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In the Matter of:

WA UTC

vs

Puget Sound Pilots

EVIDENTIARY HEARING

March 17, 2026

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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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

EVIDENTIARY HEARING, VOLUME II

March 17, 2026

9:00 a.m. - 3:04 p.m.

Lacey, Washington

Page 289 through Page 480

Reporter: John M. S. Botelho, CCR, RPR

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BENCH EXHIBIT INDEX

EXHIBIT	DESCRIPTION	ADMIT	REJECT
BE-2	Appendix C to proposed tariff.	297	

PUGET SOUND PILOTS EXHIBIT INDEX

EXHIBIT	DESCRIPTION	ADMIT	REJECT

(No Puget Sound Pilots exhibits in this volume.)

COMMISSION STAFF EXHIBIT INDEX

EXHIBIT	DESCRIPTION	ADMIT	REJECT
SS-8Trr	2nd Revised Cross-Answering Testimony of Scott Sevall.	299	
SS-9rr	3rd Revised Revenue Requirement.	299	
SS-10rr	3rd Revised Rate Design.	299	

PACIFIC MERCHANT SHIPPING ASSOCIATION
EXHIBIT INDEX

(No Pacific Merchant Shipping Association exhibits in this volume.)

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BE IT REMEMBERED that on Tuesday, March 17, 2026, at 621 Woodland Square Loop Southeast, Lacey, Washington, at 9:00 a.m., the following proceedings were continued, to wit:

<<<<<< >>>>>>

JUDGE FUKANO: Let's be on the record.

Good morning. It is Tuesday, March 17th, 2026. The time is approximately 9 a.m. My name is Harry Fukano. I'm an administrative law judge with the Washington Utilities and Transportation Commission, and I am presiding in this matter along with the Commissioners.

We are here today for the second day of the evidentiary hearing in Docket TP-250574, which is captioned Washington Utilities and Transportation Commission vs. Puget Sound Pilots.

We are resuming with cross-examination of PSP's witnesses. Before we begin, I just wanted to check if there was anything we needed to address from any of the parties.

Yes, PMSA.

MS. DeLAPPE: Just trying to get

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all the technology to work.

I did have one request. We were -- we plan to discuss in the cross-examination work paper, which I understand now is perhaps not available to the Commissioners since it is a work paper filed by PSP. And so we would like to request that the proposed new tariff language be a bench exhibit, if that's possible, if no one has objections. It's the new PSP Tariff No. 3, Appendix C.

JUDGE FUKANO: I'm just going to pull that up from our system very quickly to make sure that I'm looking at the correct document.

And what was the work paper originally filed as?

MS. DeLAPPE: Its file name is 1.04, New PSP Tariff No. 3 APDXC and then date 7/29/25.

MS. CARSON: Counsel, is this tied to a witness?

MS. DeLAPPE: Yes, it is. It's for Mr. -- for Captain Klapperich.

MS. CARSON: Thank you.

JUDGE FUKANO: Okay. I think I have it. And so it's Appendix C to the proposed new tariff?

MS. DeLAPPE: Yes.

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JUDGE FUKANO: Any objection from the company regarding making this a bench exhibit?

MS. CARSON: I'm not sure that I am seeing what we're talking about in my work papers.

JUDGE FUKANO: I believe it was actually filed with the tariff revision, not as a work paper.

MS. CARSON: Oh. So it's not a work paper.

JUDGE FUKANO: It was not filed as one. It appears to be part of the proposed new tariff.

MS. DeLAPPE: Yes.

MS. CARSON: We have no objection.

MR. ROBERSON: No objection.

JUDGE FUKANO: Okay. Then Appendix C to the proposed tariff will be admitted as Bench Exhibit 2.

(Bench Exhibit No. 2 admitted.)

MS. DeLAPPE: Thank you very much.

JUDGE FUKANO: And give me just one moment.

MS. CARSON: We will need a copy

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for the witness. We will need a copy for the witness. Can you send us one?
MS. DeLAPPE: This is your own filing. Do you not have Appendix C to your tariff filing?
MS. CARSON: I do not have it on my flash drive, no.
MS. DeLAPPE: I can --
MS. CARSON: Or hard copy.
MS. DeLAPPE: May I e-mail one?
MS. CARSON: Okay. Byron's got it.
MS. DeLAPPE: Oh. Thank you.
COMMISSIONER RENDAHL: Judge Fukano, are you going to e-mail that to the Commissioners?
JUDGE FUKANO: I will send a copy in just a moment.
COMMISSIONER RENDAHL: Thank you.
COMMISSIONER DOUMIT: Commissioner Rendahl, just FYI. You might want to mike up again.
COMMISSIONER RENDAHL: So can you hear me? I'm connected to my headphones.
COMMISSIONER DOUMIT: That's great.
CHAIR RYBARIK: That's good.
COMMISSIONER RENDAHL: I will just

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make sure to have the mike next to my mouth. Thank you.
MR. ROBERSON: Judge Fukano, while they work that out, I have one other matter, which is yesterday staff filed further revisions to Exhibits SS-8T, SS-9, and SS-10. Those would not have been admitted yesterday morning. I would ask that the Commission admit them at this point.
JUDGE FUKANO: Certainly.
Any objection from PSP?
MS. CARSON: No objection.
JUDGE FUKANO: Any objection from PMSA?
MS. DeLAPPE: No objection.
JUDGE FUKANO: Then they will be considered admitted.
(Commission Staff Exhibit Nos. SS-8Trr, SS-9rr, and SS-10rr admitted.)

JUDGE FUKANO: And just to clarify, given the ruling on the motion to revise, was there any need for further revisions to those, or are those consistent?
MR. ROBERSON: My understanding is

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Mr. Sevall may have found one other reference to the expense ratio analysis that wasn't listed in the order to strike, but he removed that. And then the revenue requirement he just updated for Ms. Van Meter's adjustments in the updated vessel count, so it will reflect the original staff position in terms of DNI with those adjustments.
JUDGE FUKANO: Okay. So it sounds as though no further revision will be required. Okay. Thank you.
MR. ROBERSON: No.
JUDGE FUKANO: And I see from the Zoom chat that your mike might be a bit far, just for in the future.
MR. ROBERSON: Thank you.
COMMISSIONER RENDAHL: Judge Fukano, this is Commissioner Rendahl. Can you hear me?
JUDGE FUKANO: Yes. Please go ahead.
COMMISSIONER RENDAHL: Excellent. I guess just a request, if it's possible at a break, just to send copies of those updated exhibits for staff witness Sevall before we get into his cross-examination later.

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JUDGE FUKANO: Apologies. Which exhibits are you referring to? They were filed -- the ones filed yesterday?
COMMISSIONER RENDAHL: Okay. I can access them on the -- if they were filed in the docket, I can access them there. Thank you.
JUDGE FUKANO: Okay. Are we ready to proceed?
All right. Then our next witness is Captain Eric Klapperich.
Please turn on your camera, and raise your right hand, and I will swear you in.
Do you swear or affirm that the testimony you provide today is the truth and nothing but the truth?
THE WITNESS: I do.
JUDGE FUKANO: Please introduce the witness, and tender them for cross. Please note if there are any corrections to the prefiled testimony.

CAPT. ERIC C. KLAPPERICH, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:
////
////

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DIRECT EXAMINATION
BY MS. CARSON:
Q Good morning, Captain Klapperich. State your name and title, and spell your last name for the court reporter.
A Eric Klapperich, Puget Sound pilot. K-l-a-p-p-e-r-i-c-h.
Q Captain Klapperich, do you have before you what has been marked for identification as Exhibit Nos. ECK-01T through ECK-09 in Docket TP-250574?
A Yes, I do.
Q Do these exhibits constitute your prefiled direct and rebuttal testimony and related exhibits?
A Yes, they do.
Q Were they prepared under your supervision and direction?
A Yes.
Q Do you have any corrections to the exhibits at this time?
A I don't.
Q Are your prefiled direct and rebuttal testimony and accompanying exhibits true and correct to the best of your information and belief?
A They are.
MS. CARSON: Thank you.

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PSP offers Captain Klapperich for cross-examination.
JUDGE FUKANO: PMSA indicated cross for this witness. You may proceed.
MS. DeLAPPE: Thank you.

CROSS-EXAMINATION
BY MS. DeLAPPE:
Q Good morning, Captain Klapperich.
A Good morning.
Q If you could please -- first of all, you testified regarding PMSA's position on PSP's proposed changes to the transportation charge, correct?
A Rebuttal, yes.
Q Yes. Thank you.
If you could open Exhibit MM-01T to Captain Moore's testimony and turn to Page 115.
A I'm there.
Q So I'm going to read from starting at Line 3 there.
"What is PMSA's position on PSP's proposed changes to the transportation charge?"
And the answer was, "The Commission should reject them. Twice, the Commission has rejected including pilots' home-to-assignment commuting costs in the transportation charge, affirming the historical

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office-to-assignment methodology. PSP's proposal to increase the charge by 39 percent is an unsupported attempt to relitigate this settled issue."
And then the following question: "Is PMSA opposed to the recovery of all PSP transportation expenses?"
MS. CARSON: Objection. There is no need to read half a page of testimony. I object as not a proper question.
MS. DeLAPPE: I can --
JUDGE FUKANO: Response.
MS. DeLAPPE: I can withdraw the -- I can stop reading and just ask Captain Klapperich to read for himself Lines 13 through 17.
JUDGE FUKANO: Then sustained. Please proceed.
Q (By Ms. DeLappe) Let me know when you've finished reading that, Captain Klapperich.
A You just want Lines -- excuse me -- 13 through 17?
Q Yes.
A I'll start.
MS. CARSON: And you can read it to yourself, as I understand.
MS. DeLAPPE: In your head.
THE WITNESS: Oh. All right.

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Okay.
Q (By Ms. DeLappe) You understand PMSA's position that there should be an increase in transportation expenses but not an increase that includes commuting expenses, right?
A I would agree with part of that. And, yes, with context that our transportation is not considered commuting. Our policy and our -- and my testimony never used the word "commute."
Q Captain Klapperich, let's go to the part that you would agree with.
You agree that there should be -- that PMSA's position is that there should be an increase in transportation expenses, correct?
A That's what it says.
Q So you agree that that is PMSA's position?
A Yes.
Q And then the part that PMSA disagrees with, let's reterm it as not including pilots' home-to-assignment costs but rather office-to-assignment costs.
Would you agree that that is PMSA's position?
A I agree that's PMSA's position, yeah. And not PSP's.
Q Yes.
So if you could now turn to Page 182 of the same testimony. And if you could look at Page -- that

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page, Line 5 through to the next page, Line 5. If you can review that, and let me know when you're ready.

A Okay.

Q You understand that PMSA's position is that there should be an increase from $168.20 to $183.05 per assignment, correct?

A Could you ask -- could you say your question again, please. Sorry.

Q If you look at Line 14 on Page 182.

A Yeah.

Q You do understand that PMSA's position is that an increase from $168.20 to $183.05 per assignment is warranted?

A I agree that's a very modest increase with what I saw in his testimony as --

Q Captain Klapperich --

A -- math.

Q -- you will have an opportunity to talk about your own opinion. Right now I just want to see whether you understand PMSA's position since you testified about the position.

Can you --

A Yeah, very modest increase, yes.

Q And you see that there is -- PMSA does support an

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increase, right?

A Yes, with some flawed math.

Q So you agree that PMSA is not opposing an increase in the transportation rate, but rather, actively proposing one?

A Well, it says the evidence supports an increase from 168.20 to 183.05 per assignment.

Q Yeah.

And the core dispute is whether ratepayers should fund the home-to-assignment costs rather than the office-to-assignment costs in the transportation rate, correct?

A The way I understand it is the Commission has asked PSP for more clarification on why we changed our model from the traditional or the older tariff model, BPC's model, to our current transportation policy and model. That's how I listen to the Commission.

Q Is there any difference between what I'm saying and what you're saying as far as the core issue here, that it's regarding whether ratepayers should fund pilots' home-to-assignment costs rather than office-to-assignment costs?

A I'm just -- my testimony was just supporting the change in the model and updating our practices.

Q Captain Klapperich, you did testify regarding PMSA's

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position as already established this morning in your testimony, correct?

A Yes.

Q Do you disagree that the -- a core issue is whether ratepayers should fund pilots' home-to-assignment costs rather than office-to-assignment costs?

A I disagree.

Q Okay. So you testified in the prior rate case that PSP provides, quote, consistently error-free performance in its pilotage service, right?

A Yes.

Q And PSP pilots follow PSP's safety and fatigue rules, right?

A Yes.

Q No licensed PSP pilot would knowingly or purposely violate those rules, right?

A Not that I'm aware of.

Q Captain Carlson testified that PSP will not dispatch a pilot who is unsafe or who has not complied with rest requirements, right?

A Right.

Q And you, yourself, follow PSP's safety and fatigue rules, right?

A Yes.

Q So you have sometimes taken a Lyft to an assignment,

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right?

A I do, yes.

Q And you sometimes take a Seattle Limo to an assignment, right?

A I don't.

Q You never take a Seattle Limo to an assignment?

A I used to.

Q All right. And how long ago was that?

A Probably over a year ago, I used Seattle Limo.

Q Okay. So during the Test Year 2024?

A Probably.

Q Your piloting performance was no different whether you took a Lyft or a Seattle Limo to an assignment, right?

A No, I was -- no.

Q And that's because the mode of transportation to an assignment has no impact on your piloting performance?

A That's inaccurate. The mode --

Q As between Lyft and Seattle Limo?

A They both provide safe transportation.

Q And you arrive at the assignment in compliance with rest and fatigue rules?

A More rested, less fatigue, less stress than if I drove my car, yes.

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Q Okay. So PSP's average Lyft transportation cost per trip is $76.86, right?
A I don't know that.
Q Do you want to go ahead and turn to Exhibit TVM-2.
A Would you repeat that exhibit, please.
Q TVM-2.
A That's a spreadsheet, correct?
Q Yes.
And I'm going to turn to Schedule 2.1, which is the vendor analysis.
A Okay.
Q And if you can go to Column F in that spreadsheet, what's -- the header is F, "Per Trip Cost."
A Yes.
Q And you see there for Lyft, that it's $76.86?
A Say the number again. I'm sorry. F and what cell? Or what row?
Q Row 5. Line 5.
A Okay.
Q Where it says "Lyft."
A Yes. 70 -- almost $77, yeah.
Q Okay. And then do you see farther down where there's Seattle Limo?
A Yep.
Q And do you see the average Seattle Limo

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transportation cost per trip is $238.07?
A I do.
JUDGE FUKANO: Apologies. Which cell are you referring to, Counsel?
MS. DeLAPPE: Is it -- it's on Row 21. It starts with "Seda Markarowa," slash, "Seattle Limo."
JUDGE FUKANO: Thank you.
MS. DeLAPPE: Thank you.
Q (By Ms. DeLappe) Okay. Let's go back to Exhibit MM-01, and this time if you could please turn to Page 118. And for that, if you could review Lines 12 through 25, please.
A Okay.
Q So the math in this section consists of a simple percentage calculation of -- that is, like, $168.20 is 93 percent of $180.91, correct?
A This -- yeah, this math was used by Captain Moore.
Q And you did testify about his math, correct?
A Yeah. And it's --
Q It's a simple math.
A -- not -- how he came with this number or these percentages is not how I read the tariff and the results from the -- or the order.
Q Let's go back to my question, Captain Klapperich.

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A Okay.
Q The math is a simple calculation, correct?
A For you.
Q Do you find it difficult to --
A I'm not a --
Q -- calculate the percentage?
A Not a math person.
Q Okay. Do you see on this page that there are multiple citations and references to the prior docket, TP-220513, in this section?
A Yes.
Q So if I'm understanding your testimony this morning, you find the math of dividing 168.20 by 180.91 to come up with 93 percent to be a confusing calculation?
MS. CARSON: Objection. The witness should not be asked to do calculations on the stand.
MS. DeLAPPE: I'm not asking the witness to do any calculations. I'm just asking whether that's a confusing calculation based on his rebuttal testimony.
THE WITNESS: Sometimes it takes me a minute.
JUDGE FUKANO: So when there's an

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objection, please do wait for a ruling on the objection. And we should avoid crosstalk for the benefit of the court reporter to have a clean transcript.
I will sustain the objection and allow rephrase. I mean, I think that implicitly it's going to a calculation. I mean, I think you can ask the witness if he will agree, subject to check, that the calculation is what it purports to be. But I don't know that we need to get into the witness's --
MS. DeLAPPE: That's fine.
JUDGE FUKANO: -- mathematics.
Q (By Ms. DeLappe) So, Captain Klapperich, if I divide 10 by 100 to come up with a percentage of 10 percent, is that calculation confusing?
A No.
Q And you did see here on this page that Captain Moore relied on specific sources for the data there?
A Yeah, his -- his math I didn't agree with in the sense that it's not what the order stated.
Q But the math, itself, was not confusing, correct?
A The math is doable.
Q Let's turn to your rebuttal testimony, ECK-08T, and Page 21 specifically.
A You say Page 21?

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Q Yes, please.
A Yes.
Q And you see there, so I'm going to be referring to your testimony at -- for starting at Line 18 and through to the next page to Line 2.
You describe Captain Moore's testimony that we just discussed as, quote, a convoluted and confusing analysis and that Captain Moore can, quote, cite no support or rationale in what the Commission actually stated in the decisions.
But his math calculation was not convoluted or confusing, was it?
A Just how he came about it, where it came from, in context.
Q He did cite the prior case for the source of the numbers and the percentage, correct?
A Yeah, I couldn't find a 93 percent or a 7 percent comparison.
Q PSP submitted no data requests, to your knowledge, to Captain Moore, asking him to clarify the math that you found confusing before you filed this rebuttal testimony?
A Not that I'm aware of. I just worked off of Captain Moore's spreadsheet.
Q In your rebuttal testimony, you discussed the pilots' tax treatments of transportation expenses, correct?

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A I don't remember talking about pilots' tax treatments.
Q If you can turn in the same exhibit to Page 19. And I'm at the top of the page there, Line 1.
A Yeah.
Q You say, "Based on my understanding, pilots are not claiming transportation expenses as deductible expenses on their tax returns because transportation expenses are handled through PSP."
A Yep.
Q And so going back to my prior question: You did testify about the pilots' tax treatments of transportation expenses, didn't you?
A Yeah. That I have no knowledge or understanding, yeah.
Q Can you clarify what you just said?
You have no knowledge or understanding of what?
A Individual pilots' tax returns or tax compliance or filings or anything.
Q So you said, "Based on my understanding," in that Line 1.
Should we understand, when you say that, that you have no understanding?
A Oh. Sure. "Based on my understanding, pilots are not claiming transportation expenses as deductible expenses on their tax returns because transportation expenses are handled through PSP."
Q And is it your testimony this morning that you have no understanding on that point?
A I just meant I don't -- I don't have any knowledge of tax -- pilots' personal tax or business taxes.
Q Line 19 on that same page, please.
A Yes.
Q You stated, quote, "All PSP members are organized as incorporated S-corps or LLCs and are dispatched by PSP pursuant to PSP's operating rules and bylaws. These member corporations utilize the pilot's residence as the principal place of business and travel to temporary work locations. Under IRS Publication 463 (2024), regardless of whether the Commission characterizes pilots as employees traveling to temporary work locations, business owners traveling to and from a customer or client's place of business, or business owners traveling out of town for work, these transportation expenses are deductible under IRS rules."
This is your testimony?
A Yes.
Q Correct?

