

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**BEFORE THE STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

Docket No. TP-220513

**CROSS-ANSWERING TESTIMONY OF
CAPTAIN MICHAEL MOORE
ON BEHALF OF
PACIFIC MERCHANT SHIPPING ASSOCIATION**

*Cross-Answering Testimony to Commission Staff's and TOTE's
Recommendations*

March 3, 2023

1 **TABLE OF CONTENTS**

2 **I. INTRODUCTION 1**

3 **II. PMSA’s POSITIONS REGARDING UTC STAFF RATESETTING**

4 **RECOMMENDATIONS 3**

5 **A. Cross-answering testimony in response to UTC Staff..... 3**

6 **B. Staff’s observations on PSP’s filing..... 3**

7

8 **C. Total Distributed Net Income (TDNI) calculations. 5**

9 **1. Usage of TDNI by Staff and rejection of PSP comparable ports**

10 **methodology. 5**

11 **2. Calculation of DNI..... 7**

12 **3. Calculation of number of pilots..... 9**

13 **4. Medical insurance adjustment. 14**

14 **D. Callback adjustments. 17**

15 **E. Consulting expenses. 18**

16

17 **F. Pension and retirement. 19**

18 **H. SILA special surcharge. 23**

19

20 **I. Amortizing repair costs..... 24**

21 **J. Transportation..... 25**

22

23 **K. Training Expenses..... 26**

24 **III. PMSA’s POSITIONS REGARDING TOTE’S RATESETTING**

25 **RECOMMENDATIONS 27**

26 **IV. CONCLUSION 33**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT LIST

Exhibit No.	Description
Exh. MM-64	UTC Staff Responses to PMSA Data Requests 1-5
Exh. MM-65	PSP Submission to BPC on the Number of Pilots to be set under WAC 363-116-065 (Feb. 2015)
Exh. MM-66	WAC 363-116-301 – New Revenue Collection
Exh. MM-67	UTC Staff Response to PMSA Data Request 6
Exh. MM-68	PSP Data Requests 4-15 to TOTE
Exh. MM-69	US pioneer moves ahead with milestone LNG conversion (Jan. 2020)
Exh. MM-70	<i>GRAND RACE</i> vessel information

1 I. INTRODUCTION

2
3 **Q: Please state your name, position and business.**

4 A: Captain Michael Moore, Vice President, Pacific Merchant Shipping
5 Association.

6
7 **Q: Are you the same Capt. Moore who previously filed testimony in
8 this proceeding?**

9 A: Yes. I previously filed response testimony at Exhibit MM-1T (with
10 accompanying exhibits) on behalf of the Pacific Merchant Shipping
11 Association (“PMSA”) in this general rate case.

12
13 **Q: What is the purpose of your cross-answering testimony?**

14 A: On behalf of those ratepayers represented by PMSA, my testimony here
15 provides the additional opinions of PMSA with respect to and in response to
16 points raised in both the testimony and exhibits that Utilities and
17 Transportation Commission Staff (“UTC Staff” or “Staff”) filed in this rate
18 case and the testimony and exhibits that TOTE Alaska Maritime LLC
19 (“TOTE”) filed in this rate case.

20
21 **Q: Please summarize the cross-answering testimony you are
22 submitting in response to the UTC Staff testimony.**

23 A: My testimony here is offered in response to the testimony of the UTC Staff.
24 I agree with the conclusion that the Puget Sound Pilots (“PSP”) failed to
25 support its rate filing. I have some specific disagreements on discrete issues
26 as noted. PMSA agrees with UTC Staff on its over-arching position that the

1 filing by PSP generally was rushed, incomplete, and does not establish a
2 basis for changes to the tariff. PMSA agrees with UTC Staff that the
3 Commission in this matter should base its decisions on the conclusions
4 reached in the prior rate case. PMSA agrees with UTC Staff that pilots'
5 TDNI should be based on the formula set in the prior rate case, with some
6 adjustments, but disagrees with the proposed treatment of medical
7 insurance as an adjustment to DNI on a go-forward basis. PMSA agrees
8 with UTC Staff that PSP expenses should not include callbacks or medical
9 insurance. PMSA agrees with UTC Staff on its conclusions that PSP has not
10 demonstrated a basis for application of its proposed automatic adjusters,
11 with the exception of the UTC Staff conclusion regarding costs of living
12 automatic adjustment, with which PMSA disagrees.

13
14 **Q: Please summarize the cross-answering testimony you are**
15 **submitting in response to the TOTE testimony.**

16 **A:** My testimony here is offered in support of the position of TOTE and the
17 testimony submitted on its behalf. The TOTE testimony demonstrates that
18 the historic practice of charging domestic gross registered tonnage rates to
19 domestic, U.S.-flagged vessels engaged in domestic commerce should be
20 continued and the practice of charging international gross tonnage to
21 foreign-flagged vessels engaged in international commerce should also be
22 continued. TOTE's testimony which describes the enhanced lower risk
23 vessel design and ship handling characteristics of the Orca-class vessels at
24 issue are accurate and compelling, and in terms of relative risk these
25 vessels more than mitigate any potential "sail area" concerns and do not
26 pose greater risks to the Puget Sound based on their international tonnage

1 calculations alone. As a result, the tariff should continue to charge domestic-
2 registered vessels in domestic commerce the domestic gross registered
3 tonnage, and the funds held in abeyance by PSP under Order of the
4 Commission under docket TP-190976 should now be discharged to TOTE.

5
6 **II. PMSA's POSITIONS REGARDING UTC STAFF RATESETTING
RECOMMENDATIONS**

7
8 **A. Cross-answering testimony in response to UTC Staff.**

9
10 **Q: Please describe how your cross-answering testimony here is
11 organized in response to the UTC Staff testimony.**

12 A: I will address Staff's observations of the general conditions of PSP's filing,
13 and then I will address each of the following specific components of the
14 revenue requirement recommendation by Staff: Total Distributed Net
15 Income Calculations, including the treatment of Medical Insurance;
16 Callbacks; Consulting Expenses; General Legal Expenses; UTC Legal
17 Expenses; Training Expenses; Fuel Expenses; Pension and Retirement;
18 Automatic Adjusters; Rate Design; SILA Special Surcharge; Amortizing
19 Repair Costs; and, Transportation Expenses.

