

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 19, 2017

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1 APPEARANCES :

2 DAVID WILKINS, Chair

3 LOUIS SOLA

4 JAMES WINEGEART

5 CHRIS OATIS

6 CLARK JENNINGS

7 CAROLYN KURTZ

8 SHERIF ASSAL

9 RICHARD LAW

10 CAPTAIN MARLO

11 CAPTAIN HANSEN

12 MS. WHITE

13 MS. ANN

14 UNIDENTIFIED SPEAKER

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1 (Thereupon, the following proceedings are had:)

2 CHAIR: Good morning. It's Friday, May
3 19th at 9:00 a.m., and we are now starting the
4 last day of our pilot rateage (phonetic)
5 committee rate hearing, so we are in the last
6 agenda item of our three day agenda, which is
7 the deliberations. And where -- this is
8 continuation from last night, where we were
9 discussing potential rate changes in relation
10 to the application to raise rates by the
11 Biscayne Bay Pilot Association. So what we're
12 going to do today, as we discussed last night,
13 is we'd asked Mr. Law, who worked with --

14 MS. KURTZ: They can't hear you, David, in
15 the back.

16 MR. LAW: Just turn more towards them.

17 CHAIR: Okay, what we're going to do today
18 is -- last night we had asked Mr. Law, with
19 Commissioner Oatis, to model a couple of
20 structure changes, if we were taking on a
21 modified structure similar to another port, so
22 we're going to spend a little time talking
23 about that. But before we get into that, Board
24 Members, I thought it would be good for us to
25 just make sure we're all grounded in our, back

1 to our original mission, and our original
2 statutes as it relates to understanding the
3 facts that we are using to, to reach the
4 conclusions, or reach -- and so if you look
5 back at what we've just gone through this wee,
6 Mr. Law presented his detailed investigative
7 report. We then heard presentations from both
8 sides on the issues they saw in the
9 justifications for, for their applications.

10 Now --

11 UNIDENTIFIED SPEAKER: That's a lot there.

12 CHAIR: That's after 2:00 -- okay, so --
13 we'll just keep going. All right, so what I'd
14 like to do, Mr. Law, is just go back through
15 your report, really just focusing -- I believe
16 it starts on Page 18 of your report, where
17 you've organized your report by, you know, the
18 twelve statutory responsibilities that we have
19 to address. And we -- we've heard both sides
20 talk about these different twelve items in
21 various orders, but I'd like us just to go
22 through each of, each of the twelve.

23 And, Board Members, I would like you to
24 just look at Mr. Law's comments in relation to
25 each section to get agreement amongst us, do we

1 agree to the facts that he has presented,
2 and/or if we don't what adjustments, I mean
3 what do we disagree with, so that when we do go
4 back and finalize great changes we can then
5 compare that back to the areas we disagreed to
6 see have we addressed some of those concerns in
7 the, in the rate changes. Does that make
8 sense? Does everybody sort of understand what,
9 what I want to do?

10 So I -- this -- I want to do this quickly,
11 so, yeah, this isn't large testimony, everybody
12 doesn't have to sit there and explain their,
13 their detailed point of view, but let's go
14 through each one of them. And, Mr. Law, maybe
15 you can help us do that, starting on Page 18.

16 MR. LAW: Okay, on Page -- I'm sorry. The
17 first point -- well, let me -- let me just say
18 that of the -- it's actually thirteen points,
19 because the first point is not one of, it's one
20 of twelve, but most of these thirteen areas are
21 just facts, as far as rates and, and the
22 trafficking report, and things like that, so I
23 think there is not a lot of counter evidence
24 that was presented in a lot of these things. I
25 just want to give you that as like a preface

1 to, before we run through these.

2 So the first one is the public interest of
3 having qualified pilots to respond promptly to
4 vessels, and so that's the first one. I don't
5 think there's been any, any comments that are
6 negative in that area, the pilots are doing
7 their job.

8 CHAIR: Right, so everyone agree that we,
9 we as a Board are happy with the conformance of
10 that, that point? Okay.

11 MR. JENNINGS: Mr. Chairman.

12 CHAIR: Yes, sir.

13 MR. JENNINGS: We either needed the
14 conclusion of this portion to have an omnibus
15 motion accepting all the facts presented as the
16 findings of fact of the, of the committee, or
17 have an individual motion at each of these
18 sections. I don't know how you wish to handle
19 that.

20 CHAIR: You meant to vote on it?

21 MR. JENNINGS: Yes, sir, you need to vote
22 on it. So -- and -- and the motion would be to
23 accept the facts in the investigative report as
24 the findings of fact of the committee.

25 CHAIR: Okay. Can we just vote on the

1 total?

2 MR. JENNINGS: You can if, if you're
3 agreeing with all the facts that are going to
4 be presented, yes, actually a single motion
5 would do that.

6 CHAIR: Okay. All right. Mr. Law,
7 question?

8 MR. LAW: Well, I think that based on the
9 evidence that we've heard there's a number of
10 these things, like the number two,
11 determination of net income, we've heard, you
12 see what I presented, and you see what FCCA
13 presented, and you see, you've heard what the
14 pilots have presented, and there's three
15 different numbers.

16 CHAIR: Right.

17 MR. LAW: And I think you -- this is
18 probably one of the more important pieces for
19 you to say, or to acknowledge, which one do you
20 think you're relying on to set rights, and so
21 when we get -- I don't think you can just do
22 all thirteen and say I agree with what they've
23 admitted --

24 CHAIR: Okay.

25 MR. LAW: SO I think --

1 CHAIR: I got it. All right, so let's hit
2 number one. Someone make a motion that we can
3 concur with the facts presented in Mr. Law's
4 report on Item 1?

5 MR. OATIS: So moved.

6 CHAIR: Okay, motion made by Commissioner
7 Oatis. Second by Commissioner Kurtz. Any
8 discussion? All in favor say aye.

9 (Aye.)

10 CHAIR: Opposed? Okay. Number two is the
11 -- I'll just go through this order on all of
12 them. Does the Committee agree on the
13 presentation of fact from Mr. Law's report on
14 the point about net income represented in Point
15 2? Do I have a motion? If we have a motion
16 and a second, then we can have a discussion.
17 Or do we want to have discussion first?

18 MR. JENNINGS: It's up to you, Mr.
19 Chairman, you can discussion -- you can have
20 discussion first if you wish, Mr. Chairman.

21 CHAIR: Okay, well, I mean my perspective
22 is what's presented here is a representation of
23 fact. I saw counter-presentations on what
24 could be adjustments in income if certain
25 things change. I saw counter- presentations on

1 comparables to other locations, but in terms of
2 the actual costs this seemed to reconcile to
3 what I heard from the other sides.

4 MR. ASSAL: Mr. Chair, but isn't this
5 based upon the numbers and the facts that Mr.
6 Law received, correct?

7 CHAIR: Yes.

8 MR. ASSAL: So this is based upon facts,
9 so it's not guessing.

10 CHAIR: Right.

11 MR. ASSAL: Even though we heard from both
12 sides, whether it was higher, or lower, or
13 whatever the case may be, this is the facts.

14 CHAIR: Right. Even if I disagree with
15 any of the calculations that Mr. Law presented
16 here?

17 MR. WINEGEART: Well, I think that --

18 CHAIR: Mr. Winegeart.

19 MR. WINEGEART: I think some of the add
20 backs could be -- there's different opinions on
21 what should be considered add backs, is the
22 only thing that I, you know, I have a problem
23 with.

24 CHAIR: Yes, I think -- I mean I think
25 that's fair, yes. But you didn't disagree that

1 those were costs incurred, the question is, you
2 know, are you classifying it as their income or
3 a cost to the business. I think we all
4 understood that theoretical discussion. Mr.
5 Law.

6 MR. LAW: Well, I think that the way Page
7 19 is laid out is that at least -- you see at
8 least the first sub of what I would
9 characterize as what's cash distribution, and
10 then you see a summary of the add backs, which
11 comes to another subtotal. And then you see at
12 the bottom where we came up with the estimate
13 for the unfunded pension that can be added to
14 that number. So you see all of the elements,
15 and those are the facts that we saw, and how
16 you perceive those totals and subtotals, and
17 adjustments, it's there. And you've seen other
18 calculations of the unfunded that we think is
19 highly variable, but that's our -- these are
20 our estimates based on, you know, our, our
21 estimate, and the factors we considered. But
22 we're not actuaries, but either are they, so I
23 think it's laid out to where it's factual, it's
24 just comprehensive.

25 CHAIR: And in -- and in this point it's

1 talking about the determination of the income.
2 It's not the judgment of whether this is the
3 right number, right, so -- and -- and of
4 course, also this is the 16.58, and we saw some
5 other numbers with 18 pilots, which of course
6 reduced the number. Any other concerns about
7 that? Commissioner Sola.

8 MR. SOLA: Yeah, for the most part I
9 concur with the, the numbers that he has. I
10 have some questions on some of the expenses, if
11 a political expense, or lobbying expense, is an
12 expense or not, but I think that would come out
13 to within \$1,000 or \$2,000 per month per pilot,
14 so in, in general I believe the numbers are
15 fairly represented.

16 CHAIR: Okay, so would somebody like to
17 give us a motion?

18 MR. ASSAL: I make a motion that -- I make
19 a motion that the numbers are factual, how
20 they're categorized are, it's up to the pilots
21 to, or the FCC to determine whether they're
22 right or wrong within certain areas, but if you
23 talk about the grand total of numbers, I make
24 the motion that the numbers are accurate.

25 CHAIR: Okay, do I have a second?

1 MR. SOLA: Second.

2 CHAIR: Second by Commissioner Sola. Any
3 other discussion?

4 MS. KURTZ: Yes.

5 CHAIR: Commissioner Kurtz.

6 MS. KURTZ: I just want to be clear, you
7 know, if we approve the motion, you know, will
8 the record reflect that we all agree with, that
9 certain things should be added back, or we're
10 just saying that we think Richard Law presented
11 accurate numbers for all the categories?

12 CHAIR: Yes, that's what the second point
13 is --

14 MS. KURTZ: So we're not questioning the
15 accuracy of his accounting or anything.

16 CHAIR: Correct.

17 MS. KURTZ: Even if we have a
18 philosophical disagreement with some of the
19 categories that's applied to the bottom number.

20 CHAIR: Right, correct, those are two
21 different points, yeah. So this is just
22 agreeing that we've factored in all the, the
23 costs, and the, the number is the number.
24 Okay, all in favor, say aye.

25 (Aye.)

1 CHAIR: Opposed.

2 (Aye.)

3 CHAIR: Okay, number three --

4 MR. JENNINGS: I'm sorry, Mr. Chairman, is
5 it one opposed? One opposed.

6 CHAIR: I'm sorry, thank you for
7 clarifying. One opposed, Commissioner
8 Winegeart. Commissioner Winegeart --
9 Commissioner Winegeart, do you oppose that the
10 facts are not represented here?

11 MR. WINEGEART: I -- I don't think that
12 the motion was -- that's not how the motion was
13 stated. The motion was stated that we agree
14 with the bottom number, basically is what he
15 said.

16 CHAIR: No. Well, your disagreement was
17 the, the allocation of certain expenses into
18 the calculation of a number. That's -- you're
19 not disagreeing that those numbers are
20 accurate, or right, but in presenting those as
21 part of the conversation, that's your
22 disagreement, right?

23 MR. WINEGEART: Correct.

24 CHAIR: Okay. All right, duly noted.
25 Number three, reasonable operating expenses of

1 pilots. That's on Page 22. Mr. Law, do you
2 have a comment on that?

3 MR. LAW: No.

4 CHAIR: The issue I have here is the word
5 reasonable. You know, my concern is I do not
6 think some of these costs are reasonable. But
7 going back to the point, is it does appear to
8 be an accurate representation of the costs that
9 are being incurred in my opinion. But what
10 we're focusing here now is the term reasonable,
11 is it a reasonable representation of the costs
12 being incurred.

13 MR. LAW: That's correct. That's the
14 heading, not the conclusion.

15 CHAIR: Not the -- thank you for saying
16 that --

17 MR. LAW: And so I've presented the
18 information, and I, and I think that's
19 accurate.

20 CHAIR: Okay, so do I have a motion on
21 that? Commissioner Sola.

22 MR. SOLA: Yes, I just wanted to comment
23 on that. On some of the operating costs that
24 we have in here I believe that the Board has
25 the right, or we have the ability to, to fund

1 the pilots, but we really don't have a say on
2 how they have their operational for this, so
3 for example if a rate increase was given we do
4 not know what that, if those funds would be
5 given for capital improvements, or for a pilot
6 vote, and we have no way of checking on that.
7 I would like to propose -- or I would like to
8 have discussions on, at a future date, that we
9 come up with some way of having maybe auxiliary
10 fees, or something like that that would
11 actually specifically go towards capital
12 improvements, or pilot boats, so that we would
13 have a little bit more control over those type
14 of expenses, operating, operational expenses.
15 And that's just commentary. I'm not making a
16 motion at this time.

17 CHAIR: The same -- I had the same
18 thought. That becomes a deep conversation, and
19 there's statutory implications of that, right?
20 You know, the legislature, it has the same
21 problem every year as they look at
22 appropriations, and where they see expenditures
23 are not being spent the way they think, but
24 they don't have control other than determining
25 the allocation of the expenditure. So that's

1 sort of how we are too, so the only power of
2 the purse that we have here is, is the amount
3 of money we give them, but they have to decide
4 how to spend it, right?

5 MR. SOLA: Exactly. I would hate to have
6 the conversation about the pier and the pilot
7 boat ten years from now, or, you know, twenty
8 years from now, et cetera. So if we had some
9 sort of control over that -- and I don't
10 believe that adjusting the entire rate would be
11 the way to do that. That maybe we could, we
12 could find a way administratively to, to
13 address some of those issues, so that maybe
14 they can make a proposal to us, or, and then we
15 can address them.

16 CHAIR: I think it's a topic that really
17 we could even bring up at the larger Board, and
18 so I will take that as a responsibility, to
19 talk to the Chairman of the larger Board to
20 bring that as an agenda item for our next
21 meeting, because I think that's a core point.
22 Okay, other comments, or a motion? I'd like a
23 motion that this represents the operating
24 expenses as we know it of the pilots.

25 MR. WINEGEART: So moved.

1 CHAIR: I have a third motion from
2 Commission Winegeart. Second? Commission
3 Kurtz. Any other discussion? All in favor say
4 aye.

5 (aye)

6 CHAIR: Opposed? That was unanimous.
7 Okay, number four, if we can move a little
8 faster. Pilot rates in other ports. That was
9 represented on Page 26-29. No, it kept going
10 --

11 MR. LAW: 36.

12 CHAIR: 32.

13 MR. LAW: I don't think any of this was
14 disputed, it's just data.

15 CHAIR: All right, we'll see if we can
16 speed this up. Is there a motion?

17 MR. SOLA: I -- I just wanted to add that
18 I really appreciated having a formula that uses
19 the six rate factors that we have, including
20 (unintelligible) and I just didn't see a
21 formula applicable towards us for this. I
22 think that would have been, it would have, it
23 would have made our life a little bit easier
24 throughout this whole process. So when we were
25 looking at that, you know, now something like

1 whether or not we agree with the numbers.

2 MR. JENNINGS: That -- that's correct.
3 Mr. Law's -- you're adopting these facts as
4 your findings of fact based upon the
5 information that has been provided to Mr. Law
6 and the investigative committee. You're going
7 to base your findings only on the information
8 as presented, and so if this is the information
9 presented, and there's no contradictory
10 evidence that's been presented, these would be
11 your findings.

12 CHAIR: I didn't know if it would, if
13 there was contradictory evidence, but I felt
14 the FCCA provided a lot of additional data
15 points here that, on this issue that are not
16 represented in Mr. Law's commentary.

17 MR. JENNINGS: Yes -- yes, Mr. Chair. And
18 where in fact there is no contradictor
19 evidence, but there might be evidence that,
20 that would enhance the report, it is certainly
21 acceptable to include that as a finding. If
22 you can part to particular things that were
23 submitted by FCCA and say we would like to also
24 include this as a part of our findings of fact
25 that is perfectly acceptable, and in fact it's

1 encouraged. The more data that you have the
2 more support you will have for whatever
3 decision you tend to make in the future.

4 CHAIR: Okay.

5 MR. JENNINGS: And, Mr. Chairman, if I
6 might add --

7 CHAIR: Now you've -- you're making this
8 job awful complicated.

9 MR. JENNINGS: It's my job as a lawyer,
10 isn't it?

11 CHAIR: I was just trying to get to the
12 point --

13 MR. JENNINGS: Well -- well, and this is
14 why I was going to throw in this caveat. If as
15 we go through the process today you, a
16 lightbulb goes off, and you say, oh, wait a
17 minute, FCCA or BBP had this data that they
18 provided to us, you know, here, I got this, you
19 gave this to us, it's Exhibit W, or what have
20 you, which supports this position. You can
21 include it at that time. You don't have to do
22 it all right now. But whenever you think of
23 that type of stuff I think it would be
24 wonderful if you would include it into the
25 record, similar to what Commissioner Winegeart

1 did last night when he was supporting the
2 motion that he made on one of the petitions, on
3 one of the petitions.

