pilot training program stipend. Any proposed settlement or agreement for pilotage rates must include the necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.~~
- ~~(3) Commission fee to set rates. The parties to any proposed settlement or agreement must allow for the commission to apply its reasonable fee for setting rates for marine pilotage services.~~

~~(5) (2)]~~ **Forms of ADR.** Parties to a dispute that is within the commission's jurisdiction may agree to

negotiate with any other parties at any time without commission oversight. The commission may direct parties to meet or consult as provided in subsection ~~[(35)](3)~~ of this section, or may establish or approve a collaborative process as provided in WAC [480-07-720](#). The commission may assign commission staff trained in ADR principles and techniques to serve as neutral third parties (e.g., mediator or facilitator) to assist the parties. The commission may assign a settlement judge to assist the parties in appropriate circumstances. The commission may provide an arbitrator whose decision is subject to commission review in matters for which arbitration is authorized.

~~[(5)](3)~~ **Settlement conference.** A settlement conference means any discussion or other communication, in person or otherwise, intended to resolve one or more disputed issues (whether actual or anticipated) between two or more parties in an adjudicative proceeding. Settlement conferences do not include requests for information or clarification, or communications to identify whether a dispute exists or whether another party is willing to negotiate resolution of a disputed issue, or in aid of discovery. Settlement conferences must be informal and without prejudice to the rights of the parties. The procedural requirements of this section relating to settlement conferences may be waived if all parties and the commission agree. Any party and any person who has filed a petition to intervene may participate in an initial or early initial settlement conference. An intervenor's participation in a settlement conference is limited to the interests supporting its intervention, except by agreement of other participants in the conference. No party is required to attend.

- (a) **Initial settlement conference.** The commission will set in the procedural schedule for each adjudicative proceeding the date for an initial settlement conference. Parties wishing to reschedule the initial settlement conference must seek modification of the schedule by the presiding officer upon notice to all other parties.
- (b) **Early initial settlement conference.** Any party that wishes to initiate a settlement conference with any other party between the filing of the docket and the initial prehearing conference must have included in its notice to customers, if otherwise required, a statement indicating that an early initial settlement conference might be scheduled. In addition, the party proposing an early initial settlement conference must provide ten days prior notice of any such conference to the commission, public counsel, any party, any person that has filed a petition to intervene and any person that was a party in the most recent proceeding of the same type, involving the same filing party and respondent, if any. Such persons may participate in an early initial settlement conference in the docket if they file a petition to intervene prior to the early initial settlement conference.

~~[(5)](4)~~ **ADR guidelines.** In any negotiation, the following apply unless all participants agree otherwise:

- (a) The parties, as their first joint act, will consider the commission's guidelines for negotiations, set out in a policy statement adopted pursuant to RCW [34.05.230](#), and determine the ground rules governing the negotiation;
- (b) No statement, admission, or offer of settlement made during negotiations is admissible in evidence in any formal hearing before the commission without the consent of the participants or unless necessary to address the process of the negotiations;
- (c) Parties may agree that information exchanged exclusively within the context of settlement negotiations will be treated as confidential, subject to the requirements of RCW [5.60.070](#); and
- (d) Participants in a commission-sanctioned ADR process must periodically advise any nonparticipating parties and the commission of any substantial progress made toward settlement. Participants must immediately advise the commission if a commission-sanctioned ADR process is without substantial prospects of resolving the issue or issues under discussion (i.e., if the participants agree that an impasse has been reached or an

impasse is declared by any neutral third party who is assisting the participants in the ADR process).

- (e) Any mediator, facilitator, or settlement judge who assists the participants in an ADR process will not participate in any adjudication, arbitration, or approval process for the same proceeding, unless all parties consent in writing.

