



October 2, 2018

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Comments re: DRAFT Puget Sound District Tariff V1.0 – “Straw Man” Tariff

Dear Mr. Kermode,

Thanks for putting together version 1.0 of the “straw man” of the Puget Sound District Pilotage Tariff and for reaching out to solicit comments from PMSA. We completely agree with this type of practical approach as a starting point for developing the actual tariff which will be effective July 1, 2019 and as a vehicle for improving and standardizing the tariff ahead of the consideration of any rate petitions.

We are submitting these comments via this letter in order to identify themes, potential issues, describe our thoughts, and suggest improvement, in addition to suggesting specific document edits. But, if you would prefer another format, such as direct redlines of the draft tariff, we can provide those as well if that alternative format would make your task easier. Like with any other first draft, we have numerous comments and suggestions, but we submit it all to you as our constructive criticism and our honest take.

1) Consistent With and Limited To the Current Law Tariff

Obviously, it is of paramount importance to PMSA that the first tariff document published by the UTC only reflect the tariffs already established by the BPC. This is also what is required by the rate reform legislation. (See §11, SSB 6519). This would be the tariff as currently published (WAC § 363-116-300) and related provisions of the RCW and WAC dealing with vessel payments.

This will ensure that when Tariff No. 1 becomes effective, presumably on July 1, 2019, that it facilitates the seamless transition of authority over rates from the BPC to UTC without any hiccups which may result in changes to the existing rates – an outcome which would be unanticipated by pilots or customers and unlawful without a petition.

2) Tariffs Should Be Solely Comprised of the Rates for Pilotage Services and Should Studiously Avoid Listing of BPC Regulated Pilotage Operations Or New Interpretations of BPC Regulated Operations

This first tariff should not include any extraneous provisions or regulatory considerations that are not directly related to the current language of the tariff. The Legislature granted authority to the UTC only to “establish in tariffs the rates for pilotage services provided under chapter 88.16 RCW.” (See §8, SSB 6519)

We believe that this is best implemented literally, with the two functions handled distinctly and separately. The manner in which pilotage services are provisioned under 88.16 RCW is the domain of the BPC, but the rates for pilotage services must be set in tariff by the UTC. That should mean that this tariff should not include any Operational Requirements, only the rates necessary to compensate for those operations as designated and performed pursuant to the BPC licensing authority.

3) Tariffs Should Not Adopt New Operations Standards Which Are Not Already In a WAC or RCW, Not Codify Privately Adopted Internal Rules of Pilots

This first tariff cannot be used to adopt new standards or practices which are not already found in a WAC or RCW, because that would be a change, and it would take a petition to the UTC to implement any change. Any current practice of the pilots which is only informal and has not been adopted by the BPC in the tariff cannot be considered a part of the current tariff and included. For right or wrong, and whether or not we believe the practice to be lawful, the private rules of pilots have historically been changed by the pilots at any time, without public notice or input, and without blessing formal or informal by the BPC.

4) Tariffs Should Include Definitions for Terms Which Are Already In the Tariff, With the Most Accurate Definitions Possible, In Order to Ensure Clarity and Consistency of Rate Application

This first tariff does pose the opportunity to significantly improve on and clarify the terms of the existing tariff adopted by the BPC. It is important that the UTC, the public, pilotage customers, and the pilots doing the billing understand the provisions of the tariff, that charges can be explained clearly and easily, that no extrinsic aids or private recollections be required in order to understand a tariff provision, and that the tariff's rates be as clear and concise as possible. These should be written in such a manner as to only reflect current understandings of terms by the BPC, pilots, and industry in order to ensure that effective rates are neither increased or decreased by the definition.

We applaud the effort in this first draft to achieve these improvements and the effort to comprehensively begin to define terms that are currently left to convention and vague understanding or private speculation under the current tariff provisions.

5) Tariffs Should Not Include Extraneous Definitions & Provisions More Related to Ratesetting Processes and Rate Analysis than to Describing a Rate for Service

We do not believe that the tariff document itself needs to include definitions which are principally related to the analysis of the tariff's provisions or of possible utility to the ratesetting process. While PMSA very much appreciates that UTC recognizes that many of these analytical yardsticks of pilot work and compensation yield significant measures of their actual workloads and relative rates of pay, most of these terms are unnecessary to include in the provisions of the tariff itself.

6) Consideration of a Disclaimer for the Draft Straw Man

We request that you consider adding to the first Tariff a disclaimer that reflects §11, SSB 6519, such that while the UTC may be publishing this Tariff effective July 1, 2019, this tariff was never adopted by the UTC and is a representation only of rates previously adopted by BPC. Obviously such a disclaimer should be removed in the future, after the adoption of a tariff by the UTC after a successful petition.

7) Specific Suggested Edits, by Page

Pg 1: Tariff Title ("PSP TARIFF NO. 1")
The title and its abbreviation "PSP" could cause confusion as it is already a well-utilized acronym in this policy area, related to the Puget Sound Pilots Association. Would suggest an alternative title for this Tariff based on WAC proposed language: "Puget Sound Pilotage District Tariff (PSPD Tariff No.1)".

