

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,
Complainant,

v.

PUGET SOUND PILOTS,
Respondent.

Docket TP-190976

PUGET SOUND PILOTS' MOTION TO SET
EXPEDITED SCHEDULE

I. PRELIMINARY STATEMENT

1. Pursuant to Washington Administrative Code 480-07-375(1)(b), Puget Sound Pilots (“PSP”) respectfully moves for an expedited schedule in the general rate case initiated by PSP contemporaneous with this filing. Specifically, PSP requests that the Commission enter a scheduling order consistent with the following:

EVENT	DATE
Prehearing Conference	July 13, 2022
Prehearing Conference Order	July 20, 2022
Initial Settlement Conference	August 3, 2022
Staff and PMSA Response Testimony and Exhibits	September 12, 2022
Second Settlement Conference	TBD
PSP Rebuttal Testimony and Exhibits; Staff and PMSA Cross-Answering Testimony and Exhibits	September 26, 2022
Discovery Deadline – Last Day to Issue Data Requests	October 10, 2022
Exhibits List, Cross-Examination Exhibits, Witnesses List, Time Estimates, Exhibits Errata	October 17, 2022
Evidentiary Hearing	October 24, 25, 26, 2022
Simultaneous Post-Hearing Briefs	November 16, 2022

PUGET SOUND PILOT’S MOTION TO SET
EXPEDITED SCHEDULE - 1

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Simultaneous Reply Briefs	November 30, 2022
Suspension Date	January 25, 2023

2. PSP recognizes that the proposed schedule of approximately seven months is moderately compressed relative to the more typical 11-month schedule for a general rate case. Several important factors, however, counsel strongly in favor of expediting this proceeding, including the significant hardship that pilots are suffering under the current tariff that will become even more onerous as the pilot corps grows and the funding of pilots' medical benefits phases out entirely in the coming months.
3. Importantly, an expedited schedule is made feasible by the highly organized evidentiary package submitted in support of PSP's initial filing. In sharp contrast to the preceding rate case that was criticized by the Commission as under-supported, PSP has submitted robust evidence that includes concise written testimony and relevant exhibits that support every facet of this case. The executive summary prepared by PSP's highly experienced lead counsel Michael Haglund provides a complete road map to that evidence, facilitating the efficient review of PSP's case and greatly reducing the volume of materials that PSP anticipates submitting in rebuttal.
4. The Commission has authority to set an appropriate schedule in this proceeding and discretion to expedite that schedule consistent with statutory requirements. For the reasons set out more fully below, the Commission should adopt PSP's proposed schedule and approve a new tariff no later than January 25, 2023, which is second anniversary of the current tariff's effective date.

II. APPLICABLE AUTHORITIES

5. In support of this motion, PSP relies on WAC 480-07-375, the testimony and exhibits filed in support of PSP's general rate case, and the points and authorities cited herein.

III. BACKGROUND

6. PSP filed its seminal rate case before the Commission on November 20, 2019. The Commission entered its Final Order approving the current tariff on November 25, 2020. The current tariff became effective January 25, 2021.
7. PSP filed its second general rate case on June 29, 2022 supported by the written testimony of 22 witnesses and more than 100 exhibits. Contemporaneous with that initial filing, PSP petitioned for interim rate relief and filed this motion to set an expedited schedule.

IV. ARGUMENT

A. An Expedited Schedule is Appropriate to Mitigate Hardship Under the Current Tariff.

8. There is no question that the current tariff has worked a substantial hardship on PSP and its members that will only grow more acute until this rate case concludes and a new tariff is entered. That is true for four reasons.
9. *First*, target distributable net income (“DNI”) under the current tariff is inadequate and falls far below competitive levels. Compounding this problem, PSP’s revenue during did not come anywhere close to projections based on anticipated vessel traffic, resulting in net income for PSP pilots in 2021 of \$295,616, a figure that was 26% below the approved DNI of \$400,855.
10. Exhibit DL- 06 to the testimony of compensation expert David Lough shows that among the 12 U.S. pilot groups for which income data is publicly available, PSP ranked dead last in net income in 2020 and is projected to be in the same position in 2023 under the current tariff, despite the Puget Sound area’s comparatively high cost of living. In addition to the tariff’s palpable unfairness to current pilots, as explained in the testimony of Captain Deborah Dempsey (DDD-01T), Chief Mate Alysia Johnson (AJ-01T) and Puget Sound Pilot Captain Sandy Bendixen (SB-01T), the lack of competitive compensation is a significant barrier to PSP’s ability to build a

diverse pilot corps by attracting the most qualified candidates from within the extraordinarily small national pool of prospective applicants.

