

PUGET SOUND PILOTS' RESPONSES TO PMSA DATA REQUESTS Nos. 244-292

DATE PREPARED: December 28, 2022 DOCKET: TP-220513 REQUESTER: Pacific Merchant Shipping Association ("PMSA")	WITNESS: DAVID LOUGH RESPONDER: DAVID LOUGH PUGET SOUND PILOTS DATE: January 20, 2023 TEL: 206-525-7503 EMAIL: <a href="mailto:loughd@nwlink.com">loughd@nwlink.com</a>
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**PMSA DATA REQUEST NO. 244:** UTC Staff Data Request 13(b) asked Mr. Lough to “[p]lease identify what is included in the calculations for each pilot group, i.e. number of assignments, number of pilots, etc.” regarding Exh. DL-06 and Exh. DL-01T 10:1–16:26, “Pilot Group Income and Benefits.”

The response by Mr. Lough to UTC Staff DR 13(b) was:

“b. The net income calculations for each pilot group are based upon the actual pay or average pay per pilot in each group with projected COLA adjustments as disclosed in the underlying source material.”

Please clarify the Response to UTC Staff DR 13(b) regarding the Pilot Group Income and Benefits calculations as follows:

- 1) Do the calculations include an evaluation of the number of pilot assignments or any other workload factor per pilot? If so, please identify the testimony which includes these calculations.
- 2) Do the projections for 2023 net income include an evaluation of the number of assignments or other workload factors per pilot? If so, please identify the testimony which includes these calculations.
- 3) Do the calculations include a summary of the revenue per assignment for the years evaluated? If so, please identify the testimony which includes these calculations.
- 4) Do the projections for 2023 include a projection of the revenue per assignment? If so, please identify the testimony which includes these calculations.

**RESPONSE:**

- 1) No.
- 2) No.
- 3) No.
- 4) No.

**PMSA DATA REQUEST NO. 246:** Concerning data sourcing at Exh. DL-01T 3:12–17, aside from being provided data from PSP legal counsel and PSP leadership, have you acquired the financial statements or public rate orders from any other sources? If so, please describe all sources of data acquired independently of PSP in preparation of this testimony.

**RESPONSE:**

No. Individuals with past experience and contacts with knowledgeable individuals in the unique area of maritime pilot compensation (PSP legal counsel and PSP leadership) conducted the search for all the publicly available pilot group financial statements for rate orders.

**PMSA DATA REQUEST NO. 247:** Further to Exh. DL-01T 3:12–17, did you attempt to acquire data relevant to your evaluation from any of the 36 other pilots on the APA’s pilot group list? If so, please describe the extent and breadth of those efforts.

**RESPONSE:**

It is my understanding that PSP counsel and PSP leadership have continued to monitor developments involving maritime pilot compensation in the United States in their effort to secure all publicly available financial statements or rate orders. The results of those efforts that are described in response to DR 249.

**PMSA DATA REQUEST NO. 250:** Regarding Exh. DL-01T 5:1–22, please provide and submit as an Exhibit the May 2021 Bureau of Labor Statistics information for category 53-5021 “Captains, Mates, and Pilots of Water Vessels” as referenced in your testimony.

**REPOSE:**

The referenced information from the Bureau of Labor Statistics is attached and will be marked as an exhibit when I file my rebuttal or cross-answering testimony on March 10, 2023.

**PMSA DATA REQUEST NO. 251:** Further regarding Exh. DL-01T 5:1–22, did you review the BLS Occupational Employment and Wage Statistics for “Captains, Mates, and Pilots of Water Vessels (53-5021)” for the State of Washington separate and apart from the national employment summary? If so, please provide a copy of that data and specify what material was reviewed.

**RESPONSE:**

I did not review the State of Washington statistical information referenced above separate and apart from the national employment summary.

**PMSA DATA REQUEST NO. 252:** Regarding Exh. DL-01T 6:1–5, please provide citations to Exh. DL-03 which provide the hourly rate and schedule descriptions referenced regarding hours worked per day and total annual days worked.

**RESPONSE:**

The rate of pay for a tug captain as of August 1, 2022 is set out on page 9 of the exhibit. The standard practice in the towboat industry is for captains to work equal amounts of time on/time off, generally two weeks on followed by two weeks off. This schedule is not specified in the contract.

