

PMSA DATA REQUEST NO. 3: With respect to your testimony at Exhibit IC-01T page 17 regarding PSP workload and assignments, please provide all documentation, spreadsheets, and data supporting this testimony.

RESPONSE TO PMSA DATA REQUEST NO. 3:

Attached are two spreadsheets, one showing callback jobs from 1995 through August 2022 and the second showing the ratio of callback jobs to assignments during the same timeframe.

PUGET SOUND PILOTS' RESPONSES TO PMSA DATA REQUESTS Nos. 8-76

DATE PREPARED: October 21, 2022 DOCKET: TP-220513 REQUESTER: Pacific Merchant Shipping Association ("PMSA")	WITNESS: CAPTAIN IVAN CARLSON RESPONDER: CAPTAIN IVAN CARLSON PUGET SOUND PILOTS DATE: October 21, 2022 TEL: 360-421-0583 EMAIL: president@pspilots.org
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PMSA DATA REQUEST NO. 8: Exh. IC-1T 4:14-18 refers to an act by the Washington Legislature to adopt a “zero spills’ strategy” in 2004 and then quotes from said act, but the act itself is never named nor any copy provided. Please identify the legislative act referenced by its proper legal citation, the specific citations for the declarations cited, and provide a copy of the session law.

RESPONSE TO PMSA DATA REQUEST NO. 8:

RCW 90.56.005; S.B. 6641, 2003 Leg., 2nd Sess. 58th Reg. Sess. (Wash. 2003). A copy of the session law is attached.

PMSA DATA REQUEST NO. 9: With respect to your testimony at Exh. IC-1T 4:12-14, 6:13 regarding pilotage that utilizes “only the best mariners” and “a PSP pilot corps that is among the very best in the nation,” admit that no objective standards or metrics or key performance indicators measure an individual pilot or an entire pilot corps either to distinguish whether it is “among the very best in the nation” or if it is not “among the very best in the nation.”

RESPONSE TO PMSA DATA REQUEST NO. 9:

Deny. Individual pilots and pilot corps may be distinguished by a number of features including among other things their qualifications and experience upon entry into a pilot training program, their performance during training and the relative rigor of the training program and, ultimately, the safety and performance records of individual pilots and their corps.

PMSA DATA REQUEST NO. 11: With respect to your testimony at Exh. IC-1T 8:15-17 regarding your testimony alleging that “[t]he key to achieving the ‘best achievable protection’ against oil spills on the part of a pilot group is retaining and continuing to attract a highly diverse mix of the best of the best mariners not only from Puget Sound but from throughout the US,” please provide all documentation supporting this claim with respect to all of the following: (a) setting forth any objective standards, metrics, or key performance indicators used to measure the achievement of the best available protection standard; (b) defining “a highly diverse mix”; (c) define “the best of the best mariners”; (d) describing the manner in which the objective standards, metrics, or key performance indicators to measure achievement of the best available protection standard account for “a highly diverse mix” variable; (e) describing the manner in which the objective standards, metrics, or key performance indicators to measure achievement of the best available protection standard account for “the best of the best mariners” variable; (f) describing the manner in which the objective standards, metrics, or key performance indicators to measure achievement of the best available protection standard account for a “mariners not only from Puget Sound but from throughout the US” variable; and (g) stating which existing licensing standard or licensing standards adopted by the Board of Pilotage Commissioners are substandard and preclude PSP from operating a best achievable protection standard.

RESPONSE TO PMSA DATA REQUEST NO. 11:

PSP objects that the request is argumentative in nature and is not a good-faith request for relevant information. The request is also compound to the point it is unintelligible. PSP further objects to the request to the extent it calls for documents or information protected by the self-critical analysis privilege and/or work product protection. Subject to the foregoing objections, a “highly diverse mix” of pilots refers to a mix of pilots from diverse geographic, professional, personal, gender, ethnic and cultural backgrounds that bring different experiences, skillsets and insights to the piloting profession. Similarly, the “best of the best mariners” will reflect this diverse mix and consist of highly trained, highly skilled mariners who possess elite judgment and ability as pilots. The objective metrics referenced in response to PMSA Data Request No. 9 are relevant to evaluating these attributes in individual pilots and pilot corps.

