BOARD OF PILOT COMMISSIONERS
PILOTAGE RATE REVIEW COMMITTEE

IN RE: REVIEW OF PROPOSED AGENCY
ACTION FOR CHANGE IN THE RATES OF
PILOTAGE FOR PORT MIAMI
CASE NO. PRRC-2014-1

TELECONFERENCE MEETING

The above entitled panel convened via conference
call on the 31st of August 2017, commencing at
2:00 p.m.

Reported by:

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PRESENT

COMMISSIONER DAVID WILKINS, CHAIR; COMMISSIONER CHRIS OATIS, VICE CHAIR; COMMISSIONER SHERIF ASSAL;
COMMISSIONER CAROLYN KURTZ; COMMISSIONER LOU SOLA;
COMMISSIONER JAY WINEGEART

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TELEPHONIC PROCEEDINGS

MR. CHAIRMAN: Thanks everybody for joining this call. We have 100 percent of the commissioners on. For all the other participants, other than the commissioners, if you could mute your phones at this time, except for Ann. And let's first start with a roll call.

MS. AHRENDT: Okay. Commissioner Sheriff Assal?

MR. ASSAL: Here.

MS. AHRENDT: Commissioner Carolyn Kurtz?

MS. KURTZ: Here.

MS. AHRENDT: Commissioner Lou Sola?

MR. SOLA: Here.

MS. AHRENDT: Commissioner Jay Winegeart?

MR. WINEGEART: Here.

MS. AHRENDT: Commissioner Chris Oatis.

MR. OATIS: Here.

MS. AHRENDT: And Commissioner David Wilkins?

MR. CHAIRMAN: Here.

Okay. Thanks everyone for being here. This is a follow-up call to our May 19th meeting where we reviewed the Port of Miami rate structure, and you have all received the write-up from Mr. Jennings that defines the notice of intent to
modify that rate structure.

So this call is simply for all the
commissioners to review this, ask for any
clarifications or any wording changes you think
are pertinent to the actual rule and then we will
then go forward with the final order usually after
this meeting if we all agree.

Just as a reminder, this is not a relive date
or rethink or come up with alternative solutions
for Miami. This is just to ensure that this
document effectively articulates what we intended
at our May 19th meeting.

Now, there were two additional documents that
hopefully you all received, both from the FCCA and
the pilots, providing clarification from their
perspective on a couple of the wording changes in
the document. So we'll talk about that in a
minute.

Before I sort of jump into the particular
issues, Clark you have some clarification comments
for us?

MR. JENNINGS: The only thing I wanted to
add, Mr. Chairman, is that one of the documents --
actually, both documents make a reference to a
motion for clarification. Either of these
documents are really motions, and I had discussed this with the party litigants, and they agreed that they just tried to come up with a title to -- because they really didn't know what to call this thing. But essentially both documents are -- as you noted, Mr. Chairman, the parties beliefs and clarification saying, "No, Clark, you didn't quite get it right. Here's where we think you've got it wrong and here's why."

So they're not motions. They don't need to be ruled on as motions. They are simply the party's different interpretations of what had happened and in an attempt to help us -- help me craft a better worker. So hopefully they have been reviewed by all the committee members and we can move forward, Mr. Chairman.

If you have any specific questions for me, I'm happy to answer them at this time.

MR. CHAIRMAN: Okay, very good.

Does anybody have any questions for Clark on clarification before we actually go into the substance of the document?

Okay. In terms of the document itself, some of you may have some minor edit or typo types of changes. For this form, we don't necessarily need
to go through that. Clark and I have identified a couple little things that are not pertinent to changing intent and he'll clean those up in the final order.

Now, the two items that had been brought to our attention from both parties -- you know, point one is, did we, as a committee, intend to change the rate at the 70,000 GRT point or at the 80,000? The document itself says, "80,000." Which, you know, looking back at my notes, that's what I thought we had intended and that's what I thought we had in the original document, but I'd like to get the -- if any commissioner believes we did not intend that, can we talk about that?

MR. ASSAL: This is Commissioner Assal. And again, we went through so many different formulas that day, and I'm trying to understand. So we said it starts at 80,000 or anything over 70,000? I see the document we got, right?

MR. CHAIRMAN: Right.

MR. ASSAL: I saw that. But was it intended over 70 or starting at 80? That's what I'm trying to understand.

MR. CHAIRMAN: That's fair. I remember you brought that up in the meeting and I remember the
discussion, you know, that we had going around that.

I personally thought -- you know, at the time you had brought up 70. There was discussion about why the spreadsheet had 80 and, you know, and then round and round, but we all had -- at least I put down 80. But Commissioner Oatis, did you have a different opinion?