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A Yeah.
Q Let's turn to your cross exhibit, ECK-10X.
A Okay.
Q So PMSA served Data Requests 131 and 132, specifically seeking information from you about your testimony on the status of individual pilot entities underlying your IRS analysis that we just discussed, correct?
A Could you say that again, please.
Q PMSA served Data Requests 131 and 132 on -- specifically seeking information from you about your testimony on the status of individual pilot entities underlying your IRS analysis that we just discussed, correct?
A Correct.
Q And then in response, you see there on the first page, we received a response and then a supplemental response.
Do you need to review those?
A No. I have the responses right here.
Q So PSP's organizational response to both requests was that the requested information is, quote, not in the possession and control of PSP, end quote, and involves entities, quote, not regulated by the WUTC, correct?

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A Yes.
Q So PSP as an organization disclaimed responsibility for and any knowledge of the individual pilot entities, correct?
A Say that again, please.
Q PSP in this response disclaimed responsibility for and any knowledge of the individual pilot entities, correct?
A Correct.
Q But you said you attested to this rebuttal testimony on the basis of your personal understanding, right?
A Correct.
Q And based on your reliance on the PSP bylaws?
A I just stated in testimony that PSP requires a -- in the bylaws requires a entity of -- most are S corps or LLCs.
Q Okay. So let's go, then, to the bylaws. If you could turn now to Exhibit MM-09, and turn to Page 6. And this is the same Section 5 that the response to the data request we just looked at directed us to.
JUDGE FUKANO: And apologies, Counsel. Is it Page 6 of the exhibit or Page 6 of the document?
MS. DeLAPPE: Page 6 of the exhibit and Page 6 of the document.

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JUDGE FUKANO: Apologies. Thank you.
MS. DeLAPPE: Thank you.
Q (By Ms. DeLappe) Are you there?
A I -- yeah, I'm at Page 6 right now.
Q All right. Look at Section 5.1, which says that, "Membership is limited to pilots, and to authorized entities owned by pilots as more fully described in Section 5.2 herein," right?
A Yes.
Q Now, you, yourself, you're an active pilot of Puget Sound Pilots, correct?
A Yes.
Q And you operate your pilotage activities through your own LLC, right?
A I have an S corp.
Q Okay. So under Section 5.1 of the bylaws, you could be a member of PSP either as a, quote, pilot or as a, quote, authorized entity owned by a pilot, correct?
MS. CARSON: Objection. Calls for legal conclusion.
JUDGE FUKANO: Response.
MS. DeLAPPE: Captain Klapperich has said that he relied on the bylaws in his testimony for stating that the pilots are all

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organized as entities for the tax treatment.
JUDGE FUKANO: I will overrule the objection. The witness has referred to this document and is responsive to this line of questioning. So please proceed.
MS. DeLAPPE: Thank you.
Q (By Ms. DeLappe) Captain Klapperich, under this section, you could be a member of PSP either as a pilot or as an authorized entity owned by a pilot, correct?
A Yes.
Q So you could be either a member yourself as an individual pilot or through your entity, S corp or LLC?
A The way it reads is, "A member may be a corporation, or a professional services corporation, a limited liability company or a professional limited liability company."
Q Captain Klapperich, could you look again at Section 5.1.
A "Membership is limited to pilots, and to authorized entities owned by pilots as more fully described in Section .2 [sic]."
Q Just in light of that section, you could either be a member as an individual pilot or through your entity,

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correct?
A I don't know.
Q Okay. So you don't know whether the bylaws actually allow you or the other pilots to be members just as pilots?
A I always understood it as you had to have an authorized entity.
Q So since PSP wouldn't provide the names of the entities organized by pilots, we looked up the records of your entity on the Washington secretary of state public database and found the records for an entity named Anchor Down, LLC. Have you seen those in the cross exhibit?
A Yes.
Q And you've -- you've had this entity now for 18 years, correct?
A Yes.
Q And you are the principal officer of this entity?
A Yes.
MS. CARSON: So I just have a clarification. As I read these documents, it looks like it's Anchor Down, Inc.
THE WITNESS: That's correct.
Q (By Ms. DeLappe) So it's an Anchor Down, Inc. As you --

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A Yes.
Q -- said, it's an S corp?
A Yes.
Q Thank you.
So PSP transmits payment to Anchor Down for your monthly payment, either by check or by direct deposit to an account, correct?
A It's direct deposit. I'm not sure it's Anchor Down, though. Might just come to me.
Q So the account isn't in the name of your entity?
A I don't -- I don't know what the direct account is currently right now. I think it comes to me personally. Or my wife and I bank account, not Anchor Down.
Q So the primary document that you would receive from PSP to tell you or your LLC -- or your corporation how much you earned would be a Schedule K-1, right?
A Correct.
Q And your Schedule K-1 is issued to Anchor Down, correct?
A I'm not sure.
Q If your entity doesn't get any revenue, there would be no point of your having the entity, right?
A I don't know that answer.
Q And so you have no idea whether PSP knows the name of

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your entity and the address of your entity well enough to send it a K-1, for example?
A K-1s come to my home in the mail.
Q And is your home the same address as Anchor Down's address?
A Yes.
Q But you don't know whether PSP knows the name of your entity?
A They know the name. It's on -- I think it's on record there.
Q In your testimony, you stated both, that PSP is taking a full deduction for these expenses and that they are deductible for your individual entity.
You're claiming both, correct?
MS. CARSON: Objection. Misstates the witness's testimony.
JUDGE FUKANO: Response.
MS. DeLAPPE: I can ask him a more open question. So I withdraw that question.
JUDGE FUKANO: Then sustained. Please proceed.
Q (By Ms. DeLappe) So, Captain Klapperich, going back to your testimony in ECK-08, are you stating that PSP is taking a full deduction for these expenses?
A PSP shoulders all of the transportation costs, and

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pilots do not deduct after that.
Q So in your testimony, you discuss transportation costs as deductible for the pilots, correct?
A If PSP is not reimbursing a pilot and shouldering the cost, pilots are not deducting additional.
Q So let's go back to Page 19 of your Exhibit ECK-08T.
A I'm on it.
Q Okay. So there you say pilots are not claiming transportation expenses as deductible expenses on their tax returns because transportation expenses are handled through PSP?
A Correct.
Q Okay. And then you discuss transportation expenses that are deductible based on the individual -- the individual pilot's entity's place of business, correct?
A Correct.
Q So how can transportations be -- deductions be relevant to the individual pilot's place of business if that business, the entity, the authorized entity, has no revenue?
A So if I travel here for a conference or meeting like this, I can deduct that from Anchor Down or whatever.
Q But how can you deduct it from Anchor Down if Anchor Down has no revenue?

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A Anchor Down has some revenue. I'm not sure what it is yearly.
Q What is Anchor Down's business? What type of business?
A Piloting, yeah.
Q And where does Anchor Down receive that revenue?
A From, I'm guessing, Puget Sound Pilots. I don't know how it comes to me in my K-1, if it's for me or the Anchor Down, Incorporated.
Q But you're testifying about deductions based on your understanding of where the money goes, right?
A So for our travel expenses to and from assignments and repositions, PSP shoulders the costs, reimburses pilots. When pilots are reimbursed, they can't deduct. However, if you do business with your business, you can deduct those costs without getting reimbursed from PSP.
Q So when you receive your K-1s, you review them, right?
A A little.
Q And when you look at your income figure, do you have any way of knowing whether it already reflects the fact that transportation costs were deducted and that there is no separate transportation cost remaining for your entity to deduct on its own return?

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A I don't know.
MS. CARSON: Objection.
THE WITNESS: I don't know.
MS. CARSON: Vague and ambiguous.
JUDGE FUKANO: Response.
MS. DeLAPPE: I would like some clarification of what is vague and ambiguous about that question.
MS. CARSON: Compound. Lengthy. Hard to follow.
MS. DeLAPPE: I can break that into pieces. I withdraw the question. Thank you.
JUDGE FUKANO: Please rephrase. Sustained.
Q (By Ms. DeLappe) So I had two things that I was asking you. I'll break them into two questions for you, Captain Klapperich.
So, first, on your K-1, do you know whether it reflects the fact that the transportation costs were already deducted at the PSP level?
A I don't know that.
Q And so if you don't know that, how can you know whether there's any separate transportation costs remaining for your entity to deduct on its own return?

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A Those would be separate costs that PSP is not reimbursing me for.
Q So the transportation charge that we are discussing in this case doesn't involve the costs that PSP is not reimbursing you for, does it?
A It does.
Q So when we're talking about transportation expenses to assignments, explain to me which category those expenses would be in.
A So --
Q You've described two categories, correct?
A Yes.
Q There's a category of costs that PSP is reimbursing you for, correct?
A Yes. If I use my own vehicle and I turn in -- it's -- it's in the spreadsheet through the Zoho app -- and I turn in the mileage because I drove to and from an assignment, PSP reimburses me that 70 cents a mile.
Q Let's turn back to Exhibit TVM-2.
A Okay.
Q So when pilots use those modes of transportation that are shown in Schedule 2.1, which category of cost is that in? A PSP reimbursable one?
A That would be pilot reimbursement, I believe.

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Q Yes.
Which means that PSP is reimbursing pilots for those, correct?
A When you use your own vehicle.
Q So when you use a Lyft or a Seattle Limo?
A No. When you use your own vehicle.
Q So explain to us, then, what happens with the payment, how pilots receive reimbursement from the transportation charge when they use a Lyft.
MS. CARSON: Objection.
THE WITNESS: We don't.
MS. CARSON: Yeah, misstates his testimony. He's never said that pilots are reimbursed for those Lyft and other third-party vendors.
MS. DeLAPPE: I think we've gotten that answer now. Thank you. I have no need to ask another question about that.
JUDGE FUKANO: Well, I think -- the witness has given a response. I think, perhaps rephrase.
MS. DeLAPPE: Certainly. I can withdraw that question.
Q (By Ms. DeLappe) I believe now I finally understand pilots don't receive reimbursement except for the

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Line 4, right, Captain Klapperich?
A Yeah, and if -- I would clarify that what was submitted by me, Line 4 would say Zoho.
Q So any time that a pilot uses any of the vendors --
A Go ahead. I'm sorry.
Q -- those are deductions that the pilot would -- or the pilot's entity would take on its own tax return?
A No.
Q Before filing your rebuttal testimony on how pilots could deduct home-to-assignment travel under IRS Publication 463, you did not consult a licensed tax professional or a CPA, correct?
A Could you ask your question again, please.
Q So before you filed your rebuttal testimony discussing how pilots could deduct home-to-assignment travel under IRS Publication 463, you did not consult a licensed tax professional or CPA?
MS. CARSON: Objection. It misstates and misrepresents the witness's testimony in his rebuttal.
MS. DeLAPPE: I can rephrase.
JUDGE FUKANO: Then please do. Sustained.
Q (By Ms. DeLappe) Before filing your rebuttal testimony citing IRS Publication 463, you did not

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consult a licensed tax professional or CPA, did you?
A I did not.
Q And in DR 131, which we were looking at earlier in ECK-10X, we asked you to produce any written legal or tax opinion supporting the IRS Publication 463 analysis.
And the response was that there was none, right?
A Yes.
Q So the IRS analysis, the tax analysis in your rebuttal testimony has no supporting professional tax opinion in the record, correct?
MS. CARSON: Objection. There is an exhibit, a tax guideline.
MS. DeLAPPE: I asked if there's a professional tax opinion.
JUDGE FUKANO: I will overrule. The witness can answer, if he has knowledge.
THE WITNESS: Can you say your question again.
Q (By Ms. DeLappe) So the IRS analysis in your rebuttal testimony has no supporting professional tax opinion in this record, correct?
A No. Just the 463.
Q Are some of the costs of the -- of repositioning movements already included in the transportation

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charge?
A The transportation charge includes all repositions.
Q So PSP is not asking the Commission to add the costs of repositioning movements to the existing transportation charge?
A I think PSP is asking that they be continued included in the transportation charge.
Q So they're already in there, and that they be continued, and also increased, correct?
A As a whole, yes.
Q And so the request is to increase the amount of each repositioning charge to be recovered?
A Not for each reposition, no. As a whole, combined.
Q The current tariff is calculated by assignment, right?
A I don't understand your question.
The current tariff?
Q Correct.
A By assignment?
Q Right.
A What part of the tariff --
Q Can you turn to Bench Exhibit 2.
And specifically I'm going to ask you to move to look at Item 340 in that.
You're familiar with Item 340?

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A I have it up.
Q So Item 340 is a charge that's per assignment?
A Yes. Transportation charge.
Q And the -- under the existing tariff, the costs for transportation, including repositions, are averaged and charged per assignment, right?
A The current transportation charge has -- covers the cost of all assignments and repositions.
Q That's not exactly responsive, but let's move on to Exhibit ECK-05.
And if you could, in that spreadsheet, go down to Rows 33 through 39. You can pick any -- let's just work in columns, in Column C.
So you see there that it says "Ship Moves (including cancelations)," and the number there is 615?
A I'm not there yet.
Okay.
Q So Row 33, ship moves, and Row 34 is repositions, and Row 35 is total transportation assignments, yes?
A Sorry. Computer's a little slow here.
Okay. Go ahead. I'm sorry. Which row?
Q So Row 33 has ship moves, yes?
A Yes.
Q Row 34 has repositions?

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A Correct.
Q And Row 35 has total transportation assignments?
A Correct.
Q Okay. And your total transportation assignments includes both the ship moves and the repositions, right?
A No.
Q Let's look at the formula in Cell C35.
Do you see that it is a sum of Rows 33 and 34?
A Yeah, it just adds up.
Q Yep.
A Repos. Just to show how many repos there were that month.
Q Yeah, so it adds ship moves and repositions together for that total transportation assignments?
A It's showing what the ship moves cover. 'Cause repos are not invoiced separately.
Q I'm actually just asking about this Row 35, what that is.
A Yeah, I'm just making sure you understand how --
Q Could you answer my questions --
A -- the number came --
Q -- instead of trying to help me understand. You will have a chance to testify on redirect.
In Row 35 is simply sum -- a sum of ship moves

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and repositions, correct?
A It's simply showing repos, how many numbers of repos there were that month added to the number of ship moves.
Q Perfect. That's exactly what I was asking.
So let's go down to your per-assignment calculations. So if you can look at Row 38, Cell C38, as an example.
When you calculate the per-assignment average, you use the ship moves figure only, Row 33, not the total transportation assignments on Row 35, correct?
A That's what the current -- yes.
Q Okay. So under the existing averaging formula, repositioning costs are included in the numerator of the average, but repositioning movements are not included in the denominator, correct?
A What's your numerator?
Q Do you see that there is a division in the Cell 38?
A What's the division?
Q Okay. I'm going to move on.
Let's go to your own testimony, Exhibit 01 -- ECK-01T.
And I do want to just confirm. Did you prepare this exhibit that you submitted, ECK-05?
A I went over it. It's prepared in office.

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Q Okay.
A For tracking and transparency purposes.
Q But you're not the one who prepares that spreadsheet?
A I'm not.
Q So in ECK-01T, you discuss the Item 340, correct?
And if you could turn to -- excuse me; like, let me get page number -- Page 3 of your testimony, at the bottom of the page.
A Yes.
Q And so that shows Item 340, the current transportation charge language?
A You're asking me what 340 says.
Q It's -- what it says there on Lines 18 through 21 is the current language for the transportation charge and the current tariff, correct?
A No.
Q Ah.
And what is the difference?
A $65.
Q And look at the language.
A "Transportation charge shall be charged at the stated rate to cover the average cost of pilots' transportation associated with vessel movements and repositions."
Q What changed in the language?

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A I don't know. Did we add repositions?
Q Would it be true that that is all that was added? "And repositions" was added to the current language?
A I'm not sure.
Q So let's look at Exhibit -- let's see -- AML-20. Cross Exhibit AML-20, please.
If you can go to Page 23 of that exhibit, please. The response to PMSA's Data Request 64.
A 64.
Q Yes.
And so do you see there in the answer regarding Item 340, that PSP describe the words "and repositions" as new language being added to Item 340?
A Is that in DR 64?
Q It's in response to PMSA Data Request 64, yes. Do you see that?
A Well, it says -- all I have is the response is the tariff.
Q Ah. There's an attachment, I believe. Let me just pull it up.
A It's -- it's the proposed tariff.
MS. CARSON: Is there a page reference?
MS. DeLAPPE: I had it down as Page 23.

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Q (By Ms. DeLappe) So you see there that it's, on Page 23, refers to Attachment A. Okay.
So Attachment A is PSP's response. And it has the proposed tariff.
And if you go to Section 340, Item 340 there on Page 35 of the exhibit.
Do you see where it says "Item 340" in the middle of the page?
A Oh. I have it, yes.
Q Yes.
And you see there that it has a "T" and it says "and repositions"?
A Yes.
Q And the words "and repositions" is underlined?
A Correct.
Q Do you know that the "T" means that there is a change in the text?
A I don't remember what the "T" stands for, so...
Q And so if you just go back to Page 28 of the tariff. Excuse me. Page 28 of the exhibit.
You see there that there's a table that says change in text shown in legislative redline format with a T?
MS. CARSON: Your Honor, we would stipulate to this is a change in the tariff language.

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I don't think it's necessary for this witness, who didn't prepare the tariff, to respond to that.
MS. DeLAPPE: And I'll reaccept that stipulation.
Q (By Ms. DeLappe) And so I'd like you just to look at Bench Exhibit 2.
If you could turn to Page 11 of that exhibit.
So are you aware that this is the tariff -- certified proposed tariff language that PSP filed and this is regarding the transportation charge, which is the centerpiece of your testimony, right?
A I'm not -- I didn't file this. I didn't -- it's not my exhibit. I didn't go over it, but I understand what your question is.
Q So when you prepared your testimony in ECK-01T, you didn't look at the proposed tariff language that you were quoting?
A I did not.
Q And so you were not aware that on this Page 11, Item 340, there is no designation, no mark specifying that the new rate that this change with a "T" was made, correct?
A For my understanding -- I mean, my understanding, that I thought we had added or made a change and there was a DR to me on that that -- that PSP made a

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change to the tariff.
Q But you weren't aware that in the actual filing, there's no code symbol at all designating the change was made, are you?
A I didn't file this. I don't know.
Q But somebody at PSP knew that that language was new and required a notation, right?
A I don't know.
MS. DeLAPPE: I have no further questions. Thank you.
JUDGE FUKANO: Any redirect from PSP for this witness?
MS. CARSON: Yes. Just one moment, please.
JUDGE FUKANO: Certainly.

REDIRECT EXAMINATION
BY MS. CARSON:
Q Captain Klapperich, Ms. DeLappe asked you about when you last used Seattle Limo.
Can you explain why pilots would choose a vendor like Seattle Limo as opposed to a Lyft?
A All of our vendors were vetted, and they provide documentation. They're reliable, and they're throughout our region. They're hard to find. Some

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of them have transportation workers identification cards and can get us in and out of ports, which makes it convenient. They provide a license and -- to drive and an insurance. And they provide a rested driver. And they've been reliable throughout all of our Puget Sound.
Q And just to elaborate, so what additional benefits might Seattle Limo provide other than Lyft?
A Well, like I said, the transportation workers, the TWIC card is -- is good because it gets you in and out of ports with some of them.
And then we have Lyft and recently, I think in the test year, we added Uber as well to our business account at PSP. And they are not readily available and easily accessible in the middle of nights in some of our places that we go to: Cherry Point, Ferndale, Anacortes. Sometimes even in Tacoma. These are remote areas where we can't easily access ride-share apps or drivers, I guess you'd say.
Q And can you just clarify what the TWIC card is?
A It's -- it's required. Airport workers have them. It's a transportation workers identification credentials. I think it does a security background check and allows people into ports and terminals. And originally it was created for -- you were

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supposed to be able to scan and just get yourself into a port, but the scanners never came to fruition.
Q Do most Lyft drivers have a TWIC card?
A No. None do.
Q So I want to talk a little bit about a Seattle Limo.
Are you riding around in stretch limos?
A No. We are not riding around in limos.
Q So --
A Their business may provide it, but that's not what pilots are riding around in.
Q So they have a variety of different vehicles? Is that what it is?
A We're using --
MS. DeLAPPE: Objection. Leading.
THE WITNESS: We're in a sedan. Oh. Sorry.
JUDGE FUKANO: We should have a ruling on the objection.
So response.
MS. CARSON: I'll withdraw the question.
JUDGE FUKANO: Sustained. And strike the answer from the witness.
Q (By Ms. Carson) What kind of vehicles does -- what kind of vehicles does Seattle Limo have?