4 CHAIR: Yeah, the issue that -- I mean I
5 need to think through this, how to articulate
6 it, but the FCCA pointed out statistical
7 analysis that implied that these services could
8 be done in less expensive ways, or in
9 alternative ways that would bring more money
10 into the average net income calculation. And
11 but the pilots didn't counter that explanation,
12 they did not provide statistical data to either
13 agree with it or disagree with it, and the FCCA
14 didn't really explain how it could be done,
15 they just showed that these logic points
16 implied that this could occur. All right,
17 Commissioner Kurtz.

18 MS. KURTZ: I'd like to speak to that. I
19 think the FCCA was creating an impression that
20 perhaps pilots instead of driving ships and,
21 you know, time in task for, you know, their
22 main purpose, you know, that perhaps was a
23 pilot was, you know, painting, or, you know,
24 doing boat maintenance, or something that you
25 could pay someone else, but pilots do this in

1 their off time. They might come in for a day,
2 or two days, or a few days if they're preparing
3 for a meeting, or doing boat maintenance. It's
4 not taking time away from them piloting
5 vessels, this is in addition, so to hire a
6 building manager would certainly cost more,
7 because now you have another employee that
8 you're paying to do certain things.

9 Pilots take on the extra tasks in their
10 areas of interest, or as needed, and, you know,
11 for example I'm supposed to be working right
12 now, but I'm here for four days at a rate
13 review because it needs to be done, and so, you
14 know, this is my task as, you know, as part of
15 being a pilot, is to be on a board, so these
16 things do take up time, and it's not an either
17 or, it's in addition to. So I think it would
18 be very difficult to put a number on that,
19 because to hire extra people to do some of
20 those things would certainly cost more, to have
21 more employees. I think they're using their
22 resources to, to do all of those things
23 internally without hiring other people.

24 CHAIR: Yes, but -- I mean I agree with
25 everything you just said, and I think that is,

1 what you just said is what they represented.
2 The -- the fact though, it they could quantify
3 it, and prove that what you said is true with,
4 with math, and they didn't do that. And the
5 premise from FCCA was, yeah, you're doing all
6 the tasks that need to be done, but there are
7 alternative ways and lower cost sources that,
8 that could be accomplished. And if it -- if
9 that's not true they should have proved it, and
10 they seem to not even address the issue by
11 using the explanation that you just provided.

12 So -- Commissioner Winegeart.

13 MR. WINEGEART: Just in my opinion they,
14 they did -- it comes down to how many pilots
15 they need.

16 CHAIR: Right.

17 MR. WINEGEART: And they did inform us
18 about the peak periods on the weekends with
19 cruise ships, and I specifically asked are
20 there, which are, which are kind of
21 predictable, and I specifically asked are there
22 other days where you have a peak period that
23 isn't anticipated, and they responded, yes, so
24 it's unpredictable. So they have the number of
25 pilots needed for the unpredictability of the

1 business, and so they're using these pilots to
2 accomplish other tasks, essentially in my
3 opinion saving money. So that's -- that's what
4 I got out of it.

5 MR. ASSAL: To ask the Commissioner, Mr.
6 Law, basically this is information from his
7 investigation, so this is things that I'm
8 assuming he got from either the Biscayne
9 pilots, or he has observed himself; is that
10 correct, Mr. Law?

11 MR. LAW: And -- and Commander Dunton.

12 MR. ASSAL: And Commander Dunton. So what
13 we're saying is that the number five, the
14 information that Mr. Law -- is that correct or
15 not correct? Isn't that what we're really
16 trying to say? And we have -- our -- as the
17 review board we have our own investigators, not
18 FCCA, or not Biscayne Pilot Association, who
19 gave us the facts with Commander Dunton. Isn't
20 that what we're really trying to motion? We're
21 not trying to come up with the stories that was
22 some after, we're talking about the motion of
23 number five; am I correct, sir?

24 MR. JENNINGS: Yes, Mr. Assal, that's
25 correct.

1 MR. ASSAL: So this is information that
2 they got from the pilots, from their
3 investigation, from doing the work that we
4 appointed them to do to get us the facts. So
5 is the motion then -- I'm trying to understand.
6 Are we not agreeing to his investigative report
7 in number five, or are we just saying it's, we
8 accept it or we don't accept it?

9 MR. JENNINGS: Commission Assal, what I
10 was hearing, and correct me if I'm wrong, that
11 the consensus was that the facts presented in
12 Item 5 are perfectly acceptable, and should be
13 adopted as the findings of fact of the
14 committee. There was some concern as to
15 whether or not once you made that determination
16 do you shut the door to finding additional
17 facts that might accentuate, or add to these
18 facts, and, and my response was you can do that
19 at any time.

20 You can accept these facts, and unless
21 something occurs later where you say, oh, I
22 would like to find this particular fact, which
23 sounds in contradiction to something that you
24 just approved, you might have an issue. But to
25 add to, to enhance your findings it's perfectly

1 acceptable. And you don't even have to do that
2 now. You can do it any time in the process.

3 MR. ASSAL: From what I understood, that
4 this is something that we should have done in
5 the very beginning prior to the hearing.
6 Correct me if I'm wrong.

7 MR. JENNINGS: No, sir --

8 MR. ASSAL: It could be done at any time.

9 MR. JENNINGS: It could be done at any
10 time, just as long as you do it while the
11 hearing is going on, because the whole purpose
12 is to building the foundation to justify
13 whatever determinations you make.

14 MR. ASSAL: Got you.

15 CHAIR: Commissioner Sola.

16 MR. SOLA: Yes, I fully understand that
17 while the pilot is not working, or on a down
18 time, that you want to keep him productive, and
19 there's all sorts of things that they could do
20 that they're, they're experts at, and I
21 definitely applaud that, rather than them doing
22 other things. From the information that Mr.
23 Law has, and also I would like to include the
24 FCCA slide -- I believe this is what you were
25 looking for. Because some of the things that

1 they have on here kind of, like my attorney
2 billing me while he's sleeping, you know, and
3 some of the things, some of these things that
4 definitely require a need to be done, and other
5 of them, you know, they could be questionable
6 as is it, is it a personal development, or is
7 it an active part of doing their job, that the
8 truth lies somewhere in the middle, so we'll
9 leave that for a future, a future time to
10 determine.

11 MR. JENNINGS: Commissioner Sola, I want
12 -- don't get excited. Unfortunately none of
13 these were marked with exhibit numbers or
14 identification, so 202 hours per week every
15 week, question --

16 MR. SOLA: And that -- that-- that comes
17 -- that comes right off Mr. Law's -- that comes
18 right off Mr. Law's report information in here
19 on exactly 611 hours per year per pilot versus
20 port services.

21 CHAIR: Okay, do I have a motion?

22 MR. SOLA: I make a motion to accept the
23 facts that Mr. Law presented, including this
24 slide --

25 CHAIR: The 202 hours per week every week

1 slide. Do I have a second?

2 MR. ASSAL: Second.

3 CHAIR: A second by Commissioner Assal.
4 Any other discussion? All in favor say aye.

5 (Aye.)

6 CHAIR: Opposed. Okay, moving to number
7 six, the prevailing compensation available to
8 individuals and other maritime services of
9 comparable professional skill and training. We
10 have this information here. I would personally
11 say we received a lot more information on this.
12 Actually in testimony from Biscayne Bay pilots
13 as well, but there was nothing in number six
14 that I personally saw wrong, so I think what he
15 said was accurate, and Captain Click confirmed
16 the couple of the points in there in his
17 testimony. Do I have a motion?

18 MR. WINEGEART: I move we accept number
19 six as --

20 CHAIR: Commissioner Winegeart. Is there
21 a second?

22 MR. SOLA: Second.

23 CHAIR: Second by Commissioner Sola. Any
24 other discussion? All in favor say aye.

25 (Aye.)

1 CHAIR: Okay, we're rolling now. Seven,
2 the impact the rate change may have in the
3 individual pilot compensation, and whether such
4 change will lead to a shortage of pilots,
5 certified pilots, or qualified pilots. This
6 starts on Page 38, and goes through 42.

7 MR. LAW: 37.

8 CHAIR: It's 37. I'm sorry, yeah. Once
9 again, you know, I don't know if there was -- I
10 don't disagree with any of the facts presented.
11 I think there was additional data presented by
12 Biscayne Pilots that further reiterated that,
13 you know, we do not have a, shortage of pilots,
14 or deputy pilots, or qualified pilot applicants
15 as the moment. But as it relates to this point
16 is there any, is there a motion?

17 MR. SOLA: I make a motion to accept the
18 --

19 CHAIR: Thank you. Commissioner Sola
20 makes a motion to accept as fact --

21 MR. SOLA: To accept -- as presented by
22 Mr. Law.

23 CHAIR: Okay, second?

24 MR. ASSAL: I second.

25 CHAIR: Second. Any other discussion?

1 All in favor say aye.

2 (Aye.)

3 CHAIR: Opposed? Okay, number eight,
4 projected changes in vessel traffic. This was
5 one that we had lots of discussion on by both
6 sides. It's represented on Page 42-45.

7 MR. SOLA: I move we accept the
8 investigator's report on Item 8.

9 CHAIR: Thank you, Commissioner Winegeart.
10 Second.

11 MS. KURTZ: Second.

12 CHAIR: Second, Commissioner Kurtz.
13 Discussion? All in favor say aye.

14 (Aye.)

15 CHAIR: Opposed? It passes. Number 9,
16 cost of retirement and fringe benefit plans.
17 This is the cost, not alternative models. I
18 personally felt the costs were represented
19 here. I felt the alternative models was not
20 well represented by either side in presenting
21 what is market relevant health care and
22 retirement plans that should be utilized, but
23 that's a different point. So the question is
24 costs, are they represented appropriately here.
25 Do I have a motion? Mr. Law?

1 MR. LAW: On Page 48 we do try to analyze
2 the valuation. It's not just the historical
3 costs, but also project estimated valuation
4 factors, so it's a little bit more, want to be
5 sure that your observations included the entire
6 section.

7 CHAIR: That's evaluation of the existing
8 plan?

9 MR. LAW: No, that's the benefits, the
10 30,000 to 45,000 --

11 CHAIR: Of the current base --

12 MR. LAW: -- estimate in --

13 CHAIR: Yes, the current -- yeah, okay.
14 Yeah, my -- my comment was alternative
15 benefits.

16 MR. LAW: Correct.

17 CHAIR: Okay. Commissioner Sola.

18 MR. SOLA: I believe that Mr. Law did the
19 best that he could. This is a very complicated
20 issue that we saw, and we had numbers that were
21 all over the place. I just don't know, you
22 know, the numbers vary so much that, that I
23 definitely believe that we're going to have to
24 retouch this topic in the future. Would it be
25 possible to include both, both sides of the

1 proposals, or information on what they, they
2 believed was the actual current value of the
3 benefit plan, and for the record?

4 CHAIR: Mr. Jennings.

5 MR. JENNINGS: Well, it's already in the
6 record. Everything was presented. That's all
7 the record. Everything for the last three days
8 is the record, so it's there. I only offer
9 this for your consideration, not to persuade
10 you one way or the other. Accountants and
11 actuaries, I think even actuaries, are much
12 like lawyers and economists, you get a bunch of
13 us in a room and ask us a single question, you
14 will probably get multiple answers. It's all
15 based upon how we review the facts and analyze
16 them in our minds. You have -- you've heard
17 information from the parties, both sides have
18 given you numbers, and their accountants have
19 presented their opinions as to this issue.

20 You have your investigative committee,
21 someone without a vested interest in the
22 discussion who is giving you their opinion. So
23 it's up to you now to decide whether or not you
24 want to accept the investigative committee's
25 conclusions, one party's conclusions, the other

1 party's conclusions, or something totally
2 different. It's entirely up to you, but those
3 are your options.

4 MR. WINEGEART: Mr. Chair.

5 CHAIR: Go ahead.

6 MR. WINEGEART: I just would like to point
7 out on Page 48 Mr. Law states that the
8 valuation is a highly judgmental issue, so
9 because that is there I, I do support a motion
10 to accept it.

11 CHAIR: Okay, we have a motion. Second?

12 MR. SOLA: I second the motion, with the
13 highly judgmental.

14 CHAIR: Thank you. Any other discussion?

15 MR. JENNINGS: Once again all we're saying
16 is we believe the costs of the retirement and
17 medical plans are accurately represented here,
18 not the alternatives, or whether it's
19 reasonable.

20 CHAIR: All in favor say aye.

21 (Aye.)

22 CHAIR: Opposed. Okay, it passes. Number
23 ten, physical risk inherent in piloting.

24 MS. KURTZ: I make a motion to accept that
25 as --

1 CHAIR: There is a motion. Second?

2 MR. WINEGEART: Second.

3 CHAIR: Second. And any discussion?

4 Everybody understands the risks. So all in
5 favor say aye.

6 (Aye.)

7 CHAIR: Opposed? Number eleven, special
8 characteristics, dangers, and risks of port.
9 Motion?

10 MR. WINEGEART: I move to accept number
11 eleven.

12 CHAIR: Commissioner Winegeart motion.
13 Second by Commissioner Kurtz. Any discussion?
14 All in favor say aye.

15 (Aye.)

16 CHAIR: Opposed? Any other factors, the
17 famous any other, or other relevant information
18 on 53.

19 MS. KURTZ: If this is sort of the opinion
20 part of it are there facts to validate, this is
21 kind of what the whole thing is about.

22 CHAIR: Well, this is your famous other
23 category that you can factor anything else in.
24 I think the only question at this point is, is
25 what he included in other relevant information

1 agreeable to you. This doesn't have to be all
2 inclusive.

3 MR. JENNINGS: I think maybe Mr. Law --

4 CHAIR: I'm sorry, Mr. Law --

5 MR. JENNINGS: No, I saw his face. I
6 thought maybe he wanted to add something to it,
7 or an explanation to the paragraph. I
8 apologize. But along those lines, Mr.
9 Chairman, yes, you are correct. If you adopted
10 this that doesn't mean you can't adopt others.

11 CHAIR: Is there a motion?

12 MR. OATIS: So moved.

13 CHAIR: So moved by Commissioner Oatis.
14 Second?

15 MR. SOLA: Second.

16 CHAIR: Commissioner, by Commissioner
17 Sola. Any other discussion? All in favor say
18 aye.

19 (Aye.)

20 CHAIR: Opposed? Okay. Do we need
21 thirteen too? I guess -- is that -- is
22 thirteen -- thirteen -- do I need to hit
23 thirteen?

24 MR. JENNINGS: Yes, sir.

25 CHAIR: Okay. Thirteen is about the

1 considering, considering the CPI on relevant
2 economic indicators when fixing rates. As to
3 that I'm not sure -- basically it's just saying
4 it's not to be used as the sole factor. I
5 don't think we ever said we were -- show the
6 financial implications. Can I have a motion to
7 accept number thirteen?

8 MR. JENNINGS: If -- if I may, Mr.
9 Chairman? And maybe I'm, I should ask Mr. Law
10 to do this, but it seems to me that thirteen is
11 simply Mr. Law's analysis showing, or the
12 committee's analysis showing what CPI, what the
13 affect, what CPI would be, what it's projected
14 to be, and what impact it would have. Is that
15 a fair summation, Mr. Law?

16 MR. LAW: Actually -- sorry. There's not
17 a projection of what it would be. It's really
18 a historical comparison of CPI in this section.
19 The only part where we project the CPI was a
20 rate analysis of the, looking forward on the
21 requested, requested rate, and on the financial
22 projections for policy.

23 CHAIR: Okay, do we have a motion?

24 MR. SOLA: I motion.

25 CHAIR: Commissioner Sola. A second?

1 MR. ASSAL: Second.

2 CHAIR: Commissioner Assal. Any other
3 discussion on number thirteen? Okay, all in
4 favor say aye.

5 (Aye.)

6 CHAIR: Opposed? Okay. All right, that
7 was kind of long but it was good. So now --
8 yes, Commissioner Jennings.

9 MR. JENNINGS: You've -- you've promoted
10 me --

11 CHAIR: Counselor.

12 MR. JENNINGS: -- Mr. Chairman, but I will
13 refrain from voting. No, there -- there is
14 still the issue of the, I think for lack of a
15 better term, air. Do you want to discuss that
16 now?

17 CHAIR: Help me out.

18 MR. JENNINGS: Well, the -- it's the
19 concept of air, as opposed to -- go ahead.

20 MR. OATIS: The concept of air is somewhat
21 addressed in Section 12 under relevant
22 information, where it talks about the FCCA, the
23 FCCA assertion about the increase in size of
24 the cruise vessels, vessels, and how that is
25 impacting the fee rate that they're being

1 charged. But I'll open it up to additional
2 discussion.

