Exh. MM-01T
Docket TP-250574
Witness: Michael Moore

BEFORE THE STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant, v. PUGET SOUND PILOTS, Respondent.	Docket No. TP-250574

TESTIMONY OF

Captain Michael Moore

ON BEHALF OF

PACIFIC MERCHANT SHIPPING ASSOCIATION

PMSA's Positions on the Tariff and Pilotage Service

January 2, 2026

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I. INTRODUCTION

Q: Please state your name, position and business address.

A: Captain Michael Moore, Vice President, Pacific Merchant Shipping Association ("PMSA"), 2200 Alaskan Way, Suite 160, Seattle, WA 98121.

A. PMSA's Interest in This Proceeding.

Q: Describe PMSA.

A: PMSA is a mutual benefit trade association that represents ocean carriers, marine terminal operators, and other companies with interests in the successful operations of seaports on the US West Coast in legal, public policy, and regulatory matters that impact maritime commerce.

Q: Describe the interest of PMSA in this proceeding.

A: PMSA is an interested stakeholder in this proceeding as a representative of its member companies that are ratepayers required to use and pay state-licensed pilots the rates established by the tariff established by the Commission for the Puget Sound Pilotage District in the State of Washington.

B. Witness Background.

Q: Did you testify on behalf of PMSA in the two prior Puget Sound Pilots ("PSP") general rate cases before the Commission?

A: Yes. I provided testimony on behalf of PMSA both PSP prior general rate cases, dockets TP-190976 and TP-220513.

Q: Have any of your qualifications changed since the prior two cases?

A: No, my work history—my experience with navigational safety, vessel operations, and maritime industry affairs during both my service with the U.S. Coast Guard and during my tenure with PMSA—remains unchanged. I have continued to be involved in the same work with the same objectives: to achieve the goals of a safe, efficient, economically competitive, and environmentally sustainable maritime transportation system. I am personally committed to continue to achieve these goals which were the primary focus of my marine safety career in the U.S. Coast Guard. My CV is attached here as Exhibit MM-02.

II. PURPOSE AND SUMMARY OF TESTIMONY

Q: What is the purpose of your testimony?

A: The purpose of my testimony is to present PMSA's position regarding PSP's petition for a general rate increase. My testimony will demonstrate that the current tariff is performing as intended and that PSP's requested rate increases are not justified by the evidence.

Q: Please summarize PMSA's general position with respect to the PSP request for a rate increase.

A: PMSA opposes the petition to increase pilotage rates by approximately 52% in nearly every category. The petition does not present a sufficient basis for

the dramatic rate increases proposed. The Commission's current tariff is performing as designed, and the existing formulas and processes that created the current tariff are presumptively fair, just, reasonable, and sufficient.

Pilot income under the current tariff is outperforming the Commission revenue requirement. The total revenue requirement approved by the Commission in the prior rate case was approximately $42 million. In 2024, the test year in this case, the current pilot tariff was generating total revenue of $43,650,014, thus outpacing the revenue requirement by 3.9%.

The Commission's adopted current tariff is performing as projected for per-pilot distributable net income ("DNI"), despite over-staffing and a continued erosion of pilot efficiency. The current tariff funded 56 pilots at a DNI of $475,733 per pilot, for a Total DNI ("TDNI") of $26.6 million. In the 2024 test year, adjusted per-pilot DNI was $468,330,[1] for a 56-pilot TDNI of $26.2 million. This test year TDNI is at 98.6% of the Commission's target total compensation.

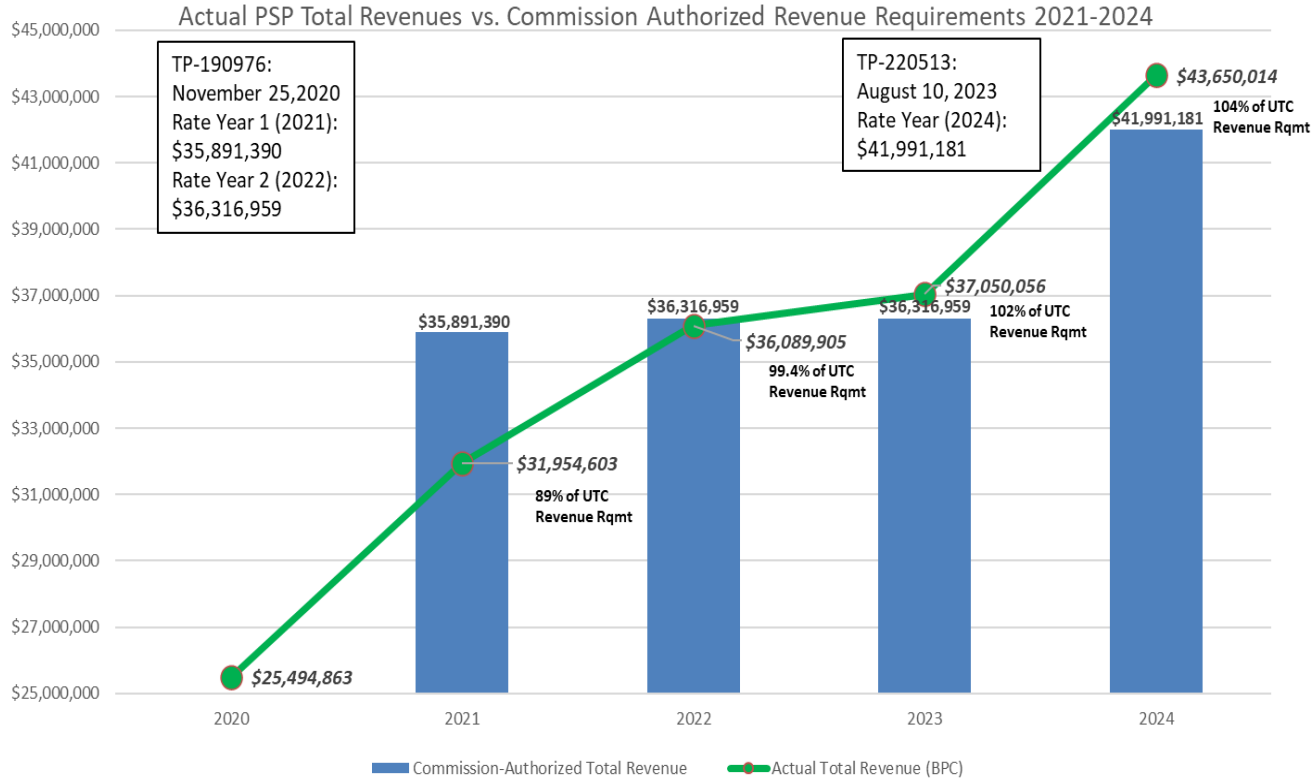
Given the current performance of the tariff, PMSA opposes this petition's proposal to increase pilotage rates by over 50% in nearly every category and to increase per-pilot DNI by over 70%. These proposed increases are unreasonable, unjustifiable, and not rooted in the application of any UTC precedents adopted under the prior two general rate cases, dockets TP-190976 and TP-220513. The Commission should reject PSP's continued attempts to secure significant increases that are dramatic departures from existing rates.

[1] For more explanation of the adjusted 2024 DNI, see Exh. MM-29, DNI Worksheet.

Q: How does the test year's 104% outperformance of the Commission's revenue requirement reflect on the tariff-setting process?

A: The Commission should be proud that the actual revenue performance from 2021–2024 demonstrates that these tariffs are performing exactly as designed and are generating revenues that meet and exceed the Commission's authorized revenue requirements. As noted in Exhibit MM-03 and in Figure A below, after a soft start in 2021, PSP revenues in 2022 were at 99.4% of the Revenue Requirement, in 2023 they were at 102% of the Revenue Requirement, and in 2024 they were at 104% of the Revenue Requirement.

FIGURE A.
Actual PSP Total Revenues vs. Commission Authorized Revenue Requirements 2021-2024



Given the successful historic performance of the current rate process and its formulas to generate pilot revenues at or exceeding the Commission's revenue requirement there is no basis for any claims that the tariff is underperforming. Just the opposite, the current tariff-setting formulas and processes are clearly well tailored and calibrated to the current market.

Q: In light of the evidence submitted in this case, please summarize PMSA's position of how the Commission should rule.

A: PMSA supports reasonable adjustments to the tariff in a manner consistent with the established formulas, findings, and conclusions adopted in the final orders in the last two rate cases.[2]

Applying the evidence to those existing rate-setting methods and formulas in this case justifies small, incremental changes to a tariff that is already sufficient. These are fair and reasonable changes that I will discuss in more detail.

But PSP proposes a steep increase in rates with dramatic jumps in the tariff and unreasonable, completely unprecedented increases in DNI. PSP's petition represents severe departures from the prior tariffs set by the Commission and is not based on any described and proven issues preventing implementation of the State of Washington Pilotage Act. PMSA opposes these proposed changes because they are not justified and reasonable.

We also oppose these changes because the prior tariffs produced rates that the Commission concluded were fair, just, reasonable, and sufficient.

[2] *WUTC v. Puget Sound Pilots,* Docket TP-190976, Final Order 09 (Nov. 25, 2020) [hereinafter Final Order 09]; *WUTC v. Puget Sound Pilots,* Docket TP-220513, Final Order 08 (Aug. 10, 2023) [hereinafter Final Order 08].

Moreover, hindsight bears out that they were fair, just, reasonable, and sufficient as the tariffs produced the expected results whereby all authorized expenses were covered, per pilot DNI is robust and on-target, the Puget Sound pilotage district continued to attract and retain BPC–qualified, vetted and approved candidates and trainees, and the overall revenues generated for the actual mix and volume of shipping resulted in income which exceeded the Commission's revenue requirement.

This case presents a clear choice: PMSA agrees with the Commission's established rate-setting methods, and PSP does not. PMSA asks the Commission to apply the facts and evidence in this case to the legal conclusions from its prior decisions. In contrast, PSP once again asks for a steep increase in rates, TDNI, and DNI based on fundamentally flawed arguments and little to no supporting evidence, resulting in an unreasonable and unjustified proposed tariff.

Q: Are there parts of the PSP proposal that PMSA agrees with and should be included in the new tariff?

A: Yes, in fact PMSA does not object to many of PSP's requested increases in their expenses as PMSA recognizes them as fair and reasonable. For example, PMSA agrees with most of the PSP's new proposed Port Angeles Expense Charge.

Further, PMSA has agreed in principle to the creation of two new surcharges, one for pilot boats and another for the PSP five-year capital plan. Given the parties' agreement in principle and the imminent filing of a partial stipulation to this effect, PMSA will not include this topic in its testimony.

Finally, PMSA also proposes to substitute a new retirement expense item for the prior partial funding of the pilots' unsustainable pay-go system. The new item would be equivalent to what an individual pilot could expect from a typical employer in matching individual contributions, like into a 401(k) program, as if the pilotage system were not a monopoly but were instead operating in a competitive market space with employers and employees. This proposal does not require PSP to adopt any particular type of retirement plan. Rather, it would leave PSP or individual pilots responsible for deciding how to handle retirement planning. And it would abandon PSP's current unfunded, unsustainable, and unreasonable system in which current ratepayers fund payments for currently retired pilots. This proposal, if adopted, will also simplify future proceedings by eliminating the issue of the type of retirement plan PSP and individual pilots actually decide to adopt from ratemaking entirely.

Taken together, PMSA is agreeing to some significant increases in the tariff to pay for justified increases in certain PSP expenses, in addition to a new charge for pilot retirement contributions and new increases for PSP capital improvements, including pilot boat retrofits. We believe PMSA's proposals are generous, in addition to being fair, just, reasonable, and sufficient.

Q: What are some of PMSA's biggest objections to PSP's petition in this case?

A: PSP has not presented compelling evidence for its proposed significant increase in the revenue requirement and its dramatic deviations from Commission-approved precedent and formulas. Nearly all of the

Commission findings in the last two rate cases remain valid and applicable in this case. These include the Commission's rejection of PSP's arguments for using a selected set of other pilotage grounds as a benchmark for compensation in lieu of applying the established "attract and retain" criteria to gauge sufficiency, its rejection of including pilot commutes from their homes in transportation expenses, and its direction to reform and resolve the challenges of PSP's current unsustainable approach to retirement.

Q: Summarize your concern with PSP's challenge to the Commission's "attract and retain" methodology.

A: The Commission has decided multiple times that the Puget Sound pilotage district historically offers rates that are sufficient to attract and retain pilots:

- Final Order 08:
  - Finding (7) "The number of candidates taking the BPC pilotage examination for the Puget Sound pilotage district has varied over the last 15 years, regardless of variations in DNI over time."[3]
  - Finding (8) "There has never been a pilot opening in Puget Sound without a BPC-qualified candidate in training or waiting to train."[4]
- Final Order 09:
  - Finding (19) "The record evidence fails to demonstrate that PSP is experiencing a shortage of applicants for the Puget Sound pilot training program administered by the BPC. The BPC maintains a

[3] Final Order 08, ¶ 421.
[4] Final Order 08, ¶ 422.

multi-year waiting list for those seeking training and licensure in the Puget Sound pilotage district."[5]

- Finding (20) "The record evidence demonstrates that PSP pilots do not leave the Puget Sound pilotage district to work in other districts, that they frequently work until the mandatory retirement age of 70, and that PSP's historical compensation levels have not resulted in attrition."[6]

Now, too, the underlying pilot trainee pipeline continues to be robust with state Board of Pilotage Commissioners ("BPC") vetted and approved candidates eager for the opportunity to be licensed pilots. The most recent trainee and exam statistics show that the current rate structure is highly successful at continuously keeping the Puget Sound pilotage district attractive and competitive for candidates.[7]

This evidence demonstrates that there is no need to debate whether the established formula satisfies the "attract and retain" standard. But PSP once again proposes to jettison the Commission's existing approach and instead substitute a flawed "national average" basis for DNI. PSP no longer argues any failure to "attract and retain"; it simply presents another flawed national "survey" of pilot compensation as the basis for DNI. Not only is this latest comparison study riddled with many of the same non-sequiturs, inconsistencies, and gaps as in the previous two cases, but it is also irrelevant to the controlling legal standard for "attract and retain."

[5] Final Order 09, ¶ 417.
[6] Final Order 09, ¶ 418.
[7] *See* Exh. MM-11; Royer, Exh. JR-02.

Q: Summarize your concern with PSP's challenge to the Commission's methodology on transportation expenses.

A: PSP also attempts to re-open the issue of transportation expenses again, without any new justification for doing so. The Commission has already ruled on this twice. PMSA can only agree to increasing these rates consistent with the existing methodology for transportation, not to expanding rates to include pilot commutes to and from their residences—a notion the Commission has repeatedly rejected. As stated in Final Order 08:

> PSP requests that the Commission allow it to recover a broader range of transportation expenses, but it again fails to justify this proposal. PSP does not explain why the association should be compensated not merely for the costs of pilots commuting from the Seattle office to pilotage assignments but for pilots commuting from their individual homes to their assignments. The Commission clearly articulated its reasoning in Final Order 09, and these findings are largely overlooked.[8]

Q: Summarize your concerns in this case regarding retirement.

A: PMSA must object to yet another delay in addressing the deficiencies of the current internal disaster of a retirement system that PSP has continued to maintain for the past five years since the Commission declared it to be unsustainable. As stated in Final Order 09 Finding 24: "PSP's unfunded retirement program is fiscally unsound, vulnerable to changing economic conditions, and does not recognize the extent of liability incurred."[9] Prospective approval of PSP's desired future defined benefit retirement system cannot serve as an excuse for further delay in resolving this issue as

[8] Final Order 08 ¶ 350.
[9] Final Order 09 ¶ 422.

a rate-setting matter. Even PSP's own retirement expert acknowledges that the proposal is inconsistent with federal rules and unlikely to be approved; yet PSP continues to advance an impractical plan.[10]

A more prudent approach is to allow PSP or its pilots reasonable access to the same types of retirement instruments commonly used in private business, such as SEP-IRA or 401(k)-type programs. At a minimum, whatever PSP opts to do, ratepayers should not have to pay more than what employers typically contribute to such programs. That is why PMSA is proposing to resolve this issue by removing payments for the existing PSP system and instead imposing a new charge based on an "employer match" theory.

Q: Have there been any significant changes in the conditions of the pilotage district or the job done by pilot licensees in the Puget Sound since the completion of the last rate case?

A: No, there have not been any significant changes in the present conditions of pilotage, including no significant changes in the risks to pilots in the provision of the pilotage service, risks to vessels under pilotage, or changes in the rules and regulations which regulate pilotage.

Q: Does the PSP testimony allege any significant changes in the conditions of the pilotage district or the job done by pilot licensees in the Puget Sound since the completion of the last rate case?

A: No.

[10] Hoffman, Exh. SKH-01T at 5:22-6:8; Exhibit SKH-05.

Q: Does PMSA believe that the safety of the pilotage district or the job done by pilot licensees in the Puget Sound has degraded or been compromised in any way since the completion of the last rate case?

A: No, to the contrary. The overwhelming majority of pilotage jobs that are completed are done safely, competently, and professionally and without incident. The Puget Sound's excellent safety record was unassailable when the first PSP rate case was filed in 2019 and when the second PSP rate case was filed in 2022; it remains strong today. In fact, PMSA believes that when the state BPC licenses the individual pilots of PSP it is an endorsement of the fact that they are each highly skilled, well-trained, and, to a person, capable of completing many more jobs safely, competently, and professionally each year than most currently are asked to do. We have the utmost confidence in PSP's individual member pilots' professionalism, competency to execute their duties, and faith in their ability to safely navigate vessels. We also know that licensed pilots' duties, core competencies, and commitment to safety exist independent of the rate that is being paid by the vessel that they are piloting. We also have confidence in the BPC to appropriately test, train, and issue licenses to new candidates and in the BPC's exercise of its authority to conduct a fair and full investigation, and prosecution if necessary, of any incidents or accidents involving a licensee.

Q: Are there any clarifications or reservations that you would like to add to this testimony?

A: Yes. While some of my testimony will touch on areas of PSP's expenses and costs that PMSA finds objectionable, we do not possess the high level of

expertise in regulatory accounting possessed by the UTC Staff ("Staff"). Because the Staff testimony is due simultaneously with my testimony, I intend to comment on the technical aspects of the costs as presented in PSP's petition in our cross-answering testimony to Staff, as necessary.

Q: Please provide a short summary of all the various pieces of testimony that are to be provided by PMSA in response to the PSP petition.

A: The testimony filed by PMSA in response to the PSP petition includes testimony by the following:

- Myself, as Vice President of PMSA, to address PMSA's positions in this matter, at Exhibit MM-01T *et seq*.
- Susan Hoffman, of Justican Mediation LLC, to address issues regarding PSP's pilot retirement planning, at Exhibit SKH-01T *et seq*.
- Dr. Spencer Cohen, of High Peak Strategy LLC, to address issues regarding the adequacy of PSP's submitted "national average" study of pilot compensation and the use of CPI in the pilot compensation context, at Exhibit SC-01T *et seq*.
- John Veentjer, retired Coast Guard Captain and Chief of Marine Safety for the Pacific Northwest Coast Guad District, former Executive Director of the Puget Sound Marine Exchange and long serving former Chair of the Puget Sound Harbor Safety Committee, to provide vessel traffic data and trends, at Exhibit JV-01T *et seq*.
- Jordan Royer, PMSA, to present true and correct copies of documents and evidence for the record and to support other testimony, at Exhibit JR-01T *et seq*.

III. CURRENT UTC TARIFF FORMULAS & CALCULATION METHODOLOGIES GENERATE FAIR, JUST, REASONABLE & SUFFICIENT PILOTAGE RATES

A. The Current Tariff Formulas Should Be Retained Because They Result in Fair, Just, Reasonable, and Sufficient Pilotage Rates.

Q: In the current rate case, does PMSA support continuing to use the existing tariff formulas established in the prior two rate cases?

A: Yes. PMSA supports the continued use of the tariff formulas that the prior pilotage cases established as "fair, just, reasonable, and sufficient." We understand that these cases established that, in the context of pilotage tariffs:

1. "fair" refers to the balance of fair prices for services to PSP's customers balanced against fair pay for pilots;
2. "just" refers to being based solely on the record in the rate proceeding;
3. "reasonable" refers to being within a range of outcomes supported by the evidence; and
4. "sufficient" refers to meeting the pilots' needs to cover their expenses and to attracting and retaining pilots.[11]

My testimony will use this same framework for evaluating the evidence in this case.

Q: Why does PMSA support continued use of the existing formulas?

A: These formulas were adopted in foundational cases that were exceptionally robust processes in which all parties had ample opportunity for input on the rate formula. All interested parties provided input and evidence, and Staff

[11] *See, e.g.*, Final Order 08 ¶¶ 44, 48–49, 55–59.

brought their lengthy regulatory ratemaking expertise to bear on determining the formulas that make the most sense for this type of service. The goal, which everyone seemed to share, was that the first pilotage rate cases would establish the basic formulas and structures of the rates, and that subsequent proceedings would rely on these basic formulas in order to streamline the process and focus on more minor adjustments. No party challenged the Final Orders establishing and implementing the formulas. Now the formulas are well-established. Given the evidence showing that they are working as the Commission intended and tariff funded pilotage service continues as it always has, the established formulas should not be disturbed.

Q: Has PSP asked for a different application of the formulas in this case?

A: Yes, in several ways. PSP is not addressing the "attract and retain" standard, ignoring the need to use the rate-setting formula, refusing to apply the average assignment level ("AAL") formula, not clearly projecting the number of vessels to future rate years, and requesting an entirely new operating margin formula in order to guarantee future increases in pilot DNI.

Specifically:

- PSP wants the Commission to largely ignore WAC 480-07-525(4)(m), which requires vessel traffic projections to be submitted. This is despite the Commission's emphasis in the last case that, "[i]n PSP's next general rate case, we expect that PSP clearly identifies its projected vessel assignments and provides supporting testimony on the issue" as

information "crucial to setting rates."[12] While admitting to some revisions from the test year of 2024, PSP does not even include in its filing a number for vessel projections. Instead, it has to be calculated from its testimony. PSP includes test year assignment data but not the last 12 months of assignment data prior to its filing. Further, it omits specific details of the precipitously decreased traffic in the first six months of 2025 leading up to PSP's filing of this case. And even its flawed projections include only 2025, which is not a future rate year.

- PSP wants to add an operating ratio to the overall revenue formula. The operating ratio was never considered in the first two cases, and PSP has not identified how it relates to its capital or equity accounts. PSP's own evidence shows that this tool is not justified for use in the pilotage monopoly. In fact, there seems to be no reason at all for using an operating ratio other than as a guarantee of pilot DNI, but using an operating ratio to guarantee DNI is contrary to the Commission's general philosophy in ratemaking: "The authorized DNI amounts per pilot represent an opportunity and not a guaranteed amount," and "the Commission is providing PSP 'an *opportunity*, given wise and efficient management, to earn that return,'" in the words of the Commission.[13]
- Although the Commission found that "to attract and retain pilots to perform essential pilotage service in the Puget Sound pilotage district" is the relevant analysis for whether rates are "sufficient,"[14] PSP completely

[12] Final Order 08 ¶ 380.
[13] Final Order 09 ¶¶ 106, 167 n. 298 (quoting *WUTC v. Puget Sound Power & Light Co.*, Cause No. U-83-84, Order p. 57-58 (Sept. 28, 1984) (emphasis in original).
[14] Final Order 08 ¶ 48.

omits any analysis of the latest exam, trainees, or the number of qualified applicants, and conveniently skips this topic. Instead, in the absence of this relevant evidence, PSP again attempts to substitute its flawed "national average" methodology.

- PSP completely ignores the Commission's multi-year rate-setting formula for pilot DNI. There is no analysis or application of DNI whatsoever that acknowledges the DNI calculation established in prior cases. PSP also does not provide the Commission or the public with an accounting of the adjusted DNI calculation that removes medical and callback expenses in order to evaluate DNI.
- PSP expressly opposes the application of the AAL to justify the TDNI as explicitly endorsed by the Commission in prior cases:[15] "We see no role for average assignment level ('AAL') in assisting the Commission to determine the number of pilots that should be funded in the tariff."[16] Rather, PSP simply asks the Commission to abdicate its role and adopt the BPC maximum authorized number of pilots in order to increase funding by an additional four pilots.
- PSP seeks to add commuting and now "Repositionings" to the transportation charges imposed on vessels by the tariff. But the Commission has already twice rejected the commuting expenses, and a repositioning is not a service provided specifically to a vessel; it is

[15] *See, e.g.*, Final Order 08 ¶ 158 ("By determining the number of funded pilots based on an averaging of recent pilot assignments, the Commission determines PSP's additional annual revenue requirement and provides reasonable compensation to pilots without intruding into areas properly reserved for the BPC.").

[16] Carlson, Exh. IC-01T, 36:12-13.

overhead for the pilots' business and fully recoverable through the tariff already.

I will substantively address each of these in the following sections of my testimony.

Q: Are PMSA's recommendations in this case consistent with the Commission's adopted formulas and methodologies?

A: Yes, PMSA's proposals and recommendations are based on the Commission's final orders in the two prior cases and include references to these final orders with respect to how they should be applied to the evidence in this case.

B. PSP's Proposals Are Not Supported by Work Papers As Required by WAC 480-07-525(4)(s).

Q: Are you aware of the obligations imposed by WAC 480-07-525(4)(s)?

A: Yes. My understanding of that rule is that PSP must provide calculations and a side-by-side comparison of how changes to rates would occur under both prior and proposed methodologies in its workpapers.

Q: Have you thoroughly reviewed PSP's filings in this case, and if so, did you find those required comparisons in its filings?

A: I have thoroughly reviewed PSP's filings and did not find any such comparisons.

Subsequently, PMSA specifically asked PSP to produce these comparisons in our data requests, to which PSP responded with what is shown in Exhibit MM-04. In its response, PSP still did not show the

outcomes and calculations of revenues under current methods as contrasted with the revised methods.

Q: What are some examples of where PSP has proposed changes to the calculations and methodologies but not included side-by-side comparisons?

A: PSP has proposed several adjustments not based on the calculations that were established by the Commission in the prior rate cases. First, PSP does not provide a calculation of DNI using the DNI formula. PSP provides a tailored argument for its flawed "national average" proposal but not any analytical comparison with the application of the current methodology. There is no analysis of the variance between the current methodology and their proposed methodology for DNI.

Second, PSP does not show any calculation of AAL or the number of pilots. PSP makes an argument for using the total authorized number of licenses—a very different number from the actual number of pilots licensed—for applying to the TDNI formula but never provides any comparison with the calculation for AAL or for the number of pilots.

Q: Is this lack of comparison with the AAL calculation just an oversight by PSP?

A: No. Capt. Carlson affirmatively rejects the use of AAL in Exhibit IC-01T at 36:12-14: "We see no role for average assignment level ('AAL') in assisting the Commission to determine the number of pilots that should be funded in the tariff."

Q: Will PMSA provide what it believes the baseline workpapers should look like in its testimony?

A: Yes, I include a calculation of the DNI and AAL formulas in my testimony.

C. PSP's Filing Is Missing the Projected Vessel Assignments Required Under WAC 480-07-525(4)(m) and Final Order 08.

Q: When PSP proposes a new rate, does it have any obligations to provide projected vessel assignments in its workpapers?

A: Yes. WAC 480-07-525(4)(m) requires PSP include in its filings with the Commission "projected changes in vessel assignments and a detailed portrayal of vessel assignments."

Q: Has PSP provided the required projected changes in vessel assignments here?

A: No. Vessel projections, which are necessary to populate the formula components of TDNI, need to be prospective and applicable to the formulas for future years. PSP did not submit a projection of vessel traffic for 2026 or beyond. PSP limited its vessel assignment submission to the test year of 2024, which was not the trailing 12 months before filing. Although it provided some adjustments for projections to 2025, a year which has already completely passed by the time this testimony has been filed, even this testimony is unreliable as it did not capture PSP's actual 2025 data on known vessel and assignment numbers and trends for the first half of 2025. PSP has not clearly identified or clearly provided in its work papers or in its pro forma any prospective estimates of changes in vessel assignments for any future rate year, including 2025. In other words, PSP provides no vessel

projections of any kind for any future rate year, be it 2026, 2027, or beyond, and what it did provide for 2025 was incomplete and wrong.

Q: Might this be an oversight by PSP?

A: No. PSP's testimony expressly states that it is refusing to make any projections beyond its 2024 baseline and acknowledged that it was only providing limited adjustments for 2025, even though half of 2025 had already passed by the time PSP submitted its testimony, and it could have presented an outlook which was representative of actual assignments. Like PSP's ill-received claim in the prior case that "it is 'impossible' to predict vessel traffic,"[17] PSP's testimony now claims "it is always difficult to project vessel traffic in the future" as grounds for not including vessel projections. But PSP did not even utilize its known 2025 vessel traffic statistics in its possession for projecting 2025 traffic.[18] Also, since PSP presumably understood at the time of filing that any tariff change would not be in effect in 2025, it begs the question of what PSP thought the Commission would rely on for a vessel projection in the record.

Q: Did PSP provide any projected changes in vessel assignments in the prior cases?

A: Yes and No.

In the first rate case, PSP clearly understood the requirements of WAC 480-07-525(4)(m). PSP submitted the future year projected vessel traffic

[17] Final Order 08 ¶ 380.
[18] Carlson, Exh. IC-01T at 55:16-21.

estimates of Dr. Khawaja to satisfy this requirement.[19] Staff then reviewed this and performed its own analysis of the historic number of vessel assignments to predict future vessel traffic changes.[20]

But in the second rate case, PSP provided no testimony whatsoever with a future year projection of vessel assignments beyond 2022, the test year.[21] After a bench request was issued asking PSP to state whether it had any number to apply to a future rate year, PSP in response pointed to a number buried in an accounting witness's revenue projections (not an actual vessel projection).[22] And another PSP witness claimed, to the Commission's disbelief, that it was "impossible" to predict vessel traffic.[23]

After that, the Commission issued a clear directive to PSP for future rate cases:

> We expect PSP to clearly identify its projected changes in vessel assignments and provide supporting testimony on the issue. Projected rate-year vessel assignments are crucial to the rate setting process and required by Commission rule. PSP should adhere to regulatory standards when submitting information for a future general rate case filing.[24]

In requiring PSP "to clearly identify" the vessel projections in its future filings, the directive intended to put an end to any ambiguity about this fundamental rate-setting input.

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[19] *See, e.g.*, Final Order 09 ¶ 364.
[20] Final Order 09 ¶ 363.
[21] Final Order 08 ¶ 380.
[22] Final Order 08 ¶ 380, n. 707.
[23] Final Order 08 ¶ 380, n. 707 (noting that PSP witness "Eriksen's own testimony shows that the traffic by vessel category is relatively consistent, and declined slightly, over the last five years, with notable the exception of cruise ship traffic during the COVID-19 pandemic" and that it was "unclear why Eriksen could not provide the projection of vessel traffic required by Commission rule" rather than an accounting witness).
[24] Final Order 08 ¶ 380.

Q: Given this directive, what did you expect to see in PSP's filing?

A: In my view, "clearly identify" means stating the projected rate year vessel traffic as a single, unambiguous number in testimony, with clear supporting calculations showing how that projection was derived from the test year or other historical vessel trend data. It should not require parties or the Commission to perform forensic Excel analysis to find, calculate, or determine what PSP's actual projection is.

Q: Has PSP complied with this directive in the current proceeding?

A: No. PSP does not "clearly identify" an unambiguous number of projected vessels in its testimony. Also, PSP does not clearly use that number in its projections, does not provide clear supporting calculations, and uses multiple conflicting vessel traffic numbers without reconciling them.

Q: How many different vessel traffic numbers does PSP use in its current rate filing?

A: As I will explain in further detail below, PSP uses two different vessel traffic numbers across its testimony and exhibits: 7,490, which is an unexplained number, and 7,588, which is the test year baseline.

Q: Are either of these the vessel traffic projection number?

A: No.

Q: Does PSP explicitly state in its testimony what its vessel traffic projection number is and how it is derived?

A: No, not that we could find, and there was no documented use of the latest vessel traffic information at the time of filing.

Q: Does PSP claim to state what its vessel traffic projection number is in other documents and describe how it has been derived?

A: Yes. Capt. Carlson's testimony describes how he anticipates changes to the current test year traffic, references that the "pro forma calculation" is included in Exhibit IC-14, further references that this is being provided "in addition to the test year traffic and price-out" included in Exhibit AML-03 and asserts that "PSP is using the adjusted test year vessel assignments (increased for cruise traffic and reduced for ATB assignments) as its projection of rate year traffic."[25]

But he does not clearly identify an unambiguous "adjusted test year vessel assignments" number, or a "projection of rate year traffic" number. Nor does Exhibit IC-14 or Exhibit AML-03, test year traffic Schedule 2.11, or price-out Schedule 2.02, clearly identify a plain and unambiguous "adjusted test year vessel assignments" number or a "projection of rate year traffic" number.

Q: Does PSP's testimony clearly show its 2024 test year traffic?

A: Yes, PSP's 2024 test year included 7,588 actual vessel assignments. This test year traffic number is not in dispute. However, this number was also not "clearly identified."

[25] Exhibit IC-01T, 55:1-21.

Q: Does Exhibit AML-03, test year traffic Schedule 2.11, clearly identify a plain and unambiguous "test year traffic" number?

A: No, not exactly. Although Exhibit AML-03, test year traffic Schedule 2.11, includes invoices from rows 10 to 7597, resulting in 7,588 invoice entries, it does not clearly identify a plain and unambiguous "test year traffic" number.

Q: Does Exhibit IC-14, clearly identify a plain and unambiguous "test year traffic" number?

A: No. While there are various totals and summaries included in this schedule, starting at row 8186 etc., total vessel traffic is not one of those items.

Q: Can you deduce from Exhibit IC-14 that it represents invoices from rows 10 to 7597, resulting in 7,588 invoice entries?

A: No, not exactly. Exhibit IC-14 includes invoices from rows 2 to 7589, resulting in 7,588 invoice entries, but then adds an additional "PRO-FORMA" 596 items from rows 7590 to 8185. Upon closer inspection this seems to be the entire 2025 cruise ship schedule from the second tab in Exhibit IC-14 doubled.

Q: Does this mean that Exhibit IC-14 is projecting that there will be 8,185 total "adjusted test year assignments"?

A: To the naked eye, a reader not familiar with the industry might reasonably conclude that PSP is projecting 8,185 total assignments from this chart.

Q: Do you believe that this chart is projecting 8,185 total assignments?

A: No. I'm familiar with assignment numbers and read Capt. Carlson's description of what his projections were in Exhibit IC-01T, so I would reach a different conclusion, but it requires me to make two assumptions and two more calculations before I can reach an "adjusted test year assignments" number.

Q: What are the first set of assumptions and calculations?

A: First, upon closer inspection I assume that Capt. Carlson edited the vessel assignment data to make 2024 test year cruise ship data red and the new 2025 cruise-ship data green. Second, I assume that the significance of that was that he intends a reader to know that in the proforma the red numbers should be subtracted from the vessel count and the green numbers should be added to the vessel count. Upon doing this first calculation, of adding and subtracting, that matches the 40 more cruise vessel assignment data in his testimony in IC-01T. As a result, the total number of items, new and old combined in this way, is 7,628.

Q: What is the second assumption?

A: The second assumption that one needs to make to perform this calculation is to take the 7,628 deduced from Exhibit IC-14 and then subtract the 182 ATB assignments, which is to be removed as described in Exhibit IC-01T, though this is not noted, acknowledged, or otherwise reflected in any of the calculations or data in Exhibit IC-14.

Q: Given these assumptions and calculations, please explain how you derived PSP's rate year projection?

A: Through analysis of the testimony at Exhibit IC-01T and Exhibit IC-14, PSP's pro forma traffic spreadsheet, I determined that PSP's most likely vessel projection number is 7,446 assignments. Let me walk through the assumptions and calculation:

- The 2024 test year of 7,588 assignments already included 556 cruise/passenger assignments (identified in IC-14 as Type "PA" assignments).
- PSP proposes to replace these 556 existing cruise assignments with 596 new cruise assignments for 2025, representing a net increase of 40 assignments.
- PSP also proposes to remove 182 ATB Sea Reliance assignments.

Therefore:

Test Year 2024:	7,588 assignments
MINUS existing cruise (in test year):	- 556 assignments
PLUS new cruise (pro forma):	+ 596 assignments
MINUS ATB Sea Reliance:	- 182 assignments
PROJECTION:	7,446 assignments

To ensure that this is consistent with the IC-01T adjustments, this can also be expressed as:

Test Year + 40 - 182 = Projection

or

7588 + 40 – 182 = 7446.

Q: Does this calculation of 7,446 appear anywhere else in PSP's testimony?