MR. OATIS: Well, yeah. I think that some of the confusion goes to how the spreadsheet -- fits the limitations of the spreadsheet in order to provide us with some reasonable estimate of what the implications were for some of the changes we were making. You know, obviously, I had to keep the GRT levels at 10,000 increments. So the limitation of the spreadsheet I think pointed to the conclusion of the thoughts that the 70 -- anything in excess of 70,000 is what would be impacted by the first drop in the rate. But because of the way the spreadsheets are shown, I think that's where some of the confusion is coming in.

MR. CHAIRMAN: So I -- this is David. So I understand, we originally started at 50 when you came out with the original formula, correct me if
I'm wrong?

MR. OATIS: Correct.

MR. CHAIRMAN: And then we did not go to 60; we went to 70, right, something like that? Or did we go one at a time? I don't recall. I'm looking for the document that.

MR. OATIS: Right. I think the initial start -- the initial start at 50, you're correct. I think when we made the first revision to that, it was for the way that it reflected in the spreadsheet is that it changed at 80,000, and for some reason I think that's part of the limitation of the spreadsheet is it doesn't address any of the gross tonnages in between. And so while the spreadsheet itself is used for estimate purposes, I think that it is limited in its ability to be relied upon for determining where the break should happen because it's put together to give us a reasonable estimate for what the implications were. And so all those amounts between 70,001 to 79,999 are not necessarily considered in there because of the way that the 10,000 gross tonnage breakage takes place.

So that's a more realistic, that's a more accurate reflection of how these gross tonnages
are going to shake out compared to the estimate used in the spreadsheet.

MS. KURTZ: This is Carolyn Kurtz. I have a comment on that. I remember the conversation. I remember what Commissioner Sola had mentioned or had proposed the 70,000, and I remember I was not in agreement with that and we had talked -- that's where the break had came in at 80,000 and I thought there was some agreement about that.

So I do agree with Commissioner Wilkins that the break is at 80,000, not at 70,000. That was my understanding at the time.

MR. CHAIRMAN: Commissioner Winegeart, did you have a comment?

MR. WINEGEART: Yes. The first comment I'd like to make is that in the -- the court reporter in the minutes it appears that I made the motion. That's incorrect. I did not make the motion. I remember discussing it, and we looked at the spreadsheet that was prepared, which has the change -- it appeared to be changing 80,000 gross and that's what I remember we agreed upon.

MR. CHAIRMAN: Yeah. Just to clarify that, wasn't it Commissioner Sola who had made the motion?
MR. SOLA: Yes, it was Commissioner Sola who had made the motion, and I'm very grateful to the court reporter for confusing me with Commissioner Winegeart. He's much taller and more handsome.

I sort of have the floor, and I'm the one that made the motion. First -- you know, first of all, I would go ahead and point out before this is that we made no distinction between passenger vessels and cargo vessels on the note.

On this specific issue, I was -- what I was trying to do here is, when I made this -- I was very clear when I made this is that I wanted an increase up until 70 and I wanted a decrease from 80. And what I wanted in the middle, which was my intention, was that is as close to the status quo as possible. And the only way to get that would be to start at -- start the reduction at 70,001. And we're talking about either of these options that we have on the table, there's only a difference of a maximum of $150. But what I was trying to do is trying -- my intention was is to get it as close to the status quo as possible. And that was my intention. I wanted it to decrease after 80 and I wanted it only to increase up to 70.
MR. CHAIRMAN: Okay. Well, I think that clarifies it. So what is the rate that you're proposing to occur between 70 and 80?

MR. SOLA: I wanted it as close to the status quo as possible, and out of the proposals that we have in front of us or the numbers we have in front of us that the reduction would start place at 70,001. And as I said, the difference between these two things at 79,999 is $145.

MR. ASSAL: This is Commissioner Assal. So I'm assuming that based upon what you're saying, Commissioner Sola, is that you thought it's at the 70,000 they start getting the discount; is that what it is?

MR. SOLA: Yes. And if you look at my -- at the court record on page 109, you know, that's what -- that's what I was saying, is I wanted it to start -- I wanted the reduction to start at 70,000 because in one case you're increasing it by 6 percent and in the other case you're doing a reduction. And what you do is you get basically a manifest. It only goes up by about 3 percent for that very important group that I was asking a lot of questions about because they have so many handles and it's so important to the revenue.
And I believe that is fair and that is what my intention was and that's the way that I meant it, and I realize sometimes you get spreadsheets going back and forth and it gets a little confusing but I said it correctly. I said that I wanted it to increase up until 70 and I wanted it to -- for a (inaudible) after 80.

MR. JENNINGS: Mr. Chairman?

MR. CHAIRMAN: Go ahead.

