

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

DOCKET TP-190976

MOTION FOR SUMMARY
DETERMINATION

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I. INTRODUCTION

1 Intervenor Pacific Merchant Shipping Association (PMSA) submits this
Motion for Summary Determination under WAC 480-07-375 and WAC 480-07-
380. The Commission should grant PMSA’S motion because Puget Sound Pilots
(PSP) has failed to present sufficient evidence to establish a prima facie case
that its existing tariff is not fair, just, reasonable, and sufficient.

II. RELIEF REQUESTED

2 PMSA respectfully requests that the Commission reject PSP’s proposed
tariffs.

III. STATEMENT OF ISSUES

3 PMSA’s Motion for Summary Determination presents two issues:

- (1) PSP has repeatedly argued that analysis only of the proposed tariff, not the existing tariff, is relevant to this proceeding because the BPC established the existing tariff and PSP’s proposal is in a “wholly differing” format. By law, the proponent of a pilotage tariff revision must explain and prove why the existing tariff is “not fair, just, reasonable, and sufficient.” Does this legal requirement apply to this proceeding?
- (2) PSP has not specified how the existing tariff is “not fair, just, reasonable, and sufficient” and alludes only generally to the testimony and exhibits of two witnesses as its evidence of “current tariff insufficiencies.” PMSA has submitted evidence specific to evaluating the existing tariff. The existing tariff is presumed fair, just, reasonable, and sufficient unless PSP proves

otherwise. Has PSP presented sufficient evidence on the existing tariff to meet its burden of proof?

IV. EVIDENCE RELIED UPON

4 PMSA relies on all documents filed by the parties to date in Docket TP190976. PMSA additionally relies on PSP's responses to PMSA's Data Request Nos. 202 and 415, true and correct copies of which accompany this motion as Exhibit A.

V. STATEMENT OF FACTS

5 On November 19, 2019, PSP filed with the Commission proposed Puget Sound pilotage district tariffs, which would increase the tariffs set forth in WAC 363-116-300, as adopted by the Board of Pilotage Commissioners (BPC). PSP's submission included pre-filed testimony, with the proposed three-year phased-in tariff presented as exhibits to the testimony of one of its witnesses.¹ The Commission suspended the tariff filing and set the matter for adjudication.²

6 PMSA, a non-profit trade association that represents PSP customers who operate ocean-going vessels, as well as service providers such as marine terminal operators, shipping agents, tug companies, bunker providers, and others, petitioned to intervene as "a person with a substantial interest" under

¹ Exhs. WTB-08, 09, and 10.

² *Wash. Utils. & Transp. Comm'n v. Puget Sound Pilots*, Docket TP-190976, Order 01 (Nov. 21, 2019).

RCW 81.116.010(3)(b). The Commission granted PMSA’s petition.³

7 In 2018, the Legislature moved the pilotage ratesetting process from the BPC to the Commission.⁴ As part of that legislation, the BPC’s existing tariff under WAC 363-116-300 was deemed to have been set by the Commission and remains in place as the existing tariff. RCW 81.116.050. And the Legislature listed specific requirements in RCW 81.116.030(2) for filing a revised tariff, including that it include a “description of why the existing tariffs are not fair, just, reasonable, and sufficient, along with financial information to demonstrate a need for the tariff revision and information addressing the criteria for approval of tariff revisions set forth in RCW 81.116.020(3)” and comply with any information required by the Commission’s rules. Further, “[t]he burden of proof to show that the tariff rates are not fair, just, reasonable, and sufficient is upon the person with a substantial interest that files the revised tariff” under RCW 81.116.030(5).

8 In 2019, the Commission adopted rules to govern the adjudication of pilotage rates.⁵ PSP and PMSA participated in public comments during the rulemaking

³ *Wash. Utils. & Transp. Comm’n v. Puget Sound Pilots*, Docket TP-190976, Order 02 (Dec. 17, 2019).

⁴ Laws of 2018, ch. 107.

⁵ *Wash. Utils. & Transp. Comm’n, In re Amending WAC 480-07 and Adopting WAC 480-160 Relating to Marine Pilotage Rate-Setting Authority*, Docket TP-180402, General Order R-596 (May 3, 2019).

process.⁶ Two of the new rules to emerge from that process specify that changes to the existing tariff must be identified, described, and explained:

(1) WAC 480-160-110 specifies, “Each change in rates, charges, terms, or conditions in a tariff must be clearly identified by including the appropriate code symbol immediately to the left of the material being changed.”

