STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF PILOT COMMISSIONERS
PILOTAGE RATE REVIEW COMMITTEE

IN RE: APPLICATION FOR A CHANGE IN
RATES OF PILOTAGE FOR PORT MIAMI,
FILED BY THE FLORIDA CARIBBEAN
CRUISE ASSOCIATION, AND
ALTERNATIVE APPLICATION FOR A CHANGE
IN RATES OF PILOTAGE FOR PORT MIAMI,
FILED BY BISCAYNE BAY PILOTS, INC.

CASE NO.: PRRC 2014-1

MOTION FOR CLARIFICATION OF NOTICE OF INTENT TO MODIFY THE PORT
OF MIAMI RATE OF PILOTAGE

COMES NOW, the Florida Caribbean Cruise Association (hereinafter "FCCA") and
hereby files this Motion for Clarification of the Notice of Intent to Modify the Port of Miami
Rate of Pilotage, and states as follows:

1. On March 20, 2014, the FCCA filed an application for a pilotage rate decrease at
PortMiami with the Board of Pilot Commissioners, Pilotage Rate Review Committee ("PRRC").
The Biscayne Bay Port Pilots ("BBP") submitted an alternative application dated March 24,
2016, to increase rates of pilotage.

2. A final hearing was held on the FCCA’s application for a rate decrease and BBP’s
application for a rate increase in front of the PRRC on May 17-19, 2017 in Miami, Florida.

3. On August 23, 2017, a proposed Notice of Intent to Modify the Port of Miami
Rate of Pilotage ("Proposed Order") was sent to all parties in the above styled matter including
undertaken counsel, along with an agenda for a conference call that was to be held on August
31, 2017 which included review of the Proposed Order.
4. There appeared to be a significant level of confusion among the PRRC during final deliberations on May 19, 2017 as to the impact of the proposed rate change being adopted, and the financial impact to rate payers, the FCCA and BBP. The FCCA believes that the confusion over the impact of the rate change may have led to the Notice of Intent to Modify the Pilotage Rates to incorrectly reflect the ultimate pilotage rate agreed upon by the Commissioners. Specifically, the PRRC voted to increase the tonnage rate by 6% for the first 70,000 gross tons. The Notice of Intent, however, reflects an increase in tonnage for the first 80,000 gross tons. Because the FCCA believes the transcript supports the conclusion that the PRRC voted only to increase the tonnage rate for the first 70,000 gross tons, the FCCA is seeking clarification of the Notice of Intent.

5. An agreement for a 6% increase on the first 70,000 gross tons was demonstrated by various PRRC members. Initially, on the final day of deliberations, the PRRC considered a model with an increase on the first 80,000 tons. Commissioner Assal, however, requested that the 80,000 threshold be lowered to 70,000, stating:

    I do agree, and would like to see it, me, you started at the 60,000 -- no, let me rephrase that, the 70,000 range, versus going starting at the 80,000 -- the majority of, of the fleets, and that goes from whether it is cruise or cargo, is in up to the 70,000, the majority, so we're emphasizing on the minority here. So my personal opinion, I get that 50,000 might be low, but I would look at starting at the 70,000.

Ex. A, p. 108 ln. 22 – p. 109, ln. 6 (emphasis added).¹ After this request for the initial threshold to be set at 70,000 gross tons, extensive discussion was had by the PRRC regarding modifying or amending different components of the rate change, and during this discussion there was no mention of increasing the initial threshold back to 80,000 gross tons. Near the very end of

¹ A full copy of the transcript from the final day of the hearing has been included with this motion as Exhibit B, in the even the PRRC wants to review other portions of the transcript. For ease of reference, however, the FCCA has included the relevant excerpts in Exhibit A.
deliberations, Commissioner Winegeart made the final motion, which passed the PRRC, as follows:

I would like to make a motion that we approve the proposal that we have in front of us that includes the harbor pilot control fee and increase of 6% until 70,000 GRT, a rate reduction on GRT from 80,000 to 120,000, and a further rate reduction from 130,000 and above, and also to increase the draft, and the auxiliary services such as cancellation fee, and . . . detention fee.

