

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,
Complainant,
v.
PUGET SOUND PILOTS,
Respondent.**

Docket TP-220513

**REBUTTAL TESTIMONY OF
CAPTAIN ANNE L. MCINTYRE
ON BEHALF OF PUGET SOUND PILOTS**

MARCH 3, 2023

TABLE OF CONTENTS

I. IDENTIFICATION OF WITNESS.....1

II. PURPOSE OF TESTIMONY.....1

III. CONCLUSION.....7

I. IDENTIFICATION OF WITNESS

1 **Q: Please state your name and position.**

2
3 A: My name is Captain Anne L. McIntyre and I am the Business Director for the San
4 Francisco Bar Pilots.

II. PURPOSE OF TESTIMONY

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6 **Q: Please describe the purpose of your testimony.**

7 A: My testimony addresses the following four topics:

- 8 1. The comparability of the Puget Sound pilotage grounds to those on the West
9 Coast and throughout the United States;
- 10 2. The significance of California legislation signed into law on September 30, 2022
11 establishing a new ratesetting process for state-licensed pilots in California and
12 the projected financial impacts of the significant increase in pilotage rates
13 established with that legislation;
- 14 3. Contrary to the testimony of PMSA DEI expert Kathleen Nalty, the labor supply
15 and demand issues throughout the maritime industry including the profession of
16 marine pilots require competitive pay and benefits if the efforts of a U.S. pilot
17 group and/or its pilot commission to diversify a pilot corps are to be successful;
18 and
- 19 4. The importance of license defense and lost income insurance within the
20 comprehensive group of insurance coverages that pilot groups must maintain
21 considering the broad array of legal exposure that a pilot faces in a highly
22 regulated profession.

23 **Q: Do you consider the work of state-licensed pilot on the Puget Sound pilotage ground
24 to be comparable to that of the San Francisco Bar Pilots, Columbia River Bar pilots and
25 Columbia River Pilots on their respective pilotage grounds on the West Coast?**

26 A: Yes. While local knowledge and local conditions differ between individual pilotage
grounds, I firmly believe that the skill set of a state-licensed pilot is highly comparable not just
between pilotage grounds on the West Coast but with respect to all heavily trafficked pilotage
grounds throughout the United States.

1 **Q: Does the new pilotage legislation in California address the issue of comparability in**
2 **connection with how a pilotage tariff must be established in a manner consistent with that**
3 **legislation?**
4

5 A: This legislation, which amended the California Harbor and Navigation Code, devotes an
6 entire chapter entitled "Pilotage Tariff Determination and Procedures" that devotes 13 pages to
7 the criteria and procedures that must be followed to establish "fair, just, reasonable, and
8 sufficient rates for the provision of a safe, competent, reliable, and efficient pilotage service."
9 With respect to determining target net income per pilot, comparability between pilot groups must
10 be considered, specifically a list of six factors set out in the legislation. These include the
11 following:
12

- 13 1. The professional skills and experience required of a state-licensed pilot and the
14 difficulty, risk, and lifestyle commitment of providing pilotage services;
- 15 2. The compensation for comparable maritime professions, including individuals
16 and other state-regulated pilotage associations, at a minimum considering
evidence of the compensation and benefits;
- 17 3. Evidence of the economic and market conditions existing both locally and within
18 the region of any pilotage association used for the purpose of comparison;
- 19 4. The consumer price index and employment cost index;
- 20 5. Individual amounts paid to pilot since the last rate order; and
- 21 6. Any other factor deemed relevant to the determination of target net income per
22 pilot.

23 The above list of factors is similar to those that are required by regulations adopted by the
24 Oregon Board of Maritime Pilots to be considered in any rate proceeding before a pilot
25 commission on which I served for nine years. Pilots are recruited from a national pool and given
26 the competition for highly qualified pilot trainee candidates from around the country, it's critical

1 from a public policy perspective for the pilotage ratesetting agency in any state to carefully
2 consider the comparability of pilot income and benefits from other grounds in evaluating what to
3 approve for the pilotage grounds under their regulatory authority.
4

5 **Q: Please describe how pilotage regulation changed with the enactment of the new**
6 **legislation enacted on September 30, 2022.**

7 A: Prior to the passage of the extensive pilotage-related amendments to the Harbor and
8 Navigation Code, the rate setting process for the San Francisco Bar pilotage ground was a two-
9 step process that involved a hearing at the Board of Pilot Commissioners (BOPC) and approval
10 by the full state legislature. Specifically, one of the filing parties had the burden of finding a bill
11 sponsor and carrying the hearing results in a bill through both Houses and ultimately to the
12 Governor's desk for signature. The 2022 legislation revised the rate setting process to move the
13 hearing from the BOPC to an Administrative Law Judge, with the BOPC performing an
14 oversight function of the hearing results. The new process is also more formulaic and evidence
15 based.
16

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19 **Q: In addition to reforming the pilotage ratesetting process in California, did the 2022**
20 **legislation increase pilotage rates for the San Francisco Bar pilotage ground?**

21 A: Yes. Increases were made to minimum bar crossing charges, minimum inland rates and
22 miscellaneous charges. A Temporary Transit Fee (TTF) was also established on bar crossings.
23 The TTF is not a pilotage fee, rather a separate fee that was implemented to supplement the
24 significantly reduced pilotage fee revenue, which continues today. The TTF will expire upon
25 publication of the first tariff under the new rate setting process.
26

Q: How did the 2022 legislation impact SFBP revenue?