A: Not that I could find. The number 7,446 never appears in any PSP witness testimony, not even the price-out schedule by Ann LaRue in Exhibit AML-

03. I had to derive it by analyzing the Excel spreadsheet in Exhibit IC-14 and understanding the relationship between the existing test year cruise assignments and the proposed pro forma replacements with the assumptions made above.

Q: Regarding the price-out schedule by Ms. LaRue, at Exhibit AML-03, Schedule 2.02: doesn't this spreadsheet need to accurately reflect the proposed changes and variances from the test year?

A: This discrepancy is particularly troubling: Ms. LaRue's Exhibit AML-03, Schedule 2.02 (the "Price-Out" schedule), row 35 shows the Transportation Charge calculation using 7,490 occurrences for both the test year and rate year. This is 98 assignments short of the actual test year (7,588), and 44 more than the pro forma projection (7,446). Yet Schedule 2.02 also shows row 53 (Capital Recovery Charge) using 7,588 occurrences for the rate year.

So we have two different traffic numbers in the same schedule for the same rate year, and neither of the two numbers is consistent with the vessel projection number of 7,446.

Q: Does Ms. LaRue explain what 7,490 represents or why it differs from other numbers?

A: No. And she also lists 7,489 in AML Sch 2.25 line 38. But there is no explanation anywhere in her testimony or exhibits for the 7,490 or the 7,489 figures. It simply appears in the Transportation Charge calculation with no supporting documentation, no explanation of its derivation, and no acknowledgment that it differs from both the test year actual (7,588) and the implied pro forma projection (7,446).

Q: Does this raise other questions for you about the price out schedule?

A: Yes, it means to me that the entire price-out is inaccurate. Ms. LaRue just simply takes the test year number of assignments from column "I" and moves them into column "Q" and makes no adjustments whatsoever. But the test year numbers were wrong to begin with. So the test year calculations are incorrect, and the proposed changes are incorrect, meaning that the related price-out is wrong, even before there should be adjustments, of which there are none.

Q: What is your view of the magnitude of this error?

A: This type of miscalculation is a material and potentially fatal mistake. The price-out schedule at Exhibit AML-03 Schedule 2.02 is the lynchpin schedule from which the entire proposed tariff is derived, and it provides all of us ratepayers with notices about the impact of proposed rate changes. If the inputs in this schedule are wrong, then the rate year results in columns R,S, and T are wrong. And, the projected rate change of 52.30% in column U is also wrong for many reasons, this among them. In short, this is the advertised rate increase, and it is based on data which is wrong in both the test year and the rate year.

Q: How accurate is the calculated 7,446 projected assignments for 2025 when compared to actual current traffic?

A: In response to PMSA Data Request ("DR") 98 (Exhibit MM-05), PSP provided monthly assignment data through November 2025. When you

calculate the trailing twelve months from December 2024 through November 2025, the total is 7,016 assignments. This represents 430 fewer assignments than the 7,446 projected assignments for 2025, or a variance of 6.1%.

Q: Does Capt. Carlson acknowledge in his testimony that his projection numbers will likely not capture this decline?

A: Yes, explicitly. At Exhibit IC-01T, page 55, lines 16-19, Capt. Carlson testifies that PSP had already "seen a substantial decrease in vessel traffic at the start of 2025 due in large part to tariffs and economic uncertainty" by the time that he submitted his testimony. He repeats this acknowledgment at page 6, lines 16-18, stating "assignments did decrease in early 2025 due to tariffs and overall economic headwinds." So PSP's lead witness confirms that there had already been substantial traffic declines in 2025, but then he did not include these in his own adjustments.

Q: Why should Capt. Carlson have known that the overall traffic in 2025 would be decreased if he only had data from the first half of the year at the time of his filing?

A: Capt. Carlson acknowledges a "substantial decrease" in 2025 traffic. Not a marginal or moderate decrease, but a substantial one. The DR 98 monthly data confirms this; when comparing 2025 months to the same months in 2024, the worst declines were in February 2025 (down 21.1% from February 2024), April 2025 (down 15.8%), and May 2025 (down 13.4%). The PSP reports to BPC through June of 2025 show a reduction of 469 assignments

from the prior year during the same period.[26] This level of reduction more than qualifies as substantial.

Q: Did Capt. Carlson provide any analysis supporting how traffic would need to increase dramatically in the second half of 2025 to reach his projected number of 7,446 assignments?

A: No. His testimony acknowledges the decrease due to "tariffs and economic uncertainty" but provides no economic analysis, no import/export forecasts, no terminal capacity studies, or any other evidence supporting any reversal of the declining trend. He simply states that PSP is "using the adjusted test year vessel assignments" as the rate year projection, despite knowing that actual traffic was running at a level significantly below the test year.

Q: What do you make of all this?

A: It is hard not to view this as a pattern over multiple cases where PSP has failed to "clearly identify" its traffic projection. There is clear and explicit direction in the rules to provide this data, and the Commission in the first rate case said that this data was important: "Adjusting the test year assignments by the percentage change in vessel traffic allows for gradual changes in pilotage rates based on known and measurable data."[27] Then the Commission issued its clear and explicit directive in the last rate case, as discussed above, based on the frustration with PSP's lack of clarity in its total projection.

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[26] *See* Royer, Exh. JR-04, BPC Monthly Activity Reports, including June 2025, which reports YTD assignments.

[27] Final Order 09 ¶366

Despite all this, the current case provides no clear identification of a projected change in vessel assignments. PSP doesn't clearly enunciate a consistent number, and its most likely projection (7,446) is buried in Exhibit IC-14 Excel calculations available only after I made various assumptions and calculations as a well-informed participant.

The pattern arises across other PSP testimony as well, such as where they specifically disclaim the need for an AAL.

Remarkably, over the course of these three cases, PSP's clarity on vessel projections has actually worsened. In the initial case, PSP provided the testimony of Dr. Khawaja to project vessel traffic, clearly complying with the requirements of the WAC. In the second case, at least the 7,443 projection could be identified through bench requests and supplemental filings. In the current case, PSP has provided two different numbers (7,558 and 7,490) and implied yet a third (7,446) with no clear statement of which represents the rate year projection, no reconciliation between the numbers, and no explanation for the 7,490 (or 7,489) mystery figures. This is even less compliant with Final Order 08's directive, not more.

At worst, it appears to be obfuscation by complexity: bury the projection in Excel formulas, use references to different exhibits but never state the actual numbers, provide components but never state the total, and force parties to spend significant time just determining what PSP is actually proposing. At best, this is sloppy and careless filing if PSP didn't run through a checklist or cross-check their various documents for internal consistency and validation, and compliance with prior Order 08 and Order 09 direction.

In summary, for whatever reason, PSP has obscured its projection through:

1. Never stating its most likely total rate year projection (7,446) in any testimony;
2. Using three different numbers across exhibits without reconciliation;
3. Providing an unexplained mystery number (7,490 or 7,489) in a material tariff calculation;
4. Requiring parties to perform Excel analysis after making multiple assumptions about the purposes of the data to derive the most likely projection; and
5. Making assumptions that were not supportable by the data in PSP's possession at the time the assumptions were made, suggesting trends with no context and without supporting analysis that cannot be squared with reality.

Q: What should be the Commission's response in light of all this?

A: The Commission should find material non-compliance with Final Order 08 and WAC 480-07-525(4)(m). The Commission should explicitly find that PSP has materially failed to comply with the Commission's directive to clearly identify projected vessel traffic and fails to meet the regulatory standard for clear disclosure. This finding is necessary to establish that PSP's current approach is unacceptable for future rate cases.

Second, to maximize accuracy and current dynamics given PSP's persistent failure to provide clear projections, the Commission should use actual 2025 traffic data as the test year for rate-setting and defer to PMSA's

(or Staff's)[28] projections of 2026 vessel traffic made on the basis of applying historical trends to vessel traffic for future rate year calculations. I include such a projection later in this testimony.

Given that PSP's implied projection (7,446) requires a 6.1% increase from actual current traffic (7,016), the Commission should consider setting rates based on the actual trailing twelve-month data of 7,016 assignments as there is no indication of circumstances on the horizon to indicate an increase of assignments, but there are assessments forecasting decreasing vessel traffic. This is consistent with:

- Commission precedent in Order 09 favoring "known and measurable data";
- Capt. Carlson's own acknowledgment of "substantial decrease" in 2025; and
- The principle that rates should reflect realistic traffic levels, not optimistic projections.

Q: Would using 7,016 actual assignments be unfair to PSP?

A: No, for several reasons. First, this is the actual current level of traffic, so PSP cannot claim that using actual traffic levels is unfair. Second, PSP itself acknowledges the 2025 traffic decline in testimony. Third, now that 2025 has passed, and we have all the monthly assignment data through November 2025 in the record, PSP cannot not credibly argue or provide evidence that traffic will rebound to 7,446 levels in 2025. Fourth, the

[28] It is possible that Staff is performing the same type of analysis as PMSA to project future vessel traffic in lieu of PSP failing to do so. We will comment on, and potentially agree or disagree, with Staff's projections in our cross-answering testimony.

Commission has consistently required rate-setting to be based on realistic projections, not optimistic hopes that are perhaps designed to get more pilots funded than exist. And fifth, if traffic does unexpectedly increase above 7,016 levels, PSP will simply benefit from the additional revenues derived from the increased traffic. Finally, PSP acknowledged that it chose to base its filing on a test year, 2024, with "record high vessel traffic," tacitly acknowledging it was not a typical representative traffic year.[29]

Q: What is the effect for PSP of not "clearly identifying" vessel traffic trends in its testimony?

A: Traffic projection is one of the most fundamental inputs in the entire rate case because it is central to the Commission's evaluation of the reasonableness of PSP's request for funding 60 pilots. Clearly PSP must be aware that its revenue request is absurdly high, and that it is even more absurd when presented with evidence of declining levels of traffic. Obfuscating the traffic projection seems consistent with PSP's testimony asking the Commission to waive its application of the AAL calculation. The math on this is straightforward:

- At 7,446 projected traffic: 7,446 ÷ 60 = 124.1 AAL
- At 7,016 actual traffic: 7,016 ÷ 60 = 116.9 AAL

At the Commission's historical 143 AAL target and with 7,016 assignments, only 49 working pilots can be justified as needed, though there are currently 55 working pilots. Only an inflated traffic projection would seem to justify more funded pilots than an analysis of actual traffic patterns would support.

[29] Carlson, Exh. IC-01T at 55:17-19.

Q: Why else does this matter for this proceeding?

A: The Commission cannot make informed decisions about just and reasonable rates when it doesn't have clear, accurate information about projected vessel traffic. This is why Final Order 08 emphasized that "**projected rate-year vessel assignments are crucial to the rate setting process**."[30] PSP's failure to "clearly identify" vessel traffic prevents the Commission from properly evaluating what rates are justified based on actual operating conditions, and may leave them to rely on descriptions that fail to capture or quantify the current reality.

Q: What is PMSA's final recommendation on PSP's traffic projection issues?

A: PMSA recommends the following findings and conclusions in this case.

Findings of fact:

1. PSP's 2024 test year included 7,588 actual vessel assignments.
2. PSP's true pro forma projection is 7,446 assignments, though this number never appears in any testimony or work papers.
3. PSP uses three different traffic numbers (7,490 / 7,489 / 7,588) across its exhibits without reconciliation.
4. The 7,490 and 7,489 figures used in its calculations have no explanation in any testimony or exhibit.
5. Capt. Carlson had personal first-hand knowledge of the vessel trends through the first half of 2025, acknowledged a "substantial decrease in

[30] Final Order 08 ¶ 380 (emphasis added).

vessel traffic" in 2025, but failed to account for this substantial decrease in his vessel traffic projection.

6. PSP's trailing twelve-month traffic (Dec 2024-Nov 2025) totaled 7,016 assignments, a 7.5% decline from the test year.
7. PSP's implied projection of 7,446 in 2025 was inaccurate by a variance of 6.1% when compared to actual trailing twelve-month traffic.

Conclusions of law:

1. Final Order 08 ¶380 required PSP to "clearly identify" projected vessel traffic.
2. PSP has materially failed to comply with this directive.
3. WAC 480-07-525(4)(m) requires a party to clearly identify vessel traffic projections.
4. PSP's use of conflicting traffic numbers without explanation or citation violates this requirement.
5. Setting rates on projected traffic (7,446) that exceeds actual traffic (7,016) by 6.1% is unreasonable and contrary to Commission precedent favoring "known and measurable data."

D. PSP Asks the Commission to Discount or Ignore Data from Tariffs Protected by RCW 81.116.050.

Q: Are you aware of the initial tariffs adopted by the Legislature when it moved rate-setting functions from the BPC to the UTC?

A: Yes. The State Legislature enacted RCW 81.116.050, which states: "The tariffs established by the board prior to July 1, 2019, shall remain in effect and be deemed pilotage tariffs set by the commission until such time as they are changed by the commission pursuant to this chapter"

Q: What is your understanding of the provision that the tariffs that were adopted by the BPC were to be deemed "set by the commission until such time as they are changed by the commission"?

A: My understanding was that the state legislature had established that the tariff in place on July 1, 2019, was fair, just, reasonable, and sufficient at the time, just as if the Commission had adopted it. Also, until a moving party could prove that the rates were not fair, just, reasonable, and sufficient in a ratemaking case, no one could challenge the validity of that prior tariff rate adopted by the BPC.

Q: Are there any parts of the PSP testimony that question the ability of the Commission to rely on the rates that were in place in 2019?

A: Yes, PSP testimony includes various claims that these rates were somehow irrelevant or can be dismissed. For example, Ms. LaRue testifies, "there were extenuating circumstances in the years prior to marine pilotage rate setting being transferred to the Commission, which affected the historical amounts. Therefore PSP's historical data is not necessarily comparable, or relevant, for regulatory purposes year-to-year . . .".[31] She also claims, "when looking to earlier years for more 'representative' data, this data is also distorted due to a rate freeze affecting multiple years immediately pre-dating the transfer of PSP's rate setting authority to the Commission," as reasons for not relying on "'relevant' historical trends at this time."[32]

[31] LaRue, Exh. AML-01T, 8:6-9.
[32] LaRue, Exh. AML-01T, 23:3-9.

Q: Does PMSA question the ability of the Commission to rely on the rates that were in place in 2019?

A: No, there is no reason why the Commission cannot rely on historic data in the pilotage ground. In so claiming, PSP seems to intend to undermine the authority or validity of the two prior Commission Final Orders. We would strenuously object to this implication.

First, the fact that at certain times rates are increased and at other times rates are decreased and at other times rates are held steady without a change does not present "extenuating circumstances." That's just one variable in a comprehensive pilotage system. Why would rate changes in one year versus another compromise the validity or the reliability of any of the data collected at that time?

In fact, historical data was submitted by PSP and relied upon by all the parties in the first two rate cases, and none objected to its usage. It was highly reliable and relevant evidence then and remains highly reliable and relevant today.

Third, most of this information is published by the State of Washington. PSP, PMSA, and Staff rely on data and statistics from the BPC. These data sources are presumptively correct, objective, and reliable.

Finally, even if there were some reasonable basis for this allegation (there is none) the Commission could still not act in a manner which contradicted the plain direction of the statute which directs it to treat the tariffs in place as of 2019 as if they were adopted by the Commission, and therefore fair, just, reasonable, and sufficient.

Q: Should the Commission continue to rely on the data and facts generated from rates that were in place in 2019 as valid?

A: Yes. PSP's claims of "extenuating circumstances" are not compelling. The Commission should ignore any arguments which are based on discounting the validity of data and facts from the time before UTC rates were in effect.

IV. EXISTING COMMISSION FORMULAS CREATE A FAIR TARIFF FOR RATEPAYERS & PILOTS. AN OPERATING MARGIN WOULD NOT.

Q: What formulas did the Commission establish for pilotage rates in PSP's prior general rate cases?

A: The Commission has established a revenue requirement formula:

Total Revenue Requirement = Expenses + Depreciation + Interest + TDNI[33]

and another formula used to define TDNI:

TDNI = DNI × Number of Funded Pilots

and another to establish what the number of funded pilots is:

Number of Funded Pilots = (Projected Assignments ÷ AAL) + 1

(where the "+1" is the pilot serving an administrative role as PSP president.

Also, Final Order 08 added another requirement:

> Going forward the Commission requires that in addition to total revenue requirement, parties must also provide additional annual revenue requirement and the related percentage increase using the methodology in Attachment A. These formulae are:
>
> Additional Annual Revenue Requirement = TDNI – Pro forma Results of Operations (ROO) x Gross-up Factor
>
> Percentage Increase = Additional Annual Revenue Requirement / Pro Forma Revenue[34]

[33] Final Order 08 ¶ 63.
[34] Final Order 08 ¶ 65.

Q: Is there anything that indicates that the parties believe the formulas established "fair" tariffs, i.e., tariffs that balance fair prices for services to PSP's customers against fair pay for pilots?

A: Yes, until PSP's filing in this case, no one challenged the revenue requirement formula established in the prior case as unfair.[35]

Q: Does PSP nevertheless propose changing the formula now?

A: Yes, PSP proposes some significant changes to the formula, specifically the introduction of an operating margin.[36]

Q: What is the proposed new formula?

A: $$\text{Revenue Requirement} = \text{TDNI} + \frac{(\text{Expenses} + \text{Depreciation} + \text{Interest})}{0.88}$$

Q: What is the amount of new revenue that they propose to be generated by this new formula that wouldn't be generated under the existing formula?

A: $2,746,285.[37]

Q: What is PSP's justification for charging its customers $2.75 million more in exchange for no additional pilotage services provided to ratepayers?

A: According to Ms. LaRue, the additional revenue is "to mitigate regulatory lag, . . . to provide PSP with a true opportunity to earn its authorized DNI [and] better align PSP with outer Commission-regulated transportation

[35] Final Order 08 ¶ 64.
[36] LaRue, Exh. AML-01T 20:11-12.
[37] LaRue, Exh. AML-03, Sch. 1.2, Row 103.

companies."[38] She also says the pilots should earn a return of 12% due to "risks associated with operating a compulsory pilotage service" and "these economic times."[39]

Q: Does PMSA agree with her reasoning for changing to an operating margin formula?

A: No. I'd like to emphasize how wrong it is to argue that somehow PSP is not receiving its revenue requirement. It is. As shown in Exhibit MM-03, Figure A, in 2022 PSP earned 99.4% of the 2022 Revenue Requirement, in 2023 PSP earned 102% of the 2022 revenue requirement, and in 2024 PSP earned 104% of its revenue requirement. If PSP is concerned about how its revenues are being distributed amongst its expenses and DNI, that is not a revenue problem; rather, it presents a good incentive for PSP to manage their expenses and to stop adding more pilots when they're already losing productivity by having too many licensees to begin with.

Q: OK, in addition to the lack of PSP need for an operating margin in general, let's start with regulatory lag: why is that not a problem that should be remedied with an operating margin?

A: PSP argues that they had "unexpected costs arise between rate cases," the examples of which were the renegotiation of a labor contract and maintenance of the Port Angeles pilot station. These speak to regular and necessary management of the pilot's business.

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[38] LaRue, Exh. AML-01T 11:8-15.
[39] LaRue, Exh. AML-01T 20:13-15, 22:9-10.

PSP is not a large and complex business. Its management keenly knows when it files its rate cases, when its contracts with its employees will or will not expire, and when they need to be renegotiated. This speaks to their petition management and timing of pro formas at the Commission, not the costs themselves.

Likewise, generally, maintenance of assets should be built into the overhead of the Port Angeles station and PSP should plan for regular repairs for that asset. In all the rate hearings I have been involved with since 2002, the lack of coverage of the maintenance expenses of PSP assets has never been an issue.

More specifically, as discussed later in my testimony, PMSA agrees with the adoption of a Port Angeles Operating Charge, which will provide a specific line item in the tariff for Port Angeles-specific expenses. The PSP pro-forma already includes Port Angeles station repairs and maintenance.

Q: Does PMSA believe that covering PSP expenses with an operating margin is a good management practice consistent with "fair" pilot rates?

A: No. Rates are supposed to be fair to ratepayers. Since there is not a competitive market establishing fair pricing, the Commission's "economic regulation is [intended] to promote efficiency" in order to incentivize "wise and efficient management" by the pilots.[40] As the Commission explained in the first case, "rate-setting seeks to create incentives for efficiencies that would normally occur as the result of market competition. 'The fundamental

[40] Final Order 09 ¶ 106.

economic goal of regulation is straightforward: to mimic a competitive market outcome, even when the underlying market is not competitive.'"[41]

As a monopoly, if PSP is given an operating margin that is intended to overcompensate for its expenses, then PSP has little to no incentive to negotiate any of its business expenses, including with its employees, with an eye towards efficient management of its operating costs. This would be the opposite of a "fair" rate that approximates a business cost like that of a business that is operating in a competitive marketplace.

Q: Does PMSA believe that an operating margin should be adopted to guarantee pilot DNI and isolate it from exposure to the market where the pilots provide services?

A: No. First of all, the Commission has explicitly said that they will not guarantee a pilot's DNI, just provide the opportunity to make it.[42]

And, with respect to being "fair," the Commission should maintain the natural incentive which is built into the very essence of the pilot's business model: efficient reduction of costs and expenses, which results in increases to pilot DNI. This is a good incentive to drive PSP profitability and one that mimics the discipline that would naturally exist if the pilots' worked in a competitive market.

Q: Does PSP need an operating margin in order to have "a true opportunity to earn its authorized TDNI"?

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[41] Final Order 09 ¶ 39 (quoting Leonardo R. Giacchino, Ph.D., Jonathan A. Lesser, Ph.D., *Principles of Utility Corporate Finance* 7 (2011)).

[42] *See, e.g.*, Final Order 09 ¶ 106.

A: No. This is just another way in which pilots are trying to guarantee TDNI and isolate themselves from the incentives and risks that exist in a competitive marketplace.

PSP has plenty of opportunities to earn their authorized TDNI under the current tariff, without the need for an operating margin. Managing expenses efficiently, particularly its discretionary expenses such as the extreme amount of revenues spent on legal and consulting services, can provide pilots with higher levels of actual distributed net income. For instance, PSP's submission documents the pilots' choice to spend $2,410,000 of revenue on legal and consulting expenses in 2025-26 (Exhibit AML-03 Sch 2.30). This is a significant amount of revenue which could have been used to increase TDNI instead. On a related note, these types of expenses are pervasive, as PSP in 2024 continued to pay their attorney of record from the second rate case more than $30,000 per month for all 12 months even though Order 08 was issued in August of 2023.

Likewise, improving the management of pilot on-watch availability, reducing callbacks and reducing the number of pilots would also be a good management practice that would simultaneously increase DNI for every pilot. Even small increases in bridge hours, from the current approximate 52 hours per month, can greatly improve DNI, as TDNI would be split by fewer pilots.

Q: Does PSP need an operating margin in order to "better align" with other transportation industries?

A: No. PSP does not explain what this means, why it is necessary, or how it justifies any operating margin, much less one which is, ironically, not

aligned with other transportation industries (in that it is a 12% margin rather than 7%). How do you argue that you need to align your formula with other industries and at the same time argue for a different formula from the other industries? This makes no sense to us.

Q: Did Ann LaRue's testimony explain what the purpose of the operating margin is?

A: I don't believe her testimony did, but as the document she cited, "The History of the Operating Ratio," explains, "the purpose of the operating ratio is to allow you to recover your allowed operating expenses, to recover your federal income taxes, interest expense, and still give you a return on your equity investment."[43]

Q: Do these purposes for establishing an operating margin align with the business structure or capital needs of PSP?

A: No, not in the least. In fact, you probably couldn't create a more polar opposite organization than PSP to those that might benefit from the stated reasons for an operating margin.

Q: Let's review these, one-by-one. Does PSP need an operating margin to "allow [PSP] to recover [its] allowed operating expenses"?

A: No, this is frankly just not even a close call. Even in its own case filing, PSP admits that it has no problem collecting gross revenue that exceeds its operating expenses by wide margins. Looking at the test year in this case[44],

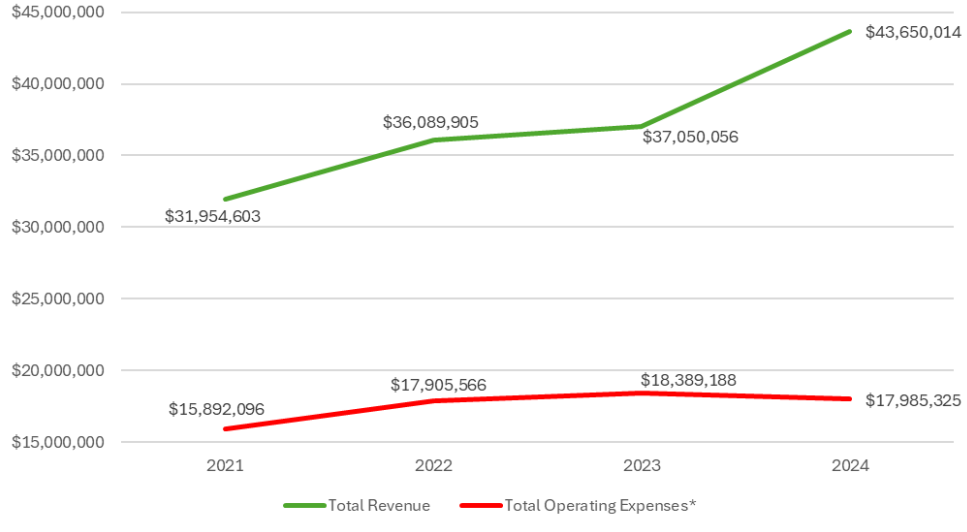
[43] WP-AML-02 at p. 2 (of the 17 unnumbered pages in the pdf).
[44] LaRue, Exh. AML-03, Schedule 1.2, lines 107-112.

including all of PSP's proposed increases to operating expenses without the operating margin, these expenses would total $20,684,545, while PSP's gross revenues are proposed at $64,452,565, leaving a net margin of $43,768,545 above operating expenses. With the operating margin, the total revenue requirement is bumped up to $67,198,849.[45,46]

Q: Does PSP historically have enough revenue to recover its allowed operating expenses?

A: Yes. I've compiled Exhibit MM-06 and Figure B to show PSP's reported operating expenses versus total revenues to demonstrate that they are not even close to not being able to recover their operating expenses.

Figure B.
PSP Operating Expenses vs. Total Revenue (2021-2024)



[45] *Id.* at lines 95-105.

[46] PSP does not consistently apply its proposed 88% operating margin in its own Statement of Operations. Depending on which line of Schedule 1.2 one examines, the operating margin "return" is either $2,820,620 (Line 111 ÷ 0.88) or $2,746,284 (Line 103), or somewhere in between using the actual margins of 88.03% and 88.33% shown on Line 105. PSP's lack of precision and consistency is yet another reason the Commission should decline to adopt this unnecessary and novel methodology.

Q: Does PSP need an operating margin in order to recover federal income tax?

A: No.

Q: Why not?

A: PSP is an unincorporated association, but it has chosen a business model where it operates just like a partnership. So PSP files an informational partnership tax return, but all the net income earned in a year after expenses are assigned to individual pilots, meaning that PSP should not pay any federal income taxes. This lack of association federal income tax liability is reflected in the PSP audited financials.[47]

Q: Specifically in this case is there evidence of any PSP current federal income tax liability?

A: No, in this case filing, PSP does not assert federal income tax liability.[48]

Q: Does PSP need an operating margin in order to recover any "interest expense"?

A: No.

Q: Why not?

A: PSP does not typically have significant interest expenses. PSP's interest

[47] *See* Exh. MM-07 at 13 (Long Form 2024 PSP Financials); Exh. MM-08 at 12 (Long Form 2023 PSP Financials).

[48] LaRue, Exh. AML-03, does not include "Federal Income Tax" in listed expenses.

expenses were $0.00 for the 2024 test year,[49] and interest expenses in the pro-forma on operations are only $6,681.19 for 2025.[50]

To the extent there are any expected interest on capital expenses, including the pilot boats, we expect that these will be captured in the capital account surcharges that we expect all parties will be stipulating to in this case. So they will not need to be included in any operating margin expense.

Q: Does PSP historically have any significant interest expense?

A: In my experience, when PSP does have interest expenses they are almost exclusively tied to capital expenses. For instance, when PSP purchased PPUs and they were financed. Or when PSP bought new pilot boats, and those were financed. But PSP has historically not had permanent financing tied to its operating costs. As a result, outside of interest on capital expense loans, which PMSA is anticipating paying in a capital expense charge, this should be de minimis and rare.

Q: Is that relevant to this rate case?

A: Yes. As I mentioned earlier in Section II of my testimony, Staff, PSP, and PMSA have agreed in principle to a stipulation where rates will fund all the capital needs identified in the PSP pro forma through either a 5-Year Capital Plan Surcharge, which will cover interest expenses, or through a Pilot Boat Retrofit Surcharge, which will cover interest expenses, there should be no future interest expenses for PSP in this rate case.

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[49] LaRue, Exh. AML-03, Sch. 1.1, Line 51722-000.
[50] LaRue, Exh. AML-03, Sch. 2.32.

Q: So under the framework of the anticipated stipulation PMSA is agreeing to pay all of PSP's proposed capital costs in this case and all of the associated interest expenses associated with the financing for these identified capital expenses?

A: Yes. So PSP does not need an operating margin to address interest expenses.

Q: Does PSP need an operating margin to give it "a return on [its] equity investment"?

A: No. Absolutely not.

Q: Why not?

A: Two main reasons: one, PSP basically has no traditional equity structure, and two, PSP doesn't utilize equity in its operations, and the equity that it does maintain is just used to transfer funds between pilots, it doesn't actually get used by PSP itself. Certainly, PSP has not provided any documentation indicating any equity-based justification for an operating margin.

Q: What do you mean that PSP basically has no traditional equity?

A: From an organizational and business angle, people usually look at equity as being a component of a company's capital structure in a securities context.

In a typical business, the costs of access to the capital market can be viewed through a lens for both or either debt and equity. So a portion of the

rate is put aside to cover the cost of capital for both – either interest expense, for debt, or a return on equity, for equity.

When a typical company is in a competitive market environment, and it finds itself needing to cover both their operating expenses and capital expenses, but without the cash to do it, that company might turn to either the debt or equity markets to raise the capital necessary to invest in upgrades to their capital. PSP does not do that.

As discussed above PSP has limited exposure to debt, but it has even less exposure to equity, because it has never gone to the equity market for capital, and there is no way I am aware of for a third party to invest in PSP under its business model.

Q: So what does PSP equity represent if it is not a traditional source of funding for the organization?

A: PSP is an unincorporated association. It is a voluntary association that is made up of a group of similarly situated licensees, but it does not have actual owners, partners, or investors. Instead, it has bylaws that govern the voluntary association.

All the pilots have "equity" in the organization because they bought a membership, but by the function of the PSP By-Laws this is cash which never goes to PSP for its operations.[51] Rather it is used as a tool to make new pilots pay to join pilots through a buying-in process when they are new licensees and then it becomes deferred income for retiring pilots, because

[51] Exh. MM-09, Puget Sound Pilots Bylaws (rev. Nov. 2018). See Section 5.5 "Membership Payment," Section 5.6 "Payment of Membership Payment," and Section 5.7 "Terminating Member's Payment."

the cash generated is already designated by the PSP By-Laws to be paid out to pilots when they are being bought-out upon retirement.

This "equity" provides no benefit to PSP itself, such as for raising capital for its operations or expenses. PSP is just facilitating the exchange of funds between new pilots buying in and retired pilots cashing out.

Q: What is the significance of this type of equity with respect to establishing a "return on equity"?

A: The Commission does not have any role to play in establishing a return on equity because it is already fixed under the PSP By-Laws.[52] The PSP By-Laws limit the entirety of any PSP equity to its members. It also fixes the price of equity by a formula that applies to new funds from its newly licensed pilots and when a retired pilot gets paid on their way out. This is fixed by PSP in its By-Laws, and only PSP can decide what its return on a pilot buy in is through amendments to its By-Laws.

This only serves to underscore the bottom line here: it is impossible for PSP to raise private equity under the PSP By-Laws for its own operations. PSP's individual pilot members have "equity," but the rules of buying-in and buying-out, including the valuation formulas, are dictated by the PSP By-Laws.

Q: Do PSP members have an expectation of earning any interim income from their membership payments from the time that they are licensed until the time they retire?

[52] Id.

A: No, there is never any revenue stream from individual pilots to PSP in a traditional sense. And their membership payment after a pilot has completely bought in is basically unavailable until the time of their retirement,[53] and there are specific prohibitions against the bearing or earning of interest on payments.[54]

Q: Can PSP members lose their membership benefits without any termination payment?

A: Yes, under the non-competition provisions of the PSP Bylaws, a member would surrender the value of their buy-in payments to the extent that they engage in a "violation of this covenant not to compete" and that the surrender is stipulated to be liquidated damages for competing with PSP for pilotage business.[55]

Q: Doesn't PSP have current equity?

A: Yes, according to the PSP 2024 Audited Financials, total pilot equity in PSP as of December 31, 2024 is $4,398,237.[56] But as noted above, this is just book value equity, it isn't equity in a traditional financing and securitization sense. The equity in the system has absolutely no operational value to PSP. It does not impact their daily operations in any way whatsoever. And, this is reflected in the test year financials in this case: PSP's return on equity expenses in the test year are $0.[57]

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[53] *Id.* at Section 5.7.
[54] *Id.* at Sections 5.6.2, 5.7.1.1.
[55] *Id.* at Section 20.3.1.
[56] Exh. MM-07.
[57] LaRue, Exh. AML-03, Sch. 1.2, shows no line item for expenses for payments of a return on equity.

Q: How do you know that this is not traditional equity?

A: In addition to all of the other evidence above, PSP has often had a negative equity in these accounts on multiple occasions, which means that there is no way to actually employ an operating margin.

This was discussed in testimony at the Commission in the prior two rate cases in the context of the evaluation of PSP carrying negative equity. For example, Staff witness Danny Kermode testified in the initial rate case:

> The current balance of PSP's equity account, when adjusted for PSP's unrecorded liabilities, is negative, which is reflective of its income distribution policy. The absence of a positive equity balance equates to the absence of any recognition of a cost of equity since a negative equity balance cannot result in any recoverable cost of capital.[58]

And, as PSP's own accountant and witness in the last rate case, Jessica Norris explained: "Less Unrecorded Liabilities (Note 12) creates a negative equity balance. If PSP were to cease operations each pilot would be responsible for a portion of the negative equity to satisfy liabilities in excess of assets."[59]

Q: What is the significance of these observations by Staff and PSP's own accountant?

A: PSP wants a $2.7 million annual "return" through the operating margin, yet in its last two rate cases PSP has had negative equity, where its liabilities exceed assets, PSP earns a $0 return on the equity shown on its balance

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[58] TP-190976, Kermode, Exh. DPK-1Tr at 8:14-18.
[59] TP-220513, Norris, Exh. JJN-03.

sheet, and PSP has no investors requiring returns. There seems to be absolutely no reason for this whatsoever, other than to potentially pad PSP's DNI.

Q: How would you summarize your observations on the issue of PSP's need for "return on equity"?

A: PSP is an unincorporated association with no ownership structure. It does not raise funds for capital or operations by offering securities to investors. If it has capital needs, PSP historically would turn exclusively to a lender to borrow money.

With respect to the "equity" that it does have from its members through buy-ins, this revenue is already earmarked for private transfers between pilots, and I've seen no evidence it has any operational significance to PSP.

Q: What is your bottom-line assessment of how "the purposes of the operating ratio" can be applied to the business needs of PSP?

A: There is no justification for the application of an operating ratio to PSP's business under any of the criteria laid out:

- PSP always recovers its operating expenses by a wide margin.
- PSP generally pays no federal income taxes.
- PSP rarely needs capital, but when it does it borrows it and the interest expenses are well known, easy to quantify, and will be covered under a Revenue Requirement or under a new stipulated Capital expense.
- PSP does not raise capital through securitized ownership and therefore does not need to cover equity expenses.

For all of the capital needs of PSP in this case, PMSA has already agreed to a surcharge mechanism to pay for all of the capital and interest expenses (the parties' partial stipulation to this effect is forthcoming).

Q: Even if there were some policy basis for the application of an operating ratio to PSP's business, is the 12% operating margin consistent with the Lurito/Gallagher Curve explanation charts included in "The History of the Operating Ratio" package included with the PSP testimony[60]?

A: No. In looking at the actual Lurito/Gallagher Curve at page 11, the 12% in the Curve is on the extreme bottom right end of the curve, in the area with the highest intensity of average net investment for a company. The example given is for a company with 40% debt and 60% equity, and a federal income tax rate of 34%.

