

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,
Complainant,**

v.

**PUGET SOUND PILOTS,
Respondent.**

Docket TP-220513

**REBUTTAL TESTIMONY OF
CAPTAIN IVAN CARLSON
ON BEHALF OF PUGET SOUND PILOTS**

MARCH 3, 2023

1 **I. IDENTIFICATION OF WITNESS**

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

3 **A:** A: My name is Captain Ivan Carlson. I am a state-licensed pilot and the president of
4 the Puget Sound Pilots.

5
6 **II. PURPOSE OF TESTIMONY.**

7 **Q: What is the purpose of your testimony?**

8 **A:** My rebuttal testimony addresses the following four areas:

9 1. Summarizes the considerable evidence demonstrating that the Puget Sound
10 pilotage ground should be considered comparable to that of other pilotage grounds in
11 the United States for purposes of ratesetting by the UTC.

12 2. Rebutts the PMSA position that pilotage service in Puget Sound has suffered
13 significant quality degradation in the last two years and to rebut PMSA allegations
14 that new PSP efficiency measures are not effective or have even made PSP's
15 efforts to become a more efficient organization per the UTC recommendation.
16 PMSA's allegations necessitate the introduction of new evidence showing workload
17 from comparable districts and empirically demonstrating an increase in on-watch
18 efficiency since the new rules became effective.

19 3. Provides additional evidence strongly supporting the adoption of a number of
20 annual automatic tariff adjustment mechanisms, particularly a cost-of-living
21 adjustment, a tariff adjuster for new licensees/retirees, a pension surcharge tracking
22 actual pension-related costs and a traffic-based adjuster to account for volatility in
23 annual vessel traffic.

4. My opinion that a failure on the part of the UTC to adopt a nationally competitive
level of pilot compensation and benefits will substantially undermine morale within
the PSP pilot corps and will lead to the departure of multiple licensees who are
currently in their late 30s or early 40s and significantly undermine the efforts of both
PSP and the Board of Pilotage Commissioners to diversify our pilot association.

1 A. As Recognized by Pilotage System Regulators Throughout the
2 United States, Major Pilotage Grounds like That of Puget Sound
3 Are Considered to Be Comparable for Purposes of Establishing
4 Appropriate Levels of Target Net and Target Gross Income,
5 Pension Benefits and Workload.

6 **Q: In his testimony, PMSA's Captain Michael Moore contends that "comparability**
7 **is not an appropriate ratemaking factor" because PSP has not submitted sufficient**
8 **evidence to establish the comparability of the Puget Sound pilotage ground to other**
9 **pilotage grounds in the U.S. Do you agree with this position?**

10 A: No. Comparability is always an appropriate ratemaking factor based on the majority
11 of statutory schemes that align pilotage rates based on comparable work for comparable pay
12 within a comparable community. In this rate case, PSP has assembled comprehensive
13 evidence regarding the comparability of our pilotage ground to others within the United
14 States on three fronts. First, it is standard practice for other pilotage regulators to examine the
15 comparability of pilotage grounds and the levels of pilot income and benefits earned by the
16 pilots on those grounds. As noted by Captains McIntyre, Nielsen and Jordan representing the
17 pilot groups serving San Francisco Bay, the Columbia River Bar and the Columbia River,
18 pilot group comparability analysis is mandated by either statute or regulation for the
19 ratesetting agencies in California and Oregon and many other states. American Pilots'
20 Association Executive Director and General Counsel Clay Diamond confirms that, while
21 local knowledge and local conditions vary between individual pilotage grounds, the skill set
22 of the professional marine pilot is highly comparable from one ground to the next. Second, in
23 its original testimony and the rebuttal testimony filed today, PSP has presented
24 comprehensive testimony through multiple witnesses showing that the professional skills and

1 experience required to be a state-licensed Puget Sound Pilot and the difficulty, risk and
2 lifestyle commitment of providing those pilotage services is highly comparable to other
3 pilotage grounds throughout the United States. In fact, the level of work effort currently
4 required of PSP's pilot corps is among the highest in the United States based upon an
5 assessment of those grounds where workload data is publicly available. Third, with respect to
6 the issue of pilot net income and benefits including pension benefits, PSP has clearly met its
7 evidentiary burden by producing 100% of the publicly available audits or financial
8 disclosures and pilot commission rate orders issued in the last five years.

9
10 **B. Puget Sound Pilots Have Addressed the Efficiency Concerns**
11 **Raised by the Commission in Order 09 and Are Clearly Hard**
Working; the Root Cause of Delays in the Provision of Pilotage
Service Is the Ongoing Shortage of Pilots.

12 **Q: In his testimony, Captain Moore alleges that pilotage service delays**
13 **"dramatically escalated in 2021 and 2022" and that "it was PSP's workload**
14 **mismanagement that was the real source of delays." Please provide your response to**
15 **this allegation.**

16 **A:** I disagree strongly with PMSA's position. The cause of the delays is a shortage of
17 pilots. While the level of delays increased substantially in 2021 and 2022, this increase was
18 caused by multiple factors that have nothing to do with workload mismanagement. Delays
19 are documented on a monthly basis in the report submitted by PSP to the Board of Pilotage
20 Commissioners. In fact, I presented to the July 2022 meeting of the BPC a vessel-by-vessel
21 description of every time in the month of June 2022 that PSP was forced to delay a vessel.
22 This list demonstrates that during the PSP's busiest month since June 2016, PSP was forced
23 to delay vessels 25 times due to pilot shortage while off-duty pilots performed 155

1 assignments, over 21% of the total. PSP also lost 114 pilot days due to fitness or Covid in
2 June 2022. In my opinion, this was a Herculean feat of workload management by a severely
3 understaffed organization. This list is included as Exh. IC-09. During the last two calendar
4 years, our pilot corps has been working well below the authorized number of 56 full-time
5 equivalent pilots. Generally speaking, during 2021 and 2022, the pilot corps was six to seven
6 pilots short of that authorized number due to pilot training, fitness, and license issues.