**(5) Pilotage provisions. Any proposed settlement or agreement for pilotage rates must include all of the following:**

**(a) The necessary tariff surcharge to fund the stipend the board of pilotage commissioners is authorized to pay to pilot trainees and to use in its pilot training program under RCW 88.16.035.**

**(b) The reasonable fee of the commission for setting rates for marine pilotage services.]**

[Statutory Authority: RCW [80.01.040](#) and [80.04.160](#). WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-700, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-700, filed 11/24/03, effective 1/1/04.]

**Pilotage Rules**  
WAC 480-160

NEW SECTION

WAC 480-160-001 **Purpose of Chapter.**

- (1) **Puget Sound Pilotage District** - The legislature has declared that tariffs for pilotage services provided under chapter 88.16 RCW in the Puget Sound pilotage district shall be established by the commission. The purpose of these rules is to administer chapter 81.116 RCW in setting pilotage tariff rates or charges for pilotage services.
- (2) **Grays Harbor Pilotage District** - The legislature has declared that in setting rates or charges for pilotage services provided by the Grays Harbor pilotage district under chapter 88.16 RCW, the commission will consider the recommendation of the port district. The purpose of these rules is to administer chapter 81.116 RCW in setting pilotage tariff rates or charges for pilotage services.

NEW SECTION

WAC 480-160-006 **Application.**

Except for the vessels exempted under RCW 88.16.070, all vessels that operate in the waters of the Puget Sound or Grays Harbor pilotage districts that must employ a marine pilot are liable for pilotage rates or charges and subject to compulsory pilotage.

NEW SECTION

WAC 480-160-011 **Resolving disputes about the meaning of these rules.**

If the interpretation of any rule in this chapter is questioned by a petitioner, a customer, or an applicant, a petition for declaratory ruling under 34.05.240 RCW or a request for clarification may be filed with the commission.

NEW SECTION

WAC 480-160-016 **Definitions.**

- ~~(1) "Assignment" means a billable event relating to pilotage services.
  - ~~(a) Assignments include ship movements, regardless of duration, and cancellations~~
  - ~~(b) For purposes of work allocation, an assignment is considered to commence when a pilot is assigned a vessel and concludes upon the pilot's arrival at the pilot station on an outbound assignment or upon the completion of travel for an inbound assignment (or upon cancellation).~~~~

- ~~(2) "Average assignment time per ship movement" means the sum total of time devoted to Assignments during a given period divided by the number of ship movements occurring during the same period.~~
- ~~(a) Assignment time generally commences when the pilot is assigned to the vessel and concludes upon completion of travel time for inbound assignments or arrival at the pilot station for outbound assignments.~~
- ~~(b) Assignment time includes preparation and travel time plus bridge time.~~
- ~~(3) "Average bridge time per assignment" means the sum total of time a pilot is aboard piloted vessels during a given period divided by the number of assignments occurring during the same period.~~
- ~~(a) Bridge time generally commences concurrent with order time and concludes upon the pilot's arrival ashore.~~
- ~~(b) Although pilots normally arrive on the bridge 30 minutes before the order time on outbound assignments, average bridge time per assignment does not include bridge time for cancelled assignments nor time on the bridge before order time of outbound assignments.~~
- ~~(4) "Average bridge time per ship movement" means the sum total of time aboard piloted vessels during a given period divided by the number of ship movements occurring during the same period.~~
- ~~(a) Bridge time generally commences concurrent with order time and concludes upon the pilot's arrival ashore.~~
- ~~(b) Although pilots normally arrive on the bridge 30 minutes before the order time on outbound assignments, average bridge time per ship movement does not include time on the bridge for cancelled assignments nor time on the bridge before order time of outbound assignments.~~
- ~~(5) "Average time per assignment" means the sum total of time devoted to assignments during a given period divided by the number of assignments occurring during the same period.~~
- ~~(a) Assignment time generally commences when the pilot is assigned to the vessel and concludes upon completion of travel time for inbound assignments or arrival at the pilot station for outbound assignments.~~
- ~~(b) Assignment time includes preparation and travel time plus bridge time.~~
- ~~(6) [(1)] "Board" means the board of pilotage commissioners.~~