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A Well, for pilots, I know they're picking us up in just a sedan. And they do offer SUVs for wintertime driving conditions.
Q So I want you to go back to Exhibit TVM-2.
One moment, please.
Okay. And do you see the cell or the -- the column that provides the per-mile cost for these vendors? I think that's G.
A Yeah.
Q Are you there?
A I am. It's -- it's I on the spreadsheet. G column hard -- hard marked, I guess.
Q Right.
A Yes.
Q Can you tell me what the per-mile cost for Lyft trips is?
A $4.01.
Q And what's the per-mile cost for Seattle Limo?
A That's mark -- $4.18.
Q Ms. DeLappe asked you about whether you consulted with IRS experts in preparing your rebuttal testimony.
Do you recall that?
A I do.
Q Going back to your initial testimony. What, if

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anything, did you testify to regarding IRS rules in your initial direct testimony?
A In my initial direct testimony, I didn't identify any IRS rules.
Q Thank you.
And why did you bring up IRS rules in rebuttal?
A I was rebutting a -- what I read as a misstatement by Captain Moore.
Q Do you prepare your own taxes, or do you have someone handle them?
A I do not prepare my own taxes. I pay somebody to do it for me.
Q And did you prepare your own corporate entity filing with the secretary of state, or do you have someone do that for you?
A I pay somebody to do that for me.
Q What is your understanding of the current treatment of repositions and rates?
A From the very first rate case, PSP's accounting practices were not very good. Let's just go with that. So staff collected the known and measurables for our transportation charges and collected the known measurables for repositions in the first rate case. And the Commissioners relied on staff's suggestion which was a calculation of the TEC -- it's

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called transportation expense charges -- and the repositions, which were called Port Angeles travel. They added those two together, 'cause that was all that was known and measurable, and it came to, like, $1.229 million. And they -- staff suggested that they take the 1.229 divided by the number of ship assignments, which came out to $168.20. And that included repos and everything in the transportation charge. And that's where we've been stuck at since.
Q So what's your reason -- what is the reason for explicitly including the language "repositions" in the tariff if it's always been included?
A Well, I would like to think that the reason the Commission relied on staff's suggestion is they saw the value in the repositions. Repositions don't have a invoice to a ship or a charge to a ship. So the pilots have to be moved to wherever the need is for ships, and so we use the reposition tool to locate pilots efficiently for dispatching.
And so the value of it for the dispatching system, I think, is warranted.
MS. CARSON: Thank you. No further questions.
JUDGE FUKANO: Thank you.

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Any questions from the bench for this witness?
COMMISSIONER RENDAHL: Yes, Your Honor. I do have a question for Mr. Klapperich, Captain Klapperich.
Has PSP ever rejected a reimbursement request under its revised transportation policy, which is your Exhibit ECK-04, on the basis that the charge was unreasonable?
Would you like me to restate the question?
THE WITNESS: Is that from the policy?
COMMISSIONER RENDAHL: So I'm just referencing the policy.
THE WITNESS: Oh.
COMMISSIONER RENDAHL: So you have your revised transportation policy, which is your Exhibit ECK-04.
And what I'm asking is: Has PSP ever rejected a reimbursement request on the basis that the charge was not reasonable?
THE WITNESS: It goes through office staff at PSP. And then during any auditing, if something comes up, we've questioned -- if I hear your question correctly -- we've questioned some of our vendors before and their invoicing, if you will.

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COMMISSIONER RENDAHL: Okay. Do you know if any changes or rejections have been made because of that?

THE WITNESS: Not off the top of my head.

COMMISSIONER RENDAHL: Okay. That's all I have. Thank you.

THE WITNESS: I do -- I do know --

COMMISSIONER RENDAHL: Oh. Go ahead.

THE WITNESS: -- that for them to submit an invoice, it does require a lot of information from them so that we can track it and follow it. And that's what I mean. We've had a few of them come in with not the correct job number, and that's where staff will get involved and call them and say, Hey, we can't pay this unless you provide the right job number and it correlates with the pilot's work.

COMMISSIONER RENDAHL: Okay. But you don't know whether it's been -- any of these charges have been rejected because they were too high or not appropriate?

THE WITNESS: No. We -- we believe that our policy has created reasonable vendor choices

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but provides solid guidelines and boundaries for our pilots.

COMMISSIONER RENDAHL: Okay. Thank you. I have nothing further.

THE WITNESS: Thank you.

COMMISSIONER DOUMIT: Yes, Captain Klapperich, thanks.

So you testified in cross-examination with PMSA that you -- you stopped using Seattle Limo. And we've heard about the relative costs, total costs, average, and per-mile average vis-à-vis or, you know, compared. Why -- I'm asking: Why did you stop using Seattle Limo?

THE WITNESS: That's easy. I live in West Seattle. I can -- I can schedule a Lyft in one minute or calendar it and go to bed, wake up, and it's in my driveway from West Seattle. That's convenient.

COMMISSIONER DOUMIT: So it wasn't a matter of cost. It's just a matter of convenience to your scheduling.

THE WITNESS: Yeah, you got to remember, each pilot's assignment is specific to that day, that time of day, what vendor choice they're going to use, how they're going to get to their job.

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If they got a two-hour commute, what are they going to use? What's the best? What time of day is it? Do I need to set up a driver before I go to sleep? Even if you're at the pilot station, you need to prepare and set up the vendor before you get on the ship. 'Cause then you're going to -- you're going to transit, dock the ship. You want a car there, a reliable vendor. And so you'll order it, and then that's how that goes.

COMMISSIONER DOUMIT: So Seattle -- you talked about how the relative sort of benefits of Seattle Limo in terms of getting -- and I'm paraphrasing here, so forgive me if I'm misstating anything -- that they perhaps had a permit to get you places you couldn't otherwise go. And yet -- and Seattle Limo's cheaper on a per-mile basis according to what we saw in Ms. Van Meter's spreadsheet as well.

But how do you overcome -- how do you balance those things versus taking a Lyft? Just a matter of convenience of scheduling; is that right?

THE WITNESS: That's my personal choice. I mean, if a pilot lives in a secluded area that doesn't have Lyft or ride-share capabilities, he's got to set up somebody that's reliable. And

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we've called these and set up these vendors that are up and down, you know, the corridor, the pilotage district. And Seattle Limo will go, you know, to Lake Stevens where you can't get Lyfts and all that. And so they've been really reliable. They've been solid in providing a rested driver.

COMMISSIONER DOUMIT: Okay. Great. Thank you.

THE WITNESS: Yeah.

COMMISSIONER DOUMIT: Thanks.

JUDGE FUKANO: Anything further from the bench for this witness?

Thank you. You are excused.

THE WITNESS: Thanks.

(Witness excused.)

JUDGE FUKANO: Our next witness is Lane Sisung.

MS. CARSON: Yes. Mr. Sisung is here. Are there questions from the bench?

JUDGE FUKANO: Yes. There'll be questions from the bench.

MS. CARSON: Okay.

JUDGE FUKANO: Good morning.

THE WITNESS: Good morning.

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JUDGE FUKANO: Please raise your right hand, and I will swear you in.

Do you swear or affirm that the testimony that you provide today is the truth and nothing but the truth?

THE WITNESS: I do.

JUDGE FUKANO: Thank you.

Please introduce the witness, and tender them for cross. Please note if there are any corrections to the prefiled testimony.

R. LANE SISUNG, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CARSON:

Q Good morning, Mr. Sisung.

Please state your name and title, and spell your name for the court reporter.

A Sure. My name is Robert Lane Sisung. I am the president of United Professionals Company, LLC, who was retained to provide an opinion to the Puget Sound Pilots. My last name is spelled S-i-s-u-n-g.

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Q Mr. Sisung, do you have before you what has been marked for identification as Exhibit Nos. RLS-01T through RLS-15 in Docket TP-250574?

A I don't have all of it in front of me, but I did support all those exhibits.

Q Right. Thank you.

Do these exhibits and testimony constitute your prefiled direct and rebuttal testimony and related exhibits in this proceeding?

A Yes.

Q Were they prepared under your supervision and direction?

A Yes.

Q Do you have any corrections to any of the exhibits at this time?

A I do not.

Q Are your prefiled direct and rebuttal testimony and accompanying exhibits true and correct to the best of your information and belief?

A Yes, they are.

MS. CARSON: PSP tenders Mr. Sisung for questions from the bench.

CHAIR RYBARIK: Just a few questions, sir.

Starting off, how many pilot compensation studies

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have you performed for use by pilotage rate-setting bodies like this one?

THE WITNESS: Sure. We got into the arena of doing pilot compensation studies. We were retained by the Louisiana Pilotage Fee Commission to do a rate case. And when we received evidence from the pilot groups, we didn't feel that it was complete, so we conducted our first national search to do a compensation study on a national basis.

That was used in that proceeding. It was relied upon in the order that was issued by the Louisiana Pilotage Fee Commission. And then thereafter, other pilotage groups came to use -- came to a settlement, a joint settlement actually amongst all of the river pilots that use that one report. But that is the one report that we had created before we were approached by the Puget Sound Pilots to see if we would do this study for this purpose.

CHAIR RYBARIK: So I'm correct in assuming this is the second one?

THE WITNESS: That is correct.

CHAIR RYBARIK: So you've done two?

THE WITNESS: Yes.

CHAIR RYBARIK: Why don't we focus

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on that Louisiana study. Maybe it's not part of that Louisiana study. But in your Exhibit 4, so this is RLS-4. We'll go to Table 22. I'm sorry. I don't have the exact page reference on that. But it looks like it's on -- starts on Page 57 of that testimony.

THE WITNESS: Yes.

CHAIR RYBARIK: And maybe this comes out of that very Louisiana -- very same Louisiana study that you mentioned, but there are several times you reference the 2023 target compensation of $612,000 per pilot per year.

Do you see that? It's -- do you see it on associated branch pilots? I believe it's referenced again in Crescent River Port Pilots Association.

Do you see those?

THE WITNESS: No. Unfortunately, I do not, sir. I'm sorry.

CHAIR RYBARIK: I'm sorry. It's in Table 22.

THE WITNESS: Okay. I have Table 22 now.

CHAIR RYBARIK: Okay.

THE WITNESS: I'm sorry.

CHAIR RYBARIK: So the table is -- reference COLAs or other automatic adjustment

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mechanisms. But that's actually not what I'm asking about. But if you go to associated branch pilots.

THE WITNESS: Yes.

CHAIR RYBARIK: You see there, there's a 2023 targeted compensation of $612,000 a year?

THE WITNESS: That is correct, yes, sir.

CHAIR RYBARIK: And then if you go to Page 59, again that same dollar figure of $612,000 per pilot per year is referencing Crescent River Port Pilots Association?

THE WITNESS: Yes, sir.

CHAIR RYBARIK: This appears to be the only references with dollar amounts associated with target DNI in your study; is that correct?

THE WITNESS: That is correct.

CHAIR RYBARIK: And why are these the only amounts listed as target DNI?

THE WITNESS: So the only -- because this is only in reference to the COLA that -- so we only used actual DNIs in all of our calculations of getting to the average. But in terms of providing the context of we wanted to be very specific to the information we had with regards to

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each COLA, so the target compensation, the COLA is based on the target compensation in those particular settlements that they ultimately wound up to.

So every year, they adjust rates to go to -- to increase the anticipated DNI by COLA. They don't -- they don't put the COLA to the actual. They put the COLA to the -- to the target. So that's why it's a target here, just in relation to the COLA.

CHAIR RYBARIK: So I think you answer my next question in that, but I want to be clear.

The target DNIs are not what you used in your compensation study?

THE WITNESS: Absolutely. That's correct. Yes, sir.

CHAIR RYBARIK: Let me make sure I've got that right.

They were not used in the study?

THE WITNESS: We only used actuals from financial statements.

CHAIR RYBARIK: Why not use the target DNI?

THE WITNESS: Because this is a market study of what pilots actually are making. So the point of this study was to provide as broad a

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brush as we could of what the market says this service is worth across the country.

So in terms of if you're going to determine what the market's worth, you're going to use actuals and not targets that are establishing the tariffs.

CHAIR RYBARIK: Are target DNI amounts generally publicly available, or are these select few?

THE WITNESS: It's the same difficulty in getting targets as it is actuals. Sometimes you can get targets where you can't get actuals, so we did not -- if all we could get was a target, we didn't use it. We would only use it with actuals.

But there are some newspaper articles, there's some other references that we've had where we've been able to get to what a target DNI was in a rate case. But if we couldn't get to a actual backed up by a financial statement, we didn't use it.

CHAIR RYBARIK: So then backing up to the overall compensation study that you performed here. If all pilotage grounds were to set pilot DNI based on comparison to other grounds, can you help me explain -- can you help explain to me how we're not in an infinite feedback loop of just the average

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becomes higher and then the average becomes higher and then the average becomes higher?

THE WITNESS: Well, I think that would be accurate with any service or fee or compensation, right? I mean, compensation has risen over the last 20 years in any profession, any service. So I think by -- so if your question is how would we ever stop it from rising, I don't think that would be the purpose of the compensation study. It would be to say what the compensation currently is, and, you know, if you set this at -- let's just say you set it at the national average, or you set it at the West Coast average. Anything that you would pick.

You know, that would set it for this period of time to be within the market. And if you come back four years later and you're looking and seeing that other people's salaries has increased since then and you're resetting it, I think that would be the same as with any other profession.

I think attorney's fees go up. I think, you know, almost any service, the compensation rises with inflation and over time.

CHAIR RYBARIK: If you're setting it based on an average that you identify, though,

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aren't you making the market?
THE WITNESS: I don't believe so. I think you're using the market to determine the compensation you set. Because, you know, regulation is a replacement for competition. That's the -- you know, when you take a step back, that's what it is. So you have to use something.
So you're going to use access to the best market information you have to set the compensation. So I don't think that you are setting the market. I think you're using the market to set the compensation.
CHAIR RYBARIK: All right. Thank you. No further questions from me.
JUDGE FUKANO: Any other questions from the bench for this witness?
Thank you. You are excused.
THE WITNESS: Thank you.
(Witness excused.)

JUDGE FUKANO: It is approximately 10:40. I would just like to check with the parties if we could use a brief recess or a break just to take a bit of a stretch. Seeing some nods of agreement.
We will be off the record for about ten minutes.

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We will return at 10:50.
(Pause in proceedings from 10:38 a.m. to 11:02 a.m.)

JUDGE FUKANO: Let's be back on the record.
The time is approximately 11:02 a.m. Our next witness is Bruce McNeil.
If you would please raise your right hand, and I will swear you in.
Do you swear or affirm the testimony you provide today is the truth and nothing but the truth?
THE WITNESS: I do.
JUDGE FUKANO: Thank you.
Please introduce the witness, and tender them for cross. Please note if there are any corrections to the prefiled testimony.

BRUCE J. McNEIL, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:
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DIRECT EXAMINATION
BY MS. CARSON:
Q Good morning, Mr. McNeil.
Please state your name and title for the record, and spell your name for the court reporter.
A Bruce J. McNeil. I'm a partner with the law firm of Leech Tishman in the Washington, D.C., office. My last name is spelled M-c-N-e-i-l.
Q Mr. McNeil, do you have before you what's been marked for identification as Exhibit No. BJM-01T through BJM-08 in TP-250574?
A I do.
Q Do these exhibits constitute your prefiled direct and rebuttal testimony and related exhibits in this proceeding?
A They do.
Q Were these exhibits prepared under your supervision and direction?
A Exactly by my direction.
Q Do you have any corrections to any of your exhibits at this time?
A I do not.
Q Okay. Are your prefiled direct and rebuttal testimony and accompanying exhibits true and correct to the best of your information and belief?

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A They are.
MS. CARSON: Thank you.
PSP tenders Bruce McNeil for cross-examination.
JUDGE FUKANO: Staff indicated cross for this witness. You may proceed.
MS. DeLAPPE: Thank you, Your Honor.

CROSS-EXAMINATION
BY MS. JONES:
Q Good morning, Mr. McNeil.
A Good morning.
Q In your direct testimony, which is marked BJM-01T, you testified that Puget Sound Pilots has pursued an advisory opinion from U.S. Department of Labor, correct?
A Correct.
Q And the advisory opinion was requested on behalf of Puget Sound Pilots in December 2023; is that right?
A Yes.
Q And is it true that the Department of Labor is not obligated to respond to these requests for advisory opinions on a particular timeline?
A They are not.
Q And is it true the Department of Labor is not

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required to respond at all to such requests?
A And they may not.
Q And in your rebuttal testimony, which is BJM-7T, you testified that the Commission should continue allowing Puget Sound Pilots to pursue its request for an advisory opinion; isn't that true?
A Yes.
Q Okay. But you aren't able to indicate to the Commission how long this pursuit will take; is that right?
A We are not.
Q Okay. So the Department of Labor might answer this request in some months or years from now; is that right?
A That is possible.
Q Or they might choose to not answer the request at all?
A Then they would request -- they would tell me that, and then I would have a chance to withdraw my request.
But the latest information from the Department of Labor -- and I speak with them on a monthly basis. We have monthly meetings. And it's Eric Berger and Frances Steen, and they have informed me that they have met with the decision-makers about my request

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and that they are writing, drafting something that they can circulate to the decision-makers that sounds like very good progress on the advisory opinion.
MS. JONES: Thank you very much. I have no further questions.
JUDGE FUKANO: Any redirect for this witness?
MS. CARSON: No, Your Honor.
JUDGE FUKANO: Any questions from the bench for this witness?
Thank you. You are excused.
(Witness excused.)

JUDGE FUKANO: Our next witness is Scott Sevall.
All right. Then please activate your mike, and raise your hand, and I will swear you in.
Do you swear or affirm the testimony you provide today is the truth and nothing but the truth?
THE WITNESS: I do.
JUDGE FUKANO: Thank you.
Please introduce the witness and tender them for cross. Please note if there are any corrections to the prefiled testimony.
MS. JONES: Your Honor.

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SCOTT SEVALL, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:

DIRECT EXAMINATION
BY MS. JONES:
Q Would you please state your name and your title and spell your name for the record.
A I am Scott Sevall, a regulatory analyst, a part of the Commission staff. First name S-c-o-t-t S-e-v-a-l-l.
Q Mr. Sevall, your prefiled testimony and exhibits have already been admitted.
Do you have any corrections to your prefiled testimony at this time?
A Not that I know of.
MS. JONES: Mr. Sevall is available for cross-examination.
JUDGE FUKANO: I understand that PSP has waived cross of this witness, so we will proceed to PMSA.
You may proceed.
MS. DeLAPPE: Thank you. Just a moment. I was not aware of that development, so I'll

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just pull up my camera.