**PMSA DATA REQUEST NO. 253:** Regarding Exh. DL-01T 6:8–7:24, please admit that longshore, clerk, and foreman workers of the ILWU are not employees included in BLS category 53-5021 and are therefore not an occupational feeder pipeline from which PSP pilots are drawn. If denied, please identify by name and year licensed any pilots who utilized longshore, clerk, or foreman jobs as an occupational pipeline to become a Puget Sound Pilot.

**RESPONSE:**

Admit, but note that the statistical information regarding the wages paid to longshore workers was included in my testimony to support my statement that maritime workers "are paid well above average" when compared to the wages of other workers.

**PMSA DATA REQUEST NO. 255:** Regarding your testimony on “Maritime Industry Compensation Generally” Exh. DL-01T 5:1–7:24, admit that estimates of employment, wages, and benefits include employees but do not include self-employed workers.

**RESPONSE:**

Admit.



**PMSA DATA REQUEST NO. 259:** Regarding Exh. DL-06, Pilot Group Income & Benefits, and Exh. DL-01T 9:13–16:26, please: 1) define “Net Income”; 2) admit that this Table mixes target net income from rate orders with actual audited net income across various pilot groups; 3) define “benefits”; and 4) admit that the Pilot Group Income & Benefits Table does not evaluate the costs, liabilities, or values of benefits across the listed pilot groups.

**RESPONSE:**

1) "Net Income" means net compensation paid or distributed to a pilot excluding benefits such as medical, disability and license defense insurance.

2) Admit.

3) The term "Benefits" includes pension, insurance, equipment reimbursement and any other benefits paid by the pilot group on behalf of individual pilot members of the pilot corps.

4) Admit.

**PMSA DATA REQUEST NO. 260:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please describe whether you have confirmation from a rate order of what actual individual pilot earnings were from that jurisdiction, including the year, total amount of actual individual pilot earnings, and the citation to the record in the rate order.

**RESPONSE:**

With the exception of compliance filings by pilot groups in Louisiana, which do list the actual income of individual pilots, I have no access to and have not seen any tax statements such as K-1s or financial reports confirming the actual individual pilot earnings in any other states regulating pilotage.

**PMSA DATA REQUEST NO. 261:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, if no confirmation is provided in response to DR 260, please admit that the Pilot Group Income & Benefits Table provides no confirmation from a rate order of what actual individual pilot earnings were in any jurisdiction.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 262:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please admit the Pilot Group Income & Benefits Table provides only the most recent year of data available for all pilot groups except for San Francisco Bar Pilots, which instead used an average of four years..

**RESPONSE:**

Admit. It should be noted that, due to the unique circumstances involving 20 years of "regulatory lag" related to the San Francisco Bar Pilots referenced in my testimony at page 14 and described more fully in the testimony of SFBP Business Director Captain Anne McIntyre, my table utilized a average of the last four years of audited net income for this pilot group. In my opinion, this was a conservative approach to deriving net income for this pilot group just as the use of median net income rather than average net income is a conservative approach that is considered the best practice in my field of executive and management level compensation.

**PMSA DATA REQUEST NO. 270:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please admit that your Pilot Group Income & Benefits Table testimony did not include any net income for Grays Harbor Pilots from 2018, 2019, 2020, or 2021.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 271:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please admit that your Pilot Group Income & Benefits Table testimony did not include any net income for LA Harbor Pilots from 2018, 2020, or 2021.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 272:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please admit that your Pilot Group Income & Benefits Table testimony did not include any net income for Great Lakes Pilots from 2018, 2019, 2020, or 2021.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 273:** Further regarding Exh. DL-06, Pilot Group Income & Benefits categories used to compare “Net Income” against PSP, please admit that your Pilot Group Income & Benefits Table testimony did not include any net income for Puget Sound Pilots from 2018, 2019, or 2020.

**RESPONSE:**

Admit.



**PMSA DATA REQUEST NO. 276:** Further regarding Exh. DL-06, Pilot Group Income & Benefits, please describe whether you consider benefits paid to pilots to be (1) compensation or (2) expenses that reduce net income.

**RESPONSE:**

Benefits are not expenses that reduce net income. The combination of net income and the cost of benefits is gross income.