~~(7) Bridge time~~

- ~~(8) "Cancellation" means a billable event involving the termination by a carrier, or agent of a pilotage service request after a pilot has been assigned and before an outbound ship is moved or, in the case of an inbound vessel, the vessel is delayed by more than six hours where that delay occurs within 12 hours of the scheduled arrival time.~~
- ~~(a) A cancellation is deemed to occur if a pilot has been assigned and if the service request is cancelled within 12 hours before the scheduled vessel arrival at Port Angeles or, for outbound transits, four hours from scheduled departure from Seattle, or five hours from any other port.~~
- ~~(b) A pilot who has not commenced travel to an outbound assignment at the time of cancellation remains available for immediate dispatch. A pilot who has commenced travel is removed from dispatch until rest requirements are met.~~
- ~~(c) An inbound vessel may be charged a cancellation charge for any delay of more than six hours of an arrival time made less than 12 hours before the scheduled arrival if the cancellation charge is lower than the delayed arrival charge that would otherwise apply.~~



~~(9)~~ ~~[(2)]~~ "Commission" means the utilities and transportation commission.

~~(10)~~ ~~[(3)]~~ "File with the commission" means filed with the commission's executive secretary pursuant to WAC 480-07-140 at the time a person with a substantial interest files its general rate case.

~~(11)~~ ~~[(4)]~~ "Grays Harbor pilotage district" shall have the same meaning as found in RCW 88.16.050(2) to include all inland waters, channels, waterways, and navigable tributaries within Grays Harbor and Willapa Harbor.

~~(12)~~ ~~— "Gross pilotage revenue" means all revenue under the tariff including transportation and trainee surcharges or stipends.~~

~~(13)~~ ~~— "Gross pilotage revenue per assignment" means gross pilotage revenue generated from all assignments during a given period of time divided by the number of assignments during the same period.~~

~~(14)~~ ~~— "Net Income of Pilots" means, for purposes of setting rates for Puget Sound Pilots, the total pilotage fees collected in the port, minus reasonable operating expenses, divided by the number of licensed and active state pilots within the district.~~

~~[(5)]~~  ~~"Non-regulated operations" means any pilotage service which is provided by a state licensee or by an association of state licensees which is not otherwise billable or listed under a commission approved tariff for marine pilotage services.~~

~~(15)~~  ~~[(6)]~~ "Non-regulated Revenue [Activity]" means ~~[all revenue received for pilotage services which are non-regulated operations.] [a non-billable event in which a pilot, other than the president of the Puget Sound Pilots, is assigned to such as a license upgrade trip or pilotage-related activity not involving a ship movement.~~

~~a. Non-revenue activities include education, training, simulation sessions, license upgrade trips, voyage planning sessions, meetings with government agencies and officials (e.g., board, commission, U.S. Coast Guard, Department of Ecology, legislature, governor, port districts), testimony, industry events and conferences, marine safety meetings and PSP business and professional meetings.~~

~~(b) Non-revenue activities are not assignments and do not accrue towards the fulfillment of the target assignment Level.]~~

~~(16)~~  ~~[(7)]~~ "Number of pilots" means ~~[the actual]~~ number of pilots ~~[necessary to be]~~ licensed in each district of the state ~~[by the board of pilotage commissioners,][to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district,]~~ as determined by 88.16.035 RCW.