MR. JENNINGS: Just so I understand since I'm the guy who will have to pin this, if this is where you're going. I don't know what it is, but -- because -- anyway. So as I understand then, Commissioner Sola, the intent is from 70,001 to 79,999, the current rate is still applicable to that group, whatever that rate happens to be and I can get that number.

MR. SOLA: It's .0364.

MR. JENNINGS: Okay. So do .0364 to that group, that was your intent? That's what you understood?

MR. SOLA: That's what I was intending.

MR. JENNINGS: Okay. All right.

MR. WINEGEART: Commissioner Winegeart here. I'm not following completely. I believe the
80,000 is going to be a totally separate rate?

MR. CHAIRMAN: Well, you have the 6 percent increase up to 70, between 70 and 80 it's the current rate and then above 80 is the 35 percent of reduction rate; is that right? Does that sound right?

MR. SOLA: That's correct.

MR. CHAIRMAN: Okay.

MR. WINEGART: I'm just saying that wasn't what the motion was. The motion I remembered was what was presented on the spreadsheet, which has a change at 80,000. 6 percent increase and then at 80,000 start the reduction.

MR. ASSAL: I think if you look at the court reporter's, he was saying 70, and I don't know what the other commissioners were, but that's what I thought, 70, as well. But again, that's something for Clark to decipher. Sorry, Clark.

MR. JENNINGS: I appreciate that,

Commissioner. I thought I had, but apparently I may not have gotten it right.

MR. CHAIRMAN: Again, we all were there for two long -- or two and a half days, and one of the days until 8:00, 9:00 at night. I think that the charge that we were all trying to comprise and get
everyone whole was -- you know, back and forth changing numbers, back and forth, but based upon what we've seen, again, we wanted to make sure that it was fair and applicable for everyone, right? And the larger the vessels that are coming in, that's what we were looking at, right?

MR. JENNINGS: (Inaudible). Well, Mr. Chairman, this is Clark. Just so the committee understands where I was coming from when I crafted this. I mean, I read the one motion that has been referenced a couple of different times and my first thought was from just the words that it -- as I just described, back to Commissioner Sola; that he intended that that gap be no change.

Then I started looking at the charts, which to me appeared to say starting at 80. Okay. There's a little of inconsistency here. I'm going to go with hard numbers as opposed to people trying to articulate what they want because sometimes we don't always articulate ourselves as well as, you know, cold numbers do. So I went with what I thought were the cold numbers and went with the 80 break.

So it's up to this committee to tell me, where am I going with this when I put this to
paper? At that point, Mr. Chairman, I'm stepping back and I'm letting you -- y'all figure out what you meant and you tell me.

MR. CHAIRMAN: Right. And I -- you know, (inaudible) what you did, and that was consistent with what we discussed and so that was fine because I was confused on the 70. I remember the discussion about -- from Commissioner Assal about starting at 70 and -- but I didn't catch that when Commissioner Sola made the motion to keep the 70 to 80 range flat. So I missed that.

Commissioner Oatis, was that your understanding of what we were agreeing to at the time.

MR. OATIS: Yeah. And again, thinking back on it, I was thinking about things in kind of more high level when I'm looking at the calculation and that's where I think we're trying to use -- I don't want to say (inaudible), but we're trying to use the spreadsheet, which was really just a gauge for various changes so that we could be flexible and (inaudible) for the change we're proposing versus what was ultimately proposed which gets into the more granule level of considering what happens on these in between amounts, in between
70,000 and 80,000, in the like where my
spreadsheet only addressed at that amount.

MR. LAW: Mr. Chairman, this is Richard Law.
May I make a comment?

MR. CHAIRMAN: Yes.

MR. LAW: I heard someone say that the rates
would be 0364 on the tonnage. That's the old
rate. Isn't that rate suppose to start at 386 and
then with a 35 percent discount come down to 0251?
I don't think the old rate of 0364 is -- is
relevant anymore; am I right?

MR. CHAIRMAN: I mean, that's the point of
contention.

MR. LAW: No. I thought the point of
contention was whether you're going to apply the
rate between 70 and 80, not the rate itself. It's
the layer of the tonnage that was up for
discussion. The tonnage rate is .0386, which is a
6 percent increase over the old tonnage. And then
there's a 35 percent discount applied to
(inaudible) tonnage rate. But I heard someone say
.0364 tonnage rate, which is the old rate.

MR. SOLA: That is correct, Mr. Law. This is
Commissioner Sola. It was my intention to leave
that as close to -- you know, to the status quo,
in between there, so it doesn't affect one party or the other. If we have to use the .086 then what we would have to do is start the reduction rate after 70,000 and (inaudible) closest to that number. It would still go up by, you know, 6 percent at 70,000 and at 79,999 I think it goes up by almost 3 or 4 percent.