CROSS-EXAMINATION
BY MS. DeLAPPE:
Q Okay. Mr. Sevall, you agree that this case is about finding fair, just, reasonable, and sufficient rates?
A Yes.
Q And in this case, you applied the Commission's definitions of those terms as set forth in the orders that the Commission has issued in the prior PSP cases?
A Yes.
Q Let's take one of those terms, the term "reasonable."
That refers to being within the range of outcomes supported by the evidence, right?
A Yes.
Q For example, you propose a DNI range of reasonableness, right?
A Yes, I do.
Q By definition, as they are within the range of reasonableness, all the potential DNIs in that range would meet the reasonableness standard?
A I believe that would be true.
Q And that includes the low end of your range, which is $486,475?

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A I believe that got corrected to about $500,000 in a recent correction. But, yes, all the way to the low end of the range.
Q And "sufficient" means that rates are high enough to meet the pilots' needs to cover their expenses and to attract and retain pilots, right?
A Yeah, I'd agree with that.
Q All the numbers within your range of DNI are sufficient to attract and retain pilots, correct?
A I believe so.
Q Okay.
JUDGE FUKANO: Beg your pardon. Mr. Sevall, can you just speak a little closer to the mike. We're having trouble hearing you.
THE WITNESS: Okay.
JUDGE FUKANO: Thank you.
Q (By Ms. DeLappe) I want to go back to some of the historic DNIs and pilot numbers that we've had over the years.
In 2019, DNI was at $369,640 for 50 pilots. Would you agree that that was sufficient to attract and retain pilots?
A I -- I don't know where that number came from. I can say it was -- if you're speaking from historical record, then it's historical fact. And there were 50

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pilots. There's now 56 pilots. So they've been able to attract because the pilot corps has increased.
Q Would it be helpful, then, if we go ahead and look through the exhibits -- these are BPC reports -- so that you can see the DNI for each of the years that I refer to? The first one I referred to is in Exhibit JR-05.
A 05. Okay. One second.
Okay. I have that open.
Q And I know that's a long document, so I'll do a quick search for the specific number.
A I believe they're usually somewhere in the middle.
Q Yes. So if you look at Page 32 of the exhibit and you see there close to the -- right above the notes on that page, and the average per pilot at 49.9. The annual earnings after deductions for distributions is 369,647?
A Yes, I see that number.
Q And in 2019, would you agree that that was sufficient to attract and retain pilots?
A Again, given that the pilotage corps has increased in size, I think they have attracted and retained. And that was a historical fact of -- of what it is. I don't believe this was a result of a rate case at this point. But I think it's the year prior to the

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first rate case, but it's historical fact.
Q And that is what the legislature, at the time of transferring the regulatory ratemaking responsibilities to this Commission, deemed to be the starting point for the rates under the new system, right?
A I agree. Yeah.
Q Okay. So I will just state, without slowing down, JR-06, -07, and -08 contain further historical information about the rates in each year. I mean, the DNI and the number of pilots.
But would you agree, then, that each of those would have been sufficient to attract and retain just as a matter of principle?
A Yeah, I believe that is true.
Q Turning to the next term, "fair": Would you agree that that refers to the balance of fair prices customers pay for services and fair pay for pilots?
A Yes.
Q Let's turn to Exhibit MM-49T, please. And specifically Page 13. So that's Captain Moore's cross answering testimony.
A What page again?
Q Page 13, please.
And you'll see there in the -- close to the

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middle of the page, a table that I walked through with Captain Carlson. I'm not sure if you were here for that, but we'll be walking through the same table.
A Oh. The one with the arrows and the more efficient higher pay?
Q Yes. Thank you.
A Yes, I see that.
Q Thank you.
So starting at Line 12 on that page, Captain Moore explains that the Commission has established a structure where fair composition to pilots moves proportionally with efficiency and productivity for ratepayers.
Would you agree with what he is saying, just in that statement?
A On the whole, yeah, I believe it's a true statement, yeah.
Q So when pilots do more work and receive higher pay, would you say that that outcome is fair for both parties?
A I think that -- I think that'd be fair not just for pilots but including pilots, yeah.
Q And when pilots do less work and receive lower pay, the outcome would also be fair, right?

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A I can -- I can see that, yeah.
Q And when pilots do less work but then earn higher pay, that outcome would be less fair to ratepayers, right?
A It might. I mean, it depends on if the pay was deemed fair for the unit of work in the first place.
Q And as a general principle, if the pilots do more work for less pay, would that be less fair to the pilots?
A Can you repeat that.
Q So as a general principle, if the pilots do more work for less pay, would that be less fair to the pilots?
A I think with the same qualifier, I mean, if they were -- if whatever pilot was deemed to be overpaid initially and it was adjusted down, then it wouldn't be unfair. But, you know, outside that context, yeah, I'd agree with you.
Q So let's turn to the next page, where you see the three basic assumptions that we discussed yesterday with Mr. -- Captain Carlson.
At Line 9. Starting at Line 9.
So these are just the assumptions taking these concepts to logical extremes, and I want to just test whether you agree with Captain Carlson about whether each meets the fairness standard.

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So no work would mean no pay.
Would that be fair?
A Yeah.
Q And for No. 2, no work but infinite pay.
Would that be fair?
A No.
Q And no pay but infinite work.
Would that be fair?
A No.
Q So somewhere between those last two lies a spectrum of fairness relative to pay and workload of pilots, right?
A Correct.
Q So pilot workload or productivity is a relevant factor to consider in determining whether the DNI is fair?
A It is.
Q In your direct testimony, Exhibit SS-1T, you did not conduct a discrete or separate analysis of which part of your DNI range of reasonableness is fair in light of workload considerations, did you?
A I did not. I believe in my testimony I -- that was one of the critiques that I had of the salary survey, is that it didn't have a workload analysis.
Q Go ahead and can you please explain that critique further.

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A Well, it's kind of -- so I mean --
MS. CARSON: I'm going to object to this seems to be friendly cross, which, my understanding, is not allowed by the Commission.
MS. DeLAPPE: I can withdraw that question.
JUDGE FUKANO: Then you may. Sustained.
Q (By Ms. DeLappe) So I've just gone through the same questions I went through with Captain Carlson with you, Mr. Sevall.
And you mentioned that you did not include any discrete or separate analysis of workload regarding which part of your range of reasonableness is fair in light of workload considerations, correct?
A Correct. I testified that -- that I did not do that, that the information may not be available.
Q But you did critique Mr. Sisung's workload, the absence of workload considerations from his study?
A Yes, that was one critique that I had.
Q In Exhibit MM-49T, at Page 18, Captain Moore provides an analysis of your DNI range of reasonableness in light of workload considerations for the Puget Sound Pilots based on calculations that are shown

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graphically on Page 17 in Figure M.
Have you reviewed this material?
A Not recently, but, yes, I have seen this.
Q And so you're aware that these show what the prior Commission orders have determined are fair for different assignment levels.
So we have on Page 17 the pay, the compensation on the horizontal axis, and on the vertical axis we have the AAL per pilot, right?
A Correct. Yeah, the average assignment level for AAL?
Q Yes.
And so then the various prior orders are plotted out on those -- on the graph there, right?
A Just to be clear, we're looking -- oh, this isn't -- this is on Page 17. That's correct.
Q Page 17, Figure M?
A Yeah.
Q And so based on this, the test year actuals for PSP's average assignment level of 138 were fair, no matter how they're calculated, whether as reported to the BPC without changes for regulatory purposes, whether calculated as adjusted by PMSA, or whether calculated as you calculated it, correct?
A According to Mr. Moore, yeah, that's -- that's correct.

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Q And do you understand that that's because where they are is on the compensation axis and on the average assignment level axis, that those are within this, you know, spectrum of in the green area that those are -- that are defined by that?
A Yeah, but I -- I don't know how exactly that green area is -- you know, what defined that area exactly and why it's defined in that manner.
Q Okay. So let's go back to Page 15. If you could look at Figure L.
A Okay. I have that.
Q And you can see then that Figure M is just a zoom in on that Figure L?
A Yeah, that appears to be.
Q Okay. So if the average assignment level is set to decline to 133 in the rate year because the rates will be funding 56 pilots with fewer assignments, would you agree that that is occurring in this case?
And let me rephrase that.
The average assignment level is set to decline to 133, correct?
A I believe there's some evidence in the record. I didn't testify specifically to that, but I believe there's some evidence in the record that speaks to that.

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Q Would you agree that if it -- if the test year was at 138, that going to 133 would be a decline in average assignments?
A Yes, 133 is lower than 138.
Q And that decline in workload is a factor to consider for a fairness, right?
A It'd be probably one factor, I believe.
Q So you're aware that Exhibit MM-49T, at Page 18, you can see that there's, at Line 5, an analysis of what was then the low end of your DNI range of reasonableness, right?
A What page again?
Q Page 18.
A Starting on Line 5, I believe?
Q Yes.
A And okay. What was your question?
Q That you can see there at Line 5 that this is about what was your low end of the range of reasonableness in your original testimony?
A Yeah. And so the 486 now would represent or was corrected about 500, but that is the low end, yes.
Q Okay. And so if the average assignment level is 133, Captain Moore concluded that that would be close to the level of productivity that would make that DNI within the spectrum of fairness, right?

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A Within Mr. Moore's defined spectrum of fairness, yes.
Q Do you have any reason to disagree that that low end of your range meets the Commission's fairness standard?
A Can you -- can you restate that.
Q Do you have any reason to believe that that low end of your range does not meet the fairness standard?
MS. JONES: Objection. Calls for a legal conclusion.
JUDGE FUKANO: Response.
MS. DeLAPPE: I can rephrase.
JUDGE FUKANO: Then sustained. Please do.
Q (By Ms. DeLappe) So, Mr. Sevall, you have testified today about what "reasonableness" means and your DNI range of reasonableness according to the Commission's standards, correct?
A Yes.
Q And you have testified today about what "sufficient" means and which DNIs meet the Commission's standards for sufficiency, right?
A Yes.
Q Do you have any difficulty also applying what the Commission's standard means for fairness to DNI?
MS. JONES: Same objection, Your

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Honor.
MS. DeLAPPE: I'm struggling to understand how fairness out of the four criteria, the four standards, differs as a legal term from reasonableness and sufficiency.
JUDGE FUKANO: I am going to overrule the objection. The witness can answer the question within the scope of his knowledge.
THE WITNESS: Okay. So re-ask that question, please.
Q (By Ms. DeLappe) Do you have any reason to disagree with PMSA that the low end of your range meets the fairness standard?
A I have no reason.
Q So applying your testimony to the Commission's existing standards for fair, just, reasonable, and sufficient, the low end of your range meets all four standards, right?
A I -- yes, I believe just about anywhere in that range can meet the standard.
Q Let's turn to Cross Exhibit SS-14.
And that is your response to the Puget Sound Pilots Data Request No. 29.
A My cross exhibits aren't -- aren't numbered the same, but I have a SS-cross, and it's Data Request No. 29.

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Q Perfect.
A Requested from PSP, yes.
Q Yes.
And the level of DNI discussed in that data request and the response would also be fair, just, reasonable, and sufficient, in your opinion, wouldn't it?
A Yeah, I mean, subject to the correction. 'Cause this was issued -- or this response came before the correction of my testimony, so subject to the -- the change for that testimony, yeah.
Q On the topic of workload analysis and determining DNI, you did not conduct any independent analysis to determine whether workload data exists for the pilotage districts you considered in Exhibit SS-5, did you?
A No, I did not do any independent workload analysis.
Q You participated in leading the workshop that presented the 2024 presentation -- it's the 2024 workshop, the presentation of which is in the record as Exhibit SC-06 for Spencer Cohen -- didn't you?
A Yeah, the PowerPoint and -- yes.
Q And at Page 24, starting in Page 24 -- you can turn to the exhibit -- but you -- you listed a series of challenges that present themselves on the topic of

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comparing pilotage wages, right?
A Yes. I'm just going from memory, but, yes, I remember having a critique of that.
Q And your source for the relevant challenges -- your list of relevant challenges, that was consistent with the Commission's orders in PSP's two prior cases, right?
A I believe it would be, yeah.
Q So wouldn't you agree, then, that one of the major deficiencies in Mr. Sisung's compensation study is the lack of workload factors?
A Yeah, I believe I testified to that.
Q You're familiar with PMSA's recommendation to redefine the floor of the number of pilots to be funded based on the average assignment level instead of the actual number of licensed pilots?
A Yeah, I believe Mr. -- or Captain Moore testified to that.
Q And can you recognize that basing the number of pilots to fund on the actual number of licensed pilots could incentivize some strategic manipulation, such as postponing retirements or using the BPC, lobbying in the BPC to increase or at least not decrease the number of pilots during rate cases --
MS. JONES: Objection.

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Q (Continuing by Ms. DeLappe) -- that occur?
COMMISSIONER DOUMIT: Objection. Calls for speculation.
JUDGE FUKANO: Response.
MS. DeLAPPE: I believe that Mr. Sevall has sufficient regulatory experience and expertise that he could answer a question legitimately that calls for some speculation on this subject.
JUDGE FUKANO: I will overrule the objection. The witness can answer the question if within the scope of his knowledge.
THE WITNESS: Can you restate that.
Q (By Ms. DeLappe) Could you see that basing the number of pilots to fund before this Commission on the actual number of licensed pilots could incentivize strategic manipulation of the number of pilots, such as by postponing retirements or lobbying before the BPC to increase or not decrease the number of pilots during rate cases?
A Yeah. I mean, that's in every industry that the Commission has. I mean, a company could be incentivized to try to overstate certain expenses or certain assets during the test period which they choose, but the Commission also continues -- you

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know, the pilots will come back for a rate case in the future. Patterns of behavior start to be noticed and addressed by the bench.
From my recollection, you know, I mean, we've -- we've regulated solid waste for -- since the '50s in such a manner, and the Commission and staff start to see exactly what is going on. So at the beginning of regulating something is probably the highest risk of some sort of, I mean, gamesmanship, if that were to occur, yeah.
Q And could you see that redefining the floor to be based on average assignment level would eliminate any gamesmanship like that?
A It would incentivize it, yeah.
Q And that that could further the independence of this Commission from the BPC's process?
A It would. At the same time, I think the Commission would want to make sure that the rate design was in a place where it could pretty much guarantee that the pilots would be fairly compensated for exactly the level of work that they do.
MS. DeLAPPE: I have no further questions. Thank you.
JUDGE FUKANO: Thank you.
Any redirect for this witness?

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MS. JONES: Yes, Your Honor. Thank you.

REDIRECT EXAMINATION

BY MS. JONES:

Q Mr. Sevall, why do you think that all of the DNIs within your range of reasonableness are reasonable?

A Well, after reviewing, going through the very lengthy exhibit -- Mr. Sisung -- it appears to me that those are real numbers that people have actually been compensated in the marketplace that is pilotage.

I believe it's a statistically significant sample. I mean, there's only so many pilots in the nation that provide pilotage. And so I don't believe, after having looked at it and having tried to go find other financial information, myself, that I don't believe that it's cherry-picked, per se.

And I chose my range of reasonableness off of what the Commission's previously approved and extended, you know, basically one standard deviation so that the majority -- the majority of the data sample should sit, you know, in my range of reasonableness to accurately reflect the market, I guess, to the best of ability without leading us towards an outlier.

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Q Do you have any concerns with setting pilot DNI based on PMSA's fairness framework that you've been questioned about this morning?

A Well, I -- it overlaps in some part with my range of reasonableness that -- that seems to be apparent. My concern is I don't know exactly how they defined the green area in -- in that chart.

Q Are there other factors that you would consider in setting pilot DNI other than the volume of work?

A Well, obviously, I mean, pilotage has its dangers and liabilities that go with it. I do believe that pilotage is comparable, you know, when I use my definition that it's a professional maritime expert with local knowledge.

Generally things go well for pilots, but on occasion, you know, a bridge may fall down. And -- or a ship runs aground. And, you know, there's a chance that somebody ends up with a huge liability on their own.

So I think, much like a brain surgeon, they -- they are highly qualified individuals for the work that they do.

Q And on cross-examination, you were asked a lot of questions about fairness in regards to average assignment level.

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When you think about fairness, what other factors do you consider besides average assignment level?

A Right now in my head, I can't think.

Q Okay.

A Sorry.

Q Do you have any concerns with PMSA's fairness framework in regards to the factors that they consider when they're -- when they're -- when they're considering what goes into that framework? They think average assignment level. Anything else that goes into the framework?

A Yeah, well, I think they -- well, they took -- you know, obviously prior Commission decisions, which with their record, the Commission made a fair, just, reasonable, sufficient, you know, determination.

This record's different. This -- to my understanding, this is -- this is the best salary support that they -- that the pilots have produced. It's not that the pilots haven't tried to present the argument in the past. They have. They've done it every rate case.

The Commission has luckily found that they didn't carry their burden, and so that's the question this time to the bench, is do they believe that they carry, you know, a burden.

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Q Why didn't you recommend the low end of the range of reasonableness?

A Well, inherently I do, right? I give the entire range of reasonableness. And I just went to the middle for my specific recommendation. But I do hold that the entirety of that would be fair, just, reasonable, and sufficient.

Q And were there any specific reasons for why you chose the middle as your specific recommendation within the range?

A Within that range, I mean, no, I mean, it was the middle of my range of reasonableness.

Q Why do you recommend the Commission adopt the actual number of licensed pilots for the number of pilots?

A Well, we want to make sure that the pilotage corps is compensated, yes, for the work they do, but at the same time, becoming licensed as a pilot is a lengthy process, and it takes lots of time, multiple years. And you -- you can't manage a pilot corps just down to the exact number on the day that you need to be licensed and say, We're only going to pay 40 pilots this day.

The economics, the traffic flows change. You know, a war might have started three weeks ago and drastically impact shipping, right? COVID might

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strike and drastically impact shipping. So I think it helps guarantee a chance for -- for the pilots to achieve the target, the targeted income that the Commission sets.

Q And do you have any concerns with basing the number of pilots on average assignment level?

A Right now I do. And I think it's -- it's got to do mainly 'cause, in my brain, I kind of see it all tied together from beginning to end in that the tariff is designed with an hourly rate, but the hourly rate doesn't wholly support the total disbursable net income at this juncture.

Some point in the future, we might get there, and then it would make logical sense that if that tariff rate were to specifically be to compensate pilots for their labor, we could move from a number of pilots to, hey, this is how many hours of pilotage were provided, and this is -- you know, we tie that to the rate that's collective.

Oh. The tariff is not designed in that manner at this point. We might get there someday in the future. But at this point, I don't think it's appropriate to go exactly to that workload.

MS. JONES: Thank you. I have no further questions.

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JUDGE FUKANO: Thank you.
Any questions from the bench for this witness?
COMMISSIONER RENDAHL: No, Your Honor.
JUDGE FUKANO: Thank you.
You are excused.
(Witness excused.)

JUDGE FUKANO: Our next witness is Tiffany Van Meter.
If you could activate the microphone and raise your right hand. I will swear you in.
Do you swear or affirm that the testimony you provide today is the truth and nothing but the truth?
THE WITNESS: Yes.
JUDGE FUKANO: Thank you.
Please introduce the witness and tender them for cross. Please note if there are any corrections to the prefiled testimony.

TIFFANY VAN METER, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:

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DIRECT EXAMINATION
BY MR. ROBERSON:

Q Good morning. Would you please state your name and spell your last name for the record.

A Tiffany Van Meter. V-a-n, space, M-e-t-e-r.