7 Although the Pilot Commission has been working to license trainees as fast as possible, the
8 State is still not at its authorized level of 56 licensed pilots. Also, in the pre-Covid year of
9 2019 and largely post-Covid years of 2021 and 2022, our pilot corps experienced
10 unprecedented high callback levels – about 16% of our total assignments from these three
11 years were performed by off-duty pilots. I know of no other state pilot association in the
12 United States above a callback level of 5% of total assignments. Despite this strong evidence
13 to support the conclusion that there are simply not enough Puget Sound Pilots to safely and
14 efficiently serve the vessel traffic in the district, Captain Moore continues to put forth the
15 theory that PSP is mismanaging its workload. A complete set of the PMSA talking points for
16 each BPC meeting, which are prepared by Captain Moore, and a complete set of my monthly
17 reports for the three-year period of 2020-22 and the first two months of 2023 are Exh. IC-10
18 and IC-11.

19
20 **Q: In his testimony at page 74, Captain Moore displays the following data**
21 **regarding ship delays and callback numbers for 2019 and 2021, arguing that PSP was**
22 **mismanaging its "pilotage assets" by failing to perform as many callback assignments**
23 **in 2021 compared to 2019 and that this resulted in nearly 100 additional delays in 2021**

1 compared to 2019. Do you agree with Capt. Moore's conclusions regarding the data set
2 out below:

	<u>2019</u>	<u>2021</u>
4 Number of Working Pilots	49.5	49.6
5 Total PSP Assignments	6,993	6,955
6 Average Assignment Level	141.3	140.2
7 Delays	89	183
8 Callbacks	1,098	893

9 A: Absolutely not. Captain Moore asserts that delays occurred because pilots made
10 themselves less available. Pilots may only make themselves less available through the
11 allowed use of a comp day or through the determination of the Board of Pilot Commissioners
12 and the PSP Board of Directors that the pilot is not fit for duty. During the period that
13 Captain Moore describes, pilots did not excessively use comp days. Captain Moore's
14 assertion that pilots were not making themselves available is speculation on his part and not
15 supported by any data.

16 **Q: If pilots were making themselves available, then what do you consider to be the**
17 **primary contributing factors to the increase in delays?**

18 A: There are several factors that could have contributed to the noted increase in delays in
19 that period. I would first state my opinion that the system suffered from the same shortage of
20 pilots in 2019 and 2021. I would also highlight significant regulation changes in WAC 363-
21 116-081 that occurred in early 2021. In 2021, rest rules were modified to require a pilot to
22 obtain 10 hours of rest following a canceled assignment. Prior to 2021, a pilot could be
23 dispatched for assignment immediately following a cancellation. Additionally, in early 2021,

1 stricter rules were enacted governing the dispatching of a pilot to three consecutive night
2 assignments. These changes reduced pilot availability for fatigue management reasons and
3 were enacted by rule or law. Also, for many years prior to 2021, PSP dispatchers exercised
4 discretion in how delays were recorded in our system. Generally, the dispatchers would log a
5 delay only if it caused a major impact on vessel scheduling. This determination was left to
6 the discretion of the individual dispatcher. Delays occurred in 2019 and earlier that were not
7 recorded by our dispatchers. Early in 2021, after I became President, I requested that our
8 dispatch team change their recording practice to log each and every delay regardless of its
9 impact on vessel scheduling. This more expansive recording practice certainly contributed to
10 the increase in delays.

11
12 **Q: Are there other factors that could have contributed to the increase in delays**
13 **during the period referenced by PMSA Witness Moore?**

14 A: Yes, the growing and compelling body of evidence that the amount of callback jobs
15 worked by Puget Sound Pilots were contributing to piloting fatigue and making our district
16 less safe. As referenced in Dr. Czeisler's testimony and rebuttal testimony, Puget Sound
17 Pilots are performing an unsafe level of callback activity. As shown in Exh. IC-06 showing
18 callback and assignment levels of pilots working on the Canadian West Coast, PSP's
19 workload and amount of off-watch work is out of step with accepted fatigue management
20 practices and comparable pilotage districts in our region. In addition, the Pacific Pilotage
21 Authority's Annual Report covering 2019-2021 show that British Columbia Coast Pilots
22 confirm that less than 2.5% of their work is performed by off-duty pilots. The 2021 report is
23 Exh. 1C-09. Captain Moore fails to acknowledge the integral connection between safety,

1 efficiency, and fatigue management. Regarding callbacks, it is also important to understand
2 that the need for a callback pilot on any given day is unpredictable and frequently occurs
3 with very little notice, many times due to order time changes or delays by the ship or her
4 agent. The process of securing a pilot to perform a callback often requires multiple phone
5 calls to find a pilot who is both willing to work on their day off and has an adequate level of
6 rest to perform the assignment.