~~a. The Number of Pilots includes:~~

~~i. Active pilots;~~

~~ii. The president of the Puget Sound Pilots and licensed pilots who are inactive due to injury or illness but receiving payments.~~

~~(b) Number of Pilots does not include former pilots who are no longer licensed, but are receiving payment in the form of Comp. Days.~~

~~(17)~~ ~~— "Order time" means a vessel's last scheduled departure time for outbound transits or last scheduled arrival time for inbound transits.~~

- ~~(18)~~ **[(8)]** "Person with a substantial interest" means:
- (a) A ~~[pilot service provider]~~ ~~[pilot, group or association of pilots licensed under chapter 88.16 RCW];~~
  - (b) A vessel operator or other person utilizing the services of a licensed pilot and paying pilotage fees and charges for such services or an organization representing vessel operators or persons; ~~{or}~~
  - (c) Any other person or business that can show that the requested tariff changes would be likely to have a substantial economic impact on its operations ~~;~~ ~~or~~
- [(d)] Any operator of a port or terminal located in an affected pilotage district.]**

**[(9)] "Pilot service provider" means any state pilot licensed under chapter 88.16 RCW, or a company of individual state pilot licensees, which collects tariff revenues. For the purposes of chapter 480-07 WAC, "pilot service provider" shall have the same meaning as "company." ]**

~~(19)~~ **[(10)]** "Pro forma adjustments" give effect for the test period to all known and measurable changes that are not offset by other factors.

~~(20)~~ **[(11)]** "Puget Sound pilotage district" shall have the same meaning as found in RCW 88.16.050(1) to include all the waters of the state of Washington inside the international boundary line between the state of Washington and the province of British Columbia and east of one hundred twenty-three degrees twenty-four minutes (123 degrees 24 minutes) west longitude.

~~(21)~~ ~~"Puget Sound Pilots" means an organization of independent marine pilots specially trained and licensed to board and guide ships such as oil tankers, cargo vessels and cruise ships through the Puget Sound pilotage district.~~

~~(22)~~ **[(12)]** "Rates" and "charges" means prices for services that, when multiplied by the number of times a service is performed, determines the amount owed.

~~(23)~~ **[(13)]** "Rate design" and "rate structure" mean arrangement or system of rates and charges that produce revenues necessary to recover the costs of service and support economic and social goals and policies.

~~(24)~~ **[(14)]** "Restating actual adjustments" adjust the booked operating results for any defects or infirmities in actual recorded results that can distort test period earnings. Restating actual adjustments are also used to adjust from an as-recorded basis to a basis that is acceptable for ratemaking. Examples of restating actual adjustments are adjustments to remove prior period amounts, to eliminate below-the-line items that were recorded as operating expenses in error, to adjust from book estimates to actual amounts, or to eliminate or to normalize extraordinary items recorded during the test period.

~~(25)~~ ~~"Revenue per assignment" means gross revenue, excluding transportation charges and trainee surcharges or stipends, generated from all assignments during a given period of time divided by the number of assignments during the same period.~~

~~(26)~~ **[(15)]** "Serve" or "provide" means to deliver to the commission staff and parties in the proceeding, documents submitted to the commission for the filing or documents that are not submitted to the commission for the filing but that are formally exchanged between parties.

~~(27)~~ ~~"Ship movement" means an assignment resulting in a transit or a reposition of a vessel. A ship movement involving multiple pilots, other than training or upgrading pilots, is counted as multiple ship movements, one for each pilot.~~

~~(28) ——— “Target assignment level” means a numerical benchmark set by the board calculated by dividing the annual number of assignments by the number of pilots. It is used by the board in making workload decisions, including the setting of the number of pilot licenses to be issued. The president of Puget Sound Pilots is not included in the calculation for the Target Assignment Level.~~

NEW SECTION

WAC 480-160-021 **Change of address, telephone number, or email.**

A ~~[pilot service provider][pilotage district]~~ must notify the commission in writing of any change in physical business address, business mailing address, business telephone number, or business email. This notice must be filed at least 10 days before the effective date of the change by US mail or email.