MR. CHAIRMAN: So now, what I want to say to Mr. Law is, again, you have the 6 percent increase up to 70. You have the existing rate from 70 to 79,999 and 80 you have the lower rate at the 35 percent discount (inaudible) previously raised rate?

MR. LAW: Okay. So what will those tonnage rates be? Will it be .0386 and then for between --

MR. SOLA: From .0251, yeah.

MR. LAW: 0251 and then 0163 the next layer above?

MR. JENNINGS: Mr. Chairman, may I -- this is Clark.

MR. CHAIRMAN: Yes.

MR. JENNINGS: Richard, as I understand what Commissioner Sola was saying is that if you look at the drafts document there would be a new B and
A would be rewritten to say, "Tonnage charge of 0386 for GRT to the first 70,000." And then you would have a new B which says "Tonnage rate of .0364 for the rate of 70,001 to 79,999." And then by tonnage rate of 0251 at or above 80 GRT with a tonnage -- and then a rate of 0163 applied for everything above 130,000 GRT.

MR. LAW: So there's four layers?


MR. SOLA: That's exactly correct, Clark.

MR. LAW: Okay. I didn't see that back in the excel schedule that there were actually four layers, but I just want to be sure.

MR. JENNINGS: Nor did I. But apparently -- excuse me for jumping in, Mr. Chairman. But apparently, if I'm hearing Commissioner Oatis right, the spreadsheet just didn't accommodate that. So anyway.

MR. SOLA: Do you need a motion on that, Chair?

MR. CHAIRMAN: Yes.

MR. SOLA: I make a motion that we adopt it the exact same way that Clark said with a new B from 70,001 to 79,999 with the stats quo rate of
MR. CHAIRMAN: Okay. We have a motion from Commissioner Sola.

Is there a second?

MR. SOLA: Commissioner Assal seconds it.

MR. CHAIRMAN: Commissioner Assal seconds it.

Any discussion?

MR. WINEGEART: Mr. Chairman, this is Jay Winegeart. I'm having a hard time following this because we met for an extensive period of time and this is the first time I heard of this rate from 70 to 80,000. I don't know where this is coming from.

MR. JENNINGS: And Mr. Chairman, if I may try to -- this is Clark.

MR. CHAIRMAN: Yeah.

MR. JENNINGS: Commissioner Winegeart, essentially -- I don't want to rephrase anyone's motion. But what has been suggested in the motion said, I got it wrong and that the intent of the committee back in Miami was to do what was just described. So now, apparently we have at least two commissioners who think that I got it wrong and what the committee intended is what was just described of these four layers.
If you think the committee thought something differently then this is the time to have it under
discussion and say, "No, that's not what I
understood. I understood something else," and we
need to figure this out.

What did the committee intend? Did you
intend these four layers or did you intend the
three when you all parted company in Miami. And
that's where we are.

MR. WINEGEART: And this is Jay Winegeart
again. As I said before, my understanding is we
intended what was on the spreadsheet that was in
front of us and that was given to everyone. That
was my understanding as what we voted on.

As a matter of fact, I remember at one point
the tier 1 increase was going to be 12 percent and
it started -- I forget, 60,000 or what -- dropped
it down to 6 percent and so we pushed it to
80,000. That's my recollection.

MR. CHAIRMAN: Yeah. And I -- Commissioner
Winegeart, I understand why you think that because
I remember that whole conversation too. But at
the same time, you know, I recognize the
conversation that Commissioner Oatis had about the
spreadsheet limitations and the whole issue that
we had about where all the volume was and the 70 to 80 range and -- so you know, I just missed the point of trying to keep the 70 to 79,999 range, you know, whole, which was Commissioner Sola's original intent, which also, I guess, was at the heart of why both parties were asked for clarification on this as well because everybody saw this a little different in the discussion then.

MR. WINEGEART: Mr. Chairman, this is Jay Winegeart again. If I would -- if you refer back to the motion as -- I'm looking on -- actually on page 3 of the FCCA's motion to clarify. I'm reading what the court reporter has as my motion, which is actually not my motion. It was Commissioner Sola. And if you read passed what we're discussing, it goes on to say, "A rate reduction and gross (inaudible) from 80,000 to 120,000 thousand and a further rate reduction from 130,000 and above," so there's another gap from 120 to 130,000. So that should be the old rate also, I'm assuming.

MR. SOLA: I did not propose that to have a new rate there. What I proposed was for the 70, and I think that that was extensively spoken about
in the testimony and we had four of the six commissioners vote on my proposal affirmatively. So I know what my intent was.

MR. CHAIRMAN: Right. That's why -- I mean, even though -- I mean, that's not in reference to you, but looking at that same wording, that's why you said, "up until 70,000," and then you said, "a rate reduction at 80." So --

MR. SOLA: That is correct.

MR. CHAIRMAN: That's the intent, 70 to 80 was flat. And so I understand the clarification you were making.