20
21 **B. Staff's observations on PSP's filing.**

22
23 **Q: What is PMSA's opinion in response to Staff's testimony regarding
24 foundational issues in this general rate case?**

25 A: PMSA agrees with Staff's summation that the PSP filing and its related
26 testimony is generally inadequate to justify changes in the tariff.

1 **Q: Please describe the nature of this agreement.**

2 A: PMSA agrees with the Staff's conclusion at Exhibit MY-1T 4:18-19 that
3 "PSP generally did not support (as required by WAC 480-07-540) its request
4 for increased rates."
5

6 **Q: Does PMSA agree with other Staff observations that PSP's filing
7 was inadequately prepared?**

8 A: Yes, PMSA agrees with the staff observation at Exhibit MY-1T 4:7-8 that
9 "PSP's filing appears to have been hastily prepared, with consequences that
10 accord with the old adage that 'haste makes waste.'"
11

12 **Q: Does PMSA agree with the Staff recommendations made to the
13 Commission?**

14 A: Yes, PMSA agrees with the Staff that "PSP bears the burden of justifying
15 the rate increase it seeks here, and Staff cannot recommend that the
16 Commission approve unsupported requests for rate relief," at Exhibit MY-
17 1T 6:9-11, and "Staff recommends that in the future PSP file in accordance
18 with the definitions in WAC 480-07 for test year, restating adjustment, and
19 pro forma adjustment."
20

21 **Q: Please describe PMSA's basis for agreeing with these
22 recommendations.**

23 A: We share Staff's concerns that regarding PSP's unsupported claims in this
24 rate case. In addition to Staff's points about the lack of support in PSP's
25 initial and supplemental filings, we sympathize with the Staff testimony
26 that "PSP [] refused to provide the requested information in DRs," at

1 Exhibit MY-1T 5:14-15, because this was similar to PMSA’s experiences
2 with PSP blanket refusals to provide requested information in response to
3 numerous DRs.
4

5 **Q: What is PMSA’s ultimate opinion regarding the inadequacy of the**
6 **PSP filing in general?**

7 A: We find the Staff’s substantive conclusion that “PSP generally did not
8 support (as required by WAC 480-07-540) its request for increased rates”
9 compelling. This on its own could serve as a basis for rejection of the entire
10 filing. Staff’s substantive conclusion arose from the same workpaper defects
11 which gave rise to an earlier procedural issue in this case, which prompted
12 Judge Howard to observe that it appeared that PSP’s filings and
13 workpapers were improperly filed and were inconsistent with PSP’s filing
14 requirements, such that “the Commission would have been within its
15 discretion to reject this general rate case.” Order 04, ¶12. Under such
16 circumstances, we find it hard to conclude that PSP has generally made an
17 effective case for its proposed new tariff.
18

19 **C. Total Distributed Net Income (TDNI) calculations.**

20 **1. Usage of TDNI by Staff and rejection of PSP comparable ports**
21 **methodology.**
22

23 **Q: Does the Staff testimony address the computation of a proposed**
24 **Total Distributed Net Income?**

25 A: Yes. The TDNI and DNI calculations at Exhibit MY-9 are based on the prior
26 rate case’s DNI and the application of an average assignment level.

1 **Q: What is Staff's explanation for this calculation?**

2 A: The Staff confirmed that they “used the DNI from the previous case, year 2,
3 of \$410,075 and multiplied by 56 pilot FTEs” (Staff Response to PMSA DR
4 No. 3) and the number of was derived by computation of “an average
5 assignment number.” (Staff Response to PMSA DR No. 1) Exh. MM-64.

6

7 **Q: Does PMSA support the continuation of the calculation of TDNI
8 based on the prior rate case methodology?**

9 A: Yes.

10

11 **Q: Does Staff agree with the PSP proposed new calculation of TDNI?**

12 A: No.

13

14 **Q: Please describe why PMSA supports the Staff rejection of the PSP-
15 proposed new methodology for setting TDNI?**

16 A: PMSA agrees with Staff that relying on the findings and conclusions of the
17 prior rate case is best. PSP has not made a clear argument for why the
18 Commission-approved TDNI formula should be abandoned and why the
19 Commission should substitute a new, nebulous, cherry-picked “comparable
20 ports” analysis for this formula. These same types of arguments were made
21 in the prior rate case, were dispensed with by the Staff, as quoted in my
22 response testimony, Exhibit MM-1T 187:11–188:6. Ultimately, the
23 Commission agreed, and PSP did not challenge the decision.

24

25

26

1 **2. Calculation of DNI.**

2
3 **Q: Does the Staff calculation of DNI differ from the PMSA calculation**
4 **of DNI?**

5 A: Yes. The “Staff Proposed Tariff Rates” at Exhibit MY-9 uses a DNI which
6 differs from PMSA’s calculation of DNI.

7
8 **Q: What calculation does Staff use for individual pilot DNI?**

9 A: Staff uses a pilot DNI of \$410,075 for its proposed rates.

10
11 **Q: What is Staff’s explanation for this calculation?**

12 A: As stated in Exhibit MY-9, this is the annual DNI approved by the
13 Commission in the “Previous case – year 2.” And the Staff confirmed that
14 this was based on from the Final Order in the prior rate case, “because that
15 is the DNI amount embedded in the current tariff rates.” Exh. MM-64 (Staff
16 Response to PMSA DR No. 5).

17
18 **Q: Does PMSA support the continuation of the calculation of DNI**
19 **based on the prior rate case methodology?**

20 A: Yes.

21
22 **Q: Could one interpret Staff’s proposed per pilot DNI of \$410,075 to be**
23 **consistent with the prior rate case?**

24 A: Yes, even though it deviates from an application of the prior methodology as
25 described below, the Staff proposal is a literal continuation of the same per
26 pilot DNI adopted in the prior rate case.

