

May 7, 2020

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VIA WEB PORTAL AND E-MAIL

Mr. Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
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State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Re: TP-190976; *WUTC v. Puget Sound Pilots*; Opposition to Continuance of Proceedings

Dear Mr. Johnson:

On behalf of Puget Sound Pilots (“PSP”) and, pursuant to WAC 480-07-385(3), we are submitting this response to the correspondence of Intervenor Pacific Maritime Shipping Association (“PMSA”) of May 6, 2020 which seeks a continuance now amounting to seven-plus months, to file response testimony to the general rate case filed in this matter on November 19, 2019 by PSP to June 26, 2020.

PMSA correctly notes in its letter that PSP now opposes this request. While it previously supported the initial extension to the schedule granted in Order 04 of March 31, 2020, it does not support any further delay in the scheduled proceedings. PMSA continues to allude to the lockdown environment occasioned by Governor Inslee’s stay at home order due to the pandemic, asserting it continues to impact preparation of its testimony, but PSP would note that its case and supporting exhibits were available to PMSA for more than four months before the lockdown order was issued. Moreover, even with the lockdown order in effect, PMSA has nevertheless managed to prepare and propound approximately 170 additional data requests (now totaling 413) to which PSP has timely responded and PMSA has similarly responded in required fashion to date to PSP’s requests, thus, fact and evidence gathering appears to be continuing apace. Moreover, PMSA, through counsel, has indicated it will be presenting two witnesses total, one of whom is based in Seattle. PSP’s direct case involves more than five times that number of witnesses all but one of whom has had voluminous data requests directed to that individual witness and all of whom have been variously accessible by telephone, email, “Zoom,” “Team” and other media to respond, which court systems, administrative agencies, businesses and law firms have all increasingly relied upon to keep adjudications functioning in this new “social distancing” era.

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While Order 04 certainly anticipated the possibility of further schedule adjustments, PMSA's reliance upon the continuing "lockdown environment" does not provide any additional just cause basis for further delays, let alone, provide any articulable explanation for asking PSP to agree again to further extend the suspension date now implicitly into the next calendar year.¹

PSP acknowledges that a "new normal" will undoubtedly bring attendant adjustments to this and future Commission proceedings. Whether that be masks, gloves or more routine virtual or remote hearings or portions thereof, all parties will have to become more flexible and versatile in case development and presentations, disrupting established norms of adjudication processes.

For now, PSP believes the schedule as revised on March 31 should remain in place and which PSP is factoring in for interacting with rebuttal phase witnesses before the Intervenor and staff responsive testimony is even filed. PSP, again, does not believe that any additional rationale for delaying this proceeding has been demonstrated by PMSA, save for the fact that the pandemic is on-going and that accommodating inconveniences posed thereby is still required. Finally, PSP notes various types of "accommodations" will be confronting us for weeks and months to come and urges the Commission to continue operations here as it has elsewhere in the ordinary course to the greatest possible extent.

Yours truly,

WILLIAMS, KASTNER & GIBBS PLLC

s/ David W. Wiley

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¹ PMSA also ignores the calendar compression that numerous case delays have undoubtedly created for the Commission, which, upon the first continuance, was only able to secure two isolated days in the month for an August hearing in this matter, and, which, seeking to delay the hearing date further into the fall, undoubtedly increases scheduling conflicts for the Commissioners, ALD, staff, the AG's, PSP and its counsel.