Ex. A, p. 134, Ins. 14-23 (emphasis added). That motion was seconded by Commissioner Sola. Ex. A, p. 135, Ins. 5-6. Commissioner Assal’s initial request was clearly to set the first threshold at 70,000 gross tons, and Commissioner Winegeart’s motion proposed a 6% increase up to 70,000 GRT. While Commissioner Winegeart references a reduction in tonnage from 80,000 to 120,000 gross tons, his statement unequivocally indicates an increase on tonnage only up to 70,000 gross tons. It appears clear that the commissioners intended the first breaking point to be at 70,000 gross tons, and that the initial tonnage decrease would begin immediately after 70,000 gross tons, which would be 70,001, and not 80,000. There was never any discussion about having a third rate structure for the tonnage between 70,000 and 80,000 before the first tier discount was applied, nor would that be a rational solution. The logical conclusion is that the initial rate increase is for the first 70,000 gross tons — as explicitly agreed upon and stated in the motion — and the initial tonnage reduction would begin at 70,001, not 80,000.

6. Finally, Commissioner Assal again ensured to clarify the tonnage breaking point as well, and it was confirmed that the tonnage rate increase only applied to the first 70,000 tons. That exchange went as follows:

MR. ASSAL: For clarification I believe the Commissioner stated that the tiering started at 70,000 tons, but I believe it starts at 80,000; is that correct?
MR. OATIS: That's correct, after 70,000.
MR. ASSAL: After 70,000.
MR. OATIS: As it's presented on the board.
Ex. A, p. 138, Ins. 2-9 (emphasis added). While the FCCA understands that the spreadsheet the PRRC was amending, altering and updating throughout the deliberations to see the proposed impact of different rate change models reflects an initial 80,000 threshold, the undisputed testimony of the commissioners, and the final motion that was voted upon and passed, reflected only a 6% increase on the first 70,000 gross tons, not the first 80,000. An increase after 70,000 tons would, again, be 70,001 gross tons, not 80,000. The FCCA believes this is not accurately reflected in the Proposed Order, and that the PRRC should clarify the exact tonnage threshold at which point the increased tonnage rate ends and the first tier decrease begins. The FCCA believes, based on the testimony and motion that passed, that the first 70,000 tons are subject to the 6% rate increase, and that the first 35% rate decrease begins at 70,001 gross tons.

WHEREFORE, FCCA respectfully requests the Pilotage Rate Review Committee provide clarification regarding the Committee’s testimony and motion which sets the initial threshold at 70,000 at which the tonnage rate increase ends and the initial rate decrease begins, as opposed to the 80,000 gross tons set forth in the Notice of Intent to Modify the Port of Miami Rate of Pilotage.

Respectfully submitted,

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served by e-mail on this 28th day of August, 2017 upon the following:

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By: s/Thomas F. Panza  
THOMAS F. PANZA
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
coming out in the year 2000, 2002, and had
modern technology, or had the new azipod
technology, or are these the older ships?

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

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

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

MR. ASSAL: I do agree, and would like to
see it, me, you started at the 60,000 -- no,
let me rephrase that, the 70,000 range, versus
going starting at the 80,000 -- the majority
of, of the fleets, and that goes from whether it is cruise or cargo, is in up to the 70,000, the majority, so we're emphasizing on the minority here. So my personal opinion, I get that 50,000 might be low, but I would look at starting at the 70,000.

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

We're supposed to be accommodating the
CHAIR: Okay, great. Thank you. All right, so weigh in on -- wouldn't this have gone up a little bit from our past model if we added those other four components?

MR. OATIS: But they were already included.

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

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

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

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

MS. KURTZ: And did you include the ability to put two pilots --
CHAIR: Thank you. Other discussion?

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

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

MR. ASSAL: After 70,000.

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

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

MS. ANN: Commissioner Sola?

MR. SOLA: Yes.

MS. ANN: Commissioner Kurtz.

MS. KURTZ: No.

MS. ANN: I'm sorry?