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8

9 **Q: In its testimony, PMSA refers to a five-year average assignment level (AAL) that**
10 **is derived from pilot workload data (including callbacks) from the years 2017 through**
11 **2022. Is it appropriate to use workload data that predates existing RCW and WAC rest**
12 **rules?**

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A: No, it is not. Data predating the enactment of WAC and RCW rest rules will necessarily paint an inaccurate picture of what represents the current understanding of a safe pilot workload. It is especially frustrating that PMSA clearly understands this discrepancy because PMSA Witness Moore was engaged on these issues when the new RCW rules took effect. By using data that predates the changes in rest rules, PMSA can improperly argue that PSP workloads have declined due to inefficient workload management. In fact, new science is driving these important safety measures and PSP and its regulators have an evolving understanding of effective fatigue management. Any dataset that represents pilot workload prior to the enactment of these rules is inherently problematic.

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1 **level (AAL) of 143.4 per pilot that was the assumption for work level in the UTC's rate**
2 **order. Do you agree with this analysis?**

3 A: No. The UTC's decision to use 143.4 assignments to determine the number of pilot
4 positions to fund in the tariff was problematic because it was based upon a five-year average
5 level of assignments per pilot that included 2017 and 2018 data that was prior to when
6 fatigue mitigation rules took effect. That was a mistake because this figure was artificially
7 elevated during the early years of that five-year time frame by the existence of much less
8 stringent work/rest rules that were in effect until 2017. Even with the efficiency measures
9 that PSP implemented in 2021-22, the number of assignments that the average pilot can
10 perform during their on watch work cycle plus the additional three days of Peak Period Work
11 or PPW that every pilot is required to perform during the peak summer cruise season is
12 considerably lower than 143.4. Pilots would not be able to work this number of assignments
13 without working well over the 5% callback ratio and during the shoulder periods
14 immediately preceding or following a 15-day watch in violation of the fatigue management
15 best practice recommended by Dr. Czeisler. Customary maritime industry work schedules
16 provide equal amounts of time on and time off. This is based on the high intensity and long
17 duration of the work. It is both unfair and unsafe for the state to promulgate a system that is
18 inherently structured to only function effectively when mariners are required to work during
19 their off time.

20

21 **Q: In his testimony, Captain Moore claims that PSP pilots are only on watch for**
22 **177.65 days per year. Is that accurate?**

23

1 A: No. That figure ignores the three days of PPW work annually, which brings the total
2 on watch work period for PSP pilots to 180.65 days per year, a figure that is very close to
3 50% of the 365-day year or 182.5 days. When one takes into account the fact that, even at Dr.
4 Czeisler's recommended level of callback jobs at 5% of total assignments, the average PSP
5 pilot performing their share of that reduced level of callbacks will involve multiple days, the
6 result is a total annual work effort per pilot in excess of equal amounts of time on/time off.
7

8 **Q: Since implementing the efficiency measures described in your prior testimony,**
9 **has PSP tracked the effectiveness of those measures?**

10 A: Yes. I have personally maintained spreadsheets tracking data showing the effects of
11 those efficiency measures. This information is included in my monthly report to the BPC.
12 The table below shows the effects of the following six efficiency measures: combining a PSP
13 meeting with a vessel assignment; combining a harbor shift with a long-haul assignment;
14 reduced cancellations; change in call time for night assignments to reduce “3 and outs;”
15 change in call time for night assignments to reduce callbacks; and use of immediate
16 repositions to reduce callbacks.
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Efficiency Measures Reported to BPC

2022	<i>Combine meetings with vessel assignments</i>	<i>Combine harbor shift with interport assignment</i>	<i>Reduce cancellations negative impact on dispatch system</i>	<i>Change in call times between 1830-0759 reduces impact on 3 & Out type assignments</i>	<i>Change in call times between 1830-0759 reduces delays and need for a comp day worker</i>	<i>Immediate repo rule improves dispatch efficiency</i>
April	0	9	4	18	0	0
May	0	16	3	20	0	0
June	6	15	0	21	20	0
July	2	29	2	25	24	9
August	2	16	3	12	6	4
September	4	9	1	1	7	6
October	7	16	1	19	13	8
November	2	13	2	7	9	7
December	5	7	3	18	5	1
Total	28	130	19	141	84	35