PMSA DATA REQUEST NO. 12: Further pursuant to DATA REQUEST 11, regarding objective standards or metrics or key performance indicators measure a pilot corps' ability to achieve "best achievable protection" against oil spills, admit that all significant oil spills that have occurred in the Puget Sound Pilotage District as a result of an allision, collision, or grounding of a foreign flagged vessel have occurred while under pilotage by a PSP pilot.

RESPONSE TO PMSA DATA REQUEST NO. 12:

PSP objects that the request is vague in that it does not specify a temporal scope. Subject to the objection, PSP admits that since at least 1999, no significant oil spills have occurred in the Puget Sound Pilotage District that involved an allision, collision, or grounding of a foreign flagged vessel while under pilotage by a PSP pilot.

PMSA DATA REQUEST NO. 15: With respect to your testimony at Exh. IC-1T 8:21-23 alleging that “the level of pay and benefits that is competitive on a national level is especially important to successful recruitment of highly qualified female mariners and candidates of color,” please provide any and all documentation used to support this claim with respect to all of the following: (a) documentation of any basis for the claim that “level of pay and benefits” are “especially important” to “female mariners”; (b) documentation of any basis for the claim that “level of pay and benefits” are “especially important” to “candidates of color”; and (c) describe and provide documentation of any policy, program, initiative, or practice of the Puget Sound Pilots that provides a separate level of pay and benefits to pilots on the basis of race or gender.

RESPONSE TO PMSA DATA REQUEST NO. 15:

PSP objects to the form of this request as being argumentative in nature and is not a good-faith request for relevant information, particularly as PMSA is well aware that Puget Sound Pilots receive equal compensation. PSP further objects to the extent the request calls for documents and information protected by the self-critical analysis privilege and its underlying policy considerations.

Subject to the foregoing objections, it is common knowledge that women and persons of color are underrepresented in the pilotage profession, that diversifying the pilot corps is an issue of significant importance to PSP as well as other pilot groups, and that attracting members of the limited group of candidates with diverse backgrounds therefore requires competitive compensation and benefit structures. It is no coincidence, for example, that the U.S. pilot group with the most female pilots – Houston Pilots – is also among the most highly compensated pilot groups in the country. PSP further responds that its nation-leading maternity leave policy is an example of a competitive benefit that is especially important to the recruitment of highly qualified female candidates. Documents related to that policy are attached.

PMSA DATA REQUEST NO. 16: If no documentation is produced pursuant to DATA REQUEST 15, admit that there is no rational basis for the generalizations made at Exh. IC-1T 8:21-23 on the basis of race or gender about the preferences of potential pilot trainees.

RESPONSE TO PMSA DATA REQUEST NO. 16:

PSP objects to the form of this request as being argumentative in nature and is not a good-faith request for relevant information. Notwithstanding the objection, deny.

PMSA DATA REQUEST NO. 24: With respect to your testimony at Exh. IC-1T 10:8, please clarify whether this is intended to be the first-hand testimony of Capt. Carlson or a reference to the testimony of David Lough. If it is the testimony of Capt. Carlson, provide all of the following: identification of all pilot groups in the United States; identification of all pilot groups in the United States for which publicly available data is available; description of the reason for why publicly available data is unavailable for groups not named; the net income of each pilot group and net income per pilot of each pilot group; and the number of assignments, type of assignments, bridge hours, and number of licensees for each pilot group.

RESPONSE TO PMSA DATA REQUEST NO. 24:

PSP objects to the request calls for information protected by the work product doctrine. PSP further objects that the request is unduly burdensome in that it calls for public information about other pilot groups that is equally available to PMSA. Subject to the foregoing objections, Captain Carlson's testimony incorporates the analysis and testimony of David Lough regarding PSP pilot compensation relative to other pilot groups.

PMSA DATA REQUEST NO. 26: With respect to your testimony at Exh. IC-1T 10:17-23, please: (a) define what “a fair share of the very best pilot trainee candidates in the national pool” means; and (b) provide copies and all documentation of the “evidence” referenced in your statement “[w]ith respect to benefits, our evidence shows that maritime industry workers traditionally receive medical insurance benefits that are fully paid by the employer.”