MS. KURTZ: No.

MS. ANN: Commissioner Oatis.

MR. OATIS: Yes.

MS. ANN: Commissioner Assal.
MR. ASSAL: Yes.

MS. ANN: Commissioner Winegeart.

MR. WINEGEART: No.

MS. ANN: Commissioner Wilkins.

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

Everybody have a safe trip back.

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

CHAIR: Yes.

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

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

MS. KURTZ: Yes.

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

(Thereupon, the following proceedings are had;)

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

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

MR. LAW: Just turn more towards them.

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

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

Now --

UNIDENTIFIED SPEAKER: That's a lot there.

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

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

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

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

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

to, before we run through these.
So the first one is the public interest of
having qualified pilots to respond promptly to
vessels, and so that's the first one. I don't
think there's been any, any comments that are
negative in that area, the pilots are doing
their job.

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

MR. JENNINGS: Mr. Chairman.

CHAIR: Yes, sir.

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

CHAIR: You meant to vote on it?

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

CHAIR: Okay. Can we just vote on the
total?

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

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

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

CHAIR: Right.

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

CHAIR: Okay.

MR. LAW: SO I think --

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

MR. OATIS: So moved.

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

(Aye.)

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

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

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

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2 (Pages 5 to 8)
comparables to other locations, but in terms of
the actual costs this seemed to reconcile to
what I heard from the others sides.
MR. ASSAL: Mr. Chair, but isn't this
based upon the numbers and the facts that Mr.
Law received, correct?
CHAIR: Yes.
MR. ASSAL: So this is based upon facts,
so it's not guessing.
CHAIR: Right.
MR. ASSAL: Even though we heard from both
sides, whether it was higher, or lower, or
whatever the case may be, is this the facts.
CHAIR: Right. Even if I disagree with
any of the calculations that Mr. Law presented
here?
MR. WINEGEART: Well, I think that --
CHAIR: Mr. Winegeart.
MR. WINEGEART: I think some of the add
backs could be -- there's different opinions on
what should be considered add backs, is the
only thing that I, you know, I have a problem
with.
CHAIR: Yes, I think -- I mean I think
that's fair, yes. But you didn't disagree that
those were costs incurred, the question is, you
know, are you classifying it as their income or
a cost to the business. I think we all
understood that theoretical discussion. Mr.
Law.
MR. LAW: Well, I think that the way Page
19 is laid out is that at least -- you see at
least the first sub of what I would
categorize as what's cash distribution, and
then you see a summary of the add backs, which
comes to another subtotal. And then you see at
the bottom where we came up with the estimate
for the unfunded pension that can be added to
that number. So you see all of the elements,
and those are the facts that we saw, and how
you perceive those totals and subtotals, and
adjustments, it's there. And you've seen other
calculations of the unfunded that we think is
highly variable, but that's our -- these are
our estimates based on, you know, our, our
estimate, and the factors we considered. But
we're not actuaries, but either are they, so I
think it's laid out to where it's factual, it's
just comprehensive.
CHAIR: And in -- and in this point it's
talking about the determination of the income.
It's not the judgment of whether this is the
right number, right, so -- and of
course, also this is the 16.58, and we saw some
other numbers with 18 pilots, which of course
reduced the number. Any other concerns about
that? Commissioner Sola.
MR. SOLA: Yeah, for the most part I
concur with the, the numbers that he has. I
have some questions on some of the expenses, if
a political expense, or lobbying expense, is an
expense or not, but I think that would come out
to within $1,000 or $2,000 per month per pilot,
so in, in general I believe the numbers are
fairly represented.
CHAIR: Okay, so would somebody like to
give us a motion?
MR. ASSAL: I make a motion that -- I make
a motion that the numbers are factual, how
they're categorized are, it's up to the pilots
to, or the FCC to determine whether they're
right or wrong within certain areas, but if you
talk about the grand total of numbers, I make
the motion that the numbers are accurate.
CHAIR: Okay, do I have a second?