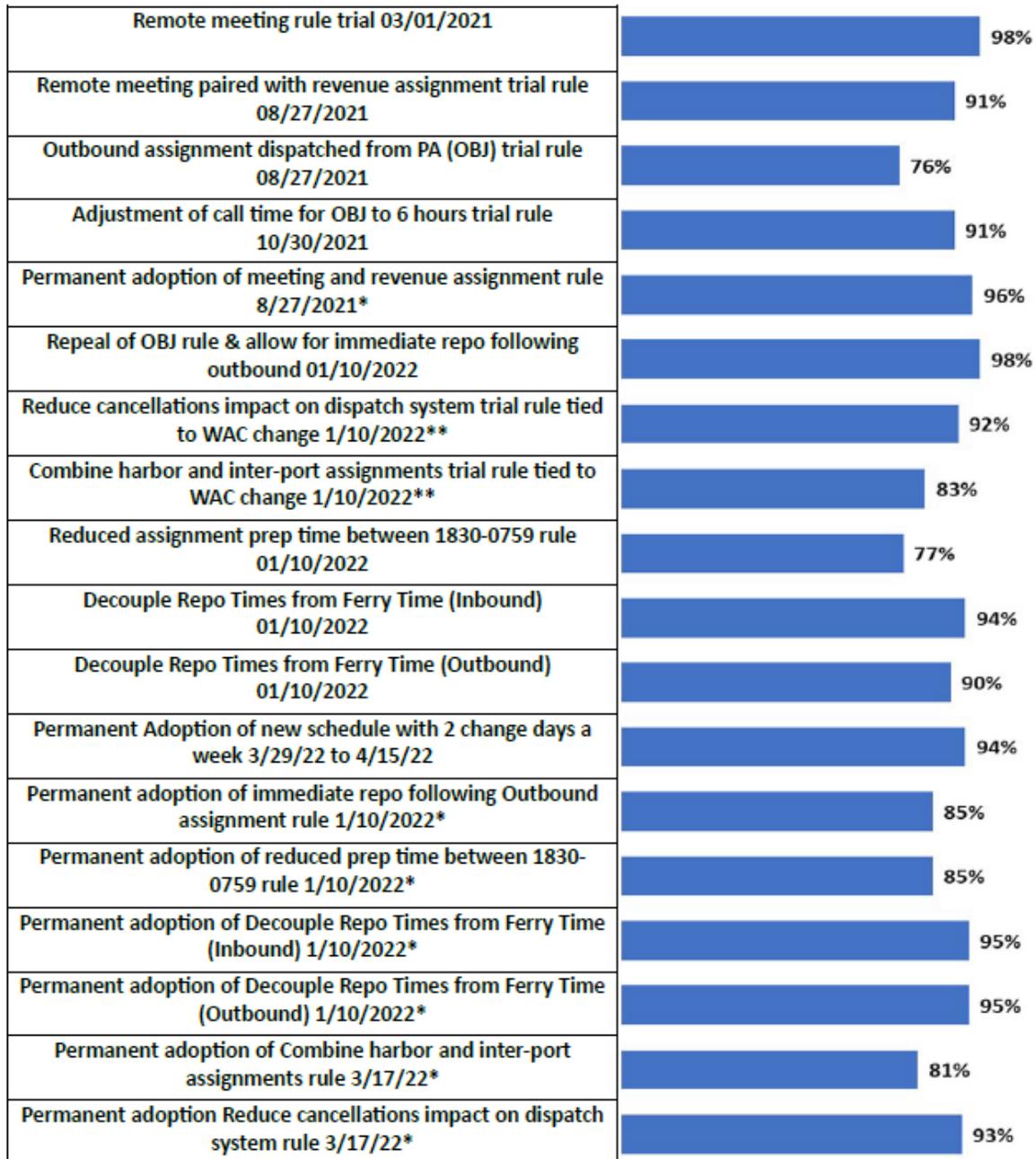
1 **Q: In the development and implementation of these efficiency measures, how would**
2 **you describe the nature of your work with Drs. Czeisler and his colleagues at BWPO?**

3 A: I would say that work was highly collaborative and involved considerable back and
4 forth as we considered various alternatives. Fortunately, Dr. Czeisler had significant prior
5 experience involved with the unique work cycle of pilots and that level of understanding and
6 expertise was extremely helpful. Ultimately, PSP was able to adopt most of Dr. Czeisler's
7 recommendation set out in BWPO's final report, which is Exh. IC-12, but not all of them. For
8 example, the BWPO report recommended that PSP adopt 72-hour periods at the beginning
9 and end of each off-watch cycle where the pilot would be prohibited from performing a
10 callback job. Knowing that it would have resulted in significantly more ship delays and more
11 callback demand imposed on a smaller number of off-watch pilots, we knew it was not
12 feasible to implement that measure. Ultimately, PSP considers the real solution to the
13 excessive level of callbacks to be a larger pilot corps, not additional rules regarding when a
14 callback can be performed.

15
16 **Q: How did PSP go about adopting these different efficiency measures and what**
17 **was the level of support for each within the pilot corps?**

18 A: As described in my original testimony, the entire pilot corps was involved at the front
19 end and, once a particular efficiency measure was ready to take to the members, it was the
20 subject of a virtual meeting prior to formal balloting on the change in our operating rules that
21 each one of the efficiency measures required. The table below lists each efficiency measure,
22 the date of its adoption and shows the percentage of member ballots supporting each
23 measure:

Op Rule Changes to Improve On Watch Efficiency – Member’s Support Indicated by % of Vote



* Since the trial rule was effective and did not change, the actual implementation date of this measure is the same as the implementation date of the temporary measure.

** Although measure passed a WAC change was required. That WAC change was passed at the 3/17/22 BPC meeting.

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Q: Based on the data you have assembled, has the average number of pilotage assignments while a pilot is on watch increased between 2019 and 2022, years that bracketed the Covid pandemic and had similar levels of vessel traffic?