Q And are you the same Tiffany Van Meter who submitted Exhibits TVM-1T through TVM-8?

A I am.

Q And do you have any corrections to those exhibits today?

A No.

Q And if I asked you the same questions now as were asked in your testimony, would your answers be the same?

A Yes.

MR. ROBERSON: Ms. Van Meter is available for cross.
JUDGE FUKANO: Thank you.
I understand that PSP has waived cross of this witness.
Are there any questions for this witness from the bench?
COMMISSIONER RENDAHL: Yes, Your Honor. Let me get organized here.
So good morning, Ms. Van Meter.

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THE WITNESS: Good morning.
COMMISSIONER RENDAHL: So we note that the staff has declined to file a response to the settlement between the parties.
Does staff have a position on the settlements as a whole?
THE WITNESS: I am going to actually defer that to Scott Sevall as the lead on the case.
COMMISSIONER RENDAHL: Okay. Will he be -- I don't think he will be a part of the staff -- part of the settlement panel, will he?
MR. ROBERSON: He's not scheduled to be, but we have no objection to bringing him back to the stand to answer any questions.
COMMISSIONER RENDAHL: Okay. All right. We'll address that that way.
Okay. So another line of questioning.
Were you present or online for PSP witness Ann LaRue's testimony yesterday?
THE WITNESS: Yes, I was.
COMMISSIONER RENDAHL: Okay. So you heard my questions to witness LaRue about the potential for double counting of expenses with the Port Angeles expense charge and the proposed charge

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for third-party launch services, correct?
THE WITNESS: Yes.
COMMISSIONER RENDAHL: So this is -- just so you have that reference, this is your initial response testimony, TVM-01T, starting at Page 18.
Have you changed your position on this issue?
THE WITNESS: No.
COMMISSIONER RENDAHL: So can you please explain why you believe there's a duplication of charges to customers when they're charged for both the expense charge and for the third-party launch service or the proposed third-party launch service charge?
THE WITNESS: Sure. The way that the Port Angeles expense charge is calculated is to include costs of the pilot boats, which includes depreciation and also fuel expense and everything in regard to that.
And a third-party launch would be paying for essentially the same type of expense where a pilot boat isn't being used. So the vessel would be charged for the Port Angeles expense charge, which includes a pilot boat that's not being used, and then also the third-party launch service.

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COMMISSIONER RENDAHL: Okay. I appreciate that clarification.
And I may have some additional questions, but I'm going to defer to my colleagues right now if they have their questions.
CHAIR RYBARIK: A couple quick questions. They do involve the settlement, but I think they're more specific to testimony that you had related to the capital recovery charge.
So if you do want to reference your testimony, it is in your response testimony, which is TVM-01T. This is Pages 12 to 13. Let me know when you're there.
THE WITNESS: Okay.
CHAIR RYBARIK: In that testimony, you contest the capital recovery charge in part due to the lack of a deferred accounting, some deferred accounting treatment and the inclusion of a future-looking cost estimate in determining the surcharge amount.
Does staff still have concerns regarding the surcharges proposed in the settlement?
THE WITNESS: I think I'm also -- that is to be deferred to Scott regarding settlement information.

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CHAIR RYBARIK: I guess I'm trying to just compare --
THE WITNESS: Sorry.
CHAIR RYBARIK: -- what your testimony was relative to the deferred accounting treatment. And maybe we can just specifically ask that.
Do you believe a deferred accounting mechanism is necessary relative to any capital recovery charge?
THE WITNESS: Yes, I do.
CHAIR RYBARIK: You continue to believe that despite having seen the settlement? You're aware of the settlement?
THE WITNESS: Yes.
CHAIR RYBARIK: Okay. Can you explain how language requiring deferred accounting for costs contained in those surcharges would alter the mechanics or requirements of those surcharges.
THE WITNESS: Can you repeat that. Sorry.
CHAIR RYBARIK: Can you explain how, if we did require some deferred accounting treatment for the cost contained in those surcharges, how would that alter the mechanics of the surcharge, in your view.

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THE WITNESS: Alter the mechanics of the surcharge that was presented in testimony, or...?
CHAIR RYBARIK: Correct. And, I guess, included in the settlement as well.
THE WITNESS: Well, the testimony didn't come in with an accounting mechanism, a deferred accounting mechanism, which is kind of where I wasn't able to, I guess, sign on to it in testimony. But from my understanding, the settlement language is appropriate to where it has a -- an amount and a true-up and another projection.
CHAIR RYBARIK: Does that alleviate your concerns about some deferred accounting or not?
THE WITNESS: That alleviates the concern about the dollars, yes.
CHAIR RYBARIK: Okay. I think that answers my questions. Thank you.
JUDGE FUKANO: Anything further -- please.
COMMISSIONER RENDAHL: Yes. I have one more. And hopefully this is not going to get us into difficult territory here.
So do you have your res- -- you have your initial testimony, your response testimony, TVM-01T?

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THE WITNESS: Yes.
COMMISSIONER RENDAHL: Actually, I think this is going to be -- this is, I think, relating to the settlements, and so I may defer this question to Mr. Sevall. So I have no further questions.
JUDGE FUKANO: Anything further from the bench for this witness?
CHAIR RYBARIK: Nothing from me. Thank you.
JUDGE FUKANO: Thank you. You are excused.
(Witness excused.)

JUDGE FUKANO: Then we will proceed to recall witness Sevall.
Welcome back.
THE WITNESS: Thank you.
JUDGE FUKANO: For the sake of clarity of the record, I will swear you in again, so please raise your right hand.
Do you swear or affirm the testimony you provide today is the truth and nothing but the truth?
THE WITNESS: I do.
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SCOTT SEVALL, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:

JUDGE FUKANO: Thank you.
There are questions from the bench for this witness?
COMMISSIONER RENDAHL: Yes, there are.
And, Mr. Sevall, sorry. I should have asked these questions to you apparently.
But the question I had posed to Ms. Van Meter and she deferred to you is that staff has declined to file a response to the settlement. But does staff take a position on the settlement as a whole?
THE WITNESS: We do not oppose the settlement.
COMMISSIONER RENDAHL: Okay. And then I asked Ms. Van Meter about an issue with the -- the third-party launch issue. If you remove the -- I'm sorry. The settlement has removed the depreciation expense from the Port Angeles expense charge.
Does this change staff's position in any way

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related to the issue of the third-party launch service and the Port Angeles expense charge?
THE WITNESS: So the -- from my understanding, the settlement moves a small bit of depreciation that it was -- in Port Angeles and moves it to generates.
COMMISSIONER RENDAHL: Correct.
THE WITNESS: Is that -- and that's what your --
COMMISSIONER RENDAHL: That's my understanding, yes.
Does this change staff's position in any way?
THE WITNESS: As far as regarding third-party launch in Port Angeles?
COMMISSIONER RENDAHL: Yes.
THE WITNESS: I don't believe that changes staff's position, no.
COMMISSIONER RENDAHL: Okay. Thank you.
That's all the questions I have. My colleagues may have some for you.
CHAIR RYBARIK: Just real quick follow-up on, relating to the settlement, you noted that staff does not oppose the settlement as a whole. Just had a discussion with witness Van Meter about

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the specific lack of deferred accounting treatment and the inclusion of future-looking cost estimate in the capital recovery charge.
Does staff still have those concerns with the surcharges as proposed in the settlement?
THE WITNESS: My -- my understanding, that the surcharge projects out future costs, recovers it, trues up at the end of the period, projects the next period, then continues on. That mechanic staff is very comfortable with. It's used very commonly in other regulated industries. So as far as that treatment, staff doesn't have an issue.
CHAIR RYBARIK: Very good. Thank you.
JUDGE FUKANO: Thank you. You are excused.
(Witness excused.)

JUDGE FUKANO: It is now approximately noon, so this seems to be a reasonable place to take a break for lunch. So we will plan to have an hour's break for lunch, and we will resume at 1 p.m.
We are off the record.

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(Pause in proceedings from 12:00 p.m. to 1:01 p.m.)

JUDGE FUKANO: Let's be back on the record.

Good afternoon. It is approximately 1:01 p.m. We are resuming with cross-examination of PMSA's witness Michael Moore. Captain Michael Moore.

Would you please activate your mike and raise your right hand.

Do you swear or affirm the testimony you provide today is the truth and nothing but the truth?

THE WITNESS: I do.

JUDGE FUKANO: And apologies. Would you speak into the mike.

THE WITNESS: I do.

JUDGE FUKANO: Thank you.

Please introduce the witness and tender them for cross. Please note if there are any corrections to the prefiled testimony.

CAPTAIN MICHAEL MOORE, having been first duly sworn by Administrative Law Judge Fukano, was examined and testified as follows:

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DIRECT EXAMINATION

BY MS. DeLAPPE:

Q Please state your name and title, and spell your last name for the record.

A Michael Moore, vice president, Pacific Merchant Shipping Association. Last name M-o-o-r-e.

Q Captain Moore, did you prepare original and rebuttal testimony in this proceeding?

A Cross answering testimony, yes.

Q Exactly. Thank you.

A Yes, I did.

Q And do you have any corrections to your testimony?

A I do not.

Q And is it true and correct to the best of your knowledge?

A It is.

MS. DeLAPPE: I tender the witness for cross-examination.

JUDGE FUKANO: Thank you. PSP indicated cross for this witness. You may proceed.

MS. CARSON: Thank you, Your Honor.

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CROSS-EXAMINATION

BY MS. CARSON:

Q Good afternoon, Captain Moore.

A Good afternoon.

Q PSP's DNI was last set by the Commission in 2023, correct?

A November '23. Correct.

Q November 2023?

A I believe so.

Q Or was it August 2023?

A I'm sorry. August '23, yes.

Q And the Commission set it -- set the DNI at 475,733, right?

A Correct.

Q And it was based on a 2021 test year?

A Yes, I believe that's right.

Q Now, in this case, you're proposing that the Commission decrease -- decrease DNI from the DNI set by the Commission in 2023; is that right?

A That's correct.

Q You're proposing a DNI of either 427,286 using a four-year average DNI, right?

A Correct.

Q Or, alternatively, you're proposing a DNI of 436,893 using a three-year average; is that right?

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A That's correct.

Q And that's per pilot?

A That's per pilot. Not -- not per assignment or anything. That's per pilot.

Q Now, your proposed DNI based on a four-year average includes 2021, doesn't it?

A I believe it does, yeah.

Q It includes 2021 even though the Commission determined in Order 08 that 2020 and 2021 are anomalous and should be excluded because they're pandemic years, right?

A We had a three- and a four-year, and the four-year included it, and the three-year did not.

Q And you even point to that in your testimony where the Commission said it was anomalous and should be excluded, right?

A For these purposes, I also addressed it in another part of my testimony where '21 is pretty equal to 2019 and 2023. So for these purposes, yes, you're right.

Q Okay. So you use the anomalous pandemic year of 2021 in your average, correct?

A In one of the two averages that we presented. We had a four-year and a three-year.

Q It brings your four-year average down as compared to

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your three-year average, right?
A It's 9 or -- 9,000 or 10,000 less than the three-year average.
Q Okay. So your proposed DNI per pilot, using a four-year average, is approximately $50,000 lower than the DNI set by the Commission in 2023, correct?
A If you don't include the 36,000 that we are proposing to add to DNI. That's a different number.
Q Yeah. Well, we'll talk about that later.
You're talking about removing all the pension expense that's currently in the tariff and replacing it with 36,000 per pilot, right?
A That's correct.
Q Okay. So --
A 6 percent or 36,000, whichever is --
Q Okay. So we'll talk about that later.
And using your three-year average, not counting the additional 36,000 for pension, or I should say for defined contribution, using your three-year average for per-pilot DNI, your proposal is nearly $40,000 less than the DNI set by the Commission in 2023, isn't it?
A Yes, it is. Based on workload reduction as well.
Q Thank you.
And PMI's -- you mentioned the retirement

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proposal.
So PMSA's retirement proposal would remove the 6.8 million that's currently in rates for pension, correct?
A It would have that not treated as an expense. It would be treated as a distribution.
Q And then you would put in an exchange approximately 36,000 per pilot?
A Which is 2,016,000.
Q So the difference between those two is approximately 4.8 million less that would be in --
A Well, I think to clarify, the 6.8 is in your pro forma. It's not what was authorized by the Commission.
Q But the overall effect of your proposal is approximately -- a DNI of approximately 350,000 per pilot; is that right?
A That's not the way the Commission calculates it. It's not how we presented it. We -- we present distribution -- distributable amount of income divided by the number of pilots, and it's not that number.
Q Okay. Let's turn to your Exhibit MM-50r.
A Okay. I think I'm there.
Q Okay. You have a table that's titled "Comparison of

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Party Positions - Summary Chart."
Do you see that?
A I have the 50, not 50r. So let me get the 50r.
Yes, I see it now. So what are you referring to?
Q So the title of it, "Comparison of Party Positions - Summary Chart."
A Yes.
Q And so on Line 5, you show -- you show everyone's position, correct?
A Are you talking about test year authorized DNI?
You're talking about -- which line are you on?
Q Line 5.
A Line 5. Oh, down there.
Okay. Authorized/target rate year DNI?
Q Yes.
A Yes, I show everybody's position.
Q Okay. And so you show PSP's position at 729,467, correct?
A Correct.
Q And you show PMSA's proposed DNI at 436,893, correct?
A Correct.
Q And then you show staff's proposal, paren, fair DNI range, at 486,475, right?
A Yes.
Q Okay. So, first of all, we know that that number has

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been corrected -- right? -- from Mr. Sevall's testimony today?
A From his testimony today.
Q So that number is more like 500,000, correct?
A I don't know.
Q So before it was corrected, staff's response testimony said that PSP's salary survey supported a range of reasonableness from 486,475 to 814,308.
Does that sound correct to you?
A It's my recollection, yeah.
Q But you didn't use anything but the very lowest number when you said "Staff Proposal" on this table that says "Comparison of Party Positions - Summary Chart," correct?
A No, we used the fair DNI range in his table, and that's the low end of his -- that's the low end of his range.
Q Okay. So you only -- even though you recorded it as staff's position, it's the low end of his range?
A Well, I think there's parentheses there that says fair DNI range. And based on the prior testimony, that's the overlap of the fair and reasonable. So that's what that's representing.
Q Yeah.
And the title also says "Comparison of Party

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Positions - Summary Chart." But we'll move on.
So staff's actual proposal, though, was 641,587 in its response testimony, correct?
A He had a range, and he said that that was the mid range. And that's what he listed.
Q "Given that range, I recommend a DNI of 641,587."
A That's Mr. Sevall's statement.
Q Okay. So this table, this exhibit, it's not really a comparison of party positions. It's a comparison of PSP's position, your position, and where you would like staff to be, right?
A And the --
MS. DeLAPPE: Objection. Argumentative.
JUDGE FUKANO: Response.
MS. CARSON: I withdraw the question.
JUDGE FUKANO: Sustained. Please proceed.
And any response from the witness should be struck from the record.
Q (By Ms. Carson) Okay. So in your cross answering testimony, you state that only the low-end figure in staff's pilot compensation range aligns with precedent and the evidentiary record, correct?

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A I don't know if I said lowest number. I said lower end of the range.
Q Only the low-end figure --
A Low end of the range, yes.
Q That's on Page 6 of your testimony.
A Of the cross answering?
Q Yes.
A Yes, low end.
Q And you make that conclusion based on a, quote, fairness framework that you apply based on your application of Commission's prior orders, right?
A That's actually five data points. It's the point of origin, the legislature's shift to the UTC, where they deemed that to be a fair, just, reasonable, and sufficient DNI. And then the three decisions by the Commission. Year 1, in Rate Case 1, Year 2 and Rate Case 1 and the second case. So it's five data points.
Q And in your fairness framework, you evaluate whether a DNI is fair by comparing it to an average assignment level per pilot fair range, correct?
A Yes, we used an average assignment level. Although there's five-year, four-year, and three-year because of the 2020 situation.
Q You expressly explicitly call that the, quote,

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Commission's precedential range of fairness, right?
That's on Page 18 of 49T.
A Line 20 and 21 -- 21 and 22? Is that what you're looking at?
Q Yeah. That's correct.
A Yes. Looked at the low end and referred to the Commission's precedent that they set by their decisions.
Q Now, neither Final Order 09 in the 2019 case or Final Order 08 in the 2022 case adopt a DNI setting method where DNI fairness is determined by an average assignment level versus DNI range?
A We did not come up with the average assignment level. That was in Rate Case 1. It was repeated in Rate Case 2. So we were just simply carrying forward the formulaic process set in Rate Case 1 and Rate Case 2, and it involved an average assignment level.
Q So you took the average assignment levels from those cases, and you took the DNI, and then you made a Commission precedential range for DNI of fairness; is that right?
A I think what you're asking is are they -- is AAL paired with the DNI, yes.
Q Yes.
Now, neither Order 09 in 2019 or Order 08 in 2022

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use the language "range of fairness."
Would you agree with that?
A The word "fair" was in fair, reasonableness, you know, and just and sufficient, in that phraseology of those four pillars that they referred to for making their case. I don't know if "fairness" was used, but "fair" was.
Q But what you call a precedential range of fairness, that's your framework, not language from a Commission order, correct?
A No, we think that if the Commission made a decision that's fair, just, reasonable, and sufficient, then it was fair, just, reasonable, sufficient by their own -- by their own declaration, their own decision, unless they make a follow-on decision dismissing that decision as somehow being insufficient, which they have not.
Q So you took the data points from two cases, two inaugural cases, separate evidentiary records, and then you put the data points together, AAL and DNI, to make this precedential fairness range?
MS. DeLAPPE: Objection. Misrepresents testimony.
JUDGE FUKANO: Response.
MS. CARSON: I believe it is what

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he has testified to.
MS. DeLAPPE: Captain Moore testified that there were several points, not -- beyond just the Commission orders that led to that.
MS. CARSON: I'll withdraw the question.
JUDGE FUKANO: Very good. Sustained.
Proceed.
Q (By Ms. Carson) So let's look closer at your fairness range that's been talked about quite a lot today.
On Page 22:13, you claim that the Commission has established what constitute a fair relationship between pilot compensation and pilot efficiency, right?
A Trying to catch up to you. You say --
Q Page 22, Line 13.
A "The Commission has established what constitutes a fair relationship between pilot compensation and pilot efficiency." That sentence? "A fair relationship"?
Q Yes.
A Okay.
Q Yeah.

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A Yes.
Q Okay. And that is represented in your Figure M on Page 17, right?
A I have several figures in there, and they're just blowups of the fairness range. So that's the second figure, I believe, Figure M.
Q Okay. Let's look at Figure M.
A Okay.
Q A little easier to see.
So just to refresh ourselves here, so along the bottom, the DNI is increasing, right?
A The X axis, yes, that's the DNI increasing.
Q Okay. And going up on the left side, the AAL per pilot is increasing, correct?
A Correct.
Q And then you include a few data points, right? These dots on your chart?
A Yes, I plotted six data points on this chart, which is a blowup of the prior chart.
Q Okay. Okay. And so if the AAL and the DNI are too high or too low, then they might not be in your fairness range, right?
A Yes, you'd be either above the green or below the green fairness range.
Q Okay. So -- and just to be clear, below the green

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fairness range doesn't necessarily mean it's a -- it's low, right? It could be a high compensation?
A Well, we're -- we're taking this in combination, the AAL with the -- with the DNI.
Q Right. Okay.
So just an example in Figure M. One of the data points at the bottom end of that range says TP-220513 and shows the DNI of 475,733, which is the current DNI -- right? -- and an AAL of 133, correct?
A It's -- it's current authorized D -- current authorized DNI by the last Commission order, Order 08.
Q Right. Right.
So that's -- that's what that kind of --
A Yes.
Q -- bottom black box is, right?
A Yes. Correct.
Q All right. Now, if we used the same AAL of 133 but with a higher DNI, it would then fall out of your fairness range because the DNI would be too high.
Is that pretty much right?
A It looks like it could go a little bit to the right before it falls out of the range.
Q Okay. So turn to Page 36 of your same testimony, Figure P.