11. *Second*, the serious deficit in DNI produced under the current tariff is poised to worsen with the addition of new PSP members, including two current trainees who are expected to be licensed at next BPC meeting on July 19 that will raise the total number of pilots to 55. As Captain Bendixen testifies, by the January 25, 2023, anniversary of the current tariff, PSP expects to be fully staffed to the 56-strong pilot corps approved by the BPC. The addition of these new pilots is critical to ensuring PSP's continued ability to provide the safest and most timely pilotage service achievable, while minimizing reliance on callbacks that produce deleterious economic effects and contribute to pilot burn out.
12. Put simply, PSP's growth to the staffing level authorized by BPC generates significant benefits to rate payers, is in the public interest and should clearly be provided for in PSP's tariff. But because the current tariff funds just 52 pilots (approximately 93% of the total authorized by BPC) the cost of these new pilots will be born directly and exclusively by PSP's current members until a new tariff is entered. Based on an approximate annual cost of \$499,000 per pilot, PSP conservatively estimates that by January 25, 2023, the growth of its pilot corps to the BPC-authorized level will erode individual pilots' income by approximately \$10,000 annually per new licensee. With four new licensees projected in the next several months, that works out to \$40,000 per pilot annually or \$3,333 per month.
13. *Third*, effective January 25, 2023, under the current tariff PSP will suffer a complete loss of medical benefits funding, making it one of very few pilot groups whose tariff does not fund pilots' healthcare. The loss of healthcare benefits funding, coupled with Puget Sound Pilots' unconscionably low DNI relative to their peers, will make PSP's compensation package an extreme negative outlier among U.S. pilot groups for as long as the current tariff remains in place.

14. The current tariff's gross underfunding of PSP is against the public interest and contrary to statutory mandates that the tariff must be "sufficient" to sustain a pilotage system that provides the best achievable protection of Washington's state waters. In addition to imposing serious hardship on PSP's current members, continuing the current tariff's glaringly low compensation of Puget Sound Pilots relative to their elite peers risks lasting damage to the reputation of Washington's pilotage system and PSP's ability to recruit top candidates, with potentially severe long-term repercussions for the safety and efficacy of maritime commerce on Puget Sound.
15. *Fourth*, entry of a new tariff that takes effect no later than January 25, 2023, is critical to PSP's ability to transition from the existing pay-as-you-go pension plan to a fully funded plan. As expert pension law attorney Bruce McNeil explains in his testimony, all four significant steps that are required to the transition to a fully funded plan, which will achieve enormous long-term cost savings, can be accomplished in no more than 12 months.¹ A decision by the UTC approving the funding of this transition in January 2023 will position PSP to complete the transition by January 1, 2024, in time for the new tax year.

B. An Expedited Schedule is Possible Thanks to PSP's Highly Developed Initial Filing and Groundwork with Stakeholders.

16. PSP's previous rate case drew criticism from the Commission for being poorly supported and requiring significant supplemental material that complicated and delayed the proceedings. The current rate case could not be more different. PSP has submitted an exceptionally robust yet targeted evidentiary package in support of its case that provides data-driven, highly informed testimony as to all of the key topics at issue including the applicable "best achievable protection" legal standard, diversity equity and inclusion, DNI, pension reform, healthcare benefits, and the shipping economics data demonstrating the clearly *de minimus* effect of the requested increase in tariff rates on the shipping industry. PSP's evidence is well-organized, and the executive

¹ Exh. BJM-01T at 9-10.

summary prepared by PSP's lead counsel includes a road map that will greatly assist the Commission in efficiently reviewing PSP's case.

17. PSP's comprehensive and organized initial filing will also reduce the need for extensive data requests that saddled the last rate case and enable Commission Staff and intervenors to analyze and respond to PSP's case more quickly. For the same reason, PSP is in position to voluntarily shorten the time for it to submit rebuttal materials to just two weeks after responses are filed.
18. Lastly, PSP has laid significant groundwork through open and productive communication with stakeholders in the months preceding this rate case. These efforts have achieved significant positive outcomes including a proposed settlement with the trade association representing recreational boaters in Puget Sounds and the organization representing foreign yacht interests that is described in the testimony of PSP Executive Director Charles Costanzo. Commission Staff is likewise well informed of PSP's positions and supporting evidence on key topics, thanks to a very active dialogue in anticipation of this rate case.

V. CONCLUSION

19. The Commission should adopt PSP's proposed schedule is workable, is in the public interest and is necessary to mitigate undue hardship under the current tariff.

Respectfully submitted this 29th day of June, 2022.

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s/ Michael E. Haglund

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PUGET SOUND PILOT'S MOTION TO SET
EXPEDITED SCHEDULE - 6

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PUGET SOUND PILOT'S MOTION TO SET
EXPEDITED SCHEDULE - 7

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