PUGET SOUND PILOTS' RESPONSE TO PMSA DATA REQUEST 416-438

DATE PREPARED: August 3, 2020 DOCKET: TP-190976 REQUESTER: PMSA	WITNESS: Capt. Stephan Moreno RESPONDER: Puget Sound Pilots

TESTIMONY OF STEPHAN MORENO

DATA REQUEST NO. 422: Please provide all documentation of "the traditional principles of pilotage rate design" (Exh. SM-2T at 2:16-17) as they currently exist and are required to be applied in the State of Washington.

RESPONSE TO NO. 422:

Objection. This compound question calls for a legal conclusion as to what principles of rate design are legally required. Considering that there has never been a Washington court opinion addressing the standard "fair, just, reasonable, and sufficient" as applied to pilotage tariffs, no response to this question as posed is possible. Further, this request mischaracterizes the testimony of Capt. Moreno, who did not testify about legal requirements.

Subject to and without waiving the foregoing objection, Capt. Moreno answers as follows:

My testimony was referring to the rate design principles that have been used in establishing marine pilotage tariffs across the United States. Based on those principles, PSP's rate design is fair, just, reasonable and sufficient.

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DATA REQUEST NO. 423: Admit that under application of the UTC Staff Proposed Tariff that a larger vessel will pay more than a smaller vessel for identical pilotage services provided to those vessels on identical routes.

RESPONSE TO NO. 423:

I can neither admit nor deny this request. What any ship would pay under the UTC Staff Proposed Tariff depends on both time and size. A slower ship that is smaller might pay more than a larger ship that is faster. The UTC Staff's rate design also would have issues when the revenue requirement increases. See my rebuttal testimony for further elaboration.

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DATA REQUEST NO. 428: With respect to the "complexity of risk factors" regarding vessel operations, admit each of the following:
(a) that the risks of vessel incidents are reduced and mitigated by the usage of tug assistance.
(b) pilots utilize more tug assistance per assignment on large vessels than they do relative to smaller vessels.
(c) a more modern ship design with the specifications of protected fuel tanks, double hull, the latest navigational technology, redundant propulsion, and redundant steering, has a lower risk factor for a marine incident than a less modern ship design with fuel tanks on the bottom and side of a single hull, and a relatively underpowered diesel engine with only one propeller. If you disagree, please explain and provide documentation that the modern ship design is not safer.
(d) pilotage assignments which benefit from the provision of enhanced navigation technologies on board a vessel and provision of a PPU that result in a pilot having more timely and better information and better, have a lower risk factor for a marine incident than pilotage assignments.
(e) additional tug capabilities provide more responsive forces to control a vessel, which in turn have a lower risk factor for a marine incident than pilotage assignments which do not benefit from these additional resources.

RESPONSE TO NO. 428:

Objection. This argumentative request addresses Capt. Moreno's rebuttal points to testimony that was not offered by Capt. Moore through direct testimony. Thus, it exceeds the scope of direct testimony of Capt. Moore and the rebuttal testimony of Capt. Moreno.

Subject to and without waiving the foregoing objections, Capt. Moreno responds as follows:

Response to Subpart (a):

The use of tugs is one of many tools utilized as mitigating factors in reducing risk. Pilots use more tug assistance per assignment on large vessels than they do relative to smaller vessels.

Response to Subpart (b):

As a risk mitigation tool, this is generally the case. However, the required maneuvers to/from a berth, waterway restraints such as congestion and crane clearances, vessel configurations, and environmental conditions similarly also dictates the utilization of the type and number of tugs for assistance. The increased use of tugs for assistance also presents an increase level of responsibility on the pilot to protect the tug's crew and the tug

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itself. The complex coordination of utilizing an increasing number of tugs requires a high level of skill ensuring all commands to the vessel and tugs are understood and executed.

Response to Subpart (c):

None of my testimony, which addressed Capt. Moore's testimony about the efficiency of modern ship designs, states that modern ship design cannot be safer. My testimony is that "modern ship designs and efficiency do not particularly translate into reduced risk" during the course of an assignment.

Response to Subpart (d):

Objection. There is no way to answer this request. It is literally incomprehensible.

Response to Subpart (e):

Our guidelines regarding tug use and tug type are clearly designed to mitigate risk consistent in a manner consistent with the policy goals of the Marine Pilotage Act. The existence of mitigations designed by pilots does not negate or fully remove the risk that is mitigated. It is in fact a response to such risk. Additionally, PSP does not use "benefit" as a defining factor in risk mitigation. To the extent the request was seeking to compare mitigated risks versus unmitigated risks, I admit that an mitigated risk is less likely to result in an incident than would an unmitigated risk, as common sense would dictate.

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