DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

BOARD OF PILOT COMMISSIONERS
RE: PORT OF MIAMI RATE CHANGES

Hyatt Regency Miami
400 Southeast 2nd Avenue
Miami, Florida 33131

May 18, 2017
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(Thereupon, the following proceeding was had:)

    CHAIR: Other questions?

    MR. ASSAL: Yes. I know Mr. Dibner is not here, but I'm assuming that he went over some of these reports with you guys, so correct me if I'm wrong.

    MS. BLANTON: Sure, Mr., Mr. Crew may be the best person to answer a question -- if Mr. Dibner is gone I think he --

    MR. ASSAL: I just need to ask a couple of questions about Mr. Dibner's report.

    MR. CREW: I'll do my best.

    MR. ASSAL: It's okay. I think I'll try to do my best as well, so as I saw you guys had studies for twenty five different ports, including Charleston, and other ports throughout the Gulf area, and so on, and I see of course in a lot of these reports, and Miami is second from the bottom, have a number of amount of net income (sic). Correct me if I'm wrong, that I'm not higher than Miami to most of the other points, right?

    MR. CREW: Yes.

    MR. ASSAL: Okay. But I noticed, just as well, if you go to Page 25 it says total
1. revenue is 3.5 times, or 3 times Miami's revenue.

   MR. CREW: Is this the Sabine River?
   MR. ASSAL: Talking about the example of net revenue model for Sabine River, Page 25.
   MR. CREW: Right.
   MR. ASSAL: Correct me if I'm wrong.
   Isn't that what that says right there?
   MR. CREW: Well, hold on --
   MR. ASSAL: Base revenue. I'm just talking about -- I'm just going based upon the numbers that are written right there.
   MR. CREW: Base -- oh, yeah, base revenue for shipping is $34 million.
   MR. ASSAL: Correct me if I'm wrong, right?
   MR. CREW: That's right.
   MR. ASSAL: All right. And if you look at some of the stats, and this is 2016, and if you look at some of the numbers of Miami Biscayne Pilots they say that $11.9 million, if I recall, in that range?
   MR. CREW: I think that's right.
   MR. ASSAL: Correct. All right. But if you notice the number of pilots for Sabine
(phonetic), if I'm saying that, Sabine, whatever -- forgive me if I'm saying it wrong -- is only 29.

MR. CREW: Yeah, they have -- I think they have more pilots in Sabine Bank and Bar versus -- I want to explain. This is a combination. The Sabine River has an Outer Bank charge, and what that is is that's offshore. They have a very long offshore channel that they have to --

MR. ASSAL: All right.

MR. CREW: -- I don't know if you want to know about that.

MR. ASSAL: And -- and no, it's not that. The way I'm looking at it is, if you look at it, I don't know what, how many handles any of these different ports have had, number one. Number one. Number two is, I'm looking at the net income of all these ports are a lot higher.

MR. CREW: Right.

MR. ASSAL: Hold on. But I notice that the pilot -- and I think if I use the formula straight across the board in the pilots' arena it's approximately 60% labor at ballpark, if we look at the health and welfare of 20%, or their pension fund or whatever is at 20%. What I'm
trying to understand based upon number of pilots is a lot lower than the Biscayne Pilots' number compared to the net income. So what I'm saying is -- I guess let me rephrase it properly.

You got more pilots for a lot less net income. Does that make sense?

MR. CREW: I'm not sure I follow you. Let me see if I can -- let me see if I can state it in a way that you agree with me. I think -- and I kind of know what he did here, but this is his work, not mine, first of all.

MR. ASSAL: I understand. I understand.

MR. CREW: Okay. Is what he did is he took financial audits that said this is what the total revenue was for the pilot group in this year, okay? Then he -- then he subtracted expenses, and divided by the number of pilots. I don't know that for this part of his calculation, whether or not the number of handles can, you know, applied, other than if he didn't have data, I do know that he relied upon Core of Engineer data for the number of ship movements within a port for a year to, to reach a number of handles in some cases.
MR. ASSAL: I got you. But -- but what I'm looking at, the ratio of pilots versus the net income. Do you understand what I'm trying to say?

MR. CREW: Sure. So, okay, let me give you an example. And that -- that's a hard number to come up with because obviously in some ports they value their pilots higher than they do in others. I'll give you an example. Another crypt of 16 pilots, and that's Galveston, Texas City Pilots, who Mr. Panza, we recently had a rate case there. I believe their net revenue was somewhere around, you know, $14 million. That's just a guess. I can't -- I can't remember it off the top of my head. They have 16 pilots, as opposed to 18. There is a little bit different net, you know, total gross revenue, so when you divide it out you're talking about, you know, you, you have a large number, and you divide it by a smaller number of pilots, you get a bigger --

MR. ASSAL: You get a bigger net cut of the pot.

MR. CREW: Yeah.

MR. ASSAL: That's correct. Well, the --
the -- and I believe the vice president of the
International, Mr. Quick, as he said earlier,
compared the average of, he said that the
average is around, really not 410,000, it's
closer to the 500,000, and if you take that,
and if you take any one of the ports,
Charleston, which is the number that I, the
port that I took, they only have 20 pilots, so
their numbers are higher.

So isn't it the -- the income of the
pilots is predicated by the amount of pilots
that you're going to have in each of those
areas; correct me if I'm wrong.

MR. CREW: Well, sure, sometimes you might
have a lot of traffic. It could be small
boats, and it could be a very short handle
time, but they might need a larger number of
pilots than for instance if there's not very
many vessels. And I understand there's a port
here that might only have only one or two ships
call on it a month. Well, you only need one
pilot.

So, you know, ship volume is a, is a very
big way of determining how many pilots you need
at a port, and each port is unique, so that's
why we have local pilot boards all over the
country.

MR. ASSAL: That's why -- that's why I
look in comparison of dollars and cents varies,
because if I look at the chart I know the cost
of living in Los Angeles is a lot more
expensive than ports, that you might say the
pilots make more.

MR. CREW: Sure.

MR. ASSAL: So, but you've got less pilots
so the pilots are making more; correct me if
I'm wrong.

MR. CREW: Okay, let me -- let me give you
a nice answer to that. Where I'm from in
Orange, Texas, and that's where the Sabine
River Pilots, who are the very number one pilot
group on this group that you're looking at
right now, let me tell you what the cost of
living is there if you really want to cry about
what you're paying here in Miami, because you
can get a very nice 5,000 square foot house for
about $500,000.

They live, just like some of these foreign
shipmasters who choose to live in third world
countries, they live like kings, and so when
you do a comparison, like we talked about with Captain Stubs, the amount of money that you make in a place is, it matters. And so living in Houston, Galveston, the county where I live, where I'm from originally, where the cost of living is much, much lower than a port like here, it matters. And I don't know why some ports value their, their pilots more.

I don't know why, you know, some industry, segments of the industry choose to fight about pilot rates and others don't, but, you know, that's, that's up to the industry views. But I can tell you that, you know, if you just look at the numbers and you boil it down to how ever many pilots you divide into the pilots groups, you know, revenue, at some point you'll be able to come up with some average.

MR. ASSAL: No, I get that. And I'm not trying to, and trust me I think the pilots are very well needed in this industry, but I look at -- if -- if -- a lot of the revenue is predicated, just like any business, is based upon your direct costs, right, so if the pilots -- hypothetical, and this is hypothetical. If you take off 50%, and I'm not going -- from
25%, just use any number, then the, the net income becomes a lot higher. Does that make sense? And -- and the Miami industry, and I know the, the Miami works very well, there's peaks and valleys, and we have, in our season we could have probably twelve guys working in one day, I mean twelve pilots, forgive me.

I'm not saying that. I'm saying is what determines the volume, or the scheduling, or your overhead expense. As business owners, the people that run businesses, we have to look at that, at cost on a regular basis, and as well there's the margin that we got to look at, and looking from whether the increase or decrease, and those are the things that we'll look at.