1 **Q: Why would a literal continuation of the per pilot DNI from the prior**
2 **rate case be a reasonable path forward?**

3 A: In our opinion, the Staff's proposed continuation of existing per pilot DNI
4 without adjustment is a literal reflection of the fact that PSP has failed to
5 introduce any real or compelling evidence to justify a change in pilot DNI.
6 Period. And, we certainly would agree with Staff's assessment of the PSP
7 filing on that point.

8

9 **Q: Could one also interpret PMSA's proposed per pilot DNI to be**
10 **consistent with the prior rate case?**

11 A: Yes, that is precisely what we intended to do, because we used the same
12 calculation methodology as Staff from the prior rate case. And, as I detailed
13 in our DNI worksheet at Exhibit MM-3, that led to the amount per pilot
14 DNI recommendation of \$346,391.

15

16 **Q: Which of these per pilot DNI interpretations from the prior rate**
17 **case does PMSA recommend the Commission continue?**

18 A: PMSA recommends that the Commission continue to apply the per pilot
19 DNI calculation methodologies, as presented by the Staff and approved by
20 the Commission in the prior rate case. In this current rate case, with
21 updated numbers looking back over the past five years, this would result in
22 a DNI average from 2017-2021 of \$346,391.

23

24

25

26

1 **Q: Why does PMSA recommend the application of the prior rate case**
2 **formula instead of the prior rate case result, as adopted by Staff?**

3 A: The Commission adopted a whole formula that tracks expenses, number of
4 pilots, and individual pilot DNI. It should maintain all of those formula
5 elements and continue to apply them. PSP should not be able to get out of
6 the formula just by proposing only what it wants to propose, leaving the
7 Staff without the data to do the calculations necessary to compare the
8 existing methodology's outcomes versus a proposed change in a ratesetting
9 methodology in a filing and with no other options to do anything other than
10 what Staff did: recommend continuation of the last Commission's
11 recommended DNI.

12
13 **Q: Is there a mechanism in place to ensure that the Commission and**
14 **Staff are not left in a position like this?**

15 A: Yes, it is the workpapers requirement at WAC 480-07-525(4)(s). And, as I
16 previously testified, PSP has not provided these comparison workpapers in
17 its filings.

18
19 **3. Calculation of number of pilots.**

20
21 **Q: Does the Staff calculation of the Number of Pilots differ from the**
22 **PMSA calculation of DNI?**

23 A: Yes. The Exhibit MY-9 uses 56 pilots.
24
25
26

1 **Q: What is Staff's explanation for this calculation?**

2 A: The Staff explained that its calculation was based on “the 52 pilots allowed
3 in the prior case TP-190976, Order 09. Staff divided the number of ship
4 assignments from that case, 6,900 by 52 to get an average assignment
5 number. Staff then divided the projected number of assignments in this
6 case, which is 7,400 by the average assignments and rounded down to 56.”
7 Exh. MM-64:1 (Staff Response to PMSA DR 1).

8

9 **Q: Does PMSA support the continuation of the calculation of Number
10 of Pilots to be funded in the tariff based on the prior rate case
11 methodology of an historic Average Assignment Level?**

12 A: Yes.

13

14 **Q: Is Staff's proposed “Number of Pilots” of 56 consistent with the
15 prior rate case?**

16 A: It is largely consistent.

17

18 **Q: Why could one conclude that 56 pilots is consistent with the prior
19 rate case?**

20 A: The Staff in the prior rate case found that no matter what the calculation,
21 the number used for the calculation of the number of pilots should fall
22 within a range bounded by the actual number of pilots and the number of
23 BPC authorized pilots. In this case, that range is 53 to 56. So, if one were to
24 ask if Staff's recommendation in this rate case was within the range of
25 outcomes recommended by Staff in the prior rate case, then the answer
26 would be yes. In addition, the Staff in the current rate case also made a

1 determination of “an average assignment number,” which it applied based
2 on the prior rate case. Exh. MM-64:1 (Staff Response to PMSA DR 1). This
3 principle of basing the number of pilots on an average assignment number
4 is key. In the prior case, it was done by reference to an Average Assignment
5 Level (“AAL”) based on an historic look back at the 5-year average of
6 pilotage assignments. The Staff did it slightly differently in this case, but
7 this key principle remains intact.
8

9 **Q: Was PMSA’s proposed number of pilots proposal consistent with the**
10 **prior rate case?**

11 A: Yes, we used the same AAL calculation methodology Staff used in the prior
12 rate case in the Number of Pilots worksheet that I included in my testimony
13 at Exhibit MM-6, which led to the recommendation of 54.9 pilots.
14

15 **Q: Which of these number of pilots interpretations from the prior rate**
16 **case does PMSA recommend the Commission continue?**

17 A: PMSA recommends that the Commission continue to apply the AAL
18 methodology presented by the Staff in the prior rate case by looking back
19 over the past five years to adopt a number of pilots. The resulting number is
20 54.9. And, just as the Commission did in the prior rate case to accommodate
21 a multi-year tariff, the natural increase in the number of pilots should be
22 reflected in future year adjustments instead of in the base year calculation.
23
24
25
26

1 **Q: Why does PMSA agree with the eventual use of 56 licensees in year**
2 **3 of its proposed tariff?**

3 A: While 56 pilots is not justified by the Average Assignment Level calculation,
4 PSP will likely attain that number over the next several years. Because of
5 the popularity of the BPC trainee program, there are likely to be more
6 highly qualified candidates waiting or training in queue to obtain a license
7 from the BPC to pilot in the Puget Sound. PSP's hollow claims that they
8 cannot attract new trainees are not borne out by the numbers in the prior
9 rate case nor in the current general rate case. The BPC has more trainees in
10 the program than there are likely to be PSP retirees based on historical
11 retirement rates, therefore making it likely that sometime by 2025 or 2026
12 the number of pilots will hit 56. Of course, we will continue to push for
13 needed efficiency measures at the BPC which, if properly implemented,
14 would ultimately lead to a reduction in the number of pilot licenses needed
15 to be authorized by BPC over time and a sharing of cost savings to
16 ratepayers, as well as resulting DNI increases for pilots. The creation of an
17 incentive to capture these benefits from increased pilot efficiency is included
18 in the recommendations in my response testimony.

