

Exh. DPK-\_\_X  
Docket No. TP-190976  
Witness: Danny P.  
Kermode

BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND PILOTS,

Respondent.

**DOCKET TP-190976**

**CROSS-EXHIBIT FOR**

**Danny P. Kermode**

**PSP Response to PMSA 8, 9, 14, 267, 273, 280, 305, 416, 417, 432, 438**

*August 7, 2020*

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF  
RESPONSE TO DATA REQUEST

DATE PREPARED:	June 19, 2020	WITNESS:	Danny Kermode
DOCKET:	TP-190976	RESPONDER:	Danny Kermode
REQUESTER:	PMSA	TELEPHONE:	(360) 664-1253

**DATA REQUEST NO. 8:**

Exh. DPK-1T p. 8, regarding an explanation of “the absence of an equity return in the pilotage ratemaking formula,” concludes that because PSP has a negative equity balance under an accrual book keeping methodology, it has no equity return to members. However, the PSP By-laws still require a positive equity pay-out to the individual pilot owners of PSP regardless of the actual equity reported on the books in the PSP financials.

Please confirm whether or not WUTC Staff agrees that the ownership interests of the individual pilots’ equity in PSP as mandated by the share-in/share-out terms of the PSP By-laws operate independently of the PSP equity balance and accrual book keeping value. If WUTC Staff disagrees, please describe the basis for this disagreement. If WUTC Staff agrees, please describe the basis for this agreement.

**RESPONSE:**

Staff disagrees. The PSP equity balance is made up of inflow from new pilots and changes in net income, and outflow to retiring pilots along with compensation disbursements. The ownership interest balance in PSP is the result of a mathematical operation, not the result of PSP bylaws. The amount of the payout is a formula provided in section 5 of the bylaws and is not determinative or associated with the accounting of the actual balance of the account

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF  
RESPONSE TO DATA REQUEST

DATE PREPARED:	June 19, 2020	WITNESS:	Danny Kermode
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**DATA REQUEST NO. 9:**

Exh. DPK-1T pp. 8-9 states “TDNI = DNI \* Pilots.” Is it also possible to derive TDNI per the formula “TDNI = (TA \* ARPA) – Exp – Dep – Int” where TA = Total Ship Movement Assignments and ARPA = Average Revenue per Assignment, and the other expense categories are the same as described at Exh. DPK-1T p. 7? If not, why not?

**RESPONSE:**

Yes. The first part of the equation (TA\*ARPA) simply equals revenue whereas the remainder of the provided formula reduces revenues by operating and financing expenses resulting in net income (TDNI).

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION STAFF  
RESPONSE TO DATA REQUEST

DATE PREPARED:	June 19, 2020	WITNESS:	Danny Kermode
DOCKET:	TP-190976	RESPONDER:	Danny Kermode
REQUESTER:	PMSA	TELEPHONE:	(360) 664-1253

**DATA REQUEST NO. 14:**

Exh. DPK-1T p. 16 states that a “ship move takes between 7 to 8 hours on average,” but based on the PSP Petition evidence (Exh. WTB-11), PMSA calculated an average of 5.03 hours per ship move (Exh. MM-14). Please either provide all documentation that WUTC Staff relied upon which demonstrates an average ship move of between 7 and 8 hours, or admit that upon PSP Petition evidence, as revised, the average ship assignment is approximately 5 hours.

**RESPONSE:**

The cited testimony was based on analysis of the hourly data in Burton, Exh. WTB-11 using histograms. See PMSA DR 1 – 16 DR 14 Attachment A – Histogram of Hours.

DATE PREPARED: April 3, 2020	WITNESS: Jessica Norris
DOCKET: TP-190976	RESPONDER: Jessica Norris
REQUESTER: PMSA	Puget Sound Pilots

**PMSA DATA REQUEST NO. 273:** As referenced at Exh. JN-1T, p. 3, lines 15-24, please provide documentation of all calculations required to determine “retired pilots’ ownership interest” and explain how the auditor and PSP account for “equity or ‘contributed capital’” in the PSP financials, and how the dollars flowing into and out of the individual equity accounts of pilots are segregated from other funds such that they are “not part of the revenue sought to be recovered in regulated rates.”