MR. CREW: Right. And, you know, thank God I don't have to go before a attorney fee commission every time I want to change my rates and go higher, I can do it, and I can make my client pay my expenses just because they sign my attorney/client agreement, you know. But for -- for the pilots in almost every port, through a survey, they don't have that mechanism. They have to -- they have to account for their, their costs. They have to
at least try to operate in a reasonably prudent manner, or else everything is harshly criticized by the cruise lines, or other, other industries, so I'm not picking on them, when they come to the pilot board and say, hey, we need money for a pilot boat, or, hey, you know, we need money for fuel. It's common.

Now, a lot of these ports -- and this isn't factored into Mr. Dibner's report, but I can tell you in looking at the tariffs, at least in Texas, most of those tariffs have a fuel surcharge where the fuel is completely paid by the users. Most of those tariffs have boat charges, communication charges like the harbor shifting fee. Then they have shifting costs. They have -- they have detention, cancellation charges, you name it. There are very, very complicated tariffs in those ports compared to what I would tell you is a very simple revenue generating tariff in this case of gross tonnage times, and, and draft.

MR. ASSAL: And another -- another question, because you're --

MR. CREW: Sure.

MR. ASSAL: -- you brought it up. And --
and my understanding because as, as I work in the industry, understand the terminology per passenger, and, and there is other companies that facilitate and try to use that, but at the end of the day we don't know, I mean at least other companies that I know that get their checks from the particular cruise lines, or whatever, they do it, we don't know what they collect or what they don't really collect from the passengers, do we?

MS. BLANTON: Well, I think we do, based on the testimony we heard in Galveston.

MR. CREW: You know, let -- let me answer that --

MS. BLANTON: And also the contracts that are in our, in the motion that we argued yesterday. The contract for the cruise lines, it's pretty clear that it's passed along to the passengers.

MR. CREW: I -- I think the better way to do this is instead of asking me whether I know or not is to ask the gentlemen who are sitting down on the other end of the table, because they're the ones that do it, and they're going to have a chance to rebut us in a minute.
MR. ASSAL: And we're going to do that as well. We're going to open it for everyone, but I think that to all fairness we're just doing one side, then when these guys are closing, I think we'll discuss it.

MR. CREW: Sure.

MR. ASSAL: And these are the points that I've brought up as I looked out for, for both sides.

MS. BLANTON: If -- if I could just make one other point to one of your earlier questions.

MR. ASSAL: Go ahead, ma'am.

MS. BLANTON: About the number of pilots. And I think it was made clear earlier that the pilot organization does not get to pick how many pilots they have. That's done by the board that we sit on. They're the ones that decide how many pilots are appropriate for the Port of Miami.

CHAIR: Commissioner Sola?

MR. SOLA: No, I'm done. I'm done with my questions.

MR. CREW: And yeah, I hope that, you know, it's hard. I -- sometimes I'm just too,
just feel like in the mode of advocating my
client's position, and I hope I gave you a fair
answer, sir.

MR. ASSAL: No you -- yes. Not at all.
Thank you very much.

MS. BLANTON: Mr. Assal, can I --

CHAIR: Let's -- let's move on.

Commissioner Sola.

MR. SOLA: Thank you, Ms. Blanton, for
bringing in so many expert witnesses, and
bringing us around the country, and finding out
what's going on in different places. I
appreciate that. But bringing us back to 1999,
the last time that we addressed a rate
increase, and back to the Florida Statute, I'd
like to ask you the same question that I asked
Mr. Panza. What exactly is -- if you could
summarize your request to this committee on
your rate application.

MS. BLANTON: I'm going to let Captain
Marlow do that, because I know he can do it
better than I can.

CAPTAIN MARLOW: So if I -- if I
understand your question correctly you're
asking just to summarize specifically the
elements of our rate request in the application?

MR. SOLA: According to Florida Statute 310.151(6) we, we have to base our, we shall fix the rates of pilots pursuant to this, in this section, based upon the following six characteristics. I believe that you made an application, a very extensive one, and you -- I know -- I know the answer, I just would like to hear it, but what's your proposal?

CAPTAIN MARLOW: I don't have the statute in front of me, so forgive me, the six characteristics are, are vessel characteristics; is that correct?

MR. SOLA: Yes. Well -- well, you're requesting an increase.

CAPTAIN MARLOW: Yes.

MR. SOLA: How much of an increase, just for the --

CAPTAIN MARLOW: Our -- our rate is already based on the vessel characteristics and, and gross tonnage and draft are included in that.

MR. SOLA: Okay, and the increase that you're requesting?
CAPTAIN MARLOW: The -- the increase that we're requesting is an increase of 6% to pilotage rates per year for five years. And that's considered -- I guess I would call that an adjustment to sort of fix the, the fourteen years or so of deterioration that has occurred to the, the rate, and net income over the past, well, past years, and --

MR. SOLA: So that'd be three, three increases of 2%?

CAPTAIN MARLOW: No, it's 6% per year for five years. Each year for five years. This is something that Mr. Law articulated in the --

MR. ASSAL: Well, I have his report here. I just --

CAPTAIN MARLOW: Yeah, yeah, no it's -- it's 6%, so year one starting today 6%, and 6% for each year for five years. That is a sort of adjustment to catch up starting the second year so that we don't lose ground against inflation, and that we maintain that going forward a CPI adjustment is applied to, which could be whatever the CPI is, up or down. So if the economy declines we would get a CPI decrease.
MR. SOLA: So it would be a 30% increase in five years plus a CPI.

CAPTAIN MARLOW: 6% per year for five years, and the CPI adjustment --

MR. SOLA: That's 30%.

CAPTAIN MARLOW: That applies thereafter to maintain, yes. And keeping in mind that we're down, we're down, what, 30 or 40% right now from where we were in 2002. So we're -- we're down 40% now, so starting from here an adjustment to bring it up 6% per year for five years, and thereafter, starting in year one, as Mr. Law articulated in, in detail, a CPI adjustment to, to hold a real dollar value of our rate.

MR. SOLA: Okay, I had two quick questions, one for Mr. Kirchner, and one for Captain Stubs. And I wanted to say that I would like to accommodate the, the three Captains that came in here and presented. I think that you definitely -- we are doing our job as, as a commission, finding the -- and -- and we talked earlier about our testing process and how difficult it was, and I believe that we're proud of that. So, Mr. Kirchner, you
came all the way from Washington, DC. Thank you very much.

On your experience -- we here in Florida base our rates upon six different characteristics. Around the country -- we didn't really talk about that. What other sorts of formulas are, are they based upon?

MR. KIRCHNER: Well, every state has, has some different standards that they have. Sometimes it's in the statute, other times it isn't, you know, it's hard to, it's hard to generalize. But -- but looking at a number of the same factors, it's compensation, expense recognition. Typically a party that asks for an increase will explain what they intend to do with that increase, why they need it, whether it's to catch up for what they've lost, or they have new items of expense that they, that they are going to have to incur. So every state has a pretty searching analysis of a rate proposal, but they look at much the same things.

Florida -- Florida has probably a more detailed listing of factors to be considered than other, than most other states. The State of Washington, for example, they're a pretty
detailed one as well. Other states it's kind of left up to -- and -- and in some states the rates are set by the Legislature, and there's no real examination. The pilots will get a bill introduced and it will be, it will be considered by the Legislature.

In several states it goes to the pilot commission first, and they come up with a recommended change for the rate, and, and that has to be approved by the Legislature, and the rates are actually in the statute. There are two states, Virginia and Maryland, who use a public utility commission. That's just their public utility commission that handles all regulated industries. Those are a lot more formal, and although I have to say they usually don't involve as much work as this state has required for this proceedings.

MR. SOLA: In -- in your experience have you seen different characteristics for rates for different classifications of ships? Is there a precedence for such?

MR. KIRCHNER: I've never seen a class of ship, or, or a group of ship owners that, that have a discount as, as has been proposed here.
And there may be some, you know, some formulas favor certain types of ships more than others, but I think the point I was trying to make earlier is that the focus should be on the total revenues that are going to be generated, and you can, you can adjust how that burden is allocated, but you've got to make sure that whatever rates you come up with are going to generate those necessary revenues.

MR. SOLA: I understand. No more questions, thank you.

CHAIR: Did you have one for Captain Stubs?