3 CHAIR: Okay. I mean, yes, the concept
4 was discussed. I don't think anybody would
5 disagree with the concept but what are you
6 asking?

7 MR. SOLA: That was the reason I made the
8 motion, because I agreed with that aspect --

9 CHAIR: Right. And I think what Clark is
10 looking at here is just to kind of solidify
11 that as a finding of fact for the concept of,
12 of the air, or the --

13 MR. SOLA: Let me go ahead and -- the
14 reason that I made the motion in Section 12 was
15 because Mr. Law's assertion of the difference
16 in rates, and the epical tonnage of the air,
17 which was --

18 CHAIR: So is that adequate?

19 MR. JENNINGS: Yeah, I think that that --
20 yes, sir.

21 CHAIR: Okay.

22 MR. JENNINGS: Yes, sir, I just wanted a
23 little bit more explanation on where we were
24 going with that, because clearly when you start
25 talking about GRT, and we heard the FCCA talk

1 about, you know, Admiral Baumgartner explaining
2 gross tonnage, and how much of that was in fact
3 air, and we just, we didn't consider that as a
4 -- excuse me. You just needed to consider
5 that. And I wanted, I wanted that on the
6 record.

7 CHAIR: Okay, that's good. Any other
8 items like that that you can think of that --

9 MR. JENNINGS: No, sir, not at this, not
10 at this time. Oh, sorry, Mr. Law does. Mr.
11 Law.

12 MR. LAW: Just from being an observer on
13 what I heard from both sides, in addition to
14 what is in Section 12, it seems to me that
15 there were two presentations with air factor,
16 by the pilot's value, passenger, other factors,
17 and those were two very significant parts of
18 this whole pay rate I believe, and so if you're
19 finding a fact -- you just accepted the air
20 factor, but are you also acknowledging the
21 passenger value tonnage assertions that are
22 made by this side?

23 Are you taking it directly from FCCA's
24 perspective, or are you blending it with these
25 factors on that side to come up with a fair

1 adjustment rate? I'm just -- I'm just an
2 observer, but I think a fact needs to be -- I
3 think what we need to have is something on the
4 record of what you think about what was
5 presented.

6 MR. JENNINGS: No, that's absolutely
7 correct. And as we go through this process I
8 suspect that we will have more of a discussion,
9 but I think what Mr. Law is suggesting, and
10 it's a valid, you know, welcome suggestion,
11 because if you want to have some general
12 discussion of that right now, and point to the
13 record to explain where you're going, because
14 that is a key element to, to any type of rate
15 adjustment that, that seems to be coming down
16 the road here, so do you want to discuss it
17 now, and start pointing to the material
18 presented by the pilots, and by the FCCA, or do
19 you wish to just incorporate that as we go
20 through, but you do need to be cognizant of
21 that, and you are going to have to add some
22 more material.

23 CHAIR: Okay, Commissioner --

24 MR. OATIS: And I guess in discussing that
25 I think there's a differentiate in there

1 between a characteristic of the vessel being
2 the air, the GRT, and how it inflates the fee,
3 versus the passengers not necessarily being a
4 characteristic of the vessel, and how we
5 consider that in the rate pricing.

6 CHAIR: Commissioner Kurtz.

7 MS. KURTZ: There's this assumption that
8 all cargo vessels, you know, the deck sort of
9 stops close to the water, and that there's
10 nothing above it, and so the cargo that's on
11 deck, you know, isn't part of the equation.
12 There are other kinds of cargo vessels that do
13 have very high enclosed decks, the car carriers
14 and lumber carriers, and they look like cruise
15 ships but they don't have balconies, and
16 they're big, wind affected, high sided, and
17 their tonnage is higher, and they pay according
18 to tonnage because, you know, that's how it's,
19 it's done, you know, the draft accounts for how
20 much cargo is on board, but the design of the
21 ship is to serve their purpose specifically.

22 It looks more like a cruise ship running
23 around than it does, you know, like a tanker.
24 So, you know, not all ships look like these,
25 you know, nothing on the deck that had been

1 presented, that, you know, between here and
2 here there's nothing. There are plenty of
3 ships that run around that have something
4 between here and here.

5 CHAIR: Commissioner Sola.

6 MR. SOLA: Yeah, I -- I totally agree with
7 some of the cargo vessels are different. I
8 would like to point out in Mr. Law's Exhibit B
9 where the differentiates, and the end of, cargo
10 vessels are charged after a certain tonnage,
11 for it to be 100,000 -- basically the way I see
12 it is 100,000 GRT. After that it's exclusively
13 cruise vessels. I strongly believe that a
14 formula should be done in the future that would
15 take everything into consideration for cargo
16 vessels and cruise vessels, to include length
17 and beam as I've said many times before. I
18 don't know if we're going to get to that today.

19 But in -- in the assertion done by Mr.
20 Law, and the motion that I made for Section 12,
21 I believe that the cargo vessels are being
22 charged additionally for air on that, on that
23 area of over 100,000 GRTs.

24 CHAIR: Commissioner Winegeart.

25 MR. WINEGEART: I think the gross tons

1 that you pointed out is an accurate indicator
2 of revenue that a vessel can generate, and that
3 is how pilots should be, should be based,
4 because if not why don't you charge the same
5 dollar amount for every vessel that comes in?
6 There has to be a sharing of the expense to
7 port users for the infrastructure of the pilot
8 association, and the way to do that is to --
9 the vessels that have the ability to pay more
10 because they can make more money with their
11 vessels, which the gross tonnage is an
12 indicator of that. That's how you have the
13 infrastructure of the pilot --

14 MR. OATIS: I guess my only thoughts on
15 that, one, was that at some point we talked
16 about dealing with the cargo vessels, and the
17 capability to carry, carrying certain loads,
18 could have higher value or lower value, so I
19 think what we're trying to quantify is the
20 passenger vessels, if they have a fixed value
21 they can produce because of the passengers on
22 board, versus cargo vessels, their value can
23 fluctuate. It's a different -- and trying to
24 integrate that into a calculation I think in my
25 perspective steps away from fair and

1 reasonable, because it's not necessarily an
2 ability to pay that should be determining what
3 the rate is, it should be, the service being
4 provided, whether it's to someone who is wildly
5 profitable or on slim margins, it's the service
6 being provided that should be driving that.

7 MR. WINEGEART: Well, that goes back to my
8 comment that in that, if that was the case then
9 essentially every vessel pay the same amount,
10 and it's not a formula that would work.

11 MR. OATIS: Well, but the formulas that
12 are there are not necessarily to recognize the
13 value that the vessel is creating, but more
14 the, the challenge and the risk that each one
15 poses, and that's why the gross tonnage and the
16 draft have an impact on the, on the fee. The
17 larger the draft the larger the gross tonnage,
18 in theory, the more risk that it would present.

19 MR. WINEGEART: Correct. And the larger,
20 these 165,000 gross tons and higher vessels
21 that we're talking about are, in fact the
22 Biscayne Bay Pilots have had to make
23 restrictions, wind restrictions on the 225
24 gross ton vessels on (unintelligible) which
25 indicates that they in fact are more difficult

1 than other vessels.

2 CHAIR: Commissioner Kurtz.

3 MS. KURTZ: There was -- I don't remember
4 whose presentation it was in but the, the port
5 charges dockage according to gross tonnage
6 also, and I'm wondering if the ports have been
7 subject to this kind of controversy about how
8 they're calculating rates. You know,
9 particularly if a ship is taking up 1,000 feet
10 alongside a dock it's taking up 1,000 feet
11 alongside a dock, and if they're charging gross
12 tonnage it seems to me that at least someone
13 else is accepting the way that calculated.

14 MR. SOLA: Commissioner Kurtz, I tried to
15 find that online, and I looked through their
16 website, and I couldn't find it.

17 MS. KURTZ: I'm just going by what I heard
18 here yesterday, and the day before.

19 MR. ASSAL: Port Everglades has a harbor
20 master, and they get -- I don't know because
21 I'm not a pilot, and I don't know how that
22 works, but I'm assuming that the harbor master
23 controls --

24 MS. KURTZ: I'm not talking about harbor
25 master, that vessel control. I'm talking about

1 the port charges a fee for how many, how much
2 room you take up at a dock, and there's a graph
3 that the Biscayne Bay Pilots presented having
4 to do with port fees and, you know, all sorts
5 of other things, and it showed, you know, the
6 pilots revenue is squat and everyone else's
7 revenue is going up. And we were told at some
8 point, or it was written down, the, you know,
9 that the vessel is charged according to its
10 gross tonnage, not its physical dimensions. So
11 I found that very interesting, and wondering
12 why it's acceptable for one entity to charge
13 you according to that and, and not another.

14 MR. JENNINGS: Commissioner Kurtz, did he
15 help --

16 MS. KURTZ: Would it help if I could find
17 it?

18 MR. JENNINGS: No, no, no, no, no, no, no
19 I was just going to ask as a lay person -- I
20 heard the term wharfage, is that what you're
21 talking about?

22 MS. KURTZ: Yeah.

23 MR. JENNINGS: Okay. I'm trying to recall
24 which one -- I recall the conversation. I'm
25 trying to recall which --

1 MS. KURTZ: Right. And then there's a fee
2 that's charged, you know, it's like you're
3 paying for your parking spot basically, and it
4 was stated to us that that's how the charge is
5 assessed, is according to the gross tonnage of
6 the vessel, so I was just wondering, just out
7 loud.

8 MR. SOLA: Going back to what Captain
9 Winegeart said, I really don't believe that
10 what the cargo is carrying should basically
11 have anything to do with the rate. I believe
12 that he was correct when he said that it should
13 pay by the, by the characteristics of the ship,
14 by length, the beam, the tonnage, and the
15 draft. And unfortunately we don't, we don't
16 have that, that formula with us, so we're,
17 we're trying to do the best we can and apply
18 it. Some people really like the, the
19 beautiful, the beautiful glass sides, and the
20 stuff of the cruise ship. I prefer the other
21 side, I believe, you know, the cranes and stuff
22 look, look more beautiful, and are more
23 appealing, and have a wonderful impact here on
24 the community.

25 CHAIR: Yeah, I agree with Commissioner

1 Sola. I mean there's a lot of presentation
2 comparing passenger revenue to different
3 statistics models that is irrelevant because
4 the profitability of the cruise lines is not an
5 issue here, it's the costs recovery of the
6 service, so. Any other discussion? Okay.

7 All right, last night some of us slept.
8 One of us did not. And you've put together a
9 homework assignment looking at the rate
10 structure, and can I just turn it over to you
11 to sort of present what you've put together?

12 MR. OATIS: Yeah. We had some difficulty.
13 We ran out of paper.

14 CHAIR: We have plenty of people her.

15 MR. JENNINGS: Well, Mr. Chairman, if I
16 may probably just one protective motion so I
17 don't run afoul of something later, if I could
18 have a motion from someone on the committee to
19 essentially say that with regards to all the
20 exhibits attached to the investigative report,
21 where they relate to those facts, to have
22 adopted that you include those in your motion
23 to adopt. Essentially I want you to adopt the
24 exhibits where they support the findings that
25 you've already made.

1 MR. WINEGEART: So moved.

2 CHAIR: All right, why don't we take a
3 five minute break, a restroom break while we
4 get paper, and we'll come back --

5 MR. JENNINGS: Do you want to take care of
6 that motion?

7 CHAIR: No, let's -- two -- we got two
8 Board members that have gone out --

9 MR. JENNINGS: Sorry.

10 CHAIR: So let's convene at 10:10.

11 (Thereupon, a brief break was taken off the record
12 and the proceeding continued as follows:)

13 CHAIR: Okay, let's reconvene here. It's
14 10:15. Ms. Ann sent an e-mail to all the Board
15 Members, and some of the interested parties.
16 The first e-mail should be deleted, I cannot
17 open it, and -- the second and third. But it's
18 actually going to be presented here on the
19 screen. Mr. Oatis, are you ready?

20 MR. OATIS: Yeah. I was hoping to get it
21 to a full screen so everyone could see it, but
22 --

23 CHAIR: Do the printouts not work?

24 MR. OATIS: Well, the printouts don't have
25 the, the notes, unfortunately. I guess in here

1 we can still pass them out. The notes can be
2 seen up there.

3 CHAIR: And this handout is what?

4 MR. OATIS: Essentially consistent with
5 what's on the presentation, just formatted
6 differently, and comments coming through.

7 MR. WINEGEART: Okay, before we jump into
8 that -- are these two different --

9 MR. OATIS: Yeah, it's Bate's (phonetic)
10 case -- it's two different pages.

11 MR. WINEGEART: It's two different pages.

12 CHAIR: All right, so we had a motion on
13 the floor from Commissioner Winegeart to accept
14 exhibits from the investigative report. Do I
15 have a second?

16 MS. KURTZ: Second.

17 CHAIR: A second from Commissioner Kurtz.
18 Any other discussion? All in favor say aye.

19 (Aye.)

20 CHAIR: Opposed? Okay, that passed.
21 Okay, Commissioner Oatis, you have the floor.

22 MR. OATIS: Thank you. As Joe Wilkins
23 mentioned last night following the, the
24 conversations we had, we had a lot of tasks
25 ahead of us, as far as trying to consider what

1 a rate structure would look like in order to,
2 to integrate all of the, the findings of facts
3 as we have now accepted them into the record,
4 and so the initial concept was looking at the,
5 the Port Everglades application, because it
6 provided a rate, a tiered structure. And I
7 think what we saw on that tiered structure was
8 the benefit, and the value that would provide
9 in recognizing the different levels of vessels,
10 basically looking at the concept of air, that
11 we had just been discussing.

12 An when we got into the actual
13 calculations I realized it was a lot more
14 complex to try and apply the Port Everglades
15 application on its face using the same numbers,
16 using the same ranges, and so the approach that
17 was taken basically looked to apply concepts
18 from that application, concepts from that
19 tiered rate structure in order to integrate
20 them into our current facts, so a lot of
21 thought went into it. Again I think that it's
22 important to keep in mind what we're going to
23 be using it in are the 2016 actual amounts that
24 were provided in, in Mr. Law's report, but they
25 are, they're aggregated such that you can see

1 that they are in their gross tonnage ranges,
2 and so to some extent when you aggregate the
3 information like that it almost functions as an
4 estimate, because we don't have each specific
5 handle, we don't have any specific handle
6 information, and so the -- the purpose in all
7 of this is to provide an apples to apples
8 comparison to that report that was provided in,
9 in Mr. Law's findings.

10 So what you'll see here that we have
11 currently on the screen is basically a break
12 down of that report, and the way that it's
13 broken down is showing the vessels under
14 100,000, and then the vessels 100,000 and
15 above. It breaks down the total revenue as
16 provided, so this, this amount ties out to the
17 dollars which was in the report. It somewhat
18 breaks it out then into the two different fees,
19 one being the gross ton fee, and the other
20 being the, the draft fee.

21 Now the -- it's somewhat of a challenge,
22 again, because we're dealing with what I'm
23 going to say is our estimates, is that when we
24 got to the, the draft fee, and tried to back
25 into the amounts that were shown in the report,

1 there was a large margin of error. I think it
2 was 10 to 15 feet, right, if I were, if I
3 remember correctly, that, you know, the feet of
4 draft in deriving what the fee was that had to
5 have been charged based on the overall revenue,
6 and so -- again keeping in mind that these are
7 estimates, what we're attempting to do here is
8 essentially to focus on the, the gross rate
9 fee, in order to determine on a tiered level,
10 looking at every 10,000 of GRT once you get
11 past the first initial 5,000, and how it was
12 calculated.

13 So again this is the initial amount as
14 reported. Unfortunately I'm sure you all can't
15 really read that too well, can you? You have
16 that there? Okay, wonderful.

17 So as I mentioned what we ended up working
18 through was trying to integrate the findings of
19 fact into a rate structure that would be fair,
20 reasonable, and just. I think that's, that's
21 the ultimate goal here, is to produce that rate
22 structure, and so in going through some of the,
23 both applications, and some of the requests
24 that were there, the, the first item that you
25 see was added here was the harbor control fee.

1 And again this is on a per handle basis of, you
2 know, the request from the BBP was for \$100 per
3 handle, and so that has been integrated into
4 this calculation in order to provide that fee
5 for their, the harbor control services they
6 provide that are essentially currently not
7 being compensated for.

8 The second aspect, and obviously the, the
9 one that probably took the most thought, and
10 the most time, relates to the GRT rate
11 structure. And again I think the, the thought
12 process, again hearing our conversations,
13 hearing the findings of fact, hearing the view
14 of the way that the higher gross ton passenger
15 vessels and how their fee is calculated as
16 originally was, based on a flat rate.
17 Everybody was charged the same flat rate for
18 the gross tonnage.