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A Yes, I'm there.
Q Okay. So here you have adjusted UTC-authorized DNIs. You've inflation-adjusted them, right?
A Yes. Inflation-adjusted them to the end of 2025.
Q Okay. And for 220513, the last case, inflation-adjusted is -- brings it up to 500,873, right?
A Correct.
Q Okay. So where would that fall? Isn't it true that would fall outside your fairness range?
So if -- let me get this clear. If we kept the same AAL that was in the last case and we brought up the DNI for inflation to current day, it would fall outside your range, wouldn't it?
A Again, it's in combination with the workload. So you have to -- you have to plot both workload and DNI.
Q And I think, you know, you can see it if you look at your Exhibit MM-52. It shows the exact range, you know, AAL and DNI?
A Exhibit 52?
Q Yeah. Exhibit --
A Let's go to that.
Q Exhibit MM-52.
A That's not the graph. That's just a table. You're looking at --

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Q Just the table. Yeah.
A Look at the table.
Q Yeah.
So if you look at the table with the DNI of 500,000, it looks like the high range would be an AAL of 191, and the low range would be 139. Hard to read.
A I'm not quite seeing that.
On MM-52?
Q This is -- yes. MM-52. The table with all the numbers on it.
A You're talking about --
JUDGE FUKANO: To clarify, which tab are you referring to?
THE WITNESS: Thanks. Maybe -- not sure what you're talking about there.
MS. CARSON: I don't have my electronic version up right now. Just one moment.
THE WITNESS: Could I go back to the graph? It'll be the same thing?
MS. CARSON: So the tab is "Fairness Band Data."
THE WITNESS: You say that's MM-52?
MS. CARSON: Yes.
JUDGE FUKANO: Thank you.

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Q (By Ms. Carson) Do you see that?
A I'm seeing fairness band definition and the math behind, you know, what we -- what was plotted there on the chart. I'm not seeing -- oh. Are you talking about the $500,000 sample? Is that what you're looking at?
Q Yes.
A Yes, so you're looking at the 139 to 191.
Q Yes.
A Yes. Okay. Thanks.
Q Yes.
A Sorry.
Q Thank you.
CHAIR RYBARIK: Can you maybe ground the rest of us in the discussion here? Where are you?
THE WITNESS: I'm in the fairness range.
CHAIR RYBARIK: "Fairness Band Data."
MS. CARSON: "Fairness Band Data." The line is --
THE WITNESS: MM-52.
CHAIR RYBARIK: Yep.
MS. CARSON: It's Line 53.

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CHAIR RYBARIK: Okay. Got it.
THE WITNESS: Under fairness calculation, yes.
CHAIR RYBARIK: Yep. Thank you.
THE WITNESS: Me too.
Okay. So 500,000, yes. You'd have a range of AAL lower bound and upper bound AAL.
MS. CARSON: Yeah.
THE WITNESS: Yes.
Q (By Ms. Carson) So with the inflation-adjusted DNI going up to 500,000, and with the same AAL that was in the last case, this would not be within your fairness range, correct?
A The lower bound would be 139.
Q Thank you.
You're aware that the target assignment level was set by the Pilot Safety Committee of the Board of Pilotage Commission at 123?
A They didn't set that. I'm on the safety committee. They recommended 123 and up to 6 percent callbacks for 129 as the total TAL for on-watch and off-watch. The decision was by the BPC. The safety committee wrestled with it and made a recommendation to the BPC, and BPC in August of '24 voted for an on-watch TAL of 123 and up to 6 percent off-watch.

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Q Well, your view of that and my understanding the BPC chair's view of that is different. We can take that up at another time.
MS. DeLAPPE: Objection. Objection. Testimony by the counsel, please. That should be not on the record.
JUDGE FUKANO: Response.
MS. CARSON: Well, there is evidence in the record of that. I don't have it right at my fingertips, but I'm happy to provide it.
MS. DeLAPPE: Counsel should not be testifying.
MS. CARSON: It's in the record.
JUDGE FUKANO: I'm going to sustain the objection, but I'll allow you to elicit that via cross.
So please strike counsel's statement.
Q (By Ms. Carson) So you opposed the target assignment level of 123, didn't you?
A The on-watch target assignment of 123. I pushed for a slightly higher number in the safety committee, which does not make the decision. Safety committee makes a recommendation to the BPC.
And I asked for more accountability on on-watch availability for -- for pilots scheduled for watch to

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be available because they were exceeding the number of daily assignments and were still having delays, and I thought it was necessary to have efficiency before making a change like that.

Q So the BPC did adopt the 123 target assignment level, correct?

A For on-watch. It's really clear, and it's in the record, and we can go through it. On-watch is 123. Off-watch is up to 6 percent with -- up to 5 percent, which is six more. So --

Q Right.

A -- we had an on-watch and off-watch component there.

Q There's also testimony in the record that the 123 TAL is a target to be met, not exceeded, correct?

MS. DeLAPPE: Objection. Foundation.

Q (By Ms. Carson) Do you recall seeing that in the record?

JUDGE FUKANO: Well, real quickly, response.

MS. CARSON: It's in the record.

JUDGE FUKANO: Well, sustain, but allow you to lay additional foundation. Ask the question again.

Q (By Ms. Carson) When looking at the target

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assignment level of 123, one factor that was considered was the target assignment level of neighboring pilot groups, correct?

A We had multiple meetings in the safety committee, and a lot of data was looked at. So go back to the safety committee. There were discussions about rest rules, implementation of rest rules, and fatigue management and whether those were being met and what constituted, you know, proper rest with given the workload.

So that all fit into the whole discussion of -- of 123 plus six, which also got into how many callbacks there were and how many callbacks would be desirable to stay under.

Q Okay. Thank you.

I'll just ask you to turn your attention to IC-08 where there's reference to the Board of Pilotage Commission Pilot Safety Committee reviewing TALs of Columbia River pilots, 106 TAL, and BC coastal pilots, 110 TAL.

Do you recall that when you were on the Pilot Safety Committee?

A I'm just looking for IC-08 for a second.

JUDGE FUKANO: Is there a particular page of this exhibit you're referring to?

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MS. CARSON: 13.

JUDGE FUKANO: Thank you.

THE WITNESS: Still loading here. All right.

And Page, you said 13?

MS. CARSON: 13, yes.

It's the third full paragraph.

THE WITNESS: I got it to scroll. And then it just kicked me off of Adobe, so anyway.

MS. CARSON: That's all right.

THE WITNESS: That's all right.

Yes, we discussed various workloads and length of assignments and distances and so forth, and I remember talked about BC has to go to Prince Rupert as well, and there's a bunch of other things that were discussed in there.

MS. CARSON: Okay.

THE WITNESS: I don't remember how many districts we looked at.

MS. CARSON: Okay. Great. Thank you.

Now -- do we need to take a break?

THE WITNESS: Adobe kicked me out, so...

JUDGE FUKANO: Why don't we take

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just a five-minute recess to resolve technical issues.

So we will be off the record and resume in five minutes.

(Pause in proceedings from 1:32 p.m. to 1:34 p.m.)

JUDGE FUKANO: We will be back on the record. We are resuming PSP's cross of PMSA witness Captain Moore.

Counsel, please proceed.

MS. CARSON: Thank you.

Q (By Ms. Carson) Okay. I'm going to turn now to Page 20 of your rebuttal testimony.

A Cross answering.

Q Yeah. Thank you.

49T.

A Yes. Page 20?

Q Yes.

A Okay.

Q And although the BPC approved a TAL of 123, you state in Footnote 5 that PMSA believes a higher assignment is safe and appropriate; is that correct? Page 20, Footnote 5?

A That's correct.

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Q And you further indicate that a target assignment level of 127, which is higher than the target assignment level set by the BPC, is a less-than-optimal AAL, right?
A It's not a TAL. It's AAL? 127 is AAL?
Q Yes.
A Not TAL?
And the TAL you referred to was the -- again, the on-watch TAL. It's right in the BPC 2024 annual report. And I'm sure he has the same quote as me. It's right there, and talks about on-target assignment level. On-watch target assignment level 123. So that's separate from the callbacks of 5 percent.
Q Thank you.
So it's your view that the average assignment level should be higher than 127 for purposes of determining DNI under your range of fairness, right?
A We're using the average assignment level, yeah, so the current --
Q Yes or no? That's your --
A Current's 127. It's not the average. So I think you're saying it's the average, and it's -- it's -- 127 is the current assignment level for this -- for 2025, right now. But it's not the five-year, four-

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year, or three-year average.
Q But it's higher than the 123 target assignment level?
A The on-watch target assignment level.
Q PMSA believes that pilots should be incentivized to work more even if it exceeds the target assignment level, correct?
A Incentivized to work efficiently. So the definition of "efficient" is what we've been debating.
Q Okay. Thank you. I'll take that as a "yes."
On Page 30, Line 19, you talk about incentives: Move more ships, earn more money, work more efficiently, earn more money, increase average assignment levels, earn more money, correct?
A Turn to Page 30?
Q 30, Line 19.
A Yeah, all under the blanket of safety. You have to do this all safely. So there would be incentives there for those things for the pilots, if that's what they wanted to do is earn more money.
Q Do you agree with this, then: Exceed the target assignment level set by the BPC for safety reasons, earn more money?
A So the target assignment level, again, on-watch, off-watch, 129. That's what they decided for now.
Q Yeah.

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A So that's what --
Q Do you agree --
A -- they're targeting.
Q Do you agree: Earn more money, exceed the target assignment level, earn more money?
A I think safety is in there too. I mean, I'm just going to say right now, I think they had a range of pilots doing 42 assignments in a year, and it went up to 176. So obviously they're safe. The question is how can you manage on-watch pilot availability to do more on-watch instead of, you know, things like meetings and so forth and to be more efficient, and that would incentivize them to make more money, if that's what they wanted to do. But it all has to be within the bounds of fatigue management and safety.
Q Thank you. Thank you.
And let's talk about meetings for a minute. You -- I think you've indicated that more frequent pilot licensing exams are fine; is that right? Not a problem?
A I was part of that 2005 legislation that set the limit at four years, meaning that you're going to give an exam at least every four years. And so people didn't have to sit on a list. And we totally supported that. 'Cause we didn't think it's fair for

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a candidate to sit on a list ten years or eight years or nine years.
And so by definition, you're going to give that exam a little more frequently than four. And I think if you go over six exams, it's averaging three and a half years, which is -- it's pretty -- pretty -- pretty -- pretty good work by the BPC to do that.
JUDGE FUKANO: Beg your pardon. Captain Moore, would you just speak a little bit slower just for the benefit of the listeners and the court reporter.
THE WITNESS: I knew that would come up. Okay. I will.
JUDGE FUKANO: Thank you.
Q (By Ms. Carson) You would agree, though, it takes quite a bit of pilot time as well as time for the Board of Pilotage Commission when these exams are held, correct?
A I think the prep time is in the lead up to the exam. And I've looked at the list of the meetings they have, and there's -- I think the last 2024, I counted 41 meetings out of a thousand meetings for the year that had the word "exam" in them. So there's 41 meetings. That's a lot of meetings. And obviously spent trying to help develop a good exam.

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Q Right. Thank you.
Okay. I'd like to turn -- please turn to your direct response testimony, MM-1T, Page 139, Lines 8 through 17.
A Yes, I'm there.
Q Okay. So you advocate for the use of hindcasting here, correct?
A As it applies to vessel arrival data.
Q Exactly. Thank you.
And you equate hindcasting with trend line analysis, right?
A Yes. With vessel -- again, vessel arrival data.
Q You defined hindcasting as a standard forecasting method that uses historical data to identify trends and extend them forward to make projections; is that right?
A That's correct.
Q Okay. So as I understand your hindcasting analysis, you're examining historical data and deriving a ratio between two variables; is that right?
A Yes, the vessel traffic hindcasting, yes, and then you compare it to assignments, and you establish a ratio.
Q So I'm going to give you a definition of hindcasting. This is from C. W. Farrell in the Journal of

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Geophysical Research. And tell me if you agree with it or not.
A hindcast is a model simulation of past events used to evaluate how well the model reproduces known observations.
A Say it one more time.
Q A hindcast is a model simulation of past events used to evaluate how well the model reproduces known observations.
A Well, in my academic background, it was actual data was the hindcast data, not any kind of projection or estimate or model. So the hindcasting was based on actual data as opposed to model data carried forward.
Q Okay.
A So that's different than modeling to modeling. This is actual data trend line hindcasted to go forward.
Q So your view of hindcasting is different than C. W. Farrell in the Journal --
A Well, I prefer to use actual data than model data in the past.
Q Okay. And I'm going to give you another definition from J. S. Armstrong, Principles of Forecasting. A hindcast evaluates a model's predictive capability by estimating the model on past data and comparing the model's predictions with observations that actually

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occurred.
Would you agree with that definition?
A Yeah, I would agree with that.
Q Okay. But your version of hindcasting isn't looking at how well a predictive model compares with observations that actually occurred in the past, is it?
A 20 years of VTS data for actual arrival data is actual arrival data. It's not modeled. It's data. It's actual data verified through the VTS and through an exchange.
Q You're not comparing the accuracy of a model to see how accurately it --
A If the vessel --
Q Let me finish, please.
A Okay.
Q See how accurately it predicted the actual data that occurred. You're not doing that?
A I am doing that. Because if you take the past year -- pick any year. Pick 2012. You have vessel arrival data and assignments, and you look at the correlation between the two, and you can see if a model built on correlation gets close to the -- how close does it get to the actual.
So you're always comparing -- once you acquire

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the data, you're always comparing your forecast to the actual data to see how close it is.
Q So yours is really all about the correlations of the past data, correct?
A Well, we were actually using PSP's correlation data from the first rate case, which was calculated the same way I calculated this correlation data.
Q Let's look at your trend line analysis. And this is again on MM-1Tr at 140, Lines 23 to 26.
A Okay. I'm on those lines.
Q Your trend line analysis is a 20-year analysis of vessel traffic that excludes 2020 as a pandemic year because it's anomalous, right?
A Correct.
Q But as we discussed earlier, the Commission also excluded 2021 as an anomalous pandemic year, didn't it, in Order 08, Paragraph 125?
A It did for rate-setting purposes. For arrival purposes, that year is pretty equal to two other years surrounding it.
Q The Commission, in Order 08, Paragraph 125, noted low cruise ship traffic in 2021, correct?
A Ironically, that's pretty equal to 2023 and 2025, so I guess you'd have to apply the "low" descriptor to both those years as well.

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Q Captain Moore, on Page 26 of your Exhibit 49T.
A Okay.
Q The Commission -- you testified, "The Commission determined that the TNI [sic] per assignment that was sufficient in Docket TP-220513 was 3,350"; is that right?
A Yes.
Q Now, first of all, TDNI per assignment is your language. That's not the Commission's language, correct?
A They do use TDNI. We just divided it by assignments. We get TDNI per assignment.
Q Okay. The Commission has never referred to a TDNI per assignment, has it?
A I think they refer to revenue per assignment.
Q Okay. So I want to look at your suggested TDNI per assignment metric. And so I'm going to turn your attention to the cross exhibit, MM-72X.
This is --
A It's not numbered, but I think I'm on the right one.
Q It's Appendix A to the final order.
A I'm on it.
Q Okay. Good.
So Line 58 shows a total authorized TDNI of 26,641,048, correct?

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A Just give me the line again one more time.
Q Line 58.
A 26641? Yep.
Q Yeah.
A Yes.
Q And then I want you to turn to the compliance filing for that docket, which is Exhibit MM-73X.
A Okay.
Q And on the "WP Support for Tariff 2" tab, do you see that? Do you have that?
A It's a different tab. Thank you.
Okay. I went to that tab.
Q Okay. Cell AN7774. Column AN, Line 7774.
A AN7774. "Pilot Assignments"? Is that the column?
Q Yes.
A And which --
Q It shows -- in the compliance line, it shows a total of 7,443 total assignments, correct?
A Yes.
Q Okay. Great.
Now, I know you're a math guy, so you can probably do this in your head. But would you agree, subject to check, that dividing the total TDNI, 26,641,048, by 7,443 trips yields about 3,579 per assignment?

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A This is your compliance filing?
Q Yes.
A Okay. It's not the number, I don't think, that we have. But must be in your compliance filing. So it would slightly change if it's a slight -- a slight amount difference on the assignments.
Q So instead of the 3,350 assignments that you show, it's -- or $3,350 per assignment, it would be 3,579 per assignment?
A Well, I guess if you change the denominator, you would change the outcome.
Q And also when you compare the low end, the various staff comparisons, and give percentages, all those percentages change, correct? When you use a 3,579 baseline instead of what you used, the 3,350 baseline?
MS. DeLAPPE: Objection. Counsel is asking for a lot of complex mathematical calculations right here, and saying "subject to check" does not -- it does not eliminate the inability of a witness to respond to all this.
JUDGE FUKANO: Response.
MS. CARSON: My understanding of "subject to check" is that he then has a period of time to confirm, and if he agrees, subject to check,

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he can -- and it's wrong, he can correct it within a day or two. I can't remember the time frame in the rules.
JUDGE FUKANO: That is also my understanding of the "subject to check." And I believe that the only actual calculation was in reference to the figure that was just referred to. I believe the follow-up question was just a question about whether the number would change.
So I will overrule at this time. You may proceed.
MS. CARSON: Thank you.
THE WITNESS: I just have to compare which number of assignments is used in either calculation. That's all.
MS. CARSON: Yeah. Thank you.
Q (By Ms. Carson) Okay. Captain Moore, in your cross answering testimony, Page 46, you cited that HTW service as an example of declining vessel traffic and a significant decrease in pilotage assignments; is that right?
A Are you talking about Evergreen? Yes.
Q Yes, I am --
A Yes.
Q -- talking about Evergreen.

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A Yes, it's -- I think for the Commission, it's a weekly service, and they terminated it or at least for now they stopped it and are going to call in Oakland and LA. It's a pretty big ship with a lot of cargo capacity and two pilots in and two pilots out.

So how long that's going to not -- you know, you know, not call here. I don't know if they're going to replace it with a smaller vessel later in the year or not at all.

Right now they have no plans to resume. But I understand yesterday you guys talked about ad hoc and, you know, other kind of assignments. So not sure exactly where they're going except that the latest they gave me was they have no plans at this time to resume that service.

So that particular service you'd have to compare to the prior year or test year and say, "How many Evergreen ships do we have in that service? And how many are we going to lose now?" to be able to calculate that.

Q Yeah.

And it's gone up and down in past years, right?

A Yes. Some -- some vessels -- some -- some vessel operators will skip a call here. They call it a blank. Because there's not enough cargo volume, and

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they're going to lose money doing the call, so they just -- they just skip a call.

If they have a weekly service that doesn't have that happen, they'll have 52 weekly calls. And if they skip, they'll have less than that. And then sometimes there's ad hoc calls where they add in. And unfortunately for us, we've had more blanks than add-ons, and we're trying to get the gateway to more, you know, add-ons than blanks.