Are there other comments before we vote?

Okay. Ms. Ann, can you take the roll on this? And then for those who agree with the identified changes as Clark just went through them, if you can say so with a "yes," and if you oppose say "no."

MS. AHRENDT: All right. Commissioner Assal?

MR. ASSAL: Yes.

MS. AHRENDT: Commissioner Kurtz?

MS. KURTZ: No.

MS. AHRENDT: Commissioner Sola?

MR. SOLA: Yes.

MS. AHRENDT: Commissioner Winegeart?
MR. WINEGEART: No.

MS. AHRENDT: Commissioner Oatis?

MR. OATIS: Yes.

MS. AHRENDT: Commissioner Wilkins?

MR. CHAIRMAN: Yes.

Okay. So that will buy us wording that applies.

The other point, which a couple people have referenced, was the way the wording that is written on page 13, which is actually at section 3 there, which segregated some pricing differentials for cargo vessels. And at least my recollection was we did not differentiate between the passenger and the cargo. And so we can potentially just remove that section 3A and B and modify section 2 to just basically say, "For all vessels" versus just the passenger vessels.

But questions on that? Did anyone understand that differently? Clark, did I articulate how you would apply the edit to that correctly?

MR. JENNINGS: Yes, sir, you did. I would simply strike any distinction on just the one tonnage rate -- or the one -- yeah. Excuse me, yes, sir, eliminating any distinction between cargo and passenger.
MR. CHAIRMAN: Any other commissioners agree? Do I have a motion on that?

MR. WINEGART: Winegeart (inaudible).

MR. CHAIRMAN: Commissioner Winegeart.

Do I have a second?

MR. ASSAL: Commissioner Assal, second.

MR. CHAIRMAN: And commissioner Assal, second.

Any other discussion?

Ms. Ann, can you do a vote on this one?

MS. AHRENDT: Yes, sir.

Commissioner Assal?

MR. ASSAL: Yes.

MS. AHRENDT: Commissioner Kurtz?

MS. KURTZ: Yes.

MS. AHRENDT: Commissioner Sola?

MR. SOLA: Yes.

MS. AHRENDT: Commissioner Winegeart?

MR. WINEGART: Yes.

MS. AHRENDT: Commissioner Oatis?

MR. OATIS: Yes.

MS. AHRENDT: Commissioner Wilkins?

MR. CHAIRMAN: Yes.

MS. AHRENDT: Motion carries.

MR. CHAIRMAN: Okay. We'll make that change.
Those were the only two changes I had identified, but I'll open it up to the other commissioners. Were there other edits that you would like to discuss in Clark's document?

MR. WINEGEART: Chairman, Jay Winegeart here. I'm looking on page 14, No. 5, "The Detention of Pilots, 25 percent of assessed pilotage fee." Should the wording -- that's suppose to be 25 percent per hour after the first half hour. Does that need to be in there?

MR. JENNINGS: Yes, sir, it does. I'm sorry. I thought that it was simply a 25 percent flat rate of whatever the -- well, the way I understood it, and this is where I need correction obviously, whatever the assessed pilotage fee was going to be for that handle, it was just suppose to be 25 percent of that fee. So since -- the rates aren't hourly, are they?

MR. WINEGEART: The old detention rates are hourly and same in Jacksonville.

MR. JENNINGS: Okay. As I understood the comment, and I may have been wrong here, was that you just determined whatever the pilotage fee was going to be for that particular handle and you were just going to get 25 percent of it.
MR. WINEGEART: Well, the problem with that is they can keep you on board for 10 hours and, you know, just -- just keep you hanging on. The intent of the -- of that rate -- or that fee is to try to not have that situation arise. So they're allowed to just keep you on the ship. It's not deterrent for them to give us timely information.

MR. JENNINGS: Okay. So how -- and this needs to be affirmed by the entire committee if that's your intent. If that's the intent then how would you want that phrased?

MR. WINEGEART: It would be "Detention of Pilots, 25 percent of assessed pilotage fees per hour after the first half hour."

MR. JENNINGS: Okay.

MR. WINEGEART: I'd like to --

MR. CHAIRMAN: You want to make that as a motion?

MR. WINEGEART: I'll make that as a motion that we change the detention of pilots to what I just said.

MR. JENNINGS: And if I may just repeat so I know I got it right. Number 4 would now read -- the new No. 4 would read, "Detention of Pilots, 25 percent of assessed pilotage fee per hour after
the first one half hour with the remainder being
the same, in no case may a delay, departure caused
by medical emergency or force of nature
(inaudible)"

MR. WINEGEART: Yes, sir.

MR. JENNINGS: Okay.

MR. CHAIRMAN: Okay. Is there a second on
that motion?