19
20 **Q: Why does PMSA believe that the Commission's continued use of the**
21 **Average Assignment Level is the best policy for setting the number**
22 **of pilots?**

23 A: We believe that the Commission and Staff in the prior rate case made a
24 compelling case for using the historical average and not just using a static
25 number of pilots or a simple prediction of the future number of pilots, and
26 that this allows for a healthy separation with, and respect for the role of, the

1 BPC in setting the number of pilots. This is borne out by the fact that over
 2 time the BPC's actual number of licenses and average assignment levels can
 3 vary quite significantly. For instance, as shown in the following table from
 4 the Puget Sound Pilots' 2015 request to BPC (Exh. MM-65), from 2003 to
 5 2014 the assignments per pilot per year varied from a low of 134.9 to a high
 6 of 165.5, with PSP alleging that the number of licenses indicated by this
 7 AAL ranging from a low of 50.2 to a high of 57.2 licenses.

	Assignments	Change from Prior Year	Number of Licenses Indicated by SAL/TAL	Actual Number of licenses (Including President)	Assignments per watch standing pilot	Number of Jobs worked in Excess of the SAL/TAL
2003	7,338		50.2	50.5	148.2	-38
2004	7,604	3.6%	52.0	50.8	152.7	184
2005	8,260	8.6%	56.4	50.9	165.5	825
2006	8,372	1.4%	57.2	52.8	161.6	654
2007	8,315	-0.7%	56.8	53.7	157.8	463
2008	8,173	-1.7%	55.9	54.2	153.6	246
2009	7,669	-6.2%	52.5	55.6	140.5	-466
2010	7,338	-4.3%	51.6	55.4	134.9	-550
2011	7,614	3.8%	53.5	52.6	147.6	132
2012	7,765	2.0%	54.6	51.9	152.6	385
2013	7,813	0.6%	54.9	53.1	150.0	259
2014	7,615	-2.5%	53.5	54.1	143.4	-85

19 All these years and assignment levels represent various ways in which the
 20 BPC has determined that a specific number of licensed pilots can safely
 21 move vessels in and out of the Puget Sound. An average represents this
 22 potential variability with the least of amount of potential discrimination or
 23 gamesmanship. This is preferred here for this rate case as the Average
 24 Assignment Level alleviates the risk that by picking just one of these years
 25 a tariff could result in gamesmanship around a test-year. Ultimately the
 26 AAL would reduce the risk of unreasonable outcomes for either pilots (for

1 example, if a rate was set too low by relying on a single year with an
2 historically low number of pilots) or for ratepayers (for example, if a rate
3 was set too high by relying on a single year with an historically high
4 number of pilots).

5
6 **4. Medical insurance adjustment.**

7
8 **Q: Does the Staff calculation of the TDNI differ from the PMSA**
9 **calculation of TDNI with respect to the adjustment for medical**
10 **insurance?**

11 A: Yes. The Staff adds \$1,885,344.96 in “Medical premiums” into the “Total
12 DNI” at Exhibit MY-9, which at 56 pilots is an increase in pilot DNI of
13 \$33,666 per pilot.

14
15 **Q: Is Staff’s increase of DNI by an amount equal to the medical**
16 **premiums listed the PSP pro-forma consistent with the**
17 **Commission’s prior rate case methodology?**

18 A: No.

19
20 **Q: Why is Staff’s increase of DNI inconsistent with the prior rate case?**

21 A: In the prior rate case, PSP was directed to phase out medical premiums as a
22 PSP expense category over three years, with full inclusion in year 1, 50%
23 exclusion in year 2, and 100% exclusion by the time of the next rate filing,
24 on the explicit basis that these “expenses” should begin to be treated as an
25 expense of pilots as independent contractors. Order 09, ¶254, TP-190976.
26 There was no offset to DNI in the prior rate case for this phase-out. So

1 adding this, prospectively, to future rate years as part of the DNI is
2 inconsistent with the prior rate case order.

3
4 **Q: How is Staff's proposed treatment of medical premiums in its DNI**
5 **calculation different than PMSA's proposed treatment of medical**
6 **premiums in its DNI calculation?**

7 A: PMSA also recognized that there should be some adjustments in DNI
8 calculations as a result of eliminating medical insurance as a PSP expense,
9 but we felt that it should be appropriately treated as an adjustment to the
10 DNI methodology for past years to create an apples-to-apples comparison of
11 historic DNI. *See* Exh. MM-3. This is necessary to reflect the fact that an
12 individual pilot's actual DNI would increase naturally during the 2021-
13 2022-2023 phase out period, because PSP would **not** incur the expense of
14 the medical insurance premiums, and as a result each pilots' individual DNI
15 and take-home pay would be improved by the same amount that PSP was
16 not spending on medical insurance.

17
18 **Q: Should this phase-out be further adjusted after the full phase-in?**

19 A: No, because once the adjustment has been made, by reducing the DNI in
20 2021-2022-2023 to match the historic DNIs which were reduced in prior
21 years by the amount PSP spent on medical insurance, then the comparison
22 is apples-to-apples, and DNI in future years, such as what is proposed here
23 by Staff, would be inappropriate. This adjustment must be done either
24 retroactively or prospectively, but not both. Otherwise it would be double-
25 counting.

1 Q: **Which of these medical insurance adjustments from the prior rate**
2 **case does PMSA recommend the Commission continue?**

3 A: We agree with the Commission that this general rate case should treat all
4 medical insurance costs as individual expenses that should be borne
5 privately by the pilots as independent contractors. We disagree with the
6 Staff that PSP DNI should be prospectively increased by an additional
7 \$33,666 per pilot in order to pay for medical insurance costs that have
8 already been 50% phased out at the direction of the Commission.