To the contrary, PSP is a company that should be at the top upper left end of the curve, with expenses covered by wide margins, almost 0% debt, and de minimis interest payments, 0% in outstanding equity, and a federal income tax rate of 0%.

Q: How should a revised formula by the Commission calculate an operating ratio?

A: According to WP-AML-02, the "History of the Operating Ratio," when the Commission decided that it was necessary to avoid an arbitrary percentage for a business and reflect an individual company's performance it modified its operating ratio methodology such that a "revised formula calculates an

[60] WP-AML-02-The History of the Operating Ratio.

operating ratio based on an overall return on investment. The two components of this rate of return are the return on equity and the cost of debt."[61]

Q: Has PSP presented an Operating Ratio formula in its pro-forma which is calculated on the return of equity and the cost of debt?

A: No. No such cost of capital analysis is presented. Further, as discussed, no such analysis would make sense here as PSP has no return of equity and as proposed would have no exposure to the cost of debt.

Q: Given the complete lack of need for an operating ratio, not to mention the arbitrary request for a 12% enhancement of existing expenses, would you expect a rate to be "fair" if the Commission nonetheless authorized an operating ratio of any amount?

A: No, it is obvious to us that the only purpose of the operating ratio request is to use it to prop up DNI and to eliminate what little incentive PSP has to manage their expenses. It's a win-win for PSP and lose-lose for ratepayers.

With an unnecessary Operating Ratio boosting revenues higher than projected, justified, and authorized expenses, the worst that can happen for PSP is that it acts as a DNI guarantee even if they don't manage their expenses closely or if they raise their expenses significantly. Or, at best for PSP, these revenue boosts create huge windfall profits to PSP that pad their DNI.

[61] WP-AML-02 at p. 10.

Q: Why does PMSA consider this to fail the criteria that a rate be "fair"?

A: The current rate structure and formula used in the prior two cases create a presumptively "fair" tariff. PSP has completely failed to show any evidence that the current tariff fails to provide fair pay.

First, PSP's pilotage monopoly has no risk exposure. Shippers' use of pilots in the Puget Sound is compulsory, and no dramatic drop in demand for pilotage services is anticipated. PSP equity is closely controlled by PSP itself because it hosts its own closed equity, there is no PSP exposure to any equity market risk, PSP controls who its equity participants are, PSP fixes the prices of its own equity by agreement between all of the beneficiaries privately, and in any event PSP never goes to the equity market for access to capital anyways and even if it had to it would need to alter the very core of its business model.

Second, the Commission's existing formula, was established in prior rate hearings using "fairness" criteria. PSP supported this formula adoption. The Commission rightly uses as one of these factors whether or not the monopoly is being regulated in a manner where their rates approximate what one might expect if there was a competitive marketplace in effect. Imposing an arbitrary 12% increase across the board for no business purpose other than to pad the pilots' monopoly's compensation fails that test.

V. PILOTS DO NOT CONTEST THAT THE PRIOR TWO COMMISSION PROCESSES CREATED A JUST TARIFF

Q. Understanding that "just" refers to being based solely on the record

in the rate proceeding, which here would be the last proceeding in docket TP-220513, has PSP alleged that the current tariff is unjust?

A: No, PSP does not allege that the current tariff is unjust.

Q: Has PSP alleged that any of the formulas or rate-setting methodologies established in the prior two rate cases are unjust?

A: No.

Q: Based on your experience in the prior rate proceedings, did they feature extensive records?

A: Yes. I was fully involved in both proceedings and the record in each was exhaustive in the scope of issues examined, the opportunity for each party to fully present and develop its case, and the depth of testimony provided. All of the parties were very assertive and left no stone unturned or considered. The Commission admitted broad evidence to help it build the framework for pilotage ratemaking, including "any evidence that may assist the Commission in its evaluation of this case of first impression should be admitted and accorded weight based on its relevance and reliability."[62] The record in each case was thus voluminous and fully developed.

Q: So, do you understand PSP to have presented any evidence at all that the current tariff is not "just"?

A: No, PSP's filing in this case presents no evidence that the standards, formulas, methodologies, and the tariff itself were not based solely on the extensive records in the prior rate proceedings.

[62] Final Order 09 ¶ 8.

VI. CONSISTENT APPLICATION OF THE ESTABLISHED COMMISSION RULES & STANDARDS WILL ENSURE THE TARIFF IS REASONABLE

A. PSP's Evidence Is Not the Best Evidence.

Q: Are you aware of the Commission rule at WAC 480-07-495(1) which establishes that "relevant evidence is admissible if the presiding officer believes it is the best evidence reasonably obtainable, considering its necessity, availability, and trustworthiness."

A: Yes, I am aware of this rule.

Q: Do you believe PSP has provided the Commission with the best evidence reasonably obtainable or the best available or trustworthy evidence?

A: No. The Commission's prior final orders discussed several ways to ensure that PSP was providing it with the best evidence available. But PSP has not followed that guidance in this case. In fact, upon inspection, it seems that the evidence and testimony that PSP presents here is even further outside the range of reasonable support for its requests than in the prior two rate cases.

Q: Do you believe that there is other evidence in the record which is consistent with prior Commission guidance in pilotage rate case?

A: Yes, the evidence provided by PMSA witnesses, including Susan Hoffman, Spencer Cohen, John Veentjer and myself, is intended to stay true to

guidance provided in the prior Commission Orders, meet the "best evidence" standard, and provide a basis for a reasonable Commission action in this case. I anticipate the same will be true of testimony from Staff.

Q: What are some examples in this case of where you believe that PSP has failed to present the best evidence necessary to support their requested tariff rates?

A: There are several significant areas where PSP has failed to present evidence that would support the requested outcomes in this case. These include:

1. PSP continues for a third time to try and assert the need for a "national average" pilot income, but it once again presents a deficient basis for a comparison of compensation with yet another study that fails to meet any of the Commission's stated criteria for reliable comparable pilot compensation data.
2. Continuing to delay resolution of the tariff's funding of the current unsustainable pay-go retirement plan. PSP continues to ask for funding while it holds out its proposed new defined benefit ("DB") multiple-employer plan ("MEP") as a solution despite the fact that PSP's own attorney has acknowledged that it is unlikely to get approved because it is inconsistent with Department of Labor regulations.
3. Relying on a modified number of vessel calls from 2024, instead of using actual (best) 2025 vessel call information available at the time PSP filed its petition. This is absolutely not "the best evidence reasonably obtainable" for the crucial vessel projection in this case.

4. Requesting that the Commission fund 60 pilots despite no evidence that this number of pilots exists and a refusal to provide any AAL data. Considering the best evidence obtainable of reasonable vessel projections and the AAL, which produces a number of pilots below the floor established in prior cases, the evidence only supports 56 pilots, i.e., the existing number of licensees.
5. Failure to provide evidence demonstrating that many of the PSP expense categories are justified to be included in the revenue requirement.

Q: How does PMSA address each of these concerns about a lack of reliable evidence in the PSP submission in its testimony?

A: We are submitting the following:

1. Regarding the deficiencies in PSP's "national average" evidence, I will address this in more detail below in this section, and PMSA will also present the testimony of Dr. Spencer Cohen (Exhibit SC-01T) to discuss the many reasons why the PSP study is problematic, unreliable, and fails to follow the Commission's guidance from the prior two rate hearings.
2. Regarding the deficiencies in PSP's multiple-employer plan proposal, the PSP admission that its plan is inconsistent with Department of Labor regulations and that this inconsistency has rendered it unlikely to get a favorable Advisory Opinion is included with Ms. Susan Hoffman's testimony (Exhibit SKH-05), and Ms. Hoffman further explains that this request is not within the range of outcomes supported by the evidence (Exhibit SKH-01T).

3. Regarding vessel traffic data, I explain this, and the required vessel projections that PSP has failed to provide, in detail in my testimony and the testimony of Mr. John Veentjer (Exhibit JV-01T), who presents the Commission with the best vessel traffic evidence obtainable for 2025.
4. Regarding the number of pilots supported by the evidence, I will explain this in detail later in my testimony also.

B. PSP's Evidence of a "National Average" Is Not Credible.

Q: Regarding PSP's latest attempt to base DNI on a compensation study, what has the Commission identified as the criteria it would need to see in a comparability study in order to conclude that it is evidence that is reliable and trustworthy?

A: In both its prior final orders, the Commission has repeatedly emphasized the need for completeness, consistency, apples-to-apples components, and transparent, fact-based comparability evidence. The Commission established these criteria in the context of evaluating the conflicting testimonies by Capt. Quick and other PSP witnesses[63] and in evaluating a compensation study from PSP witness David Lough.[64]

The Commission was explicit and comprehensive on these points across both cases, so if any comparability study is to be considered, it must be presented in accordance with the Commission's Final Orders in both cases. This means the evidence must comply with all the following:

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[63] Final Order 09 ¶ 415 (Finding 17).
[64] Final Order 08 ¶¶ 118-120.

- Provide complete, underlying financials for every district relied upon so the Commission can verify what is included in "net income" (e.g., medical, pension) and ensure apples-to-apples comparisons. Show that each district's figure reflects the same compensation components (e.g., whether medical premiums and pension accruals are paid in tariff or out of pilot DNI), with appropriate adjustments and documentation.[65]
- Define and apply clear, consistent comparability criteria and use them uniformly across all districts.[66]
- Supply complete evidence on any criteria asserted for comparability, such as specific vessel traffic data including the mix of vessel traffic in the pilotage districts. Unsupported assertions are inadequate.[67]
- Use methodologically consistent data across districts and years. Do not commingle actual and authorized DNIs, do not mix time periods without justification, and avoid selective "cherry-picking" of years or districts. The Commission found such practices render studies unreliable.[68]
- Provide evidence on cost-of-living and other material local differences transparently. Silence on such differences renders the comparison unreliable.[69]
- Explain operational comparability, including "detailed explanation as to how each of the identified pilot districts operations are comparable to PSP operations to support a higher DNI than would otherwise be indicated."[70]

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[65] *See, e.g.*, Final Order 09 ¶ 149; Final Order 08 ¶ 419 (Finding 5).
[66] Final Order 09 ¶ 415 (Finding 17); Final Order 08 ¶ 420 (Finding 6).
[67] *See, e.g.*, Final Order 09 ¶ 416 (Finding 18).
[68] *See, e.g.*, Final Order 08 ¶ 420 (Finding 6).
[69] Final Order 09 ¶ 147.
[70] Final Order 08 ¶ 120.

Q: Has the new comparability study by Mr. Sisung, at Exhibit RLS-04, met these Commission requirements for a PSP study to be considered to be reliable evidence?

A: No, this latest comparability study fails to meet all, if any, of these criteria. First, as discussed in detail by Dr. Cohen, the type of evidence required to do such a study is generally not available, not consistent, not detailed, stale, prone to apples-to-oranges comparisons, and generally not trustworthy for purposes of determining reasonable rates.

Q: Does Mr. Sisung even attempt to provide "detailed explanation" of operations that might be comparable across pilotage grounds?

A: No. As admitted, by Mr. Sisung, he makes no attempt to quantify basic operational data, including how much work is done by any pilots in exchange for their compensation.[71] In my opinion, this lack of operational detail alone is a fatal deficiency even before considering all the other relevant factors that would need to be normalized.

Q: Why is the lack of a detailed operational comparison a fatal deficiency for the pilot income comparison?

A: Dr. Cohen's testimony goes into this in more detail from an expert point of view, but to me this is just common sense. You cannot evaluate compensation if you don't detail the operation for which you are getting paid or even define the unit of work that you are getting compensated for. Are

[71] Exh. MM-10 (PSP Response to PMSA DR 102).

you getting paid by the hour, paid by the assignment, paid by salary, paid a dividend, paid as a business owner or partner? This study does not say.

An effective study needs to identify operational details because that is how you learn the actual amount of work that people are doing in order to justify what they earn. This needs to be in addition to measuring differences in other details of the operational work provided like complexity, challenges, time, and so on. For example, if an employer has two hourly employees within the same job category and both doing the same job, maybe both hold the same occupational license, but one is working 10 hours a week and the other is working 50 hours a week, is it reasonable to expect these two employees to earn the same total compensation? No. Certainly, if a study of this workplace only presented you with their total pay, but it omitted the detail about the discrepancy in hours worked, it would not be "detailed," but it also would just generally not be an adequate or useful study by virtually any legitimate measure. But that's what we have here.

Moreover, if that same employer was trying to pay both the 10-hour-a-week employee and the 50-hour-a-week employee an "average" wage of 30 hours a week, then the 10-hour employee would get a windfall of 20 hours of pay and the 50-hour employee would lose 20 hours of pay. You don't need to be an expert to know that if the compensation study only looked at an average pay for these two workers and was not "detailed" enough to include a workload analysis, then it also doesn't tell anybody about the operational details such that you can evaluate what an actual real worker is actually earning and getting paid to do.

In piloting terms, these operational details would disclose if one pilot performed 42 assignments in a year and another performed 176

assignments over the same time period, not just their uniform compensation. Would the presentation of an average between these two pilots' income be enough "operational detail" to describe what pilots actually earned in that pilot ground? Though the number of assignments should not be the lone criteria, this example illustrates the point about limited, cherry picked comparison efforts that exclude workloads being deficient.

Q: Besides failing to meet the Commission's own guidance, including the failure to include operational detail, do you have other concerns about the PSP comparability studies in general?

A: Yes, PSP's testimony and these studies are completely all over the map. They have no internal consistency within the same case and certainly not from case to case.

For example, in Final Order 09, the Commission highlighted that PSP's own witnesses couldn't agree on what makes districts comparable:

- Capt. von Brandenfels said San Francisco should be the primary comparison based on "similarities in size and geography."
- Capt. Quick said "vessel traffic" was the primary factor.
- Later Capt. Quick testified he would interpret comparable as "one handling ships similar to those handled by Puget Sound pilots."
- In any event, the Commission also found that even if PSP witnesses could agree among themselves on what any of the criteria were, it had provided no evidence of comparability by size, geography, or vessel traffic mix.

Then, in Final Order 08, PSP witness Lough's testimony in that case comingled data from different years from different pilotages grounds,

including cherry-picking certain years from some pilot grounds when more accurate or more recent data was available, comingled approved income versus actual income, included creative COLA math, and couldn't identify a basis for determining what was an approved rate with a COLA versus what a group actually made in any one year.[72]

These fundamental issues are persistent. Now, five years and two rate cases after the first filing, PSP still hasn't established the basics for being able to prove comparability.

What operational characteristics must be similar? What financial structures must be comparable? What regulatory frameworks must align? What geographic or piloting risk factors matter? What mix of vessel traffic is relevant? What are the economic considerations? What are the quality-of-life considerations? What pilot candidate pool occupations are desirable or needed to qualify? How much vacation time would a pilot get? What is the watch schedule and is a pilot on call or at a dispatch office or station?

The list goes on. And, no one knows the answers in any event, because the only data point provided in the new PSP comparison study is the same as in the prior comparison study and in the comparison testimony before that: pilot income.

Q: What other factors would you find necessary for a pilot compensation study to be relevant to this ratemaking process at the Commission?

[72] Final Order 08 ¶¶ 81, 118-119.

A: I find this exceptionally curious: why do none of these compensation studies ever compare the recruitment of trainees between other pilotage grounds and the Puget Sound?

If the point of the compensation study is to evaluate whether or not a certain level of income in some pilot districts can "attract and retain" pilots better than a certain level of income in the Puget Sound or other pilot districts, then you would think this would be the central question.

For a compensation study to be relevant to the question of whether the Puget Sound can "attract and retain" applicants, it would have to examine how compensation levels have led to some level of success or some level of failure to attract a sufficient number of qualified and tested candidates and trainees. et, this critical component of an "attract and retain" study is always completely missing from PSP's testimony in all three cases, including Mr. Sisung's study here.

Q: Are there other inconsistencies that trouble you?

A: Yes, when you compare the pattern of testimony PSP has provided, it actually gets less and less reliable in each case.

In 2019 2019 in Docket TP-190976, Capt. Quick provided this testimony for PSP. While it was unverifiable, anecdotal, unproven, and internally inconsistent, the testimony was at least based on his first-hand personal knowledge and expertise. Capt. Quick's testimony attempted to first identify comparable ports and then apply an average pilot net income analysis based on those comparable ports. The calculation of the average of these comparable incomes based on this testimony was $541,204.[73]

[73] Docket TP-190976, Carlson, Exh. IC-1T, 18:18-19.

In 2022 in Docket TP-220513, PSP's expert was Mr. Lough, who had no first-hand expertise or familiarity with pilotage. Mr. Lough did not attempt to find any comparability between ports or vessel mix or pilotage workload, instead his main focus was on the availability of recent information. And, on cross-examination, Lough admitted "all the data for his compensation study was selected by PSP and provided to him by PSP" and that he did not conduct an independent analysis.[74] Based on the data PSP provided him, Mr. Lough took an average of pilot incomes from 2018-2022 and arrived at a compensation of $574, 087.[75] By allowing PSP to choose what data he included, his study naturally supported PSP's predetermined conclusion.

But, had Mr. Lough focused on only the West Coast data he was provided, he would have calculated an average of $481,091, which was dramatically lower than his $574,087 median figure that he was using for his "national average."[76] This is relevant to note here since PSP included in its own testimony a quote from the BPC that it believes the competition for trainees is primarily among the west coast pilotage grounds and specifically with San Francisco.[77] This undermines PSP statements about competition for candidates being on a national level—an unfounded claim that failed to

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[74] Final Order 08 ¶ 108.

[75] Docket TP-220513, Lough, Exh. DL-1T, 19:18-20.

[76] Final Order 08 ¶ 135 ("Lough projects a 2023 income of $497,759 for Grays Harbor pilots, $456,719 for Los Angeles Harbor pilots, an averaged income of $443,923 for San Francisco Bar pilots, $503,527 for Columbia River pilots, and $503,527 for Columbia River Bar pilots. The average projected 2023 income for these five west coast pilotage districts is $481,091.")

[77] Carlson, Exh. IC-01T, 27:2-15 ("Pilotage districts, especially on the west coast, are typically in competition with each other for the same qualified aspirants. . . . Washington state's pilotage districts are in direct competition with California districts, and more specifically with San Francisco. It is not uncommon for our two states to share candidates on the waiting list to enter training.")

persuade the Commission in the last case and is used to a similarly unpersuasive effect in this case.[78]

Now in 2025, Mr. Sisung presents a report that is even more heavily geographically weighted toward the only pilotage experience that he has (the Louisiana pilotage market and other ports in the Gulf) and taking an average of data from an even wider swath of time, 2013-2024, than Mr. Lough. After extrapolating with both CPI and COLA factors that he chose, Mr. Sisung presents a "national" average of $729,467.[79]

Q: Why do you believe these inconsistencies in the evidence render it unreliable?

A: The picture that is painted by considering together PSP's evidence in all three cases is troubling. It also highlights why the Sisung study in this current case is mathematically unbelievable.

In the prior two rate cases, the PSP testimony was unreliable, but unreliably consistent. The witness who had the most personal knowledge of pilotage compensation, Capt. Quick, presented comparability criteria that yielded the lowest income number once PSP put it into an average. This was $541,204 based on partial data from 2019 and prior. The witness with the least personal knowledge of pilotage compensation, Mr. Lough, presented a relatively comparable income number of $574,087 using partial data from 2018 up until 2022. This yielded a $32,883 increase, or 6.1% over approximately 3 years. While I do not endorse either of these numbers, the

[78] Final Order 08 ¶ 138 ("PSP also argues that it requires national competitive compensation to attract the 'best of the best.' This argument is also unpersuasive and deserves little weight."); Carlson, Exh. IC-01T at 17:7-8.
[79] Sisung, Exh. RLS-04, p. 8.

methodology, or the data, and acknowledging they were cherry-picked, at least these two studies were in the same ballpark.

But, in this case, the testimony by Mr. Sisung is off the charts and mathematically absurd. Mr. Sisung in Exhibit RLS-04 comes to the conclusion that the national average is a $729,467 total compensation number in reliance on data from 2013-2024. This is an increase of $155,380 over the exaggerated and flawed average from Mr. Lough in the 2022 case. That is a shocking 27.1% increase over just 2 years.

Q: Why is this increase mathematically absurd?

A: Lough's study and Sisung's study use overlapping years for their data; with Sisung using data from 2013-2024, his study includes ALL the same base years (2018-2022) that Lough used. When calculating an average, if you start with Lough's 2019-2022 average of $574,087, and you add two more years (2023-2024) to the dataset, to arrive at the new Sisung 2013-2024 average of $729,467 you can only get there if there is a dramatically increased average in the 2023-2024 data set or in the 2013–2018 data set that is massively higher than the 2019-2022 baseline. But, presumably the 2013–2018 data would have been included in Capt. Quick's baseline for his testimony he provided in 2019, so that earlier set should be ruled out.

Let's do the math backwards. If we assume roughly equal weighting across years after the Quick testimony in 2019, and we simplify these calculations to highlight the years that are new (the 2023–2024 data), to be credible, Mr. Sisung's analysis would need all pilotage grounds to average income of approximately $1,039,000 per year.

Here's the math:

- Lough's 4 years (2019-2022) averages to $574K per year
- Sisung's 6 years (2019-2024) averages to $729K per year

$$(\$729K \times 6\,years) - (\$574K \times 4\,years) = \$4{,}374{,}000 - \$2{,}296{,}000$$
$$= \$2{,}078{,}000$$

$2,078,000 ÷ 2 *years* = $1,039,000 *per year average for 2023-2024*

That's an 81% jump in pilot compensation in just two years, which is absurd on its face.

Q: Is there any data in Sisung's study to lead anyone to believe that these numbers are real?

A: No, not even close, they appear to be totally made-up and theoretical.

For $729,467 to be an average, it would be necessary for pilotage grounds to be on both sides of the average, with a significant number of pilots exceeding earnings of $729,467. Looking directly at Sisung's study, that just isn't possible. This is a completely fabricated number apparently only arrived at by adjusting numbers with assumptions by him, including adjusting data from over 10 years ago.

The Sisung "Study Sample Group" at Exhibit RLS-04, p. 15, Table 2 (shown below) shows that every pilotage ground surveyed, save one, earns below $729,467. That makes it impossible for $729,467 to be an average.

Table 2: Study Sample Group		
Association	**Reported Year**	**Amount/Year**
Associated Branch Pilots	2023	$599,032
Biscayne Bay Pilots	2015	$323,903
Brazos Pilots' Association	2023	$660,937
Canaveral Pilots' Association	2018	$354,017
Columbia River Bar Pilots	2024	$506,833
Columbia River Pilots	2024	$681,595
Coos Bay Pilots' Association	2024	$479,538
Crescent River Port Pilots' Association	2023	$560,230
Lake Charles Pilots	2023	$1,301,322
Lakes Pilots' Association, Inc.	2023	$457,891
Los Angeles Port Pilots	2024	$508,450
New Orleans Baton Rouge Steamship Pilots' Association	2023	$626,566
Palm Beach Pilots	2018	$333,690
Port Everglades Pilots' Association	2013	$346,347
Port of Gray's Harbor	2024	$418,120
Puget Sound Pilots	2024	$449,591
San Francisco Bar Pilots	2024	$581,097
St. Andrew Bay Pilots' Association	2017	$188,546
St. John Bar Pilots' Association	2018	$412,450
St. Lawrence Seaway Pilots' Association	2023	$387,918
Tampa Bay Pilots	2021	$249,913
Virginia Pilot Association	2020	$428,993
Western Great Lakes Pilots Association	2023	$431,019

Even when these numbers are scaled up to 2024 dollars, as shown in Exhibit RLS-04, p. 25, Table 5 (shown below), every pilotage ground listed save one still has an adjusted income below $729,467, which still makes it impossible to be an average.

Table 5: Study Sample Group CPI-Adjusted to 2024$						
Association	Reported Year	Reported Year Amount/Year	Reported Year Average Annual Index	2024 Average Annual Index	Calculated Conversion Factor	Amount Years Converted to 2024$
Port Everglades Pilots' Association	2013	$346,347	232.957	313.689	1.347	$ 466,374
Biscayne Bay Pilots	2015	$323,903	237.017	313.689	1.323	$ 428,682
St. Andrew Bay Pilots' Association	2017	$188,546	245.120	313.689	1.280	$ 241,289
Canaveral Pilots' Association	2018	$354,017	251.107	313.689	1.249	$ 442,246
Palm Beach Pilots	2018	$333,690	251.107	313.689	1.249	$ 416,853
St. John Bar Pilots' Association	2018	$412,450	251.107	313.689	1.249	$ 515,243
Virginia Pilot Association	2020	$428,993	258.811	313.689	1.212	$ 519,956
Tampa Bay Pilots	2021	$249,913	270.970	313.689	1.158	$ 289,313
Associated Branch Pilots	2023	$599,032	304.702	313.689	1.029	$ 616,700
Brazos Pilots' Association	2023	$660,937	304.702	313.689	1.029	$ 680,431
Crescent River Port Pilots' Association	2023	$560,230	304.702	313.689	1.029	$ 576,753
Lakes Pilots' Association, Inc.	2023	$457,891	304.702	313.689	1.029	$ 471,396
Lake Charles Pilots	2023	$1,301,322	304.702	313.689	1.029	$ 1,339,703
New Orleans Baton Rouge Steamship Pilots' Association	2023	$626,566	304.702	313.689	1.029	$ 645,046
St. Lawrence Seaway Pilots' Association	2023	$387,918	304.702	313.689	1.029	$ 399,359
Western Great Lakes Pilots Association	2023	$431,019	304.702	313.689	1.029	$ 443,731
Port of Gray's Harbor	2024	$418,120	313.689	313.689	1.000	$ 418,119
Columbia River Pilots	2024	$681,595	313.689	313.689	1.000	$ 681,595
Los Angeles Port Pilots	2024	$508,450	313.689	313.689	1.000	$ 508,450
Columbia River Bar Pilots	2024	$506,833	313.689	313.689	1.000	$ 506,833
Coos Bay Pilots' Association	2024	$479,538	313.689	313.689	1.000	$ 479,538
San Francisco Bar Pilots	2024	$581,097	313.689	313.689	1.000	$ 581,096
Puget Sound Pilots	2024	$449,591	313.689	313.689	1.000	$ 449,591

And, since the Sisung study actually throws out the Lake Charles Pilots income as an outlier, in an attempt to maintain some semblance of statistical credibility,[80] **there is actually no pilotage ground listed with an income that exceeds $729,467.** This is true even when the reported amounts are increased to 2024 dollars.

This "national average," in other words, is pure fiction.

Q: What other observations do you have in considering the Sisung study data in comparison to the 2022 Lough study?

A: Other aspects of the study data raise further questions of credibility. While Lough was trying to keep his comparisons relatively close in time to his testimony by using data from 2018 to 2022, Sisung study's Table 2 (shown above) confirms that he uses wildly inconsistent data years:

[80] Sisung, Exh. RLS-04 at 33–34

- Biscayne Bay: 2015 (9 years old)
- Canaveral: 2018 (6 years old)
- Port Everglades: 2013 (11 years old)
- St. Andrew Bay: 2017 (7 years old)
- St. John Bar: 2018 (6 years old)
- Virginia Pilots: 2020 (4 years old)
- Tampa Bay: 2021 (3 years old)

PSP's testimony is therefore not moving towards the Commission's mandate to establish more consistency, credibility, and relevance for comparative studies to be meaningful in PSP's rate cases. It is doing the opposite.

Q: Are there other challenges with using older data than the 2022 Lough study in the current case?

A: Yes. The point of this 2025 ratemaking, and presumably the updated 2025 Sisung study, is for PSP to provide evidence to demonstrate how things have changed since the adoption of the current tariff in 2022 by the Commission. Because the presumption is that the current rate is in place until PSP carries its burden of proof to change the rate, PSP has to demonstrate what has happened since 2022 to impact an analysis of "attract and retain." Even if looking at what a Port Everglades pilot made 11 years ago was relevant to the 2022 Lough study, it is impossible for it to inform how the pilotage market has changed or evolved since the 2022 Lough study.

There is simply no relevance to the purpose of the study for PSP's purposes here. In other words, the Sisung study is only relevant if it can demonstrate why the rate that was fair, just, reasonable, and sufficient

when adopted in 2022 is now no longer fair, just, reasonable, and sufficient in 2025. Given that the Sisung study draws a significant portion of its data from pilotage ground ranging from 2013 – 2021, that is pretty much impossible for it to accomplish.

Of course, we strongly disagree with any reliance or use of any of these comparisons for any purpose by the Commission.

Q: Are there other trends in the Sisung study that do not support the dramatic increase of 27% over the previous amounts that were already inflated and found not credible?

A: Yes. It is unclear how Sisung unclear how Sisung can claim a significant increase over the original average pilot income data used by PSP in 2019.[81] Again, we disagree with the use of any of these for any purpose by the Commission, and would note that Louisiana pilot grounds have many dynamics that vary greatly from our pilot ground, but for purposes of pointing out inconsistencies we observed several trends and situations which defy Mr. Sisung's conclusions.

For instance, when looking at these three data sets from the three rate cases, both the Crescent River Port Pilots and the New Orleans Baton Rouge pilots actually saw significant decreases from the 2019 PSP numbers.

Crescent River Port Pilots:

- 2019 (Carlson): $607,988 (2018 data)
- 2023 (Lough): $621,693 (projected 2023)
- 2025 (Sisung): $560,230 (2023 data)

New Orleans Baton Rouge (NOBRA):

[81] Dkt. TP-190976, Carlson, Exh. IC-03 (see Exh. MM-48).

- 2019 (Carlson): $727,287 (2018 data)
- 2023 (Lough): $594,127 (projected 2023, using 2021 actual of $565,518)
- 2025 (Sisung): $626,566 (2023 data)

Q: What do you make of the Lake Charles Pilots income data?

A: The Lake Charles Pilots income of $1,301,322 for 2023 obviously sticks out like a sore thumb. It begs credulity. And, for good reason; it is completely inconsistent with other, earlier PSP testimony:

Case	Witness	Lake Charles Amount	Year	Source
TP-190976 (2019)	Capt. Ivan Carlson	**$409,098.82**	2018	Exh. IC-03
TP-220513 (2023)	David Lough	**$533,436** (2020) **$550,000** (projected 2023)	2020/2023	Exh. DL-25T at 4:5
TP-250574 (2025)	R. Lane Sisung	**$1,301,322**	2023	Exh. RLS-04, Table 2

Across all of this testimony, we are supposed to take at face value that Lake Charles Pilot compensation allegedly increased 30% from 2018 to 2020, then was projected to only increase 3% from 2020 to 2023, but instead it actually increased 144% from 2020 to 2023. Taken together, the PSP's testimony in these three cases posits that Lake Charles pilots' income increased by 218%, or an increase of $892,223, and that one increase was a surprise 141%. That's a stunning average annual increase of 26% per year for five consecutive years.

I have no personal knowledge of anything about the Lake Charles pilots or their operations. But, there is no logical set of dynamics that would lead to Lake Charles pilots compensation increasing from $409,000 to $1.3

million in five years without some massive changes in one or more of the following:

- Reduction in the number of pilots (dramatically fewer pilots sharing same or higher revenues)
- Vessel traffic (massive increase in assignments)
- Huge increase in the size of vessels due to the opening of a new terminal or seaport (rapid growth in tonnage per assignment)
- Rate structure changes (huge tariff increases) and/or political dynamics influencing it
- Fundamental change in how compensation is calculated

Or, the data could just be inaccurate. And yet the PSP evidence in the Sisung study does not look at ANY contextual data or factors whatsoever—only pilot income. PSP has not acknowledged this astronomical increase at Lake Charles or tried to explain it.

Moreover, there is no explanation for why it was included to begin with, as PSP witness Capt. Quick had testified "I don't think Lake Charles is a comparable port" and "questioned the inclusion of Lake Charles in PSP's analysis . . . because of its mix of vessel traffic."[82]

Q: What is the significance of having these inconsistencies and lack of contextual information within the reports submitted in each individual case and across the three cases?

A: These are all persistent examples of why context matters and why no one should put faith in any of these numbers without critical information to

[82] Final Order 09 ¶ 145, n. 258.

standardize this evidence before it can be considered reliable, believable, or applicable.

PSP does not even try to explain what the significant changes are or whether they are replicable or relevant to Puget Sound. Nor is there any evidence that what a pilot earns in Louisiana has any effect on anything in Puget Sound.

Without rigorous, verifiable, and full context, the Commission cannot treat these studies as reliable evidence.

Q: Given your wide-ranging concerns and criticisms of this PSP "national average" argument, how would you recommend the Commission handle this PSP testimony?

A: First, the Commission does not even need to consider this comparability evidence. If the Commission finds that the current tariff is adequate to "attract and retain" trainees and applicants, then there is no need to turn to a third-party study to even raise the question of comparability. Simply acknowledge the BPC application and examination statistics, find that there is an adequate DNI to attract and retain trainees and pilots, then apply the average DNI formula, AAL formula, TDNI formula, and move on from there.

Second, because the Commission has already concluded in both the prior rate cases that comparability evidence is not necessary to meet rate-setting legal requirements in Washington,[83] the Commission should repeat and reiterate its guidance and previous admonitions to PSP. In addition to improving the quality of the evidence presented, such an admonition should

[83] Final Order 09 ¶ 141; Final Order 08 ¶ 117.

discourage PSP from trying to shoehorn a "national average" into the "attract and retain" criteria for a fourth time in its next rate petition.

VII. THE CURRENT TARIFF, WITH ONLY MINOR ADJUSTMENTS, IS SUFFICIENT

Q: Understanding that rates are "sufficient" when revenues cover pilot expenses and attract and retain trainees and pilots, could you summarize PMSA's view of whether the current tariff is sufficient?

A: The current tariff is sufficient. As shown in Exhibit MM-03 and Figure A, the current rate process and its formulas are generating pilot revenues at or above the Commission's revenue requirement, including at 104% in the test year. Therefore, the rate-setting formulas are functioning as designed and generating sufficient revenues. PSP therefore faces a difficult task in trying to demonstrate that rates are insufficient.

Q: Will you address specific items of PSP's requests in this testimony?

A: Yes, I will explain this first in terms of the number of pilots the tariff should fund. Next, I will address the evidence of whether the current tariff provides compensation sufficient for attracting and retaining pilots. Finally, I will discuss pilot expenses—specifically, retirement, transportation, legal and consultant fees, and callback/comp days.

A. The Tariff Should Continue to Fund 56 Pilots Based on the AAL Methodology.

Q: What is the Commission's established methodology for determining the number of funded pilots?

A: The Commission, acting as the economic regulator, sets the number of funded pilots using the AAL methodology, which is based on a five-year historical average of assignments per pilot. In contrast, the BPC, acting as the licensing body, sets the maximum number of pilot licenses. The Commission has twice affirmed its use of the AAL for rate-setting and has declined to simply defer to the BPC's license ceiling.[84] As the Commission explained, "By determining the number of funded pilots based on an averaging of recent pilot assignments, the Commission determines PSP's additional annual revenue requirement and provides reasonable compensation to pilots without intruding into areas properly reserved for the BPC."[85]

Q: How does the AAL methodology relate to the number of licensed pilots?

A: The AAL is applied within a 'floor and ceiling' framework. The 'floor' is the actual number of licensed pilots (currently 56), and the 'ceiling' is the maximum number of licenses authorized by the BPC (currently 60).[86] The AAL methodology determines the appropriate number of pilots to fund for rate-setting purposes within this range.

Q: Should the Commission ever simply adopt either PSP's requested number of pilots to fund or the BPC's authorized number of

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[84] Final Order 09 ¶¶ 454-56; Final Order 08 ¶¶ 160-63, 472.

[85] Final Order 08 ¶¶ 158-59 (making an exception only to avoid normalizing the effects of the COVID-19 pandemic).

[86] Docket TP-190976, Sevall, Exh. SS-1T at 10:17-11:2.

possible pilot licenses as the funded pilot number in lieu of conducting its own analysis?

A: No. The Commission should consistently exercise its independent judgment, in this case based on the AAL methodology, because the Commission's economic regulatory purposes in setting the AAL are distinct and different than the BPC's licensing regulatory purposes in setting the TAL.

For example, in Docket TP-190976 there were multiple factors to evaluate in the application of the number of pilots to the tariff:

- PSP's actual number of active licensed pilots was 50.
- The BPC authorized number of pilot licenses available was 56.
- PSP requested a tariff that funded 61.6 pilots.
- The Commission applied the AAL to the evidence in the case and funded 50-52 pilots over the course of a two-year phase-in.

The Commission ultimately determined that the economics of the system justified funding the actual number of pilots, which was 4-6 pilots below the total BPC authorization number and 11.6 pilots below the PSP requested number of pilots to fund.