**PMSA DATA REQUEST NO. 277:** Further regarding Exh. DL-06, Pilot Group Income & Benefits, please describe the basis for exclusion of 2020 pilot income based on COVID-19 traffic impacts.

**RESPONSE:**

In my opinion, a Covid-impacted year like 2020 should be considered an outlier.

**PMSA DATA REQUEST NO. 278:** Further regarding Exh. DL-06, Pilot Group Income & Benefits, please describe the basis for application of an annual 2.5% growth rate in 2021 and 2022 pilot net income for NOBRA and other pilot grounds.

**RESPONSE:**

This was based upon the precedent established by the Louisiana Pilotage Fee Commission in late 2021, what it issued a permanent COLA for the Crescent River Port Pilots. One can expect the LPFC to follow this precedent in connection with now pending rate cases involving NOBRA and the Associated Branch Pilots. Further, the LPFC's long-standing policy of trying to maintain income and benefits parity between pilotage grounds in the state of Louisiana supports application of COLA on all grounds. The selection of 2.5% was a conservatively low figure.

**PMSA DATA REQUEST NO. 279:** Regarding your testimony at Exh. DL-01T 18:16–20 (“In my opinion, this [\$543,055] is the minimal level of income that the UTC should approve as DNI for the Puget Sound Pilots if PSP is to be nationally competitive in competing for top-flight mariner recruits to become pilot trainees in the Puget Sound Pilotage District.”), please respond to all of the following:

- 1) Admit that, in your opinion, in 2023 the Columbia River Bar Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 2) Admit that, in your opinion, in 2023 the Columbia River Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 3) Admit that, in your opinion, in 2023 the Grays Harbor Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 4) Admit that, in your opinion, in 2023 the LA Harbor Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 5) Admit that, in your opinion, in 2023 the San Francisco Bar Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 6) Admit that, in your opinion, in 2023 the Great Lakes Pilots will not be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 7) Admit that, in your opinion, in 2023 the Crescent River Port Pilots will be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 8) Admit that, in your opinion, in 2023 the Port Everglades Pilots will be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 9) Admit that, in your opinion, in 2023 the New Orleans-Baton Rouge Pilots (NOBRA) will be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 10) Admit that, in your opinion, in 2023 the Lake Charles Pilots will be nationally competitive for top-flight mariner recruits to become pilot trainees.
- 11) Admit that, in your opinion, in 2023 the Associated Branch Pilots will be nationally competitive for top-flight mariner recruits to become pilot trainees.

**RESPONSE:**

1) With respect to net income as a component of total pilot income, admit that the Columbia River Bar Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.

2) With respect to net income as a component of total pilot income, admit that the Columbia River Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.

3) With respect to net income as a component of total pilot income, deny that the Grays Harbor Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.

- 4) With respect to net income as a component of total pilot income, admit that the LA Harbor Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 5) With respect to net income as a component of total pilot income, admit that the San Francisco Bar Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 6) With respect to net income as a component of total pilot income, admit that the Great Lakes Pilots' net income rate is projected to be below the nationally competitive rate, defined as the mid-market (median) rate adjusted for inflation.
- 7) with respect to net income as a component of total pilot income, admit that the Crescent River Port Pilots' net income rate is projected to be above the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 8) With respect to net income as a component of total pilot income, admit that the Port Everglades Pilots' net income rate is projected to be above the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 9) With respect to net income as a component of total pilot income, admit that the NOBRA Pilots' net income rate is projected to be above the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 10) With respect to net income as a component of total pilot income, admit that the Lake Charles Pilots' net income rate is projected to be above the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.
- 11) With respect to net income as a component of total pilot income, admit that the Associated Branch Pilots' net income rate is projected to be above the nationally competitive rate, defined as the mid-market (median) rate adjusted for location.

**PMSA DATA REQUEST NO. 280:** Further regarding your testimony at Exh. DL-01T 18:16–20, 20:4–18, 23:6–18, admit that your testimony does not reference as a source any candidate survey of potential PSP pool of trainees regarding their existing place of residence, compensation, career experiences, credentials, or track record of success prior to application to sit for the examination to enter the Puget Sound pilot training program.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 281:** Further regarding your testimony at Exh. DL-01T 18:16–20, 20:4–18, 23:6–18 admit that your testimony does not reference as a source any candidate survey of potential national pool of trainees regarding their existing place of residence, compensation, career experiences, credentials, or track record of success prior to application to sit for the examination to enter any pilot training program.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 282:** Regarding your testimony at Exh. DL-01T 18:16–20, 20:4–18, 23:6–18 please describe each of the following: 1) the percentage share of applicants for Puget Sound pilot trainee positions which are drawn from both the national pool of candidates and the regional pool of candidates, 2) the relative sizes of both the national and regional pool of candidates; and 3) the historical success of applicants from the regional and national pools at becoming licensed Puget Sound pilots.