MS. KURTZ: I'll second.

MR. CHAIRMAN: Second.

Okay. Any other discussion? Okay.

MR. OATIS: This is Commissioner Oatis. I
guess, just trying to understand. So we're saying
it's going to be 25 percent of the pilotage fee
penalty for every hour after the first half an
hour, correct?

MR. JENNINGS: Yes, for every hour after the
first half. The first half hour apparently is
free, but then after that first half hour of
detention is 25 percent per hour.

MR. OATIS: Just thinking through
Commissioner Winegeart's example. It it's a
10-hour hold then we're looking at roughly 250
percent of the fee. And so on top of the fee
there's an additional 250 percent penalty?
MR. JENNINGS: Right.

MS. KURTZ: The whole idea is that it never happens. You know, if you tie them up for three hours, that's a job someone could have done somewhere else. So really the idea is that it's deterrent for agents to have the most up-to-date information when they're ordering a pilot.

(Inaudible) just order a pilot without checking on the readiness of the vessel, and because the detention rate historically has been very low, the time is not valued, and you're tying up a pilot for the amount of time that they could be doing something else.

So it's really designed to be a deterrent, not a money maker.

MR. OATIS: No, no, completely understood.
And I remember that portion of the conversation we had.

I guess my thought is -- and again, with the world that I work in, usually for deterrent-type penalties, there is some sort of top-end cap such that it would be 25 percent up to 100 percent maximum or 50 percent maximum.

MS. KURTZ: (Inaudible) just go ahead and cancel, so, you know, (inaudible). I think if
somebody realized that it was going to be more
than an hour they would just cancel. That's my
interpretation of it.

MR. WINEGEART: Winegeart here again. That's
the -- that's their -- if it's going to be over an
hour delay then it's up (inaudible) should cancel
and just take the cancellation fee of 25 percent
and then call for a pilot when they are going to
be ready to sail. There's no -- there is no
situation where it would be, you know, you're on
board for eight hours like that unless we didn't
have an incentive for them to go ahead and cancel.

MR. OATIS: Okay. So did I misunderstand the
-- is it 25 percent for the first hour, period,
and not a per hour penalty that would continue to
accrue each hour that passed?

MR. WINEGEART: If the vessel gets the pilot
on board then the next hour would be another 25
percent, but if the vessel decided to cancel, the
cancellation charge, which is number -- well,
would be ne No. 5, at No. 6 now, cancellation of a
pilot is 25 percent. So it's simple math for the
vessel to decide whether to keep the pilot on
board or to let him go do another job.

MR. SOLA: This is Commissioner Sola.
Captain Winegeart, would you have a problem just capping that out at 100 percent of what it would be? Are the pilots allowed to cancel as well or are they forced to be there?

MR. WINEGEART: Well, we can only cancel for weather or something like that.

MR. SOLA: Understood.

MR. WINEGEART: Safety reasons.

The problem -- if you have a cap like that then the problem is there's no deterrent for the vessels to keep the pilot on board.

MR. CHAIRMAN: So your point is sort of have a gap because you just cancel, you know --

MR. WINEGEART: Exactly.

MR. CHAIRMAN: -- so they would know that if they're getting up to that number they would go ahead and cancel. Or that's what you want them to do, otherwise they get the charged the extra and that wouldn't be very smart.

MR. WINEGEART: Correct.

MR. CHAIRMAN: Any other discussion?

Okay. Ms. Ann, can you have us vote on this one?

MS. ARNNDT: Yes. Commissioner Assal?

MR. ASSAL: Yes.
MS. AHRENDT: Commissioner Kurtz?

MS. KURTZ: Yes.

MS. AHRENDT: Commissioner Sola?

MR. SOLA: Yes.

MS. AHRENDT: Commissioner Winegeart?

MR. WINEGEART: Yes.

MS. AHRENDT: Commissioner Oatis?

MR. OATIS: Yes.

MS. AHRENDT: Commissioner Wilkins?

MR. CHAIRMAN: Yes.

MS. AHRENDT: All right. Motion carries.

MR. CHAIRMAN: Any other changes or edits that anyone would like to discuss?

MR. WINEGEART: Mr. Chairman, Jay Winegeart again. Sorry, but if nobody else is going to jump in, I have one more thing.

I would like a little clarification on page 10 --

MR. CHAIRMAN: Okay.

MR. WINEGEART: -- second paragraph up the middle of the paragraph. It says, "Similarly while the committee accepts that the nationwide average compensation for pilots is somewhere between 400 and 410,000."

I think the way for that to read properly,
based on the information that we were given at the meeting -- at the board meeting, it should read, "Similarly while the committee accepts that the nationwide average compensation for pilots -- should read "was" -- somewhere between 400 and 410,000 in the year 2012." Because that was the data presented to us was from 2012 and we're in 2017 now, so I don't think it's accurate the way that it's stated.