RESPONSE TO PMSA DATA REQUEST NO. 26:

As to subpart (a), the statement refers to PSP’s competitiveness in attracting the most qualified trainee candidates from across the U.S. With respect to subpart (b), please see the testimony of David Lough.

PMSA DATA REQUEST NO. 27: With respect to your testimony at Exh. IC-1T 10:23-11:3, please provide all documentation supporting the claim “[t]hat is also the practice in every state where the Board of Pilot Commissioners has faced this issue. Until the UTC’s Final Order of November 25, 2020, no other regulator of state-licensed pilots had ever decided not to fund medical insurance benefits in the tariff.”

PMSA DATA REQUEST NO. 27:

PSP objects that the request is unduly burdensome in that it calls for public documents and information that are equally available to PMSA. Subject to the objection, no documents exist that evidence any regulator of state-licensed pilots other than the UTC deciding not to fund pilots’ medical insurance benefits through the pilotage tariff, because it has never happened.

PMSA DATA REQUEST NO. 29: With respect to your testimony at Exh. IC-1T 11:8-12, please provide all documentation supporting the claim that the “the competitiveness of the Puget Sound Pilotage District to attract the best and the brightest potential pilots will be impaired if the pension program for future licensees is negatively impacted in this rate case.”

RESPONSE TO PMSA DATA REQUEST NO. 29:

PSP objects to the form of this request as being argumentative in nature and not a good faith request for relevant information. It is entirely self-evident that the level of pension benefits within a pilot group will be a significant factor in recruitment of potential pilots.

PMSA DATA REQUEST NO. 36: With respect to the work of the PSP Efficiency Committee as described at Exh. IC-1T 12:14-15, please provide copies of the “usable databases for further analysis” created by BWPO.

RESPONSE TO PMSA DATA REQUEST NO. 36:

The databases prepared by BWPO have been requested and will be provided upon receipt.

PMSA DATA REQUEST NO. 46: With respect to the testimony at Exh. IC-1T 14:11-14 please describe how the passed efficiency measure will a result in a reduction of callbacks by as much as 40% in any given month and any and all documentation to support this assessment.

RESPONSE TO PMSA DATA REQUEST NO. 46:

Projected reduction in callbacks based on analysis of the table below, showing that based on data for the months of April and May in 2019, the new rolling start procedure would have reduced callbacks by 41.55%.

4-D				
TOTAL April 1 - May 31, 2019				
<u>TYPE</u>	Actual	Roll Start	Diff	Percent
3/O	61	67	6	9.84%
Repo	238	204	-34	14.29%
Comp				-
Day	207	121	-86	41.55%
MET	94	94	0	0.00%
UPG	24	24	0	0.00%
CDT	117	117	0	0.00%
DTH	5	5	0	0.00%
JOB	912	998	86	9.43%
Rev Assign	1119	1119	0	0.00%

PMSA DATA REQUEST NO. 47: With respect to the testimony at Exh. IC-1T 14:15-20, the testimony opined that due to a short period of time of implementation of pilot efficiency measures that there was insufficient data to provide a quantitative analysis of their effectiveness, however you committed to “continue to maintain this data and work closely with BWPO in its analysis in order to be in a position by the time PSP witnesses provide their rebuttal testimony in this proceeding to supplement the record regarding the effectiveness of these efficiency measures.” The PSP “Motion to Set Expedited Schedule” submitted contemporaneously with this testimony proposed and anticipated that PSP Rebuttal Testimony and Exhibits would be due on September 26, 2022. That date having passed, PSP is presumably now in a position to provide the additional testimony and data promised. Please provide copies of both the data that has been collected and maintained to date and the BWPO analysis of this data regarding the effectiveness of PSP’s adopted efficiency measures.

RESPONSE TO PMSA DATA REQUEST NO. 47:

Implementation of the rolling start was completed in late April, 2022. A combination of unforeseen factors including Covid19-required isolation periods, pilots off duty as a result of major medical conditions and the unprecedented 2022 level of cruise assignments has made it impossible to assess the effectiveness of PSP's adopted efficiency measures compared to a reasonably relevant baseline. Further, to date, BWPO has not performed an analysis of the effectiveness of the efficiency measures for the same reasons described above.

PMSA DATA REQUEST NO. 48: The inquiry at Exh. IC-01T 14:22-23 references an “efficiency study.” Please provide a copy of the “efficiency study” in full if not otherwise disclosed and provided in full in response to the above requests. If provided in response to the above requests, please identify the document.