In Docket TP-220513, the Commission applied the evidence in the case to conclude that funding 56 pilots was appropriate based on the following factors:

- The BPC authorized number of pilots remained at 56, as in the previous case.
- PSP reduced its requested number of funded pilots to 56.
- The actual number of pilots projected in the rate year was 56.

- The Commission applied the AAL methodology and found that the AAL justified funding 55.9 pilots, which it rounded to 56.[87]

In both cases, the Commission applied the AAL analysis and made independent determinations. The Commission has never rubber-stamped a pilot count simply because the BPC authorized that many licenses or PSP asked for that number of pilots.

Q: What is PSP's position on using the AAL methodology in this case?

A: PSP reprises arguments the Commission has twice rejected, urging the abandonment of the AAL methodology. PSP requests funding for 60 pilots-the BPC maximum-and argues the Commission should simply defer to the BPC's determination. The Commission has consistently rejected this same argument, affirming its independent economic regulatory authority.

Q: How has the Commission explained the distinction between its role and that of the BPC?

A: The Commission has consistently defined its role as the economic regulator when setting the number of pilots, in contrast to the BPC's role in regulating safety matters. The Commission has explained:

> In this case, we again emphasize the Commission's limited role as the economic regulator of pilotage services . . . . By determining the number of funded pilots based on an averaging of recent pilot assignments, the Commission determines PSP's additional annual revenue requirement and provides reasonable compensation to pilots without intruding into areas properly reserved for the BPC.[88]

[87] Final Order 08 ¶ 163 (removing from the data "the abnormally low vessel traffic from 2020" and "data from 2017 and 2018 that reflects less stringent rest rules").
[88] Final Order 08 ¶ 158.

In the second rate case PSP tried again to conflate safety determinations with the UTC's role as economic regulator. It went so far as to claim a need for a whole new set of standards to be set on a best achievable safety standard rather than on the Commission's adopted fair, just, reasonable, and sufficient standards adopted in the first case.

The Commission rejected these attempts by PSP, affirmed the prior case standards, and ultimately chose to fund 56 pilots "based on an averaging of recent pilot assignments."[89] There was near unanimity on the question of what the number of pilots should be since 56 was PSP's requested number, the Commission Staff's recommended number, and even PMSA's recommended third-year number, as well as being the BPC authorized number. Yet, despite the unanimity of the parties and consistency with BPC, the Commission still made it clear in Final Order 08 that the Commission only affirmed that conclusion after "determining the number of funded pilots based on an averaging of recent pilot assignments," i.e., it relied on an application of the AAL methodology and did not simply defer to the BPC authorized number.

Q: Given this history, should the Commission continue its "role for AAL"?

A: Yes. Despite PSP's argument that there is "no role for AAL," there is no justification from deviating from the standards for AAL use that the Commission has already established.

First, the Commission's jurisdiction and role in economic rate-setting is distinct from the BPC process and jurisdiction to determine how many

[89] Final Order 08 ¶ 158.

licenses might be issued for safe, efficient operations. The UTC determines reasonable compensation based on actual work performed and reasonable prices for services performed. That compensation/pricing determination requires different methodologies and can produce different answers than those involved in potential safety parameters. It is by design, not an error, that the legislature assigned these two distinct functions to separate, independent agencies. Neither may usurp the function of the other.

Second, the Commission has explicitly adopted the AAL methodology "for rate-setting purposes" in two consecutive orders that produce reasonable and sufficient rates. PSP provides no new evidence or changed circumstances that warrant abandoning established precedent.

Third, because the AAL methodology is based on actual historical data, it is the best evidence in these rate cases. It represents known and measurable expenses. PSP's approach, by contrast, is entirely speculative and based on self-serving future projections by PSP.

In sum, PSP cannot ask the Commission to surrender its economic regulatory authority simply because the BPC exercised its licensing regulatory authority. The Commission must independently evaluate what's reasonable to fund based on economic evidence.

Q: How many pilots does PSP currently have compared to its request?

A: PSP currently has 56 licensed and active pilots.[90] Nevertheless, PSP requests funding for 60 pilots.[91] PSP speculates that it may add pilots based on trainees currently in the training program, but PSP provides no

[90] Carlson, Exh. IC-01T at 35:11.
[91] Carlson, Exh. IC-01T at 35:12-14.

supporting data, no estimates, no specific licensing dates, no success rate data for these trainees, and no dates of retirements. Nor does PSP offer any accountability mechanism if its speculation fails to materialize.

Q: Given the lack of details, should the Commission credit PSP's prediction of the number of future pilots?

A: No. PSP's prediction in this case is purely speculative and is consistent with PSP's record of grossly overestimating future pilot counts.

In Docket TP-190976, when PSP requested funding for 61.6 FTE pilots, PSP President Capt. Carlson was asked by a Commissioner in the hearing if PSP's request reflected an actual number of pilots:

> Q: [PSP] is requesting funding for just over 61 pilots by -- by the full phase-in of the proposed three-year tariff.
> A: [Carlson]: Yes.
> Q: [A]s of October 31, 2019, I believe PSP had 50 active pilots. Is that -- is that correct, subject to check?
> A: That -- subject to check; yes, that's correct.
> Q: [D]o you believe that the -- that PSP will realistically have 61 active pilots by 2022?
> A: No.[92]

PSP requested funding for 61.6 pilots when they had only 50 pilots, and Capt. Carlson admitted PSP would not realistically reach 61 by the end of the rate period.

What actually happened? The Commission funded 50-52 pilots. By late 2020, PSP had dropped to 49 pilots. By 2022, PSP had 53 pilots—still well short of PSP's prediction.

Now PSP is continuing its pattern of overestimation by requesting 60 pilots while it has only 56 pilots, i.e., four pilots short.

[92] Docket TP-190976, Carlson, TR. at 389:21-390:7.

Q: What would be the consequence of funding 60 pilots when only 56 exist?

A: It would create a windfall for the existing pilots at ratepayer expense. If 60 pilots are funded at PSP's proposed DNI of $729,467 but only 56 are working, the TDNI collected would increase by approximately $2.9 million. This would raise the actual per-pilot DNI to roughly $781,571 without any additional work, funded by payments for four "phantom pilots" who do not exist.

Q: Has PSP shown that 60 pilots should be funded?

A: No. Doing so would require analyzing actual work requirements in terms of sound rate-setting principles. PSP has failed completely on this point, especially in the face of the Commission's repeated refusal to defer to BPC and insistence on its obligation to exercise its own independent economic judgment. The Commission should once again reject this request and tell PSP that the established AAL methodology does indeed "have a role" in determining the number of pilots to fund for rate-setting purposes.

Also, we must point out here, just like in the prior rate case, that there is tremendous irony in PSP's argument that it anticipates increases in the number of pilots, on the one hand, but that its income is too low to attract new licensees, on the other hand. Both cannot be true. Obviously, as PSP has testified here, it anticipates within the year that the pilot corps will be adding new pilots at a faster rate and to a higher degree than ever before. That is an admission that the DNI under the current pilotage tariff is sufficient to attract a significant number of new pilots—not evidence of its inability to attract new pilots.

B. The Evidence Shows There Is No Problem Attracting and Retaining Pilots.

1. The Commission should continue to apply its attract and retain standard.

Q: What is the Commission's 'attract and retain' standard for evaluating pilot compensation?

A: The Commission described that, in rate-setting generally, rates must be sufficient to meet the company's needs "to cover its expenses and attract necessary capital on reasonable terms"; for pilotage, the Commission has concluded that pilots function as the company owners/shareholders so that this sufficiency standard translates into PSP's ability "to attract and retain pilots to perform essential pilotage service."[93] The Commission looks to concrete indicators like the size and quality of applicant pools, exam pass rates, and evidence of mid-career attrition or abnormal retirements-not theoretical pay comparisons.[94]

Q: Do these Commission precedents have applicability to this case?

A: Yes, the following findings are all still true today:

- "PSP's historical compensation levels have not discouraged candidates from seeking to enter the training program."[95]
- "PSP's compensation levels easily attract qualified candidates,"[96] which is confirmed by the 2024 exam results, which produced 31 qualified

[93] Final Order 09 ¶ 43; Final Order 08 ¶ 48.
[94] Final Order 09 ¶¶ 150-56; Final Order 08 ¶¶ 121-22.
[95] Final Order 09 ¶ 152.
[96] Final Order 09 ¶ 153.

applicants, well within historical norms.[97]

- "[T]here is no evidence to suggest that PSP's historical compensation levels have attracted less capable candidates than would otherwise be available,"[98] which is confirmed by the fact that the 2024 exam produced 13 qualified candidates, which is more than adequate to meet anticipated demand.
- As in the prior cases, "PSP bears the burden of demonstrating that compensation levels are impacting its ability to attract and retain pilots. PSP met neither burden in the context of this proceeding."[99]
- Again, as in the prior cases, "[t]he evidence shows that PSP's recent compensation levels are attracting qualified candidates."[100]

These findings all remain true today.

Q: Has any change occurred that would warrant departing from established precedent on this point?

A: No. The evidence demonstrates remarkable consistency across all three rate proceedings. The Puget Sound pilotage district successfully attracts qualified candidates, maintains adequate training pipelines, experiences no retention problems, and continues to train and license new pilots to meet service demands. These are the hallmarks of a compensation structure that is working effectively.

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[97] *See* Exh. MM-11.
[98] Final Order 09 ¶ 154.
[99] Final Order 09 ¶ 163 (referring also to PSP's "burden to provide sufficient evidence to allow the Commission to properly conduct a comparability analysis").
[100] Final Order 08 ¶ 122.

The Commission should have confidence in its prior findings and continue to apply the rigorous, evidence-based approach that has served both ratepayers and pilots well in the prior proceedings.

Q: In applying the "attract and retain" standard to gauge compensation sufficiency, has the Commission considered compensation levels at other pilotage grounds?

A: No. In finding that the Puget Sound continues to successfully attract qualified candidates and retain pilots, the Commission has never found it necessary or relevant to consider other pilotage grounds.

Q: How should the Commission apply this standard in this case?

A: The Commission should examine the same factors it previously relied upon to determine whether the facts have changed in any material way.

Q: Have the facts changed in any material way?

A: No. The Puget Sound is still very successful at attracting and retaining qualified pilots.

Q: What's the most direct evidence of this?

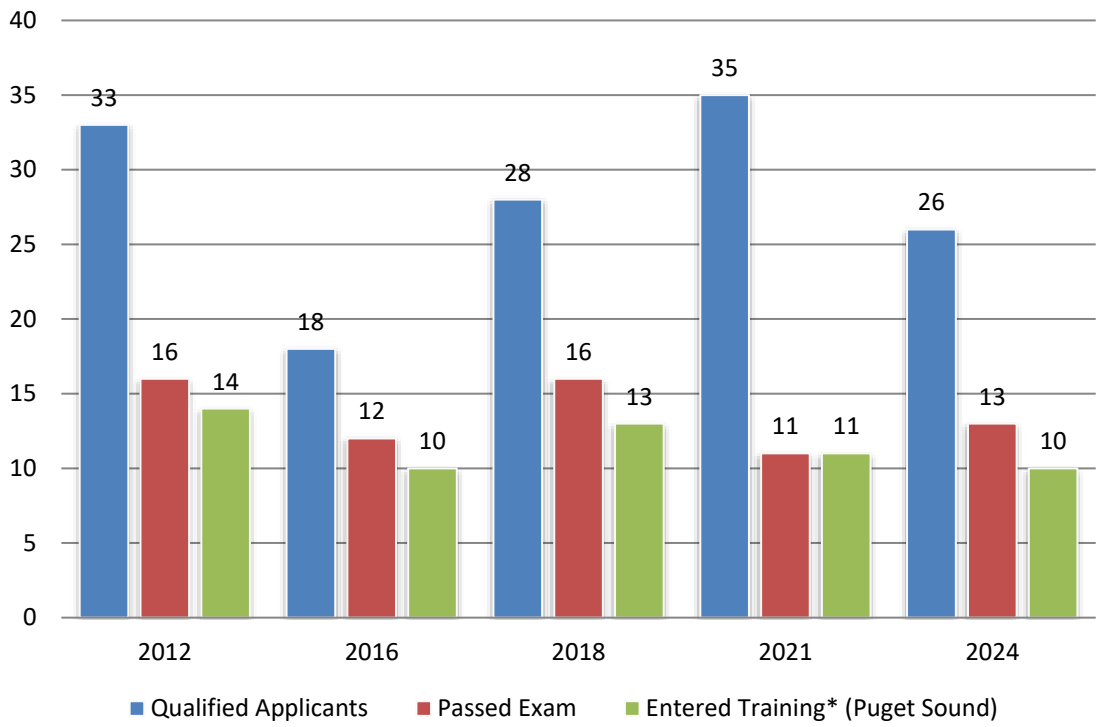
A: The 2024 pilot exam, which yielded 31 applicants of whom 13 passed, confirms the Puget Sound pilotage district continues to attract sufficient qualified candidates. This result is squarely within the historical band of 11-16 passing per exam cycle, which the Commission has previously cited as evidence that PSP successfully attracts candidates.[101] The 2024 exam

[101] Royer, Exh. JR-02.

continued the historic level, with 13 qualified candidates passing, an increase of two from 2021.[102] Ten of these successful candidates have already entered the training program.

Here, in Figure C, the data from 2012 to present is updated with the 2024 results:

Figure C.
BPC Pilot Exam Results: Qualified Applicants & Candidates Passing Exam



As shown above, the number of candidates who successfully pass the exam and simulator evaluation tends to remain relatively stable, typically between 11-16 qualified candidates per exam cycle. This is seemingly independent of the number of applications received. The Commission cited this observation favorably in Final Order 08, paragraph 121.

[102] Exh. MM-11.

The 13 qualified candidates who passed the 2024 exam and simulator evaluation to make the BPC approved pilot candidate training list is a class size of trainees which falls squarely within the typical band of attracted, qualified candidates.

Q: PSP witness Capt. Carlson testified that the 2024 exam produced "only 13 successful candidates," implying that 13 candidates was insufficient. Does this concern you?

A: No, having 13 qualified candidates is well within the historical norm and is entirely adequate to meet anticipated demand. The BPC has proven adept at managing the pipeline by timing exams to ensure a steady flow of trainees, which is a sign of a healthy system, not a struggling one. Here, the 13 candidates from the 2024 exam joined remaining candidates from the 2021 exam who had not yet completed training. This overlap helps to maintain a robust pipeline.

In managing the pipeline, the BPC ensures that the maximum time a candidate can remain on the list is four years in compliance with a 2005 state law. PMSA and other stakeholders supported this legislative change because it was undesirable to have a candidate waiting on the list for nearly ten years, which was the case at the time. This means the BPC now administers exams as frequently as necessary to maintain an adequate pipeline—approximately every 2–4 years depending on workload and retirements and changes in the authorized number of pilots.

Since the 2005 legislation, there have been six exams over the course of nearly 21 years. The average interval between exams is nearly three and

half years, thereby fully complying with the intent and requirements in the 2005 legislation.

Increasing the number of openings in the training classes, and then filling those openings by generating more trainees, and ultimately increasing the number of authorized pilots is a sign of strong trainee demand for positions at PSP and of overall system attractiveness.

The evidence in this case is that the efficient exhaustion of exam lists and the successful timing of exams lead to the establishment of more new trainee classes somewhat sooner than otherwise historically achieved. This also demonstrates that the Puget Sound is more successful at attracting candidates than before. We give credit to BPC's successful management of the trainee pipeline to ensure qualified candidates enter training at the right time, because when trainees are moving through the program rather than sitting idle on waiting lists for years, that also makes the Puget Sound a more attractive place to become a trainee.

Q: Is there any correlation between the pilot compensation level immediately prior to an exam and how many applicants BPC has for its exams?

A: There is no correlation between pilot compensation levels and the number of exam applicants. For example, a significant DNI decrease in 2020 to $204,581 did not deter applicants, as the 2021 exam still attracted 40 candidates-the second-highest number since 1996. Conversely, after DNI recovered to pre-pandemic levels by 2023, the 2024 exam did not outdraw 2021, even though it still attracted 31 applicants, a number squarely within historical norms. This confirms that the Puget Sound continues to attract

qualified candidates regardless of short-term DNI fluctuations, as candidates are more focused on long-term career earnings.

Q: What does this tell you?

A: This confirms what the Commission already found in both prior cases: compensation levels and applicant numbers are not directly correlated.

The Puget Sound continues to attract qualified candidates regardless of short-term changes in DNI, up or down. This is best demonstrated by the decrease in 2020 to a DNI of just over $200,000, which did not scare away candidates. Candidates are obviously interested in compensation, but this is a relative factor and just one of many factors. Regarding financial attractiveness, it is just common sense to evaluate lifetime earnings potential as opposed to only a marginal year-to-year fluctuation in tariff rates.

Q: In prior cases, what did the evidence show regarding demand for the pilot training program?

A: The evidence demonstrated that there was always a waiting list for pilot trainees, there had never been a pilot opening in the Puget Sound without a BPC-qualified candidate in training or waiting to train, and the pipeline of qualified candidates had never been exhausted.

Q: Has any of that changed with the 2024 exam results?

A: No, all of this remains true today.

2. The Commission should reject the latest PSP comparability study.

Q: In the prior cases, what types of PSP evidence did the Commission reject as not persuasive or helpful to the application of the "attract and retain" standard?

A: In two prior rate cases, the Commission rejected PSP's national comparability studies as unpersuasive. The Commission found that the central issue is not how Puget Sound compensation compares to a theoretical national average, but whether actual compensation is sufficient to attract and retain qualified pilots in the local market. The Commission has consistently found the direct evidence of robust applicant pools and strong retention in Puget Sound to be far more persuasive. Furthermore, the Commission noted significant methodological flaws in PSP's prior studies, including unreliable data and a failure to account for differences in workload and operating conditions between pilotage districts.

Q: Has PSP introduced any fundamentally new evidence or theory in this proceeding that would warrant revisiting the Commission's prior findings?

A: No, PSP simply reprises the same arguments in this proceeding. As PMSA witness Dr. Spencer Cohen explains, the current study fails to remedy the fundamental methodological defects identified in prior cases, such as the use of opaque, unverified data and the lack of workload normalization.[103] Without credible local market evidence of a failure to attract and retain pilots, such theoretical comparisons remain irrelevant and unnecessary.

[103] Cohen, Exh. SC-01T.

Q: Are there other factors that might help make a particular pilotage ground attractive to a candidate aside from compensation?

A: Yes, of course. Considerations in this regard might include the candidate selection process, difficulty of the training program, training workload, time in training, training stipend or pay, whether or not the training program leads to a spot or if the trainee needs to wait for an open license, whether there are limitations on licenses that require additional training, and the buy-in cost of the local pilot association. But PSP includes no analysis or mention of any criteria aside from compensation that might be attractive to a potential trainee.

As long as the actual data shows a pilotage ground is successful in attracting and retaining qualified pilots, the most common-sense inference is that the pilotage ground must have rates, revenue, and DNI sufficient to provide for a safe, efficient pilotage system. To this end we should presume that state regulators or local port authorities are competent and able to set an effective rate that supports and balances their own licensing systems and navigational safety needs with the economics of their system and their customers. To start with the opposite presumption would be quite illogical.

Q: Turning from attraction to retention, has PSP attempted to make any retention arguments in this case?

A: In this proceeding, as in the prior two, PSP has offered no evidence of a failure to retain pilots. There are no instances of mid-career pilots departing for other districts due to compensation concerns, nor are there abnormal retirement patterns. In fact, pilots typically spend their entire careers in the

district where they are licensed, a fact reinforced by PSP's own by-laws, which penalize early departure. The occurrences of PSP pilots retiring at or near the mandatory age limit of 70 demonstrates a very high level of retention.

Q: In your testimony in Docket TP-220513, you discussed why the Puget Sound is inherently attractive to pilot candidates. Does that analysis remain applicable in this proceeding?

A: Yes. The Puget Sound draws from a large and diverse local pool of experienced mariners from the regional tug industry, cargo vessel operators, the Washington State Ferry system, the Alaska Marine Highway, and the military. For these candidates, becoming a Puget Sound pilot represents a dramatic step up in both compensation and quality of life. The jump in income is so substantial that it creates a powerful incentive regardless of marginal, year-to-year changes in the pilot tariff. This fundamental economic reality explains why applicant interest remains consistently high.

Q: What guidance did the Commission give in the prior rate cases about the types of compensation analysis it finds most persuasive?

A: In the first rate case, the Commission specifically found that "Captain Moore's analysis comparing PSP pilot compensation to that of tug captains working in the local market and ferry captains in the State of Washington is much more persuasive than PSP's analysis of compensation in other pilotage organizations."[104]

[104] Final Order 09 ¶¶ 152-154

The Commission provided consistent guidance on this point in the second rate case as well.[105] When the Commission summarized its findings, it explained that PSP "failed to provide sufficient data to support its comparability analysis, failed to establish that compensation levels are set too low to attract or retain qualified candidates."[106]

Q: Does PSP provide any analysis of the compensation of the local market pilot candidate pool?

A: No. PSP does not provide any analysis of the compensation of potential applicants, only an analysis of what existing pilots earn elsewhere.

Q: Can you provide updated information regarding the local market pilot candidate pool?

A: Yes. I will include an analysis of the two most relevant baseline measures that directly measure the wages of candidates in key sectors of the labor market from which pilot trainees are drawn:

1. U.S. Bureau of Labor Statistics (BLS), which provides Washington state wage data for Captains, Mates, and Pilots of Water Vessels (SOC code 53-5021)
2. Washington State Ferry (WSF) master hourly wage data from their collective bargaining agreement with the State of Washington

Q: Please describe the information that is included in the BLS labor market data.

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[105] Final Order 08 ¶¶ 115-121
[106] Final Order 08, *Synopsis*.

A: The US Bureau of Labor Statistics provides a large data set of relevant and reliable measures of what potential pilot candidates are earning in key feeder occupations before they apply to join the Puget Sound Pilot training program. The national BLS data captures over 35,000 mariners serving as tug captains, ferry masters, and other positions.

The local BLS data for the state of Washington captures 1,600 mariners in these occupations. This data provides wage evidence of key candidate pool occupations from which PSP draws its trainees. Importantly their wages can be compared to DNI which can then provides insight into whether DNI is more or less relatively attractive to candidates.

As PSP's own compensation witness David Lough testified in the prior case: "wages paid to tugboat captains are particularly relevant because the tow boat industry is one of the occupational feeder pipelines from which PSP pilots are drawn."[107]

Q: How do updated BLS wage figures compare to those you presented in your 2022 testimony in Docket TP-220513?

A: In my 2022 testimony, I provided a BLS May 2021 report which stated the Washington state wage for Captains, Mates, and Pilots in the 90th percentile was $66.48 per hour and $138,280 annually.[108]

The most recent wage report from BLS, in May 2024, stated the State of Washington wage for the 90th percentile of this candidate pool group was $73.27 per hour and $152,400 annually.[109]

[107] Docket TP-220513, Lough, Exh. DL-01T, 5:23-24.
[108] Exh. MM-12 (Docket TP-220513, Moore, Exh. MM-33).
[109] Exh. MM-13.

Q: Why do you use the 90th percentile of BLS data when presenting this candidate income data?

A: The 90th percentile is the most appropriate to use because it represents the highest earners in the candidate pool. This is exactly the tier of qualified mariners where the BPC examination and training program must draw its applicants. Using lower percentiles would ignore that PSP competes for the best candidates with the most experience, not just average mariners. This is the same methodology I used in prior proceedings, which the Commission found "much more persuasive" than PSP's theoretical market comparisons.

Q: How does the growth of these BLS wages compare with growth of PSP compensation and what does it mean for attractiveness?

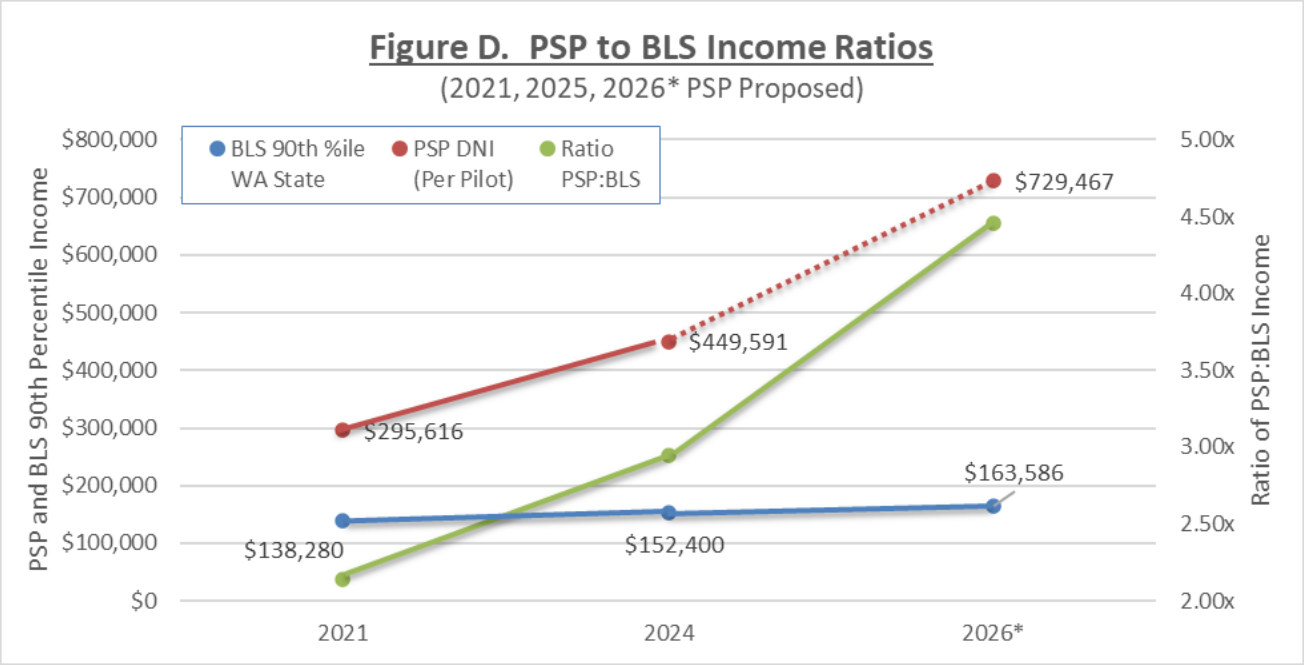
A: Since 2021, the ratio of PSP DNI to candidate pool high earners has become more attractive for potential applicants. At the BLS 90th percentile, the ratio increased substantially from 2.97x in 2022 to 3.41x in 2024. This demonstrates that pilotage has become even more financially attractive relative to the candidate pool since the last rate hearing in docket TP-220513. See the following from Exhibit MM-14:

Ratio of PSP DNI to BLS 90th Percentile (Candidate Pool High Earners)

Year	BLS 90th %ile WA State	PSP DNI (Per Pilot)	Ratio PSP:BLS
2021	$138,280	$295,616	2.14x
2024	$152,400	$449,591	2.95x
2026*	$163,586	$729,467	4.46x

Q: How would the PSP proposed DNI of $729,467 compare to the ratios of PSP DNI to the compensation of the candidate pool?

A: PSP's proposed DNI increase would more than double the already attractive ratio of 2021, which was 2.14x the BLS 90th income, to 4.46x. The prior 2021 ratio of 2.14x was already generating an adequate number of qualified applicants and trainees, which means there is no cause based on the ratio of relative compensation to further increase the PSP DNI. As illustrated in Figure D, this type of dramatic increase in PSP DNI would accelerate the current spread that was already proving to be attractive to applicants in 2021.



Q: How do the rates of pay for Washington State Ferry (WSF) Master-Pilots inform an evaluation of the tariff's attractiveness for pilot candidates?

A: The nexus with piloting is strong in this candidate pool since WSF masters are also licensed pilots in the Puget Sound pilotage district because they are required to hold the same federal pilotage endorsements that PSP pilots must obtain.[110] During my Coast Guard career, I proctored and graded exams and drawing charts for the award of federal pilotage licenses. The federal licensing process is the same for WSF masters/mates in as it is for a BPC trainee in the Puget Sound. This is not a theoretical comparison, it is direct. WSF masters are licensed pilots who live and work in the same area as BPC-licensed pilots. The vessels they pilot are different of course and WSF masters do not employ tugs to dock and undock unless there is an emergency, and other differences, but the linkage and relevancy is obvious. The linkage is even more directly relevant to this examination when one considers that a number of WSF masters have ultimately been attracted away from WSF to become a state-licensed Puget Sound pilot, meaning that they gave up WSF work and wages for PSP work and wages.

Q: How do WSF master/pilot wages compare to PSP DNI?

A: Under the Collective Bargaining Agreement, WSF Master straight time bi-weekly, for two 40 hour work weeks, is $5,831 from July 1, 2025 through

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[110] Exh. MM-15. See Section 5.3 of the MM&P and State of Washington Collective Bargaining Agreement:
"Pilotage Required
A. All vessels of the Employer, while underway, not under its own power, must be under the direction and control of a pilot, who possesses a pilotage endorsement for the particular waters through which the vessel is being moved.
B. Only employees on the master's eligibility list who possess a pilotage endorsement for the particular waters through which a vessel is moved under its own power shall be authorized or permitted to move the vessel as its master."

June 30, 2026 and increasing by 4% to $6,065 on July 1, 2026.[111]

By comparison, PSP is proposing $729,467 for the next rate year. This is a ratio of additional pay of 4.63x for 2026.[112] In 2021 the PSP:WSF pay ratio was 2.57x.[113] When 2026 is compared to 2021,[114] WSF Master base pay is scheduled to grow by some 37%, but over the same time period PSP is proposing to grow its income by 147%. By any measure, this is an excessive growth in the relative income necessary to keep pace with any increases in the base pay of potential pilot candidates.

Q: From a financial perspective does this seem to be an attractive wage increase to a prospective pilot candidate currently working as a WSF master/pilot?

A: Yes. There is no valid argument to show otherwise.

Also, as pointed out in my testimony in the prior case, "this just

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[111] Exh. MM-15.

[112] An alternative measure may be a comparison of hourly compensation, to try and normalize pay per workload, which is a potentially more accurate comparative factor between a WSF master and PSP pilot. Comparing this data, a Puget Sound Pilot is earning $679 per hour, or 9x a WSF master, when comparing 2024 PSP data with the 2026 WSF Master straight-time hourly rate of $75.81 per hour. To estimate PSP income expressed as an hourly wage on a per bridge hour basis requires the following calculations:

- Revenue Per Assignment in 2024 = $5,751.75
- Average Bridge Hours Per Assignment = 4.98
- Average Gross Revenue Per Bridge Hour = $1,155
- Assignment Total for 2024 = 7,588
- Total Bridge Hours = 7,588 * 4.98 = 37,788
- Balance of Revenue Before Pilot Distribution: $25,664,689 (2024 BPC Annual Rpt)
- Balance of Revenue/Total Annual Bridge Hours = $679 net income per bridge hour

[113] Exh. MM-16.

[114] Exh. MM-17.

compares compensation, it doesn't even touch on quality of life benefits for incoming pilots who left jobs that required significantly more days on duty and working, for example WSF masters who average working about 220 days per year."[115] When compared to the 2025 PSP AAL of only 127.3 jobs per year, the WSF master would not only see exceptional increases in their compensation but also significant decreases in the amount of days that they are expected to actually be on the bridge of a ship and providing pilotage services. Taken together those two factors remain a very strong incentive for a potential applicant.

Q: Are these relative compensation levels sufficient to attract qualified candidates?

A Yes, absolutely. The record is clear, when comparing the compensation of the trainee pool and PSP DNI between the prior case, Docket TP-220513, and the current rates there is no basis to any claim of an erosion of pilot income which might result in greater difficulty attracting qualified candidates.

Pilot incomes have grown more attractive relative to their applicant pool compensation since the last rate hearing. And many mariners will continue to be financially better off by considering a career change to become a state licensed pilot.

Q: Is there another temporal factor that affects how candidates view compensation?

[115] Docket TP-220513, Moore, Exh. MM-1T at 97:1-4.

A: Yes, as comprehensively discussed in the prior rate case,[116] when applicants first apply to sit for a BPC pilot exam, they cannot expect to immediately earn the published DNI. There is a lengthy pathway to full compensation:

1. Waiting list period: 0-4 years, depending on when a training slot opens and the candidate's position on the list.
2. Training period: Around 2 years on average to complete the BPC training program.
3. Buy-in period: 6 years of reduced compensation while buying into PSP.

So a candidate would most likely end up waiting 7.5 to 12 years total before taking home a full share of DNI. That means the actual income that attracts a trainee in the first part of a pilot's career is actually much lower than the published DNI.

Q: What is the overall conclusion from the evidence on the 'attract and retain' standard?

A: For the third consecutive UTC proceeding, the evidence is overwhelming: PSP continues to successfully attract and retain qualified pilots. The actual market data-robust exam turnouts, a healthy training pipeline, and zero mid-career attrition-directly contradicts PSP's claims that a major rate increase is needed. Instead of credible evidence, PSP offers the same flawed and irrelevant national comparability arguments that the Commission has twice rejected. While PMSA supports reasonable, data-driven compensation adjustments, the Commission should reject PSP's attempt to abandon established methodologies in favor of theoretical arguments that lack

[116] Docket TP-220513, Moore, Exh. MM-27.

evidentiary support. The Commission should reaffirm its prior findings and rely on the actual, positive market evidence from the Puget Sound.

Q: What should the Commission do in this proceeding?

A: The Commission should apply the same rigorous evidentiary framework it applied in the prior cases. The Commission should:

1. Reaffirm that PSP bears the burden of proving attract-and-retain problems, which PSP has again failed to meet;
2. Continue to rely on actual market evidence rather than theoretical and flawed comparability studies;
3. Recognize the continuity of evidence showing that Puget Sound successfully attracts and retains qualified pilots under current compensation levels;
4. Apply the Commission's established AAL methodology for determining appropriate pilot numbers and compensation levels; and
5. Reject PSP's request to dramatically increase compensation without credible evidence of market failure or an inability to provide safe, efficient, and competent service in a compulsory pilotage ground.

The Commission has developed sound precedents over two prior proceedings. The evidence in this proceeding fully supports continuing those precedents.

C. No Material Change to Pilotage Services Justify Finding the Tariffs Insufficient.

Q: As the standard for tariff sufficiency requires that rates be both adequate to attract and retain pilots and adequate to fairly

compensate pilots for the services they provide, are there any material changes in pilotage services that warrant a tariff increase?

A: No. Since PSP's last general rate case, little if anything has changed with respect to the costs and nature of pilotage work, the operations of the state pilotage monopoly in the Puget Sound, and the regulatory environment in which it operates. Even the vessel traffic and vessel mix that PSP projects is stable, although decreasing. Certainly, nothing warrants the unprecedented 52.3% tariff increase PSP seeks.

The BPC has not adopted new licensing standards or materially altered training requirements since the last rate case. The fundamental qualifications to become a licensed pilot in Puget Sound—including sea time requirements, examination standards, and training protocols—remain essentially unchanged. PSP has not identified any new BPC-mandated training programs or certification requirements that would impose additional costs requiring tariff relief.

The pilots are performing essentially the same work under essentially the same regulatory framework with essentially the same vessel mix and at lower workloads. In such an instance there is no basis for concluding that the current tariff has suddenly become insufficient—particularly when Revenue Per Assignment ("RPA") goes up as average tonnage goes up without any increase in tariff.

Q: Have there been material changes in the pilot watchstanding system?

A: No. PSP has not altered the pilot watchkeeping calendar since the last rate

hearing.[117]

Q: Have there been any material changes in the actual bridge times per assignment or other workload per assignment for pilots in the Puget Sound?

A: No. PSP's pro forma data shows that bridge times for assignments have remained essentially flat across all three rate proceedings:[118]

- In TP-190976, an average assignment was 5.03 hours;
- In TP-220513 it was 4.88 hours per assignment; and, in this case
- 2024 data shows 4.98 hours per assignment.

This stability in bridge hours per assignment indicates that the fundamental nature of pilot work—the actual time spent piloting vessels per average assignment—is very consistent and has not materially changed. Pilots are not working materially longer hours per vessel movement than they were six years ago.

Q: What is the significance of this lack of material change for the Commission's sufficiency analysis?

A: It is fundamental to this sufficiency analysis. No changed circumstances justify rate relief.

[117] Exh. MM-18.
[118] Exh. MM-19.

D. The Commission Should Deny Continued Recovery for PSP's Unfunded Defined Benefit Plan and Adopt a Defined Contribution Standard.

Q: What is PMSA's position on PSP's request to continue funding its retirement plan?