(2) WAC 480-160-120 requires the person proposing changes to the pilotage rates to identify, describe, and explain the reasons for each proposed change:

Proposed changes must:

- (a) Be made on the appropriate page(s) of the existing tariff using the commission’s tariff template.
- (b) Identify the tariff item to be changed.
- (c) Fully describe the proposed change.
- (d) State clearly the reason(s) for the proposed change.
- (e) Include any information or documents that justify the proposed change.⁷

9 PMSA sent PSP a data request seeking PSP’s proposed tariff sheets in compliance with the regulatory requirements to identify, describe, and explain the changes from the existing tariff as adopted in WAC 363-116-300 and deemed as set by the Commission.⁸ PSP in its response quoted from testimony of one witness opining that “reflecting the changes in legislative format would

⁶ *Id.*

⁷ WAC 480-160-120(3).

⁸ *See* PSP Response to PSMA Data Request No. 202, attached to this motion as Exhibit A-1.

be entirely meaningless.”⁹ PSP objected that the Commission’s rules shouldn’t apply to changes to the BPC tariff with its “wholly differing format requirements.”¹⁰ The response confirmed that the PSP tariff sheets presented as Exhibits WTB-08 to 10 were all filed without complying with WAC 480-16-110 and 480-160-120 and that PSP did not intend to comply with these regulations.

10 PMSA’s prefiled testimony and exhibits include specific, extensive analysis and evidence from two witnesses regarding various aspects of the existing tariff as fair, just, reasonable, and sufficient. In his testimony, John C. Ramirez analyzed PSP’s historic revenues and expenses under the existing tariff and their resulting profit margins to determine whether PSP’s rate of return on equity and on invested capital were fair and reasonable under the existing tariff, including after accounting for a fair return on pilotage labor.¹¹ The conclusion of that analysis is that “PSP rates of return exceeded fair and reasonable rates of return.”¹² In his testimony, Capt. Michael Moore provided background information regarding the existing pilotage tariff, pilot revenues under the existing tariff, future revenue projections under the existing tariff,

⁹ *Id.* (quoting Burton, Exh. WTB-1T at 4:18).

¹⁰ *Id.*

¹¹ Ramirez, Exh. JCR-1Tr at 9:3-13:21 and Exh. JCR-3r.

¹² Ramirez, Exh. JCR-1Tr at 13:21.

and other aspects of the existing tariff to demonstrate that the existing pilotage rates were fair, just, reasonable, and sufficient.¹³

11 With respect to much of the evidence PMSA submitted regarding the existing pilotage rates, PSP moved for the Commission to strike it as “irrelevant” to the proceeding.¹⁴ For example, PSP asserted:

- “. . . opinions regarding the meaning or cause of historic statistical trends in tariff revenue collection under the current tariff (which is also irrelevant to PSP’s proposed tariff).”
- “He also offers irrelevant analysis of the historic revenues under the current tariff rather than PSP’s proposed tariff.”
- “Once again, he is also offering irrelevant analysis of the current tariff rather than the proposed tariff.”
- “Mr. Moore offers opinions regarding the sufficiency of revenue under the current tariff (rather than the proposed tariff) to cover expenses incurred by PSP. . .”
- “Mr. Moore discusses metrics by which he believes net income, revenue and expense should be analyzed in comparison to each other to address

¹³ Moore, Exh. MM-1Tr at 9:12-34:22, Exhs. MM-3r, MM-4r, MM-5r, MM-6r, MM-7r, MM-8r, MM-9r, MM-10r, MM-11r, MM-12r, MM-13r, MM-14r, MM-15r, MM-16r, MM-17r, MM-18r, and Exh. JR-9r.

¹⁴ *Wash. Utils. & Transp. Comm’n v. Puget Sound Pilots*, Docket TP-190976, PSP’s Motion in Limine/Motion to Strike to Exclude Unqualified Expert Opinion Testimony (June 25, 2020).

the sufficiency of revenues under the existing tariff (rather than the proposed tariff). Not only is this irrelevant. . .”