9

10 Q: **Did PSP provide to the Staff, PMSA or the Commission the**
11 **calculations necessary to compare the existing methodology's**
12 **outcomes versus a proposed change in a ratesetting methodology in**
13 **a filing with respect to medical insurance premiums?**

14 A: No, once again, PSP did not follow the workpapers requirement at WAC
15 480-07-525(4)(s) with respect to its medical insurance premiums. That is yet
16 another reason why we disagree with the Staff recommendation to include
17 these premiums in pilot DNI.

18

19 Q: **If medical insurance premiums are ultimately included, whether at**
20 **the 50% phase-out or as a 100% DNI off-set, should they be based on**
21 **the total amount of \$1,885,345 as requested by PSP?**

22 A: No, as Staff acknowledged in its testimony at Exhibit MY-1T, the proposed
23 increase by PSP in medical insurance of \$240,778 was not well supported by
24 evidence. When asked to document the evidence that PSP provided to
25 support this claim, Staff replied that there was “[n]ot much of anything,
26 despite Staff’s request for information through data requests.” Exh. MY-1T

1 23:10-12. One complicating factor for a lack of evidence and reasoning. And
2 perhaps this is not well documented because this expense is predicated on
3 PSP having 56 pilots when it does not currently have 56 pilots. The actual
4 amount of medical insurance expense to be considered, if it is even relevant
5 to this calculation of DNI at all, should be much closer to the \$1.64 million
6 of the test year instead of the \$1.89 million requested by PSP. Furthermore,
7 as we pointed out in the prior rate case, the Columbia River pilots reported
8 a medical insurance plan with MM&P, the same as PSP, but at a much
9 lower cost per pilot, which also means that PSP's per pilot costs are possibly
10 inflated.

11
12 **D. Callback adjustments.**

13
14 **Q: Does the Staff testimony address the issue of callbacks?**

15 A: Yes, the Staff testimony addresses the issue of PSP callbacks at Exhibit
16 MY-1T 6:18-9:21.

17
18 **Q: Does PMSA agree with the Staff recommendations regarding the
19 treatment of PSP callbacks?**

20 A: Yes.

21
22 **Q: Does PMSA agree with Staff that PSP's treatment of callbacks is
23 inconsistent with the Order in the prior rate case?**

24 A: Yes.

1 **Q: Does PMSA agree with Staff that PSP’s treatment of callbacks as an**
2 **expense is improper?**

3 A: Yes, and we agree with Staff Adjustment R-2 to reduce the PSP revenue
4 requirement by the amount of \$389,350, as PSP has claimed for callbacks,
5 because this amounts to a double-charge against vessels—once for the
6 pilotage job when performed and once again in the future against a future
7 vessel for the pilotage already provided to an earlier vessel.

8

9 **Q: Does PMSA agree with Staff that this could also be treated as a**
10 **charge against pilot equity?**

11 A: Yes, PMSA agrees with Staff that the treatment of callback days as equity
12 between members and addressed in that manner, rather than as a liability
13 of PSP as an organization, would be a very elegant and clean treatment of
14 the costs associated with these private arrangements between independent
15 contractors. Individual pilots are not employees of PSP, and they are owed
16 nothing more than their share of the revenues earned in any one year. The
17 deals and trades made by individual pilots to take watches off-shift are up
18 to the pilots and should occur independently of the rates paid by vessels for
19 the service that is ultimately provided.

20

21 **E. Consulting expenses.**

22

23 **Q: Does the Staff testimony address the issue of consulting expenses?**

24 A: Yes. The Staff testimony at Exhibit MY-1T and as Exhibit MY-7 describes
25 issues surrounding consulting expenses.

26

1 **Q: What is PMSA's position on these consulting expenses?**

2 A: PMSA agrees with Staff that the expenses for Walt Tabler and Red Cloud
3 consulting costs should be excluded from the revenue requirement.
4

5 **F. Pension and retirement.**
6

7 **Q: Does the Staff testimony address the PSP's pension and retirement**
8 **revenue requests?**

9 A: Yes. The Staff testimony addressed both the pro forma pension expense at
10 Exhibit MY-1T 22:6-23:2 and the proposed pension automatic adjusters at
11 Exhibit MY-1T 14:15-17:10.
12

13 **Q: Does PMSA agree with Staff that the PSP pro forma pension**
14 **expense should be removed?**

15 A: Yes, PMSA agrees that the \$902,438 of pro forma pension expense should be
16 removed from the proposed tariff.
17

18 **Q: Does PMSA agree with the Staff rationale for removing the PSP pro**
19 **forma pension expense?**

20 A: Yes, PSP was directed by the Commission under the prior rate case Order to
21 establish workshops to address the question of funding the existing
22 liabilities associated with its pay-go pension plan. PSP has not addressed
23 these questions and short-changed those workshops. We agree with Staff
24 that these conversations should continue before more new and additional
25 costs are foisted on ratepayers.
26

1 **Q: Does PMSA agree with Staff's recommendations for the PSP-**
2 **proposed pension surcharges?**

3 A: Yes, these surcharges should not be even considered as a potential option
4 prior to PSP completing the reforms that were previously ordered by the
5 Commission in the prior rate case.

6

7 **G. Automatic adjusters.**

8

9 **Q: Does the Staff testimony address PSP's proposed automatic**
10 **adjusters?**

11 A: Yes, at Exhibit MY-1T 10:1-22:4.

12

13 **Q: What is PMSA's position on the Staff's approach to PSP's proposed**
14 **automatic adjusters generally?**

15 A: PMSA agrees with the Staff observation, generally, that the PSP proposed
16 automatic adjusters should not be adopted as proposed, that most of the
17 current PSP draft tariff filings are not proper, and that, even if a rate
18 adjuster were approved by the Commission, all changes to the tariff must be
19 submitted through a new, revised, or supplemental tariff on a date certain,
20 and not as proposed by PSP.

21

22 **Q: Does PMSA agree with the Staff recommendation to reject PSP's**
23 **first automatic adjuster regarding vessel traffic levels?**

24 A: Yes, we agree with Staff's recommendation and concern that "the
25 adjustment mechanism subverts bedrock principles of ratemaking," as "[a]
26 revenue requirement is not a guarantee of earnings." Exh. MY-1T 12:2-3.