A: The Commission should deny continued recovery for PSP's unfunded defined benefit (DB) "pay-go" plan where present-day ratepayers fund the retirement of past pilots[119] without any end in sight. PSP asks to maintain recovery for this plan while awaiting federal approval of a defined benefit Multiple Employer Plan (MEP), but approval remains uncertain years after filing. Continuing the current system indefinitely grows an unfunded liability that exposes ratepayers to unreasonable risk.

Even if approved, a DB MEP for highly compensated, self-employed individuals presents risks and costs that the modern practice of defined contribution (DC) plans avoids.[120]

Q: Has the liability under the current unfunded plan been quantified?

A: Yes, at nearly half a billion dollars as of 2022 according to PSP's own actuarial analysis.[121] Now, three years later, those liabilities have grown as pilots have accrued three additional years of service credits and at much higher levels of DNI. Further, payouts would grow even more significantly if

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[119] *See* Final Order 09 ¶¶ 173, 178, 180 (PSP witness Capt. Quick characterized PSP's retirement program as "having present day *pilots* fund the retirements of past pilots" (italics added), but Commission Staff recognized the "contributions [are not] from active pilots, but rather contributions collected . . . from customers.").

[120] *See* Hoffman, Exh. SKH-01T.

[121] Final Order 08 ¶ 173, Table 2, Scenario 1.

PSP is granted even a small percentage increase out of its desired (unjustified) DNI level.

Q: Is indefinite exposure to PSP's current defined benefit retirement plan what the Commission had in mind when it directed PSP actions in Order 09?

A: No. The Commission determined that PSP's unfunded defined benefit retirement plan was "fiscally unsound" and directed PSP to transition to a more sustainable structure.[122] This was five years ago in 2020.

Q: What has PSP accomplished in these five years since Order 09?

A: Very little of substance:

- "PSP failed to comply with Final Order 09 in several respects" regarding the Commission's directive for transitioning the retirement plan, and as a result recovery of half of PSP's pro forma retirement expense adjustment was disallowed.
- PSP hired legal counsel and paid substantial fees to Bruce McNeil and his firm, Leech Tishman, across both the last rate case and the current one, to develop a proposal that was facially inconsistent with federal law.
- PSP submitted a request to the Department of Labor for an advisory opinion approving PSP's MEP on December 22, 2023—now over two years ago.
- Given the fact that the Department of Labor was unlikely to approve a proposal that not consistent with federal law PSP engaged in

[122] Final Order 09 ¶¶ 191-94.

extensive lobbying efforts with DOL officials and Senator Murray's office to pressure DOL for approval.

- PSP now asks the Commission to continue to pay the full expense of its retirement indefinitely.

Q: Does PSP have a reasonable basis to believe DOL will approve the MEP?

A: No. PSP knows that DOL approval is unlikely yet continues to delay any real transition away from its current retirement plan.

Q: What evidence supports this conclusion?

A: First, Mr. McNeil's own testimony reveals the fundamental legal problem.

At Exhibit BJM-01T, page 8, lines 1-4, he acknowledges that "the preamble to the DOL regulations regarding the definition of 'employer' under section 3(5) of ERISA states that the regulations apply only with defined contribution plans"—not defined benefit plans like PSP's proposed MEP.

These regulations were in place before PSP ever submitted its MEP proposal to the Commission in TP-220513. PSP has known about this fundamental legal barrier from the beginning, recognized as a source of "uncertainty" that Mr. McNeil himself admitted in Docket TP-220513.[123]

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[123] Final Order 08 ¶ 211. *See also* Docket TP-220513, PMSA Initial Brief ¶ 82 ("From a legal perspective, significant uncertainty abounds as well. PSP has conspicuously avoided the question of whether PSP can lawfully act as an "employer" for purposes of a Defined Benefit Multiple Employer Plan. … PSP still cannot explain why it is recommending a pathway which is facially not allowed under the same recent changes to federal law that the same expert cites as a basis for moving forward. And, in his draft request for U.S. Department of Labor

Second, Ms. Susan Hoffman, PMSA's expert witness with over four decades of experience in this area of law, testifies unequivocally at Exhibit SKH-01T that DOL approval is unlikely. She explains that DOL's regulations were specifically designed to encourage defined contribution MEPs for small employers, not defined benefit MEPs for highly compensated self-employed individuals. As she states: "I would be surprised if the DOL approves the PSP MEP."

Third, Mr. McNeil's own correspondence reveals DOL's reluctance. In an August 2, 2024 email, included as Exhibit SKH-05, Mr. McNeil characterizes DOL as "reluctant to issue a favorable Advisory Opinion" because approving PSP's request would be "diametrically opposed to the reasons for which the MEP regulations were adopted."

Q: What do you make of this situation?

A: Though PSP knows DOL will not likely issue a favorable determination, PSP is using the multi-year pendency of that process as justification to continue the unsustainable status quo indefinitely. PSP has provided no plan for how long it will wait for an approval that is not going to come, nor any back-up plan with alternatives to its MEP. This is not a transition strategy as envisioned in Final Order 09. The ongoing delay harms ratepayers.

Q: What will happen if the Commission takes no action in this proceeding?

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advisory opinion, presented for the first time in rebuttal, PSP's expert fails to present this central question.").

A: We will continue on the same path with little likelihood of resolution. PSP will continue the unsustainable retirement system for another 3-4 years until at the very earliest the effective date of a decision in the next rate case (docket TP-250574's successor), at which point we will be approaching a decade since Order 09 directed reform, but we will have no actual reform. In the meantime, PSP will have collected retirement expense recovery while pilots accrue significant additional service credits, increasing the liabilities in the unsustainable system and further growing the size of the problems. And PSP will likely still be waiting for MEP approval or pursuing some other alternative and perhaps even arguing to seek to continue the status quo yet again.

This cycle must end. The Commission must act now to establish a sustainable defined contribution retirement funding structure that protects ratepayers while providing reasonable retirement benefits to pilots.

Q: What is PMSA's recommendation?

A: As I testify in more detail in the next section, we recommend capping retirement-related rate recovery at a market-reasonable defined contribution (DC) level, established outside of DNI. This provides PSP with reasonable, additional funds for retirement benefits while protecting ratepayers from the open-ended liabilities of an unsustainable DB plan. PSP would remain free to design its own retirement plan(s), but the ratepayer obligation would be limited to a predictable, market-based contribution.

E. The Commission Should Reject PSP's Attempt to Recover Commuting and Repositioning Costs in Its Transportation Charge.

Q: What is PMSA's position on PSP's proposed changes to the transportation charge?

A: The Commission should reject them. Twice, the Commission has rejected including pilots' home-to-assignment commuting costs in the transportation charge, affirming the historical office-to-assignment methodology.[124] PSP's proposal to increase the charge by 39% is an unsupported attempt to relitigate this settled issue.

Q: Is PMSA opposed to the recovery of all PSP transportation expenses?

A: No, PMSA supports the recovery of the costs which approximate the transportation for a dispatch from a central office location to a job, and those can and should continue to be recovered as a business expense, just as they are under the current tariff. Indeed, PMSA supports an increase in the transportation charge, which I will detail later in my testimony.

Q: Does PSP's testimony provide any justifications for diverging from the Commission's established approach to transportation?

A: No. As in other areas of this case, PSP rehashes the same arguments it made in the prior two cases without acknowledging the Commission's decisions and without providing any basis for the Commission to reconsider its prior decisions. As the Commission noted in the last case, "The

[124] Final Order 09 ¶¶ 268-69; Final Order 08 ¶¶ 349-50.

Commission clearly articulated its reasoning in Final Order 09, and these findings are largely overlooked."[125]

PSP largely overlooks these findings, and the findings of Final Order 08, again in this case.

The bottom line in all three cases is that the pilots want to abandon their longstanding pre-2020 approach[126] by adding the costs for individual pilots to commute to and from their homes to rates. Yet again, PSP offers no explanation for why customers should pay for the costs to and from the pilots' individual homes, no matter where they live in the region. The testimony in this case just makes the same arguments and submits the same invoices as in the prior two PSP requests. We can't discern a significant difference in PSP's position in this case.

Q: Does PMSA believe that the Commission should continue to exclude individual commute costs from recoverable transportation expenses?

A: Yes. PMSA continues to believe that the Commission should rely on the IRS treatment of deductible travel costs as business expenses to exclude the pilot's personal commute costs. We maintain the same position we did in Docket TP-220513.[127] There is no reason for the Commission to divert from the longstanding treatment of the pilot transportation costs, especially if such a treatment would result in an expense that is not treated as a

[125] Final Order 08 ¶ 350.
[126] Final Order 09 ¶¶ 268-69.
[127] *See* Docket TP-220513, PMSA Initial Brief ¶¶ 62-63 (citing *Heuer v. Comm'r*, 32 T.C. 947 (1959); *Steinhort v. Comm'r*, 335 F.2d 496 (5th Cir. 1964)).

deduction of travel costs for tax purposes under the Internal Revenue Code and Treasury regulations.[128]

Q: What is the "repositions" charge that PMSA opposes?

A: The exact language that PSP proposes to be added to the Definitions section of the tariff at page 5 is:

> **(N) Repositions**
>
> **(N) Transportation of pilots between the Port Angeles Pilot Station and their place of residence in the Puget Sound region in order to meet customer demand and support efficient dispatching.**

And the following addition of "and repositions" to Item 340 at Page 10 of the tariff:

> For each pilot performing a Vessel Movement, a Transportation Charge shall be charged at the stated rate to cover the average cost of pilots' transportation associated with Vessel Movements **and repositions**.

Both proposed revisions to the tariff text should be rejected by the Commission.

Q: Why should repositioning costs be excluded from the per-assignment charge?

A: "Repositioning" costs are general overhead necessary for PSP's operations and are not tied to a specific vessel assignment. As such, they should remain in base rates, not recovered through a per-assignment charge. The proposed tariff language to add "repositions" is vague and improperly embeds

[128] Exh. MM-12 (*Heuer v. Comm'r*, 32 T.C. 947 (1959)); Exh. MM-13 (*Steinhort v. Comm'r*, 335 F.2d 496 (5th Cir. 1964))

commuting costs ("place of residence") into the tariff, contrary to Commission precedent. The Commission should reject this proposed tariff language change.

Q: Does the accounting of the current tariff charge to exclude pilot commute costs create an undue or unreasonable burden on PSP or the pilots?

A: No, not at all. First, these have consistently and historically been the methods for charging for transportation costs per assignment. Up until 2020, these methodologies were broadly accepted by PSP and were used in Puget Sound for decades.

Second, I did some math from the last case and the current accounting only denies 7% of transportation for commute costs, which means the Commission awarded a very reasonable recovery of the 93% of the total pilotage costs that PSP was seeking in docket TP-220513.

In that case PSP was seeking full reimbursements for their transportation, including commuting costs, based on the 2021 test year expense of $1,257,855 for 6,953 assignments. This was $180.91 per assignment. $168.20 is 93% of $180.91. This means that in the Final Order in TP-220513, the exclusion of the commute portion of the transportation expenses amounted to 7% of the total transportation expense in 2021. That 7% exclusion is facially reasonable, and PSP has not demonstrated otherwise.

The references to docket TP-220513 and math for these calculations are included in my Transportation Expense Worksheet, at Exhibit MM-22.

Third, the exclusion of commute costs is consistent with the state's treatment of mariner compensation in other contexts. For example, Washington State Ferry masters who are piloting ferries under their collective bargaining agreement with the State of Washington do not get paid to commute to and from their assignments. Nor does their transportation to and from work count as hours worked.

Q: Does PMSA support any increase in the Transportation Charge to account for higher costs for PSP?

A: Yes, PMSA supports a marginal increase in the transportation charge commensurate with the evidence applicable to the current Commission methodology. This proposal is described in more detail in my testimony, below, and in the Transportation Expense Worksheet, at Exhibit MM-22.

F. PMSA Opposes Recovery of Excessive Legal and Consulting Fees.

1. The tariffs should not fund excessive legal and consulting fees.

Q: Has the Commission previously warned PSP about excessive legal fees?

A: Yes. In both prior rate cases, the Commission issued increasingly strong warnings about PSP's legal expenses. In Final Order 09, the Commission noted rapidly increasing general legal fees and warned it may limit recovery of unreasonable expenses. When PSP's legal spending increased further in the next case, the Commission acted on its warning in Final Order 08, finding that PSP failed to meet its burden to establish the costs were

reasonable and necessary, and disallowed PSP's entire $335,903 request for general legal fees.

Q: What principle should guide the Commission's decision on these expenses?

A: Ratepayers should not subsidize a monopoly provider's lack of spending discipline. Unlike competitive businesses that must absorb their own legal costs, a monopoly may exercise little restraint if it can pass all costs to captive ratepayers. The Commission recognized and acted to prevent this by denying unreasonable legal expenses in PSP's last rate case.

Q: Has PSP seemingly reset its general legal fees in response to the Commission's policing of the issue of excessive general legal fees?

A: Yes. According to Exhibit AML-03, Sch. 2.13, PSP's general legal expenses were only $1,732.50 in 2024 and under the pro forma adjustments are only expected to be $53,255.50 for the rate year. I interpret this as PSP showing that it received the message from the Commission with respect to managing its general legal fees.

Q: Is the $53,255.50 reasonable when compared to general legal fees before the beginning of the utilization of outside counsel for the UTC rate-setting process?

A: Yes. In 2016 the total amount of PSP attorney's fees was $74,855 and in 2017 it was $95,458. This is much closer to that ballpark and seems reasonable.

Q: Is PMSA opposed to including $53,255.50 in general legal fees in the tariff?

A: No, as described above, these fees are reasonable and in line with other general, non-UTC related legal expenses from 2016-2017.

Q: If the general legal fees are now reasonable, what is the remaining concern?

A: We remain concerned with the overall level of legal and consulting fees for this rate case. PSP projects spending approximately $2.41 million through 2026 on rate-case expenses, including funding for studies that relitigate methodologies the Commission has already rejected twice. On a per-pilot basis, this represents up to $43,035 of spending that otherwise would have been retained as DNI, the very thing PSP is arguing to increase. Given the Commission's prior warnings about excessive fees, re-litigation costs and other excessive fees should be excluded from rate recovery.

Q: **Is PMSA opposed to all legal and consulting expenses?**

A: No, PMSA supports recovery of reasonable and necessary legal and consulting expenses, including:

- Continuation of amortization schedules from prior rate cases.
- Reasonable fees for legitimate issues in rate proceedings.
- Reasonable fees which address specific general operational issues.

2. Tariffs should not fund PSP's third re-litigation of issues settled by the Commission in the last two cases.

Q: What is PMSA's position on legal and consulting fees PSP incurs in

this rate case?

A: PMSA supports recovery of reasonable and necessary rate case expenses, so ratepayers should not have to fund PSP's repeated attempts to relitigate issues the Commission has already settled. These are unreasonable and unnecessary. Several components of PSP's proposal are simply the third iteration of arguments the Commission has already considered and rejected twice. When a monopoly can pass all litigation costs to captive customers, it has no financial incentive to stop pursuing losing arguments. These re-litigation costs should be borne by PSP, not its ratepayers.

Q: Has the Commission provided a warning to PSP that it would disallow excessive hearing expenses in conjunction with the re-litigation of issues previously decided in prior cases?

A: Yes. In Final Order 08, paragraph 281, the Commission stated that it "share[d] PMSA's concerns that PSP may have incurred excessive costs by re-litigating issues decided in Final Order 09." Although the Commission "decline[d] to limit PSP's recovery of rate case expenses at this time," the Commission further explained that its hesitancy to do so was based on the second case still proceeding "in the context of a relatively novel proceeding"—meaning that giving PSP a second bite at the apple in the second rate case would be tolerated. But, the obvious implication is that the Commission's patience was wearing thin and future excessive expenses would not be tolerated.

Q: Why is this current case different than the second rate case?

A: This is no longer a "relatively novel proceeding." This is PSP's third general rate case before the Commission and over 5 years since PSP's first filing before the UTC. PSP has now had two complete rate cases to understand, for example:

- The Commission's revenue requirement formula, AAL formula, DNI formula, and TDNI formula.
- Evidence the Commission requires for attract-and-retain arguments and the foundational concerns with national average comparability studies.
- Issues that are within the BPC's jurisdiction versus the Commission's jurisdiction.
- Transportation charges should not include individual commute expenses.
- Reasonable versus excessive legal and expert witness expenses.

Despite this experience and clear Commission guidance in both the rate cases, PSP continues to pursue the same rejected arguments with the same types of expensive consultant studies and legal theories.

Q: What are the specific categories of expenses that PMSA opposes as relitigating settled issues in this case?

A: We oppose the inclusion of all legal and consulting costs related to the PSP "national average" compensation comparison study and the PSP transportation proposal. Both result from the same pattern of expenses where PSP ignores Commission rulings, expends resources in an attempt to increase revenues based on soundly rejected methodologies, and then

assumes ratepayers will fund legal and consulting fees for relitigating the same issues repeatedly.

3. The tariffs should not fund transportation legal and consulting fees.

Q: Why should the legal and consulting fees for PSP transportation proposal be denied?

A: In both the prior rate cases, the Commission rejected PSP's proposal to include pilots' home-to-assignment commuting costs in the transportation charge, affirming the historical office-to-assignment methodology. Despite these clear and consistent rulings, PSP has incurred new legal and consulting fees to relitigate this issue for a third time. Ratepayers should not be required to fund a third attempt to overturn established Commission precedent. All legal and consulting fees related to this proposal should be disallowed.

Q: What expenses has PSP incurred for these transportation expense proposals?

A: PSP has incurred substantial expenses across all three rate cases litigating and relitigating this question. In this case specifically these costs include accounting work by Ann LaRue and presumably have and/or will entail legal fees related to propounding the proposal.

Q: Why should these transportation re-litigation fees be disallowed?

A: The Commission established clear precedent on transportation expenses in Final Order 09, and then re-affirmed in Final Order 08, based on a methodology that had been uncontroversial for decades under the BPC.

Relitigating this is particularly egregious because PSP changed its reimbursement policies just after Final Order 09 was issued, putting a system in place to pay pilots for the home-to-assignment commuting costs that the Commission had specifically rejected.[129] PSP then sought rate recovery for these expenses in the next rate case as though the Commission had not already rejected them. The Commission should not endorse this pattern of PSP implementing the Commission's rejected policy, then distributing the money to pilots and arguing that the Commission should approve its additional recovery because the expenses have already been incurred.

Q: What is PMSA's recommendation regarding transportation re-litigation fees?

A: PMSA recommends that the Commission exclude from rate recovery all legal and consulting fees related to PSP's repeated attempts to change the transportation expense methodology from the historical BPC-established practice. This includes:

- All accounting and consulting work on transportation expense adjustments;
- All legal fees for developing and defending transportation proposals; and
- All witness preparation and testimony costs related to transportation methodology changes.

[129] Exh. MM-46 (PSP Response to PMSA Data Requests 7, 28, 29).

4. The tariffs should not fund pilot compensation study consulting expenses.

Q: Should ratepayers bear the cost of PSP's national compensation comparison study?

A: No. As already thoroughly discussed earlier in my testimony, in two prior cases, the Commission found national "comparability" studies to be unreliable, incomplete, and unnecessary for determining if compensation is sufficient to attract and retain pilots. The Commission has been clear that this standard is evaluated based on local market evidence, such as applicant data for the BPC examination, not on flawed national averages. Because PSP has again commissioned an expensive study to relitigate a methodology the Commission has twice rejected, the associated consulting and legal fees are unreasonable and should be borne by PSP, not ratepayers.

Q: Does the new Sisung compensation study cure the defects of prior studies the Commission rejected?

A: No. The Sisung study is PSP's third attempt to use a national comparison methodology the Commission has twice found unreliable and unnecessary. It is just a repackaged version of Capt. Carlson's testimony from docket TP-190976[130] that the average was $541,204 and Capt. Quick's testimony that the national average was $550,000-$600,000, and David Lough's testimony from docket TP-220513 that the national average was $543,055 or $574,087, and his claim that PSP ranked last in pilot compensation. The Sisung study fails to cure the fundamental defects identified in prior orders and ignores the Commission's clear directive to focus on actual Puget Sound market

[130] *See* Exh. MM-48.

evidence (e.g., applicant compensation data, BPC applicant and examination results, pilot retention rates) to assess the 'attract and retain' standard. Ratepayers should not fund the re-litigation of a settled issue. All consulting and legal fees related to this study should be disallowed.

Q: What consulting expenses has PSP incurred for the United Professionals Company/Sisung study?

A: PSP has incurred substantial consulting expenses including:

- UPC/Sisung's fees for conducting the compensation study;
- UPC/Sisung's fees for preparing four exhibits of testimony (Exhibits RLS-01T through RLS-04);
- Expert witness preparation costs; and
- All related legal support and costs.

We presume that these expenses are a large portion of multiple years of spending in PSP's "Consulting Services" line item, which totaled $407,688 in 2024 according to the BPC 2024 Annual Report, and in the $1,010,000 in total Consulting and Expert Witness Fees identified in Exhibit AML-03, Schedule 2.30.

Q: What is PMSA's recommendation regarding these consulting expenses?

A: PMSA recommends that the Commission exclude from rate recovery all consulting expenses paid to United Professionals Company and R. Lane Sisung for the compensation study and all related legal expenses. In doing so, the Commission should send a clear message: ratepayers will not subsidize PSP's repeated attempts to relitigate methodologies the

Commission has already found inadequate to meet PSP's burden of proof. If PSP wishes to continue pursuing national income comparison studies despite clear Commission guidance that actual market evidence is required, PSP should bear that risk and expense itself.

5. Tariffs should not fund lobbying expenses for the MEP retirement plan.

Q: What is PMSA's position on legal fees for the MEP retirement plan?

A: PMSA recommends disallowing all legal fees paid to Mr. McNeil and his firm after December 22, 2023. His work since submitting the MEP proposal for a DOL Advisory Opinion constitutes lobbying to persuade regulators to approve a legally uncertain plan. These lobbying expenses are not properly recoverable, do not constitute legal advice, provide no benefit to ratepayers, and should be borne entirely by PSP.

Q: What has Mr. McNeil been charging PSP for since he submitted his advisory opinion request to DOL in 2023?

A: Mr. McNeil's testimony catalogues his extensive efforts to lobby federal regulators and elected officials for approval of the PSP MEP proposal. These efforts include enlisting Senator Patty Murray's office to pressure DOL, submitting supplemental written requests, and conducting numerous phone calls and Zoom meetings with DOL officials. Notably, all of this work occurred after the fundamental legal question was submitted to DOL on December 22, 2023. This means that all of these expenses are lobbying and advocacy expenses, not expenses to develop the underlying retirement plan or legal theory.

The extent of Mr. McNeil's lobbying efforts with the US Senate are included in PSP's Response to PMSA DR 4, and his lobbying efforts with DOL are in PSP's Response to PMSA DR 3, attached here as Exhibits MM-17 and MM-18, respectively.

Q: Are lobbying expenses allowable and recoverable expenses in this pilotage rate case?

A: No, they should all be removed consistent with the proper treatment of lobbyist expenses for regulatory accounting. Other lobbying expenses are properly treated by PSP at Exhibit AML-03, Schedule 1.3 – Restating Adjustments, Adjustment #R-05 by being completely removed.

Q: Have any of these post-submission legal expenses provided benefits to ratepayers?

A: No. From our view all of Mr. McNeil's work since submitting the advisory opinion request represents attempts to persuade DOL to approve a plan that falls outside DOL's own regulatory framework. Even if DOL eventually grants approval, these lobbying expenses provide no benefit to ratepayers. The costs of persuading reluctant federal regulators to approve a legally questionable structure should not be borne by captive customers who have no voice in PSP's decision to pursue this expensive and uncertain path. Furthermore, delays year after year only exacerbate the costs of PSP's fiscally unsound retirement program.

Q: How much have ratepayers already paid for the MEP transition process?

A: Ratepayers have funded MEP legal expenses across multiple rate cases. In docket TP-220513, PSP sought recovery of MEP-related costs including Mr. McNeil's fees and actuary Christopher Wood's testimony and cost projections. The Commission ultimately declined to approve the MEP or establish automatic adjusters for retirement expenses in Final Order 08 precisely because of uncertainties about federal approval and the costs involved. Despite this Commission caution, PSP has continued to incur further such expenses and seek recovery of them in this case. When combined with ongoing pension consulting costs and legal fees across three rate cases, ratepayers have funded hundreds of thousands of dollars for a retirement plan transition that remains unapproved after years, not to mention the escalating liabilities of PSP's unfunded retirement plan.

Q: What is PMSA's specific recommendation regarding Mr. McNeil's MEP-related legal fees?

A: PMSA recommends that the Commission disallow recovery of all legal fees paid to Mr. McNeil and his firm, Leech Tishman, as all of the work included in the current test year was performed after December 22, 2023, the date Mr. McNeil submitted PSP's formal request for an advisory opinion to DOL. For the last two years, since December 22, 2023, Mr. McNeil's work has consisted almost entirely of lobbying federal regulators to approve a legally uncertain structure that falls outside the scope of DOL's own regulations. These are speculative expenses that have provided no benefit to ratepayers and should be borne entirely by PSP.

If PSP eventually obtains federal approval and implements the MEP, recovery of reasonable and necessary legal transition costs might be

legitimately recovered at that time, subject to demonstration that such costs were prudently incurred and provided commensurate benefits to ratepayers through reduced pension expenses. But ratepayers should not subsidize PSP's ongoing lobbying campaign to obtain approval for a retirement plan structure that PSP's own attorney acknowledges may never receive DOL approval.

G. Callback "Expenses" Must Be Rejected, Again, and Enforced.

Q: Does PSP's filing include a "Comp Day Expense" item in its revenue requirement?

A: Yes. PSP's Exhibit AML-03, Schedule 1.1, Line 19, includes Account 50450-006 for "Comp Day Expense" totaling $352,812 for the 2024 rate year.

Q: Do either PSP's Restating Adjustments or PSP's Pro Forma Adjustments remove the "Comp Day Expense" item from its revenue requirement?

A: No. This expense flows through to PSP's Results of Operations and revenue requirement calculation without any corresponding adjustment removing it in either Schedule 1.3 (Restating Adjustments) or Schedule 1.4 (Pro Forma Adjustments).

Q: Has the Commission previously addressed how to treat expenses from callbacks like the "Comp Day Expense" here?

A: Yes, the Commission has twice held that including callback-related expenses in the revenue requirement constitutes prohibited "double

payment."[131] Callbacks are an internal equity matter between pilot-owners, not an organizational expense to be funded by ratepayers.[132] In the last rate case, PSP's own accountant conceded this point and agreed to remove a similar expense.[133] The Commission should remove the full $352,812 from Account 50450-006.

Q: What is the proper accounting treatment for callback obligations?

A: As Staff comprehensively explained and the Commission adopted in the prior rate cases, callback obligations should be treated as equity transactions between pilot-owners, not as organizational expenses or liabilities. When a pilot works a callback assignment:

1. The vessel pays the standard tariff rate in full;
2. That revenue is recognized when earned (accrual accounting);
3. The obligation to that specific pilot is tracked as an equity account;
4. When the pilot "burns" the callback day, it's settled through the equity distribution system;
5. No organizational expense is created; and
6. No additional vessel charges are imposed.

This properly recognizes that callbacks are internal compensation timing differences between owners, not services requiring additional funding from ratepayers.

Q: What adjustment should the Commission make?

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[131] Final Order 09 ¶¶ 233-38.
[132] *Id.*; Docket TP-220513, Young, Exh. MY-11T, 4:7-12.
[133] Docket TP-220513, Burton, Exh. WTB-08T at 6:11-16.

A: The Commission should remove the entire $352,812 callback expense from Account 50450-006 in PSP's operating expenses, reducing the revenue requirement accordingly. The Commission should also direct PSP to no longer reflect this in their financials at the end of the year as it artificially increases total expenses, which PSP then uses as an argument to increase rates. The Commission should also consider whether additional measures are appropriate.

The Commission has comprehensively addressed this issue across two rate cases. The findings are clear, well-reasoned, and based on sound regulatory and accounting principles. Callback obligations are internal equity matters between pilot-owners and should never be externalized to ratepayers through the revenue requirement.

PSP has provided no new facts or changed circumstances that would warrant reconsideration of this settled precedent. PSP should not be rewarded for quietly re-including previously prohibited items in subsequent filings, apparently in the hope that the Commission or interveners won't notice or challenge it again.

This is precisely why vigilant advocacy by PMSA and Staff is essential. Without careful review of every line item in PSP's exhibits, improper expenses like this $352,812 callback charge could slip through and burden ratepayers with costs the Commission has explicitly prohibited.

H. PMSA Looks First to Staff's Expertise on Other Expenses.

Q: Other than the positions above, does PMSA have specific responses to PSP's expense proposals?

A: PMSA is looking to Staff's expertise and testimony on PSP's expenses to help inform our final position on PSP's other expenses. We learned in the prior two rate cases that Staff's team of professional accountants and its expertise in evaluating costs in a regulatory context was invaluable to our understanding of PSP's proposals.

PMSA intends to respond in our cross-answering testimony to issues as they are identified by the Staff testimony. If necessary, I may need to amend my positions here after seeing the Staff testimony at that time.

VIII. PMSA RECOMMENDATIONS

Q: What recommendations does PMSA have in this case?

A: PMSA's proposals follow the Commission's established, data-driven ratemaking methodology. This framework is performing as designed and already generates income exceeding the revenue requirement. In contrast, PSP's proposal to increase rates by over 50% is unreasonable and departs from Commission precedent. PMSA's recommendations begin with projected vessel assignments and the AAL, then establish the DNI per pilot and the resulting TDNI. Finally, we address other cost components and introduce a framework to calculate the additional annual revenue requirement and the percentage increase using the framework in Final Order 08 Attachment A. This will allow for a transparent comparison of our data-supported proposal with pro forma results.

A. PMSA Vessel Projection for 2026.

Q: Did PSP provide any projections of vessel activity after 2025 for use in a rate year?

A: No. WAC 480-07-525(4)(m) requires a work paper with "[p]rojected changes in vessel assignments." PSP failed to provide this. Its testimony on vessel traffic was limited, outdated, inaccurate, and did not project any changes in vessel assignments beyond 2025.

Q: Is PMSA providing a detailed analysis of projected changes in vessel assignments in lieu of PSP's missing work papers?

A: Yes.

Q: What is PMSA providing as the source of this analysis?

A: The source data is from the Marine Exchange of Puget Sound, as provided in the testimony of John Veentjer (Exhibit JV-01T). In my testimony, I analyze that data to develop vessel traffic projections, supported by worksheets submitted as exhibits.

Q: What data in Exhibit JV-01T does the Marine Exchange collect regarding vessel arrivals?

A: The Marine Exchange data includes annual vessel arrivals at Puget Sound ports (excluding Grays Harbor) for each calendar year from 2005 through 2024, plus the latest data for 2025. This data is presented in the attachments to Exhibit JV-01T.

Q: What are the key observations of the Marine Exchange data over this 20-year period?

A: The data shows vessel arrivals ranging from a low of 2,159 arrivals in 2020 (the COVID-19 pandemic year) to a high of 2,994 arrivals in 2006. The 20-year average is approximately 2,612 arrivals per year. The most recent complete year, 2024, shows 2,486 arrivals, while the Marine Exchange data for 2025 indicates 2,434 arrivals.

Q: Does the Marine Exchange data show vessel arrivals increasing or decreasing in recent years?

A: The Marine Exchange data points to 2,434 arrivals for 2025, which represents a decline of 52 arrivals (-2.1%) from the 2024 level of 2,486 arrivals.

Q: Is there data available showing PSP pilot assignments over the same time period?

A: Yes. PSP pilot assignment data is available from multiple sources including BPC Annual Reports, PSP Monthly Activity Reports, PSP financial reports submitted in prior rate cases, and testimony in prior proceedings. This data is compiled in Exhibit MM-27, the AAL Worksheet.

Q: How do vessel arrivals reported by the Marine Exchange correlate to pilot assignments reported by PSP?

A: A vessel arrival is a single event: a vessel calling at a Puget Sound port. In contrast, PSP pilot assignments include multiple events: the inbound and

outbound transits, internal movements (e.g., shifting berths), second pilot assignments, and cancellations.

Q: Is there a mathematical relationship between Marine Exchange arrivals and PSP assignments?

A: Yes. Over the 20-year period from 2005 through 2025, there is a consistent correlation between the number of vessel arrivals reported by the Marine Exchange and the number of pilot assignments reported by PSP.

For the years 2005 through 2025 (excluding the 2020 pandemic anomaly), the ratio of PSP pilot assignments to Marine Exchange vessel arrivals ranges from a low of 2.732 in 2009 to a high of 3.138 in 2015, with an average of 2.88. This correlation is detailed in Exhibit MM-23.

Q: What does a ratio of 2.88 mean?

A: It means that, on average, for every vessel arrival recorded by the Marine Exchange, PSP completes approximately 2.88 pilot assignments. This accounts for both the inbound and outbound transits, plus shifts, second pilot assignments and cancellations.

Q: How stable is this correlation over the 20-year period?

A: The correlation is quite stable. There is relatively low variance around the average ratio of 2.88. The median ratio is 2.87, very close to the average, which confirms the consistency of this relationship.

Q: Has the correlation changed in recent years compared to the historical average?

A: The data shows a slight increase in recent years. The average ratio for the pre-COVID period (2005-2019) was 2.85, while the average for the post-COVID period (2021-2025) is 2.96.

Q: Does PSP have actual pilot assignment data for 2025?

A: Yes. In response to PMSA Data Request No. 98,[134] PSP provided its actual pilot assignments for the trailing twelve-month period from December 2024 through November 2025, which totaled 7,016 assignments.

Q: How does this actual 2025 data compare to what the Marine Exchange correlation would predict?

A: The Marine Exchange data indicates 2,434 vessel arrivals for 2025. Using the 20-year average correlation ratio of 2.88, this would predict 7,001 pilot assignments. PSP's actual trailing twelve-month data through November shows 7,016 assignments, which is 99.789% correlated and only 15 assignments (00.221%) higher than the Marine Exchange methodology would predict.

Q: What is the actual correlation ratio for 2025 based on PSP's reported data?

A: Dividing PSP's actual 7,016 assignments by the Marine Exchange's 2,434 anticipated arrivals yields a ratio of 2.882, which is essentially the same as the 20-year average of 2.88.

[134] Exh. MM-05.

Q: What does this tell us about the predictive accuracy of the vessel arrival to assignment correlation methodology?

A: It demonstrates that the Marine Exchange vessel arrival data, combined with the historical correlation ratio, provides a highly accurate method for predicting PSP pilot assignments, with less than 1% variance from actual results.

Q: What methodology does PMSA propose for projecting vessel traffic and pilot assignments for the potential rate years 2026 and 2027?

A: PMSA proposes using trend line analysis (also called "hindcasting") based on historical Marine Exchange vessel arrival data, combined with the proven correlation ratio of 2.88.

Q: What is trend line analysis or "hindcasting"?

A: Trend line analysis, or hindcasting, is a standard forecasting method that uses historical data to identify trends and extend them forward to make projections.

Q: Why is trend line analysis appropriate for projecting vessel traffic?

A: Trend line analysis is particularly appropriate when there is sufficient historical data to establish reliable patterns, when the underlying factors affecting the data remain relatively consistent, and when the goal is to make conservative, data-driven projections rather than speculative forecasts.

Q: What historical data period does PMSA use for this analysis?

A: PMSA analyzed Marine Exchange vessel arrival data from 2005 through 2025, excluding calendar year 2020 as an anomaly due to the COVID-19 pandemic. The 2025 data represents PSP's actual trailing twelve-month assignments from December 2024 through November 2025 (7,016 assignments), converted back to vessel arrivals using the established correlation ratio.

Q: Why is 2020 excluded from the analysis?

A: Consistent with Commission precedent (Final Order 08), we exclude 2020 because vessel traffic was distorted by the COVID-19 pandemic. Including this anomalous data (2,159 arrivals vs. 2,554 in 2019 and 2,340 in 2021) would produce unreliable projections, and excluding outliers is standard statistical practice.

Q: What are the trend line forecast alternatives that you looked at?

A: We analyzed three trend lines based on different historical periods: a 20-year trend, a 10-year trend, and a 5-year trend (all excluding 2020). Longer periods capture broad, structural changes, while shorter periods reflect recent market conditions. Presenting all three allows the Commission to evaluate which best projects traffic for the rate years.

Q: Please describe the 20-year trend analysis.

A: The 20-year trend analysis uses Marine Exchange data from 2005 through 2025 (excluding 2020), providing 20 data points. The 2025 data point represents PSP's actual trailing twelve-month assignments (7,016) converted to vessel arrivals. This analysis is presented in Exhibit MM-24.