- “. . . analyzing the revenue-generating capacity of the current (rather than proposed) tariff . . . testimony is irrelevant and unhelpful to the Commission.”¹⁵

12 On July 9, 2020, PSP apparently changed its stance on the relevance of evidence regarding the existing tariff. After PSP filed its motion to strike, PMSA sent the following data request to PSP: “Admit PSP has not examined the current tariff as part of this proceeding. If PSP denies this, cite the testimony or exhibits in which PSP has set forth its examination of the current tariff.”¹⁶ After objecting to the terms “examined the current tariff,” PSP responded as follows:

Denied. This entire proceeding is predicated on proposed revisions to the current tariff as not being “fair, just, reasonable and sufficient” as currently adopted by a predecessor tariff-setting entity. Because this is also the inaugural ratesetting proceeding for marine pilotage tariffs established by the WUTC, the tariff proponent here has the added burden of establishing baseline metrics by which pilotage rates are set nationally and previously in Washington by the BPC and the historical backdrop against which they are and have been set, further complicated by the fact that the existing tariff ratemaking precepts are characterized as a “black box” (Testimony of Danny Kermod, Exh, DPK-1T, p.5). Moreover, both the ultimate revenue requirement sought by the filing and the proposed rate design seek to build upon current insufficiencies

¹⁵ *Id.* at ¶ 29.

¹⁶ PSP Response to PSMA Data Request No. 415, attached to this motion as Exhibit A-2.

including inadequacies of current return, revenues, DNI and interpretive application complexities raised by the design of the present tariff. As to the latter, see particularly the testimony of Captain Stephan Moreno. Also see the testimony and exhibits of Weldon Burton of November 19, 2019, and his pro forma results of operations, various restating adjustments and numerous workpapers illustrating the effect of the current tariff insufficiencies.¹⁷

13 Contrary to this response to PMSA's data request, Capt. Moreno's testimony at no point analyzes whether the existing tariff is fair, just, reasonable, or sufficient. Capt. Moreno described the purpose of his testimony as involving the importance of safety and competitive rates and explaining and justifying "the substantial changes to rate design that have been proposed from the existing tariff set forth in WAC 363-116-300."¹⁸ With respect to the latter, he explains that the reasons for PSP's proposed changes are to accomplish three goals: "to simplify the tariff," "to provide more proportional charges across all vessel sizes and classes," and "to develop a structure reflective of current and future traffic."¹⁹ But this does not amount to an evaluation of whether the existing tariff is fair, just, reasonable, and sufficient. For example, Capt. Moreno opines that a gross tonnage charge "is the most equitable" method to charge vessels but notes that the proposed "gross tonnage charge will continue to capture revenue-generating capacity and risk" consistent with the existing tariff.²⁰ He does not

¹⁷ *Id.*

¹⁸ Moreno, Exh. SM-1T at 2:15-21.

¹⁹ *Id.* at 7:17-8:11.

²⁰ *Id.* at 12:1-6.

attempt to assess whether the current tariff is unfair, unjust, unreasonable, or insufficient in this regard nor does he provide any analysis, exhibits, facts, citations, or evidence other than his opinion regarding this item or an analysis of the existing tariff. With respect to PSP's proposed change to the transportation charge, Capt. Moreno states, "we believe it is simpler and more equitable to charge each vessel the same amount for transportation and spread all transportation costs incurred by PSP evenly, rather than include a separate charge for each location."²¹ He does not attempt to assess whether the existing tariff is unfair, unjust, unreasonable, or insufficient in this regard nor does he provide any analysis, exhibits, facts, citations, or evidence other than his opinion regarding this charge or PSP's belief in the remedy of an inequity. None of Capt. Moreno's testimony specifically refers to or analyzes whether the existing tariff is fair, just, reasonable, and sufficient. Nor does his testimony refer to any exhibits that might relate to this statutory standard.

14 Also contrary to PSP's response to PMSA's data request, Mr. Burton's testimony at no point attempts to analyze the existing tariff for the Puget Sound pilotage district. In summarizing the purpose of his testimony, Mr. Burton does not include any evaluation of the existing tariff.²² Rather, he explains the purpose of his testimony as presenting "the regulatory accounting aspects of PSP's rate case" including the test year presentation, providing an accounting

²¹ *Id.* at 16:14-17.