RESPONSE TO PMSA DATA REQUEST NO. 48:

Attached is a copy of the June 1, 2022 report prepared by BWPO.

PMSA DATA REQUEST NO. 49: With respect to claim at Exh. IC-01T 15:4-5 that PSP is “too understaffed to implement this recommendation without substantially increasing the number of ship delays,” please provide all of the following: (a) define “understaffed”; (b) provide documentation of the assessment of how and to what extent the BWPO recommendation would impact PSP staffing levels; (c) provide descriptions and related documentation of how, why, and to what degree PSP staffing decisions would result in an increase in the number of ship delays; (d) define “number of ship delays”; (e) describe the present number of ship delays; (f) describe the process by which PSP decides to delay or not to delay a vessel; and (g) define what “substantially increasing” means with respect to the number of ship delays.

RESPONSE TO PMSA DATA REQUEST NO. 49:

PSP objects that the request as argumentative in nature and not a good faith request for relevant information. As stated by Captain Carlson and Dr. Czeisler in their testimony, a level of callback assignments in excess of 5% per month as a percentage of total pilotage assignments means that PSP pilot staffing levels are understaffed.

PMSA DATA REQUEST NO. 52: Regarding the calculation of funding a callback day at Exh. IC-01T 16:5-7, please provide the exact formula and sources used for this calculation.

RESPONSE TO PMSA DATA REQUEST NO. 52:

See response to UTC Staff Data Request No. 17.

PMSA DATA REQUEST NO. 54: Regarding the calculation of funding a callback day at Exh. IC-01T 16:5-7, please provide the exact formula and sources used for this calculation.

RESPONSE TO PMSA DATA REQUEST NO. 54:

PSP objects to this request on the grounds that it is a complete duplicate of DR No. 52.

PMSA DATA REQUEST NO. 57: Regarding testimony at Exh. IC-01T 18:6 and 17, please define “pilot shortage.”

RESPONSE TO PMSA DATA REQUEST NO. 57:

In PSP's view, a pilot shortage exists when on watch pilots are unable to cover the pilotage assignments during their on watch periods and callbacks of off-duty pilots to cover those assignments exceed 5%.

PMSA DATA REQUEST NO. 58: Regarding the calculation of projected licensees Exh. IC-01T 19:14-18, please provide all of the following: (a) the basis for the expectation of reaching 54 licensees by the end of 2022, including names and ages of potential retirees and potential licensees; (b) basis for expectation to reach 56 licensees by the first quarter of 2023, including names and ages of potential retirees and potential licensees; (c) description and any and all documentation of PSP’s “current projection regarding retirees; and (d) description and any and all documentation of the current projection “of the Board of Pilot [sic] Commissioners regarding the timing of new licensees.”

RESPONSE TO PMSA DATA REQUEST NO. 58:

As of October 28, 2022, there are 53 state-licensed pilots who are members of PSP. Based upon the most recent data from the Washington Board of Pilotage Commissioners pilot training program, it is anticipated that three additional pilots will be licensed in January, April and May of 2023, respectively. During this same time frame, PSP anticipates one retirement. Because of the uncertainties associated with when actual licensure occurs (*i.e.*, delay in obtaining federal pilotage endorsement) or when a retirement occurs (*i.e.*, delay due to family-related developments), PSP objects to providing the names and ages of prospective licensees and retirees on the grounds that it is highly confidential information.

PMSA DATA REQUEST NO. 59: Regarding testimony at Exh. IC-01T 20:2-4, please provide all of the following: (a) definition of “a significant level of risk”; (b) definition of “when a pilot is not sufficiently rested”; (c) identify any and all pilot callback jobs where a pilot was dispatched to a vessel without sufficient rest; and (d) identify any and all pilot assignments, including callback jobs, which were denied by a pilot based on insufficient rest.

RESPONSE TO PMSA DATA REQUEST NO. 59:

Whenever a transportation safety-critical worker such as a professional maritime pilot's had insufficient rest prior to the performance of a pilotage assignment, there is significant risk of mistake in job performance. A review of the factors influencing alertness, cognitive performance and the risk of error/accident are thoroughly described in the testimony of Dr. Charles Czeisler, Exh. CAC-01T at 17-81. PSP does not maintain data regarding pilot callback jobs where a pilot was dispatched to a vessel without sufficient rest or with respect to pilot assignments which were denied by a pilot based on insufficient rest.