Q: What does the 20-year trend show?

A: The 20-year trend shows a declining pattern of vessel arrivals, with an average decline of approximately 30 arrivals per year. The 20-year trend projects 2,315 vessel arrivals in 2026 and 2,285 arrivals in 2027. Using the established correlation ratio of 2.8761:

- 2026: 2,315 arrivals × 2.8761 = 6,658 pilot assignments
- 2027: 2,285 arrivals × 2.8761 = 6,573 pilot assignments

Q: Please describe the 10-year trend analysis.

A: The 10-year trend analysis uses Marine Exchange data from 2015 through 2025 (excluding 2020), providing 10 data points. This analysis is presented in Exhibit MM-25.

Q: What does the 10-year trend show?

A: The 10-year trend shows a more modest declining pattern, with an average decline of approximately 10 arrivals per year. The 10-year trend projects 2,421 vessel arrivals in 2026 and 2,410 arrivals in 2027. Applying the correlation ratio of 2.8761:

- 2026: 2,421 arrivals × 2.8761 = 6,962 pilot assignments
- 2027: 2,410 arrivals × 2.8761 = 6,932 pilot assignments

Q: Please describe the 5-year trend analysis.

A: The 5-year trend analysis uses Marine Exchange data from 2019 and 2021 through 2025 (excluding 2020), providing 6 data points. This analysis is presented in Exhibit MM-26.

Q: What does the 5-year trend show?

A: The 5-year trend shows a decline of approximately 11 arrivals per year. The 5-year trend projects 2,413 vessel arrivals in 2026 and 2,402 arrivals in 2027. Applying the correlation ratio of 2.8761:

- 2026: 2,413 arrivals × 2.8761 = 6,941 pilot assignments
- 2027: 2,402 arrivals × 2.8761 = 6,908 pilot assignments

Q: Do all three trend analyses point in the same direction?

A: Yes. All three trend analyses show declining vessel arrivals, differing only in the rate of decline. The projections for 2026 assignments range from 6,658 (20-year trend) to 6,962 (10-year trend), a span of only 304 assignments or approximately 4.6%.

Q: How do these projections compare to current actual data?

A: PSP's actual trailing twelve-month data (December 2024 through November 2025) shows 7,016 assignments, which is included as the 2025 data point in all three trend analyses. All three trend projections show continued decline from this level:

- 20-year trend: 6,658 for 2026 (5.1% below 2025 actual)
- 10-year trend: 6,962 for 2026 (0.8% below 2025 actual)
- 5-year trend: 6,941 for 2026 (1.1% below 2025 actual)

Q: What are the arguments in favor of and against using the 20-year trend?

A: The 20-year trend has several strengths. It captures long-term structural changes in the maritime industry, including shifts in global trade patterns, changes in vessel sizes, and evolution of supply chains. It also provides the most conservative projection, which is appropriate for rate-making purposes where the goal is to avoid over-recovery. Finally, it encompasses complete business cycles, including the 2008-2009 financial crisis and recovery, providing a more complete picture of market dynamics. And, with 20 data points including actual 2025 data, it has the most robust statistical foundation.

The main question is whether conditions from 2005-2010 remain relevant to current and future vessel traffic patterns. Maritime trade has evolved significantly over this period, and it is my opinion that the more recent data better reflects current market realities.

Q: What are the arguments in favor of and against using the 10-year trend?

A: The 10-year trend balances historical perspective with current relevance. It reflects the post-Great Recession "new normal" and the market conditions which have been in place through at least one typical business cycle between the Great Recession and the COVID pandemic. Its more moderate declining trend may also better represent current realities, including the rise in cruise ship calls that masks steeper declines in cargo traffic. With 10 data points, it has a solid statistical foundation.

Q: What are the arguments in favor of and against using the 5-year trend?

A: The 5-year trend's strength is its focus on the most recent market conditions, including the post-pandemic recovery and current trade dynamics. However, its primary limitation is the small dataset, which makes the projection more susceptible to short-term fluctuations and less statistically reliable.

Q: Of the three trend analyses presented here, which does PMSA recommend the Commission use for projecting vessel traffic and pilot assignments for rate years 2026 and 2027?

A: PMSA recommends the Commission use the 10-year trend analysis at Exhibit MM-25, which projects 6,962 pilot assignments for 2026 and 6,932 assignments for 2027.

Q: Why does PMSA recommend the 10-year trend over the 20-year or 5-year alternatives?

A: The 10-year trend provides the optimal balance of statistical reliability and relevance to current market conditions. It uses a robust 10-point dataset (2015-2025) that reflects the modern post-recession maritime trade environment. Most importantly, its projection is validated by actual, recent data.

The 10-year trend projects 6,962 assignments for 2026, which is within 0.8% of PSP's actual 2025 assignment total (7,016) and nearly identical to the projection derived from the 20-year assignment-to-arrival correlation (6,992). This tight clustering of results from independent data points provides high confidence that 6,962 assignments is the most reasonable and reliable projection for 2026.

Q: Is the 10-year trend the "middle ground" among the three alternatives?

A: Yes, the 10-year trend occupies the middle ground because it appropriately balances competing considerations. The 10-year trend projection is very close to the 5-year trend's result (a difference of only 21 assignments) but is based on a much larger and more statistically reliable dataset. It is therefore not just a middle ground, but the most analytically sound approach available.

Q: What vessel traffic and pilot assignment levels does PMSA recommend the Commission use for rate-setting purposes for the next rate year?

A: PMSA recommends the Commission use the 10-year trend projections of:

- 2026: 6,962 pilot assignments
- 2027: 6,932 pilot assignments

These projections are based on objective vessel arrival data, proven correlation methodology with 99.65% accuracy, standard statistical techniques, and actual 2025 trailing twelve-month experience. We provide both 2026 and 2027 as the proposed rate year is likely to straddle both.

Q: Would it be in ratepayers' short-term financial interest for the Commission to accept PSP's higher projection of 7,446 assignments?

A: Yes, actually it would. In a revenue requirement proceeding, once the Commission determines the total dollar amount of revenue PSP is entitled to collect, that amount is divided by the projected number of assignments to

calculate the tariff rates per vessel tonnage or per bridge hour. A higher number of assignments in the denominator results in a lower rate per customer. So, if the Commission were to accept PSP's projection of 7,446 assignments, the rate per vessel would be lower than if the Commission adopts PMSA's projection of 6,962 assignments.

Q: Given that accepting PSP's higher projection would result in lower rates for PMSA's members, why is PMSA advocating for a lower assignment projection?

A: Because PMSA is committed to providing the Commission with the most accurate, evidence-based projections possible. While inflated projections might lower per-vessel rates in the short term, they undermine the integrity of the regulatory process. Rates should be based on the best available evidence, not unsupported guess-timates. Accurate projections ensure stable rates for ratepayers, appropriate workloads for pilots, and sound decisions by the Commission.

PMSA's projections are based on objective data from the Marine Exchange-an independent, non-profit organization with no stake in this proceeding whose data is widely used and trusted for operational and safety analysis in Puget Sound.

As demonstrated, our vessel-to-assignment correlation has 99.65% accuracy against two decades of PSP's own data, and our recommended projection (6,962 assignments) converges with the results of that correlation analysis (6,992 assignments). This convergence of independent methods provides a reliable, evidence-based foundation for ratemaking.

Q: Does this commitment to the application of evidence in the record to the Commission's existing formula and established precedents extend to other aspects of PMSA's testimony in this proceeding?

A: Yes. Throughout my testimony I have emphasized the need for all of the parties to continue to rely on objective data, the Commission's established methodologies, and a transparent analysis when approaching this rate-setting process. We believe this approach ultimately serves ratepayers, pilots, the Commission, and the public with a stable, sustainable pilotage system that is working with appropriate cost recovery and fair rates.

B. Establishing the AAL.

Q: Is PMSA providing the Commission with an AAL Calculation for its consideration?

A: Yes.

Q: What is the AAL in this case?

A: 138.5 is the AAL for 2021-2025. Alternatively, if the Commission chooses to use 2022-2025, the AAL is 137.3.

Q: How is the AAL calculation derived in this case?

A: I have included an AAL Worksheet at Exhibit MM-27. The math is unambiguous, simple, and straightforward. For each year the number of revenue producing assignments is divided by the number of working pilots, resulting in the AAL per year:

Average Assignment Levels (AAL) Per Pilot (2021-2025)				
	Revenue Producing Assignments	**Working Pilots (no President)**	**Average Assignment Level per Year**	**Average Assignments Per Month**
2021	6955	48.6	143.1	11.9
2022	7482	51.0	146.7	12.2
2023	7040	51.3	137.2	11.4
2024	7587	55.0	137.9	11.5
2025*	7016*	55.0	127.6	10.6

AAL Worksheet, Exhibit MM-27

Then the Commission's five-year average AAL is derived from the average of each of the years in the 2021-2025* AAL which equals 138.5. Or, if the Commission uses an average of the years 2022-2025* the AAL equals 137.3.

Q: What is the basis for the calculation of AAL in this manner?

A: This is consistent with the process endorsed by the Commission in the first rate case.[135]

Q: Please describe the calculations you have used for 2025, which has an asterisk in your AAL worksheet.

A: The asterisk indicates that the 2025 figures are based on the most current data available: actual assignments for the trailing twelve-month period from December 2024 through November 2025. This provides the most accurate and up-to-date input for the AAL calculation. The numbers are based on the following:

- 2025* Assignments: 7,016

[135] Final Order 09 ¶ 93 (referencing Docket TP-190976, Sevall, Exh. SS-1T, 9:16-19).

- 55 working pilots
- 7,016 ÷ 55 = 127.6
- AAL per Pilot for 2025* = 127.6

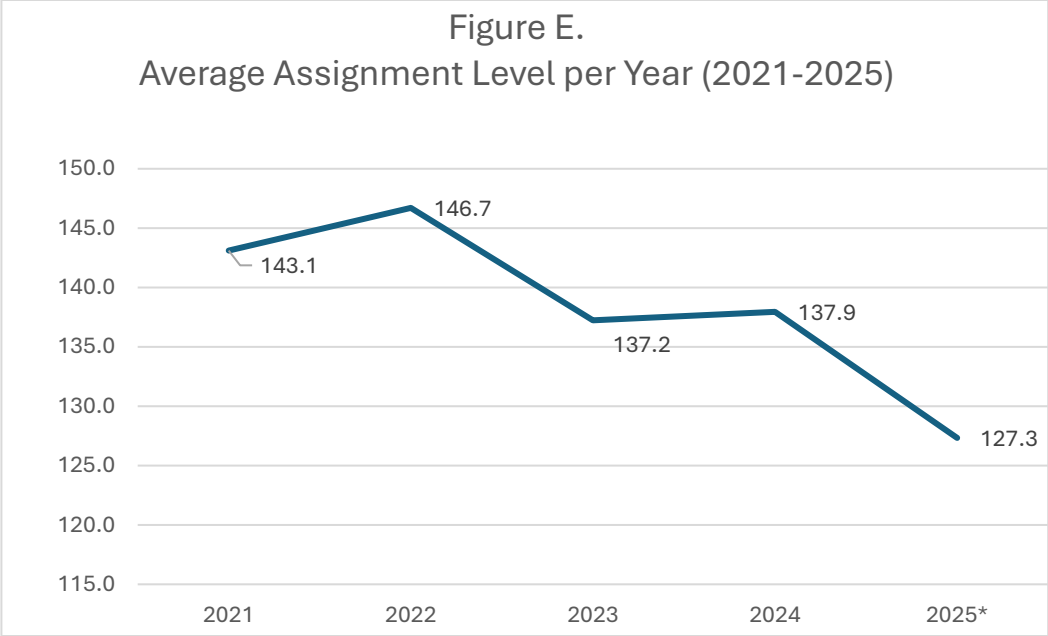
Q: Would PMSA be agreeable to updating this data during the ratemaking process at the appropriate time to remove the asterisk?

A: Yes. PMSA proposes the Commission direct this update through a Bench Request to PSP at the appropriate time if another opportunity for this update does not arise.

Q: Why is there an option to either exclude or include 2021 in the multi-year averaging calculation methodology?

A: The Commission has established a precedent for excluding the anomalous pandemic year results. While Order 08 excluded both 2020 and 2021, PMSA notes that 2021 assignment levels are comparable to other non-pandemic years – most notably in this case, 2023 and 2025* - making the 2021 number not anomalous without some other reason for the basis to exclude them.

Also, for purposes of the AAL, with low assignment levels an anomalous AAL would likely skew higher than other years, but 2021 does not. At 143.1, the 2021 AAL is lower than 2022's AAL of 146.7. 2021's AAL is higher than 2023, 2024, and 2025*, but they form a clear trend that is in line with the use of 2021, as illustrated in Figure E



Q: Does PMSA have a preferred AAL?

A: All things being equal, we would default to a data set with more inputs than less. However, we believe either average is completely reasonable to use and so we are agnostic on the outcome of this question. To facilitate Commission decision-making on this question we are providing various data sets that include two averages, one including 2021 and one excluding 2021 for the Commission's review. My AAL Worksheet at Exh. MM-27 calculates the average using both scenarios, as do my other worksheets for averages where same decision needs to be made, including the number of pilots and DNI.

C. Application of AAL to projected number of vessels yields a number of pilots to fund below the Commission's floor.

Q: Is PMSA recommending a number of pilots to fund in the TDNI equation?

A: Yes, I have included a Number of Pilots Worksheet at Exhibit MM-28. The math is unambiguous, simple, and straightforward. With the number of assignments divided by the AAL per year, resulting in a number of working pilots:

Number of Pilots					
	Average Assignment Level	Number of Assignments (2026)	AAL Imputed Number of Pilots	Current Number of Working Pilots	Recommended Number of Pilots (Number of Pilots +1 (President))
4-Year Average DNI	138.5	6962	50.3	55	56
3-Year Average DNI	137.3	6962	50.7	55	56
BPC TAL + 5% Callbacks	129	6962	54.0	55	56

PMSA proposes that the Commission fund 56 pilots in the rate year.

Q: Using the AAL of 138.5 and the PMSA vessel projection of 6,962 for 2026 how many working pilots would this justify funding?

A: This would equal 50.3 working pilots, so it would justify funding 51.3 pilots including the PSP President.

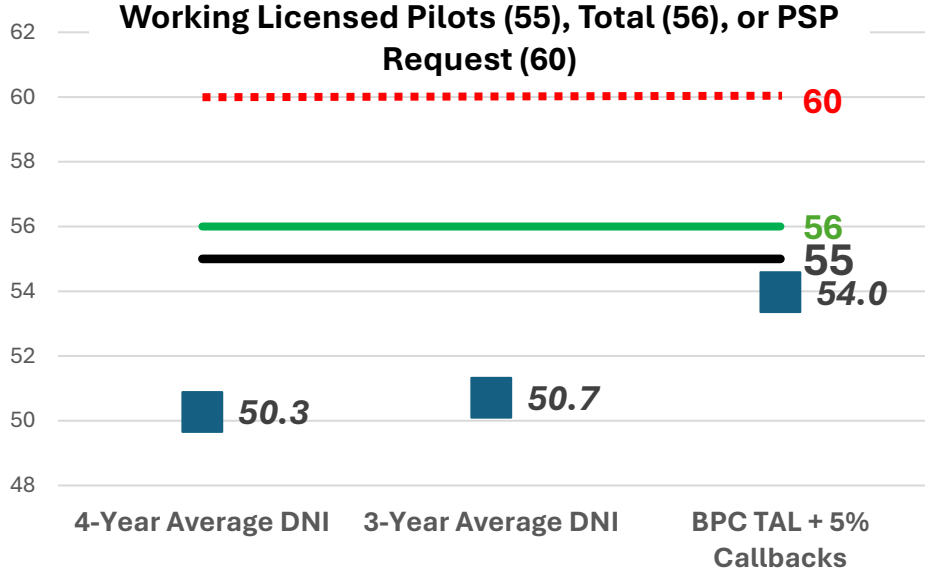
Q: 51.3 funded pilots is obviously less than 56. Why does PMSA recommend funding 56 pilots?

A: This represents the current actual licensed pilot count and is based on the application of the Commission's established Number of Pilots methodology from TP-190976 Final Order 09 and TP-220513 Final Order 08. The Commission's methodology establishes a "floor" and a "ceiling" for funded pilots, with the floor based on the actual number of licensed pilots. Although the AAL calculation indicates only 51.3 pilots are needed to be funded, the current number of licensed pilots is 56. Therefore, PMSA recommends funding 56 pilots, in adherence to the Commission's established framework.

Q: Is there any way to justify PSP's request to increase the number of funded pilots to 60 from 56 in this rate case?

A: No. PSP's request to fund 60 pilots is not supported by the data. The AAL calculation shows a need for only 51.3 funded pilots. Funding the current floor of 56 pilots already accounts for more pilots than the workload requires. As illustrated in Figure F, the current AAL workloads do not even justify the current number of pilots. So increasing the number to 60 would simply detach funding from operational reality, asking ratepayers to fund four pilots above the current count and 8.7 pilots above the data-driven requirement is not reasonable or supported by evidence.

Figure F.
AAL Workloads Do Not Justify Current Number of Working Licensed Pilots (55), Total (56), or PSP Request (60)



Q: Can you verify that the AAL methodology for the Commission floor of 56 pilots is more reasonable than the PSP request for 60 pilots by utilizing an independent methodology?

A: Yes. Even if we look at the BPC's recently adopted Target Assignment Level ("TAL"), which was not adopted for economic rulemaking purposes, PSP would still not be able to justify 60 licensed pilots. From the 2024 BPC Annual Report, page 9 (Exhibit JR-10):

> The group voted to recommend a Target On-Watch Assignment Level (TAL) of 123 assignments per pilot per year to align with the BPC's stated goal of limiting off-watch assignments to a rate of 5% or less per year. In June, the Board unanimously voted to set the TAL at 123 assignments per pilot per year, which does not include any callbacks.

Because the BPC's TAL of 123 was adopted for on-watch assignments only, to make a comparison of the TAL to the AAL, which is based on total assignments per pilot both on-watch and off-watch (i.e. including callbacks), the TAL must be adjusted to add in the BPC's 5% callback allowance. This results in an adjusted TAL of 129.[136]

Applying the total TAL of 129 to the total 2025* assignment level of 7,016 jobs results in a need for 54.4 working pilots. Applying the TAL of 129 to the PMSA projected assignment level of 6,962 jobs in 2026 would result in a need for 53.9 working pilots and 54.9 funded pilots. Both of these are below the current 55 working pilots that are already licensed by the BPC.

As a result, whether using the AAL of 138.5 or the adjusted TAL of 129, there is no justification for increasing the number of pilots above 56. Much less adjusting the tariff to fund 60 pilots.

[136] The adjustment math here is very straightforward:
- BPC TAL on-watch = 123 assignments.
- Total TAL on-watch + off-watch at 5% callbacks = 123 × 1.05 = 129 assignments.

Q: Does this affirm the importance of using both the AAL methodology and a full projection of future vessel traffic in determining the number of pilots?

A: Yes, the application of the AAL and vessel projection data confirms that PSP's request for 60 pilots is not supported by any evidence and is not reasonable. The simple arithmetic, even when checking these numbers against the BPC's TAL as confirmation, demonstrates that the request is unjustified by every available metric.

Q: Does the AAL also reflect the importance of including the latest trends of a reduction in 2025 assignments when compared to 2024 actual assignments?

A: Yes, because there is a significant decline from 2024's actual assignments of 7,587 to the 2025 projected assignments of 7,016, this is a decline of 571 assignments (-7.7%). Work is declining, which is a further justification of a trend away from 60 pilots.

And yet, PSP is requesting a funding increase for more pilots to do less work:

- Current Actual Pilots: 56
- PSP Requested Pilots: 60
- Increase: 4 pilots (+7.1%)

PSP is asking for a 7.1% increase in the number of funded pilots while doing 7.7% less work.

Q: Is this economically rational?

A: No. It is economically irrational to increase staffing when the workload is declining. PSP's request for four additional funded pilots is disconnected from operational needs and seeks to use its monopoly position at ratepayer expense.

Q: What else does this application of AAL reveal about PSP's 60-pilot request?

A: PSP's request is completely disconnected from actual market conditions. At the current AAL of 138.5, vessel traffic would need to jump to 8,310 assignments to justify 60 pilots. Not only would that require a year-over-year increase in vessel traffic of 18.4%, but PSP has not seen annual assignment levels of over 8,000 jobs since 2008, the year before the Great Recession.[137]

Q: How does the AAL reflect these actual market conditions?

This demonstrates why the Commission was right to adopt AAL methodology and not simply parrot the BPC's number of licensed pilots. Indeed, even the 56 actual pilots representing the appropriate floor is generous by AAL comparison. PMSA opposes funding pilot positions in advance based on speculation. The AAL methodology says: show us the actual pilots doing actual work, and we'll fund them. That's reasonable.

The AAL is self-correcting and will automatically adjust to changing market conditions. For example, the current AAL of 138.5 includes 2024's relatively high 7,587 assignments. In the future, when 2024 rolls out of the five-year window and is replaced by 2025's lower 7,016 assignments in

[137] See Exh. MM-23.

future proceedings, the AAL will naturally decline further, reducing the implied working pilot count even more, unless other future years are more robust than 7,015 or 7,587, in which case the AAL will naturally increase.

PSP's request to "lock in" funding for 60 pilots based on a BPC licensing decision, does the opposite of this. It asks the Commission to ignore its own methodology which correctly responds as an economic matter to declining workloads, and in so doing eliminate the feedback loop that is essential to ensuring the reasonableness of the tariff.

Q: Are there other reasons for the Commission to maintain its existing range restrictions?

A: Yes, from Order 09 paragraph 450(7), "PSP's proposal to fund 61.6 FTE pilots would result in an overvaluation of all vessel assignments, including callbacks, and would unjustly require vessels to pay for an implied number of pilots that exceeds the number of pilots the BPC has authorized."

If funding 61.6 pilots when the Commission found that an AAL calculation justified 50–52 pilots was improper, then funding 60 pilots, above the floor of 56 when work requires only 52 is equally improper. The principle is the same: the Commission must independently evaluate evidence and apply it to its economic reasonableness principles, not rubber-stamp BPC safety authorizations.

Q: PSP might argue that funding only 56 pilots creates safety concerns. How would you respond?

A: PSP currently does and has been operating safely and successfully with 56 licensed pilots. If PSP can safely handle nearly 7,500 assignments with its

current 56 pilots, it can certainly handle the projected 7,000 assignments with the same number.

Q: Is there any risk that funding 56 pilots will be insufficient?

A: No. PSP currently operates with 56 pilots, so funding 56 pilots provides full compensation for all pilots under the current operations. And, in any event, if actual work increases then individual pilot earnings will increase proportionally as more revenues from more work will be divided amongst the same pool of the same pilots. This will result in higher DNI's per pilot, not lower DNI as would happen if there were more pilots.

Q: Does the number of pilots to be funded include the PSP President?

A: Yes. The 56 actual licensed pilots includes the PSP President, who serves as a full-time administrator and does not accept regular on-watch assignments. The Commission has recognized this structure in both prior proceedings.

D. DNI.

Q: Is PMSA supporting an adjustment to Pilot DNI?

A: Yes. PMSA supports a marginal adjustment in pilot DNI commensurate with the evidence as applied to the current Commission methodology.

Q: What level of adjustment in DNI is warranted in this case?

A: I have included a DNI Worksheet at Exhibit MM-29. The DNI Worksheet employs the approach established in both TP-190976, Final Order 09 and

TP-220513, Final Order 08: calculating pilot DNI based on a multi-year average of actual historical DNI distributions, adjusted by CPI.

In Order 09, the Commission adopted a five-year average of actual DNI distributions (2013-2017), adjusted for inflation to establish the target DNI. In Final Order 08, the Commission modified this approach to a three-year average (2017-2019), in order to exclude pandemic years 2020 and 2021 as anomalous, and again adjusted for inflation.

By applying the same methodology endorsed by the Commission in the prior two rate cases, PMSA prepared both an adjusted DNI using a four-year lookback period covering years 2021-2024 and a three-year lookback period covering years 2022-2025, both excluding the anomalous pandemic year of 2020.

Q: Please explain the data inputs for this calculation that is in Exhibit MM-29.

A: First, the DNI Worksheet starts with the per pilot reported net income distributions per pilot from the BPC's Annual Financial Reports.

Year	Reported DNI Per Pilot	Source
2021	**$295,616.00**	BPC 2021 Annual Report
2022	**$329,292.00**	BPC 2022 Annual Report
2023	**$342,605.00**	BPC 2023 Annual Report
2024	**$449,591.00**	BPC 2024 Annual Report

Then, we normalize each historical year's DNI figures to ensure that these numbers are apples-to-apples and consistent with the prior two Commission Orders. DNI is adjusted by removing pilot medical expenses and callback expenses from prior years, which increases DNI.

Medical Expense	Medical Adjustment Per Pilot	Callback Expense	Callback Adjustment Per Pilot	Medical +Callback Adjusted Per Pilot DNI
$1,644,567.00	$31,088.22	$389,350	$7,360	$334,064
$1,734,359.00	$32,417.93	$638,344	$11,932	$373,642
$1,740,783.00	$32,356.56	$248,950	$4,627	$379,589
$10,658.00	$188.64	$352,812	$6,244	$456,024

Lastly, DNI is adjusted for inflation to reflect current dollar values consistent with the methodology adopted in Order 08. For that PMSA relied on the US Bureau of Labor Statistics online CPI Inflation Calculator, which provided the latest adjustments to November 2025 dollars. See Exhibit MM-30.

Adjusted DNI in 2025 $	Imputed BLS Inflation Factor
$388,367	16.26%
$408,042	9.21%
$401,091	5.66%
$468,330	2.70%

After adjusting each year's DNI for disallowed expenses and adjusting for inflation to current dollar values, the four-year average is calculated. This results in a base DNI of either $416,458 for a multi-year average of 2021-2024 or $425,821 for a three-year average of 2022-2024.

Finally, the Commission's formula then requires a further adjustment to project the DNI forward to account for anticipated inflation during the rate year. We relied on current CPI projections referenced in the testimony of Dr. Cohen that are estimated for approximately the beginning of the next rate

year,[138] and applied an inflation factor of 2.6% to the base DNI, resulting in a final proposed DNI of either $427,286 or $436,893 per pilot.

Q: Why does PMSA exclude 2020 from the 5-year DNI averaging calculation?

A: For the same reasons discussed above, that the Commission has already established the precedent for excluding anomalous pandemic-year data. As discussed above in the calculation of the AAL, PMSA follows that precedent here with respect to DNI averages and is agnostic to the Commission's decision to either include or exclude 2021 data as well from its calculations so long as it is consistent across all factors. To facilitate the Commission's review, my DNI Worksheet at Exhibit MM-29 calculates the average using both scenarios.

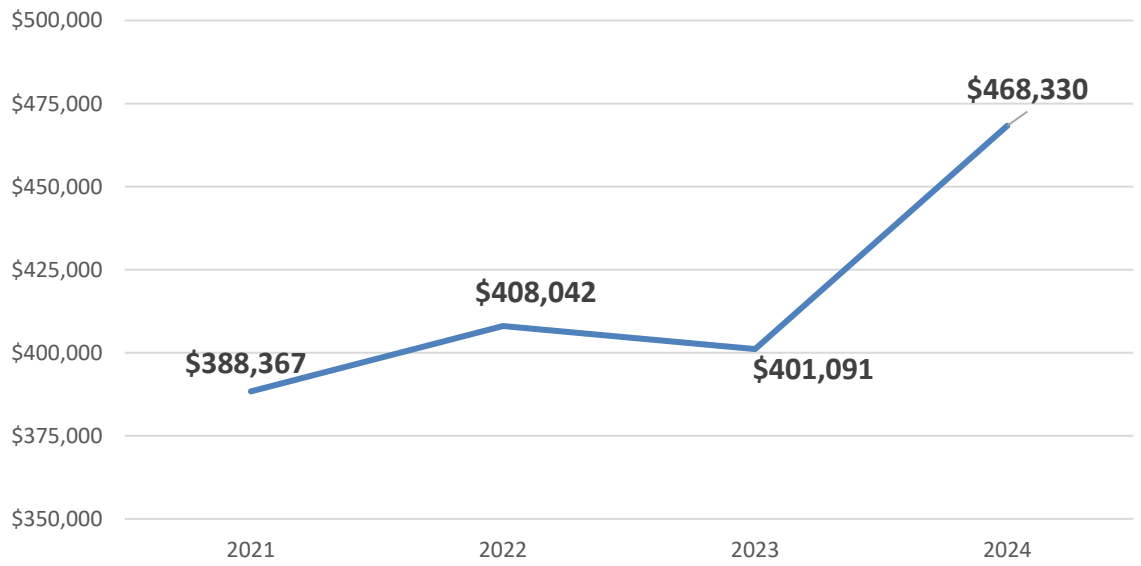
Q: What are the reasonableness factors that would support the PMSA proposed DNI increase?

A: The amount of this increase is based entirely on the same base of evidence applied in the prior two cases, which is based on the application of the evidence to the formula, and so it is imminently reasonable. Remember, the point of establishing a DNI based on the actual compensation to actual pilots in the actual test year is to ensure that we are using the best available, known and measurable data that has proven to attract and retain pilots. During the last four years each of these data points has done exactly that: attracted and retained pilots in the Puget Sound.

[138] Cohen, Exh. SC-01T, 15:17 ("2.6% by third quarter of 2026").

As illustrated in Figure G, the Adjusted PSP DNI per pilot from 2021 to 2024 is a range from $388,367 to $468,330, with variability from low to high of just over 20%.

Figure G.
Adjusted PSP DNI Per Pilot (2021-2024)(in 2025$)



PMSA's proposed adjustment reflects the cumulative impact of inflation over the relevant period, has applied actual historical distributions using the very methodology the Commission has endorsed, and is proposing a DNI which is higher than in three of the last four years in the formula. This is simply the straightforward application of the evidence to an established regulatory formula which produces a reasonable, evidence-based outcome.

Q: Is this a more reasonable output than the PSP requested DNI increase?

A: Absolutely. First, the PMSA DNI calculations are consistent with prior

Commission findings in Final Order 08, which emphasized that adjusting DNI figures to reflect the local CPI was "a more accurate reflection of local inflationary pressure than a nation-wide metric."[139]

Moreover, PMSA's proposed DNI is substantially more reasonable than PSP's request to increase the current DNI to $729,884 per pilot. When compared to the current test year adjusted DNI per pilot of $468,330, PSP is proposing a single year increase in per pilot DNI of 55.8%. That figure is an unprecedented departure from historical distributions and Commission-approved methodologies, and it far exceeds the fair, just, reasonable, and sufficient standard.

Q: If PSP has failed to prove that it is entitled to a dramatic 55.8% increase in DNI, couldn't the Commission just refuse to increase DNI entirely instead of applying the formula to current data?

A: Yes, but we would recommend it.

It is clearly within the Commission's discretion and authority to find that the PSP has failed to make its case here. Its proposed severe deviation from the precedents set in the prior two rate cases is not supported by evidence.

So, one approach to this failure could be that the Commission simply denies the PSP request without further DNI adjustment. This would send a strong signal to PSP that its refusals to follow Commission precedent and the regulatory filing requirements in this case were fatal to its petition and that in the future it should conform and streamline its submissions. The Commission would be entirely justified in doing this and maintain the

[139] Final Order 08 ¶ 130.

current DNI as fair, just, reasonable, and sufficient, and simply end its inquiry there.

But it is of course also entirely within the Commission's discretion to determine that it is in the best interest of efficiency and most fair to all of the parties participating to continue to proceed with the best evidence in the record, and apply them to its formulas and procedures. Recognizing the deficiencies of PSP's case, the current evidence presented in this case nonetheless supports an adjustment under the established methodologies and formulas adopted in the prior rate cases.

Indeed, this is what we recommend here, and it was precisely PMSA's position in docket TP-220513, as reflected in our briefing: "Acting consistently with the Commission's adopted formula from the prior rate case is different from continuing the outcome of the application of the prior rate case. The prior case's facts are not this case's facts, and when this case's facts are applied to the formula, they result in different outcomes."[140]

This is also an imminently reasonable path forward at this time given the parties anticipated stipulations and resolution of issues surrounding proposed capital expenses.

Q: What is the bottom line for PMSA supporting an adjustment in pilot DNI in this case?

A: PMSA endorses DNI adjustments, either up or down, that are supported by evidence in the record and applied to the Commission's established regulatory formulas.

[140] Docket TP-220513, PMSA Initial Brief at ¶ 25.

The Commission can and should adjust DNI by applying the facts of this case to the methodologies adopted in prior cases. This is precisely what I have presented in our DNI worksheet at Exhibit MM-29.

The application of the DNI formula in this case maintains the current more-than-sufficient levels necessary to attract and retain qualified pilots. It is based on inflation-adjusted historical distributions and it maintains DNI at levels that have been found adequate by the Commission.

Q: What adjustments to pilot DNI does PMSA oppose?

A: PMSA opposes unjustified DNI increases based on unsupported methodologies, speculative market theories, and cherry-picked data from other pilotage grounds outside of the Pacific Northwest. As discussed in the testimony of Dr. Cohen, Exhibit SC-01T, these types of attempts ignore all the factors involved in any serious comparability analysis.

Here those factors have to include an evaluation of pilot workloads. Recently work in the Puget Sound has been decreasing, which contributes to lower levels of overall PSP revenue, but in many other pilotage grounds they may have increasing workloads, allowing them to see increases in revenues.

Simple factors like these are built into the current Commission formulas, through AAL and vessel traffic projection requirements, but they are absent from PSP's national average comparisons. This is because, as discussed in full above, PSP's request for $729,884 per pilot DNI is not evidence-based rate-setting; instead, they simply seek an aspirational compensation target with no grounding in economic regulatory precedent or empirical necessity.

Even if it were possible to verify (and at this point none of this data is remotely close to this threshold), we just cannot understand why what a pilot in Louisiana made many years ago is more relevant to the Puget Sound than a comparison of what a Puget Sound pilot and a local potential pilot candidate made last year. Is what a pilot made in another area of the country more relevant to the attract and retain analysis than an examination of what the current pilot candidates earn and how that may compare to pilot DNI? The Commission has said "no" and should again.

E. TDNI.

Q: Is PMSA proposing a change to the TDNI?

A: Yes. PMSA believes that the TDNI should be adjusted by using the same methodology as the Commission has done in prior proceedings, by applying the evidence in this case to this formula:

Number of pilots × DNI = TDNI

Q: What TDNI does PMSA recommend that the Commission adopt?

A: I have included a TDNI Worksheet at Exhibit MM-31. PMSA recommends that the Commission adopt a TDNI of either $23,928,016 or $24,466,008.

Total DNI Calculation

	Number of Pilots	Projected DNI Per Pilot	Total DNI
4-yr Average DNI	56	$427,286	$23,928,016
3-yr Average DNI	56	$436,893	$24,466,008

Q: Please explain the source of the components applied to this TDNI calculation.

A: The pilot count of 56 is the current number of licensed pilots. As described in the Number of Pilots Worksheet at Exhibit MM-28, while the AAL methodology indicates a lower number of pilots is needed based on projected traffic, Commission precedent establishes the actual number of licensed pilots as the funding floor. Therefore, we recommend funding 56 pilots.

The DNI figures are the expense and inflation adjusted DNI averages, as described in the DNI Worksheet at Exhibit MM-29. This approach uses PSP's actual financial data and follows the analytical framework from prior Commission orders.

Q: In what ways is PMSA's TDNI recommendation different from PSP's request?

A: PMSA's recommendation is grounded in the Commission's established methodologies and actual historical data, whereas PSP's request abandons both in favor of unsupported national average comparison study results.

PSP is requesting substantially more TDNI than is justified by the evidence in this proceeding or supported by the Commission's established methodologies. Both PSP's requested factors, a DNI of $729,467 and the funding of 60 pilots, fails in each of their respective formulas. Therefore, they both fail to make a reasonable TDNI as well.

PMSA's TDNI recommendation reflects DNI levels that have proven sufficient based on the Commission's established standards, while PSP's excessive request represents a departure from regulatory precedent and lacks evidentiary justification.

Q: Is PMSA's TDNI recommendation consistent with the Commission's revenue requirement formula?

A: Yes. PMSA's TDNI recommendation is designed to fit within the Commission's traditional revenue requirement formula established in Final Order 09 and reaffirmed in Final Order 08:

Revenue Requirement = Operating Expenses + Depreciation + Interest + TDNI

Under this formula, TDNI is a direct component of the revenue requirement, added alongside other cost categories. This approach is straightforward, transparent, and consistent with the Commission's treatment of PSP as a professional association rather than a traditional public utility.