NEW SECTION

WAC 480-160-026 **Exemptions from rules in chapter 480-160 WAC.**

The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

NEW SECTION

WAC 480-160-031 **Records retention.**

- (1) **General provisions.** A ~~[pilot service provider][pilotage district]~~ must keep all business records and reports for at least three years following the date those documents are created unless otherwise specified in these rules or unless a longer retention period is required by another governmental body.
- (2) **Customer service records.** A ~~[pilot service provider][pilotage district]~~ must maintain complete and accurate customer service records for all customers served.
  - (a) Customer service records must be kept on file in the general office of ~~[a pilot service provider][the petitioner]~~ for at least three years.
  - (b) Customer service records must be kept in alphabetical, service address, or service route order.
  - (c) Customer service records must show at least the following information:
    - (i) The name and service address of the customer;
    - (ii) The billing address of the customer, if different than the service address;
    - (iii) Categories and quantity of service provided, including extra services as they are provided;
    - (iv) Information required to provide, on customer request, a detailed description of the amount billed the customer;
    - (v) Amounts billed;
    - (vi) Amounts collected; and
    - (vii) Balance due.

NEW SECTION

WAC 480-160-036 **Reporting requirements.**

- (1) **Annual reports.** An annual report is an end-of-the-year summary of financial activity that each [pilot service provider][pilotage district] is required to file with the commission.
  - (a) Each year the commission will make available on the commission website an annual report form and instructions to each [pilot service provider][district].
  - (b) A [pilot service provider][pilotage district] must file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. Information provided on the annual report must be consistent with source documents maintained at [pilot service provider][district] offices.
  - (c) The commission may grant an extension of time allowing a [pilot service provider][pilotage district] to file its annual report after the May 1 due date if the commission receives a request for extension before April 15.
  - (d) The commission may issue penalty assessments if a [pilot service provider][district] fails to file its required annual report by May 1.
- (2) **Other reports.** The commission may require a [pilot service provider][district] to file periodic or other special reports.

NEW SECTION

WAC 480-160-041 **Commission compliance policy.**

- (1) The commission encourages voluntary compliance with statutes, rules, and commission orders.
- (2) The commission will enforce statutes, rules, and commission orders through:
  - (a) A program emphasizing education and technical assistance.
  - (b) A compliance program including:
    - (i) Investigation and resolution of complaints;
    - (ii) Economic compliance audits including, but not limited to, rates, charges, and billing practices;
    - (iii) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.
- (3) Where necessary to ensure compliance with statutes, rules, and commission orders, the commission will pursue administrative actions with the intent of ensuring future compliance by the violating [pilot service provider], including, but not limited to, warnings, sanctions, or penalty assessments under the provisions of chapter 81.04 RCW;

NEW SECTION

WAC 480-160-046 **Rate setting fees.**

A rate setting fee is an assessment of costs incurred by the commission as part of setting the tariff for pilotage services. The rate setting fee may be included as part of the marine pilotage services tariff and shall be appropriated from the pilotage account in RCW 88.16.061.

NEW SECTION

WAC 480-160-060 Tariffs, all pilots must comply with the provisions of approved tariffs.

No pilot *[service provider]* shall charge, collect or receive and no person, firm, corporation or association shall pay for pilotage or other services performed that is any greater, less or different amount, directly or indirectly, than the rates or charges approved by the commission.

**NEW SECTION**

WAC 480-160-062 Tariffs and rates, general.

- (1) A tariff is a publication containing the rates and charges for pilotage services, including rules that govern how rates and charges are assessed.
- (2) The commission publishes the tariffs that marine pilots serving the Puget Sound and Grays Harbors pilotage districts must use.
- (3) All jurisdictional marine pilots are required to follow the terms, conditions, rates and all other requirements imposed by the respective commission-published tariff.
- (4) Any party with substantive interest may petition the commission to update or modify the published allowed rate and charges or the rules and regulation contained within the appropriate pilotage tariff.
- (5) Any proposed changes must be provided using the commission provided electronic template.

**NEW SECTION**

WAC 480-160-066 Tariffs, changes must be identified.