PMSA DATA REQUEST NO. 64: Regarding the testimony at Exh. IC-01T 22:17-19 and 24:7-10, please provide a copy of all agreements reached and communications related to such agreements between PSP and Pacific Yacht Management and the Northwest Marine Trade Association, inclusive of all pension-related and non-pension-related agreements regarding the pilotage tariff.

RESPONSE TO PMSA DATA REQUEST NO. 64:

Responsive documents attached.

PMSA DATA REQUEST NO. 65: Please provide a copy of any legal opinion which concludes that “existing PSP retirees have a legal right to the pension benefits promised in the PSP pension plan,” as discussed at Exh. IC-01T 22:21-22.

RESPONSE TO PMSA DATA REQUEST NO. 65:

This legal opinion is set out in the testimony of pension attorney Bruce McNeil, Exh. BJM-01T at 2-3. PSP objects to providing legal opinions from its counsel on the grounds of attorney-client privilege.

PMSA DATA REQUEST NO. 66: Please provide a copy of any legal opinion which concludes that “all existing members of the PSP pilot corps also have a legal right to the pension benefits promised to each of our pilots at the time of licensure,” as discussed at Exh. IC-01T 22:22-23:1.

RESPONSE TO PMSA DATA REQUEST NO. 66:

This legal opinion is set out in the testimony of pension attorney Bruce McNeil, Exh. BJM-01T at 2-3. PSP objects to providing legal opinions from its counsel on the grounds of attorney-client privilege.

PMSA DATA REQUEST NO. 67: The testimony at Exh. IC-01T 23:19-24:4 omits mention of any pre-filing engagement with stakeholders other than PYM and NMTA on issues other than the retirement plan. Admit that, aside from the retirement plan meetings, PSP did not attempt any pre-filing engagement or communications with the Pacific Merchant Shipping Association or its ocean-carrier member companies, the Cruise Lines International Association or its cruise-vessel member companies, or the Western States Petroleum Association or its tank-vessel member companies regarding this filing, the rates proposed within this filing, or to resolve or address any issues or potential stipulation of issues regarding this filing.

RESPONSE TO PMSA DATA REQUEST NO. 67:

Admits that PSP did not attempt pre-filing engagement or communications with shipping industry trade groups other than PMSA because PMSA is known to represent both cruise and oil tanker trade interests as demonstrated by its membership list and the scope of its advocacy in the 2019-2020 rate proceeding. Further, PSP anticipated the opportunity to pursue settlement discussions during scheduled settlement conferences and/or independent negotiations during the course of this rate case.

PMSA DATA REQUEST NO. 68: With respect to the testimony at Exh. IC-01T 27:4-14, please provide all data presented in a searchable database format and provide source citations and references for each of the datapoints included.

RESPONSE TO PMSA DATA REQUEST NO. 68:

Dating back to 1995, PSP has maintained a record of its callback data, much of which is derived from annual reports. PSP objects to providing this data in a searchable database format on the grounds that it would be unduly burdensome.

PMSA DATA REQUEST NO. 69: The testimony at Exh. IC-01T 27:19 refers to an “Exhibit IC-05,” which is described as statistics regarding Columbia River Bar Pilots’ callback levels, and possibly refers to other pilotage grounds’ callback levels as well; however, this appears to be an incorrect reference, and the referenced assignment data appears to be missing. Exhibit IC-05 is a spreadsheet of PSP vessel traffic information as labeled and referred to as Exhibit IC-05 on at Exhibit IC-01T 26:14. Please provide the correct exhibit and data which was intended to be included as Exhibit IC-05 per your testimony on page 27.

RESPONSE TO PMSA DATA REQUEST NO. 69:

The correct citation should be to Exh. IC-06. The data referenced in the testimony is displayed in the exhibit.

PMSA DATA REQUEST NO. 70: With respect to your testimony at Exhibit IC-01T page 27 regarding Columbia River Bar Pilots, Columbia River Pilots, and San Francisco Bar Pilots callback levels, please provide all documentation, spreadsheets, and data supporting this testimony.