MR. SOLA: Second.
CHAIR: Second by Commissioner Sola. Any
other discussion?
MS. KURTZ: Yes.
CHAIR: Commissioner Kurtz.
MS. KURTZ: I just want to be clear, you
know, if we approve the motion, you know, will
the record reflect that we all agree with, that
certain things should be added back, or we're
just saying that we think Richard Law presented
accurate numbers for all the categories?
CHAIR: Yes, that's what the second point
is --

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

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

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

(Aye.)
CHAIR: Opposed.

(Aye.)

CHAIR: Okay, number three --

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

CHAIR: I'm sorry, thank you for clarifying. One opposed, Commissioner Winegar. Commissioner Winegar --

Commissioner Winegar, do you oppose that the facts are not represented here?

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

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

MR. WINEGAR: Correct.

CHAIR: Okay. All right, duly noted.

Number three, reasonable operating expenses of pilots. That's on Page 22. Mr. Law, do you have a comment on that?

MR. LAW: No.

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

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

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

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

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

MR. SOLA: Yes, I just wanted to comment on that. On some of the operating costs that we have in here I believe that the Board has the right, or we have the ability to, to fund the pilots, but we really don't have a say on how they have their operational for this, so for example if a rate increase was given we do not know what that, if those funds would be given for capital improvements, or for a pilot vote, and we have no way of checking on that.

I would like to propose -- or I would like to have discussions on, at a future date, that we come up with some way of having maybe auxiliary fees, or something like that would actually specifically go towards capital improvements, or pilot boats, so that we would have a little bit more control over those type of expenses, operating expenses. And that's just commentary. I'm not making a motion at this time.

CHAIR: The same -- I had the same thought. That becomes a deep conversation, and there's statutory implications of that, right?

You know, the legislature, it has the same problem every year as they look at appropriations, and where they see expenditures are not being spent the way they think, but they don't have control other than determining the allocation of the expenditure. So that's sort of how we are too, so the only power of the purse that we have here is, is the amount of money we give them, but they have to decide how to spend it, right?

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

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

MR. WINEGAR: So moved.

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(aye)

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

MR. LAW: 36.

CHAIR: 32.

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

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

MR. SOLA: I -- I just wanted to add that I really appreciated having a formula that uses the six rate factors that we have, including (unintelligible) and I just didn't see a formula applicable towards us for this. I think that would have been, it would have made our life a little bit easier throughout this whole process. So when we were looking at that, you know, now something like that would have, would have applied to us, and I believe I asked both sides if they could give us some sort of formula that they would approve on that, so that was my, my comment towards, towards that paragraph.

CHAIR: Any other concerns about the way it's presented in number four? Do I have a motion?

MS. KURTZ: Motion to accept the calculation in number four is accurate.

CHAIR: Thank you, Commission Kurtz.

MR. OATIS: Second.

CHAIR: Second from Commissioner Oatis.

Any other discussion? All in favor say aye.

(Aye.)

CHAIR: Opposed? Number five, the amount of time each pilot spends on actual piloting duties versus the amount of time spent on other essential port services. This was a topic discussed at length by the FCCA, as well as the facts presented here.

MS. KURTZ: And just to be clear you're asking for approval that this is an accurate representation of what Mr. Law received and has presented. We're not making a judgment on whether or not we agree with the numbers.

MR. JENNINGS: That -- that's correct.

Mr. Law's -- you're adopting these facts as your findings of fact based upon the information that has been provided to Mr. Law and the investigative committee. You're going to base your findings only on the information as presented, and so if this is the information presented, and there's no contradictory evidence that's been presented, these would be your findings.

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

MR. JENNINGS: Yes -- yes, Mr. Chair. And where in fact there is no contradictory evidence, but there might be evidence that, that would enhance the report, it is certainly acceptable to include that as a finding. If you can part to particular things that were submitted by FCCA and say we would like to also include this as a part of our findings of fact that is perfectly acceptable, and in fact it's encouraged. The more data that you have the more support you will have for whatever decision you tend to make in the future.

CHAIR: Okay.