MR. SOLA: I was just going to ask one about why he took the test, how he did on the test. I'll -- I'll ask him --

MS. BLANTON: He wouldn't be here if he didn't do really well.

MR. KIRCHNER: He -- he took it four times at four different ports, so --

CHAIR: I have a question for Captain Lilly. Is he still here? I had several questions, just about compensation in Biscayne Bay. What is -- what is the turnover of existing pilots? Let me say it another way.
Has any pilots left in the last ten years other than through retirement? I mean like did they quit.

CAPTAIN LILLY: The last ten years.

CHAIR: And I picked that random, but --

CAPTAIN LILLY: No, not to my knowledge.

CHAIR: So none of them left --

CAPTAIN LILLY: In the last ten years they retired.

CHAIR: Okay, so no one had left other than through retirement.

CAPTAIN LILLY: That's correct.

MR. ASSAL: Chairman, do they quit their job?

CHAIR: Yes.

MR. ASSAL: Do you mind if I ask it another way? Do pilots normally quit their jobs?

CAPTAIN LILLY: I haven't seen a pilot quit here in Miami in my time, no.

MR. ASSAL: To the best of your knowledge, and throughout the country, do they quit their jobs, pilots?

CAPTAIN LILLY: It's happened before, sure.
CHAIR: Okay. Do you have -- do you all in Biscayne Bay have an evaluation system to evaluate the performance of the 18 pilots?

CAPTAIN LILLY: Internally no, it is probably at the discretion of the full board. They hold full oversight.

CHAIR: Okay, but there's no process within your association to annually review how each pilot is performing, and that type of thing?

CAPTAIN LILLY: When it applies to deputy pilots, yes, absolutely.

CHAIR: But once you become a pilot you no longer have, you're no longer subject to evaluation.

CAPTAIN LILLY: That pilot is subject to evaluation by the full board.

CHAIR: Yeah, but not internally per se'.

CAPTAIN LILLY: Yeah.

CHAIR: Okay.

CAPTAIN MARLOW: Mr. Chair, can I ask, answer that a different way?

CHAIR: Sure.

CAPTAIN MARLOW: We -- we're not employees of the company. We're servants of the State,
so we're subject to disciplinary action for infractions, and things that we would, you know, do inappropriately. Commander Dunton investigates, as does the full board, but it's not like a report for a boss pilot, or something like that. Our -- our boss is the Port Pilot Commissioners.

CHAIR: Right. So of the 18 pilots -- I don't understand the compensation system. I mean does everyone get paid exactly the same amount, or is it, is there a unit system where you earn a certain number of units, you know, like the old accounting, or, or law models?

CAPTAIN LILLY: The 18 pilots are partners, and at the end of the month, each partner receives an equal distribution.

CHAIR: They're all at equal partners regardless of age or, or tenure?

CAPTAIN LILLY: That is correct, subject to of course the buy in that was discussed previously that applies to certain new pilots.

CHAIR: That was my other question. I didn't understand the complete buy in of commissioner, I mean Captain Stubs mentioned his annual -- what is the total cost to buy in?
CAPTAIN LILLY: It's a percentage of the share. There's not a fixed number that exists for that buy in.

CHAIR: I think the Captain mentioned it was $55,000 for a year for him, so how many years could that be?

CAPTAIN LILLY: I'm not familiar with the figure. That would be a good question for him. But the buy in process occurs over one hundred months.

CHAIR: Okay, so you get to buy back --

CAPTAIN LILLY: 8.3 years.

CHAIR: Okay.

MS. BLANTON: And it's 19% of a share, correct?

CAPTAIN MARLOW: The $55,000 number is, is estimation based on what the 19% turned out to be, but the buy in, like the pension, can go up or down depending on net income because it is a percentage by --

CHAIR: For that year.

CAPTAIN MARLOW: Every -- every -- every share distribution is 19%. It goes up or down every month depending on the distribution done
CHAIR: Based on by month, okay, not by year, so it's --

CAPTAIN MARLOW: Based on every -- every share distribution is 19% --

CHAIR: Is there -- we talked about the physical challenges of being a harbor pilot. Is there any prerequisites on physical strength, conditioning, limitations on the number of doughnuts, or, you know, any standards on health habits that are enforced by --

CAPTAIN LILLY: There are. We are subject to annual physical examinations which are, with which standards are set by the United State's Coast Guard. And I would say that question is best directed to Commander Dunton. I mean his -- he sees these physicals, and understands the, the exact criteria. For instance, when I get a physical every year I go to my doctor and there is a, a long list of criteria and requirements and standards I must meet.

CHAIR: Okay. If -- okay, thank you. So -- and we -- we also talked about some other costs that your group assumes, and in here we saw lobbying costs, political consultant costs,
political contribution costs, you know, that type of thing. And we talked about future needs, like dock repair, and boat repair, so the decision, for instance, to not repair the dock, I mean that's a decision your association makes?

CAPTAIN LILLY: That is correct.

CHAIR: So you all can decide next week you want to go ahead and repair it, figure out the costs, draw, draw out an appreciation model, and assess everyone that cost, right?

CAPTAIN LILLY: Correct.

CHAIR: Okay.

CAPTAIN MARLOW: Mr. Chair, can I add to that?

CHAIR: Yes, please.

CAPTAIN MARLOW: Ultimately, I mean, it's a matter of, it's like any business. We have to evaluate our expenses versus our need, so, yes, any expense -- some are essential. We are in the process of repairing our dock. It's not a situation that we are just living with it that way because we, you know. Regardless of what happens with our revenue stream we're kind of stuck with repairing that dock.
CHAIR: Okay. Any other questions, Commissioner Oatis?

MR. OATIS: Yeah, I'm looking at the presentation here for the various pension plans, and it goes back to 2003, but it doesn't list specifically a mandatory retirement age for the Biscayne Bay Pilots. Is there -- is that still the case, there's no mandatory retirement age?

CAPTAIN LILLY: That is correct, there is no mandatory retirement age.

MR. OATIS: And then I guess is there -- is there a general target, is there like a mandated encouraged period where someone would consider retiring? Is there a trend in that direction?

CAPTAIN LILLY: There is no guideline for that. That's a personal decision of the pilot.

MR. OATIS: The base obviously -- typically probably looking towards that twenty two years plus to get vested --

CAPTAIN LILLY: Correct.

MR. OATIS: Which actually does lead to another question I had for Captain Marlow. In -- this might have been a question for you but
it came up while you were presenting some of your answers. When I look at the financial statements it actually says that retirees with less than twenty years of service receive prorated amounts, which is contrary to what I've been hearing up until this point about the retirement payments. Is there -- is there a copy of the plan document? Is there something that we would have access to to confirm how exactly that process does work for those less than twenty year pilots?

CAPTAIN MARLOW: Let me just clarify. Our -- our attorney is here, and I just want to make sure that I didn't get anything incorrect. Did you hear the question Mr. Lomonte?

CHAIR: Come on up.

MR. LOMONTE: Yes, for the record my name is Robert Lomonte. I am an attorney. I am primarily a tax attorney. I have been counsel to the Biscayne Bay Pilots for approximately forty years. The -- the question that was asked is -- there are some of their -- some provisions within their agreement provide, for example, retirement when there's a disability that, that might apply sooner than the, the
required -- current -- currently it's fifty five age and twenty two point eight years of, of service before they are eligible to retire.

There are currently -- within their documents there are currently some ability to grandfather in older pilots who were able to retire under earlier conditions with a reduced benefit to do that. For example, of they were to retire with, with a 50% share, of a pilot share. There was a staggered position grandfathered in for older pilots that became pilots later in life who might be able to retire at age sixty five with a quarter share.

Now, I know I've made it longer and more complicated I think than is needed, but for the current pilots, those that came in after 2000, they either meet the requirements or they are out of the ability to get retirement income.

MR. OATIS: Okay, so then I guess the financial statements are generalizing a concept that doesn't apply to everybody.

MR. LOMONTE: It might apply, sir, to some of the older pilots who are still collecting retirement income.

MR. OATIS: Okay, thank you for
clarifying.

MR. LOMONTE: You're welcome.