²² Burton, Exh. WTB-1T at 2:19-3:5.

format, reconciling accounting data, and formatting data to conform with Commission standards.²³ In all of his testimony and exhibits, only once does he refer to the standard of “a ‘just, fair, reasonable and sufficient’ pilotage revenue level.”²⁴ And that single instance is only about what the tariff should be generally, not about the existing tariff, in response to a question about his “DNI ratemaking methodology.”²⁵ In response, he claims that the revenue level should be derived by (1) “evaluating the net income earned by pilots in comparable pilotage districts, similar to what the Commission would typically do to justify a corporate executive’s salary”; (2) “determin[ing] the number of pilots by which that amount is multiplied by assessment of . . . projected fulltime equivalent pilot workload, and the overall assignment projected to be served by the pilots”; and (3) “include[ing] all the prospective costs it approves for providing pilotage services.”²⁶

15 PSP has not claimed that any other evidence it has submitted includes any evaluation of the existing tariff.

VI. STANDARD FOR SUMMARY DETERMINATION

16 A party may make a dispositive motion for summary determination pursuant to WAC 480-07-375(1) and WAC 480-07-380(2). Under WAC 480-07-380(2)(a), a party may move for summary determination of one or more issues if

²³ *Id.*

²⁴ *Id.* at 13:20-21.

²⁵ *Id.* at 13:18-19.

²⁶ *Id.* at 13:20-14:6.

the pleadings and evidence show that no genuine issue exists as to any material fact and that the moving party is entitled to judgment as a matter of law. This is the same as the standard for summary judgment under CR 56 of the Washington superior court civil rules, which the Commission considers under WAC 480-07-380(2)(a).

17 “The whole object of the summary judgment procedure is to avoid a useless trial.”²⁷ Where the evidence is uncontroverted, no genuine issue exists as to those facts; the non-moving party can establish a genuine issue to survive summary judgment only by raising actual evidence to the contrary, not merely by relying on pleadings or assertions.²⁸

VII. ARGUMENT

18 As a matter of law, the existing tariff is presumed fair, just, reasonable, and sufficient. PSP can only succeed in a revision to the tariff if it proves otherwise. There is no legal basis for waiving this and related statutory and regulatory requirements in any circumstances, and certainly not on the grounds that this is the first marine pilotage tariff proceeding before the Commission. Therefore these legal requirements must apply to this proceeding.

19 PSP, however, has gambled that these legal requirements somehow do not apply to this first proceeding. PSP has repeatedly called analysis of the existing tariff “irrelevant” and insisted that the proper and exclusive focus of the

²⁷ *Carlson v. Milbrad*, 68 Wn.2d 847, 850, 415 P.2d 1020 (1966).

²⁸ *Id.*

proceeding should be on PSP’s proposed tariff. Accordingly, PSP can point to no specific evidence about the existing tariff and only vaguely alludes to the entire testimony of two of its witnesses—and all the exhibits, including the proposed tariff sheets, for one of those witnesses—as generally serving to show “current tariff insufficiencies.” PSP will likely argue that it has made a prima facie case that the existing tariff is not fair, just, reasonable, and sufficient. But it must point to specific evidence, not mere assertions or pleadings. In contrast, PMSA has submitted ample evidence that the existing tariff is fair, just, reasonable, and sufficient from a variety of analytical perspectives. This shows that it is absolutely possible to provide evidence on this point and underscores the absence of such evidence in PSP’s filings.

20 For two independent reasons, PSP’s proposed tariff fails as a matter of law and should be rejected. First, PSP failed to comply with applicable statutory and regulatory requirements for its tariff filings. Second, PSP has not presented sufficient evidence on the existing tariff to meet its burden of proof. For both these reasons, cross-examination of multiple witnesses and briefing from all the parties is not necessary, and the case should be resolved on summary determination.

A. As a matter of law, PSP must comply with statutory and regulatory requirements. Its failure to do so is grounds for rejecting the proposed tariff.