Each change in rates, charges, or rules must be clearly identified by using one of the following methods:

- (1) By including the appropriate code symbol immediately to the left of the material being changed.  
Symbols to indicate the type of changes are:

Code Symbol	Used to indicate:
(R)	reductions in rates or charges
(I)	increases in rates or charges
(C)	changes resulting in neither increases nor decreases
(N)	new rate, service or rules
(W)	wording changes

**NEW SECTION**

WAC 480-160-070 Changing commission-published tariff - Puget Sound pilotage district

- (1) A person with a substantial interest may petition for changes to the commission’s pilotage tariff, in addition, the commission may, on its own motion, propose tariff changes.
- (2) Parties may file electronically their proposed changes using the commission's records portal.
- (3) Proposed changes must *[be submitted]* ~~[:~~  
*(a) Be* on the appropriate page(s) from the commission’s tariff template *[and include list all of the following:]*  
*(a) The name of the petitioner*  
(b) Identify the tariff item to be changed.

(c) Fully describe the proposed change *[including the dollar and percentage amounts that revenue will change if the filing is approved by the commission, and the percentage amount that rates will change if approved by the commission]*.

(d) State clearly the reason(s) for the proposed change *[including a description of each proposed change and a brief statement of the reason for the change, and a description of why the existing tariffs are not fair, just, reasonable, and sufficient]*.

(e) Include any information or documents that justify the proposed change.

(f) Provide *[a contact person's]* name, title, address, telephone number, email address.

(4) Once the commission issues an order revising the Puget Sound pilotage district tariff, it will state the date on which the rates become effective. The commission will provide a copy of the commission's updated tariff in electronic format to *[all pilot service providers in]* the Puget Sound pilotage district.

#### NEW SECTION

#### WAC 480-160-075 **Changing commission-published tariffs - Grays Harbor pilotage district.**

- (1) *[With respect to a]* petition to modify the Grays Harbor pilotage district tariff, the person with substantial interest must submit all of the following:
  - (i) The name of the petitioner;
  - (ii) A description of why the existing tariffs are not fair, just, reasonable, and sufficient;
  - (iii) A description of each proposed change and a brief statement of the reason for the change;
  - (iv) The dollar and percentage amounts that revenue will change if the filing is approved by the commission;
  - (v) The percentage amount that rates will change if approved by the commission;
  - (vi) A contact person's name, mailing address, telephone number, and email address.~~*(b) An electronic copy of the proposed tariff.*~~
- (2) Any petition for the Grays Harbor pilotage district must include:
  - (a) The port district pilotage budget,
  - (b) The prior year pilotage financial statement, and
  - (c) Official notice of the public hearing held on the proposed tariff.
- (3) Once the commission issues an order approving the Grays Harbor pilotage district tariff, it will state the date on which the rates become effective. The commission will provide a copy of the commission's updated tariff in electronic format to the *[Port of Gray s Harbor and all pilot service providers in the]* Grays Harbor pilotage district.

#### NEW SECTION

#### WAC 480-160-081 **Tariffs, approval.**

Receipt by the commission of a tariff filing does not mean that the provisions of the filing are approved. Petitioners may not implement provisions contained in tariff filings until the commission approves the filing or until the provisions become effective by operation of law.

#### NEW SECTION

#### WAC 480-160-086 **Tariffs, suspension by the commission.**

- (1) The commission may, on receiving a complaint or protest concerning rates or charges, or on its own motion, suspend tariff rates, tariff charges, or tariff rules as provided in RCW 81.04.130.

- (2) The commission will not take action to suspend a tariff, or any part of a tariff, based on a complaint or protest concerning rates or charges unless the complaint or protest is filed in compliance with the commission's rules of practice and procedure as set out in chapter 480-07 WAC.