MR. OATIS: Yeah, I got two more questions for Captain Marlow. I guess, and just to clarify on Mr. Sola's question, the 6% request is not a compounding 6% where it would build on prior years. You're talking about 6% of a fixed amount determined from the 2002 rate increase to be applied over, equally over --

CAPTAIN MARLOW: No, it is -- it is -- it is 6% compounding. It's -- so, you know, from here 6%, and then next year 6% of the previous, and -- it's -- the intent is to make an attempt at adjusting the rate to correct what has happened in the past fourteen years. So it's very easy to look at, you know, when you're in the bottom 40% down and say, wow, you're looking for a 30% increase, but really, no, we're not even going to get back to where we were in 2003 with this increase.

MR. OATIS: Okay. Okay, yeah, I guess -- in just reading through the application the way that it's worded, it refers to 6% over 2002 rates, and doesn't -- I don't see --

CAPTAIN MARLOW: Because that -- those --
those -- I'm sorry. Those are the rates that we have today, 2002 rates, the same rate.

   MR. OATIS: Okay, but then it doesn't go on to say that it will be a compounding rate for each of the subsequent years. I'm just trying to make sure I understand the request as, as it has been asked.

   CAPTAIN MARLOW: Mr. Law, am I -- I think maybe he can explain that -- if that, or based on what's in the investigative committee report.

   MR. LAW: When I saw the application I wasn't sure what it meant either, so I clarified it with him, and if you look at Page 6 in my report I think it will present a little more clearly for you. It's 6% upon 6% upon 6% for five years, and then I gave it to you with and without CPI.

   MR. OATIS: With the CPI, which comes out to --

   CAPTAIN MARLOW: Yeah, it reads in our application an adjustment in rates of +6% +/- the CPI for five years, followed by an indefinite CPI adjustment. So it's not take 2002 rates and put it over here, increase it by
6%, and then the next year look back at 2002 rates and increase it by, the 2002 rates by another 6%, because that will have you back at where you were at year one. So it is -- it is an increasing 6% per year.

MR. OATIS: Okay, compounding.

CAPTAIN MARLOW: Compounding, correct, as, as was the 40% decline that we've had since 2013.

CHAIR: Commissioner Assal.

MR. ASSAL: Actually 6 plus the -- so if you look at Page 6 -- so you're really looking at approximately 8%, or --

CAPTAIN MARLOW: The -- the answer --

MR. ASSAL: Make it up in the CPI.

CAPTAIN MARLOW: The answer is there's -- there's two issues going on. Inflation -- inflation is, is like a running faucet, it's always leaking, it's always leaking away, so the 6% is an attempt to adjust rates, and the CPI adjustment is attempt, an attempt to, to hold water, to hold ground where we're at, and, and as we climb out with the adjustment, and then from there going forward the 6% per year for five years is, that's an attempt to fix a
problem with our revenue in, in Port Miami.
And then thereafter the CPI adjustment is an
attempt to prevent having to have multi year
million dollar rate battles that, that bring us
here.

MR. ASSAL: Now, you guys said something
earlier about pilots, that basically it us to
the full board to approve pilots. And everyone
knows I'm probably one of the newest, second
newest one here, right? We usually go based
upon the recommendation of the different areas,
so if Biscayne Pilot recommends they would like
to have pilots, I've seen that basically we ask
the questions why and what's needed, and we
grant it because you guys are the ones that
know what's safe for those waters, right, and
what you need.

CAPTAIN MARLOW: Let me -- so let me try
to clarify the process in, in a way that might
help you. We are an 18 pilot association. We
have always been an 18 pilot association, and
when we come to the board with a request for
additional pilots it is to replace retiring
pilots, so we try to forecast in advance, and,
and it's difficult because basically we have to
make the request about five years before we need a guy to start, and sometimes you don't know when a retiree is going to retire five years in advance, so we have to plan ahead as best as we can, just so we're trying to figure things out, and then we, so we come to the board to say we need two new pilots to replace retiring pilots, and there's a deliberative process, or for whatever reason we come to the board with, and there's a deliberative process before the Board of Pilot Commissioners to determine the number of pilots that is, is appropriate based on our request, and you guys discuss that.

But at, at this level at this committee the, this committee, and Ms. Blanton can clarify if my understanding is incorrect, but this committee is tasked with taking the number of pilots that has been assigned by the Board of Pilot Commissioners, and then determining an appropriate rate for that number.

MR. ASSAL: No, I -- I understand what --
CAPTAIN MARLOW: Is -- is that right, Ms. Blanton?
MR. ASSAL: I understand what the review
board is here for.

CAPTAIN MARLOW: She's nodding correct.

MR. ASSAL: Well, let me ask another question. If -- if the handles, or the amount of vessel movements increase, does the Biscayne Pilot Association anticipate adding on more pilots?

CAPTAIN MARLOW: Well, it depends. And I -- I may have understood what you're saying, what you were saying earlier in comparisons to, or maybe not. So this -- this question ties to what I thought I heard. You were questioning the number of pilots that we have in Miami versus a number in another port, and the answer is every port is different, and the, the dispersion of traffic and load on pilots is different.

And the, the prime issue that we have in Miami that drives the number of pilots that we have, and I know there's commentary about this in the investigative committee report as well, is the peak demand placed by the nature of the cruise business when they move. They -- they all want to come in between, you know, 4:00 and 6:00 in the morning, or whatever it is,
somewhere around there, and they all want to go out around the same time in the evening, so I figure like barbells, and we have to have a number of pilots on duty to satisfy those peak demands.

If the cruise lines had their arrivals and departures dispersed evenly throughout the day we might be able to adjust that number, but we can't. We always have to be ready with a full compliment of pilots for whenever ships come. And in a port like Sabine, for example, it's primarily a cargo port, and cargo ships tend to come and go at all hours 24/7.

MR. ASSAL: Schedules are out fifteen months out from the cruise lines. I think there's only a couple that are only required to be ninety days out. Would we know the deployment of our pilots and our schedules with cargo ships, and I know that, from what I understood we get them far few and between, that you get the one call here or the one call there, but usually there's a berthing schedule, and that berthing schedule within the ports dictates the total.

CAPTAIN MARLOW: Are you talking about
cargo ships as well?

MR. ASSAL: Cargo and cruise, only --

CAPTAIN MARLOW: Cargo is completely variable. They can have a delay in another port, and it can change it by hours.

MR. ASSAL: I got you. That point I know, the cargo side, so okay.

CAPTAIN MARLOW: Captain Nitkin is coming up because he, he schedules the cruise ships, and --

CAPTAIN NITKIN: We deal with this every week.

MR. ASSAL: Every day. No, and I'm familiar with the seasons, because I'm familiar that, you know, the Port of Miami has eight cruise ships, say in one day, and they might have five cargo ships at the same time. I'm just talking about scheduling. If it increases, I mean we know what the port's capacity is right now, would the Biscayne Pilot Association, would they need any more pilots.

CAPTAIN MARLOW: So if the increase were to the number of cargo ships right now I think we're okay, because again cargo ships come dispersed 24/7. Cruise ships are, are lumped
into a period that drives huge peak demand, and huge numbers of pilots on duty to, to accommodate that. But as cargo ships come in -- the cargo ships are less demanding on the pilotage organization than, than cruise ships. So to, to put it another way, cruise ships are, are 65% of revenue, give or take, and 35% of handles, but they, the entire system is, is driven and created, and run for their benefit.

They -- they receive priority service. They receive premium service. And -- and many times cargo ships have to wait because there's a convoy of cruise ships coming in, and that can be an issue when you have a 1,200' container ship that is on charter for, I don't know what the exact numbers are but I'm just going to venture, tens of thousands of dollars per hour, and for it to have to wait two hours when they're ready to leave because a cruise ship convoy is coming in, the, the entire system is created and, and governed in Biscayne Bay around cruise ship demand.

And in other ports there are other mixes of traffic, and they have completely different systems and, and completely different
needs to service their stakeholders, their consumers. But the point is every port is completely different, when you go to compare to it's very difficult.

MR. ASSAL: That's why I wanted to make sure that comparison, if that was brought up --

CAPTAIN MARLOW: Yes.