19 And included in the findings of the facts
20 that from, from Item 12, as we've recently
21 discussed, there are a number of considerations
22 that are included in here in order to reflect
23 -- I think that the, what you'll see here in
24 these three tiers is the, the mathematical
25 depiction of the marginally decreasing risk

1 that these modern highly sophisticated
2 passenger vessels contribute to the pilotage
3 service, and so in that consideration it
4 reflects the, the skill and the expertise of
5 the captains and their crew. It reflects the
6 advances propulsion technology with the
7 azipods, with the thrusters, and the ability to
8 maneuver.

9 It reflects the advanced technological
10 navigational systems. Also within that it
11 reflects the, basically the concept of the air,
12 the concept of how the gross tonnage
13 calculation was based on a space of air that
14 wasn't necessarily commensurate with the
15 overall, I'd say risk that was created. And so
16 the, the rate structure as we have set it up,
17 and again this is in consideration of the, the
18 sums in both applications, and trying to come
19 to a place where we are acknowledging
20 everything that's been discussed, and again as
21 a conduit for that two days of discussions,
22 trying to translate that into numbers.

23 Again this is somewhat based on estimates,
24 ultimately looking to do an apples to apples
25 comparison. And so the Tier 1 structuring for

1 the fee is a, it's a 12.4 increase. Again some
2 of the challenges we face here in doing this
3 analysis is that we can't necessarily look at
4 it on a five year projection right now, so this
5 is taking a one year snapshot. And this --
6 this provided the 12.4 increase to the base
7 rate, and so that is, what that is is that's a
8 two year compounded increase of 6%. So from
9 that rate we then have a decrease based on a
10 marginally increasing gross tonnage, so once we
11 get to 50,000 there is a 35% decrease to the
12 rate for all gross tons over the 50,000, 40,000
13 amount.

14 That continues on until a third tier.
15 Once you get to 100,000 it provides for another
16 35% decrease to the rate for the marginal
17 increase in gross tonnage over that amount.
18 And so that applies consistently, again, to
19 passenger and cargo vessels. You can see hat
20 the rates are being applied in that handle.
21 The note here, and this was something that we
22 had talked about last night during our
23 discussion, was the neopanamax, in the request
24 for two pilots on a neopanamax, so again to
25 have a discussion, to have an integration of

1 that concept into this calculation, the, the
2 90,000 gross ton cargo ships were deemed to be
3 the neopanamax ships, and so they had a double
4 grade for the use of two pilots.

5 MR. SOLA: Which ones?

6 MR. OATIS: The -- the 90,000 cargo ships,
7 the very last line. And then the -- the other
8 aspect we addressed, as was addressed in the
9 Port Everglades application, relates to drafts,
10 and again the approach taken here was to look
11 at the request that was made for a six year, or
12 for a 6% increase over five years for the draft
13 rate, and the way that we kind of tiered that
14 into a structure, a tiered structure, was to
15 say that first implementing the 18' minimum,
16 18' minimum as requested, so from an 18' to 28'
17 the rate would remain the same.

18 For any ship from 28' up marginally would
19 pay at a higher rate, which was calculated
20 based on that five year compounded increase of
21 6%, in order to have a tiered rate structure
22 for the higher draft ships that within Port
23 Miami are more challenging to pilot. And so
24 that is the tiered structure again implementing
25 a concept similar to what you had seen from the

1 Port Everglades application, but fine tuning it
2 to the extent we could for our current case
3 here. So the -- the overall impact is somewhat
4 measured here just to show what the increase in
5 revenue is overall for all handles from the
6 base case of 2016, ultimately shows a around
7 27,000 increase per pilot FTE, which roughly
8 represents around 7%, while also looking at the
9 different tiers and levels of passenger ships
10 and cargo ships, roughly seeing a 17% decrease
11 in large passenger vessels over 100,000 pounds.

12 And again the, the overall concepts here
13 are essentially estimates using the actual
14 numbers that we had in order to reflect the
15 findings of facts that we discussed.

16 Questions?

17 MR. SOLA: Well, I look forward to hearing
18 from -- sorry.

19 MS. KURTZ: Thank you.

20 MR. WINEGEART: I look forward to hearing
21 from both sides after they analyze this, but
22 right off the bat I believe the testimony on
23 the neopanamax was that they were not going to
24 put two pilots on every job, but occasionally
25 because of circumstances, that they were so --

1 did you say that you included two pilots on
2 every job over 90,000 tons?

3 MR. OATIS: At the 90,000 tons, yeah, just
4 to, just to reflect some inclusion of the
5 neopanamax.

6 MR. WINEGEART: So how many jobs would
7 that be that you have double pilot --

8 MR. OATIS: A hundred and two.

9 MR. WINEGEART: I think that's a
10 miscalculation, a good way to say it, But I'll
11 leave that to the Biscayne Bay Pilots to let us
12 know.

13 MR. JENNINGS: Mr. Chair, we look to you
14 now for procedure --

15 CHAIR: Let's finish the Board comments
16 first -- yeah, I wanted to follow up on that
17 comment from Commissioner Winegeart. So that's
18 the.0818, and basically, I mean basically you
19 just doubled, is that -- okay. And that number
20 of handles isn't there today, right?

21 MR. ASSAL: It's not there.

22 CHAIR: Right. Okay, so did you take --
23 just the methodology I hadn't bounced back, did
24 you take a hundred and two handles away from
25 other categories, or add, was that added to --

1 MR. OATIS: Well, the hundred and two
2 handles is just the, that was the amount for
3 that level, so I didn't, I didn't adjust the
4 number --

5 CHAIR: That already was there.

6 MR. OATIS: Yes. Yeah, all -- all those
7 amounts were taken from the base case.

8 CHAIR: Okay. Okay.

9 MR. OATIS: The only amounts that
10 theoretically would have changed are the ones
11 highlighted in yellow.

12 CHAIR: Okay. And what is the -- I don't
13 have it on your budget. If you add up the
14 harbor control fee in totality what, what's the
15 annual numbers that would come out of that?

16 MR. OATIS: It's about 500,000 --

17 CHAIR: Did you already say that?

18 MR. OATIS: No.

19 CHAIR: Okay, so that's 500,000 of a new
20 revenue for a new fee that you're introducing,
21 and that fee exists at Everglades today. Do
22 you --

23 MR. OATIS: It's actually high -- it's
24 higher than most other ports, was my
25 understanding.

1 CHAIR: Does any -- do you or any of the
2 other Board members know how much money they
3 collect in the Everglades for that? I was just
4 curious.

5 MR. LAW: Yes.

6 CHAIR: Mr. Law.

7 MR. OATIS: And also I think --

8 MR. LAW: It's in the report. It's
9 \$937,000 a year. So they're, they're roughly
10 asking for half, about half -- it's a tiered
11 rate based on tonnage.

12 CHAIR: Okay. I personally liked that
13 concept, because like you said it's a
14 capability that they've been doing for years,
15 but have been hidden in the rate structure, so
16 you're bringing it out.

17 MR. OATIS: Right. Does it make sense,
18 that Mr. Law comment at all, that to some
19 extent on the process that we had gone through,
20 with your involvement, is there anything you
21 would like to add to what I have said?

22 MR. LAW: To everything?

23 MR. OATIS: Yes.

24 MR. LAW: Or just on the harbor control --

25 MR. OATIS: No, to everything, before we

1 get too far into the details.

2 MR. LAW: I think he's done a lot of hard
3 work very quickly, and I'm just concerned about
4 the -- does the result of all that -- will the
5 end result be what you intend, and is it fair
6 and reasonable, and just to everyone. And --
7 and I think it's really, as you said it's very
8 hard to -- it's a lot of aggregated
9 information, and when you get down to the
10 detail information we don't know, you know, the
11 affect on some, some individual, individual
12 vessels, so I just think there's a, a little
13 bit of a, I mean I think there's a risk in, I
14 mean in the consequences of this --

15 MR. OATIS: Well, I mean to some extent, I
16 guess for the rate adjustment there, I wouldn't
17 necessarily look at it as unintended, I mean at
18 some point in a rate adjustment there's going
19 to be a shift, so it's going to shift from
20 some, one side to another, from, from one group
21 to another, and I think doing through the
22 process there was an attempt to consider all
23 groups that are represented within this
24 calculation. Not necessarily within this room,
25 but within this calculation in the, the fair,

1 reasonable, and just analysis.

2 CHAIR: Commissioner Kurtz.

3 MS. KURTZ: One of the things that jumps
4 out to me right away is that for passenger
5 vessels you start the decrease at a pretty low
6 tonnage. It seems to me this didn't become an
7 issue until all of this air became an issue,
8 and so to start that decrease at 50,000 tons,
9 that doesn't seem reasonable to me. This whole
10 thing didn't even come up until ships got over
11 100,000, or 120,000 gross tons. You know, and
12 if you want to take all those arguments about
13 air because you have a philosophical
14 disagreement with the use of gross tonnage, I'm
15 not really sure how you could apply that to the
16 smaller ships fairly. And that seems to be a
17 big, a big leak in the argument.

18 MR. OATIS: And the way that -- and, you
19 know, we actually had good discussions about
20 that as well, because to some extent you have
21 to tier into this, because if not you end up
22 with a -- if you have a vessel that has 49,000
23 tons, versus another one that came in at 51,000
24 ton, if you, or at any different breaking
25 level, if you don't have a tiered structure

1 that 51,000 ton vessel could pay less than
2 49,000 tons, so you have to somewhat start an
3 integration process. So rather than going from
4 0-100, and then having a larger percent
5 decrease it's slowly starting to phase in a
6 decrease at higher levels.

7 MS. KURTZ: Okay, but I still think 50,000
8 is way too low as a place to start the
9 decrease, again because the, the opposition to
10 even -- this wasn't even on anyone's radar
11 until ships got really, really big, and so I --
12 I see what you're saying about a bigger ship
13 paying less than a smaller ship, and, and I
14 really appreciate all the work you did, because
15 I'm trying to wrap my mind around it, and this
16 would have taken me a month to do, but --

17 MR. OATIS: But I think that's also --
18 that's our responsibility. Obviously the
19 environment has changed, you know, from where
20 the original formula was set up, you know, we
21 are in a much different world with the size of
22 these ships.

23 MS. KURTZ: But no -- no, no, I get that,
24 but I -- I still -- I really feel that starting
25 that decrease at 50,000 is, it's just way too

1 low.

2 MR. OATIS: Okay.

3 CHAIR: Is that how the Everglades is?

4 MR. OATIS: No, theirs is at I believe 80.

5 CHAIR: 80.

6 MR. OATIS: 80 to 130 is where the tiers
7 are.

8 CHAIR: Commissioner Assal.

9 MR. ASSAL: But you had an increase of
10 12.4.

11 MR. OATIS: Correct.

12 MR. ASSAL: Which I think is a little
13 aggressive.

14 MR. OATIS: It is. And again is that
15 something that we would look at in the --

16 MR. ASSAL: And on top of that, in the
17 \$100 handling fee, of harbor control fee, when
18 you add all that up the small ships, or the
19 small boats are going to be affected heavily.
20 If you look at the numbers from 335 to 618
21 that's almost 100% costing. I like the tier.
22 I'm going to give my opinion. At least I like
23 the structure. Whether we agree on the
24 percentages, or where it should decrease, or
25 get that volume discount, whatever you want to

1 call that, the break, I think it's great, I
2 just -- my concern is that the increase of 12.4
3 plus the handling fee, it adds, when you talk
4 about 5,000 per handles, increases, and the
5 12.4%, it's just a significant amount to get
6 hit at one time.

7 MR. OATIS: It is. And that was also
8 considered as well in our discussions. And the
9 thought being that this was an attempt do a
10 snapshot, intentionally it's an increase that
11 gets phased in over a four, five, six year
12 period, so that vessels have the ability to
13 account for, it was definitely something that
14 was considered.

15 MR. ASSAL: So just understanding your
16 mind, the 12.4 came, you calculated that by
17 just recognizing they had this 6% annual thing,
18 and instead of accepting that, saying we'll do
19 a one time 12, and you were, sort of planned
20 the what ifs to get it close to total revenue,
21 right?

22 MR. OATIS: It shows roughly a 7 to 8%
23 increase.

24 MR. ASSAL: Okay.

25 MR. OATIS: In the total revenue, but --

1 but correct, yeah, still looking to the
2 original applications, and some concepts within
3 there.

4 CHAIR: Other questions?

5 MR. WINEGEART: I'll -- I'll just -- I'll
6 just say as far as -- and I had that same
7 concern yesterday about the smaller vessels,
8 but when I reviewed the information there's
9 actually a letter in support of Biscayne Bay
10 Pilot's increase, which would be much more than
11 this, from the small vessel operators in Miami
12 River, so that kind of allayed by fears on
13 that.

14 And I also agree on the, where the tiering
15 starts. I agree with Commissioner Kurtz. I
16 think we all -- we discussed how the, some of
17 these tons, just 40,000, 50,000, 60,000, 70,000
18 were already, the cargo was already paying more
19 per handle, or per whatever, per whatever, so I
20 think the tiering points need to be adjusted.
21 And then again I'll just reiterate the, the
22 amount of money on the neopanamax. I don't
23 think that would come to fruition.

24 MR. OATIS: That was in the report. The
25 hundred and two handles for the 90,000 ton

1 cargo vessels was provided for in Mr. Law's
2 investigative report from the information he
3 had received.

4 MR. LAW: Correct, there's an assumption
5 that they're neopanamax.

6 MR. OATIS: That -- that is also correct.

7 MR. WINEGEART: Which they are not today,
8 so --

9 MS. KURTZ: And also there's no guarantee
10 that they're going to put two pilots. I think
11 they were looking for permission to put two
12 pilots in certain circumstances, so, you know,
13 to assume a double pilot, I don't think they
14 can just go ahead and say, well, we're going to
15 put two pilots and charge you double. I think
16 they need permission from the committee to be
17 able to do that, but I don't know that that's a
18 guarantee, they're putting two pilots on all of
19 these ships, so, you know, I would be careful
20 about that, because that goes into their
21 operations, you know, and a big assumption is
22 being made.

23 MR. OATIS: Understood. A lot of -- a lot
24 of assumptions.

25 MS. KURTZ: There are. And, you know, I

1 don't have a problem with the tiered structure,
2 I just don't agree --

3 MR. ASSAL: With the starting point.

4 MS. KURTZ: With this particular tiering.
5 And I'm just wondering, you know, how many
6 different scenarios, you know, we have to look
7 at to get to a place where, you know, people
8 are feeling they're paying equally.

9 CHAIR: Well, the beauty of this is it
10 takes into account a model that most of us
11 think in another jurisdiction is the best
12 practice, and it recognizes a discount for
13 higher end sized vessels, which we all think is
14 consistent with the future of the, of the
15 business, and the points you made early about
16 these views. I also like the harbor control
17 fee feature, because that gives them a way to
18 get some money back. And the reality is
19 neither side offered something like this so the
20 Board was forced to come up with it, and so
21 there's going to be, you know, just like in a
22 typical organization when all sides don't agree
23 it gets all the way up to the management, and
24 sometimes people aren't going to agree with
25 what management comes up with, but they were,

1 we were forced to be put into this position.

2 So -- and I'm saying that because I'm
3 reacting to Mr. Law's comment. We've probably
4 got some unintended consequences we can't see
5 right now that are going to be a problem, and
6 so, you know, we can also think through how to
7 deal with unintended consequences of some form,
8 you know, I mean we got to, so, you know, if
9 this thing turns out in models and it's off,
10 make up the number, 30%, and then it creates a
11 real revenue shortfall there, then, you know,
12 we would have to figure out how to address
13 that.

14 I think, you know, I don't think we're
15 basically saying, you know, we're going to
16 throw this in there, you're going to sink or
17 swim with it, and, you know, call us back in
18 six years, right? So -- and it sort of goes
19 back to the comment that one of our, the
20 comment people made yesterday, is we would need
21 to probably come up with a model that we can
22 adjust in a efficient way for this committee
23 that's not going to cost all parties millions
24 of dollars to prepare.

25 MS. KURTZ: Exactly.

1 CHAIR: So I mean I just think that's
2 critical to this, because I think the issue,
3 what I see in everybody's faces, they're all
4 going I like this, this sounds right, but I
5 don't know what, I don't what I don't know. Am
6 I out of line there, or do you all agree with
7 that?

8 MS. KURTZ: I think unintended
9 consequences are definitely a consideration,
10 but I have to just stress again I feel that the
11 break points for the tiering are, are really
12 out of line. I don't think it addresses the
13 problem, or the issues that's been brought
14 before us. I think this is an across the board
15 punitive measure that does not enable the
16 pilots to continue to operate their business in
17 a safe and efficient way.

18 And again, you know, I'm receptive to a
19 lower rate for these really large ships,
20 begrudgingly, but I do understand the position,
21 and, you know, the escalating scale, but to
22 start that at 50,000 tons --

23 CHAIR: I fully agree that I do not think
24 this is the solution -- I'm not -- and I don't
25 think you did, you didn't, you definitely

1 didn't assume that either, so I think we're
2 open, we're all open to negotiations here.