Q So you didn't present any restated model removing the HTW assignments or their associated revenue, did you, in your cross answering?

A I did not. I just put that in there because that was an announcement. And it fits with the overall trend we've been seeing since 2005. You can go up and down in that time frame. But that's the overall vessel arrival trend, and this fits in with reduced vessel arrival trend. We used to have almost 1400 container vessel arrivals, and now we're at 752.

Q Thank you.

A So they're going down.

Q That goes beyond my --

A Okay. I'm just saying that's going down, and it fits in with that trend.

Q Okay. And so if the HTW Evergreen, HTW trips are

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removed from the projected assignments, then the associated tariff revenue should be removed as well, right? You would need to adjust it?

A Well, our projection is 6,972 revised. It was 6,962. We had a typo. But -- but this just fits in. I think the 2025 year was 7,036. We're predicting 6,972. This fits in with a continuing decline. And we like it not to happen, but that's -- that's what the trend shows. It's a longer-term trend.

Q But to be clear, you said you don't really know if it's ad hoc and if it's going to be a long-term trend or if it's going to be ad hoc coming and going as it's done in the past?

A All I know is they terminated it because they have more cargo in Oakland and LA, not here right now, and they have no plans to resume it at this time. That's -- that's all I can tell you, is what they told me.

Q Thank you.

I have a clarification for you. Exhibit MM-22. And also Exhibit MM-34.

A Okay.

Q They have slightly different names. One is a transportation adjustment worksheet, and the other is a transportation expense worksheet. I just want to

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clarify. To me, they look like the same document. Is that correct?

A It looks like the same document.

Q Okay. All right. Just wanted to make sure that I understood.

A We put that in to see if you'd catch it.

Q Okay. So we talked about this before. But the Board of Pilotage Commission set the number of authorized pilots at 60 in August 2024, right?

A Correct.

Q And you oppose that decision, right?

A I thought it should have been a little lower. Along with -- mostly along with and a review of on-watch pilot availability. That was my main -- my main point there.

Q Okay. You submitted more than a hundred pages of materials in opposition to the decision to authorize 60 pilots, correct?

A Mostly around efficiency. Just trying to get on-watch pilot availability, and that's it.

Q But the BPC did authorize 60 pilots over your objection; is that right?

A They did. I -- I think PSP wanted 62, and they went 60. And I was somewhere between 56 and 60.

Q Okay. Great.

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It takes time to add those additional pilots, correct?

A At this point, I'm just going to give kudos to the whole training program, 'cause they are pretty much in a straight line. If you look at all the exams, putting out about three, three licensings a year, two and a half to three licensings a year. It's great. We haven't stranded anybody on a list. And they keep popping them out.

So until there's some big change on having, you know, three in, three out every year on average -- could be one, could be four, could be whatever, but it averages three -- they've done a great job not stranding somebody on a list. So, yes, they have to keep the pipeline moving for sure.

Q Yeah.

A 'Cause that's --

Q The licensing process, though, is a lengthy process, isn't it?

A It is a lengthy process. And so that's why I give them credit. Because they're going this many years, and they're having them come out the other end.

Q Yeah.

A Which is good.

Q Good.

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I understand that PMSA has asked the BPC to again set the authorized number of pilots; is that right?

A I'm sorry.

Q The PMSA asked the BPC to set -- to have a -065 hearing and to set the number --

A I did not request an -065 hearing. What I did is suggested that they're down around 600 assignments and that they ought to review what they did in 2024. So I just listed the math that they used in 2024, and I applied it to the current drop in assignments, and it came out to 55 plus one.

And just presented it to them in a letter saying, Here's the current situation. The briefings that the PMSA -- PMSA provides is usually around port activity, port competitiveness, and therefore, vessel activity, which is germane and relevant to the BPC's mission and mandate.

So I was just -- I was just relaying the math to them. Because normally I come in there and say here's how many arrivals, here's how many loss arrivals, here's how many -- what's going on in the tanker world, what's going on in the container world, whatever.

So that was just saying, Hey, we've lost a lot of assignments, and if you apply the same math you did in August '24, it's looking like 55 plus one. So they got to do something with that.

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Q And, in fact, they are instituting a -065 process, correct?

A Yeah, well, I brought this up starting mid -- midyear in '25, and now they're making a decision on a process.

Q Okay.

A It seems a little bit delayed to me, but that's what they chose.

Q So my understanding is that a decision will be out in May of 2026 in terms of the -065 process and the number of licensed pilots.

Is that your understanding?

A I just received an e-mail from executive director there that outlining that -- that timeline.

Q Okay.

A In the past used to be announce one month, can make a decision the next. So I think they're modifying the procedure now.

Q PSP is willing to agree to funding the number of pilots the BPC authorizes in 2026.

Will PMSA also agree to support funding of that number of pilots?

A I think this is getting into it. It's -- want to choose my words carefully here, but the timing of the BPC, the delay of the BPC to deal with the loss of assignments is very coincidentally timed with this UTC rate case decision-making, which I don't know if it's May or June or whenever.

It's kind of unfortunate to get commingled. Because whether by perception or reality, there can be things happening that might affect one or the other. So I wished it wasn't at the same time, and then you could just have these things bifurcated and not have to concern yourself with it.

But you could have a pilot delaying retirement. Because they want to have more pilots licensed or not. Or they -- they're going to end up -- I think they're predicting licensing three by May. So even with a loss of 650 assignments, I don't know if they're going to change that or not. I guess we'll find out what they do in May.

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Q Okay. So you're not agreeing to that the -- you asked for the -065 proceeding, or at least you asked for the Commission to relook at this, the Board of Pilotage Commission. The Board of Pilotage Commission is relooking at it and is expected to have a decision in May.

But it sounds like you're not willing to commit

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that that's the number that should be funded?
A I'd like to see the -- the math that they're going to use. 'Cause if they use the math they established in '24, it's going to be 56. But if they're going to use some other kind of math or procedure, I'd like to see what it is.
Q So you'll agree to it if it ends up at your number; is that right?
A If they have five votes and they vote to do something different, I guess I'll see what that is. I don't know.
Q Okay.
JUDGE FUKANO: And beg pardon again. Captain Moore, please just asking to slow down in your response a little bit.
MS. CARSON: Thank you. I have no further questions.
JUDGE FUKANO: Poor timing.
THE WITNESS: Slow enough.
JUDGE FUKANO: Any redirect for this witness?
MS. DeLAPPE: Yes, Your Honor.
JUDGE FUKANO: Please proceed.
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REDIRECT EXAMINATION
BY MS. DeLAPPE:
Q Captain Moore, you were asked about whether you are recommending a decrease in the DNI.
Could you discuss what the recommendation is when you look at it as on the level of DNI per assignment.
Are you recommending a decrease of DNI per assignment?
A Oh. Is that what you're asking? No, we're not recommending a decrease. In fact, since 2022 to present, it's gone up 42 percent, and we're recommending another 13.5 percent increase in DNI per assignment.
Q And we were -- you were discussing staff's proposal in the column in MM-50.
Do you remember that exhibit, MM-50?
A Okay. This is where we compare them.
Q Where we compare the different parties.
If you could turn to Exhibit MM-49T, please. And Page 6.
A Okay.
Q I'm looking at the top of the page there.
A Yes.
Q Could you -- so right there, it's talking about the range that staff offers.

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Did that explanation there at Lines 1 through 7, did that mean to fairly represent the full range that staff was presenting and explain why your proposal was only discussing the low end?
A Yes. 'Cause it -- we call it overlapping with the fairness framework. And we also look at the past decisions of the Commission. And it's in the exact same trend. The low end of the staff's recommendation plots out almost exactly what the trend line of the Commission's decisions.
Q You were also asked about the TAL.
Could you explain whether that the TAL, the targeted assignment level, at the BPC for on-watch is supposed to be -- is that supposed to be a ceiling above which nobody -- no pilot is supposed to work?
A It did not establish a ceiling.
Q So how does the TAL operate? Is it an average?
A It's an average I guess if you take all the pilots together and add all the assigns together and then you take an average and say it's at 127 like it is currently. But 127 is not the TAL, and it is not representative of those at the upper end or lower end. I think one of those -- one of these in here list the assignments per pilot, and you have a range from, like, 42 to 176.

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Q So you did testify about the number of assignments that would be -- that could be performed safely, and you referred, I think, to that.
Is that Exhibit MM-01T, Page 207, Figure K?
A This is the -- this is a bar chart of the -- of the distribution, yes.
Q Could you explain what that's showing?
A That shows that one pilot did 176 assignments and one at the lower end at 42 and you got a bunch in between. So it's not a very tight range. It's just what it is. But it shows that 176 is clearly way above 123 plus six, which is 129. And it's clearly above that. And there's no indication that any of those assignments were done less safe.
So -- and I would never presume that any of the pilots here would willfully do something that was unsafe or violating the fatigue or rest rules at all.
Q You were also asked about correlation data.
And could you explain first how you used the correlation data?
A So you have arrivals, and every arrival has a departure. Some of them have shifts and so forth. And so there's more assignments than just arrivals times two.
So to evaluate all the workload for the pilots, a

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ratio was developed even by PSP in the 2019 filing that shows what is the ratio of assignments to an arrival. So if you have 2,434 arrivals, which was the actual figure, and you use this correlation factor which we found rounded up to 2.88, 2.8764, you would come out with a number -- you would come out with a correlation -- that correlation factor could be used on future arrivals.

So you have the marine exchange data and VTS data showing the downward trend in arrivals. You multiply it by this correlation factor, and it gives you how many assignments. It's a good forecasting tool for assignments. And actually PSP did that in 2019, and they came up with a correlation factor of 2.86.

Q Could you turn to Exhibit MM-43, Page 92.

A Okay. I have it. I have it.

Q And could you explain -- so is that the testimony of PSP's expert regarding the correlation factor that PSP used in the first rate case of 2.86?

A Yes, it is.

Q And how does his methodology compare with the methodology that you are using in this case for the 2.88?

A It's exactly the same. We use 2005 to 2025 marine exchange arrival data. Their consultant used 2005 to

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2008 marine exchange vessel arrival data and established a correlation.

And the assignment-to-vessel correlation he came up with in his total was 2.86. Ours was 2.8764. It's very consistent. And you can look through all the years. It's a very good predictor of total assignments, is a multiplier times the arrival.

Q And so that ratio, does it change much over time?

A It's -- it's very consistent. We have 20 years of data that we did that correlation factor. And if you compare them, it's very tight range.

Q So you testified regarding -- in cross-examination regarding Evergreen. And you said that it fits in with a longer-term trend.

How long of a trend are you considering when you're providing a forecast in this case?

A I can only talk about stuff in the record. I guess in 2005 to 2025 we have that data. I've been tracking this since the '70s. We peaked in the '90s. We are way down on traffic in cargo ships. And so that long-term trend that we used in the filing here is from 2005 to 2025, but it can go back farther and can show you the trend.

The reason we're using -- we're looking at vessel arrival data more recently, like the ten-year, is

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because cruise ships came in in 1999. There were seven of them. I was captain of the port then. And it grew fast. And now it went up to 298 last year, and it's going to be, like, 300 -- close to 330 this year.

That didn't exist back then. So it made more sense to use the 10-year when we've had cruise ship business in the mix to get the vessel arrival trend, knowing that we now have cruise ships here. And that's why we use the 10-year deal in our -- we use the 20-year developed correlation factor, because that had a lot of data points, very consistent, and we use the 10-year vessel arrival trend, hindcasting trend line from marine exchange, to come up with the number 2424 that we multiplied by the correlation factor to come up with 7,972, which you go back and you can apply that to every year and see how accurate that is. It's -- it's a very good predictor.

Q So would you say that you're not projecting based on what the situation is on a specific day?

A Not in a specific day. And to be honest, I mean, we're at 7,036 through Calendar Year '25. We're now at 6,985 trailing 12 months. We're predicting seven th- -- or 6,972. This weekly service coming in or out is just along that same trend line of slow

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decrease.

Q You testified about and you were asked about a training -- the training timeline.

Could you please turn to Cross Exhibit IC-56. And so it's IC-56X. It's my last question.

A IC. IC-56.

Q These little laptops are tough.

A Yeah, it's not my laptop, but here we go.

IC -- I think maybe. IC-50 or 56?

Q 56X.

So this exhibit, does it have something to do with the training timeline?

A Yes, it -- yes, it does.

Well, to explain it, it goes into -- you get on the list. You have a waiting time on the list. And then you start training. And you have a time, an amount of time in training. And it is a pretty straight line on this pipeline.

And, again, that's why I was giving kudos to BPC on managing the exam process and PSP and the training program, the training evaluating committee. This is -- this is fairly predictable, and this goes back to 2016. And it's showing pretty darn long time line, waiting plus training, to get to the license. But it also shows a pretty steady outcome of licensed

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individuals, which is very good.
Q So, in sum, you would say is the current licensing process working well?
A Yes.
MS. DeLAPPE: I have no further questions. Thank you.
JUDGE FUKANO: Thank you.
Any questions from the bench for this witness?
COMMISSIONER DOUMIT: Yes. Thank you, Your Honor.
So, Captain Moore, thank you. We've talked a lot about blank sailings and trends. And Captain Carlson, in fact, referred me to yesterday on blank sailings. So I'm curious about something. Okay? And you're sort of, I think, the expert here, one of the experts on watching these trends since the '70s.
This trend, which you say is in decline here in the Puget Sound, I want to know -- and I guess this relates to blank sailings, because these are ships potentially coming from LA and Oakland.
THE WITNESS: Asia.
COMMISSIONER DOUMIT: Okay. What is happening in those other regions on the West Coast? Are they -- I think that they're suffering the same sort of volatility now. But, I mean, is

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it that the Puget Sound is at any sort of disadvantage here? Broad question, I understand, but I think it's in the record now. I'm curious about this.
I want to understand if there's anything comparable and contrastable between our Puget Sound and these other places in terms of what's happening and trends of ship movement.
THE WITNESS: It's a great question, and I'm glad you asked it.
There's a couple different dynamics going on. So I will speak a little slower here.
LA / Long Beach complex: Really big, massive economy of scale. 20 million containers. 20-foot equivalent containers going through there a year. They have the highest load factor, if you will -- that is, off-loads plus on-loads -- of any port call even in Asia. They dwarf us on that. So economy-of-scale-wise, bigger ships, more off-load, more on-load.
If you can imagine the biggest ship now, 24,000 TEUs can -- and it went on the highway and it off-loaded all of them, it'd be 700 miles past Salt Lake City from here on the highway. So big, huge. They don't do that, but it gives you the idea of the

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scale involved.
So they have a big hinterland, which means a local consumption. Plus they've got good rail connection to get to -- to points east, primarily Chicago, for other distribution. So that is a different dynamic, and they have been holding off the Southeast and East Coast and so forth fairly well compared to us.
We have -- we have Prince Rupert to the north. Didn't used to do containers, and they came online about 20 years ago. And they took market share. Vancouver for sure is taking market share. They have rail access in the United States without paying the harbor maintenance tax. So they have some distinct advantages there. They're also closer to Asia on the great circle route.
So we're closer to Asia than LA / Long Beach. We don't have the economy of scale. And we don't have the export volume. Oakland has a distinct advantage because they have an agricultural center in Central California. And they have some more exports. So if you can come in and not just take empties out -- you can come in and get payment both ways and be more efficient -- you have a better business case there.
So Oakland has that. LA / Long Beach has that.

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We still are competing with Charleston and Savannah. Houston's coming online pretty -- pretty fast now. So there's a lot of other competitive things going in place.
If we had more export outload, we could become a little bit more like Oakland. We also have this harbor maintenance tax deal we're trying to get on the border loophole fix so that they don't get the benefit of not paying that tax going through Prince Rupert.
And I would just say, look, we -- we had 4.1 million TEUs handled here in 2006. We're at 3.3 now. So all this investment and all these bigger ships and all these things, and we've lost on the -- I'm only talking the container side. There's also the grain side and cruise ships and so forth. But that's -- that's the grain story. That's the container ship story. 1386, maximum year we ever had for container ship calls. Down to 752 now. Of course they're getting bigger. But we're also having less cargo. So kind of up against it.
John Wolfe, the CEO of Northwest Seaport -- we talk all the time about this. There's everything you can do to try and be a gateway of choice. And I can tell you, on blank sailing, you're coming in -- if

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you don't have the cargo volume to offset the port call costs, which is the fuel and the daily operation of the ship, the highest operational deal is the pilots and then the tugs, and then you have line handlers and oil spill coverage and all sorts of stuff.

If you can't cover your costs, you're going to do the blank sailing. If you have some surge and some sort of export going on, you can do an ad hoc and say, Hey, there's enough volume there for us to make sense out of this. And then they can do an ad hoc.

So if you have a real consistent deal, let's say TOTE or Matson serving at Anchorage, that's clockwork. That's week, week, week, week, week. And that -- their business model is very steady. And so they don't have -- if they blank something, it's because they have a ship maintenance schedule. But other than that, they're like clockwork. And so we don't quite have that in the container sector right now.

COMMISSIONER DOUMIT: Thank you for that. Thank you.

Was that too fast?

JUDGE FUKANO: Anything further from the bench for this witness?

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Thank you. You are excused.

(Witness excused.)

JUDGE FUKANO: Oh. And actually, our last witnesses for today will be the panel in support of settlement, so you may wish to remain.

THE WITNESS: I don't want to, no. Am I on the panel?

JUDGE FUKANO: You are.

So my apologies. I should have read ahead. The next panel of witnesses -- our last witnesses will be the panel in support of the multiparty settlement, which includes Scott Brewen, Ann LaRue, and Captain Mike Moore.

While we are getting set up, perhaps we can take a brief recess for five to ten minutes. So we will be off the record.

(Pause in proceedings from 2:26 p.m. to 2:34 p.m.)

JUDGE FUKANO: Let's be back on the record. The time is approximately 2:34 p.m. We are resuming with cross-examination of the partial multiparty settlement panel, which consists of Scott Brewen, Ann LaRue, and Captain Michael Moore.

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Would you all please activate your mikes and raise your right hand, and I will swear you in.

I plan to swear you in collectively, but please respond individually for the benefit of the court reporter.

Do you swear or affirm that the testimony that you provide today is the truth and nothing but the truth?

PANEL MEMBER BREWEN: I do.

PANEL MEMBER LaRUE: I do.

PANEL MEMBER MOORE: I do.

SCOTT BREWEN, ANN LARUE
AND
CAPTAIN MICHAEL MOORE, having been first duly sworn as a panel by Administrative Law Judge Fukano, were examined and testified as follows:

JUDGE FUKANO: Thank you.

Would counsel please introduce the respective witnesses and tender them for cross. Please note if there are any corrections to the witnesses' prefiled testimony.

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MS. CARSON: Good afternoon, Ann LaRue.

Please state your name for the record.

PANEL MEMBER LaRUE: Ann LaRue, L-a-R -- capital R-u-e.

MS. CARSON: Do you have before you the settlement testimony that you submitted in this docket, Exhibit AML-18T?

PANEL MEMBER LaRUE: I do.

MS. CARSON: Is this true and correct?

PANEL MEMBER LaRUE: Yes.

MS. CARSON: Thank you.

She is available for questions from the bench from -- for the settlement.

Next, we have Scott Brewen.

Please state your name and title for the record.

PANEL MEMBER BREWEN: Scott Brewen, executive director, Puget Sound Pilots. Last name spelled B-r-e-w-e-n.

MS. CARSON: Do you have before you the settlement testimony in this case that you prepared?

PANEL MEMBER BREWEN: I do.