MR. ASSAL: You got to look at the comparison. When you talk about Houston, and it's predominantly container, and predominantly oil, I mean it's steady, I mean it's not like cruise ships, so when we're doing the comparison there's a difference as to amount of pilots.

CAPTAIN MARLOW: Well, you're comparing --

MR. ASSAL: You would need more pilots, you're saying, here, for less handles, right?

CAPTAIN MARLOW: We -- we need more pilots because we have peak demands here. That's a strong driver of the number of pilots that we have; is that --

MR. ASSAL: Seasonal. Seasonal, right, it's not all year.

CAPTAIN MARLOW: It is --

MR. ASSAL: Five months out of -- five
CAPTAIN MARLOW: It is more intense.

Yeah, it is more intense, you know, it's more like six at least. It's more intense for six months out of the year, but weekends are always busy, yeah.

MR. ASSAL: All right, thank you.

CAPTAIN NITKIN: Mr. Chairman, I am chairman of Biscayne Pilots, and I -- if I may just address a couple of things with what --

CHAIR: Are you answering a question that one of the board members --

CAPTAIN NITKIN: May -- yeah, may I just elaborate on that, or did you already get your question answered?

MR. ASSAL: No, I understand his question, but that's fine, go ahead, go ahead.

CAPTAIN NITKIN: As far as looking into the future, I'm looking, that's my job, and it's happening since the dredge. We are now, I call it the new port because it is now trying to grow into this new deep dredge, or big ship ready port, and with that there's growing pains everywhere, including in the new canal, they're having problems. And we are now seeing that
the cargo is showing up in these morning
periods, very much like the cruise lines do.

Cargo has, because they're so large they
have windows of opportunity to come in and
sail, there are closed windows where they can't
because of the size of them, the currents, and
the depth of the waters, so they are under, and
we are under a lot of pressure to make things
happen, and we're moving a lot of ships at the
same time.

The cargo ship will be on our schedule
right up to the, we're ready for the next
morning, and then it drops off to the next day.
There's no -- it -- the one thing that changes
the most around in our occupation are the
scheduling of all the different ships. Even
the other day we, medical emergencies show up
out of nowhere, and we did everything to
scramble, and we got a pilot on that ship to
bring that passenger to the berth.

It's -- we're taxed at the numbers we're
at, and it's, we never know what's, what the
schedule is going to be until it actually
happens.

CHAIR: Commissioner Kurtz.
MS. KURTZ: Do you ever have to call in more than your compliment of 9 to service a peak period?

CAPTAIN MARLOW: More than the 9?

MS. KURTZ: More than half of your pilots, there's 9 on watch --

CAPTAIN MARLOW: You know, that is -- that's why we're pretty much at the magic number, because we -- the size of the port really doesn't allow more than 9. We are at 9. We have 9 pilots who actually are on a ship and involved in maneuvering, or standing by for a ship to go by so they can go. But we have, luckily it seems to work out that you really cannot move 9 in a, in a period of time, where you can't recycle one back.

MS. KURTZ: That was -- I was going to lead into that. So on a, let's say a peak day where you have -- I looked at one of the schedules that you had screenshotted (phonetic) from dispatch, and I think there were seven passenger vessels and three or four cargo, so that would be more than 9 to --

CAPTAIN MARLOW: Right.

MS. KURTZ: So you're saying the first
person that would come and get the next --

CAPTAIN MARLOW: We -- correct. The first one finished is recycled back out, and the trend is, everybody's -- it's a one way parade. Everybody is coming in all at once. If it's some coming in and some leaving we could even disperse it a little, use the outbound pilot to take an inbound in, but at those peak times it's all one way, so it's very taxing on the pilot numbers.

MS. KURTZ: And so let's say you had twelve vessels that wanted to sail between 1600 and 1730, if somebody is waiting to come in they would have to wait, they, they wouldn't be able to come in for two hours to fit your --

CAPTAIN MARLOW: If it's -- correct. We try to bring them in. If the ships are -- once one cruise ship leaves and starts moving the channel is occupied. If it gets outside before another cruise ship gets underway, and we have a cargo ship, we'll try to get that cargo ship in. But usually when one goes, another fifteen, twenty minutes, half an hour, whatever, another one goes, so the channel, it's one way outbound. But we will do cargo
and cruise, both outbound. We don't just favor
cargo or favor cruise, we favor because you
have to be outbound.

But we find that with the large ships, you
can't be moving two big panamax ships at the
same time. One is moving, does the maneuver
and gets out of the way, then the other one can
get underway, but they're both not moving at
the same time.

MS. KURTZ: Thank you.

CHAIR: Okay, let me just pile on. So you
have a system where you track the number of
hours worked by a pilot by week, or by day, or
something like that?

CAPTAIN MARLOW: The -- I mean the answer
is that we are -- and again it's mentioned in
the investigative committee report, but we are
-- it's a bit like a fireman. Sometimes it
rains, sometimes it, it pours, but you're
always on standby, it's 24/7 while you're on
duty.

CHAIR: No, I understand. I understand
the --

CAPTAIN MARLOW: And we are on a rotation,
exactly, so -- so if we're tracking the, the
hours worked by --

CHAIR: Yes. If I asked you to produce
the report that shows the number of hours that
a pilot went to work on a given week could you
produce that?

CAPTAIN MARLOW: Well, we -- we work in,
in a lot of different ways, as we said. So
when I'm on duty I'm -- regardless of whether I
have a ship in the next couple hours or not I'm
monitoring conditions, I'm monitoring traffic
in the port, and so the work that we do is, is
not like, okay, I climbed up the pilot ladder
and punched a time clock and now I'm working,
and then when I get off I'm done. It's -- it's
a continuous work process of -- we're on a
rotation, and throughout that rotation, we're
required to maintain that rotation so we have
adequate rests so we're constantly fit for
duty, and we -- sometimes in that rotation of
numbers we're extremely busy, and then it will
slow down a little bit, but it could be very
busy all the time depending on the
concentration of traffic.

CHAIR: Okay, so let me help you. So you
-- you do have that rotation schedule that you
could publish that would show a number of hours
that a pilot is on the facility, right?

CAPTAIN MARLOW: I'm not sure how to
phrase this the right way. We -- we rotate by
-- the way it works is a pilot is assigned as
Unit 1's job -- and this is common in pretty
much all pilot associations, with some
variation in the, the exact methodology, but we
have a Unit 1. Unit 1, his job is to get every
single ship that he can possibly get when he's
on that particular twelve hour shift. And then
when that twelve hour shift is over he becomes
a different number that is a little bit slower
so that he can get his required rest, but he
could still be called. But the intent is for
the rotation following the really busy rotation
to be a little bit slower, and then he comes
back and rotates the busy numbers.

Now, if Unit 1 is on a ship, and the
concentration of traffic is such that Unit 1
cannot get another ship that wants to move at
the same time, Unit 2 is assigned to that ship.
And the same thing happens if there is a third
ship and a fourth ship. And eventually what
happens is we get up to nine ships, so we have
9 pilots on duty at exactly the same time, including the guy that was just Unit 1 on the previous twelve hour watch who is, you know, fatigued, and has to be rested at some point, and things like that.

And we -- we have nine units on shifts waiting ready to go, and, and then if we can recycle somebody to, you know, for example if there's an outbound ship, and there's an inbound ship immediately following, we can have a pilot go from one ship to the other. But I think what you're getting at is essentially is there an equivalent of a timesheet where we log our specific hours of bridge time, no. The answer is that -- that's not what pilots do. Our job is not just bridge time, it's a lot more than that.

CHAIR: Okay. Yes, Commissioner Winegeart.

MR. WINEGEART: Are there any times -- other than the weekend cruise ships are there any times when you have a need for the peak pilots, like during the middle of the week sometimes is there a number of jobs where you'd need your peak number?
CAPTAIN MARLOW: Absolutely. It frequently comes up.

MR. WINEGEART: So that's the unpredictable part about it. But you can predict the cruise lines peak time, but there's additional days --

MR. ASSAL: On top of that.

MR. WINEGEART: -- on top.

CAPTAIN MARLOW: Correct, yes. We -- we also have large concentrations of cargo ships. I think -- I don't know how many ships were in port when you all did your port tour, but I don't think it was a particularly busy day.