3 MS. KURTZ: Right, but were we able to sit
4 here, you know, today, and come up with all the
5 different scenarios of numbers, and come up
6 with something that is fair, or are we going to
7 suggest that we bring, somebody --

8 CHAIR: I don't see anybody else. Can you
9 model it?

10 MS. KURTZ: -- brings a tiered structure
11 before us that we can --

12 MR. OATIS: Change it out.

13 CHAIR: Well, that's going back to, you
14 know, we've been put in this position.

15 MS. KURTZ: I understand that. But I
16 don't think that we should be, you know,
17 someone's going to make a motion to accept this
18 as presented. I think that would be a huge
19 mistake. But I think to get to the right
20 number it's going to take more than us sitting
21 here talking for a couple of hours. This is,
22 you know, I think it -- I think philosophically
23 it's a good starting point. I think the harbor
24 control fee is a great way to do an equitable
25 add on to, you know, all vessels, that doesn't

1 depend on size. You know, you cannot dismiss
2 gross registered tonnage, it's the
3 international standard for measurement
4 according to the International Maritime
5 Organization that has member countries all over
6 the world, and they're charged by tonnage for
7 membership and no one is arguing with them, so,
8 you know, to destroy the revenue structure in
9 the, in the middle of, you know, as opposed to
10 the high end, which really seems to me to be
11 where all of this started, these ships are
12 gigantic and we're paying this exponential
13 rate, you know, and then you attack the middle
14 -- I really have a problem with that, and --

15 MR. OATIS: Yeah, I see your point.

16 MS. KURTZ: And how are we -- and how are
17 we going to do that by noon? I -- I just -- I
18 think there's a lot of information here.

19 MR. ASSAL: My biggest concern -- my
20 biggest concern, Commissioner Kurtz, is that we
21 still missed the concept that we have, yes, the
22 ships are getting bigger, but it's less
23 (unintelligible), so you're still going to have
24 a pilot out there, so your revenue has
25 increased, it's not really decreased. Your

1 amount of handles have gone down, so that means
2 the amount of work has been reduced, instead --
3 instead of having a smaller ship now you've got
4 a bigger ship. And that has to go in
5 consideration as well.

6 I mean we really have to look at how many
7 handles, as well as the volume, so that's the
8 starting point of something. We're not saying
9 it's perfect, we're not saying -- and just like
10 you disagree on where it starts I disagree on
11 the volume, okay, but it's a starting point of
12 something that we have to come together. We've
13 been put on the spot to make a decision, and
14 whether people like it or not that is our role
15 here, and we asked Commissioner Oatis to start
16 something, that he's the only one that came
17 together with an idea that at least we can have
18 a discussion upon.

19 Right now if you go to one side or
20 another, one wants 25%, the other one wants 40,
21 38%, so I mean, so where do we go from here?
22 So we have to come up with something to try to
23 feel what is best -- at the end of the day
24 safety is the biggest consideration, but cost
25 is a consideration for any of the industries,

1 and the wages of the, of the pilots. Now, we
2 heard testimonies from twenty million different
3 CPAs, it's potatoes or potatoes, so we're going
4 to go this way or that way. It's up to us to
5 dissect each individuals', as Commissioners,
6 what we think our opinion is, and what we value
7 what it is, what's fair and reasonable.

8 So I commend Commissioner Oatis for having
9 a starting point, at least we have something to
10 start with. I think we have to finish, it's
11 not a choice. It's not like we can just walk
12 away and say nothing. This is what we've been
13 asked, and tasked to do by both parties.

14 CHAIR: I agree. Commissioner Winegeart.

15 MR. WINEGEART: So are you able to change
16 the numbers, and they show up on the screen?

17 MR. OATIS: Yes.

18 MR. WINEGEART: Could you take the
19 neopanamax double pilotage out and just see
20 what we end up with?

21 MS. KURTZ: And can you change the tier to
22 80,000 gross tons as a starting point please?

23 MR. SOLA: Could you change the 12.4 down
24 to 6 -- I mean we can go back and forth, let's
25 do it one step at a time. Let's do it one step

1 at a time.

2 MR. OATIS: I agree, let's take it one
3 step at a time.

4 MR. SOLA: I mean what -- our other option
5 is to leave the status quo, and find somewhere
6 where we scale it, and we go on. And I think
7 that this is probably the best, the best thing
8 that we can do for today, so let's take, let's
9 take it one step at a time.

10 MS. KURTZ: I agree. The status quo means
11 that everyone is in the same place that they
12 were in three years ago, and billions of
13 dollars have been spent, and, and there's been
14 no change. And this is not going to be the
15 last one of these things, and I think to
16 continue that precedent of doing nothing is
17 very harmful to all parties.

18 CHAIR: And remember the one thing I
19 proposed yesterday, and I thought I saw all the
20 heads agreeing here -- wait Commissioner Sola,
21 was that we were going to convene a workshop on
22 how to design a rate review process that would
23 be inexpensive to all parties. And in doing --
24 and I think that's critical because my fear
25 here is we may have to come back and deal with

1 these guys in a year, and we can't consign
2 something that is six months, so, I mean that
3 is six years down, you know, that we can't come
4 back and fix for six years, so I mean that's
5 absolutely critical of this group to do that.

6 And that will require the industry to be
7 in support with us, but, you know, quite
8 frankly the industry creates the, you know, a
9 legal process that we just can't get through
10 because they're going fight it in courts, than
11 try to work solutions, then they may
12 (unintelligible), but -- but we'll have to come
13 up with a model that works for all parties.

14 MR. JENNINGS: Mr. Chair, just as an
15 aside, I've heard six years, I've heard six
16 months, the statute provides that once you
17 establish a rate of pilotage for a port there
18 can be no change for a year and a half. After
19 that new applications may be filed.

20 CHAIR: That's no change. That doesn't
21 mean you couldn't meet and determine it. It
22 couldn't go into effect, right? I haven't read
23 the statute yet.

24 MR. JENNINGS: No, sir. What -- what I
25 mean is once you've established a rate of

1 pilotage -- at the -- at the conclusion of this
2 hearing, at the conclusion of what may be
3 inevitable appeals, once that rate of pilotage
4 is established that is good for a minimum of
5 eighteen months. Now, after the eighteen
6 months parties can come back and file an
7 application for a rate change, but for those
8 eighteen months it's locked in.

9 CHAIR: So you couldn't expedite it,
10 expedite a series of meetings to determine what
11 changes could be before that came up, even
12 though they don't go into effect until the
13 eighteen month --

14 MR. JENNINGS: So, sir. No, sir, the
15 statute says -- you operate based upon
16 applications for a change in rate.

17 CHAIR: Right. So therefore it really is
18 a two year -- so it's a two year commitment.

19 MR. JENNINGS: Essentially, yes, sir.
20 Now, if you're talking about having a workshops
21 to take about potential changes to 310 that's,
22 that's certainly your option.

23 CHAIR: Yeah. We have session in January.
24 Mr. Oatis, are you playing numbers or --

25 MR. OATIS: So I guess let me -- let's get

1 to the details a little bit. I mean how do you
2 want to see this presented? Do you want to see
3 one step at a time?

4 CHAIR: Right.

5 MR. OATIS: Delete the neopanamax and we
6 take a look, or do you want to --

7 MR. SOLA: One step at a time.

8 CHAIR: Well, let's just --

9 MR. SOLA: That's my suggestion.

10 CHAIR: I mean let's just sort of
11 inventory the issues. I mean, okay, so I think
12 we all like the multi step rate, rate model.
13 The only question is where, where the rates
14 change, right? I think we all -- I think we're
15 all agreeing on that. Do we all accept the
16 harbor control fee concept?

17 MR. ASSAL: Yes.

18 CHAIR: Okay, so I think we're all sort of
19 in agreement with, with that concept. You're
20 also trying to get to a total number that is
21 just slightly above current revenue today,
22 right, so you've got a control factor that
23 you're trying to put in place that doesn't
24 dramatically increase total revenue, right? Do
25 we all like that?

1 MR. ASSAL: Are we talking about
2 percentage, or are we talking about --

3 CHAIR: The eleven million in -- the
4 eleven million --

5 MR. ASSAL: Oh, yeah, it's an increase of
6 almost \$500,000 so --

7 CHAIR: Which coincidentally is the harbor
8 control fee --

9 MR. ASSAL: Right.

10 CHAIR: But for -- to me that smells about
11 right, yeah. I don't -- I didn't want to
12 create a model that was going to be
13 dramatically less in total revenue, right?

14 MS. KURTZ: But you're talking about also
15 not providing any increase overall. You're
16 talking about keeping the revenue the same,
17 just changing the rate structure.

18 CHAIR: Correct. That's what I was
19 talking about.

20 MS. KURTZ: So no accounting at all for
21 any of the factors that were brought up,
22 increasing expenses, cost of living, erosion of
23 compensation, none of those things.

24 CHAIR: Well, in my mind the harbor
25 control fee addresses some of that, because

1 that, that to me is new revenue, so I would
2 accept that that's over the base, and, you
3 know, conceptually that's money that can help
4 fund some of the asset replacement types of
5 issues.

6 MR. WINEGEART: So, Commissioner Wilkins,
7 are you, are you satisfied that the,
8 essentially there's no net income we might
9 change of the pilots, and so you're saying that
10 the pilot compensation as it is now is, makes
11 the 310 comparable professions compensation?

12 CHAIR: Yes. The -- my issue with that is
13 I believe the testimony was adequate that
14 showed there is levers they can pull that could
15 dramatically improve the revenue of the harbor
16 pilot, but they have chosen not to do that in
17 the way they incur costs. And it -- and so my
18 personal opinion is they're under paid. You
19 know, I see the value of that, you know, just
20 my simple logic -- and this is, you know, just
21 looking at different professions in the world,
22 and, and the comparables they show, and all
23 those kind of things that, you know, between a
24 \$400,000 and \$500,000 salary for a harbor pilot
25 is not only comparable to other industries, but

1 it's very fair, and there is absolutely no
2 evidence that we have any problems with harbor
3 pilots in this state.

4 I mean we have adequate -- it's proven
5 they, they, you know, we have no retention
6 problems, we have backlog, the ones we have are
7 great, but in this market particularly they are
8 slightly under paid, I'm not talking about some
9 other markets, and so I do think they ought to
10 get paid more, but I'm frustrated with the fact
11 that I don't think they have proven to this
12 committee at all that they have managed their
13 costs to maximize their income, and they could
14 do that.

15 If they had come back and said, look, here
16 is all the leverage that we have, and this is
17 what we did, and this is the result, and this
18 is the best I can do, and then I would have
19 said, okay, yeah, they would need more money.
20 But what I saw was, no, I'm not even going to
21 talk about that issue, about costs, I'm going
22 to instead just show you comparisons of others,
23 and compare it to revenues of the cruise lines.
24 I just saw a complete avoidance of tackling
25 that issue, and so my belief is if they tackle

1 it over the next couple years, and, and then
2 truly realize that they have, you know, run
3 this, pruned, they're running this business as
4 efficient as it can, then I think we ought to
5 raise the rates.

6 Because going back -- I mean this is a
7 cost recovery model, is what it is, and it's
8 all based on, you know, the biggest costs in
9 the recovery is the harbor pilots' salary, and
10 so it all depends on what we think that ought
11 to be. But I definitely don't think they ought
12 to be paid les. I think they ought to be paid
13 more, but, you know, I just don't have the
14 confidence that they have pulled all their
15 leverage.

16 MS. KURTZ: Could you be more specific,
17 what exactly do you think they could be saving
18 money on?

19 CHAIR: Well, yeah. Well, I mean it was
20 presented by the, Mr. Panza's team on, on those
21 items. The retirement costs, there are other
22 retirement models that could be implemented.
23 The salary structure of a harbor pilot, every
24 pilot is paid exactly the same, you know,
25 there's no tiering of, of compensation. The

1 costs --

2 MS. KURTZ: What -- what do you mean by
3 that?

4 CHAIR: Well, in a typical partnership,
5 you know, you would have partners, but they
6 don't all get paid the same. You know, you go
7 to Ernst & Young and their partners, they don't
8 get all paid the same, they get paid different
9 amounts based on their roles in the
10 organization, their years of experience, their
11 competencies, their performance, you know,
12 those types of things.

13 We have a model that everyone gets paid
14 the same. I know that's a historical model,
15 that's interesting, but that's not how, you
16 know, corporate, the corporate world works.

17 MS. KURTZ: Well, in the maritime industry
18 a third mate on a ship gets paid what a third
19 mate gets paid on a ship regardless of whether
20 they've been a third mate for a month or ten
21 years, you're, you're paying for the position,
22 so that model carries through to the higher
23 levels. Deputy pilots do make less because the
24 value of their work is lower, but once you
25 become a full partner and qualify to take a

1 regular turn to do any sized vessel when it's
2 your turn it has always been considered fair to
3 pay equal partners an equal amount, because you
4 might do a big ship day one day and a little
5 ship another day. You don't pay pilots per the
6 size of the vessel that they're on.

7 CHAIR: That's a choice.

8 MS. KURTZ: Wow. I think there might be
9 some things about how an association operates
10 that I'm not sure you really understand the,
11 the consequences of what you're suggesting.

12 CHAIR: And that -- and that may be fair.

13 MS. KURTZ: Because it's a really unusual
14 industry, and, you know, you call people at
15 3:00 in the morning to go to work, well, am I
16 going to get a little ship or a big ship, how
17 much money am I going to make? You're on a
18 fair rotation, and you get over the course of a
19 year a very close equal number of handles, and
20 hours, and sizes of ships, and, and all of
21 that, which is why they're paid equally. And
22 that's why it's a partnership. That's why it's
23 structured that way rather than having an
24 employer/employee relationship.

25 CHAIR: Well, okay, I mean I accept that.

1 It sounds fair. I mean that, that's -- that's
2 just one of the items. There's probably, you
3 know, a dozen or more different cost items that
4 can be affected, right? We also talked about
5 health care. We talked about operational
6 activities in, in, you know, the harbor control
7 house and, you know, those types of things, so,
8 you know, there's a lot of different cost
9 items. We talked about lobbying fees. We
10 talked about political kinds of issues, so
11 there's -- there's a lot of line items that,
12 you know, you had questioned why we spend so
13 much money on those kind of things, and if you
14 were able to reduce those then that money flows
15 to the bottom line of --

16 MS. KURTZ: Okay, but as a regulated, and
17 I hate to use the word, as a regulated
18 monopoly, which is how this is always referred
19 to, lobbying and political costs are part of
20 the process. That -- that's been accepted as a
21 legitimate cost because there's no other way to
22 (unintelligible) for the changes that you want,
23 so --

24 CHAIR: Well --

25 MS. KURTZ: You know, you're -- you're

1 conducting a very small private business within
2 the confines of a very high level of government
3 regulation, and so, you know, the expectation
4 that you're going to run this business, and,
5 you know, cut 3% here, and 2% here, and it,
6 it's not a realistic model. There's no letting
7 go of a pilot. Once you make a pilot you deal
8 with the ups and downs, they take home less,
9 they take home more, people leave unexpectedly.
10 When you have deputies to replace your, your
11 proposed retirees, there's overlap and so
12 you're actually paying more to those eighteen
13 pilots. If you have two people scheduled to
14 retire, or have given their notice, and you
15 take two more pilots, you're paying twenty
16 people, and so there's a cost to training, and
17 that overlap of personnel that, that really
18 doesn't get accounted for.

19 CHAIR: No, that cost is in the cost
20 structure.

21 MS. KURTZ: I -- I just think it's a very
22 unusual business model. It doesn't follow
23 other business models, and to say that you can
24 just look at these line items and if they have
25 haven't addressed them, I don't agree. I think

1 FCCA has tried to create an impression that
2 these guys, you know, go ride a ship and then
3 go home, and they're, you know, hanging out.
4 There is a lot of work that happens in the
5 pilot association that, that you don't see.
6 You know, when you're the chairman of your
7 group, or the co-manager of your group, you're,
8 you're working on things all the time. You're
9 -- you're in the office, you know, so much of
10 your off time, and in between, or after working
11 all night long. It's arduous. And, you know,
12 to suggest that they haven't tried to trim the
13 fat I think is really a disservice to all of
14 us.

15 You know, that -- and I -- you know, that
16 to propose to the pilots, okay, if you want to
17 control your income have less pilots -- that's
18 not how you can control your income as a pilot.
19 You're -- you're staffed properly for your peak
20 time so you don't affect service. And I'd like
21 to know what these guys think their service
22 would like if they went down to twelve or
23 fourteen pilots to maintain their compensation.
24 I don't think their customers would be happy.
25 And I think it's very important for everyone to

1 consider that.

