

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,</p> <p>Complainant,</p> <p>v.</p> <p>PUGET SOUND PILOTS,</p> <p>Respondent.</p>	<p>DOCKET TP-220513</p> <p>ORDER 05</p> <p>REJECTING STIPULATION; PROVIDING FURTHER PROCESS</p>
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BACKGROUND

- 1 On June 29, 2022, Puget Sound Pilots (PSP) filed with the Washington Utilities and Transportation Commission (Commission) revisions to its currently effective Tariff No. 1. PSP characterizes its filing as a general rate case.
- 2 On August 26, 2022, the Commission entered Order 03, Prehearing Conference Order; Notice of Hearing (Order 03). Order 03 granted petitions to intervene filed by Pacific Merchant Shipping Association (PMSA) and TOTE Maritime Alaska, LLC (TOTE).
- 3 On November 23, 2022, the Commission issued a second Notice of Revised Procedural Schedule. Among other points, the Notice indicated that response testimony would be due February 10, 2023; rebuttal/cross-answering testimony would be due March 3, 2023; and an evidentiary hearing would be held April 5, 2023, continuing if necessary, on April 6, 2023.
- 4 On February 6, 2023, PSP and TOTE filed a Stipulation and Order re Cross-Motions for Summary Judgment (Stipulation). PSP and TOTE proposed cross-motions for summary judgment with each party’s opening brief being due March 1, 2023, and each party’s response to the other’s motion being due March 15, 2023.

DISCUSSION

- 5 Pursuant to WAC 480-07-380(2)(a), a party may move for summary judgment of one or more issues if the pleadings together with any properly admissible evidence show that there is no genuine issue of material fact and that the moving party is entitled to judgment

as a matter of law. The Commission will consider the standards applicable to such motions under Washington Civil Rule 56.

6 Pursuant to WAC 480-07-380(b), a party must normally file a motion for summary judgment at least 30 days before the evidentiary hearing unless the Commission establishes a different date by order.

7 The Commission has received PSP's and TOTE's Stipulation and carefully considered whether this is an appropriate issue for cross-motions for summary judgment. The Commission is aware that this possibility was raised by the parties at an earlier prehearing conference and appreciates the parties' efforts to present a more efficient path for the resolution of this particular issue. However, the Commission is given broad discretion to determine fair, just, reasonable, and sufficient rates for pilotage services. Determining the appropriate ratemaking treatment for vessel tonnage charges is not necessarily an issue that can be determined in the context of cross-motions for summary judgment. It is not necessarily the case that the party prevailing on this issue is entitled to judgment as a matter of law.

8 Thus, the Commission finds it appropriate to require PSP and TOTE to present an agreed joint statement of material facts. This joint statement of material facts should include all of the facts reasonably pertinent to TOTE's intervention in this proceeding and the underlying dispute between PSP and TOTE regarding the assessment of vessel tonnage. PSP and TOTE may then submit briefing following the evidentiary hearing, as set forth in the established procedural schedule, regarding their respective positions on the assessment of vessel tonnage and the appropriate charges or pilotage services. This Order does not otherwise limit PSP's or TOTE's rights to participate in this proceeding.

ORDER

THE COMMISSION ORDERS THAT:

9 (1) Puget Sound Pilot's and TOTE Maritime Alaska, LLC's Stipulation is REJECTED.

- 10 (2) Puget Sound Pilots and TOTE Maritime Alaska, LLC, are required to file a joint statement of material facts, limited to 60 pages in length, with the Commission on or before March 17, 2023.

DATED at Lacey, Washington, and effective February 9, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Michael S. Howard

MICHAEL HOWARD

Administrative Law Judge

NOTICE TO PARTIES: This is an Interlocutory Order of the Commission. Administrative review may be available through a petition for review, filed within 10 days of the service of this Order pursuant to WAC 480-07-810.