CAPTAIN NITKIN: Tuesday.

CAPTAIN MARLOW: But other days you'll come in there and the gentry will be lined up with ships, and then there's a passenger ship that wants to come in, and river ships going, and it's extremely busy, yachts, and different things like that. We -- we have no idea. We are required to have enough pilots on duty to service as many vessels as can possibly be moved in the port based on their demand, so we, we have to provide that level of manning to accommodate that, and it's --
CAPTAIN NITKIN: And if I may under the current system with this number we are able to not make ships wait. That is one of the things, safety, and expeditiously. We pride ourselves on that. That is how we do it. So we don't say, well, look, we only have seven pilots, and you now need to sit there for two hours so we can recycle a pilot to you. A lot of ports do that. A lot of ports just, we'll use one guy, he takes it out, they wait until he comes back and takes another. We don't do that. We could go to that, but I don't think our customers would like that, and they would not.

And cargo -- that's one of the reasons -- the main thing cargo said to me is we support what you do, we do not want to wait or be interfered with by other ships in any delays in any way. And that's their marching orders to us going into this today.

CAPTAIN MARLOW: So effectively we are tasked with providing a premium level of service, so whenever a ship wants to go all they have to do is call us and we'll provide a pilot. With the board's indulgence, we could
say, I'm sorry, you have to wait because there aren't enough pilots in this port, but I don't think that's the system that we're required to maintain by the State.

CHAIR: Any other questions? Commissioner Winegeart.

MR. WINEGEART: I have a question on the CPI, and the CPI adjustment. In the statutes it cautions us to, that the CPI does not directly relate to rates, that's to net income, so a CPI adjustment on an annual basis to your rates, how, talk to me about that.

CAPTAIN MARLOW: I can answer that in two ways. Number one, the wording of the statute is a little bit bizarre. You can have a rate that has a CPI adjustment on it, or you can have a net income that has a CPI adjustment on it, and it, either way it can be done, so the statute is worded kind of strangely. And -- and I heard the concern by Mr. Jennings that he, he's not sure the CPI adjustment ongoing could, could work from a legal perspective. I don't know the answer to that.

My opinion is that I think if the, if the board approved a long range adjustment
corresponding to the economy that, that they
could to try to keep whatever, whatever rate
they set whole in read dollars. I think that
-- but maybe -- maybe not, that's a legal
question. I think the, the glow of what we're
looking for is we're looking to, to fix a
serious deterioration in our rate that has
occurred over the past fourteen years, and then
what we, what we need to avoid having to spend
millions of dollars in multi year battles
because, you know, we say we need a rate
increase, and we're met with opposition from
businesses that are tasked with minimizing
their bottom line, so their, their job is to
oppose us, and it creates a battle where, you
know, we're a tiny little group of guys trying
to serve the public interest battling billion
dollar corporations that are teaming up
together, any one of them could just crush us,
but they're teaming up together to minimize
their bottom line.

So long story short what we're, what we're
seeking in effect is a long term rate, and if
it were called the CPI -- I mean the -- the
intent when we put it in there as the CPI was
that sometimes the CPI goes down and, and there could be a downside for us as well, and we're okay with that because we're still whole in real dollars if, if it's adjusted by a floating amount that is set by a recognized source. But I think ultimately what we're looking for, and if you wanted to say something like a, an initial adjustment of, of bulk, to get us closer to where we were in 2003, following by a progression, or a series of small adjustments that just are best guess at what the economy was in the long term, I think that would accomplish the same thing.

CHAIR: Okay, well that's the -- we can't negotiate the --

CAPTAIN MARLOW: No, no, I'm just trying to explain what, what our intent was with the CPI.

CHAIR: Did he answer your question?

MR. WINEGEART: He did.

CHAIR: Okay. Is there other questions?

MR. WINEGEART: I have -- is -- is --

MR. OATIS: I do have one other question.

CHAIR: Okay, go ahead.

MR. OATIS: Captain for the, the exhibits
CAPTAIN MARLOW: 128?
MR. OATIS: Correct. It's in Exhibit 7. It says it lays out the concept of an intrinsic discount -- and I guess the clarifying question to make sure I understand the way this is working, so if you look at the charts at the bottom where it talks about the different tonnage groups, you have your 20,000 gross --
CAPTAIN MARLOW: I'm sorry, could you speak a little bit closer to the mic? I just want to make sure you're -- any time we're talking numbers, you know, I want to make sure I get it exactly right.
MR. OATIS: Understood. So looking at the numbers at the bottom, under the 20,000 gross tons the way that the computation works is that we have our two charges, the gross tonnage charge and then the draft charge.
CAPTAIN MARLOW: Correct.
MR. OATIS: Those are added together, and then those are then divided by the average gross tonnage in that class to come up with a basic pilotage rate per gross ton.
CAPTAIN MARLOW: Exactly, so -- so the --
I think I see what you're keening in on. The
-- the -- both the tonnage and draft charge is
the total, and then I'm coming up with a total
charge per gross ton. And the point is that
I'm trying to illustrate that -- so the cruise
lines, their main issue with the rate is that
gross tonnage is unfair, and so I'm trying to
find a way to portray to you -- and -- and the
answer -- the real answer is I wanted to know
what the answer was myself, because I didn't
know. And the way I figured these things out,
being an analytical kind of guy, is I lay them
out in a spreadsheet, and I chart, and I got
through things, and I see what shows me, what,
what shows me a trend, and what's just random
data. And I saw a trend, that with increasing
gross tonnage the piloting charge is less per
gross ton, and I just wanted to find a way to
illustrate that point for you.

MR. OATIS: Okay. And I think -- so I
think to what you're saying as well, then the,
because it's a combination of the charges it's
really, it's a function of that draft charge
remaining relatively flat as gross tonnage
increases. So that's -- that's what's driving that discount, is that, that the draft fee, the draft charge being included in that total rate you're calculating, but that doesn't really change as the gross tonnage increases.

CAPTAIN MARLOW: Cruise ships do maintain a relatively static draft, so as cruise ships go from small ships to big ships the draft, there's an initial increase, but then when you go from big ships to ultra big ships they really don't increase that much in draft because they can't get into the small Caribbean ports that they need to get into. But what -- what is the case is that they get wider, because essentially you're trying to float a giant hotel on a very small barge, and so as they get bigger and bigger there are characteristics of the ship that make them more difficult to handle and, and different things like that.

MR. OATIS: Okay, thank you.

CAPTAIN MARLOW: But you are correct that cruise ships in general, as they increase in size the draft increases at a decreasing rate.

MR. OATIS: Yeah, much smaller than the
CAPTAIN MARLOW: Correct.

CHAIR: Commissioner.

CAPTAIN MARLOW: Or -- and I'm sorry, just to clarify that, on Exhibit B there's, in your investigative committee report -- let me give you a page number. It was the data table for the bubble chart for cruise -- it's illustrated, exactly what you're saying. I'll give you a page number here. I apologize. Page 141. There's a series of blocks that are highlighted in yellow, and that is the draft revenue per handle. And -- and you're correct, it's, it's basically flat.

MR. OATIS: Thank you.

CHAIR: Commissioner.

MS. KURTZ: So when Captain Stubs was speaking, I was struck by something. I haven't spoken to a deputy about their compensation in a long time. So he said he made about $36,000 the first year, and then -- and I'm not sure it's a question for him. I'm just using him as the example for the numbers I heard, probably through you guys, or whoever does the numbers. And then the next two years of the training
program it's about $72,000 a year, so that's, you know, three years at a fairly reduced rate because he's a deputy and he's not doing the full amount of work.

CAPTAIN MARLOW: Correct.

MS. KURTZ: And then for a hundred months, so eight point three years he's buying in basically, so is that about 75% of a share, or like how do you do --

CAPTAIN MARLOW: The -- the way it works is that we are, when we become full partners, that's when we become subject to the buy in, so it's a full share minus 19%. Essentially we get 81% of a share.

MS. KURTZ: Thank you. Okay, so it's 81%. Now, is there any amount of time between the time he passes his sort of, you know, the final exam that's administered by the board, and he starts his buy in, or does that, that starts right away?