**NEW SECTION**

**WAC 480-160-101 Complaints – Rates and Charges.**

**(1) Pilotage district responsibility.**

- (a) **Complaints from customers.** When a ~~[pilot service provider][pilotage district]~~ receives a complaint from a customer or an applicant concerning rates or charges, it must:
- (i) Acknowledge the complaint;
  - (ii) Investigate the matter promptly;
  - (iii) Report the results of the investigation to the complainant;
  - (iv) Take corrective action, if warranted, as soon as appropriate under the circumstances;
  - (v) Inform the complainant that the decision may be appealed to a higher-level representative of the ~~[pilot service provider][pilotage district]~~, if any;
  - (vi) Inform the complainant, if still dissatisfied after speaking with the higher-level representative, of the commission's availability for review of the complaint; and
  - (vii) Provide the complainant with the commission's mailing and email addresses and toll-free telephone number.
- (b) **Complaint referred by commission.** When commission consumer protection staff refer an informal complaint regarding rates or charges to the ~~[pilot service provider][pilotage district]~~, the ~~[pilot service provider][pilotage district]~~ must:
- (i) Investigate and report the results to the commission consumer protection staff within two business days (the commission consumer protection staff may grant an extension of time for responding to the complaint if requested and warranted);
  - (ii) Keep the commission consumer protection staff informed of progress toward the solution; and
  - (iii) Inform the commission consumer protection staff of the final result.
- (c) **Complaint record.** A ~~[pilot service provider][pilotage district]~~ must keep a record of all complaints concerning rates or charges for at least one year. The record of complaints and rates must be made readily available for commission review. The record must contain:
- (i) The complainant's name and address;
  - (ii) Date and nature of the complaint;
  - (iii) Action taken; and
  - (iv) Final result.

**(2) Complaints to commission.** Applicants, customers, or their representatives may file with the commission either:

- (a) An informal complaint against the ~~[pilot service provider][pilotage district]~~ under the provisions of WAC 480-07-910; or
- (b) A formal complaint against the ~~[pilot service provider][pilotage district]~~ under the provisions of WAC 480-07-370.

Annotations for PMSA Edits to “Discussion Draft Pilotage Rules”

*September 14, 2018*

**WAC 480-07:**

§ 480-07-140 (5)(d) -- Support

§ 480-07-500 (1) -- Support

§ 480-07-500 (5) -- Delete “or pilotage service district”

A “pilotage service district” – either Puget Sound or Grays Harbor - is a geographic area in which a tariff may be applied.

A “district” is not a provider of pilotage services.

In order to ensure that terms be consistently applied throughout this Chapter and WAC 480-160, the definition of a “pilot service provider” is proposed in §480-160-016(9). This language will identify pilots, whether through a company of multiple pilots or by an individual licensee. This proposed language would be defined to explicitly reference the use of the term “company” as already applied consistently throughout the entire WAC 480-07 Chapter regarding General Rate Proceedings, and a sufficient descriptor of a multitude of entities providing a multitude of services across all types of economic activities regulated by WUTC-approved tariffs.

§ 480-07-505 (1) -- Support

§ 480-07-505 (4) -- Support

§ 480-07-505 (4)(c) -- Delete unnecessary descriptive adjectives

“automatic periodic or annual” and replace with language to allow for any type of ministerial adjustments to facilitate any and all previously approved prospective tariff adjustment factors, not only these limited types of adjustments.

§ 480-07-505 (5) -- Delete “or pilotage service district”

§ 480-07-505 (5) -- Delete “, pilotage service district,”

§ 480-07-525 -- Support with revisions as noted below

§ 480-07-525 (1) -- Delete “that the petitioner intends...”, unnecessary verbage when all testimony and exhibits are filed properly.