MS. CARSON: Is it true and

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correct?
PANEL MEMBER BREWEN: It is.
MS. CARSON: Thank you.
Scott Brewen is available for questions from the bench.
MS. DeLAPPE: And for Captain Moore, if you could please state your name and title and spell your last name for the record.
PANEL MEMBER MOORE: Michael Moore, vice president, Pacific Merchant Shipping Association. Last name M-o-o-r-e.
MS. DeLAPPE: And do you have before you Exhibit MM-71T?
PANEL MEMBER MOORE: Yes, I do.
MS. DeLAPPE: And is that your testimony regarding the settlement in this case?
PANEL MEMBER MOORE: Yes, it is.
MS. DeLAPPE: Do you have any corrections to it today?
PANEL MEMBER MOORE: I do not.
MS. DeLAPPE: And is it true to the best of your knowledge?
PANEL MEMBER MOORE: Yes, it is.
MS. DeLAPPE: I tender the witness.
JUDGE FUKANO: Thank you.

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If there are questions from the bench for the panel?
COMMISSIONER DOUMIT: Sure. I'll start. Thank you, Your Honor.
So this is to PSP. At paragraph 16 of the settlement stipulation, on the Commission's approval of the settlement, PSP will be authorized to make expenditures.
My question is not whether you've made expenditures yet. But have you obtained loans or financing for any of those expenditures yet?
PANEL MEMBER BREWEN: Commissioner Doumit, yes, we have. We have secured loans through -- U.S. Bank is providing the loans for the boats. They're working on a loan right now for the portable pilot unit as well. So, yes, we have.
COMMISSIONER DOUMIT: All right. Great. Thank you. Thanks.
CHAIR RYBARIK: What is the amount of the loan that's been secured at this point?
PANEL MEMBER BREWEN: Chair Rybarik, the loan we've secured is covering the cost of the Juan de Fuca from last year, which is approximately $700,000, plus the cost of the Puget Sound midlife refit and repower for $3.7 million.

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CHAIR RYBARIK: Okay. And then maybe to follow up on that. And I'm not entirely sure who these questions will be directed to, so it's probably all three of you at some level.
In that same paragraph that Commissioner Doumit identified, it describes the authorization to proceed to a compliance filing. And in that, it details a little bit of what the capital plan surcharge will include.
And in that paragraph, it says -- and it's about midway through the paragraph; I'll just read it -- "The capital plan surcharge shall include financing and carrying costs."
Does everybody see where it says that?
Are those two distinct costs? And, Captain Moore, why don't we start with you, and we'll go down the line.
PANEL MEMBER MOORE: To our understanding, it's the cost -- it's the cost of the loan basically. It's the cost of the loan and the financing charges associated with that.
CHAIR RYBARIK: So to you, Captain Moore, financing and carrying costs are the same thing.
PANEL MEMBER MOORE: Yes.

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CHAIR RYBARIK: Okay.
PANEL MEMBER LaRUE: Yeah, we also understood it to be the loan and interest costs for the -- for the loans that we were taking out, yes. All of it.
CHAIR RYBARIK: And where are the carrying costs contained in the calculation of the proposed surcharge?
PANEL MEMBER LaRUE: Have them separated out as interest costs on Attachment 1. I don't have the print -- or the electronic version, so I don't know the cell numbers.
CHAIR RYBARIK: Okay.
PANEL MEMBER LaRUE: But below A1 on Schedule A of Attachment 1, which is the first page.
CHAIR RYBARIK: Yeah. Hold on. Let me pull that up. One second, please.
Okay. Schedule A? Is that correct?
PANEL MEMBER LaRUE: Correct. Yes.
CHAIR RYBARIK: Okay.
PANEL MEMBER LaRUE: Below A1, B1, and B2 that's listed there, we have a section of interest costs.
CHAIR RYBARIK: Okay.

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PANEL MEMBER LaRUE: Okay. So those are kind of separated out there. And then in the electronic version, they're linked where it's appropriate. The page following lists the complete amortization schedule and all of the interest expenses for the life of that loan. And the same goes for the other two projects.

But currently we're only requesting recovery of the first two years at this point. So it's not all of it, but we provided all of that information.

CHAIR RYBARIK: Okay. And if I'm looking at this correctly, I see total amounts of interest costs. Is that correct?

PANEL MEMBER LaRUE: Correct. Total project interest costs and then broken down for the first year and then the second year.

CHAIR RYBARIK: And what is the associated carrying cost rate or interest cost rate that is applied in the surcharge?

PANEL MEMBER LaRUE: Our interest rate was 6.14 percent at this time. And that's on the amortization schedule on the next page. Nominal annual rate, it says 6.14.

CHAIR RYBARIK: Okay. That is on Schedule A.1, ten-year.

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PANEL MEMBER LaRUE: Correct.

CHAIR RYBARIK: Pilot boat. Okay. Very good.

Thank you for -- does any member of the panel have any reason to dispute any of that?

PANEL MEMBER MOORE: Of the carrying costs or the --

CHAIR RYBARIK: Yeah.

PANEL MEMBER MOORE: No.

CHAIR RYBARIK: Okay. Very good. Thank you.

COMMISSIONER RENDAHL: I am looking for my mike here.

So, I guess, just kind of a basic question. It's not really specific. But maybe you can point to it in the settlement in the attachments. And this is for both the five-year capital plan and the pilot boat capital plan.

To what extent are the costs of the projects contained in both of those plans known and measurable? Are they specified all of them, or there's some of them that are out in the future?

So that's for any member of the panel.

PANEL MEMBER BREWEN: Commissioner Rendahl, so some of the -- the costs we know because

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we've had somebody bid on them to give us that information. We can go through, if you'd like, and go through some of those. Some of those are still unknown to some degree, particularly when we discuss the pilot boats themselves.

Given that they're 26-year-old boats, a lot will be learned once they're taken out of the water and looked at. Things have to be taken apart to look at what the status of them are. So some of those costs won't be known until the boat's actually out of the water and looked at.

We do have some quotes for the portable pilot units. However, we haven't determined which vendor we're going to use for that. So that's still a little bit up in the air, but it's -- it's pretty close to known and measurable on that. We do have some issues working through some of the tariff costs, because those are coming out of Canada. And some of that information is still unknown, given the recent supreme court decision. But we need to factor that piece in there as well.

COMMISSIONER RENDAHL: Okay. So it's mostly for -- I would say mostly for the Juan de Fuca that the costs are not as known and measurable?

PANEL MEMBER BREWEN: It's for the

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Puget Sound.

COMMISSIONER RENDAHL: I'm sorry. For the Puget Sound. Okay.

And the PPUs are close?

PANEL MEMBER BREWEN: Yeah, they're pretty close.

COMMISSIONER RENDAHL: And when do you -- remind me when you expect to know that among --

PANEL MEMBER BREWEN: We --

COMMISSIONER RENDAHL: You'll be making that purchase soon, I understand.

PANEL MEMBER BREWEN: Yeah, we're going to need to purchase these by the end of June to get them for next year, so we'll have -- we actually have a current quote from -- the current PPUs, we're using NavSim. If that is the vendor we go with, we have a -- we have a pretty strong quote.

COMMISSIONER RENDAHL: Okay. And the tariff cost that you mentioned, is that for the Puget Sound? Is that for the barge? What is that for?

PANEL MEMBER BREWEN: That's for the PPUs. We order them from the company out of Canada.

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COMMISSIONER RENDAHL: Okay. And for the Puget Sound, when do you expect to take the boat out of water?

PANEL MEMBER BREWEN: We expect to take the boat out of the water at the beginning of November. However, we do have to preorder the engines, the reduction gear, the generators ahead of time. So we're going to need to start our ordering end of April or early May to have the engines arrive prior to the dry-docking.

Some of the yards that we're looking at are requiring that the equipment be on hand prior to starting work, because they have concerns they start work and then there's delays in getting equipment. So we need to order that prior to -- for delivery prior to hauling out the boat.

COMMISSIONER RENDAHL: Okay. So those costs for the Puget Sound would then be known by when? May?

PANEL MEMBER BREWEN: No. Because we're not going to know a lot until they pull the boat out of the water. There's --

COMMISSIONER RENDAHL: But you have to -- I'm sorry. Go ahead.

PANEL MEMBER BREWEN: We have a

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pretty good estimate on the costs for the engines, for the generator. We're still working on the reduction gear, I believe. So those are known costs. But the yard costs are not known at this time other than what has been bid out by the yards that are bidding on the project.

COMMISSIONER RENDAHL: And so when you say yard costs, you mean mostly labor, labor to...

PANEL MEMBER BREWEN: Mostly labor. But there could be some things that they're going to need to change out that we're not -- we're not aware of at this time because we don't know that there's an issue.

An example would be if we need to rewire a significant portion of the boat, those aren't known costs right now until we determine the status of the wiring, you know, 30 years on -- in salt water. You don't know, and so there could be some costs with things like that.

COMMISSIONER RENDAHL: Okay. Thank you much.

Is there anything anyone else wants to add to that?

PANEL MEMBER BREWEN: Is there

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anything you wanted to add to that?

PANEL MEMBER LaRUE: No. One of the -- we will have a -- with the true-up mechanism at the end of the year, any of the over or unders will be collected and redistributed correctly after that. Because there are a few unknowns. But the parties have recognized this, but these are necessary projects. So we should have a lot more information very soon.

COMMISSIONER RENDAHL: Okay. Thank you.

COMMISSIONER DOUMIT: So I think this may be a question for Ms. LaRue.

Did you hear the exchange between the chair and Scott Sevall on deferred accounting and treatment of the surcharges? If not, that's okay. I'm going to ask you, because I want your perspective as well. Okay?

How would deferred accounting treatment for the costs contained in the surcharges alter the mechanics or requirements of the surcharges?

PANEL MEMBER LaRUE: I actually testified that a deferred accounting mechanism wasn't necessary for our proposal, because we are -- I -- I saw it akin to, like, a commodity adjustment filing

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where they are going to be incurring certain expenses, certain identified expenses, and then in ten months, meeting with the parties and making sure everything's kosher, trueing those up. If it's overcollected, we'll be reducing the rate. If it's undercollected, we'll increase the rate.

And because this is kind of a first for PSP, I think it's a great first step in moving them into the UTC norm. So this is a first great step there.

So I don't believe deferred accounting is necessary, because I -- because we are trueing them up annually. We aren't asking for some recovery at some future date.

COMMISSIONER DOUMIT: Any colleagues have any follow-up on that one?

COMMISSIONER RENDAHL: I have just a quick question.

So this is really -- this is less like a surcharge than it is really a balancing account or tracking account, correct?

PANEL MEMBER LaRUE: Correct. We initially proposed it as a surcharge, so when PMSA approached us with the settlement, I think we just kind of -- it just kind of stuck.

COMMISSIONER RENDAHL: Okay. So

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it's really more of an annual balancing account that you will true up at the end?
PANEL MEMBER LaRUE: What did you say at the beginning? I'm sorry. What did you say?
COMMISSIONER RENDAHL: Oh. Sorry. This is more like a balancing account or a tracker.
PANEL MEMBER LaRUE: Yes.
COMMISSIONER RENDAHL: So you will be trueing up at the end of each year, so -- and that's correct?
PANEL MEMBER LaRUE: Yes. But we would put the rates under Item 380 in the tariff, which is special surcharges. So if -- I know staff had an issue with that, but we'll put it wherever you guys want it. We can call it whatever you guys want it. To be in line with others.
COMMISSIONER RENDAHL: So what are the cost containment measures that the parties have decided on to ensure, since this is an annual tracker, to ensure that the costs are contained to what is necessary?
PANEL MEMBER LaRUE: So we have estimates for the first year and kind of for the second year. When -- we did put a stipulation in the settlement that if there is more than a 50 percent

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change in that surcharge, that we would provide additional time for the parties to review the filing prior to submitting it to the Commission.
We do anticipate a big increase in the surcharge next year simply because we will be recovering in the second year a full year of PPU expenses, and in the first year we're only covering [sic] about half a year of PPU expenses. And because those are millions of dollars, but they're still only amortized over four years, so they do have a large annual expense.
So we do anticipate a big change in the surcharge in the first year, but we have, like I said, only requested recovery of the expenses for the first two years. And we will re-evaluate with the parties each year, I believe, is in the settlement.
The costs. We will be looking at the costs going forward, tracking those costs, and getting more estimates and more firm costs as the year goes through. So we'll have a better idea every year of how much we're going to be spending.
COMMISSIONER RENDAHL: Thank you.
Do any of the other panelists want to add anything to that?
PANEL MEMBER BREWEN: No, I don't.
PANEL MEMBER MOORE: I guess we're

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going to get to the operating expense at some point here. That's the one area we did not agree on. Operating margin, I mean.
COMMISSIONER RENDAHL: Well, that is -- I don't -- I don't have a question about that. I don't know if my colleagues do.
PANEL MEMBER MOORE: Okay.
CHAIR RYBARIK: Just following up on that surcharge discussion that just occurred: When you do that true-up, is this Commission in any way involved in the decision of how far to go on that, on the change in the surcharge amount?
You've identified it will likely go up. Is that filed with this Commission for approval, or is that just amongst the parties?
PANEL MEMBER LaRUE: Yeah, the parties agreed that we would put this through at an open meeting process. We also discussed it with staff. I know they didn't sign on to it, but we did include them in these discussions throughout.
We were planning on providing all the filing information, work papers, supporting documents to the parties prior to submitting it to the Commission, so they do have ample time, and then doing a 30-day opening meeting for us to just take it through and

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have the surcharge increase changed or whatever the case may be.
Commissioner Rendahl, we are doing only things that are laid out in the capital plan that PSP has. So that would be some cost, you know, control there. We're not just out able to make capital purchases for anything. They're specifically laid out in the capital plan and agreed on by the parties, so...
COMMISSIONER RENDAHL: Thank you. I guess, a follow-up.
I remember from reviewing the settlement that there is that 30-day time period between filing and then an open meeting.
PANEL MEMBER LaRUE: So technically the parties would have -- sorry.
Technically the parties --
COMMISSIONER RENDAHL: No, go ahead.
PANEL MEMBER LaRUE: -- will have 60 days to review before the open meeting, and the Commission would have 30.
COMMISSIONER RENDAHL: Okay. Because you may have noticed that sometimes it's been taking longer and some of these provisional capital cases with some of the utility companies, and I see

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this as somewhat akin to that.
PANEL MEMBER LaRUE: Yeah. And it allows the parties to have discussions before the clock starts at the Commission, so...
COMMISSIONER RENDAHL: So would there be an opportunity if the parties need additional time, would they be --
PANEL MEMBER LaRUE: Mm-hmm.
COMMISSIONER RENDAHL: -- amenable to that?
PANEL MEMBER LaRUE: Absolutely.
COMMISSIONER RENDAHL: Okay. Thank you.
PANEL MEMBER LaRUE: Yeah. I believe. Yeah.
JUDGE FUKANO: And just for clarity of the record, is that also PMSA's position as well?
PANEL MEMBER MOORE: Yes, it is. Just to comment: We are just trying to take some stuff off the table here that could be more mechanical and less divisiveness around things like buying a new pilot boat, you know, re- -- you know, rehab the boat, those kind of things. If we could take that off the table and slowly get more things off the table, then we can streamline the entire

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process and make it functional.
And, you know, and PSP did a lot of work on evaluating the hulls of the boats and so forth to figure out what options we had. And so I think it was a very collaborative discussion around this.
JUDGE FUKANO: Anything further from the bench?
Thank you. You are excused.
(Panel excused.)

JUDGE FUKANO: All right. This brings us to the end of cross-examinations. I have a few additional housekeeping items before we adjourn.
First, I wanted to note or at least clarify that the settlement and the supporting material for the settlement, other than the testimony, were not formally admitted as exhibits, but it is my understanding that the Commission is still able to refer to them and cite to them as though they had been filed as exhibits. I just would like to confirm with all the parties that that is the case.
Starting with PSP.
MS. CARSON: Yes, Your Honor. We agree that they can be admitted into the record or they can be referred to. However the Commission

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prefers.
JUDGE FUKANO: And Commission staff.
MR. ROBERSON: Staff also agrees.
JUDGE FUKANO: And PMSA.
MS. DeLAPPE: PMSA also agrees. Thank you.
JUDGE FUKANO: Thank you. Then we will fully consider those materials.
Next, the Commission held a public comment hearing in this matter on January 13th, 2026. While public counsel is usually responsible for adding the public comments as a bench request, given that public counsel is not present in this case, would Commission staff be able to file the public comment information to the docket as Bench Request 1?
MR. ROBERSON: The relevant staffers are not here for me to ask, but I see no reason why they could not do so, so yeah.
I don't know about the timeline. Do you have an idea as to when the Commission would like to see those in?
JUDGE FUKANO: I believe normally it's a few weeks. Would two weeks be reasonable? Two weeks from today?

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MR. ROBERSON: Given it's staff's first go at this, could we get at least three?
JUDGE FUKANO: Yes, I believe that would be reasonable. So that would put the deadline at -- three weeks from today would be April 7th.
MR. ROBERSON: That's -- yeah.
JUDGE FUKANO: Then we will set a deadline for that of April 7th to submit the public comment exhibit. Thank you.
And, relatedly, we have two bench exhibits now: Bench Exhibit 1 and 2. These were both originally filed by PSP. And the Commission would request that PSP formally file those as Bench Exhibit 1 and Bench Exhibit 2.
MS. CARSON: Will there be an actual bench request, or you just want us to go from our notes and the transcript and submit those bench exhibits?
JUDGE FUKANO: If you are comfortable proceeding from your notes and the transcript, that would be sufficient for the Commission. But I understand it to be the Lurito-Gallagher -- or the history of the operating margin exhibit and the -- the tariff Appendix C that was referred to today. That was filed with the original

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tariff pages.
MS. CARSON: Yes. We can do that.
JUDGE FUKANO: Thank you.
And would a deadline of a week from today be sufficient?
MS. CARSON: Yes, Your Honor.
JUDGE FUKANO: Okay. Then we will set a deadline of March 24th for that.
We have two rounds of briefing set for this case, with the initial posthearing briefing due April 17th, 2026.
Do the parties have recommendations or thoughts regarding the page limit for briefing? The Commission was prepared to propose 45 for the initial briefing and 25 for the reply, but I'd like to get input from the parties on this.
MS. CARSON: We were prepared to request 60 pages. Perhaps we could compromise and do 50.
JUDGE FUKANO: Commission staff?
MR. ROBERSON: Either of those options work for staff.
JUDGE FUKANO: And PMSA?
MS. DeLAPPE: Either of those options is fine with PMSA. Thank you.

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JUDGE FUKANO: Then we will set the briefing for the initial brief at 50 pages and the reply brief at 30.
Are there any additional questions or matters from the parties that we should address before we adjourn for today?
MS. CARSON: No, Your Honor.
JUDGE FUKANO: Seeing nothing, then thank you to all of the parties, witnesses, and representatives for your participation.
We are adjourned.
(Proceedings adjourned at 3:04 p.m.)

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STATE OF WASHINGTON)
) ss
County of Pierce)

I, John M. S. Botelho, CCR, RPR, a certified court reporter in the State of Washington, do hereby certify:

That the foregoing proceedings were conducted in my presence and adjourned on March 17, 2026, and thereafter were transcribed under my direction; that the transcript is a full, true and complete transcript of the said proceedings and was transcribed to the best of my ability;

That I am not a relative, employee, attorney or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of March, 2026.

/s/John M. S. Botelho, CCR, RPR
Certified Court Reporter No. 2976
(Certification expires 5/26/2026.)

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