CAPTAIN MARLOW: No, there's a -- there's a -- it's basically just an intern period. It lasts usually a few months. I don't remember the exact period, but it's not long, where you, you pass the State exam, and then you're
1 waiting for the State to grade the exam and
2 issue your license.
3 MS. KURTZ: Okay.
4 CAPTAIN MARLOW: And -- and once the State
5 issues your license you're a full partner
6 subject to the buy in immediately, but that is
7 a function of the State's processing, and
8 during that period where you've passed the
9 State exam but you're not yet a full State
10 pilot, there's still limitations on what you
11 can do, there's a half share payment, so
12 there's a bump up in pay, but the buy in starts
13 when you become a full partner.
14 MS. KURTZ: Okay, and so when the 81%
15 that, that he receives for eight point three
16 years, is that the 19% comes off the top and
17 he's taxed on 81%, or does he get 100% for tax
18 purposes and then he pays -- because I know
19 groups, some groups do it differently, so I'm
20 just curious how that works.
21 CAPTAIN MARLOW: It -- it's very
22 complicated, and it's the --
23 MS. KURTZ: Simple, just --
24 CAPTAIN MARLOW: I'll give -- yeah, I'll
25 give it to you simple. The answer is yes --
you're right. So we are -- for tax purposes what, what actually happens is, is -- and I'm subject to the buy in as well. I receive a share distribution at the end of the month that is equivalent to 81% of a share. Now, the way it works for tax purposes is it's treated as though I received the full share, and I'm taxed on that amount, and then the, the treatment is as though I had received the full share and then I gave back 19%, like I had written a check for my buy in, but for simple, simplification purposes, it's much easier to cut down on the process.

MS. KURTZ: Okay, so in effect for eleven point three years, so three years of training and eight point three years of the buy in, plus a couple more months, let's just call it eleven and a half years, you know, a pilot is not receiving a full share.

CAPTAIN MARLOW: No.

MS. KURTZ: So they're not even realizing the full compensation until after eleven point three years.

CAPTAIN MARLOW: I can -- because I'm a numbers guy I happen to know how it works out
with the -- but yes, the, when you factor the, we call it phantom income, when you factor the tax on the buy in, that is applied to my buy in, it's as though I'm receiving 75% of a share.

MS. KURTZ: Right, that's --
CAPTAIN MARLOW: So that 19% that I'm buying in, it's actually I'm getting less than that because I have a huge tax bill at the end of the year on money that I never received.

MS. KURTZ: Okay, so the -- what I'm trying to get is -- so you can retire after twenty two point something years --
CAPTAIN MARLOW: Yes.
MS. KURTZ: So you really -- if you choose to retire --
CAPTAIN MARLOW: I'm getting my calculator out. I'm getting a little -- I have to get --
MR. KURTZ: If you choose to -- if you choose to retire once you're fully vested at the twenty two point something years you're really only receiving full compensation as a full pilot for half the time.
CAPTAIN MARLOW: About twelve years.
MS. KURTZ: So, you know, this concept
that, you know, pilots make all of this money
for twenty years --

    CAPTAIN MARLOW: Correct, it's -- and it's
    --

    MS. KURTZ: -- isn't really true.

    CAPTAIN MARLOW: It is -- it is somewhat
frustrating as a new guy to hear numbers tossed
around about what pilots make.

    MS. KURTZ: Because you do have a lengthy
buy in.

    CAPTAIN MARLOW: We do.

    MS. KURTZ: This is a much longer buy in
than we have where I work, so --

    CAPTAIN MARLOW: And it's eight years,
yeah.

    MS. KURTZ: Right. So I just wanted to
point -- I wanted to make sure I was doing the
math right, and I had all my fingers and toes
out, so I --

    CAPTAIN MARLOW: You're correct.

    MS. KURTZ: But really a fully compensated
pilot is only receiving that for, you know,
potentially half of their career if they choose
to go early.

    CAPTAIN MARLOW: That -- that's true. And
the --

MS. KURTZ: When I say early, you know, if you do the buy in, and you know, you get out at fifty five, but that leaves -- sorry, I'm going just --

CAPTAIN LILLY: But upon retirement they sell it back.

MS. KURTZ: Then they get -- well, they get their buy out.

CAPTAIN LILLY: So it's really deferred compensation.

CAPTAIN MARLOW: It's an -- it's -- I would think of it as a, you know, it's more like an equity purchase. You're buying a share of the business, and you get that share back. The issue that --

MS. KURTZ: Well, the value of the share changes from --

CAPTAIN LILLY: It will go up.

CAPTAIN MARLOW: The value of the share changes, and there's a chart in your packet that, that shows what happens. You're -- you're buying in to a, a higher, 19% of a higher net income stream -- it's Chart 139. It's just an illustration -- it's accurate.
But you're buying into 19% of a $372,000 income stream, as an example, and you're getting bought out of a 19% share of a lower net income stream of $282,000, so it's an equity purchase that loses money, and you pay tax on it up front. So yeah. And -- and the key to that -- the key to keeping this from happening is our revenue has to keep pace with the rate of inflation, because by definition our expenses go up with inflation. So if our revenue goes up with inflation, and our expenses go up with inflation, as they already do, then our, our buy in and our buy out would be 19% of the same number. But as revenue declines --

CHAIR: We got it.

MS. KURTZ: Okay. All right, next question. There was some talking about, you know, pilots leaving at fifty five, and so, you know, potentially this, you know, generous retirement was going to be paid, you know, the life expectancy, was it twenty eight years on top if you retire at fifty five. Do you have pilots that leave at fifty five?

CAPTAIN MARLOW: The -- you know it depends on when you start, right, so you have
to have --

MS. KURTZ: Well have you -- I'm so sorry to interrupt. Historically, maybe in the last ten years, maybe Stuart or John can answer this. In the last ten years have you had pilots leave at age fifty five, that you know?

CAPTAIN LILLY: One.

MS. KURTZ: One? And of the other pilots that retired, how old were they roughly? Do they tend to stay?

CAPTAIN LILLY: They stay, yes. And that's the key to this. You put so much -- this whole pilot system, as I said on the boat tour, the whole tour there, is about passing on all this information and experience from generation to generation, and it's a hundred and seven, a hundred and six years now of this passing forward. And it takes so much time and commitment to come, take the exam, participate, get trained, and get up to that level where you are so expertise --

CHAIR: Okay, let's just --

MS. KURTZ: Right, but where I'm going is just that, you know, if your pilots are retiring later the retirement is not going to
pay for that theoretical twenty years of life expectancy, it's really a shorter period because most of your pilots retire later.

CAPTAIN MARLOW: Well, we've -- we've had -- we've had at least one pilot that retired while I was here at seventy?

CAPTAIN LILLY: Yeah, at seventy two.

CAPTAIN MARLOW: And we have a sixty nine and a seventy year old right now still working who will not give us a retirement date. And but as a group, and to the customer it's better, the longer the pilot stays, that experience level, so.

MS. KURTZ: Right. But my question was just sort of, you know, toward, you know, it's really a benefit to you if your pilots stay longer, because then the retirement doesn't get paid through --

CAPTAIN MARLOW: It benefits the customer more because we're not in this greater big expansion, big port, and if you have all young inexperienced majority it's not going to work well to the future, so.

CHAIR: Okay, any other questions? All right, Ms. Blanton, would you like to close?
MS. BLANTON: Very briefly. And I know you want me to be brief, and I will do so. First of all I would like to thank you all for your time, for your attention, for your good questions. I felt like this committee was listening to what the witnesses said, and that's really important, and we do appreciate it. I know you're all volunteers, and thank you for your public service.

Very briefly, I'll just start back at the very beginning where we started yesterday. When Captain Marlow was testifying up here, it seems like yesterday because it was, it was earlier this afternoon, or this morning I guess, he said, he referred to the Walmart method of squeezing pennies in referring to the cruise lines, and I would just add to that that, yes, that's what they're doing, but they're pennies they don't even pay. And we had that discussion yesterday, that it's passed on to the passengers, the cruise lines don't pay the charge. So I just wanted to briefly clarify, or add to the point that Captain Marlow made on that.