21 RCW 81.116.030 sets forth clear directives for what is required in order to revise the pilotage tariffs. The statute provides no exceptions to those

requirements. First, the filing for a revised filing must describe “why the existing tariffs are not fair, just, reasonable, and sufficient.”²⁹ That description cannot be merely implied, such as to the extent PSP might believe that such a description can be inferred by PSP’s statements that the proposed tariff is an improvement over the existing tariff. Second, the statute also requires *evidence* that the existing tariffs are not fair, just, reasonable, and sufficient.³⁰

22 PSP’s approach has been to act as though there is no existing tariff that already forms a baseline. But there is an existing tariff, and the Legislature presumed it to be fair, just, reasonable, and sufficient at the same time that it adopted this statute. As succinctly stated in RCW 81.116.050, “The tariffs established by the board prior to July 1, 2019, shall remain in effect and be deemed pilotage tariffs set by the commission until such time as they are changed by the commission pursuant to this chapter.” Indeed, this reinforces the fact that the requirements in RCW 81.116.030 with regard to the existing tariff apply to the existing tariff that the BPC has set. The language in these statutes is unambiguous.

23 Requirements to identify, describe, and explain proposed changes to the pilotage tariff under the Commission’s rules reinforce these statutory requirements, and they, too, do not carve out any exception for the initial tariff

²⁹ RCW 81.116.030(2).

³⁰ RCW 81.116.030(5).

filing before the Commission.³¹ Moreover, the statute requires PSP to provide the information required under the Commission's rules, so these rules are not merely interpretive.³² As a legislative rule directly related to the subject on which the Legislature delegated power to the Commission and conforming to the statutory requirements, the requirements set forth under these rules are binding.³³ Moreover, PMSA's testimony and exhibits demonstrate that evaluating whether the existing tariff is fair, just, reasonable, and sufficient is absolutely possible. Thus the legal requirements apply to this proceeding; they cannot be waived.

24 PSP concedes that it has not complied with the Commission's requirements for identifying, describing, and explaining the changes to the existing tariff that PSP is proposing.³⁴ But it claims that these requirements do not apply to PSP in this proceeding because PSP decided to propose such radical changes to the existing tariff and because this is the first time the Commission has jurisdiction over a pilotage ratesetting proceeding. In essence, PSP attempts to read into the statute two implied exceptions: where the changes to the tariff are radical and/or where the existing tariff was set by the BPC, the requirements do not apply.

³¹ WAC 480-160-110 and 480-160-120.

³² RCW 81.116.030(2)(d).

³³ *Weyerhaeuser Co. v. Dept. of Ecology*, 86 Wn.2d 310, 314, 545 P.2d 5 (1976).

³⁴ PSP Response to PSMA Data Request No. 202, attached to this motion as Exhibit A-1.

25 The Legislature obviously contemplated that the first proceeding before the Commission would pertain to the tariff referenced in RCW 81.116.050. If the Legislature had intended to waive any of the requirements for the first tariff proceeding, it could easily have so stated in RCW 81.116.050. Instead, it did the opposite: it established the legal presumption that the existing tariff be treated as though the Commission itself had set the existing tariff. And it confirmed that the BPC tariff could only be revised by adhering to all the requirements, which includes those in RCW 81.116.030. A basic rule for statutory interpretation is that exceptions not present in the statute may not be read into the statute.³⁵

26 PSP has not complied with the legal requirements—as PSP has itself conceded both expressly (see Exhibit A-1 to this motion) and impliedly (such as in its attacks on “irrelevant” analysis of existing tariff in its motion to strike). The consequence of failing to follow the statutory and regulatory requirements must be meaningful; otherwise the requirements themselves are meaningless. The proper and most efficient way to enforce those requirements, given compliance with them is necessary for any tariff revision under RCW 81.116.030, is to reject PSP’s tariff filings in a summary determination.

³⁵ *Boronat v. Boronat*, 13 Wn. App. 671, 673, 537 P.2d 1050 (1975).

B. PSP has failed to provide sufficient evidence to establish a prima facie case that the existing tariff is not fair, just, reasonable, and sufficient.

27 The party “that files the revised tariff” is charged with “[t]he burden of proof to show that the [existing] tariff rates are not fair, just, reasonable, and sufficient.”³⁶ PSP has not presented evidence showing that the existing tariff is “not fair, just, reasonable, and sufficient.” Indeed, until very recently, PSP called evidence analyzing the existing tariff “irrelevant.” Suddenly, in answer to PMSA’s most recent data request, PSP changed its stance and claimed that it has presented evidence of the “current tariff insufficiencies.”³⁷ But it alludes only vaguely to the entire testimony of two witnesses.³⁸ And for one of those witnesses, it vaguely refers to all of the exhibits of that witness, including PSP’s proposed tariff sheets, which PSP previously discussed as having no information about the existing tariff on them.³⁹ Neither witness PSP references submitted any evidence or analysis whatsoever on this threshold standard. In contrast, PMSA has submitted extensive evidence specific to evaluating the existing tariff as fair, just, reasonable, and sufficient.