A: It was very important to PSP leadership that we internally track key metrics to assess the effects of the new efficiency measures. In my opinion, the most significant metric to track in order to assess the effects of the efficiency measures is the level of on watch efficiency per pilot per year. In other words, if the efficiency measures are increasing the number of pilotage assignments that a pilot can perform during their on watch duty cycle, then these measures are doing their job. The table below shows that key metric for the fours years of 2019 through 2022:

Productivity

Year	Total Assignments per year	Avg. on watch assignments per pilot per year	Avg. assignment time including repo	CTJ ratio per year	Fit for duty pilots per year including president
2019	7000	122.28	10:05	19.73%	46.92
2020	6110	116.76	9:58	12.59%	46.80
2021	6953	125.91	9:57	12.84%	49.14
2022	7482	128.86	9:38	16.76%	49.35

1 In 2022, with the benefit of all eight efficiency measures, on watch productivity per pilot was
2 128.86 assignments for the year, which was 5% greater than the average of 122.28 on watch
3 assignments per pilot in 2019. This data as well as other relevant data for every month during
4 the four years of 2019 through 2022 is set out on Exh. IC-13.

5

6 **Q: In response to the PMSA allegation that the PSP pilot corps is both lazy and**
7 **inefficient, have you prepared an analysis that compares PSP's average workload to**
8 **that of 10 other pilot groups where workload data is publicly available?**

9

10 A: Yes. The table below displays the number of annual assignments, average assignment
11 time including preparation, travel and bridge time, number of pilots, and total time on task
12 for 11 US pilot groups including four on the West Coast, the BC Coast Pilots, Columbia
13 River Bar Pilots, Columbia River Pilots and Puget Sound Pilots. This data shows that the
14 PSP pilots are second only to the Tampa Bay Pilots in terms of total annual hours on task.
15 PSP in 2022 posted an average of 1486 hours per pilot engaged in pilotage work that
16 included preparation time, travel time and bridge time, which are the universally recognized
17 components of a pilotage assignment. This was second only to the 2275 hours on task for the
18 Tampa Bay Pilots. The table below assembles the data for 2022. Exh. IC-14 assembles the
19 same data for the same groups for a four-year time frame covering 2019 through 2022.

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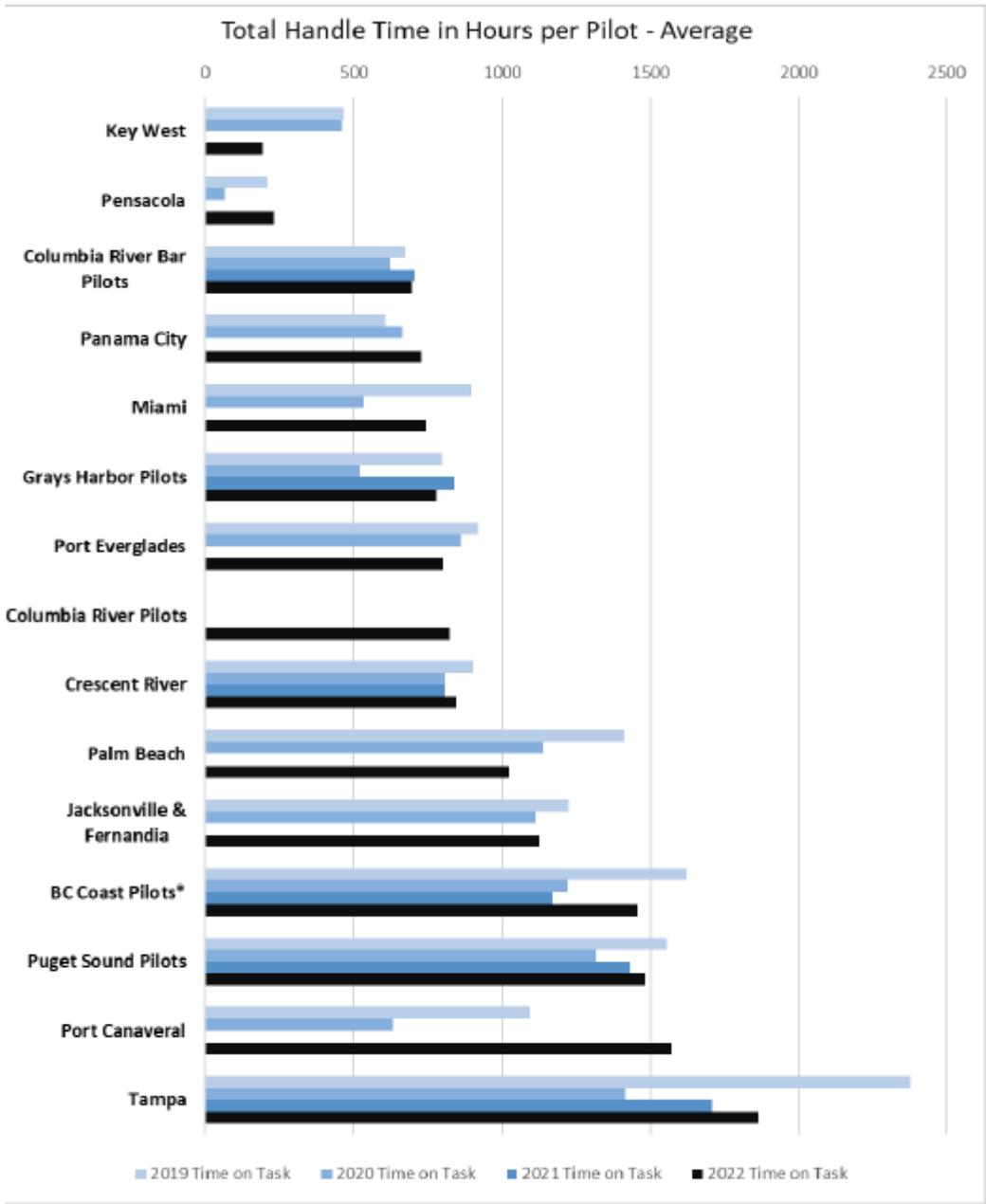
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*BC Pilots time on task includes time away from home in outports. PSP time on task does not include time at pilot station.