SECTION 1

Pg 5: Application of Tariff
Add Disclaimer (see #6 above)

Proposed Tariff Changes – TYPO
"Changes resulting in neither increases nor decreases"

Proposed Tariff Changes – CLARIFY
Suggest "New rates, services, or regulations"
Use of the term "rules" may be confusing given usage of private PSP rules

Pg 6 – Pg 9: Definitions
Include all Definitions necessary to describe Existing Tariff Items
Add and Delete Definitions (see #4, #5 above)

Delete:
"Assignment"
"Average Assignment Time per Ship Movement"
"Average Bridge Time Per Assignment"
"Average Assignment Time Per Ship Movement"
"Average Time Per Assignment"

“Compensatory Days”
“Gross Pilotage Revenue”
“Gross Pilotage Revenue per Assignment”
“Non-revenue Activities”
“Number of pilots”
“Pilotage unit”
“Puget Sound Pilots”
“Revenue Per Assignment”
“Ship Movement”
“Target Assignment Level”

Add

“Bridge Charge”
“Bridge Watch”
“Compass Adjustment”
“Delayed Arrival”
“Docking Delay After Anchoring”
“Harbor Shift”
“Launching Vessels”
“Live Ship”
“Normal Speed Capabilities”
“Passenger Vessel”
“Pilot Boat Fee”
“Pilotage Station”
“Predicted Arrival Time”
“Radio direction Finder Calibration”
“Sailing Delay”
“Slowdown”
“Towing Charge”
“Transportation to Vessels on Puget Sound”
“Trial Trips”
“Waterway Charge”

NOTE: With respect to the existing and newly proposed definitions, we look forward to working with UTC to refining and adding those which are necessary in order to properly and clearly apply the tariff. Once a list of terms is agreed upon, we would suggest all stakeholders be asked to comment on their accuracy.

Also, as mentioned in our rulemaking comments, we very strongly support the use of metrics like “average revenue per assignment” or “bridge hours (hourly rate)” in the ratesetting process. As an example, metrics like revenue per assignment are built into monthly report to the BPC from staff and have been referred to in rate hearings and in negotiations of revenue neutral tariff adjustments. Our comments here are limited to whether or not they should be published in this document, not to their usefulness as metrics.

SECTION 2

- Item 10: Pilotage Station - DELETE
Move to new "Pilotage Station" in Definitions Section
Move Boundary Pilotage requirement to BC Direct Section
- Item 20: Procedure for Ordering a Pilot – DELETE
Operational Restraint, Not a Rate
Not in Current Tariff
Not in Current WAC
Private rules of PSP should not be codified in Tariff
- Item 30: Cancellation of Pilot Assignment - DELETE
Covered under "Cancellation" in Definitions Section
- Item 40: Delayed Arrival – DELETE
Move to new "Delayed Arrival," "Docking Delay," and "Sailing Delay" in Definitions Section
- Item 50: Harbor Shifts – DELETE
Move to new "Harbor Shift" in Definitions Section
- Item 60: Bridge Watch - DELETE
Move to new "Bridge Watch" in Definitions Section
- Item 90: Docking and Undocking Certain Vessels by the Vessels' Masters – DELETE
Operational Restraint, Not a Rate
Not in Current Tariff
Not in Current WAC

Section 3

- Item 200 – "PUGET SOUND PILOTAGE Rates"
Rename to "Miscellaneous Pilotage Rates" as all rates for all items collectively are Puget Sound Pilotage Rates, not just this Item 200.
- "Harbor shift – Dead Ship" – "Double LOA Zone 1", and Throughout
Express term "Double" numerically
- "Harbor shifts shall..." - DELETE
Move to new "Harbor Shift" in Definitions Section
- "Any tow exceeding..." – DELETE
Already included in new "Harbor Shift" in Definitions Section
- "Trial Trips".... – CLARIFY
6 hours at rate is \$1,014, but that is also listed as the minimum.
Is rate for 6+ hours applied cumulatively or marginal after 6 hours?

“Shilsole Bay...,” “Salmon Bay ...,” and “Lake Union ...” – MOVE or DEFINE
Move to Item 220 along with other Waterway Charges
or
Define these charges clearly as vessel transits

Item 210 – Tonnage Charges

“Zero to 20,000 gross tons” – TYPO
\$0.0084 per gross ton

“Transportation to Vessels on Puget Sound” – MOVE to new ITEM 260
Transportation to Vessel Charges are not Tonnage Charges and should not
be included in Item 210. Suggest Item 260.

Item 220 – Waterway and Bridge Charges

Table is confusing when based on Beam Size. Instead, please list (l to r)
vessel transits first, ships based on beam and pilots second, then charges.

Item 230 – Delays

“Slowdown” – CLARIFY
First half of sentence is a definition. Move to “Slowdown” Definition.
In second half of sentence, add phrase consistent with others in this
Item: “No charge if slowdown is 60 minutes or less. If slowdown is more
than 60 minutes, then ...”

Item 240 – LOA Rate Schedule

“and includes retirement fund contributions.” - MOVE
Appreciating that this is taken directly word-for-word from the existing
tariff, this phrase should be moved to the LOA definition. It is less than
clear what it is intended to convey to a ratepayer who is looking at the
table or why it would be relevant to rate calculation in any way.

Item 260 – Self-Insurance Premium Surcharge – MOVE/DELETE

MOVE to Consolidate All Statutory Surcharges in Item 290
INSERT Transportation charges table as new Item 260

Item 270 – Miscellaneous Charges – RENAME / CLARIFY

Rename to “Payment Charges,” suggest Item 200 as “Miscellaneous”
Expand and be more precise about the payment terms of “1 ½ percent”

Item 290 – Training Surcharge – RENAME / ADD ITEMS

Rename to “Statutory Surcharges”

Add new line for “Commission Tariff Cost-Recovery Surcharge”

Add “Self-Insurance Premium Surcharge” from Line 260

Re "Training Surcharge," delete phrase "On January 1, 2011,"

Thank you again for reaching out to us early on the development of the Tariff strawman. We're looking forward to working together to over the next several months to get this really tightened up and looking as good as possible before July 1, 2019.

Sincerely,

A handwritten signature in blue ink that reads "MR Moore". The signature is written in a cursive style with a long horizontal stroke at the end.

Capt. Mike Moore
Vice President

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