2 I would urge my fellow commissioners to
3 really consider what we're talking about here.
4 You know, this is not an emotional plea. I'm a
5 pilot, and I imagine we're going to be down the
6 road that one of these things at some point,
7 and it's offensive to me the way that certain
8 people try to marginalize, you know, what we
9 do, and how we do it. We're not sitting
10 around, you know, planning our around the world
11 vacations, or, you know, how to retire at fifty
12 five, you know, we're working hard just like
13 the rest of you. And I know it's hard for some
14 people to swallow that, you know, we make more
15 than \$200,000 a year and work two weeks on, two
16 weeks off, but I'll tell you what, I earn every
17 penny of that, and I have a lot of respect for
18 my fellow pilots around the world, you know,
19 and I just find this whole process just deeply
20 insulting, and that to suggest that no increase
21 is warranted, you know, because you're trying
22 to, to satisfy one particular customer --

23 I understand equity, and maybe raising it
24 here and lowering it there, but overall to go
25 with a net result, I don't know what these two

1 groups have spent millions of dollars doing in
2 the last three years.

3 (Applause.)

4 CHAIR: Okay. Other questions.

5 MR. SOLA: Yeah, I'd like to, you know,
6 accommodate you, and nobody respects the work
7 of pilots more than this Board, or has come to
8 respect them, and the job that they do, more
9 than we do, but the time that we have with the
10 Florida legislature, and what they've gone
11 through, and other things, it's really hard to
12 ask for an increase on anything at this time,
13 and that -- when we talk about what our mandate
14 is under the Florida statute 310.151(5) fair,
15 just, and reasonable rates in consideration to
16 the public interest, and that's what the
17 obligation of this Board is, has to do, and
18 that's what we're going to do today.

19 MR. WINEGEART: I would just like to
20 comment on the, the number of pilots, and the
21 availability, about leaving the association --
22 some -- what we have to consider is what the,
23 the impact of whatever change we make today has
24 on the ability to attract pilots in the future,
25 not, not what has, not that we have good pilots

1 now -- we have good pilots now because in the
2 past the compensation and the benefits were,
3 warranted top notch people going through this
4 rigorous process, so we have to consider what
5 our rate change, if we make a rate change today
6 what, what our actions will do for the future,
7 not the, the people that are already here.

8 And -- and some -- you asked about pilots
9 leaving, and you might have to consider the
10 pilot, the associations, although it's
11 different than a lot of places, they are set up
12 so that pilots have a connection with the port
13 that is hard to break. You don't walk away
14 from something that after twenty years you have
15 a retirement for just a spur of the moment type
16 of deal. So that's -- these associations are
17 set up in a way to encourage people to stay.

18 CHAIR: Okay. So we were talking about
19 what are components that we agreed on in the
20 model. And so we agreed on the step up. We
21 agreed on the harbor control fee. Trying to
22 keep the revenue neutral is something obviously
23 we don't all agree on. The issue of the
24 largest cargo ships if something we want to
25 change. Then we have the rate, the overall

1 rate increase which was going across the board
2 basically.

3 MR. KURTZ: There was also detention and
4 cancellation, was that addressed anywhere?

5 MR. OATIS: No. I guess the -- one, it
6 seems like it's almost discretionary, it's not
7 currently charged so it wouldn't be apples to
8 apples, but I guess I'm not necessarily sure
9 how you would quantify which ones in the future
10 would be penalized. It's not something easily
11 quantifiable with this information.

12 MR. WINEGEART: I think -- from what I
13 understand that change is more to deter the
14 delays that are going on now, and that the
15 anticipation is that the agents and whatnot
16 will pay better attention -- it's in their
17 ability. They have the ability to not get
18 charged that if they do their job properly, and
19 so the, at least I would not agree with adding
20 any revenue based on that. But I would agree
21 on changing the rates.

22 MS. KURTZ: Right. I wouldn't figure it
23 into a revenue calculation, but it needs to be
24 on the books so that they have the ability to
25 say this is what the charge is, to avoid a

1 charge order your vessel correctly.

2 CHAIR: Right. Okay, so have you made the
3 adjustment on the first item?

4 MR. OATIS: Yes. So the first request of
5 adjustment was to remove the double fee for the
6 large cargo, so that was completely eliminated
7 so that it is coming in under a single pilot.
8 So basically no, no impact to any of the other
9 gross ton tiers. The overall impact was to
10 reduce income.

11 CHAIR: Okay, next item. Do you want to
12 address the step up rate on the cruise ships?

13 MR. OATIS: Well, the two things I think
14 we need to address there, one, where is that
15 break going to be, where are they going to be,
16 and two, what will the percentages be in the
17 decrease, because they, they work hand in hand.

18 MS. KURTZ: The Port Everglades model that
19 we're sort of trying to work around, what,
20 what's their break point for tonnage and
21 percentage?

22 MR. OATIS: It's 80,000 --

23 MR. LAW: 80, 250 --

24 MR. OATIS: And 130, right?

25 MR. LAW: I think it's up to 130, and then

1 above 130.

2 MR. OATIS: So 80 and 130.

3 MS. KURTZ: Could we try that, just to see
4 what --

5 MR. OATIS: And with the magnitude of the
6 adjustment -- we can't compare to -- Port
7 Everglades was a different model. The
8 adjustment was a much smaller adjustment. We
9 would --

10 MR. ASSAL: If I may have a discussion
11 while he's working on some of this. I'm
12 assuming that with the possibilities of
13 acquiring in, or looking to acquire new pilots'
14 boats, wouldn't that reduce some of the costing
15 of the maintenance, and that kind of stuff, in
16 the first few years? Because you buy them new
17 I'm assuming they're a year old, or something
18 of that nature, with a warranty, versus the
19 same maintenance costs are going to be -- on a
20 pilot's boat, I'm trying to understand.

21 CHAIR: Mr. Law.

22 MR. LAW: I don't know that we can draw a
23 conclusion on that, because to replace one of
24 the boats, we still have two other boats, and
25 there's some unpredictable events that may

1 happen with either boat. But generally if you
2 get a new boat you're going to be under
3 warranty and have lower costs for a number of
4 years, so I don't know that it can be
5 quantified at this point, what would the
6 savings be versus the cost to acquire, the
7 shape, and whatever on it. I think it'd be
8 really hard to quantify.

9 MR. ASSAL: Thank you.

10 CHAIR: You'll just tell us when you get
11 that crunched?

12 MR. OATIS: Less than a minute. Okay, the
13 second layering of change related to moving the
14 tiers to 80,000 and then 130,000 -- I can't see
15 it. Yes, the increase to the income, overall
16 decrease to the marginal reduction to the GRT
17 air concept of large passenger.

18 MR. WINEGEART: I would -- it would please
19 me if we can refrain from using the air
20 concept. It's not really a maritime term.
21 (Unintelligible) volume, so I'm -- as a mariner
22 using air, it's not really -- I'm not -- I'm
23 not trying to be funny here, but it's not
24 really, it doesn't -- it's not a term that is
25 acknowledged, or used in the maritime industry.

1 MR. OATIS: Okay. All right, so we've got
2 that changed.

3 CHAIR: Which --

4 MR. OATIS: The layers of which the
5 reduced GRT fee would apply, so than them
6 receiving that volume discount at 50,000 it
7 doesn't start until 80,000.

8 CHAIR: You applied that to cargo too?

9 MR. OATIS: Correct. Only -- only the
10 90,000 would even get into the benefit of that
11 reduced rate.

12 CHAIR: Okay. All right, the next issue
13 was -- yeah, the next issue was the harbor
14 control fee.

15 MR. OATIS: I think we're good with that.
16 That's --

17 CHAIR: Everybody is good with that, okay.
18 The next issue was overall rate increase, which
19 was the --

20 MR. OATIS: Well, I think the -- the
21 second tier, sorry, going back to the tiers,
22 the two assess -- one was the breaking point
23 for each level, the second was the percentage.

24 CHAIR: So when you just changed it you
25 left it at 35, right?

1 MR. OATIS: Correct.

2 CHAIR: Okay. Anybody want to change,
3 propose a change to that? Mr. Sola says keep
4 it there.

5 MR. OATIS: No, not -- not talking about
6 the 12.4. Talking about these two columns as
7 we go from Tier 1, to Tier 2, and Tier 2 to
8 Tier 3, as it was originally set up there was a
9 35% reduction. Now that we have moved tiers
10 away from the 50,000 to the 80,000, and then
11 again to 130,000, do we also want to address
12 the percentage decrease to compensate for the
13 movement of the tierage (phonetic)?

14 CHAIR: I would say leave it for now, and
15 let's apply the other model, or let's affect,
16 affect the Tier 1 percent and see what that
17 looks like, and then come back and revisit
18 that. All right, so the Tier 1 percent is at
19 12.4 right now. What would you like to say to
20 that?

21 MR. ASSAL: At the 6% that they're asking.

22 CHAIR: So adjusting that back to 6%.

23 MR. ASSAL: At the 6% that they're asking
24 for.

25 MR. OATIS: So one times --

1 CHAIR: One time 6%.

2 MR. ASSAL: Correct.

3 MR. OATIS: That's the number.

4 CHAIR: That's the 6%. Are you looking at
5 the, the revenue?

6 MR. OATIS: 11,974,234.

7 MR. ASSAL: Could you go up to the cruise
8 lines area and comparable, try to make it --

9 MR. OATIS: I'm sorry, Mr. Assal, you want
10 to see it compared -- you just want to see that
11 --

12 MR. ASSAL: Yes, to the other chart, to
13 the original chart. Oh, you can't --

14 MR. OATIS: I can. I can go back to
15 there. The original chart as where I just came
16 from?

17 MR. ASSAL: No, no, I got it.

18 MR. OATIS: Or the base case.

19 MR. ASSAL: No, no, go ahead. Bring it
20 back to that. I got it right here. Thank you.
21 Is the draft rate the same as Everglades there?

22 CHAIR: No. No, there's was --

23 MR. OATIS: I'm sorry, it was a -- it was
24 a significantly higher draft rate, and some of
25 the feed back I received was that it was not --

1 comparable to mine.

2 CHAIR: Is anybody proposing to change
3 that, or --

4 MR. WINEGEART: I'm sorry, to change what?

5 CHAIR: To change the draft rate.

6 MR. OATIS: The question -- I don't know.
7 Did the pilots ask for an increase in draft
8 rate? They did, okay.

9 CHAIR: 6% commensurate with the --

10 MR. WINEGEART: Is that the current
11 number? Where'd you get 17.4 --

12 MR. OATIS: That's the current number.
13 That's the current number. So sliding over the
14 draft --

15 MR. WINEGEART: Why don't you up that --

16 MR. OATIS: 17.433 is the current model.
17 Again, what I had plugged in was the tier model
18 that rates at 28'. It provides for -- it's a
19 significant increase. It's basically the 6%
20 compounded over five years, applying that to
21 the rate for 28' and above. So will say that's
22 a hybrid.

23 MR. WINEGEART: So the current draft rate
24 --

25 MR. OATIS: 17 is current. 17.433 is the

1 current rate.

2 MR. WINEGEART: And you're suggesting 23,
3 got it. All right, so that is the new model.
4 Go back to the summary numbers on the revenues
5 there at the -- I'm looking at the tier, the
6 draft tier, and I'm just trying to figure from
7 the -- this is the original chart, and is -- am
8 I looking at the right place here where it says
9 this 23, decimal 325, it starts at 40.4?

10 MR. OATIS: No, it starts at 28'. That is
11 determining an average fee of draft for each of
12 those tiers.

13 MR. ASSAL: And could you go to the top
14 with the scroll please?

15 CHAIR: It's not really two year
16 compounded in interest.

17 MR. OATIS: It was originally.

18 CHAIR: Yeah, but it's just now a flat 6,
19 right, you just applied 6, right? Okay.

20 MR. SOLA: Could you go down?

21 MR. OATIS: Keep in mind we were adding
22 the harbor control fee, which is a \$500,000
23 immediate thump on top of the rate --

24 MR. SOLA: So what you've done is you've
25 given the pilots about \$500,000, \$700,000 extra

1 per year?

2 MR. OATIS: Closer to \$500,000.

3 MR. SOLA: \$500,000 extra per year.

4 Increase the rates. Decrease (unintelligible)
5 for the GRT.

6 MR. OATIS: In a tiered structure.

7 MR. SOLA: In a tiered structure.

8 MR. OATIS: Saved the draft.

9 CHAIR: Any other changes anyone would
10 like to make to the model? All right, is it --
11 Mr. White and Mr. Panza, would you all like to
12 comment on where we are, or just give us your
13 observations?

14 MS. WHITE: I'm going to let Captain Marlo
15 speak to that.

16 CAPTAIN MARLO: I have done this, and
17 you're getting a taste of the intense iterated
18 process that this is, and I did it actually in
19 trying to determine what our application rate
20 formula would be, and it was a sophisticated
21 model. And this is a fairly simple one, just
22 because of the fact that it, you know, was put
23 together in a few hours. I'm not saying that
24 you didn't do an amazing effort in the amount
25 of time that you had, but I'm saying, I think

1 you would agree it's something that you had to
2 throw together the night before the hearing.

3 One of the things that we considered was a
4 tiered option, and we looked at Port
5 Everglades, because they're right next to us,
6 so it, I see why you're drawn to it. It's kind
7 of like, well, gee whiz, it's -- people kind of
8 look at the geography and say, well, it's
9 almost the same place, right? And the -- the
10 issue is that every port has a rates formula
11 that is crafted based on the mix of traffic in
12 that port. For example, Commissioner Kurtz
13 mentioned cargo ships with high, high volume
14 metric area, like car carriers. They're just
15 giant boxes that are full of air. It's gross
16 tonnage, and, and that gross tonnage is used to
17 carry high value cargo, and they pay a rate
18 just like cruise ships do. But we don't get
19 those ships in Miami so -- we get largely
20 container ships here.

21 The issue with comparing to Port
22 Everglades is Port Everglades has a completely
23 different mix of cargo and cruise, and they
24 have a lot more cargo. Specifically they have
25 a lot of tanker traffic. And what I encounter

1 with trying to figure out, well, what if we
2 could give a discount to cruise, via through a
3 flat rate discount, or through a tiered tonnage
4 type of discount, is that because the revenue
5 mix is essentially 65/35, or whatever the exact
6 number is today, any discount to cruise would
7 have to be compensated by amplified increase to
8 cargo, and the --

9 The issue right now is that the container
10 industry right now is undergoing a very
11 difficult economic cycle for all kinds of
12 reasons, but the number five, I think it was,
13 container ship carrier in the world went
14 bankrupt recently, and they owed us some money.
15 But the point is that it's I think unfair and
16 unreasonable to apply large increases to the
17 cargo sector right now for the sole purpose of
18 giving a discount to cruise simply because
19 they, they demand it. They -- they come in and
20 they demand it.

21 So the -- the rate structure for Port
22 Everglades being tiered, it's based on the
23 nature of their composition of traffic. The
24 rate structure for Jacksonville, for example,
25 where, where they get car carriers, and things

1 like that, it's just, it's based on that. If
2 you were to compare our port to say Key West,
3 which is 100% cruise, I think their rate is
4 nearly identical to ours. I'm not sure, it
5 might be a little bit different, but it's
6 similar. Is it unfair if, if one cargo ship
7 comes in there, that cruise pays the majority
8 of, of revenue, and you have to readjust the
9 rate now because they also have cargo? I mean
10 they pay 100% of the revenue there.

11 So it -- it's very -- it's very complex,
12 and the, the ripple effects of cobbling
13 together a formula last minute are
14 unquantifiable. And I know there's an effort
15 here with a simplified model, but I'm looking
16 at this and I'm saying, gosh, I don't know, I
17 don't know. I would -- as Commissioner Kurtz
18 said, I mean I know how to do these things, and
19 I do them routinely, and I would take quite a
20 while to really, really, really consider, and
21 check, and recheck, and everything, on my model
22 before I would put a rate structure in the
23 application.

24 So where we ended up with a small
25 incrementing annual increase in our rate,

1 versus a decrease to cruise and large increase
2 to cargo, is, is that we just wanted to say,
3 okay, let's do something that's flat, and fair.
4 I think the -- the risks of this, this process,
5 are, they far outweigh the possible benefits of
6 what you're trying to do.

7 CHAIR: Okay, thank you. Mr. Frances.

8 MR. FRANCES: Thank you very much. I'll
9 be very brief. I'm not going to argue any of
10 the points that we, you know, have argued.
11 We'll just talk about the graphs, and I would
12 also want to thank Mr. Oatis for doing all this
13 hard work. We would want the first chart that
14 was put up there that Mr. Oatis addressed
15 earlier on in this proceeding. We think out of
16 all the charts involved, the different ways you
17 can manipulate the numbers, and I don't mean
18 manipulating them in a negative way, just
19 changing the numbers, or modifying them, or
20 whatever, and putting them into different
21 buckets, and different categories, that seemed
22 to be probably the fairest.

23 I of course from my client's standpoint
24 would agree with Mr. Assal on the rate that the
25 pilots are going to receive, the 12.4%, I think

1 that's aggressive, and I think it's high. I
2 think the starting at 50,000 GRTs was an
3 appropriate level. It gives the tiering -- I
4 think this is a system that can last for a
5 period of time, and as Mr. Jennings said it,
6 the maximum, or I mean the minimum period of
7 time would be a year and a half, and I think
8 this will give some, some rate relief to what
9 the cruise ship has been asking for as far as
10 their large vessels, and you know, spreads the
11 risk, and it also gives the pilots additional
12 income of over \$500,000.