³⁶ RCW 81.116.030(5).

³⁷ PSP Response to PSMA Data Request No. 415, attached to this motion as Exhibit A-2.

³⁸ *Id.*

³⁹ *Id.*; see also PSP Response to PSMA Data Request No. 202, attached to this motion as Exhibit A-1 (stating that a comparison of the changes in PSP’s proposed tariff sheets (Exhs. WTB-08 to 10) to the existing tariff “would be an exercise in futility”).

28 The existing tariff is presumed fair, just, reasonable, and sufficient unless PSP proves otherwise.⁴⁰ PSP has presented no evidence that addresses this essential issue in the proceeding. Rather, its whole attention has been focused on its proposed tariff, to the exclusion of evidence about the existing tariff. PSP's assertion now that it has presented evidence about the existing tariff must be supported by specific evidence, not merely vague allusions to a full compendium of testimony and exhibits that do not clearly relate to the issue.

29 Moreover, PSP's recent change of stance addresses (vaguely) only one of the *four* mandatory aspects of the existing tariff specified in RCW 81.116.030(5). PSP must prove that the existing tariff is all of the following: (1) unfair, (2) unjust, (3) unreasonable, *and* (4) insufficient. PSP reads the first three terms in this list out of the statute as though they were superfluous or redundant terms whose meanings are somehow all covered in the final term—or as though the conjunctive “and” should be read as a disjunctive “or.” But the Legislature would not have listed all four aspects, joined with a conjunction, if only one out of the four required conditions were needed: “All language in a piece of legislation should be given effect, so that no provision is rendered superfluous.”⁴¹ PSP, in now asserting it has submitted evidence addressing the last term (that the existing tariff is not sufficient), still has not even attempted

⁴⁰ RCW 81.116.030(5).

⁴¹ *Amalgamated Transit Union Local 587 v. State*, 142 Wn.2d 183, 220, 11 P.3d 762 (2000), as amended (Nov. 27, 2000), opinion corrected, 27 P.3d 608 (Wash. 2001) (citations omitted).

to point to any evidence in its filings that shows that the existing tariff is not fair, not just, and not reasonable. Moreover, Mr. Burton's testimony and exhibits and Capt. Moreno's testimony do not address even the fourth required condition of whether the existing tariff is sufficient, as detailed in the statement of facts above.

30 Thus, even if the Commission accepted all facts as asserted by PSP in the light most favorable to PSP, its proposed tariffs would still not meet the requirements for a pilotage tariff revision under Washington law. As such, PSP has failed to meet the basic requirements for proposing a revision to the existing pilotage tariffs. Because PSP has failed to make even a prima facie showing that the existing tariff is not fair, just, reasonable, and sufficient, as required for the Commission's adjudication on a proposed revision to pilotage tariffs, the hearing and briefing on PSP's proposed tariffs are not necessary. Given the essential gaps in PSP's proposal and evidence, proceeding with the remaining parts of the process would only waste the time and resources of all involved. Summary determination is the most proper and efficient resolution of this case.

VIII. CONCLUSION

31 PMSA appreciates the fact that this is the first marine pilotage tariff proceeding before the Commission. Indeed, that fact makes it only that much more imperative that the evidence, analysis, and legal framework create a solid precedent for future proceedings in accord with the Legislature's intentions. That foundation is missing here. First, PSP has failed to follow the most basic

requirements for its filings to revise the tariff. This alone is sufficient reason to reject those filings. Second, PSP has presented no evidence to rebut the statutory presumption in favor of the existing tariff. The only evidence presented on the issue of whether the existing tariff is fair, just, reasonable, and sufficient is that presented by PMSA. PSP, having decided and affirmatively asserted in this proceeding that such analysis is irrelevant, has presented only evidence focused on its proposed tariff. Each of these two reasons—PSP’s failure to adhere to the legal requirements for its tariff filings and PSP’s failure to meet its minimum evidentiary burden under the statute—provides independent grounds for summary determination. For each of these reasons, PMSA respectfully requests that the Commission grant this motion and issue an order rejecting the tariff filings and closing the docket.

Respectfully submitted this 13th day of July, 2020.

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