Q: What would be the practical impact on ratepayers if the Commission adopted PSP's TDNI request versus PMSA's recommendation?

A: The additional costs of PSP's proposed TDNI provide no corresponding benefit to ratepayers. PSP has not demonstrated any improvement in service quality, safety, or operational efficiency that would justify a dramatic increase in DNI. The Commission's role in pilotage ratemaking is to ensure that rates are fair, just, reasonable, and sufficient—not to maximize pilot income based on pilot association desires versus demonstrated needs. PMSA's TDNI recommendation strikes the appropriate balance: it provides pilots with substantial income that reflects their important work and specialized skills, while protecting ratepayers from

unjustified rate increases that are disconnected from operational needs and market realities.

Q: Does PMSA's TDNI recommendation provide PSP with a fair opportunity to earn a reasonable return?

A: Yes. PMSA's recommended TDNI represents substantial compensation for the entire professional pilotage service. This approach provides pilots with ample opportunity to earn income grounded in actual experience while accounting for economic conditions. Because it is based on historical income rates that resulted in high levels of pilot trainee participation, the compensation is also competitive and based on DNI that has already proven to "attract and retain" pilot candidates. This will remain the case because pilot trainees are drawn primarily from merchant mariners serving as ship captains and mates.

As noted in my testimony on "attract and retain," according to Bureau of Labor Statistics' most recent wage report, the annual wage for the 90th percentile for captains, mates, and pilots was $152,400. PMSA's recommended DNI represents compensation that is substantially higher than the top end earnings of the candidate pool from which pilots are recruited. This substantial premium over alternative maritime careers demonstrates that PMSA's recommendation provides more than adequate financial incentive to continue to attract a more than sufficient number of qualified and motivated applicants.

F. PMSA'S Proposal for a Market-Based Defined Contribution Retirement Approach.

Q: What is PMSA's proposal for addressing pilot retirement funding in this proceeding?

A: PMSA proposes that the Commission establish a fixed, market-based retirement contribution, paid in addition to pilot DNI. This contribution would replace all other recovery of retirement expenses and give PSP sole discretion over how to use the funds-whether for its existing plan, new individual accounts, or a transition to another system.

To further describe this approach I have included a PMSA Proposed Retirement Worksheet as Exhibit MM-32.

This approach replicates for pilots an amount of a retirement benefit that is what an employer might reasonably contribute to a defined contribution plan for its highly compensated employees in a competitive market. It provides significant, predictable retirement funding while protecting ratepayers from the unlimited liabilities of PSP's current, unsustainable defined benefit plan.

Once the new payment is in place PSP will have complete discretion to use these funds as it determines best. It is up to the pilots to decide how they want to move forward, whether continuing current obligations, funding individual defined contribution accounts, pursuing the MEP if somehow approved, or any combination thereof. But no other retirement expenses would be included in the revenue requirement.

Q: Why is this approach necessary now?

A: Five years after Final Order 09 directed PSP to transition away from its unsustainable retirement system, and with the proposed MEP solution stalled, the Commission must act. The current approach—indefinitely funding an unstable system while awaiting an unlikely federal approval—exposes ratepayers to unacceptable risk. It is time to establish a sustainable framework that provides pilots with generous retirement funding while capping ratepayer exposure at a reasonable, market-based level.

Q: What does PMSA propose the Commission establish as the retirement contribution?

A: PMSA proposes a retirement contribution consistent with the post-tax value of what employers might typically contribute as a matching amount equal to the maximum contribution to a Solo 401(k) or SEP-IRA for highly compensated individuals. This contribution would be paid to PSP in addition to pilot DNI and would replace all current retirement expense recovery.[141]

Q: What is the basis for determining an appropriate contribution percentage?

A: Susan Hoffman, PMSA's expert witness with over four decades of ERISA and employee benefits experience, provides authoritative guidance on this question. At Exhibit SKH-01T at 18:9-13, she testifies:

[141] To express this in terms of the revenue requirement, we are asking that the Commission find that all PSP retirement expenses for pilots are non-recoverable and to remove the entire retirement line item and then impose the new "employer match" retirement contribution for pilots amount after the DNI determination.

> A typical pay structure assumes a certain rate of compensation, plus a percentage on top of that for various benefits. In my experience, I have rarely seen retirement benefits exceed 6% of taxable compensation (employees can choose to set aside more than that in a tax-deferred arrangement of course, such as a 401(k) plan).

Based on this expert testimony, PMSA recommends the Commission establish a total retirement contribution of 6% of pilot taxable DNI or 50% of the maximum SEP IRA (or Solo 401K) contribution limit, whichever is greater. This contribution level is significant. Furthermore, this contribution level allows for the accumulation of a substantial retirement fund over a pilot's career, as the fund balance grows with both continued contributions and the rate of return on the fund's investments.

These options could be expressed as follows:

Year	DNI per Pilot*	6% "Employer Match"	50% of SEP-IRA Limit	New PMSA-Proposed Retirement Income	Total Per Pilot DNI + Retirement Income
2024 Test Year	$468,330	-	-	-	$468,330
2026 Rate Year + Proposed Retirement	$468,330	$28,100	$36,000	$36,000	$504,330

Q: Has PSP introduced evidence of its expected rate of return on retirement savings in this rate case?

A: Yes, Ms. LaRue states that PSP has recognized a fair annual return of 12% based on the S&P 500 index.[142]

[142] LaRue, Exh. AML-01T, 24:3-10.

Q: Based on PSP's 12% expected rate of return applied to retirement savings, how large could PMSA's proposed retirement contribution funds grow to?

A: PMSA has developed scenarios to illustrate the amounts that a defined contribution retirement fund could grow to in a Retirement Contribution Worksheet attached as Exhibit MM-32. This uses PSP's expected 12% return on investment, our simple worksheet illustration of contributions and annually compounding returns over the length of a theoretical pilot's 20 year career starting in 2026, and we also assume modest increases in contribution limits by IRS over the lifetime of contribution years based on the history of contribution limit increases.

One such scenario would produce a 20-year fund balance of about $6.8 million per pilot utilizing these assumptions, including PSP's own projected rate of return. Without touching the principal, when a pilot reaches the mandatory withdrawal age, the minimum required distribution plus growth of the fund balance would greatly exceed existing defined-benefit payments in almost every scenario.

Q: Why is the greater of 6% of taxable DNI or 50% contribution to a SEP-IRA or Solo 401(k) an appropriate benchmark to consider?

A: Ms. Hoffman's testimony reflects decades of experience with retirement plans across multiple industries and employer types. Her observation that retirement benefits "rarely exceed 6% of taxable compensation" represents market practice for employer contributions to qualified retirement plans. This is consistent with:

1. Typical employer 401(k) matching contributions, commonly ranging from 3-6% of compensation;
2. SEP-IRA contribution patterns, where self-employed individuals fund the entire contribution, typically 3-6% for ongoing operations;
3. Defined contribution plan design standards, where employers balance retirement benefits with other compensation elements; and
4. Market competitiveness, i.e., the level needed to attract and retain qualified professionals in competitive markets.

Q: How would this contribution be implemented and calculated?

A: The contribution would be implemented and calculated in the following manner:

- The Commission would deny PSP expenses for the existing PSP retirement plan and remove these expenses from the revenue requirement.
- After the Commission establishes the new total Pilot TDNI, an additional amount equal to 6% of the total pilot DNI or one-half of the SEP IRA or Solo 401(k) maximum contribution, whichever is greater, would be authorized by the Commission.
- This amount multiplied by the number of pilots funded would be included in the revenue requirement in addition to the TDNI.
- PSP and its pilot members would have complete discretion over how to use these funds for retirement purposes. Pilot TDNI would then, naturally and over time, be increased by the amount of the savings associated with management of retirement privately and not as a PSP expense.

Q: Is this contribution by ratepayers sufficient for pilots to maintain adequate retirement savings?

A: Yes, it is more than sufficient. Consider:

- Individual Control: Unlike employees, self-employed pilots have complete control over their compensation structure and can allocate funds among current consumption, retirement savings, and other purposes based on their individual circumstances.
- High Compensation Levels: At current DNI levels exceeding $400,000 per pilot, a 6% contribution represents $24,000 annually per pilot and the one-half SEP-IRA limit equals $35,000 in employer-matched funded retirement benefits.
- Additional Personal Savings: Pilots remain free to invest in their own individual retirement accounts (SEP-IRAs, Solo 401(k)s, or individual defined benefit plans) and contribute and/or invest additional amounts from their substantial DNI.
- Long Careers and Investment Growth: As pilots typically work 20 years, with some working as long as 30 years or more at high compensation and retirement contribution levels, there is substantial time for retirement savings to accumulate and grow significantly, particularly with the compounding growth of large funds.
- Estate Planning Benefits: An incredibly important consideration is that the assets of a funded defined contribution plan are fully available to a pilot's estate and beneficiaries, as opposed to an unfunded defined benefit plan which has no fund and limits survivor benefits to 50% to a qualifying spouse, not to an estate. This estate

and family protection reality is a significant advantage over an unfunded defined benefit plan.

- Legal and Financial Certainty: Under the current defined benefit plan, if the Puget Sound Pilots, an unincorporated association, were to disband or become insolvent tomorrow, retirees would have no security, no assets, and no vesting to rely upon, and there is no fiduciary for their plan, no pension insurance, and no remedies to avail themselves if the plan disappeared. This is apparently also possible with a single vote of the members of PSP. Investments made into a defined contribution plan are exposed to none of these variables.

Q: What would PSP do with the market-based retirement contribution?

A: PSP would have complete discretion with the revenues provided by ratepayers. The funds could be distributed to individual pilots to be responsible for their own retirement, or used for:

1. Current unfunded plan obligations: paying retirement benefits to current retirees under the existing plan structure.
2. Individual defined contribution accounts: establishing 401(k), SEP-IRA, or other individual accounts for each pilot.
3. Continued MEP pursuit: if PSP chooses to continue pursuing DOL approval, using funds toward that goal.
4. Hybrid approaches: any combination of the above based on PSP's assessment of its obligations and member preferences.

5. Phase-out of current system: gradually transitioning from the unfunded defined benefit system to sustainable individual accounts.

Q: If the ratepayers' contribution is insufficient to cover PSP's current retirement payments, what happens?

A: The ratepayers' contribution is based on the fixed employers match equation, not on PSP's decisions about how to manage its retirement options. This question highlights why PSP's current system is unsustainable, both because ratepayers are having to pay more than what is reasonable and because the current system creates intergenerational inequities that compel a present-day vessel to pay pilotage rates that include compensation for now-retired pilots based on services performed years earlier.

The key question is: why should future ratepayers pay for benefits that were earned by pilots in past years when those pilots were already paid for their services in full by the vessels they served? This is precisely the intergenerational inequity issue the Commission addressed with callback liability in the prior rate case.

Under our proposal, PSP must manage the transition from its unsustainable system using the new, market-based contribution, but is given complete discretion over how to go about this transition. Any unfunded obligations from past service arose from PSP's choice to offer unfunded deferred benefits instead of setting part of the pilot pay aside to fund later retirement contributions. Current and future ratepayers should not be forced to subsidize those past decisions.

Ms. Hoffman's testimony addresses this directly: "It would be unfair for

it to fall on the pilots' customers, who have already been paying the contributions and who could now be forced to significantly increase their contributions to pay for the same retirements twice."[143]

Q: Can PSP choose to transition its retirement to a new system whose costs exceed the annual contribution?

A: Yes, of course. If PSP is free to choose any retirement structure, and if that costs more than the reasonable, market-based contribution from ratepayers, the shortfall is PSP's responsibility to manage. It is not an option to continue imposing unlimited and growing liabilities on captive ratepayers because that would be unfair.

PSP's options for how to manage the liabilities it chose to create include (but are not limited to) the following:

- Reduce other compensation elements: PSP could allocate a portion of its TDNI toward retirement obligations rather than current distributions, creating an incentive to manage revenues wisely.
- Pilot contributions: Individual pilots could contribute from their substantial DNI, just as employees do with 401(k) plans.
- Reduce benefit accruals going forward: New pilots or those with fewer years of service could receive benefits consistent with the available funding.
- Phase out current system over time: Continue paying current retirees from the contribution while transitioning active pilots to sustainable individual accounts that individual pilots manage.

[143] Hoffman, Exh. SKH-01T at 13:26–14:3.

Q: What are the advantages of PMSA's proposal compared to PSP's approach?

A: PMSA's proposal provides multiple advantages:

- Certainty and Predictability: Ratepayers know exactly what retirement costs will be, i.e., 6% of authorized DNI or greater. No open-ended liability, no surprise actuarial adjustments, no federal approval uncertainty.
- Market-Based Standard: The contribution reflects what competitive markets require, not what a monopoly demands from captive customers.
- Flexibility for PSP: PSP maintains complete discretion over how to structure retirement benefits for its members within the available funding.
- Sustainable Framework: Unlike PSP's unfunded defined benefit system, PMSA's approach provides predictable, ongoing funding without growing liabilities.
- Individual Pilot Control: Pilots can manage their retirement fund and supplement the employer contribution with their own savings, choosing retirement structures that fit their individual circumstances, age, career stage, estate planning and risk preferences.
- No Federal Approval Required: The Commission can implement this approach immediately without waiting for DOL action on PSP's uncertain MEP proposal.
- Eliminates Litigation Risk: By capping ratepayer exposure at market levels, the Commission avoids future rate cases dominated by

disputes over retirement plan funding, actuarial assumptions, and unfunded liabilities.

- Consistent with Commission Precedent: The approach respects the Commission's directive in Final Order 09 to transition to a sustainable system while establishing reasonable cost recovery.

Q: Does this approach mean pilots receive less favorable retirement benefits than other workers?

A: Not at all. In fact, given their highly compensated status at DNI levels exceeding $400,000, pilots are among the highest-compensated workers in the region. Unlike employees subject to Social Security wage caps and IRS contribution limits tied to employer plan designs, self-employed individuals have maximum flexibility to structure their own additional retirement savings.

Q: Would this require changes to PSP's current retirement plan?

A: That is up to PSP, as the pilots would need to determine if, when, or how to manage the transition from its current unfunded defined benefit system to a structure sustainable within the market-based contribution. The Commission would not dictate the specific retirement plan design—that remains PSP's decision. However, under this proposal PSP could no longer seek recovery of costs for their current retirement system as an expense under the revenue requirement. All contributions to pilot retirement would be exclusively in our employer match, which provides additional payments over and above DNI.

Q: What happens to pilots who have already accrued significant service credits under the current unfunded system?

A: That is a transition management issue for PSP to resolve, not ratepayers. PSP would retain the discretion to use the annual contribution however they wish, including to honor obligations to current retirees while transitioning newer pilots to a different structure. PSP's membership has the right to change the benefits and structure of their current plan,[144] and it is entirely up to PSP and its members to decide how to manage this transition internally. Ratepayers' obligation should be limited to paying for present-day services and providing the new, sustainable contribution corresponding to those present-day services.

Q: If PSP eventually obtains DOL approval for the MEP, could PSP seek additional funding?

A: If PSP obtains federal approval and implements the MEP, it could decide to implement the defined benefit MEP structure, if that was what its membership truly wanted to do. But the ratepayer exposure would be limited to the proposed employer match amount.

Q: Is PMSA's proposal consistent with Commission precedent?

A: Yes, in multiple ways. First, in Final Order 09 the Commission determined that PSP's unfunded defined benefit system was unsustainable and required transition. PMSA's proposal implements that directive by establishing sustainable, market-based funding. Next, in Final Order 08 the Commission

[144] Exh. MM-33 (*see* "Amended Retirement Plan of the Puget Sound Pilots," Sec. 4.1).

declined to approve the MEP or establish automatic adjusters for retirement expenses because of uncertainties. PMSA's proposal addresses those concerns by capping costs at predictable, regular, and well-understood market levels. This is also consistent with the Commission's proper refusal to allow PSP to shift historical callback obligations to future ratepayers; the same principle applies to retirement obligations earned in past years.

Q: Does the PMSA proposal recognize the distinction between essential vs. non-essential expenses?

A: Yes, PMSA's plan endorses the value the Commission places on distinguishing between essential expenses necessary to provide pilotage services and discretionary choices by PSP. Retirement plan structure is PSP's choice; but a permanent ratepayer contribution at market-level standard costs is required.

Q: How does PMSA's proposal balance the interests of ratepayers, pilots, and the public?

A: PMSA's proposal balances the interests of all parties. For ratepayers, it creates predictable, capped retirement costs at market levels, eliminating the open-ended risk of an unfunded defined benefit plan. For pilots, it provides a substantial, employer-funded retirement contribution over and above DNI, flexibility to design their own retirement plans, and financial certainty without depending on federal approval.

For the Commission and the public, the proposal implements Final Order 09's directive after a five-year delay, establishes a sustainable precedent, and eliminates the possibility of future tariff litigation over

retirement funding. This focuses future proceedings on core pilotage service issues, ensuring a sustainable system that provides adequate pilot compensation while protecting ratepayers from unreasonable costs.

G. Transportation Charge.

Q: Is PMSA supporting an increase in the transportation charge?

A: Yes. PMSA supports a marginal increase in the transportation charge commensurate with the evidence as applied to the current Commission methodology.

Q: What level of increase in the Transportation Charge is warranted in this case?

A: The evidence supports an increase from $168.20 to $183.05 per assignment.

Q: What is the basis for your support for this increase?

A: This proposal is described in detail in the Transportation Adjustment Worksheet, at Exhibit MM-34. We follow the Commission's methodology from the prior rate case (docket TP-220513), which excluded 7% of the presented costs as commute costs, which resulted in an endorsement of 93% of PSP's presented transportation expenses. This formed the basis for the current tariff charge of $168.20 per assignment.

Applying this same 93% factor to PSP's submitted expenses for the current test year yields an adjusted amount of $171.62 per assignment.

The evidence also supports a further adjustment of $11.43 per assignment for PSP expected vendor cost increases, to which we also applied the 93% level consistent with the Commission's methodology.

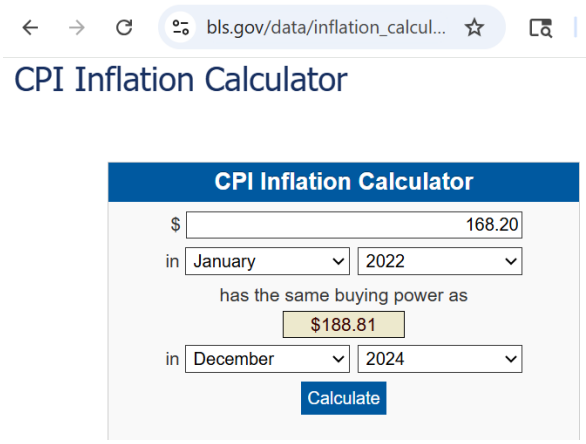
Combining these figures ($171.62 + $11.43) results in a total recommended charge of $183.05 per assignment.

Q: PSP proposed using this BLS Inflation Calculator to compare their proposed increase to the rates charged in 2009. Can the use of the BLS Inflation Calculator be used to justify the reasonableness of the PMSA proposed Transportation increase?

A: Yes. An objective comparison using the U.S. Bureau of Labor Statistics (BLS) inflation calculator, a tool cited in PSP's testimony, confirms the reasonableness of our proposal and shows that PSP's proposal is excessive.'

We rely on the tool provided in PSP's testimony at Exhibit ECK-01T, 24:3-20, for a gut check of a reasonable increase of transportation expenses: the use of the US Bureau of Labor Statistics inflation calculator at https://www.bls.gov/data/inflation_calculator.htm.

Without endorsing this as an alternative methodology, we ran the numbers. According to the BLS CPI Inflation Calculator, "$168.20 in



January 2022 has the same buying power as $188.81 in December 2024," as shown in the image from the website below.

Q: Which proposal, PMSA's or PSP's, more favorably compares to the BLS inflation calculator?

A: When measured against the objective BLS inflation calculator, PMSA's proposed increase is reasonable, while PSP's is not. PMSA's proposed charge of $183.05 is only 3% below the BLS calculator's figure. In contrast, PSP proposed $233.93 is 24% over the BLS figure. PMSA's proposal is therefore eight times closer to this objective benchmark than PSP's.

Q: Should the Commission make comparisons to the rates charged in 2009 in this rate hearing instead of the current rates adopted by the Commission in 2022?

A: No, the Commission doesn't need to look back to conjecture about what happened 17 years ago at another state agency to decide what is fair, just, reasonable, and sufficient. The Commission needs only to review its own record and the Final Orders in the previous dockets at the Commission and compare it to the evidence in this case.

As the rates charged in the current tariff were approved in 2022, the most reasonable and relevant comparison by PSP in this case should be to compare its proposal to the rates in place as of 2022, not 2009. Moreover, when the legislature gave the Commission the authority to set pilotage rates, it created a statutory provision that said that all existing rates in place as of 2019 shall be deemed to be adopted by the Commission until

such time as they are changed. These rates were not changed in 2020 or in 2022.

Q: Should the Board attempt to quantify the commute versus non-commute costs with specificity in this case?

A: No. PMSA is asking the Commission here to use the existing methodology which was originally used by the BPC for many decades first and then endorsed by this Commission in the last two cases. Applying the evidence in this case to that methodology will result in an increase in the transportation charge of 8.83%, from $168.20 per assignment to $183.05 per assignment. The alternative, which would involve actually estimating or evaluating individual values of pilot commutes would be exceedingly time consuming and hard to standardize.

Another complicating factor which makes using the existing methodology more practical is the wide variety of personal residence locations to consider – as pilot residence truly do span the breadth of the entire Puget Sound pilotage district.[145] PSP could keep track of all individual commuting versus non-commuting expenses, but it could also do the administratively easier and less costly thing and simply keep the existing non-commuting framework for addressing recoverable transportation costs.

H. Port Angeles Expense Charge.

Q: What is PMSA's position on PSP's proposed Port Angeles Expense Charge?

[145] See Exh. MM-35.

A: PMSA supports the creation of a Port Angeles Expense Charge in principle. We agree on the charge's core purpose and function, but we have concerns requiring Commission resolution, primarily regarding the application of an operating margin.

Q: What is PSP proposing with respect to the Port Angeles Expense Charge?

A: PSP is proposing to replace the current "Pilot Boat Charge" of $348 under Tariff Item 330 with a new "Port Angeles Expense Charge" of $700. While we are proposing an alternative amount of this charge, we do agree with the methodology of what PSP proposes, which is essentially a revenue neutral charge to ratepayers.

Because this new charge would be recovering all operating expenses associated with the Port Angeles Pilot Station, including employee salaries, pilot boat operating costs, and pilot station facility expenses, these are existing expenses which would be shifted away from the PSP operating expenses currently accounted for in the Seattle office budget.

Q: What is the current Pilot Boat Charge and when was it last updated?

A: The current Pilot Boat Charge is $348 and was last updated in 2014 through a joint agreement between PSP, PMSA, and the Ports of Seattle and Tacoma. That charge was specifically designed to recover pilot boat operating expenses and Port Angeles employee payroll costs based on actual 2013 expense data while providing relief for unfair tonnage rates for larger vessels.

Q: Has PMSA had an opportunity to review PSP's proposed Port Angeles Expense Charge in detail?

A: Yes. PMSA has conducted a thorough review of PSP's proposal, including Schedule 2.31 of Exhibit AML-03, which provides the detailed calculation and supporting documentation for the Port Angeles Expense Charge.

Q: What is PMSA's overall position on the Port Angeles Expense Charge?

A: PMSA largely supports the fundamental principle underlying PSP's proposal—that costs associated with Port Angeles operations should be recovered from those customers who use Port Angeles services rather than being subsidized by customers that do not. We would support this charge, however, we cannot support this charge when PSP is proposing the application of its new 88% operating margin to this cost-recovery charge. We oppose the operating margin in general, but also believe that this is inappropriate for a cost-based surcharge. We also would oppose the inclusion of interest expenses and depreciation expenses that are otherwise covered by the likely capital account stipulations.

Q: Please describe in more detail the areas where PMSA agrees with PSP's proposal.

A: PMSA agrees with PSP on several fundamental points:

First, the current $348 Pilot Boat Charge has not been updated since 2014 and no longer reflects the actual costs of pilot boats.

Second, the additional pilot boat cost and all other costs related to Port Angeles operations are currently being subsidized by other rates throughout

the tariff, which creates an inappropriate cross-subsidy where the general tariff, and non-Port Angeles customers, are paying for Port Angeles expenses.

Third, the operating costs of the Port Angeles Station include both pilot boat operating expenses and other station operating expenses, but the 2014 Pilot Boat Charge was only designed to recover boat expenses and employee costs, not the full range of station operating costs.

Fourth, PSP's proposal to create a cost-based surcharge that recovers actual operating expenses at the Port Angeles Station is fundamentally sound and follows proper regulatory cost-causation principles.

Q: Are there specific expense categories that PMSA agrees should be included in the Port Angeles Expense Charge?

A: Yes. PMSA has reviewed each line item in Schedule 2.31, Column K, and agrees that the following categories of Port Angeles operating expenses are prudent and should be recovered through this charge:

- Computer maintenance for Port Angeles.
- Port Angeles employee education and training.
- Employee health and welfare costs for Port Angeles staff.
- Employee pension costs for Port Angeles staff.
- Employee reimbursements.
- Food and galley expenses at the Port Angeles station.
- Insurance costs specific to Port Angeles operations.
- Fuel costs for both the Juan de Fuca and Puget Sound pilot boats.
- Preventive maintenance and repair costs for both pilot boats.
- Laundry services.

- Postage and communications.
- Tidelands lease rent.
- Repairs and maintenance for the Port Angeles station.
- Salaries and overtime for Port Angeles station employees.
- Subscriptions and supplies.
- All applicable payroll taxes (B&O, FICA/Medicare, property taxes, etc.).
- Telephone and communications expenses.
- Utilities for the Port Angeles station.

To the best of our knowledge, these represent legitimate, recurring operating expenses directly attributable to the Port Angeles operation.

Q: What specific expense categories should be excluded from the Port Angeles Expense Charge?

A: PMSA disagrees with including the item for asset depreciation in Schedule 2.31, Column K, and believes this should be removed.

Q: Why does PMSA believe depreciation should be excluded from the Port Angeles Expense Charge?

A: The Port Angeles Expense Charge should only function as a cost-based surcharge for the actual operating expenses incurred to provide service at Port Angeles. Depreciation represents capital cost recovery, not an operating expense.

In addition, as noted earlier in my testimony, we believe that the parties will soon be presenting a partial stipulation on capital costs, including pilot boats and other Port Angeles station capital expenses. It is likely that the

depreciation question will be resolved in that agreement amongst the parties.

Q: After exclusion of depreciation, what is the total amount of Port Angeles operating expenses that PMSA agrees should be recovered?

A: Based on our review of Schedule 2.31, excluding depreciation, the prudent Port Angeles operating expenses for the rate year should total $3,148,418.

Q: What is PMSA's proposed calculation for the Port Angeles Expense Charge?

A: PMSA proposes that the Port Angeles Expense Charge should be increased to $558.

We calculated this by dividing the PMSA proposed expenses of $3,148,418 by the projected number of Port Angeles embarkations and disembarkations, which in 2024 was 5,646 (See Exhibit AML-03, Schedule 2.31, N:10). $3,148,418 divided by 5,646 equals $557.64.

This represents a 60% increase from the current $348 charge, which is substantial but justified by the fact that the charge has not been updated in over a decade and was never designed to recover the full scope of Port Angeles station operating costs and those associated expenses listed in under the Seattle Office will be removed.

We would also be open to an upward revision in the $558 to reflect PMSA's position that there was a significant reduction in vessel traffic in 2025 when compared to 2024. This would also result in the number of Port Angeles embarkation and disembarkation events facing a likely decrease as well. A reduction in the number of vessels will increase the charge.

Q: What is PMSA's concern regarding PSP's proposed calculation of the Port Angeles Expense Charge?

A: Our primary disagreement on the Port Angeles Expense Charge is that PSP is proposing to apply an 88% operating margin to the Port Angeles expenses to calculate their new $700 charge. According to Exhibit AML-03, Schedule 2.31, PSP takes the $3,479,015 in total Port Angeles operating expenses (an amount which includes depreciation), and applies an 88% operating margin to create a revenue requirement of $3,953,426, and then divides by 5,646 occurrences to arrive at $700 per occurrence. We oppose any application of an operating margin to pilot expenses in general, including the Port Angeles Expense Charge.

Q: In addition to its general opposition to the Operating Margin, why would PMSA further oppose the application of any operating margin to the Port Angeles Expense Charge?

A: The primary reason is that this is a cost-based surcharge designed to recover actual expenses and eliminate cross-subsidization. Such charges should not generate a profit margin. PSP proposes to add approximately $474,411 in "return" with an 88% operating margin, transforming a cost-recovery mechanism into a profit center, which we cannot support.

Second, if the Commission were to authorize an operating margin for PSP's overall operations, which we strongly oppose, that margin should be recovered through base rates applied to all customers, not layered onto specific cost-recovery surcharges. Applying the margin here would be

inappropriate, and we would oppose its application to any pilotage surcharge.

Q: Is PMSA opposing the entire Port Angeles Expense Charge over the Operating Margin question?

A: No. PMSA believes there is substantial common ground between the parties on the Port Angeles Expense Charge. We agree on the principle of cost causation, we agree on the specific categories of expenses to be included, and we agree on eliminating the cross-subsidy.

We anticipate that there can be a resolution of the depreciation issue, since that expense can still be captured in the PSP Seattle office expenses, leaving the sole point of disagreement to be whether an operating margin should be applied to this cost-recovery charge.

I. Additional Annual Revenue Requirement.

Q: What is the purpose of this section of your testimony?

A: I am presenting a summary that follows the Commission's requirements from TP-220513 Final Order 08 ¶ 65, where the Commission established a specific requirement for future rate cases: "Going forward the Commission requires that in addition to total revenue requirement, parties must also provide additional annual revenue requirement and the related percentage increase using the methodology in Attachment A."

Q: What does this Additional Annual Revenue Requirement include?

A: The Commission provided two new mandatory components to filing:

1. Additional Annual Revenue Requirement = TDNI – Pro forma Results of Operations (ROO) × Gross-up Factor
2. Percentage Increase = Additional Annual Revenue Requirement / Pro Forma Revenue

Q: Did PSP include any Additional Annual Revenue Requirement components in its testimony?

A: We could not find any exhibit or schedule in PSP's testimony that complies with this explicit Commission requirement. While Exhibit AML-03 has Schedule 1.2 which summarizes its Results of Operations and Schedule 2.02 which summarizes the PSP requested revenue requirement, neither makes any reference to the Additional Annual Revenue Requirement, its formula, or a gross-up factor as mandated by the Commission. Likewise, no reference to these requirements are referenced in Ann LaRue's testimony in-chief at Exhibit AML-01T.

Q: What are you specifically including in your testimony to comply with the Additional Annual Revenue Requirement?

A: I am providing two items:

- Revenue Requirement Adjustment Comparison Table at Exhibit MM-36. This is patterned on Table 1 in Order 08 ¶ 64.
- Revenue Requirement Adjustment Summary at Exhibit MM-37. This is patterned on Order 08, Appendix A.

Where we do not yet know certain items, for example, positions that will be taken by Staff in its testimony that will be submitted contemporaneously with mine, I note it with a placeholder. I will update the table with specific

calculations in my cross-answering testimony. As the Staff testimony will also inform PMSA positions on expenses, these specific calculations are also reserved for PMSA's cross-answering testimony.

Q: Have you completed an initial version of the Revenue Requirement Adjustment Comparison Table?

A: Yes, this is located at Exhibit MM-36. Based on the record in this proceeding, here is the initial version of a comparison summary table of the parties' revenue requirement proposals:

Line No.	Description	PSP Proposal	PMSA Proposal (3 yr)	PMSA Proposal (4 yr)	Staff Proposal
	TARGET DNI PER PILOT, TDNI				
1	Adjusted Test Year DNI	not provided	$468,330	$468,330	[Staff: TBD]
2	Average Assignment Level	not provided	137.3	138.5	[Staff: TBD]
3	Rate Year (2026) Vessel Projection	not provided	6962	6962	[Staff: TBD]
4	Authorized Funded Pilots	60	56	56	[Staff: TBD]
5	Authorized/Target Rate Year DNI per Pilot	$729,467	$436,893	$427,286	[Staff: TBD]
6	Total DNI (TDNI)	$43,768,020	$24,466,008	$23,928,016	[Staff: TBD]
7	Additional Retirement per Pilot	n/a	$36,000	$36,000	[Staff: TBD]
8	Total Additional Retirement	n/a	$2,016,000	$2,016,000	[Staff: TBD]
9	Total DNI + Additional Retirement	$43,768,020	$26,482,008	$25,944,016	[Staff: TBD]
	REVENUE REQUIREMENT CALCULATION				
10	Pro Forma Results of Operations	n/a due to Op Margin	[PMSA: TBD]	[PMSA: TBD]	[Staff: TBD]
11	**TDNI or TDNI + Retirement**	$43,768,020	$26,482,008	$25,944,016	[Staff: TBD]
12	Revenue Increase (Before Gross-Up)	n/a due to Op Margin	[PMSA: TBD]	[PMSA: TBD]	[Staff: TBD]
13	Gross-Up Factor	0.9782	0.9782	0.9782	0.9782
14	Additional Annual Revenue Requirement	n/a due to Op Margin	[PMSA: TBD]	[PMSA: TBD]	[Staff: TBD]
15	Current Authorized Revenue	$41,991,181	[PMSA: TBD]	[PMSA: TBD]	[Staff: TBD]
16	Total Rate Year Authorized Revenue	$67,198,849			
17	Percentage Increase	60%	%	%	%

Q: Could you please explain the "gross-up factor" in the Commission's Additional Annual Revenue Requirement?

A: The Commission identified the inclusion of a "gross-up factor" to cover any additional state and local taxes that may be incurred as part of an increase to PSP's total revenue requirement. PSP incurs Washington State and City of Seattle B&O taxes on its gross revenues. PSP proposes an adjustment to the state portion of this based on the 2025 Legislature's amendment (in HB

2081) of the B&O tax rate on services for entities with annual gross revenues over $5 million, as set forth in Exhibit AML-03, Schedule 2.33. The legislative change went into effect October 1, 2025. PMSA agrees that the gross-up factor should be modified to recognize these B&O tax rate increases.

Q: Have you completed the Revenue Requirement Adjustment Summary at Exhibit MM-37?

A: No. Similar to the Comparison Table at Exhibit MM-36, this will require an evaluation of the Staff testimony that is being filed contemporaneously with my testimony, and I will need to evaluate that to see where we agree and disagree with staff in my cross-answering testimony. I intend to fill in, modify, and present a completed Revenue Requirement Adjustment Summary in my Cross-Answering Testimony, and so it remains a blank draft at this time.

Q: Do the Exhibits supporting this table and the Summary address the issues raised in your testimony regarding the insufficiency of PSP calculations and responses to critical factors?

A: Yes, because several critical components of the revenue requirement were omitted entirely by PSP, like AAL, or other figures require calculation from their exhibits, like Rate Year vessel projections, the Exhibits will note where PMSA performed a calculation as opposed to simply citing a PSP number.

Q: What is the significance of PSP's failure to provide this required summary?

A: PSP's omission is significant for several reasons.

First, as a practical matter, this omission makes it difficult for intervenors and the Commission to efficiently compare party positions. The Commission established a standardized format for presenting revenue requirement determinations that would allow everyone to easily see and recognize where the parties agree on issues and what issues remain in controversy. PSP did not provide that framework.

Second, the Commission did not suggest this format; it required it. This was an explicit procedural requirement for all future submissions, not optional guidance. The Commission even provided a direct format for the parties to follow in Attachment A and the table at paragraph 64 of Final Order 08.

Third, PSP's failure to provide this data summary creates confusion regarding its own proposal. It forces other parties and the Commission to reverse-engineer fundamental calculations, such as vessel projections, that should have been clearly presented. For example, even just completing this summary document there was not an easy way to capture the new PSP operating margin proposal, as that made it almost impossible to capture the criteria as laid out in Attachment A.

Finally, the inability of PSP to comply with the Attachment A requirement to lay out the areas where the parties agree and disagree on the application of continued Commission methodology is yet another example of PSP failing to honor the letter and spirit of WAC 480-07-525

(4)(s) regarding "Change in methodology adjustments." This rule that governs the submission of a pilot rate petition already requires:

> 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 . . . .

PSP has not provided this work paper, the adjustment calculations and information, or Attachment A as required in this case.

Q: Does compliance with this section highlight PSP's lack of consistency with existing Commission rules, formulas, and precedent, including the revenue requirement formula?