**RESPONSE TO DATA REQUEST NO. 273:**

Objection. PSP objects to producing documentation of every action taken by the auditor. Cumulatively, such requests are unreasonably burdensome and are unlikely to discover probative evidence. When such requests are not otherwise objectionable, or where PSP will respond despite its objection, a narrative response may be given. Further, this torturous, run-on sentence question is convoluted, premised on incorrect assumptions, exceptionally difficult to follow and seeks information that is irrelevant and not reasonably calculated to the discovery of admissible evidence. PSP’s tariff proposal was founded on a specific theory of ratesetting, and that proposed methodology does not consider return on equity as an element of regulated rates as explained in PSP’s direct testimony. As an intervenor, PMSA is free to challenge the case set forth by the rate proponent, but is not entitled to unfettered discovery to support an alternative theory on which it would bear the burden of proof under applicable UTC rules. Nor does the fact that Ms. Norris testified that buy-ins and buy-outs are not part of the revenue sought to be recovered in regulated rates open the door to any and all discovery of individual ownership interests of pilots.

Subject to and without waiving the foregoing objection, PSP further responds as follows:

The revenue requirement proposed by PSP includes a number of components to be funded in rates, including, but not limited to operating expenses and a distributive net income to be paid to each FTE pilot. However, it does not include any amount that is calculated based upon a return on equity or investment. Payments made in or out of PSP equity to incoming or outgoing pilots do not affect operating expenses, are not implicated in funding FTE pilots, and are thus not a component of the proposed DNI. The revenue to be recovered in rates therefore does not include any amount that directly funds or is in any way earmarked for equity accounts of individual pilots.

Retired pilots lose full equity in PSP on the date of retirement, however, pursuant to PSP Bylaws, the “buy-out” takes place over 6 years. Again, the buy-out is not an operating expense and is not implicated in the revenue requirement.

DATE PREPARED: April 3, 2020	WITNESS: Jessica Norris
DOCKET: TP-190976	RESPONDER: Jessica Norris
REQUESTER: PMSA	Puget Sound Pilots

**PMSA DATA REQUEST NO. 280:** Regarding the “Consolidated Statements of Revenues, Expenses...” at Exh. JN-04, p. 7, please document and demonstrate how the calculation of “Buy-ins and buy-outs, net” on line item 13 impacts distributions and payments to pilots.

**RESPONSE TO DATA REQUEST NO. 280:**

Objection. PSP objects to producing documentation of every action taken by the auditor. Cumulatively, such requests are unreasonably burdensome and are unlikely to discover probative evidence. When such requests are not otherwise objectionable, or where PSP will respond despite its objection, a narrative response may be given.

Subject to and without waiving the foregoing objection, PSP and Ms. Norris respond as follows:

This does not impact the payments distributed to pilots. This is an increase or decrease to line 24 – Reserved for working capital account within pilots equity (balance sheet).

DATE PREPARED: April 3, 2020	WITNESS: Jessica Norris
DOCKET: TP-190976	RESPONDER: Jessica Norris
REQUESTER: PMSA	Puget Sound Pilots

**PMSA DATA REQUEST NO. 305:** Regarding “Note 10” at Exh. JN-04, p. 19, please provide the underlying calculations and examples of the calculations described in the statement that “the value of a comp day is directly related to the earnings of an active pilot,” including (1) any calculations with respect to the value of a comp day when a pilot exchanges a callback day for a day of duty, (2) where this exchange is reflected in the financials of PSP, and (3) how it is audited.

**RESPONSE TO DATA REQUEST NO. 305:**

**Response to subpart 1:**

There are no calculations or examples needed to establish this concept. See the Operating Rules.

**Response to subpart 2:**

It is not.

**Response to subpart 3:**

These transactions are not directly audited because pilots being compensated for comp days remain on distribution. Therefore they are audited as active pilots and the calculation of their compensation is treated as such. Amounts outstanding to pilots are not recorded and memorialized when earned and as a result there is no impact to the financial statements under the current cash basis reporting of expenses. Amounts for disclosure is identified as an estimate at any given date in time as we provided the calculation elsewhere on how this is derived.

DATE PREPARED: August 3, 2020	WITNESS: Jessica Norris
DOCKET: TP-190976	RESPONDER: Puget Sound Pilots
REQUESTER: PMSA	

TESTIMONY OF JESSICA NORRIS

DATA REQUEST NO. 416: With respect to the comment “[i]t appears he assumes that when an off-duty pilot takes an assignment, that PSP got funding for that job when paid,” (Exh. JN-6T at 3:21-23) please identify both (a) any and all jobs in 2018 where PSP did not receive payment from the vessel for whom the job was completed, and (b) any and all PSP pilots in 2018 who did not receive payments for all days that they were identified as on duty pursuant to Exh. JN-04.