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Q: According to the PMSA, the answer to the ship delay issue is for the UTC to "maintain its commitment to establishing an Average Assignment Level based on the

1 **prior rate case that incorporates and compensates all assignments, whether on-duty or**
2 **off-duty, which in turn will create powerful efficiency and productivity incentives for**
3 **PSP over time. If there is no way to leverage additional charges for off-duty**
4 **assignments, then PSP should logically be motivated to improve and optimize watch**
5 **standing approaches and management." What is your response to this testimony?**

6 A: This position completely undermines PSP's commitment to providing safe and
7 efficient pilotage services. PMSA seeks to fundamentally change our business model to
8 create a system where the extra earnings that a pilot can make from a callback job is a
9 regulatory requirement imposed on our pilot group. I firmly believe that this would be a
10 disastrous outcome for PSP. Under our bylaws, every member of PSP who was a working
11 licensee in a given year receives the same income as every other pilot. Given the
12 extraordinarily large geographic size of our pilotage district, if the PMSA were successful in
13 securing a UTC directive that PSP provide extra compensation for all callback jobs on top of
14 the annual equal compensation due to each pilot for all other work, this revised system would
15 create a significant economic incentive for pilots to take callback assignments while off duty.
16 This would devastate the level of participation within our pilot corps on committees and
17 other highly important pilotage work other than actual pilotage assignments. The PMSA
18 position is nothing more than an effort to secure a UTC directive that PSP create economic
19 incentives for pilots to take callback jobs as a means of reducing or avoiding ship delays.
20 Quite frankly, the UTC does not have the expertise to intervene in the operation of our
21 business in such a manner. In fact, whether our workload justifies an increase in the
22 authorized number of full-time equivalent pilots is a matter for the Board of Pilotage
23 Commissioners, not the UTC. However, the Commission should be aware that, because of

1 the extreme level of callbacks that PSP has been experiencing – levels which the foremost
2 sleep medicine expert in the United States has concluded are unsafe – PSP will be initiating
3 the necessary proceeding before the BPC to consider a much-needed change to the Target
4 Assignment Level or TAL and to approve an increase in the number of licensees for the
5 Puget Sound pilotage ground sufficient to reduce callback jobs to 5% or below.

6
7 **Q: From your perspective as president of the Puget Sound Pilots, do you believe**
8 **that the PMSA proposal to mandate a change in how PSP compensates pilots for**
9 **callback assignments, if adopted by the UTC, would be a major mistake?**

10 A: Yes, I do, for three reasons. First, no one knows more about how our pilotage
11 business should be run better than PSP. We are the organization with over 80 years of
12 experience in highly specialized safety-critical work. As pilots, we are part of an
13 extraordinarily small segment of the maritime work force with the background and
14 experience to be in the best position to decide how best to run our unique service business.
15 Second, for a pilot group to function effectively, which takes into account the unique
16 circumstances on their particular pilotage ground, the dispatching system must be fair and
17 conform as closely as possible to the maritime industry tradition of equal amounts of time on
18 and time off. This necessarily means that work off watch should be minimized as confirmed
19 by the well below 5% levels of callbacks being experienced on every other major pilotage
20 ground in the country. Third, because of the complex regulatory environment in which state-
21 licensed pilots operate, PSP takes the work/rest rules developed by Dr. Czeisler very
22 seriously. Indeed, many of these rules are found in regulations adopted by the BPC. Every
23 member of PSP knows that one of the first questions that will come from the investigators

1 when a pilot experiences a casualty during a pilotage assignment will be: "How much sleep
2 did you receive and what was your specific sleep intervals over the last three days?" As a
3 pilot group, PSP is unwilling to consider dispatch rules or work schedules that deviate from
4 the traditional maritime industry schedule that all of our pilots experienced in their pre-pilot
5 maritime careers, which is equal amounts of time on and time off. Moreover, we will
6 continue our efforts to address what Dr. Czeisler has found to be an unsafe level of callbacks
7 from a fatigue risk management standpoint. If one of our pilots were to take a callback
8 assignment that resulted in a casualty traceable to inadequate rest during his or her off watch
9 period, I have no doubt that the PMSA would not come to that pilot's defense. The only way
10 to reduce ship delays to minimum levels is for the BPC to approve an increase in the
11 authorized number of licensees later this year.
12

13 **C. The UTC Should Approve Multiple Automatic Tariff Adjusters.**
14

15 **Q: Has PSP modified the number of automatic adjusters that it is seeking in this**
16 **rate case?**

17 A: Yes. PSP has decided to withdraw its request for two of the automatic tariff adjusters
18 that we have previously requested, the periodic pilot station/pilot boat capital cost adjuster
19 and the annual pilot station/pilot boat expense adjuster. Upon further consideration, we
20 believe that, in the event the UTC adopts the other automatic tariff adjusters that PSP has
21 requested, that will set the stage for potential negotiations with PMSA to develop tariff
22 adjusters that would be utilized to address capital and maintenance costs related to our pilot
23 station in Port Angeles and our two pilot boats. Neither of these adjusters is a matter of