A: Yes. Final Order 08 at paragraph 64 notes: "Because the parties do not challenge the revenue requirement formula established in Final Order 09, we provide an overview of the parties' competing proposals." But here, PSP is not only challenging the revenue requirement formula itself but has also failed to present its alternative in the required format. PSP's failure to use the required Additional Annual Revenue Requirement format further confirms that its proposal is a dramatic and unnecessary departure from Commission precedent.

Q: Does PMSA's testimony support compliance with existing Commission rules, formulas, and precedent, including the revenue requirement formula?

A: Yes. Throughout this testimony, I have expressly used and relied on the Commission's established formulas and methodologies, shown our

calculations transparently, cited Commission precedent, and explained how our proposals align with Final Orders 08 and 09.

PMSA's approach of following Commission requirements stands in stark contrast to PSP's approach of disregarding them without providing the required comparative framework.

The Commission's new requirements established a framework that is intended to create transparency and enable meaningful comparison of party positions. PSP's failure to follow these requirements disadvantages all other parties and the Commission itself.

IX. ADDITIONAL OPERATIONAL AND EFFICIENCY RECOMMENDATIONS

Q: What is the purpose of this section of your testimony?

A: A critical component of the tariff setting process is promoting and incentivizing PSP operational efficiency. PSP's operations and assets must be deployed to achieve the efficiency mandated by the Pilotage Act and expected by ratepayers, especially when the Commission authorizes rate increases. This is a key component of the determination that a rate must be fair.

PMSA provides this testimony to assist the Commission fine tune the existing tariff process and to incentivize PSP's operational efficiency through objective performance metrics, improved pilot dispatch and utilization, and reduced administrative overhead.

We believe that when efficiency is aligned with the Commission's rules, formulas, and methodologies, and when market forces are properly deployed and replicated, that's when this pilotage system will become a system of

win-win feedback loops for pilots and ratepayers, such that when pilots work more they earn more and when pilots work less they earn less.

I am also presenting recommendations that we believe will assist the Commission establish even more reasonable productivity standards and accountability measures and ease future ratemaking processes.

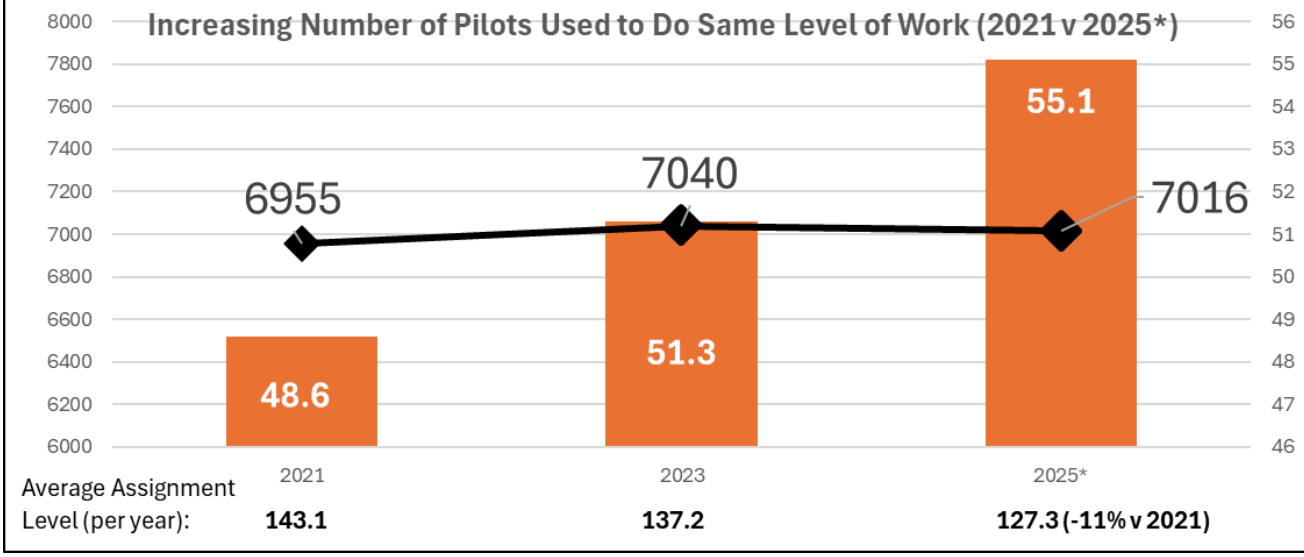
A. The Current Tariff Is Rewarding the Degradation of Pilot Efficiency with More Revenue.

Q: What is a productivity standard that highlights your concern about pilot efficiency?

A: In recent years, pilots have become less efficient. And, this has come at the expense of ratepayers because pilots are being rewarded for working less by earning more. This may be the result of pilots getting the wrong incentive signals from the current tariff.

Looking first at AALs in Exhibit MM-38 we are concerned that PSP is utilizing more licensed pilots in 2025 to do roughly the same levels of work

Figure H.
PSP Efficiency Declines by 11%



that it had in 2023 and 2021. From 2021-2025, this over-staffing situation resulted in an efficiency decline of 11%, as illustrated in Figure H.

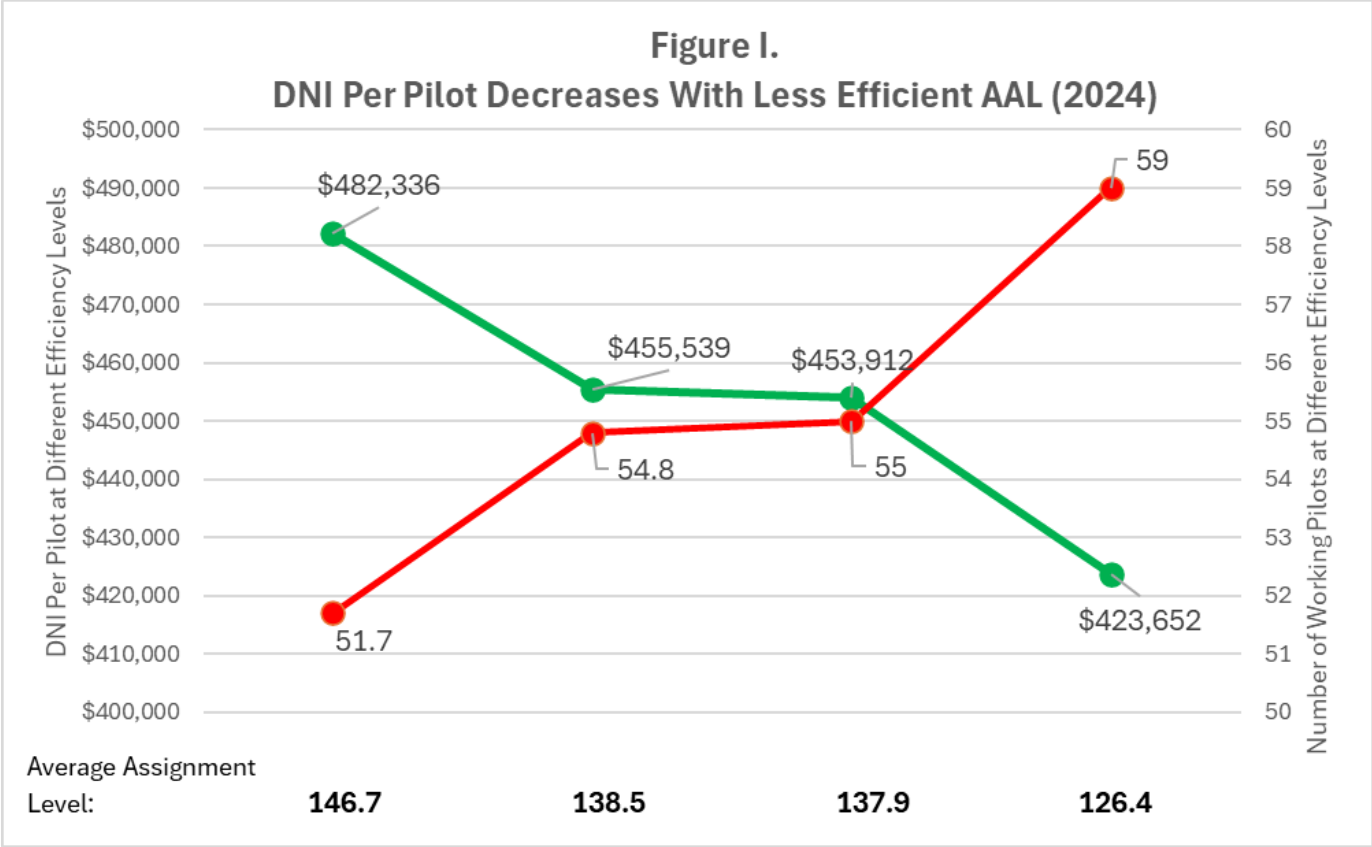
Q: Did you also look at efficiency and AAL metrics just for the test year in this case 2024?

A: Yes, we performed a quick analysis of 2024 at different AAL efficiency levels and compared this with what the resulting levels of per pilot DNI would have been if the system was operating more efficiently, at Exhibit MM-39.

2024 Total DNI*	AAL at 7,587 Jobs	Source	Number of Working Pilots	Total Pilots (Working +1)	DNI Per Pilot
$25,419,096	146.7	2022 AAL: 146.7	51.7	52.7	$482,336
$25,419,096	138.5	21-25 Average AAL: 138.5	54.8	55.8	$455,539
$25,419,096	137.9	Actual	55	56	$453,912
$25,419,096	126.4	PSP Requested Pilots	59	60	$423,652

This analysis demonstrates that AAL inefficiency is very costly to individual pilots in terms of eroding per-pilot DNI. For instance, by holding TDNI steady for purposes of this analysis we can isolate the costs of inefficiency to the pilots themselves (ratepayers would pay the same for their service under any of these theoretical "number of working pilots" scenarios). When fewer pilots do more work, their DNI can be dramatically higher. For instance, while the BPC reported DNI in 2024 for 56 total pilots was $455,912, if the same amount of work had been done at the same AAL that PSP had just two years earlier in 2022, then they could have earned $482,336 – roughly $30,000 more per pilot and a 6.3% increase in DNI. And, just through efficiency measures, this increase in DNI can be achieved without any additional cost to ratepayers.

As illustrated in Figure I, Pilot DNI is higher when AAL is higher, but Pilot DNI erodes when PSP is less efficient and has a depressed AAL.



Q: What are some symptoms of this decrease in pilot efficiency that concerns PMSA?

A: The degradation of the AAL in 2025 has exposed some significant errors in the management of pilot dispatching and workload.

First of all, when PSP has an AAL of 127.3 assignments this means that licensed pilots averaged just over 10 jobs per month. This level of low activity results in the average pilot not moving vessels roughly 20 days out of every month year, assuming that a pilot will average just one assignment

per day. Across this entire past year, an AAL of 127.3 also means that a licensed pilot on average did not do a job for 237.6 days of the year.

And yet, PSP's management could not find basic pilot resources necessary to cover basic pilot workloads and did not respond by making the system more efficient. To the contrary, it doubled down on promoting the symptoms of inefficiency:

- Inexplicably, PSP was still delaying vessels in 2025;
- Amazingly, PSP was still using a significant number of callback days in 2025;
- Somehow, PSP still prioritized "on-watch" meetings (and just an excessive number of meetings altogether) in lieu of dispatching those pilots to jobs in 2025; and,
- PSP was still pressing for the licensing of 60 pilots when that is clearly unnecessary.

PSP may continue to advocate for this inefficiency out of a desire to get paid more for less work, but that would be unfair to ratepayers and inconsistent with the Commission's economic objectives.

Q: Do you have any evidence that shows pilots are doing less work but getting paid more?

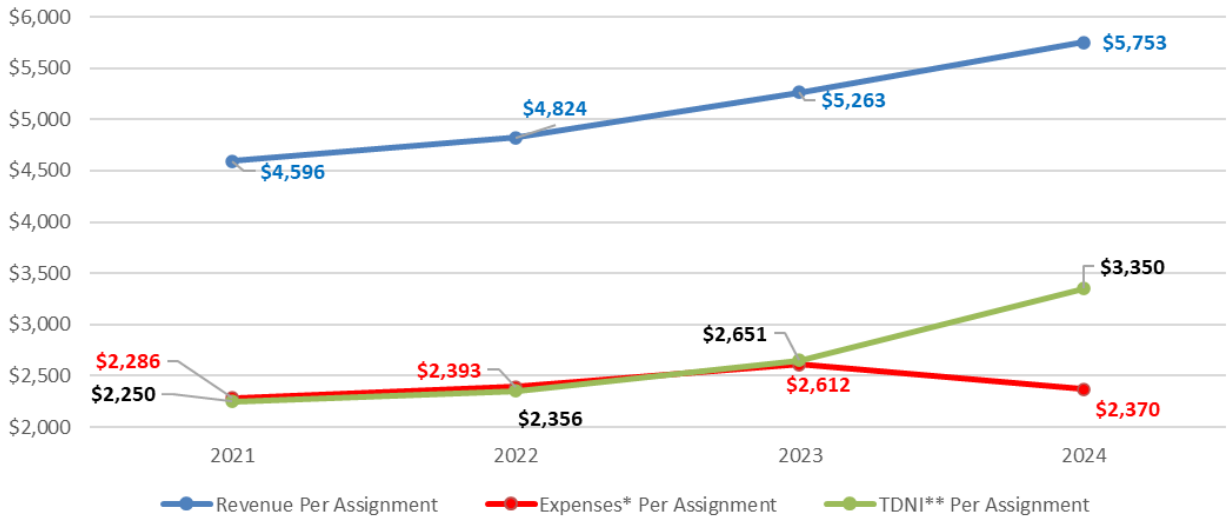
A: Yes, unfortunately. A closer look at Revenue per Assignment ("RPA") and DNI per Assignment shows that the current tariff structure is rewarding inefficient behavior. From 2021 to 2025, while RPA grew at an impressive clip of 25% over four years, TDNI per Assignment (meaning the actual amount of net income that PSP was earning for each vessel job it performed) skyrocketed by 49%.

Year	Total Assignments	Total Revenue	Total Operating Expenses*	Total DNI**
2021	6,953	$31,954,603	$15,892,096	$15,643,382
2022	7,482	$36,089,905	$17,905,566	$17,625,707
2023	7,040	$37,050,056	$18,389,188	$18,660,868
2024	7,588	$43,650,014	$17,985,325	$25,419,096

Revenue Per Assignment	% Increase	Expenses* Per Assignment	% Increase	TDNI** Per Assignment	% Increase
$4,596	-	$2,286	-	$2,250	-
$4,824	4.96%	$2,393	4.70%	$2,356	4.71%
$5,263	14.51%	$2,612	14.28%	$2,651	17.82%
$5,753	25.17%	$2,370	3.70%	$3,350	48.89%

As illustrated in Figure J, from 2021 to 2024, the 49% growth in DNI per Assignment has resulted from increasing the $2,250 per assignment to $3,350 per assignment.

Figure J.
PSP Revenue, Expenses, & TDNI Per Assignment (2021-2024)



Q: Why is RPA and DNI Per Assignment relevant to a tariff sufficiency analysis?

A: RPA measures how much revenue PSP generates for each pilotage assignment performed. As the Commission in the first rate case recognized, RPA cannot be used as a basis for a revenue requirement, but "RPA is a relevant metric for considering the sufficiency of the tariff." [146]

RPA is relevant to rate-setting because it shows whether PSP's existing tariff structure is generating adequate revenue growth per unit of work. Substantial RPA growth indicates the tariff is already producing increased revenue without the need for a tariff rate increase, and DNI per Assignment, can show where adjustments should be made to the tariff structure.

Q: In this case, what does the data show regarding RPA trends?

A: Based on BPC Annual Report data, RPA has increased substantially in 2025. Based on current PSP Monthly Activity reports submitted to the BPC, the Puget Sound Pilots Earned Revenue Report UTC for November (Exhibit JR-04) lists 6,458 assignments year to date generating $38,838,577 in total revenue meaning RPA has risen 4.6% to $6,014 in 2025 without any increase in rates and while pilot efficiency declines.

This is consistent with the data presented above. The alarming outcome is that the pilots' DNI per Assignment was already doubling the growth of RPA, independent of whether PSP is becoming less efficient or more efficient.

[146] Final Order 09 ¶ 68.

Now in 2025 preliminary data, it looks as though RPA is reaching record high levels, but not because pilots are working harder to earn that revenue. To the contrary, pilots were working less, but earning more.

Q: What does this significant RPA growth in the face of less work indicate about the tariff's structure?

A: This substantial RPA growth demonstrates that PSP's existing tariff structure is generating significant revenue increases without requiring these revenue increases to be based on more units of work performed.

The reason for this is that the tariff structure is weighted towards tonnage charges, not pilot hourly rates. As ships get bigger, the larger ships generate more revenue under the current tariff without any rate increase or additional pilot work. This built-in revenue growth, which is not fully accounted for in the tariff, means the tariff is overperforming at revenue generation and is creating counter-productive incentives for pilot efficiency.

For context, if 2025 assignments had matched the 2024 level (7,588), the higher 2025 RPA of $6,014 would have generated an additional $3,440,008 in revenue with no rate change.

This reality demonstrates that the tariff, by not fully accounting for tonnage-based charges, generates additional revenue that is disproportionate to the actual pilot work performed on a per-bridge-hour basis.

Q: Can RPA growth support some level of DNI increase?

A: Yes, especially if coupled with maintained or improved productivity and reasonable expense control. However, the RPA growth should be considered

in context with productivity trends. If productivity declines while RPA increases, which is the case that we are experiencing now, then pilots will continue to receive substantially more revenue per unit of work actually performed.

From the ratepayer perspective, the Commission should be working to dampen these types of misalignments in the tariff, rather than amplify DNI increases.

Q: How does PSP's revenue growth compare to workload growth?

A: There is a real divergence between RPA and workload as well. The PSP request in this case would only accelerate this divergence. While assignments have decreased by -7.5% from 2024 to 2025 (7,588 to 7,016), RPA continues climbing due to tariff structure and larger ships. If the Commission were to agree to provide for 60 pilots at a substantially higher rate, then the result would be to reduce pilots' workload, efficiency, and AAL even further, while increasing their pay and ratepayer burdens even more.

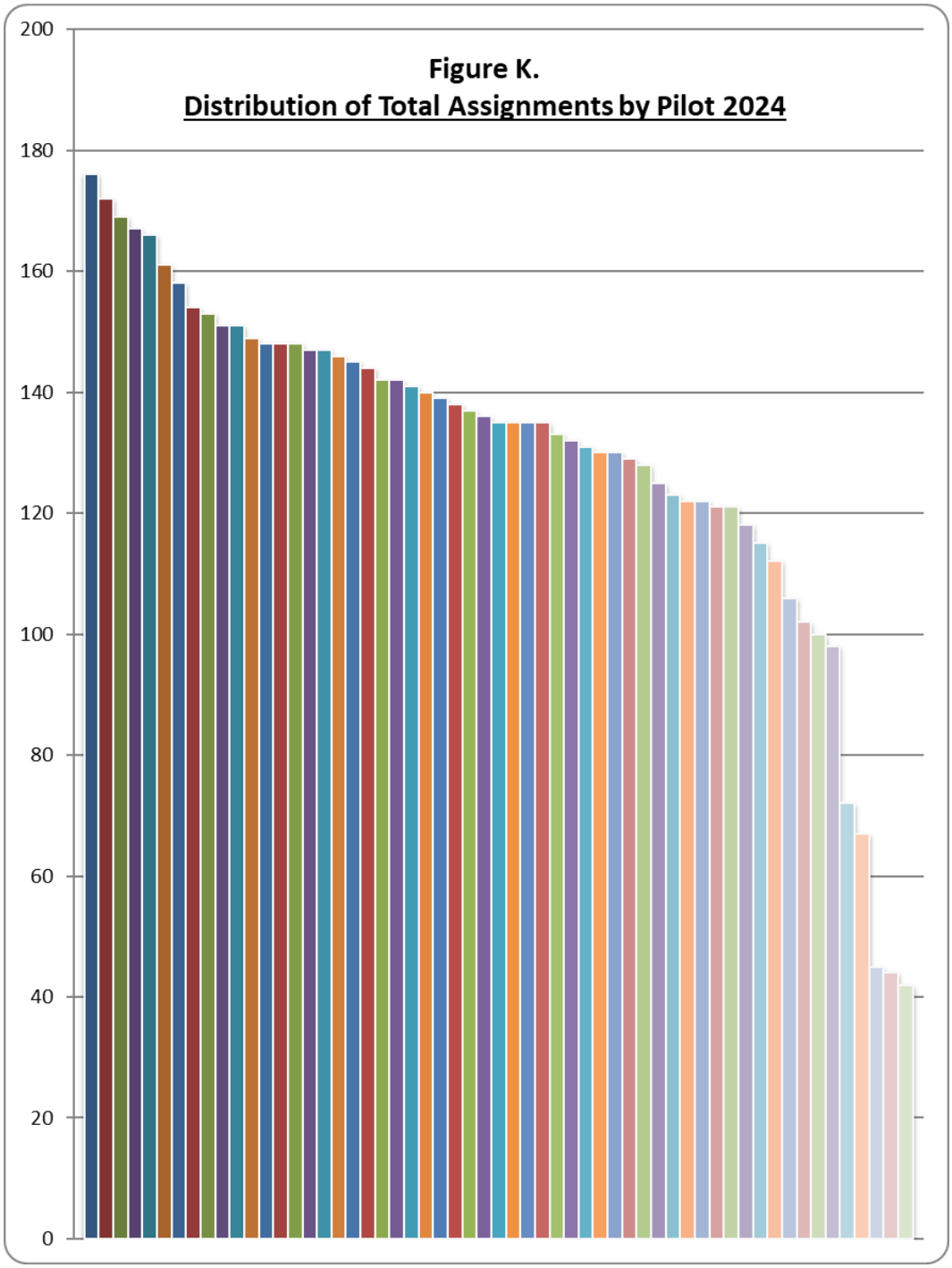
These are not the signals that would be provided by an efficient marketplace. An efficient market would reward higher workload, higher efficiency, and better AAL with higher pay. Unfortunately, the PSP monopoly is seeking license from the state to do the opposite. That would not be fair to ratepayers.

Q: Can PSP pilots safely, competently, and efficiently do more assignments with a higher AAL?

A: Yes, of course. In fact, several of them already do. While PSP's "average" assignment level is relatively low, that does not stop some in the pilotage

corps from doing higher numbers of jobs than many of their colleagues.

An analysis of the breakdown amongst pilots in 2024, at Exhibit MM-41 and illustrated in Figure K below, shows that there is a wide range of annual assignment levels:



The 10 busiest pilots last year did workloads with a high of 175 assignments and a low of 151 assignments. These pilots were safe, competent, and professional, there were no accidents, incidents, or misconduct events at the BPC traced to any of these individuals as a result of their workloads.

Q: You also mentioned a concern about excessive meetings above. How does that affect the analysis?

A: There has been a significant increase in the number of meetings attended by pilots, especially by pilots who are on duty. While meeting volume was steady through 2021, by 2025 it had increased by over 500 meetings per year. Notably, on-watch meetings, not previously reported, alone surpassed the total number of all total meetings held in 2019. For context, if four pilots attend the same meeting, it is counted as four meetings.

PSP Meetings Per Monthly Activity Reports (2019, 2021, 2025)

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	**Total**	**Month Avg**
2019	39	37	31	35	34	38	26	26	41	54	36	37	434	36.2
2021	29	34	35	32	37	39	31	32	42	45	66	54	476	39.7
2025	110	95	88	73	83	78	74	81	78	100	91	x	951	86.5
2025 on Watch	77	40	43	47	45	46	35	44	45	53	59	x	534	48.5

Source: Exhs. JR-03, JR-04, JR-05.

Q: What has PSP's approach to efficiency and using an average assignment-based analysis been in the three pilot rate cases at the Commission?

A: PSP's approach to assignment-based metrics has been inconsistent at the Commission. In addition to their position evolving significantly across the

three rate cases, their position appears to change to correlate with whether such analysis supports or undermines their current request.

Q: Can you describe this evolution in PSP's position on using an average assignment metric?

A: In the 2019 case, PSP's request was built around a Target Assignment Level of 118 average assignments per pilot: "PSP requests that the Commission fund 61.6 full time equivalent (FTE) pilots based on an annual average total assignment level (TAL) of 118 assignments per pilot."[147]

PSP's own average assignment-based methodology was the framework that they utilized for presenting their pilot staffing needs to the BPC. The Commission ultimately used a five-year historic average to decide to use an AAL of 143.4.

In the 2022 case, Capt. Carlson again utilized assignment-based metrics, this time citing PSP's achievement of 128.86 assignments per pilot as evidence of efficiency improvements.[148] While PSP criticized certain aspects of how the Commission calculated its AAL, once again PSP relied on an average assignment basis for its argument, in this case to highlight that because it had achieved AAL efficiency gains that it should earn higher DNI. And they did not question the fundamental validity of assignment-based analysis.

But, in this case, Capt. Carlson's testimony has made a complete reversal. Instead of emphasizing PSP's efforts at becoming more efficient and pointing to its average assignments as evidence of its successes as he

[147] Final Order 09 ¶ 69.
[148] Docket TP-220513, Carlson, Exh. IC-08T.

did in 2022, Capt. Carlson now recommends against using an AAL at all, stating he "sees no role" for it as a yardstick:[149]

> **Q. In light of the BPC's recent authorization of 60 pilots, what role is there for "average assignment level" in funding pilots?**
>
> A. We see no role for average assignment level ("AAL") in assisting the Commission to determine the number of pilots that should be funded in the tariff. Whatever any interested party may advocate in terms of number of pilots, the BPC has determined there should be 60 pilots, and PSP projects it will have 60 pilots during the rate year. This is an issue that is left to the discretion of the BPC based on safety and efficiency, and the BPC has undertaken extensive deliberations in reaching its conclusion less than a year ago.

Clearly, PSP's emphasis has shifted away from demonstrating efficiency. Instead, PSP now seeks a wholesale abandonment of the Commission's efficiency review via AAL. PSP favors the simple adoption of the BPC authorization for the maximum possible number of pilot licenses, even if assignments decrease precipitously eroding their efficiency.

Q: Why might this shift in PSP's position be occurring?

A: When one examines the mathematical implications of using an assignment-based analysis, either the Commission's historical methodology or PSP's own demonstrated performance data or metrics like RPA or DNI per Assignment, all of these indicate that many fewer pilots are needed to complete assignments than PSP is requesting to be funded.

[149] Carlson, Exh. IC-01T, 36:10-18.

For example, using 2025's 7,016 projected assignments, actual performance and prior BPC methodologies produced the following levels of necessary funded pilots:

- At 143.4 AAL (Commission's 2019 methodology): 49 working pilots indicated.
- At 146.7 AAL (PSP's 2022 actual performance): 48 working pilots indicated.
- At 137.9 AAL (PSP's 2024 actual performance): 51 working pilots indicated.

But, when compared to PSP's current performance or their current proposal and applying the above AAL numbers, they would be considered over-staffed by 7-12 pilots.

- At 127.6 AAL (current performance): 55 pilots indicated.
- At 116.7 AAL (PSP's proposal): 60 pilots requested to be funded.

The assignment-based analysis consistently indicates lower pilot counts than PSP's requests for the number of pilots to be funded by the Commission. This may explain the advocacy for the complete, wholesale abandonment of the Commission's own AAL methodology.

Q: How should the Commission treat this evidence?

A: The Commission should be aware of PSP's pattern, championing assignment-based analysis and efficiency gains in AAL when it supports higher staffing and a higher tariff, but abandoning it when the same analysis indicates lower staffing is needed and that efficiency is declining. This is all the more reason for the Commission to continue to follow the AAL, DNI, Number of Pilots, and TDNI methodologies, which smooth

volatility, have built-in market feedback loops, create positive incentives for efficiency, and allow for stable, incremental adjustments.

B. PMSA Efficiency Recommendations.

Q: Based on your analysis, what specific efficiency recommendations do you offer?

A: I offer five recommendations designed to establish reasonable productivity standards and ensure ongoing accountability for operational efficiency. These are complementary to various other specific efficiency suggestions that we have made to the BPC, which we submit with this testimony given the relevancy of efficiency mandates to these proceedings.[150]

Q: How do these efficiency recommendations relate to the overall rate case?

A: These recommendations provide objective standards for evaluating operational efficiency in future rate years. They don't micromanage PSP's operations, but they establish reasonable productivity expectations and transparency requirements that serve both the Commission's oversight role and ratepayer interests. They would also provide additional and beneficial accountability and transparency into the system between rate cases.

[150] For example, see Exh. MM-43.

1. Establish AAL-based performance standard as an alternative for the DNI funding floor and ceiling, not just the number of licensed pilots or authorized pilots.

Q: Please explain your first recommendation.

A: The Commission should consider re-setting the minimum funding "floor" and "ceiling" for pilots' DNI such that the floor is the lower of the actual number of licensed pilots or the imputed number of pilots using the five-year historic AAL + 1 for the PSP President, and the ceiling is the greater of the number of BPC authorized pilots or the imputed number of pilots using the AAL.

As an example of how this revised "floor" would apply in this case, instead of just having a floor for the range of Commission options resting at 56, the floor for all possible options would be 52. Because 2025's assignments of 7,016 and a 137.3 AAL, result in 51.1 working pilots (plus the president for 52.1).

PMSA supports funding 56 pilots (55 plus president) based on the current floor. But with the current floor as the number of existing pilots, if arbitrary timing of retirements resulted in 57 to 59 pilots on the roster during a rate case, the Commission would fund that higher number, even where the AAL indicating optimal efficiency requires fewer.

If the floor is instead tied to AAL, it moves with workload and assignments. Which means that it always will inherently captures the pilot count that aligns with that workload. This avoids a mismatch where rates fund whatever headcount happens to be on the roster at the time of a hearing, even if the work doesn't justify it.

Similar to the current methodology, the AAL "floor" and the AAL "ceiling" still give the Commission flexibility while also ensuring that rates are based on known and measurable inputs and costs. Redefining the "floor" and "ceiling" gives the Commission more options, more data points to consider, and more tools to employ to craft its economic regulation. Of course, the Commission can always still decide to fund the actual number of licensed pilots, because it would always be in the range if the rule was the Imputed AAL Number of Pilots or the actual number of licensed pilots, whichever is lower.

2. Institute annual efficiency reporting.

Q: Please describe your second recommendation.

A: PSP should file annual efficiency reports with the Commission containing key operational and financial metrics.

Q: What information should these reports contain?

A: Annual reports should include:

Assignment Metrics:

- Total revenue-producing assignments.
- Licensed pilot count (excluding President).
- Calculated AAL for the month and rolling 12-month average.

Staffing and Customer Service Information:

- Number of assignments each day.
- Number of pilots scheduled for watch.

- Number of on-watch pilots actually available for assignments each day and if not available the reasons for unavailability.
- Callback assignments as a number and percentage of total.
- Number of pilots who performed callbacks.
- Number of PSP delays and time of delays each day.

Financial Data:

- Operating expenses for the month.
- Calculated expenses per assignment and per licensed pilot.
- RPA.

Staffing Information:

- Licensed pilots at month-end.
- Pilots on leave or inactive including Not Fit For Duty.
- Trainees in training, and those on the BPC-approved list waiting to train.

Q: What is the purpose of this reporting?

A: Annual reporting provides transparency and allows trends to be monitored between rate cases. It also ensures consistency between operational testimony in rate cases and actual performance. The BPC already requires monthly Activity Reports from PSP per the Pilotage Act, so this recommendation largely involves sharing existing information with the Commission as well as with the BPC and would not be unduly burdensome.

3. Require forecast reconciliation.

Q: Please describe your third recommendation.

A: PSP should reconcile forecasted pilot staffing levels and target assignment levels against actual licensed pilot counts and AAL annually, with appropriate adjustments when material variances occur.

Q: Why is this necessary?

A: Forecasting pilot availability has proven challenging in past cases. For example, Capt. Carlson projected 59 licensed pilots by end of 2020,[151] but actual licensed pilot count was 53. He projected "60-plus" pilots by June 2023, yet as of this case filing PSP remains at 56 licensed pilots.

Q: How would reconciliation work?

A: PSP would annually compare funded pilot levels approved in rates against actual licensed, active pilots. This creates accountability for forecast accuracy.

Q: Is the purpose to penalize PSP for forecasting errors?

A: No. The purpose is to create transparency and ensure ratepayers are not paying for pilots who are not licensed and providing service. If PSP is funded for 60 pilots but consistently operates with 56-57, the Commission and parties should know that rates are funding "phantom pilots," and they can advocate for an adjustment at the next general rate case.

4. Monitor RPA.

Q: Please describe your fourth recommendation.

[151] TP-220513, Carlson, Exh. IC-08T at 19.

A: The Commission should track RPA as a benchmark metric for evaluating tariff sufficiency, with substantial RPA growth informing appropriate TDNI levels.

Q: Didn't Final Order 09 decline to use RPA in the revenue requirement formula?

A: Yes, and PMSA is not advocating for RPA to replace the revenue requirement formula. We support the current revenue requirement formula but also recommend full consideration of the rate setting and workload incentive value this metric can provide. We are instead recommending an evaluation tool which is consistent with Final Order 09 specifically noted that RPA is "a relevant metric for considering the sufficiency of the tariff."

Substantial RPA growth is highly relevant when evaluating the need for rate increases because it indicates the existing tariff is already generating more revenue per unit of work. For example, RPA has grown 24% from 2021 through 2024. Monitoring RPA helps the Commission and the parties remain aware of this metric.

5. Direct Staff to conduct a stakeholder workshop to consider whether the tariff should be rebalanced to emphasize hours worked over tonnage.

Q: Please describe your fifth recommendation.

A: The Commission should direct its Staff to explore with stakeholders whether the tariff structure should be rebalanced to better align with pilot workload, by moving more of the rate onto hourly charges than to tonnage charges.

Q: What prompted this recommendation?

A: The divergence between rising RPA and decreasing workloads suggests the tariff may be overly reliant on tonnage charges and misaligned with the actual hours pilots work. The Staff can independently and objectively convene stakeholders between rate cases to explore whether the tariff needs rebalancing between its hourly and tonnage components to better reflect workload, avoid ratepayer cross-subsidization, and create positive incentives for PSP to employ more efficient dispatch and management policies and tools.

6. Require PSP to provide financial and accounting reports that fully align with all relevant Commission Orders when providing data to the BPC for its Annual Reports, thereby eliminating the need to adjust and reconcile financials published by BPC with UTC financial standards.

Q: What is the purpose of this recommendation?

A: PSP should be providing the public with one set of numbers to describe their economic activity, with PSP financial reporting to the BPC aligning to UTC rules. Since the legislature moved the economic regulation of pilotage to the UTC, PSP's financial reporting for state regulatory purposes should conform to the UTC rules. Currently this does not occur. For example, PSP reports "Actual Earnings after Deductions for Distribution to Pilots" "per pilot" in the BPC Annual Report without excluding callback and medical expenses as required by the Commission.[152] This discrepancy in 2024 means that PSP

[152] *See, e.g.*, Royer, Exh. JR-10 at 33.

published lower per-pilot distributions than achieved DNI was under UTC rules. It also requires time-consuming adjustments by PSP and stakeholders and causes potential confusion between multiple sets of numbers.

It is worth noting that "DNI," as originally defined in Final Order 09, was "Distributable Net Income," i.e. "the amount of PSP revenue **available** for distribution to member pilots as compensation."[153] This is distinct from what PSP may decide to distribute in fact, depending on choices pilots make about what nonrecoverable expenses to incur or the efficiency with which they manage expenses, for example, or whether PSP wishes to distribute income to former pilots for past services (such as under its comp days arrangement). What PSP actually distributes is not what the public needs to know for purposes of gauging whether tariffs are working as designed. Publishing financials that are not UTC-compliant is misleading to the public, ratepayers, and prospective pilot candidates. Full transparency benefits all parties.

The Commission should request that all future annual financials submitted by PSP to the BPC clearly align in all respects to all UTC Final Orders regarding line-items such as expensing of callbacks and medical expenses, and to publish a DNI consistent with Commission rules.

C. Conclusion.

Q: What would be the practical effect if these recommendations were adopted?

[153] Final Order 09 ¶ 61 (emphasis added).

A: The primary effects would be: (1) establishing the RPA as a meaningful metric in ratemaking; (2) providing ongoing operational visibility through annual reports fed by monthly data; (3) ensuring forecasts align with reality through reconciliation; (4) formally recognizing organic revenue growth when evaluating rate sufficiency; (5) ensuring the tariff structure promotes efficiency and links rates to the actual service provided to customers; and (6) providing a single set of Commission-compliant financials to save time and eliminate confusion.

Q: Does this conclude your testimony at this point in time?

A: Yes.