A: It's difficult to say right now as the increases were just implemented on January 1, 2023. Below is a table of historical January revenue that demonstrates what I know about the impact at this time. Of the \$3.37 million billed in January, approximately \$515,000 is attributed to the TTF and the TTF represents the majority of the "new" revenue. Based on January, I think it would be fair to estimate a \$6 million to \$9 million revenue increase, as depending on traffic levels in 2023. I know this is a broad range, but the increases to the minimum charges and TTF are implemented across vessel moves in such a way that it's difficult to accurately forecast future impacts and "new" revenue generated is also highly dependent on the number of vessel moves and the forecast of vessel moves is extremely murky at this time.

January Revenue from Pilotage Fees 2019-2022 with 2023 Billing & TTF

2019	\$3.75M
2020	\$3.53M
2021	\$2.85M
2022	\$2.33M
2023 (Billed)	\$3.37M

Q: With California's new pilotage ratesetting procedures now in statute, when do you anticipate that the San Francisco Bar Pilots will initiate the process for an increase in your pilotage tariff?

A: That depends on how quickly the BOPC executes rule making. My understanding is this is a high priority for the BOPC and it is anticipated that will occur this year. Assuming rule making is completed in 2023, I would anticipate SFBP initiating the process in 2024.

1 **Q: Please describe the insurance coverages maintained by the San Francisco Bar Pilots.**

2 A: Due to the substantial legal risks that a state-licensed pilot is exposed to when performing
3 a pilotage assignment, which are detailed in the testimony of marine insurance broker and marine
4 pilot risk specialist Sean McCarthy's testimony, the San Francisco Bar Pilots maintain the five
5 different categories of marine insurance listed in the table below, which also shows the premium
6 costs for each type of insurance and the coverage limits:
7

8 **San Francisco Bar Pilots**

9

Coverage Type	Premium	Coverage Limits (Overview)
Pilot License Defense & Income	\$167,500.00	\$5,000,000 Basic Legal Expenses per Pilot; \$300,000 income Continuity, annually, per Pilot.
Primary & Contingent Trip	\$43,128.00	\$1,000,000 Combined Single Limit.
Marine General Liability	\$7,323.00	\$1,000,000 Combined Single Limit; \$2,000,000 Products/Completed Ops; \$1,000,000 Personal/Advertising Injury; \$1,000,000 Fire Legal Liability; \$1,000,000 Wharfinger's Legal; \$1,000,000 Employee Benefits Liability; \$2,000,000 General Aggregate.
1 st Excess (\$10M Excess)	\$102,996.00	\$10,000,000 Combined Single Limit Excess of Primary Trip insurance and excess of Marine Multiliability insurance.
2 nd Layer Excess - \$25M x \$10M (\$35M Total XS)	\$89,250.00	\$25,000,000 Any One Accident/Occurrence, Combined Single Limit, excess of Underlying Trip Insurance and Marine Multiliability insurance.
Vessel Pollution (Great American)	\$7,500.00	\$5,000,000 Any One Vessel, Any One Accident or Occurrence.

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1 **Q: Based on your experience with both the Oregon Board of Maritime Pilots and the**
2 **California Board of Pilot Commissioners, are all of the insurances listed in the table above**
3 **funded by the tariff supporting state-licensed pilotage grounds in California and Oregon?**

4
5 A: Yes. During my career, I have never seen any opposition to the standard and prudent
6 business practice of pilot groups to maintain sufficient levels of insurance in all categories,
7 including license defense and lost income, general liability, excess liability and vessel pollution
8 coverages. While some may argue that pilot associations are over insured, the unpredictably of
9 significant legal liability for all parties involved or affected by an incident warrants a high level
10 of coverage. Insurance is in the interest of all stakeholders, including the pilots, the public, the
11 state, and vessel calling in the state.
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14 **Q: Based on your review of the testimony of PMSA DEI expert Kathleen Nalty and her**
15 **position that compensation and benefits are not major factors in a successful workforce**
16 **diversification effort, what comments do you have?**

17 A: My first thought was that Ms. Nalty had no prior experience with the maritime industry
18 where compensation and benefits is an extremely important issue to a work force that must be
19 paid a premium in order to be willing to work aboard an oceangoing or inland vessel for an
20 extended period of time. In the oceangoing industry, which is the one I am familiar with, it's
21 standard practice to be assigned to a vessel for months at a time, absent from family and friends.
22 Crew expect to be well compensated for working under these conditions. Based upon my
23 experience including substantial involvement over more than 35 years in diversification, equity
24 and inclusion efforts throughout the maritime industry, it is simply not possible for a pilot group
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1 to have any realistic chance of successfully diversifying itself without a nationally competitive
2 level of pay and benefits plus a reputation for inclusiveness and fairness in the way the pilot
3 group operates. In my view, it's a supply and demand issue. Pilots are recruited on a national
4 scale and pilot associations throughout the country are seeking to improve their diversity from a
5 very small pool of qualified diverse candidates and compensation, in my view, is the number one
6 consideration. From what I know, PSP currently has a strong reputation for inclusivity and
7 fairness, but it is well known within pilotage circles that any pilot association facing an
8 extraordinarily challenging regulatory environment and low levels of pay and benefits, is a pilot
9 association that a high demand candidate need not consider.
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11 **III. CONCLUSION**

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13 **Q: Does this conclude your testimony?**

14 **A: Yes.**
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