1 **Q: Does PMSA agree with the Staff recommendation to reject PSP's**
2 **second automatic adjuster regarding the number of pilots?**

3 A: Yes, we agree with Staff's recommendation and concerns regarding fixing
4 revenues and adding more costs to ratepayers for the same service and same
5 number of vessel movements.

6

7 **Q: Does PMSA agree with the Staff recommendation to approve a**
8 **COLA as an automatic adjuster in response to PSP's third proposed**
9 **annual adjuster?**

10 A: No, we disagree with Staff's recommendation that the Commission approve
11 a COLA. While Staff agrees with this adjuster "in principle," it provides no
12 additional detail regarding the appropriateness of these adjustments.

13

14 **Q: Why is PMSA opposed to an adjustment regarding a COLA as**
15 **proposed by PSP and agreed to "in principle" by Staff?**

16 A: PSP proposes a COLA that adjusts "tariff rates" as opposed to a COLA that
17 adjusts individual expense items. This is exceptionally problematic, as the
18 tariff formula is based not just on expenses but on $(DNI \times \text{Number of Pilots})$
19 $+ \text{Expenses}$. Why should a COLA be applied to the number of pilots? Why
20 should a COLA be applied to a DNI which already reflects an inflation
21 adjustment? Neither of these should be subject to a COLA.

22 PMSA would be open to a proposal for a COLA limited to only certain
23 expense items, but not to all expenses as there are many large components
24 of PSP's expenses that do not adjust regularly with the local CPI, including
25 payments to pilots, as identified in my response testimony. These also
26 include retirement and, if PSP's proposal is approved, callbacks and

1 transportation expenses. Meanwhile, fuel adjustments are notoriously
2 variable and not tied to CPI. While these might be ripe for some type of
3 automatic adjusters, they should not be changed with a blind COLA every
4 January 1 based on CPI.

5 Finally, as noted in my testimony on adjustments to DNI, PSP revenues
6 are also not based on a normal consumer basket of goods, as pilots are high
7 income earners. They do not need a subsistence COLA to be made whole
8 with respect to basic living essentials and costs. Moreover, full CPI
9 adjustments are not necessary to offset these costs, as pilot revenues are
10 still tied to vessel tonnage, which has a natural escalation effect built-in to
11 the tariff.

12
13 **Q: Does PMSA agree with the Staff recommendation to reject PSP's**
14 **fourth and fifth automatic adjusters regarding retirement and**
15 **pension surcharges?**

16 A: Yes, we agree with Staff's recommendations.

17
18 **Q: Does PMSA agree with the Staff recommendation to reject PSP's**
19 **sixth and seventh automatic adjusters regarding pilot station and**
20 **pilot boat expenses?**

21 A: Yes, we agree with Staff's recommendations and the Staff's reasoning and
22 stated bases for these concerns. We also agree with the Staff that with
23 respect to pilot boat capital recovery that "this adjustment has some merit
24 in that the Commission often allows surcharges as a funding mechanism for
25 capital improvements. However, this proposal differs from those typically
26 approved by the Commission in that it involves considerable administrative

1 burden and creates rate instability.” Exh. MY-1T 20:2-5. As I recommend in
2 my response testimony, there is room for the enactment of this type of
3 automatic adjuster for pilot boat capital costs, but only if done correctly.
4

5 **H. SILA special surcharge.**
6

7 **Q: Does the Staff testimony address the SILA special surcharge?**

8 A: Yes. The “Staff Proposed Tariff Rates” at Exhibit MY-10 include Tariff Item
9 380, the continuation of the SILA special surcharge under the new tariff at
10 \$16.00 per movement.
11

12 **Q: What is PMSA’s position on the continuation of Tariff Item 380 for**
13 **SILA?**

14 A: PMSA disagrees with the Staff Proposed inclusion of the SILA Special
15 Surcharge at Tariff Item 380. It should be removed from the proposed tariff.
16

17 **Q: Please explain why the SILA item should be removed from the**
18 **tariff.**

19 A: Pursuant to WAC 363-116-301, the self-insurance premium surcharge of
20 \$16 per vessel will sunset and only be in effect through June 30, 2023. Exh.
21 MM-66. The SILA should be removed from the proposed tariff because the
22 new tariff will be implemented after July 1, 2023. We know this is the case
23 because a Final Order in this general rate case is not anticipated until July
24 10, 2023 (TP-220513, “Notice of Revised Procedural Schedule” (Nov. 23,
25 2022)), and the suspension date for the proposed tariff in this general rate
26 case is November 25, 2023 (TP-220513, Order 04 ¶15). Because the SILA

1 special surcharge at Tariff Item 380 would occur after its sunset date, it
2 should be removed.

3
4 **Q: Would the removal of this SILA special surcharge be consistent**
5 **with other Staff testimony?**

6 A: Yes, Staff concurs with PSP's proposed restating adjustment of -\$150,000
7 from the PSP 2021 Test Year at Exhibit JNS-02, 7:19 ("Commission –
8 Senate Bill 5096). Exh. MM-67 (Staff Response to PMSA DR 6). This
9 \$150,000 expense imposed on PSP was the PSP contribution to SILA and
10 the companion funding component to the SILA vessel surcharge. If one is
11 eliminated from the tariff calculations, then both should be eliminated from
12 the tariff calculations.

13
14 **I. Amortizing repair costs.**

15
16 **Q: Does the Staff testimony address the amortization of repair costs?**

17 A: Yes. The Staff recommendations regarding repairs at Exhibit MY-1T 26:11-
18 14 and Exhibit MY-8.

19
20 **Q: What is PMSA's position on the Staff recommendations on the**
21 **amortization of repair costs?**

22 A: PMSA supports the Staff recommendation to amortize these repair costs
23 over five years as described at Staff Restating Adjustment R-19.