1 imminent concern at present. If the UTC sets a precedent in this rate case and adopts a
2 number of automatic adjustment mechanisms, that important development will likely enable
3 the parties to develop an appropriate mechanism to address the significant maintenance and
4 capital costs associated with our pilot station and two aging pilot boats. It is worth noting that
5 the testimony of Michael J. Titone describing the significant benefits of automatic tariff
6 mechanisms, particularly the significant reduction in the need for time-consuming and
7 expensive contested rate cases, is instructive.
8

9 **Q: Please briefly summarize the PSP position regarding automatic tariff adjusters.**

10 A: PSP strongly supports the adoption of an annual cost-of-living adjustment. As noted
11 in the testimony of Clay Diamond and Michael Titone, these are the single most effective
12 automatic tariff adjustment mechanism in eliminating the need for frequent rate cases. The
13 other important automatic adjusters that PSP seeks include a new licensee/retiree adjuster, an
14 annual tariff adjuster trueing up the tariff to actual traffic and tonnage two pension-related
15 adjusters, one to fund the runout of the funds necessary to pay retirement benefits to existing
16 retirees and the second to fund the transition of the pension benefits for all currently working
17 pilots and new licensees to a fully funded defined-benefit plan. The details regarding
18 implementation of each one of these five automatic tariff adjustment mechanisms is
19 described fully in the testimony of Michael Titone.
20

21 **Q: Does PSP have another proposal regarding an automatic tariff adjuster that**
22 **should be given serious consideration by the UTC?**
23

1 A: Yes. Given the importance of the pilot trainee program administered by the BPC,
2 which is so vital to the future of our organization, we believe the UTC should authorize the
3 Board of Pilotage Commissioners in this rate proceeding to utilize 30-day compliance filings
4 to increase the pilot training surcharge as needed. The details of this proposal are described in
5 the testimony of Capt. Sandy Bendixen, who is a commissioner on the BPC.

6

7

**Q: PMSA states that an auto-adjuster for new licensees/retirees would work at
8 cross purposes with incentivizing based on an average assignment level. Do you agree
9 with that rationale?**

10

A: No. The process by which the BPC determines the number of required licensed pilots
11 requires a great deal of time and energy. The legislature invested the BPC with this authority
12 because the BPC has direct and continuous oversight of activity in the Puget Sound pilotage
13 district. The auto-adjuster for new licensees and retirees would have no bearing on pilot
14 efficiency because it merely modifies DNI to reflect the reasonable determination by the
15 BPC of the number of pilots needed to safely provide service in the district. The AAL
16 method championed by PMSA would essentially require annual workload determinations by
17 the UTC, necessitating rate adjustment hearings, and increasing litigation costs all
18 around. PMSA is well aware of this fact and appears to be relying on this significant
19 resource outlay as a deterrent to PSP.

20

21

Q: Can you please contrast that with the methodology PSP proposes.

22

23

1 A: Yes. PSP, using an auto-adjuster, proposes funding for only those pilots who are
2 licensed. This simple method is in essence like the “fairness doctrine”, in that it funds no
3 more than the number of pilots licensed and no less than the number of pilots licensed. It also
4 places the establishment of that number squarely in the hands of BPC, where they receive
5 monthly reports from both PSP and PMSA, detailing fluctuations in the quality and quantity
6 of marine traffic in the district. The BPC is very familiar with the challenges PSP faces as to
7 safety, efficiency, and fatigue mitigation. These three factors taken together are ultimately
8 determinative of the appropriate number of pilots and squarely within the purview of the
9 BPC. While the UTC hears about these concerns once every couple of years, would be
10 improper for the UTC set the rates on a formula that may or may not align with the BPC’s
11 robust understanding of the needs of the pilotage system.
12

13 **Q. Captain Moore suggests that applying PSP’s proposed Cost of Living Adjuster**
14 **“would automatically and every year apply a cost-of-living increase to virtually all the**
15 **key revenue-generating tariff items,” and would “likely lead to DNI increases higher**
16 **than cost of living.” Do you agree?**

17 A. No, because Captain Moore bases his statement on a faulty premise regarding PSP’s
18 increased expenses and he misunderstands the operation of the COLA adjuster, pilot
19 expenses and DNI. There is no question that the cost of items that the UTC considers fair,
20 just, reasonable, and sufficient to operate PSP will increase in the coming years. The UTC is
21 evaluating the reasonableness and the appropriateness of those costs in the present case and if
22 PSP spends more than what the UTC allowed, it would not change the COLA adjustment. As
23

1 an example, the Year 2 CPI adjustment in the last rate order was an increase of 1.3%. This
2 increase was not based on expenses incurred in year 1 but on the rate order itself.