13 And the only one thing that I would argue,
14 and it's similar to what Mr. Sola was -- the
15 numbers -- you know, we can argue about what
16 the numbers mean but the numbers are the
17 numbers, and they're undisputed in this case.
18 It was 10,500 handles in 1995 I believe, and
19 this year it was 5,500 handles, or in 2016, so
20 the numbers are 50% basically. And regardless
21 of what the pilots do, the pilots never
22 suggested one thing that was different in '95
23 than it is now, as far as what their workload
24 was, so they did get a raise, and they've
25 gotten a raise continuously all through this.

1 And by any measure of standards for any
2 business if you're decreasing your workload and
3 remaining the same amount of salary then you
4 did receive an increase on some end, and that
5 end would be an increase in your compensation.

6 So I would -- I would -- we would agree
7 with the first model that was put up there. I
8 think that's the model that Mr. Oatis had
9 suggested initially, I think with Mr. Law. And
10 it seems to me like they must have spent a lot
11 of time on it last night to do it, because I
12 would have never been able to do that. Thank
13 you.

14 CHAIR: Thank you. Okay, any other
15 suggestions or comments from the Board, cause
16 the next step is we're going to vote?

17 MR. SOLA: Can I ask --

18 CHAIR: Yes. I'm sorry, yes.

19 MR. SOLA: Yes, I could I ask the Captain
20 a question? There are -- for the 70,000 GRT
21 there is 623 handles, I presume by the cruise
22 lines. What are the technical -- are those
23 newer ships that have the modern advanced
24 technology, or are those older ships? I mean
25 we, we talked before that the newer ships were

1 coming out in the year 2000, 2002, and had
2 modern technology, or had the new azipod
3 technology, or are these the older ships?

4 CAPTAIN HANSEN: Yes, first of all I don't
5 think it's the size that decides if they have
6 (unintelligible) or not. In -- in our fleet,
7 our smallest ships, they are equipped with
8 Becker rudders and ball thrusters, so they are
9 similar, as maneuverable as the ships with
10 pulse, a Becker rudder is an active rudder that
11 makes the ships ore maneuverable, so in, in our
12 fleet with the oldest ship being built in 1999
13 I would say they're, equally is not the right
14 word, but they have different propulsion, but
15 they are all very manageable.

16 MR. SOLA: Okay, thank you, so it's going
17 to be a mix in that range.

18 CAPTAIN HANSEN: There would be -- there
19 would be somewhat, somewhat a mix, three or
20 four ships with the conventional, and the rest
21 (unintelligible) --

22 MR. ASSAL: I do agree, and would like to
23 see it, me, you started at the 60,000 -- no,
24 let me rephrase that, the 70,000 range, versus
25 going starting at the 80,000 -- the majority

1 of, of the fleets, and that goes from whether
2 it is cruise or cargo, is in up to the 70,000,
3 the majority, so we're emphasizing on the
4 minority here. So my personal opinion, I get
5 that 50,000 might be low, but I would look at
6 starting at the 70,000.

7 MS. KURTZ: I continue to disagree with
8 how we're doing this. I think that it's
9 obvious that several commissioners are working
10 their very hardest to accommodate one customer,
11 and I think there's apparent inherent
12 unfairness in that. You know, you could simply
13 not change the rate at all and add a harbor
14 master fee, you know, rather than trying to
15 satisfy a customer, if you're looking at, you
16 know, maintaining something flat, or not
17 impacting people unfairly. So think this, you
18 know, trying to capture the largest group of
19 ships that were up until a certain point really
20 never even an issue for anyone to be paying
21 for, is really inappropriate, and it makes it
22 quite obvious that there's an extra effort
23 afoot here to accommodate a particular
24 customer.

25 We're supposed to be accommodating the

1 pilots, all of the customers, the public
2 safety, and, you know, the more focused we get
3 on this largest group of midsized ships makes
4 it more obvious to me what the goal is.

5 MR. ASSAL: With all due respect,
6 Commissioner, there is increases. It's not
7 that we rea bias to anyone, we are seeing
8 what's out there. We run businesses. The
9 audience can speak, and say whatever, but we
10 have a business to run, and the pilots have a
11 business to run. We can't tell the pilots how
12 to run their business but they can tell us how
13 to do our jobs, and which I don't think that's
14 fair either. But what we're saying is what is
15 fair and equitable for everyone.

16 MS. KURTZ: But that's not what you're
17 doing.

18 MR. ASSAL: Well, I mean, I don't know why
19 you feel that way.

20 MS. KURTZ: An increase for cargo ships
21 and a decrease, a much larger proportional
22 decrease for one customer, for passenger
23 vessels, that results in net neutrality does
24 not --

25 CHAIR: It's not net neutrality. What is

1 that percent increase, that 40,000 --

2 MS. KURTZ: Okay, 7% --

3 MR. ASSAL: No, 7% was the first. It's
4 not 40,000, right, so that increase --

5 MR. SOLA: Excuse me, Commissioner. Would
6 you be content with the status quo adding,
7 adding the handling fee, and say a 25%
8 reduction for all ships over 100,000 GRT? Is
9 -- is that what you're saying, without --

10 MS. KURTZ: I'd have to see what it looks
11 like. I don't know what those numbers look
12 like --

13 MR. SOLA: Can you run that, Commissioner
14 Oatis?

15 MS. KURTZ: I'm not going to commit to
16 something that's going to decrease the revenue,
17 and I'm not going to agree to something that --

18 MR. SOLA: We're trying to -- we're trying
19 to get not, not neutrality, we're trying to add
20 onto it.

21 CHAIR: This is just to clarify
22 Commissioner Sola's comment, the option on the
23 table right now is a 12% increase on the net,
24 net income increase (unintelligible).

25 MR. SOLA: No, I didn't say that. I

1 didn't say that at all. I said what --

2 CHAIR: No, the original model was 7%, and
3 we, since we've made these changes it's gone up
4 to 12%.

5 MR. WINEGEART: Mr. Chair, if it's
6 appropriate, how much time, I'd like to ask
7 Captain Marlo -- the -- this issue came up as
8 the ships got larger, actually over 140,000
9 gross tonnage, it became like a neon light
10 flashing, and I would like to know if Captain
11 Marlo has ever been in calculations that would
12 essentially have a maximum gross tonnage
13 charge, say, you know, a maximum of 140,000
14 gross tonnage, stop it there, and, and then no
15 tiering. Have you ever done calculations like
16 that?

17 CAPTAIN MARLO: I did. One -- one of the
18 version, maybe it's -- I'm not sure if it's
19 exactly what you're saying, but you can correct
20 me on that. I think one of the things that,
21 that we considered, was we look at, you know,
22 they say big ships are coming, big ships are
23 coming, but what we presented, that we had big
24 ships in 2003 and 2008, 130,000 tons and
25 150,000 tons, and we had a lot of them, a lot

1 of handles at those, at those levels, so I
2 think one possible scenario if you're, if
3 you're considering this, is to, you know, start
4 the tier at the, the ships that are upcoming.
5 Okay, the Oasis is coming at 225,000 tons, but
6 maybe start -- again I'm very concerned about
7 modeling on the spot based on a simplification,
8 okay, I'll stipulate everything I'm saying to
9 that, but if you were to start at say 150,000
10 tons and, and figure out a number that would
11 satisfy the cruise lines' concern about ultra
12 large cruise ships, you know, there, there are
13 other fees that we meet as well, such as the
14 harbor control charge, increasing the minimum
15 draft, which affects small ships, not -- it was
16 -- that was part of putting a smaller,
17 spreading out the burden across the, the whole
18 spectrum, but the harbor control charge, the
19 minimum draft, the, the tension charge that we
20 added is not something that we expect to
21 generate revenue from but that we need to help
22 manage our, our workload, and our allocation of
23 pilots, because essentially we have certain
24 consumers that, that abuse our time by
25 requiring us to be at ships when they really

1 have no idea when they're going to sail, and we
2 end up sitting on their ships for sometimes
3 through hours plus when we could be on another
4 ship and, and fewer pilots could be on duty at
5 that peak time.

6 So that -- that's one option, is to apply,
7 you know, a harbor control charge, the increase
8 in minimum draft, the detention charge, is that
9 procedural tool for tightening scheduling. And
10 then looking at tonnage of the, the biggest
11 ships that are yet to come. Right now the
12 biggest ship we have coming in is the Estate,
13 at I believe 165,000 gross tons. I mean I
14 think a reasonable break point for you to
15 consider would be 150,000 gross tons, and that,
16 that would account for their comment that the
17 biggest ships are coming, because 150,000 gross
18 tons is what we had coming either in 2003 or
19 2008, but we've already had lots of those ships
20 for a really long time in ports.

21 MR. WINEGEART: Thank you, Captain. The
22 reason I ask that is because I am afraid of
23 unintended consequences in having this tiered
24 system, and we came here because the very large
25 cruise ships, well, they wanted a 25% reduction

1 on all passenger vessels, but the numbers
2 didn't prove that was a valid point, or that
3 cargo vessels would pay more money at certain
4 tonnages.

5 But if there was a, just a simple maximum
6 gross tonnage charge that seems like it would
7 be an easy way to, for the largest cruise ships
8 to get their, the new ships that they're
9 concerned about that are reasonably built. And
10 by the way they're built with a model that's
11 known to them, and evidently the cost of
12 pilotage is still warranted, the best that can
13 be built. But you got to estimate -- we could
14 still give -- we could give them, the larger
15 ships a discount, like a cap to gross tonnage,
16 and not have any unintended consequences on the
17 other vessels other than there would have to be
18 a rate, an overall rate adjustment to make up
19 for the revenue.

20 CAPTAIN MARLO: I do see what you're
21 saying. Eventually -- essentially you could
22 accomplish the, what they're asking for by
23 giving a discount to large cruise ships by
24 capping our scale, okay, and the biggest ship
25 probably in Miami right now is 165,000 gross

1 tons, and I think that would be one way to do
2 it. If you could say that, you know, our gross
3 tonnage rate applies up to 165,000 gross tons,
4 and then beyond that there's no charge for the
5 additional tonnage. But with the other fees
6 that we, we need, that essentially impact cargo
7 in, in reasonable ways, I think that's a way to
8 consider.

9 MR. WINEGEART: I apologize if I'm
10 muddying the waters, but I just -- I am
11 concerned about the tiering without having time
12 to digest it all.

13 CAPTAIN MARLO: And if I can continue,
14 just one thing to that point. I get what
15 you're saying. When we -- when we considered a
16 tiered tonnage model the issue was it requires,
17 and you're seeing it, it's like a watch. It
18 requires -- it has so many interconnected
19 parts, and they all have to be perfectly
20 implemented. And if -- my concern -- our
21 concern is that when we put together -- if we
22 were to put together an application of a tiered
23 tonnage rate and submit it to you that this
24 would happen, when the committee would say,
25 well, we like that part but not this part, and

1 it would become, fall apart, when in fact the
2 entire thing would have to function as a
3 unisex, a machine, in order to be functioning.

4 It was a deep concern, because there's
5 unknown, unknown downside, and effectively you
6 could approve an application that we submitted
7 for the tiered levels but it would not be
8 exactly the way we submitted it, and that would
9 confuse the process of dealing with the
10 consequences. So what you're suggesting, if I
11 understand it correctly, is since these ultra
12 large ships are not coming into port yet there
13 isn't a downside to where we're at today, that
14 we would earn less money off of those ultra
15 large ships, which is, is what they're, what
16 they're asking for, what they're planning.
17 That's -- that's worthy of consideration.

18 CHAIR: Okay, so we all say different
19 opinions amongst the Board, but do we want to
20 model this anymore? Do you want to make any
21 other model changes, or -- I'm prepared to go
22 to a vote.

23 MS. KURTZ: What if -- what if we capped
24 the tonnage at let's say 130,000 gross tons,
25 you know, at the same, at the same rate, not

1 with a rate decrease but just cap, cap the
2 rate. Could you run something like that, to
3 address vessels that are already coming in?

4 CAPTAIN MARLO: I didn't run -- there are,
5 you know, varied scenarios that I did consider.
6 That specific one, no, I didn't. There are a
7 lot of different things that you can throw at
8 me that I did not consider. The -- the issue
9 with capping it at 130,000 gross tons is that
10 there's definitely a downside to us right now
11 because we have several ships that are frequent
12 callers at that tonnage, and even with those
13 ships being added we've had this drastic
14 reduction in net income, but a reduction in
15 revenue as well. So Captain Hansen testified
16 that all of their new ships pretty much are
17 going to come out in excess of 140,000 tons,
18 and they were going to replace smaller tonnage,
19 so if we were to cap it at that level I think
20 we could be hurt significantly.

21 CHAIR: Mr. Sola. You want to take five
22 minutes before we vote? Okay. All right,
23 let's take a five-minute break.

24 (Thereupon, a brief break was taken off the record
25 and the proceeding continued as follows:)

1 CHAIR: Okay, we are reconvened. We have
2 a proposed solution on the table here, and
3 we've gone through a couple different
4 iterations. I guess there's still some
5 potential proposals about iterating it further.
6 Would you all like to iterate it further, or
7 are you ready, would someone like to make a
8 motion to vote on what we have proposed? Ms.
9 Kurtz.

10 MS. KURTZ: I don't want to vote. I would
11 like to see the harbor fee, and increasing the
12 minimum fee from 14' to 18' as requested, and
13 the allowance for a detention if cancellation,
14 and a potential for two pilots on neopanamax
15 vessels, rather than seeing a decrease in
16 particular categories.

17 CHAIR: Okay, can you -- can you
18 articulate that again? You have four, four
19 items there.

20 MS. KURTZ: Implementing the harbor
21 control fee.

22 CHAIR: Raise -- raising the harbor
23 control fee?

24 MS. KURTZ: No, implementing one. There
25 isn't one currently. Right, is that correct,

1 there is not one in place, so --

2 MR. OATIS: I'm sorry, are we talking
3 about -- you're saying see, see as in modeling
4 out, or you want to see as in put into effect
5 going forward?

6 MS. KURTZ: Well, you can -- you can just,
7 if you want to do the numbers so everyone can
8 see, you know, what the total would look like,
9 or, you know, rather than seeing an increase on
10 this size and a decrease on that size, you
11 know, I think it's more fair just to leave it
12 the same but add the harbor fee, and the
13 potential for the two pilots on the neopanamax
14 vessels if they see fit, and the on the books
15 ability to charge for detention if cancellation
16 at a higher rate to defer, you know, wasting
17 people's time, and an increase from the 14' to
18 18' minimum fee to cover the smallest vessels.

19 MR. OATIS: Except from a calculation
20 perspective neither of those items are, are
21 included. The harbor fee is in here. The
22 minimum 18' is in here. To some extent I think
23 we had talked about eliminating the two pilot
24 in this calculation.

25 MS. KURTZ: Okay, but I wanted their

1 ability to do it. If they get to a point where
2 they need two pilots they can just do it --

3 MR. OATIS: I get that -- but I was asking
4 the difference between me putting that in here
5 versus just having --

6 MS. KURTZ: Right. No, just as, as
7 something that they're approved to be allowed
8 to do, so the number is really just leaving
9 everything the same and adding the harbor fee,
10 increasing the minimum charge --

11 MR. OATIS: The same amounts --

12 MS. KURTZ: -- as current, not an increase
13 in one category and a decrease in another
14 category.

15 MR. OATIS: The same as current, as in
16 where we are before --

17 MS. KURTZ: Yes.

18 MR. OATIS: -- any application is
19 considered.

20 MR. SOLA: Status quo.

21 CHAIR: Yes, so if --

22 MS. KURTZ: Status quo plus the harbor
23 fee, include, and increasing the minimum feet
24 for the smallest vessels, and then the ability
25 to do those other, those other categories of

1 charges as --

2 CHAIR: So you're -- you want to make that
3 a motion, or adding that into the other changes
4 --

5 MS. KURTZ: Well, it might be good to plug
6 it in so people can see what the total is so
7 that, you know, since we're comparing numbers,
8 and debating whether the rate should remain
9 flat or not, and so maybe to see what that
10 looks like.

11 CHAIR: Well, the --

12 MS. KURTZ: But I would rather see a
13 status quo with the addition of those other
14 charges than to see an increase in a certain
15 category and a decrease in another --

16 CHAIR: I got -- now I got you. Okay.
17 All right. So you're -- you're proposing
18 something a little different, because what I
19 thought you were going to say, what you were
20 saying is you'd be willing to vote on this
21 model as presented that has the step up, the
22 harbor control, the overall rate increase, and
23 the draft rate component, but then, and then
24 add these four things. Well, add the other
25 three. But you're saying, no, just, you would

1 like a motion just for the three.