**RESPONSE:**

I was not engaged to perform research regarding the relative sizes of the national and regional pools of applicants for Puget Sound pilot trainee positions and therefore do not have information responsive to this request.



**PMSA DATA REQUEST NO. 283:** Further regarding your testimony at Exh. DL-01T 18:16–20, 20:4–18, please describe each source of data that you relied upon during the development of your testimony to lead you to the conclusion that the candidate pool for trainees is national as opposed to regional, and for each source described, please produce copies of the source documents identified.

**RESPONSE:**

This conclusion was based upon my discussions with PSP leadership, my investigation into the locations of maritime academies throughout the United States and my review of pertinent discussions in the rate orders that are attached as exhibits to my testimony.

**PMSA DATA REQUEST NO. 285:** Further regarding your testimony at Exh. DL-01T 18:16–20, please admit that you did not perform any analysis in preparation of your testimony to test your allegation that a pilot group with a net income below a median national net income figure results in a lack of “top-flight mariner recruits.” If denied, please describe the performance of any analysis that actually occurred and provide documentation and copies of the analysis.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 286:** Further regarding your testimony at Exh. DL-01T 20:5–10, please admit that you did not perform any analysis in preparation of your testimony to test your allegation that a pilot group with a net income below a median national net income figure results in a lack of “the workforce diversity needed for success.” If denied, please include a description the performance of any analysis that actually occurred and provide documentation and copies of the analysis.

**RESPONSE:**

Admit.

**PMSA DATA REQUEST NO. 287:** Further regarding your testimony at Exh. DL-01T 20:5–10, if the information regarding pilot group diversity was known and relied upon at the time of the development of this testimony, please provide a summary description of the diversity profiles relied upon for each of the Pilot Groups included in the Pilot Income & Benefits Table (Exh. DL-06) and copies of any source documents.

**RESPONSE:**

Object to this request as vague and unclear. No diversity profiles were developed or obtained.

**PMSA DATA REQUEST NO. 288:** Regarding your testimony at Exh. DL-01T 21:3–11, which asks “[h]ave you had a chance to review the memorandum ... which is Exhibit DL-24?” to which you answered “Yes,” admit that you did not prepare this memorandum. If denied, please authenticate your preparation of this memorandum.

**RESPONSE:**

Admit. The memorandum was prepared by PSP's counsel.

**PMSA DATA REQUEST NO. 290:** Regarding your testimony at Exh. DL-01T 23:24–24:12, admit that it is your testimony that the Puget Sound Pilots are more likely to conduct their operations in ways which result in maritime casualties and oil spills unless a competitive “PSP package of income and benefits” is provided.

**RESPONSE:**

Admit to the extent that lower than competitive compensation and benefits over a substantial period of time will undermine the quality and capability of a pilot corps. In my opinion, the lack of a competitive compensation and benefits package for the PSP pilot corps will risk compromising the size and quality of the pilot trainee applicant pool and ultimately increase the risk of maritime casualties and oil spills in the Puget Sound Pilotage District.

**PMSA DATA REQUEST NO. 292:** If DR 290 is admitted, please describe the level of “package of income and benefits” which is non-competitive such that licensed Puget Sound Pilots are unable to competently carry out their duties, provide the best achievable protection against oil spills and other maritime casualties, and navigate the waters of Puget Sound safely. Please provide all sources and related documentation to support any testimony which supports the description provided.

**RESPONSE:**

There is no specific level of income and benefits where pilots are unable to competently carry out their duties to provide the best achievable protection against oil spills and other maritime casualties, and navigate the waters of Puget Sound safely. The lower the level of income and benefits, the higher the ultimate risk of these negative outcomes due to reduced ability to attract and retain the most qualified and capable applicants. The higher the level of income, the lower is this risk.