3

4 **Q: Do you agree with PMSA's proposal that Year 2 and 3 DNI inflation**
5 **adjustments should be 50% of the Kiplinger Inflation Outlook?**

6 A. No, PMSA is beginning with an extremely conservative inflation prediction from a
7 private company and then reducing that already smaller number by 50%. I disagree with both
8 the starting place of Kiplinger's Inflation Outlook and the 50% reduction. Additionally, I
9 disagree with Capt. Moore's basis for the proposal. First, Kiplinger's Inflation Outlook is not
10 known and measurable, is not geographically based, and is simply a prediction. The annual
11 adjustment based on the Consumer Price Index for All Urban Consumers in the Seattle-
12 Tacoma-Bellevue area is more applicable and a more timely and therefore accurate measure
13 of inflation. Second, PMSA states in their testimony that the "natural increases in revenue
14 per assignment will continue to occur as the average size of vessels piloted increases." . This
15 is another unverifiable and dubious assertion by Capt. Moore. While vessel size has
16 historically increased over a broad historical arc, this has not been the case under the current
17 rate structure. Exh IC-15 demonstrates that the average revenue per assignment has gone up
18 only .75% in year 2 of the rate order while the tariff increased by 1.3% per order 09. Capt.
19 Moore's assertion about increases vessel size necessarily driving increased DNI may be true
20 under the old tariff but not it's not borne out by the rate structure of the new tariff. Although
21 ARPA should not be a metric in determining rates ,it is nonetheless a useful tool to measure
22 the effect of a rate adjustment.

23

1 **D. A Refusal by the UTC to Adopt a Nationally Competitive Level of Pilot**
2 **Compensation and Benefits and to Fully Fund PSP's Existing Pension**
3 **Plan Will Be Devastating to Morale and Lead to the Departure of a**
 Significant Share of PSP's Younger Pilots.

4 **Q: If the outcome of this rate case is a Commission decision to maintain PSP's DNI**
5 **at low levels compared to other pilotage grounds, what in your judgment as PSP's**
6 **president will be effect on the pilot corps?**

7 A: The currently low morale level within PSP will drop even further. I fully agree with
8 David Lough's statement that there is no more effective way to show one's disrespect within
9 a work force than treat a worker poorly in terms of their compensation. If the UTC refuses to
10 approve a nationally competitive DNI, I am confident that PSP will lose a number of its
11 younger pilots over the next several years. At this moment, we have 12 pilots who are in their
12 late 30s or early 40s. At 23% of our current licensee count of 53 pilots, that is the highest
13 level of PSP members in that age group in over 30 years. These pilots are experienced and
14 have the ready capability to make a move to another pilotage ground, no doubt test well and
15 secure a spot at the top of the ranked list. With a lengthy pilotage career still ahead of these
16 pilots, losing a year or more in a training program on a new pilotage ground that will quickly
17 recouped with the much better compensation and benefits on another pilotage ground.

18
19 **Q: Has low compensation and benefits on other grounds in the United States ever**
20 **resulted in loss of experience pilots as well as trouble attracting highly qualified**
21 **trainees?**

1 A: Yes. On the Great Lakes, low pay and benefits and an excessive workload resulted in
2 a significant loss of experienced pilots and ultimately led to a substantial increase in
3 compensation and benefits. When the shipping industry challenged the sizable increase in
4 rates necessary to address the significant pilot recruitment and retention problems caused by
5 low pay and excessive of work, a federal judge rejected that legal challenge and said
6 following in finding "no basis to overrule the Coast Guard's considered judgment as to pilot
7 recruitment and retention:"

8
9 As the Coast Guard noted, the number of pilots servicing the Great Lakes had
10 been steadily dropping for years. In total, the Great Lakes system had lost
11 twenty-two percent of its pilots between 2007 and 2014. 81 Fed. Reg. at 11,919.
12 Based on the Coast Guard's long-experience regulating Great Lakes pilotage and
13 the numerous comments supporting its position, the Coast Guard could rationally
14 conclude that there existed "chronic pilot attraction and retention difficulties" and
15 that these difficulties were caused, at least in part, by the under-compensation of
16 pilots. Indeed, the administrative record is brimming with comments submitted
17 during the notice and comment period and statements at GLPAC meetings that
18 explain, albeit anecdotally, that seasoned pilots were leaving and that the
19 associations could not attract new qualified pilots because pilot compensation in
20 the Great Lakes was low relative to other areas in the United States and Canada.
21 *See, e.g.*, A.R. at 126; ("These revenue shortfalls have led to severe problems in
22 attracting and retaining the very best mariners to serve as Great Lakes pilots");
23 A.R. at 343 ("My last few years have been a constant battle to attract skilled pilots
to replace an aging group"); A.R. at 349 ("During my 13 years with Western
Great Lakes Pilots I watched young, qualified pilots leave one after another. The
lack of time off and never seeing a single pilot in 13 years reach 'Target
Compensation' was too much for many former pilots to endure."); A.R. at 599
(the great Lakes pilots are "the lowest paid pilots in America" and "have the
highest workload in America," so "it's not particularly surprising that they would
have a retention and attraction problem."); A.R. at 600-01 (established pilots have
left to work in the Gulf, which used to be considered "the bottom of the pickle
barrel" because "nobody went to the Gulf," and have reported back that they will
never return to the Great Lakes because they are "making real money" in the
Gulf).

22 *Am. Great Lakes Ports Ass'n v. Zukunft*, 296 F. Supp. 3d 27, 39-40 (D.D.C. 2017), *aff'd sub*
23 *nom. Am. Great Lakes Ports Ass'n v. Schultz*, 962 F.3d 510 (D.C. Cir. 2020)

1 In my opinion, PSP will face a similar situation to that on the Great Lakes described above if
2 our pilot group is not restored to the position we used to hold on the West Coast and in the
3 United States, specifically a nationally competitive level of compensation and benefits.

4

5

III. CONCLUSION.

6

Q: Does this conclude your testimony?

7

A: Yes.

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