RESPONSE TO PMSA DATA REQUEST NO. 70:

Requested data set out in Exh. IC-06 and Exh. ALM-01T at 3.

PMSA DATA REQUEST NO. 71: With respect to the testimony at Exh. IC-01T 28:14-15, please provide all of the following: (a) define “the level of work required relative to the tonnage charge”; (b) define “more into line”; and (c) provide any and all documentation to support the claim that the increase of the harbor shift charge by 100% will “bring it more into line with the level of work required relative to the tonnage charge.”

RESPONSE TO PMSA DATA REQUEST NO. 71:

Based upon the often-modest difference between the work necessary to perform a harbor shift (including transportation time to and from the assignment and the assignment itself) compared to a transit, PSP believes that a significant narrowing of the tariff charge for a harbor shift compared to a transit assignment is reasonable and appropriate. When comparing harbor shifts to transits, there is often only a modest difference in total assignment time, including transportation to and from the assignment and the assignment itself. In addition, the risk factors involved with a harbor shift are often higher in the performance of a harbor shift compared to a transit due to the need for close quarters maneuvering in constricted waters, docking or undocking in proximity to other vessels and/or potential obstructions such as shore cranes and transiting narrow waterways in various wind and weather conditions. Considering all these factors, PSP believes that a significant narrowing of the tariff charge for a harbor shift compared to a transit assignment is reasonable and appropriate.

PMSA DATA REQUEST NO. 72: With respect to the testimony at Exh. IC-01T 28:15-17, please provide all of the following: (a) define “a disincentive”; (b) define “highly inefficient”; and (c) provide any and all documentation to support the determination of PSP that the increase of the cancellation charge by 50% will “create a disincentive to steamship company agents to make cancellations.”

RESPONSE TO PMSA DATA REQUEST NO. 72:

The term "disincentive" refers to the creation of an economic cost imposed by the tariff for a cancellation. The reference to "highly inefficient" is based upon the obvious fact that the cancellation of a pilotage assignment, especially if it occurs close to the scheduled time for the beginning of that assignment, significantly disrupts the PSP dispatch system because the pilot whose assignment was canceled must now be reassigned to a new pilotage assignment or required to rest for a specified period before reassignment. The fact that increasing the cancellation charge by 50% will "create a disincentive to steamship company agents to make cancellations" is self-evident.

PMSA DATA REQUEST NO. 73: With respect to the testimony at Exh. IC-01T 30:12-19, please provide all of the following: (a) define “a multi-year trend”; (b) define “volatility”; (c) define “considerable volatility”; (d) provide documentation of the multi-year trends and volatility of “vessel traffic”; (e) provide documentation of the multi-year trends and volatility of “the range of ship types making up that traffic in any given year”; (f) provide documentation of the multi-year trends and volatility of “vessel tonnage trends”; and (g) provide documentation of the multi-year trends and volatility of “some of our cost categories, such as pilot boat fuel.”

RESPONSE TO PMSA DATA REQUEST NO. 73:

PSP objects to this request on the grounds that it is argumentative and not a request made in good faith. The volatility of PSP's traffic during the 15-year period of 2007 through 2021 is described in detail the testimony of Ken Eriksen, Exh. KAE-1T at 6-16.

PMSA DATA REQUEST NO. 74: Please provide a copy of Exh. IC-05 in a searchable database format.

RESPONSE TO PMSA DATA REQUEST NO. 74:

Excel spreadsheet attached.

PMSA DATA REQUEST NO. 75: Please provide source citations and references for each of the datapoints included in Exh. IC-05.

RESPONSE TO PMSA DATA REQUEST NO. 75:

The vessel class, assignment and pilotage revenue data included in this exhibit is based upon actual pilotage billings to each vessel in each of the six years covered in the exhibit.

PMSA DATA REQUEST NO. 76: With respect to the Work Papers testimony at “220513-PSP-WP IC-projected 2022 revenue and assignments-06-29-22” please provide source citations and references for each of the datapoints included in the spreadsheet and all specific calculations or projections included in the spreadsheet or to derive datapoints, as applicable.

RESPONSE TO PMSA DATA REQUEST NO. 76:

PSP objects to this request on the grounds of undue burden.