2 MR. OATIS: Is that what you --

3 MS. KURTZ: Right. I don't agree with the
4 increase/decrease model as presented.

5 CHAIR: All right. I got you. All right.
6 D you want to make that as motion for us to
7 vote on?

8 MR. WINEGEART: I think she wants to see
9 it.

10 MS. KURTZ: I think everyone might want to
11 see it before they say yes or no.

12 CHAIR: Well, no, but her model was not
13 addressed --

14 MR. OATIS: I know, I wouldn't say the
15 model. So what we're saying is take off the
16 decreases completely, leave the 6% increase,
17 leave the harbor fee --

18 MS. KURTZ: No, that's not what I'm
19 saying.

20 MR. OATIS: Okay, I'm trying to
21 understand.

22 MS. KURTZ: There was a minimum draft fee
23 from 14' to 18' that they asked for. So I want
24 to see what that looked like, just to implement
25 that from the 14' to 18'. But that --

1 CHAIR: Which I think --

2 MS. KURTZ: Eliminate the --

3 MR. OATIS: I think when we, we walked
4 through that a little bit last night. It was
5 -- it's negligible.

6 MR. LAW: 40,000 some.

7 MR. OATIS: It's 40,000 total --

8 MS. KURTZ: Okay, but still it's, you
9 know, it's still something they're asking for,
10 so, you know, I don't even know what that looks
11 like by itself, so, you know, eliminate the 6%
12 or the 12%, or whatever the increase was on the
13 first column. Eliminate the 35% increases in
14 the other two columns. So I'm talking about
15 just the way the rate is now plus the harbor
16 control fee, and increasing the minimum draft
17 fee, and then having an allowance for
18 cancellation detention, and potential for two
19 pilots on the largest vessels if they ever need
20 to do that, and what --

21 MR. OATIS: That would be an increase of
22 about 540,000 of revenue.

23 MR. WINEGEART: Less than we have now.

24 MR. OATIS: No, going from base case --
25 going back to -- so look at this base case,

1 because all that would include -- everything
2 else here stays the same. None of these rates
3 would change. The draft wouldn't change,
4 nothing changes other than the minimum, and
5 then the harbor control fee which is roughly
6 500,000 some.

7 CHAIR: You want to make that motion, or
8 you want to just discuss it?

9 MS. KURTZ: I make the motion.

10 CHAIR: Okay, there's a motion on the
11 table to not pursue the option that has the
12 tiered pricing and the overall rate increase in
13 the model that's there, and let's simply --

14 MR. OATIS: Well, let's model it out.
15 That's what -- she asked to see it, so I'm
16 trying to put it up so we can see what that
17 looks like.

18 CHAIR: But it's simply addressing adding
19 the harbor fee, pilot allowance on the large
20 cargo ships, doing the detention cancellation
21 fee, and doing the 18' draft, right? So --

22 MR. OATIS: Essentially it's a no
23 modification in rate, and only addressing the
24 ancillary requests made by the pilots.

25 MS. KURTZ: Yes.

1 MR. WINEGEART: I'll second it.

2 CHAIR: Okay, there's a second by
3 Commissioner Winegeart. So we're in
4 discussion?

5 MR. ASSAL: I'd like to see the model.

6 CHAIR: So let's wait for the model.

7 MR. ASSAL: I think the numbers come up to
8 less than we have with the model, with what we
9 have now.

10 CHAIR: Right, because roughly it's going
11 to be 500,000 something increase, so yeah, so
12 that will be a less than the model that we've
13 -- yeah.

14 MR. JENNINGS: The last model had a net
15 revenue increase to the Biscayne Bay Pilots of
16 approximately 731,000, and the motion that you
17 just made would be a net revenue increase of
18 approximately 540,000.

19 MS. KURTZ: Right, but we're not tiering
20 tonnages. We're not --

21 MR. JENNINGS: Right, there's no discount
22 to essentially -- that's correct. And while
23 he's modeling that out, Mr. Chairman, if I may
24 ask, Commissioner Kurtz, could you give us some
25 rationale, some basis on the record as to why

1 you've decided to go this route?

2 MS. KURTZ: I think the harbor master fee
3 gives those some of the cash flow, they can put
4 that into their, you know, replacing a pilot
5 boat, which is, you know, usually around a
6 million dollars or so, so they'll have some
7 money right away, that they know it's an
8 equitable fee, apply it to all vessels so there
9 can't be an argument that it's preferential to
10 one class vessel or another. Not changing the
11 rate structure allows for increased size in
12 vessels to generate more revenue, so there's
13 still growth potential there by not changing
14 the rate structure. And then the value of
15 their time to be stuck on a ship for as long as
16 it takes you to another job, I think it's good
17 to have those cancellation and detention
18 penalties in place as a deterrent to misusing
19 their time. And those neopanamax vessels, I
20 know in Oakland, California once they got a
21 certain size they needed to put a second pilot
22 on, the turning basins are not designed for
23 vessels of that size and they really need
24 second pilots, so they may determine that they
25 need that at some point, so just to be allowed

1 to do that.

2 So I think the, the ancillary charges, you
3 know, those are sort of quality of service
4 issues, and not touching the rate structure
5 allows for the increase in revenue, an organic
6 increase of revenue, as it was put, as the size
7 of the ships increase, and then the harbor fee
8 is the cash flow immediately, as opposed to
9 waiting for bigger ships to come in.

10 MR. OATIS: This reflects the harbor fee,
11 zero increase, removal of tiers for both the
12 GRT and draft, while also implementing the 18'
13 minimum for the draft computation.

14 MR. SOLA: Is that the increase in GRT?

15 MR. OATIS: There is no increase in GRT in
16 this one. It's zero. It's flat.

17 MR. SOLA: Does that account for the
18 double pilots on the neopanamax?

19 MR. OATIS: It doesn't. There's no real
20 way to --

21 MR. JENNINGS: No way to account for that.

22 CHAIR: You're saying that's optional.

23 MR. OATIS: Right, I don't --

24 CHAIR: An optional revenue. Her request
25 relates to the option for some of these items,

1 request the double pilots as an option, the
2 ability for detention is an option, just to
3 have it there, but not really with any
4 (unintelligible) --

5 MS. KURTZ: Sometimes -- just to address
6 the two pilots on a ship. Sometimes that's
7 weather dependent. If, you know, very windy,
8 or there are often daylight restrictions on
9 these vessels and they want to put two pilots
10 on to see if they can do it at night. If they
11 have a ship that large some of these, there's
12 kind of a growing pain.

13 MR. JENNINGS: Okay, so we're in
14 discussion on this item before we vote.

15 MR. SOLA: My opinion is this is
16 inconsistent with what we had discussed
17 earlier, and that we were wanting to provide
18 relief for those other larger ships. Although
19 I agree with the harbor fee concept -- I
20 personally agree with the allowance for -- I
21 agree with all four of these. I would be
22 supportive of adding these four components in
23 the other model that we had, and therefore
24 voting this down. But obviously if you all
25 want to vote this up that's your decision.

1 Then the other one would be off the table.

2 CHAIR: Yeah, obviously in removing the
3 tiers it fails to recognize the volume
4 discount.

5 MR. OATIS: It's just another increase in
6 the fees, there isn't (unintelligible). I saw
7 both sides of it, and it doesn't show any
8 recognition for one side, it just -- now it's
9 really one sided. That's my personal opinion.

10 MR. SOLA: I think the tiered system
11 hasn't had enough evaluation. I'm concerned
12 about the unintended consequences of the tiered
13 system.

14 CHAIR: Any other discussion? Then we'll
15 vote on it. Okay, so I'll call the vote, and
16 the vote will be to accept a rate increase with
17 those four components, with the rationale that
18 Commissioner Kurtz provided, and that that
19 would be our, our recommendation for this
20 meeting, for that motion. Okay, Ms. Ann, can
21 you -- a yes would be agreeing to this rate
22 increase.

23 MS. ANN: Commissioner Sola.

24 MR. SOLA: No.

25 MS. ANN: Commissioner Kurtz.

1 MS. KURTZ: Yes.

2 MS. ANN: Commissioner Oatis.

3 MR. OATIS: No.

4 MS. ANN: Commissioner Assal.

5 MR. ASSAL: No.

6 MS. ANN: Commissioner Winegeart.

7 MR. WINEGEART: Yes.

8 MS. ANN: Commissioner Wilkins.

9 CHAIR: No. So it fails. Okay, so now we
10 need another, a motion on another option for
11 the rates. Would anybody like to make one? Do
12 we want to make the motion on the model that
13 was last presented before -- my motion -- I
14 mean my -- I can't make a motion. My
15 suggestion if someone did make a motion would
16 be to incorporate the four components of
17 Commissioner Kurtz's previous recommendation
18 into the model that has the other four
19 components of the, the step up, the draft
20 component, the harbor control fee, and the, and
21 the 6% increase. Are you crunching numbers on
22 it?

23 MR. OATIS: I'm trying to get it back to
24 where it was.

25 MR. SOLA: Isn't that the starting of the

1 step rate there.

2 MR. LAW: This was something that wasn't
3 brought up when I was given the opportunity to
4 speak, because you weren't talking about the
5 detention fee, but as part of the detention
6 fee, the new detention fee, even though it's
7 optional, is twenty five percent, or fifty
8 percent of the pilotage cost. Under detention
9 fee you could have somebody with a medical
10 emergency cause a detention, where you have to
11 go and get, you know, the paramedics on board,
12 or whatever, to get the person off, or you
13 could have a weather condition that came up
14 suddenly that did that, or some other type of,
15 of condition, other than the ship just not
16 wanting to leave. Is all of that taken into
17 consideration somehow so that if you had a
18 legitimate reason like a medical condition, or
19 someone having a heart attack, or something
20 other, that would be taken into consideration,
21 and it wouldn't be you were going to leave at
22 9:03, so you're out. That's all I wanted, was
23 a clarification. And I'm sorry I brought it up
24 now, but it wasn't brought up when I had my
25 opportunity. Thank you.

1 CHAIR: That's fair. (Unintelligible),
2 did you have a comment on that?

3 UNIDENTIFIED SPEAKER: Yeah, I can clarify
4 that. So when a -- when a pilot is on board a
5 ship, and the ship is delayed due to an
6 approaching storm, a squall, or something like
7 that, that's not a detention, that's the pilot
8 actually making that call, it's not safe to
9 leave right now, we're going to wait for thirty
10 minutes until this weather pattern goes by, or,
11 or whatever the period is. That's -- that's
12 not a detention or cancellation when the pilot
13 makes the call that the ships time will change.
14 I would also, to (unintelligible) explain for
15 medical emergencies, yeah, I would stipulate
16 that we wouldn't charge it for medical
17 emergencies, so you could add that language in
18 there.

19 The part about weather is, is already
20 there because that's not the, the ship, that's,
21 that's the pilot saying it's not safe to sail,
22 and that's already covered in our, our duties
23 as per statute. But the 25% detention, you
24 know, except for medical emergencies that's
25 completely reasonable.

1 CHAIR: Okay, great. Thank you. All
2 right, so weigh in on -- wouldn't this have
3 gone up a little bit from our past model if we
4 added those other four components?

5 MR. OATIS: But they were already
6 included.

7 MR. JENNINGS: They were already included,
8 except for the 40,000. Didn't you all -- did
9 you say there was 40,000 for the draft --

10 MR. OATIS: No, the -- the minimum draft
11 was already included.

12 CHAIR: Okay, does anyone make, want to
13 make a motion?

14 MR. WINEGEART: I would like to make a
15 motion that we approve the proposal that we
16 have in front of us that includes the harbor
17 pilot control fee and increase of 6% until
18 70,000 GRT, a rate reduction on GRT from 80,000
19 to 120,000, and a further rate reduction from
20 130,000 and above, and also to increase the
21 draft, and the auxiliary services such as
22 cancellation fee, and I can't remember the last
23 one, detention fee.

24 MS. KURTZ: And did you include the
25 ability to put two pilots --

1 MR. WINEGEART: The ability to put two
2 pilots would be at the discretion of the, of
3 the pilots, due to weather, or other
4 circumstances.

5 CHAIR: Is there a second.

6 MR. SOLA: Second.

7 CHAIR: Second from Commissioner Sola.
8 Okay, discussion. Part of the discussion needs
9 to be the rationale for why we would do this.
10 Commissioner Sola, would you like to try to
11 articulate that?

12 MR. SOLA: Yes, I would. I believe that
13 it was very clear, and I believe that the Board
14 clearly agrees that there should be a control
15 handle fee, the pilots are doing that work and
16 they're not being paid for it, and it is
17 something that is a minimal expense on every
18 handle that they have that adds up to quite a
19 bit of money at the end of the year that would
20 definitely assist them in their capital
21 improvements, or other things that they need
22 for their cash flow.

23 The last time the rate review was done, in
24 1999, and then implemented in 2000, it did not
25 take into consideration some of the bigger

1 vessels that we have today. The vessels that
2 we have today are much larger, and much more
3 sophisticated, and also we have a major two
4 billion dollar development going on here at the
5 port. In our statutory requirement under
6 Florida Statute 310.151(5) we are supposed to
7 be fair, just, and reasonable rates, and I
8 would like to make, very important,
9 specification to consideration of public
10 interest.

11 It is in all of our public interests to,
12 that the port continue to operate in a safe
13 manner. I believe that we have shown that. I
14 believe that we have gone through the twelve or
15 thirteen different characteristics that we need
16 to establish the rate. There hasn't been a
17 rate increase in, in seventeen years, and I
18 made point to that, that they're, that that
19 point should be addressed. And the same that
20 as I've mentioned earlier, that we had not
21 addressed the larger ships at the last time the
22 rate was addressed. The draft issue is
23 something that is very clearly with the
24 widening of the port, and the deepening of the
25 port, and with the neopanamax ships it's

1 something, it definitely affects.

2 I would also like to say that in eighteen
3 months, or the next time that we may visit this
4 issue again, that the ships should be charged,
5 or the rate should be done, and include all of
6 the aspects that we have in front of us, all
7 six. We need to include length. We need to
8 include beam. I believe that we're, we're
9 trying to run down the road with one, one leg
10 tied, you know, or one leg tied kind of
11 together, and I believe that this is the best
12 formula that we have. It is not perfect. It
13 addresses a lot of things that we have in front
14 of us, and I believe it will promote growth.

15 In the same time I do not believe that it
16 favors, or un-favored one category, or client,
17 or the other. I believe that the way the rate
18 system was before definitely applied to one
19 after a certain category, and that's why we
20 made that. And I believe that we also are
21 going to be promoting some of those larger
22 ships to come here, and there will be an
23 increased revenue from them coming here. And
24 that's -- that is in the best, and in the
25 interest of the state.

1 CHAIR: Thank you. Other discussion?

2 MR. ASSAL: For clarification I believe
3 the Commissioner stated that the tiering
4 started at 70,000 tons, but I believe it starts
5 at 80,000; is that correct?

6 MR. OATIS: That's correct, after 70,000.

7 MR. ASSAL: After 70,000.

8 MR. OATIS: As it's presented on the
9 board.

10 CHAIR: All right, Commissioner Sola, I
11 thought your justification was very
12 appropriate, and documents the rationale of why
13 you're asking that, so I think we're ready to
14 take a vote. Ms. Ann, can you all a vote? A
15 yes would mean to approve the motion that
16 Commissioner Sola has made.

17 MS. ANN: Commissioner Sola?

18 MR. SOLA: Yes.

19 MS. ANN: Commissioner Kurtz.

20 MS. KURTZ: No.

21 MS. ANN: I'm sorry?

22 MS. KURTZ: No.

23 MS. ANN: Commissioner Oatis.

24 MR. OATIS: Yes.

25 MS. ANN: Commissioner Assal.

1 MR. ASSAL: Yes.

2 MS. ANN: Commissioner Winegeart.

3 MR. WINEGEART: No.

4 MS. ANN: Commissioner Wilkins.

5 CHAIR: Yes. So this rate change has now
6 been made by this Board. I want to thank all
7 the Board members for their, the commitment of
8 their personal time, for a very long week. As
9 Commissioner Assal had mentioned earlier this
10 is tough decisions that we had to make, to be
11 put in situations to do this, but I'm glad to
12 see we've all coalesced around similar
13 solutions. So thank you for your time.
14 Everybody have a safe trip back.

15 MS. KURTZ: May -- may I ask one question?
16 Would it be possible for us to get copies of
17 this before we leave?

18 CHAIR: Yes.

19 MS. KURTZ: And can we get it in, in the
20 actual Excel file as opposed to a PDF?

21 MR. OATIS: It's going to be produced that
22 way. There's no reason not to, yes.

23 MS. KURTZ: Yes.

24 MR. OATIS: Absolutely, because I'm
25 getting it in my cell, so -- we'll get it to

1 you. If you want to wait a little bit, I think
2 they're going to print some up.

3 CHAIR: And anyone can also order
4 transcripts of this meeting as well. The
5 meeting is adjourned, thank you.

6 (Thereupon, the above proceeding concluded.)

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C E R T I F I C A T E

(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