1 **J. Transportation.**

2
3 **Q: Does the Staff testimony address or suggest adjustments to PSP**
4 **transportation expenses?**

5 A: No.

6
7 **Q: What is PMSA's position on the Staff position on transportation**
8 **expenses?**

9 A: We oppose Staff's position on transportation expenses, as the PSP proposal
10 underlying the Staff position is inconsistent with the Commission Order in
11 the prior rate case and PSP has not made any new or compelling arguments
12 in support of its proposal.

13
14 **Q: Were PSP's responses to Staff DRs regarding transportation**
15 **expenses adequate in your opinion?**

16 A: No, as shown at Exhibit MM-9, an excerpt of PSP's Responses to UTC Staff
17 DR 36, because PSP has withheld its invoicing data, it is impossible for
18 Staff, PMSA, or the Commission to evaluate whether PSP is following the
19 Commission's directed computation for transportation, using the traditional
20 fixed taxi fare charge based on transportation from PSP's Seattle office or
21 the PSP Port Angeles pilot station, or whether PSP is proposing to be
22 reimbursed for charges which include commute distances to and from pilots'
23 homes, which was a computation disallowed under the prior rate case. The
24 decision by the Commission in the prior rate case to disallow these commute
25 costs was well-founded, well-reasoned, and clearly articulated; otherwise a
26

1 pilot could live anywhere, even out of state, and have industry subsidize a
2 pilots' preferred method of commuting to a job regardless of mode or cost.

3
4 **Q: Has PSP produced any workpapers which would demonstrate a**
5 **comparison between the Commission-approved computation and**
6 **the PSP-proposed computation?**

7 A: No. PSP has not produced any work papers under WAC 480-07-525(4)(s) for
8 any of its proposed changes in methodologies for rates in this case, including
9 for transportation charges, so it is truly impossible from both its initial
10 filings and from responses to DRs to evaluate the bases for any of its
11 claimed transportation expenses.

12
13 **K. Training Expenses.**

14
15 **Q: Does the Staff testimony address the amortization of training**
16 **expenses?**

17 A: Yes. The Staff recommendations regarding repairs at Exhibit JNS-1T 15:15-
18 16:10 and Exhibit JNS-9.

19
20 **Q: What is PMSA's position on the Staff recommendations on the**
21 **amortization of training expenses?**

22 A: PMSA supports the Staff recommendation to amortize training expenses
23 over five years.

1 **Q: What is PMSA’s opinion regarding the scope of Staff’s recommended**
2 **amortization of training expenses?**

3 A: PMSA supports applying the Staff recommendation to amortize training
4 expenses over five years to all training expenses, not just the “BRMP”
5 training items. We agree with the Staff that the BRMP training expenses
6 should be amortized over 5 years. Applying the same logic, the Manned
7 Model (or “MM”) training expenses should also be amortized over 5 years.

8
9 **III. PMSA’s POSITIONS REGARDING TOTE’S RATESETTING**
10 **RECOMMENDATIONS**

11 **Q: Does PMSA agree with the assertions, facts, and opinions provided**
12 **in the testimony provided by TOTE in this general rate case?**

13 A: Yes.

14
15 **Q: Are there specific components of TOTE’s testimony to which you**
16 **feel it is important to offer an additional opinion in response?**

17 A: Yes, I believe it is particularly important to emphasize the importance of the
18 testimony of Captain Eric Lotfield, Exh. CEL-1T.

19
20 **Q: What about this testimony by Captain Lotfield is worthy of**
21 **additional notice by the Commission?**

22 A: Capt. Lotfield’s testimony stands for the obvious and undeniable proposition
23 that the factors which inform relative risk are not limited just to vessel size,
24 but instead must be considered in the whole context of the handling,
25 maneuverability, and propulsion of vessels.

26

1 **Q: Do you agree with Capt. Lotfield’s conclusions regarding the**
2 **handling, maneuverability, and propulsion of the Orca class vessels**
3 **when compared to other vessels of similar size?**

4 A: Yes, his testimony is unequivocal, and I agree with him that these vessels
5 are safer to pilot than other ships of the same size and that the risks posed
6 by these vessels while under pilotage are actually lower than other ships of
7 the same size.

8

9 **Q: Have you reviewed the Data Requests sent to TOTE by PSP?**

10 A: Yes, I have reviewed these PSP Data Requests to TOTE, numbers 4 to 15,
11 attached here as Exhibit MM-68. PSP DRs to TOTE Nos. 4-15.

12

13 **Q: Do you have opinions that you would like to offer in response to**
14 **these PSP Data Requests?**

15 A: Yes.

16

17 **Q: Please provide your opinion in response to PSP Data Request No. 4**
18 **to TOTE.**

19 A: PSP Data Request No. 4 to TOTE is as follows:

20 Please state in gallons the fuel capacity of the M/V Midnight
21 Sun and M/V North Star (collectively, the “ORCA Class Ships”).

22 This data request for “fuel capacity” ignores one critical aspect of these
23 TOTE vessels: TOTE is converting these vessels from being primarily
24 diesel-fueled to primarily LNG-fueled vessels. Liquefied Natural Gas
25 (“LNG”) fuels are safe and cleaner than diesel fuel, LNG is not regulated in
26 the same manner as diesel fuel, and LNG is not stored the same as diesel

1 fuel on board. These changes from diesel to LNG are being made to reduce
2 air emissions and use the cleanest and most environmentally friendly vessel
3 fuel available on the market today. And, not only is LNG cleaner with
4 respect to air emissions but it also nearly eliminates water quality risks
5 with respect to oil discharges because these vessels will be using far less
6 diesel fuel oil than the designed tank capacities. I have enclosed an article
7 on this conversion with additional details as Exhibit MM-69. This
8 conversion is happening now, with both the MIDNIGHT SUN and NORTH
9 STAR either complete or nearing completion of their multi-year LNG
10 conversions. Moreover, it is important to point out that this is yet one more
11 way in which vessels now include more protectively-located fuel tanks: with
12 its LNG conversion, TOTE has created a new and safer location of the LNG
13 fuel tanks, as they are aft and high up. This is obviously relevant to this
14 general rate case and the issues of relative risk because PSP has made “oil
15 spill” risk a centerpiece of their filing even though cargo vessels such as the
16 TOTE Orca-class ships here are now locating fuel tanks away from the hull
17 in protected locations and converting to alternative fuels to reduce fuel oil
18 use altogether. So, when asking for an answer to this question about the
19 “fuel capacity” of these vessels, if PSP asserts that a gallon capacity answer
20 to this question is somehow representative of risks from these vessels, such
21 a representation would be patently false. Not only are these vessels less
22 risky because of their high maneuverability and technology with respect to
23 navigation, they also pose less of an oil-spill risk because they are
24 transitioning to a non-diesel fueling system. Ironically, if one adopted PSP’s
25 assertions about the need for pilotage rates to be tied to oil spill risk
26 reduction, then these Orca-class TOTE vessels should actually be first in