MR. CHAIRMAN: Well, if you wanted to edit that, I would also say we add something that says "as presented to us," rather than the "nationwide average," because we don't really know what the nationwide average was. But similarly, (inaudible) it was presented to us that a nationwide average in 2012 or somewhere between, duh, duh, duh.

MR. WINEGEART: As I recall it was an administrative law judge determined it and of course (inaudible) his proceedings at that time.

MR. SOLA: I agree with you Commissioner Winegeart, but if you recall when I asked the opposing witnesses, I said, "if you looked at the average and you look at the number of pilots, it varied versus the pilots." I think the
Chairperson said it the right way, "as it was presented to the commissioners." It wasn't something that they're acknowledging or not acknowledging, but it was presented to us.

MR. CHAIRMAN: Right, right. Yeah, we didn't commission our own study.

MR. SOLA: I don't have a problem as the Chair says, as it was presented to us.

MR. CHAIRMAN: Clark, could you read how you would edit that.

MR. JENNINGS: I'm not really certain. I just heard two different things. Do I incorporate both the comment of Captain Winegeart in making it -- referencing it to, "was in 2012," and then saying something about, "as was presented to you"? Is that what you're asking for?

MR. CHAIRMAN: Yeah. His main point was to acknowledge it was a study from 2012 and myself and Commissioner Assal's comment was it was a presentation presented to us that acknowledged that. It's not that we determined it.

MR. JENNINGS: Okay.

MR. CHAIRMAN: I mean, (inaudible), but it's fine to get context.

MR. JENNINGS: Okay.
MR. WINEGEART: Mr. Chairman, Jay Winegeart again. I don't think it's irrelevant, and it was presented to us in Mr. Law's packet to us.

MR. JENNINGS: It was in the investigative committee report, yes.

MR. WINEGEART: And so in this document we are saying that we had information. So I mean, it should be accurate in the fact that the information was dated back in 2012. I'm not going to sit here and fight over this so whatever the Chair decides is fine with me.

MR. CHAIRMAN: I'm fine with your comment too. So you know, I would say, you know, we just edit that to say, "Similarly while the committee accepts that an analysis was presented to us that depicted the nationwide average compensation for pilots in the year 2012 was somewhere between 400,000 and 410,000." Does that make sense?

MR. WINEGEART: It did to me.

MR. JENNINGS: I'm just trying to put it in here. Bear with me a second. I'm typing while we're talking, committee members, so I can make sure I get this spot on and repeat it back to you. I wish we had some type of a webinar setup so you could see what I'm typing. You just have to trust
me on this one.

All right. How about this: "Similarly while the committee accepts that the investigative committee reported that nationwide average compensation for pilots was somewhere between 400,000 and 410,000 in 2012 such are only averages"?

MR. WINEGEART: I would make a motion that we accept that terminology.

MR. CHAIRMAN: Okay. Do I have a second?

MR. ASSAL: Commissioner Assal seconds it.

MR. CHAIRMAN: Thank you. Any other discussion on that one?


MS. AHRENDT: Okay. Commissioner Assal?

MR. ASSAL: Yes.

MS. AHRENDT: Commissioner Kurtz?

MS. KURTZ: Yes.

MS. AHRENDT: Commissioner Sola?

MR. SOLA: Yes.

MS. AHRENDT: Commissioner Winegeart?

MR. WINEGEART: Yes.

MS. AHRENDT: Commissioner Oatis?

MR. OATIS: Yes.
MS. AHRENDT: Commissioner Wilkins?

MR. CHAIRMAN: Yes.

MS. AHRENDT: Motion carries.

MR. CHAIRMAN: Thank you, Commissioner Winegeart.

Any other edits to the document? Any other discussion on any other comments?

Okay.

MR. JENNINGS: Mr. Chair?

MR. CHAIRMAN: Go ahead, Clark.

MR. JENNINGS: Hearing no additional comments or suggested changes, I would request that the committee make -- someone on the committee make a motion to accept and adopt the document as presented to you with the changes that you have just made as the committee's final report and then finding in this matter. And if you would like, I can even reread to you the changes that I typed in with regards to the formula or not. It's up to you.

I am going to have to make a slight change on page 12 in the narrative to -- just also for the change in the schedule that you have on page 13 but --

MR. CHAIRMAN: Right. Do I have a motion?
MR. ASSAL: I make a motion to what Clark has said.

MR. JENNINGS: Okay. To accept the document as amended as the final finding of the committee in this particular rate case.

MR. SOLA: I second the motion. This is Commissioner Sola.

MR. CHAIRMAN: All right. Thank you. Any other comments?

All right. Ms. Ann, run us through the final vote.