The other thing I would very briefly like
to do is just circle back also to where we started yesterday, and that's to the statutory factors. And this goes to the, the chart that FCCA put up with the twelve factors, which I really consider thirteen because there's the one about the CPI at the end. And I -- I want to tell you that you've heard testimony as to every single one of those factors from the pilots.

The primary consideration to the public interest; we heard a lot about that from Mr. Kirchner, from Captain Lilly, from Mr. Donney. We heard about the pilots being big ship ready, and about how they worry about what if. And we heard about what would happen if there were an accident. And these guys are constantly focused on the public interest, and I think we heard a lot of testimony about that today.

The second factor is that, the public interest in having qualified pilots available to respond promptly, that word is in our statute, to vessels needing their service. That's why we have, you know, we need the number of pilots we have, because of the peak demand that we heard about. They don't make
the ships wait. They -- they are there, and
they're available, and they go there when the
cruise ships want to come in, and when the
cargo ships want to come in. We heard a lot of
testimony about that from a number of
witnesses.

Third factor; committee shall also give
consideration to average net income of pilots
in the port, including the value of all
benefits derived from service as a pilot. Did
we ever hear a lot about that. We heard a lot
about what the value is. I would go -- I have
worked a lot in the last few months with
Captain Marlow, who I'm just continued to be
amazed with his charts, and his knowledge, and
his presentation, and I will tell you I've
learned a lot. The one point he made that I
think is very important is that the average net
income of the pilots in the port is $282,000
now based on the way he calculates it, and it
was $372,675 in 2003. And if you consider
inflation it's a lot less than that, so the net
income of these guys has gone down.

The next factor; the committee shall give
consideration to the reasonable operating
expense of the pilot. We've heard a lot about that too. One point that particularly struck me is when Captain Stubs was up here. He talked about these boats. We've got a forty year old pilot boat. We've got a thirty year old pilot boat approximately, and a pilot boat that's around twenty five years old. It costs between a million and 2.2 million to replace these. They've got to be replaced. We've got a dock that's falling in the water that's going to be replaced.

They have a lot of expenses, and I don't think I've heard much testimony, if any, that these expenses are unreasonable. We did hear some testimony from FCCA about the generous benefits, and the fact that they pay their employees their full health insurance, and, gosh, no one would ever do that. Well, since we left here -- first of all my law firm pays full health insurance for all of our employees, all of our secretaries, all of our full time employees. I've talked to people in the hallway, accountants that are here, and others, sure we pay our employees' health insurance cost. That's not that uncommon. It doesn't
happen everywhere, but it does happen a lot of places.

The committee shall give consideration to pilotage rates in other ports. I'm not going to belabor that because we've heard from Mr. Dibner. We heard from Captain Quick. We heard from Mr. Law, your accountant, who pointed out that the administrative law judge five years ago found that the average pilot compensation was $400,000. We've heard about that. I don't think -- other than FCCA no one here has determined that these pilots have that kind of compensation, and in fact they are in the bottom, near the bottom according to Mr. Dibner's figures, of most ports nationally, and even in the state they are not at the top, so even thought they are the biggest and busiest port.

Committee shall give consideration to the amount of time each pilot spends on actual piloting duty, and the amount of time spent on other support services. As Captain Lilly said, and I think he said it very well, is that they aren't a valet service. You can't just count the four and a half hours that they spend going
to and from a ship. And -- and I believe that's the figure that's in Mr. Law's report, is four point five hours. They do a lot of other things. This is a pilotage system, as we've heard. They have institutional knowledge of the port, and they're doing a lot of things, including serving as harbormaster, which for now they don't get compensated as.

Committee shall also give consideration to the prevailing compensation available to individuals in other maritime services of comparable professional skill and standing. Administrative law judges in previous pilotage rate cases have found that the comparable standard that you should look at there are other pilots in other ports, and that's precedent that those of who are lawyers feel bound to follow. Precedence is pretty important. And when you look at the comparison to other pilots in other ports, I think you've heard quite a bit of that from Mr. Dibner and from Captain Quick.

We talked about the impact the rate change will have on individual pilot compensation, and whether it will lead to a shortage of licensed
state pilots, certificated deputy pilots, or qualified pilot applicants. I think we've heard a lot of testimony about the competitive nature of getting the best and the most qualified pilots here. Mr. Law I believe said in his report that individual pilot compensation would drop about $100,000 if the FCCA application is approved, and ours is not approved. That's a big chunk of change when you're talking about $282,000, which is what their net income is now.

I think you also heard some testimony from others who have said that Miami is not looked at nationally anymore as a favorable place to come to work among pilots. We heard some testimony about that. They're concerned about the, not only the high cost of living here, but the relatively constant attack from the cruise lines, and the necessity to spend three years litigating a case like this, and the $1 million that it cost.

Projected changes in vessel traffic is yet another category. We've heard a lot about that from Captain Marlow, who talked about the cargo ships are getting bigger, and that the cruise
ships, we're getting more and more small cruise ships. We are -- we certainly have gotten some bigger cruise ships, but really what we're seeing is a lot more smaller cruise ships, right, that is shown on his many charts, including the bubble chart that he pointed out. So the ships are getting wider, which is a less margin of error, as Captain Lilly testified, and you know, the gross tonnage of these ships, the composition of those changes from year to year, but the trends are not what the cruise lines tell you, that ships are getting bigger and bigger and bigger, and therefore the pilots are somehow getting a windfall. It's just not that simple.

The Committee shall also give consideration to cost of retirement and medical plans. We've heard a lot about the retirement plan. I'm not going to say anymore about it. You've heard a lot of testimony about it, and so I think we've put on the kind of case we need to put on concerning that factor.

Physical risk inherent in piloting. I know you all have been out to the port. I know you've seen the videos. You've heard about
what's involved. It's tough on the knees, the shoulders, the ankles. You climb up and down the ladders. The pilots who are still here at sixty nine and seventy, I tip my hat to them because I'm not that old but I know I sure couldn't climb up and down that ladder at sixty nine or seventy, if now. So it's not an easy job, as Mr. Kirchner, or Mr. Donney rather, testified, you know, some of the comparisons made in the FCCA application to file clerks and librarians, and these kinds of things, is just, it's almost absurd. I mean it's a tough physical job. I don't think anybody doubts that.

Special characteristics, dangers, and risks of the particular port. It's a complex port, as Captain Lilly testified to. It's crowded. They've got a narrow channel. There's a tight turning basin. And we have something called the malfunction junction turning basin? It's not an easy port. It's complicated. I think there was a study that you heard testimony about, that it has an eight point seven out of nine point zero complexity factor, so it's not the easy, easy port that
has been suggested by the cruise lines.

Any other facts the committee deems relevant in determining a just and reasonable rate. I'll leave that one to you all because that's up to the committee.

Finally the CPI, which we've talked a lot about. This -- this statutory factor says the committee may give consideration to the consumer price index, but it cannot be used as the sole factor in fixing rates of pilotage. We've heard a lot of testimony about the CPI and why it's needed, and what the pilots are trying to accomplish by seeking a CPI increase, which could be a decrease, it could go up or down. I would submit -- and lawyers, you know, you can ask five lawyers what this language means and you'd probably get five different opinions, right, and so I, Mr. Jennings and I can probably argue about this on another day, but I would suggest that you are, if you approve the requested increase of the pilots you are looking at all the factors, all twelve of the ones that I just talked about, and factoring those in to the need for a CPI increase if you chose to give one, so I don't
view it as the sole factor. I view it as an increase that would be justified by considering as well all of the other factors into that.

So again I once again thank you for your time, and we certainly appreciate your consideration of our request.

CHAIR: Thank you. Thank you for your entire team. Great presentation. And you all did a great job of informing us. I know we've all learned a lot.

(Thereupon, above proceeding concluded.)
CERTIFICATE

(STATE OF FLORIDA)

(COUNTY OF MIAMI-DADE)

I, NATHANIEL TORO, Reporter, certify that I was authorized to and did report the foregoing proceedings and that the transcript is a true and correct transcription of my notes of the proceedings.

NATHANIEL TORO, Reporter

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