1 line for a marked **reduction** in pilotage rates, as they are more
2 maneuverable vessels and thus less risky, have fuel storage up and away
3 from the waterline and thus less risky, and are using safe non-diesel
4 alternative fuels, making a case for marked reduction in pilotage tariffs on
5 such vessels under a PSP-oil spill risk theory of pilotage rate-setting.

6
7 **Q: Please provide your opinion in response to PSP Data Requests No.**
8 **10 and No. 11 to TOTE.**

9 A: PSP Data Requests No. 10 and 11 to TOTE ask to isolate “volumetric size”
10 of a vessel as a “significant factor” in evaluating “degree of difficulty and
11 risk associated with piloting these ships.” Obviously, ship volumetric size is
12 a significant factor in assessing how to pilot these vessels, because it is a
13 significant factor in assessing how to pilot **every** vessel. But PSP cannot
14 isolate this factor to the exclusion of every other factor used to assess
15 pilotage degree of difficulty and risks. Just as important as the size factors,
16 if not more important, are the maneuverability factors when determining
17 degree of difficulty and risk. This is a truism in the evaluation of
18 navigational safety and risk. This was acknowledged by the Commission in
19 the prior rate case when it agreed that it would not set pilotage rates based
20 on “absolute risk” but that it would allow for a variation of rates based on
21 “relative risk” amongst vessels. In TOTE’s testimony here, it has provided
22 compelling descriptions demonstrating that these vessels have much lower
23 “relative risk” when compared to other vessels of the same size, because the
24 Orca-class vessels are among the most maneuverable vessels that the PSP
25 pilots will handle.

1 **Q: Please provide your opinion in response to PSP Data Request No.**
2 **13 to TOTE.**

3 A: PSP Data Request No. 13 to TOTE asks it to “admit that the surface area of
4 a ship's hull above the water line, which is sometimes referred to as the sail
5 area, is a relevant factor in evaluating the relative risk and difficulty of
6 piloting ships on Puget Sound.” As with the prior question, obviously, ship
7 sail area is a significant factor in assessing how to pilot these vessels in
8 windy conditions because it is a significant factor in assessing how to pilot
9 **every** vessel. But PSP cannot isolate this factor to the exclusion of every
10 other factor used to assess pilotage degree of difficulty and risks. As noted
11 above with respect to volumetric size, just as important as the sail area
12 factor are the maneuverability factors when determining degree of difficulty
13 and risk.

14

15 **Q: Regarding “sail area,” has PSP proposed in its testimony a basis for**
16 **evaluating “relative risk” among vessels?**

17 A: No, they have not. PSP’s focus for “relative risk” remains a vessel’s gross
18 tonnage.

19

20 **Q: Is vessel gross tonnage a reasonable proxy for the risks posed by**
21 **sail area in the context of “relative risk”?**

22 A: No, it is not.

23

24

25

26

1 **Q: Can you please provide some examples of the “relative risk” of “sail**
2 **area” between various vessels?**

3 A: Yes, one obvious comparison is with a typical car carrier. Car carriers by
4 design have much greater sail area than most vessels, including the Orca-
5 class vessels. Also, when compared to Orca-class vessels they also likely
6 have much less maneuverability, and lower horse-power engines. These
7 factors would indicate that a typical car carrier vessel would have relatively
8 higher relative risks than an Orca-class vessel, because the Orca-class has a
9 smaller sail area and is more maneuverable. Yet comparing the car-carrier
10 *GRAND RACE* to the *NORTH STAR* as proposed in PSP’s workpapers
11 (“2023 Revenue Calculation worksheet,” lines 21 and 23 of Exh. WTB-07),
12 PSP would charge the *NORTH STAR* at 65,314 international tonnage and
13 the *GRAND RACE* at 50,309 gross tonnage. Is gross tonnage here a proxy
14 for sail area risk? No, it obviously is not, as the relative risk based on sail
15 area is higher for the car carrier. So the use of domestic gross registered
16 tonnage for the *NORTH STAR*, which is lower than tonnage for *GRAND*
17 *RACE*, would be a much better proxy for the relative risk posed by sail area
18 because the *NORTH STAR* sail area is significantly smaller than that of the
19 *GRAND RACE*. Exh. MM-70.

20
21 **Q: Are there other examples?**

22 A: Yes, a similar size containership might have a much greater sail area than
23 an Orca-class vessel when loaded due to large stacks of containers above
24 decks but a smaller or similar sail area when unloaded. The opposite occurs
25 with tank vessels, which would have much smaller sail areas when loaded
26 and riding low, but would have higher sail areas when empty or in partial

1 ballast and riding higher. Yet, these factors are not reflected in the tariff
2 which is based on the fixed tonnage of a vessel regardless of a vessel's sail
3 area. In fact, these factors cut against the PSP risk arguments in this filing.
4 Of all of these, the vessel that poses the highest relative risk of a significant
5 oil spill is the loaded tank vessel, yet that same vessel will have the smallest
6 sail area when relative risk is considered compared to a car carrier,
7 container vessel (loaded or unloaded), Orca-class vessel, or an empty tank
8 vessel.

9
10 **IV. CONCLUSION**

11
12 **Q: Does this conclude your cross-answering testimony?**

13 **A: Yes.**