MS. AHRENDT: Commissioner Assal?

MR. ASSAL: Yes.

MS. AHRENDT: Commissioner Kurtz?

Commissioner Kurtz?

MS. KURTZ: Yeah. I'm thinking, because there was the first part when we talked about the break in the tonnage that I didn't agree with, but we already -- the majority already voted to accept that so is that what I'm agreeing with, is the committee accepted that is what the intention was?

MR. JENNINGS: Yes, ma'am. And that this document is the final decision of the committee.

MS. KURTZ: Okay. Yes.

MS. AHRENDT: Commissioner Sola?
MR. SOLA: Yes.

MS. AHRENDT: Commissioner Winegeart?

MR. WINEGEART: Yes.

MS. AHRENDT: Commissioner Oatis?

MR. OATIS: Yes.

MS. AHRENDT: Commissioner Wilkins?

MR. CHAIRMAN: Yes.

MS. AHRENDT: Motion carries.

MR. CHAIRMAN: Thank you all for spending an hour to get that clarification. Clark, as he mentioned, will go through, modify this document. It probably will not be ready for our next week meeting, but I'll take the review of it before it's final and of course I'll be signing it and then we will be sending it out to everyone once it's all officially executed.

Clark, any other comments on the process?

MR. JENNINGS: No, sir. Thank you.

Once this document is signed and filed, then the parties will have 21 days should they wish to file some challenge at the Division of Administrative Hearings, challenging only your findings. They cannot challenge the actual rate. The ALJ does not have power to set rates, but they may challenge the findings. The findings that are
referenced in this document are not supported by (inaudible) evidence. We will see what happens.

If nothing happens then the document will be effective per the date, which -- just as a quick point out to all of you, the document does show -- and this was just my trying to make everything work for everyone involved -- an effective date of October 1st, which I thought would give the pilots an opportunity -- a reasonable amount of time to adjust their bookkeeping methods.

So if everything's -- and by the way, even if they do challenge -- either party litigant challenges, as of October 1 those rates go into effect. If there's a challenge pending then the pilots will simply hold the difference of funds in escrow until the matters resolved.

MR. CHAIRMAN: Okay. Very good.

Any other old business or new business that anyone would like to discuss?

MS. BLANTANT: Mr. Chair, this is Donna Blantant (phonetic) representing the pilots. May I ask a question of Clark regarding the comments he just made?

MR. CHAIRMAN: Yes.

MS. BLANTANT: Clark, do your comments about
what happens at DOAH take into account the rule
that was invalidated two years ago?

MR. JENNINGS: Ms. Blantant, you just hit me
with -- I'm not even referencing the rule you're
talking about. Hold on. Marlene just burst in so
she handles that. I wasn't handling that one.
I'm putting her on speaker and she can respond to
that.

Go ahead, Marlene. Marlene Stern.

MS. STERN: Yes, donna even though that rule
was repealed based on the requirements for rule
making that exists now, it's a matter of law that
the committee set the final rate, not the ALJ.
That's case law.

MS. BLANTANT: Yeah. And if you read what
the administrative law judge said about that case
law, I would just admit that that's all a matter
of legal debate that we can debate at another
time. But I would just suggest that it's not as
clear as Mr. Jennings suggested.

MS. STERN: Yeah. We had case law from
district courts of appeal that --

MS. BLANTANT: I'm aware of it, and I'm also
aware the ALJ addressed that case law in her
order.
MR. JENNINGS: Well, okay. You know -- Mr. Chairman? Donna -- Ms. Blantant, this is a discussion that we lawyers can have amongst ourselves. I suspect at this point all the committee members are rolling their eyes. If we could (inaudible).

MS. BLANTANT: I understand. I just -- you know, when things that happen and then they're represented a certain way, I just feel like I need to make sure everybody's taking everything into account, but your point is well taken.

MR. CHAIRMAN: Okay. Thank you.

Any other comments from any commissioners? Do I have a motion to adjourn?

MR. WINEGEART: Winegeart. Motion to adjourn.

MR. CHAIRMAN: Winegeart.

MR. ASSAL: Assal. I second it.

MR. CHAIRMAN: All in favor, say aye.

MR. ASSAL: Aye.

MR. WINEGEART: Aye.

MR. SOLA: Aye.

MR. OATIS: Aye.

MR. CHAIRMAN: Any opposed?

All right. Thank you all for your time. I
look forward to seeing everybody next week.

(Thereupon, the proceedings were concluded at 3:02 p.m.)
CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, Jessica Renchen, Court Reporter and Notary Public for the State of Florida at Large, do hereby certify that I was authorized to and did stenographically report the foregoing telephonic proceedings; and that the transcript is a true record of the telephonic proceedings within the limits and quality of the telephonic proceedings.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

[Signature]

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