RESPONSE TO NO. 416:

Objection. This argumentative data request mischaracterizes Ms. Norris’s testimony. She did not testify that the vessels did not pay for services at tariff rates. This request is also vague and ambiguous as to whether it defines “on duty” as a day a pilot was scheduled to work, or whether it means a “duty day” as defined in PSP’s Bylaws.

Subject to and without waiving the foregoing objections. Ms. Norris responds as follows:

Response to subpart (a): There is some miniscule bad debt on the books, but my testimony was not referring to whether ships pay invoices. It related to whether there is more compensation earned by PSP when a pilot accepts a Callback than if the assignment were worked by an on-duty pilot or if the ship were delayed and then worked by an on-duty pilot.

Response to subpart (b): PSP has distributed net income in accordance with its Bylaws as far as I am aware.



DATE PREPARED: August 3, 2020	WITNESS: Jessica Norris
DOCKET: TP-190976	RESPONDER: Puget Sound Pilots
REQUESTER: PMSA	

DATA REQUEST NO. 417: Admit that in your opinion as PSP Auditor your review of PSP's 2018 Financials (Exh. JN-04) concluded that PSP charged its customers in a manner consistent with the tariff provisions of WAC 363-116-300, or alternatively, please identify all instances in which PSP charged pilotage customers in a manner inconsistently with the tariff provisions of WAC 363-116-300 in your review of the PSP 2018 Financials.

RESPONSE TO NO. 417:

Objection. This compound question seeks alternative answers, which is inappropriate.

Without waiving that objection, admitted.

DATE PREPARED: August 3, 2020	WITNESS: Dr. Sami Khawaja
DOCKET: TP-190976	RESPONDER: Puget Sound Pilots
REQUESTER: PMSA	

TESTIMONY OF DR. SAMI KHAWAJA

DATA REQUEST NO. 432: With respect to your testimony regarding callback compensation that “there is no premium component to the compensation” and revenues “should provide additional compensation for Callbacks” (Exh. SK-3T at 3:3-6) and that “[c]allbacks should be above and beyond base compensation” (Exh. SK-3T 10:18-19), admit that as you understand it, pilots are currently compensated for callbacks under current rates but are compensated without a premium in the tariff and without additional compensation beyond base compensation in the tariff.

RESPONSE TO NO. 432:

Objection. This request mischaracterizes the testimony; PSP did not propose a premium component to the tariff, only additional compensation for additional work. Additionally, there is no stated rationale behind the current rates; the BPC established tariff rates in a “black box.”

Subject to and without waiving the foregoing objection, Dr. Khawaja responds as follows:

Denied. Based upon the methodology I have recommended, the revenue requirement would consider Callbacks and fund the additional work they represent. There is no evidence that the “black box” of tariff ratesetting relied upon by the Board of Pilotage Commissioners funded Callbacks in the revenue requirement at the time they are worked.

DATE PREPARED: August 3, 2020 DOCKET: TP-190976 REQUESTER: PMSA	WITNESS: Dr. Sami Khawaja RESPONDER: Puget Sound Pilots
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DATA REQUEST NO. 438: Regarding your comment that “pilot compensation for labor performed is the equivalent of return on investment. Just as is the case in other industries, in order to attract that investment, the return must be sufficient” (Exh. SK-3T at 12:3-5), please (a) identify what formula you have recommended that would include a rate of return in the Revenue Requirement, (b) cite with specificity where you have quantified the rate of return required in the Puget Sound Pilotage district, and (c) describe this quantification.

RESPONSE TO NO. 438:

Objection. This request mischaracterizes the testimony of Dr. Khawaja. Subject to and without waiving the foregoing objection, Dr. Khawaja responds as follows:

**Response to subpart (a):**

My testimony did not recommend a rate of return based upon a quantifiable formula. My testimony made an analogy rather than the direct application of a specific rate of return. Pilot income is a return on their investment of labor as the Cross Answering Testimony of Danny Kermode generally describes.

**Response to subpart (b):**

Not applicable

**Response to subpart (c):**

Not applicable