§ 480-07-525 (1) – (3) -- Electronic copy language is duplicated multiple times, moved to new (8)

§ 480-07-525 (4)(g)– Clarifications regarding “non-regulated revenue”

§ 480-07-525 (4)(j),(k),(l) [proposed (5), (6), (7)] – Reordering, to move procedural requirements out of list of substantive provisions

§ 480-07-525 (4)(m)-(s) -- Reordering to reflect move of (j), (k), (l)

§ 480-07-525 (4)(m) [proposed (4)(j)] – Revise vessel traffic history from 12 months to 36 months in order to remove and minimize anomalies from being portrayed or interpreted as trends and to identify multi-year trends and patterns in seasonality

§ 480-07-525 (4)(n) [proposed (4)(k)] – Revise to reflect actual number of licensees as established by BPC. WAC must avoid speculative and unnecessary second-guessing of any number of potential licensing issues by parties at rate-hearings at WUTC. Likewise, rate-setting arguments have no place when the BPC is making safety and licensing decisions. Here specifically, during the creation of this new ratesetting process SSB 6519 affirmatively reserved the determination of the number of licenses exclusively to the authority of the BPC. (RCW 88.16.035(d))

The WAC should reflect the mutual presumption of the proper execution of administrative duties consistent with the RCW. BPC must take all conclusions of WUTC re rates as fair, just, reasonable, and sufficient for the provision of pilotage services. WUTC must likewise take all conclusions of the BPC regarding the determination of the number of pilots as necessary to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district.

§ 480-07-525 (4)(q) – Add required inclusion of recent annual reports with relevant data as prepared by BPC (RCW 88.16.035(f))

§ 480-07-700 (2), (3) [proposed (5) (a), (b)] – Support, Reordering

## **WAC 480-160:**

§ 480-160-001 -- Support

§ 480-160-006 -- Support

§ 480-160-011 -- Support

§ 480-160-016 -- Generally, remove ALL definitions of terms which are neither in RCW 81.116 nor in WAC 480-07 or WAC 480-160. If not used herein, then these definitions are added out of context and are surplusage. Since most of these definitions are substantive in nature and not procedural, if they are not used in RCW 480-07, then they should likewise not be utilized in RCW 480-160 and they do not need to be defined prospectively.

Prospective definition of substantive terms could also be detrimental or prejudicial to parties, who should instead be free to propose and describe relevant metrics within the context of 480-07 factors. It could also tie the hands of the Commission upon the presentation of a context or situation which is unanticipated prior to the first several rounds of petitions. If the Commission wishes to use additional substantive factors it should first turn to RCW 480-07 amendments prior to definitions in RCW 480-160.

Specifics per subsection, below:

... (1)-(5), (7)-(8), (12-14) -- Conformity delete terms not used.

... (6), (9-11) -- Support [new proposed (1)-(4)]

... [new proposed (5) &(6)] -- Conformity amendments to match terms as proposed in WAC 480-07 & 480-160.

... (16) -- Conformity amendments. [new proposed (7)]

... (17) -- Conformity delete terms not used.

... [new proposed (8) &(9)] -- Conformity amendments to match terms as proposed in WAC 480-07 & 480-160.

... (19)-(20) -- Support [new proposed (10) & (11)]

... (21) -- Conformity delete terms not used.

... (22)-(24), (26) -- Support [new proposed (12)-(15)]

... (25), (27)-(28) -- Conformity delete terms not used.

§ 480-160-021 -- Support, replace “pilotage district”

§ 480-160-026 -- Support

§ 480-160-031 -- Support, replace “pilotage district”

§ 480-160-036 -- Support, replace “pilotage district”

§ 480-160-041 -- Support, replace “pilotage district”

§ 480-160-046 -- Support

§ 480-160-060 -- Support, replace “pilotage district”

§ 480-160-062 -- Support

§ 480-160-066 -- Support

§ 480-160-070 -- Support, with clarifications to require full descriptions as included in 480-160-075

§ 480-160-075 -- Support, with clarifications

§ 480-160-081 -- Support

§ 480-160-086 -- Support

§ 480-160-101 -- Support, replace “pilotage district”