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

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

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

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

MR. JENNINGS: Well -- well, and this is why I was going to throw in this caveat. If as we go through the process today you, a lightbulb goes off, and you say, oh, wait a minute, FCCA or BBP had this data that they provided to us, you know, here, I got this, you gave this to us; it's Exhibit W, or what have you, which supports this position. You can include it at that time. You don't have to do it all right now. But whenever you think of that type of stuff I think it would be wonderful if you would include it into the record, similar to what Commissioner Winegear
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. the pilots didn’t counter that explanation
12. they just showed that these logic points
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

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1. what you just said is what they represented.
2. The — the fact though, if 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.

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

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

MR. JENNINGS: Commission Assal, what I was hearing, and correct me if I'm wrong, that the consensus was that the facts presented in Item 5 are perfectly acceptable, and should be adopted as the findings of fact of the committee. There was some concern as to whether or not once you made that determination do you shut the door to finding additional facts that might accentuate, or add to these facts, and, and my response was you can do that at any time. You can accept these facts, and unless something occurs later where you say, oh, I would like to find this particular fact, which sounds in contradiction to something you just approved, you might have an issue. But to add to, to enhance your findings it's perfectly acceptable. And you don't even have to do that now. You can do it any time in the process.

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

MR. JENNINGS: No, sir --

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

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

MR. ASSAL: Got you.

CHAIR: Commissioner Sola.

MR. SOLA: Yes, I fully understand that while the pilot is not working, or on a down time, that you want to keep him productive, and there's all sorts of things that they could do that they're, they're experts at, and I definitely applaud that, rather than them doing other things. From the information that Mr. Law has, and also I would like to include the PCCA slide -- I believe this is what you were looking for. Because some of the things that they have on here kind of, like my attorney billing me while he's sleeping, you know, and some of the things, some of these things that definitely require a need to be done, and other of them, you know, they could be questionable as it is, it is a personal development, or is it an active part of doing their job, that the truth lies somewhere in the middle, so we'll leave that for a future, a future time to determine.

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

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

CHAIR: Okay, do I have a motion?

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

CHAIR: The 202 hours per week every week slide. Do I have a second?

MR. ASSAL: Second.

CHAIR: A second by Commissioner Assal.

Any other discussion? All in favor say aye.

(Aye.)

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

MR. WINEGARDT: I move we accept number six as --

CHAIR: Commissioner Winegardt. Is there a second?

MR. SOLA: Second.

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

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

MR. LAW: 37.

CHAIR: It's 37. I'm sorry, yeah. Once again, you know, I don't know if there was -- I don't disagree with any of the facts presented.

I think there was additional data presented by Biscayne Pilots that further reiterated that, you know, we do not have a, shortage of pilots, or deputy pilots, or qualified pilot applicants as the moment. But as it relates to this point is there any, is there a motion?

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

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

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

CHAIR: Okay, second?

MR. ASSAL: I second.

CHAIR: Second. Any other discussion?

---

All in favor say aye.

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

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

CHAIR: Thank you, Commissioner Winegeart.

Second.

MS. KURTZ: Second.

CHAIR: Second, Commissioner Kurtz.

Discussion? All in favor say aye.

CHASE: Opposed. It passes. Number 9, cost of retirement and fringe benefit plans.

This is the cost, not alternative models. I personally felt the costs were represented here. I felt the alternative models was not well represented by either side in presenting what is market relevant health care and retirement plans that should be utilized, but that's a different point. So the question is costs, are they represented appropriately here.

Do I have a motion? Mr. Law?
party's conclusions, or something totally
different. It's entirely up to you, but those
are your options.

MR. WINEGAR: Mr. Chair.

CHAIR: Go ahead.

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

CHAIR: Okay, we have a motion. Second?

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

CHAIR: Thank you. Any other discussion?

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

CHAIR: All in favor say aye.

(Aye.)

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

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

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

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

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

CHAIR: Okay, do we have a motion?

MR. SOLA: I motion.

CHAIR: Commissioner Sola. A second?
MR. ASSAL: Second.
CHAIR: Commissioner Assal. Any other
discussion on number thirteen? Okay, all in
favor say aye.
(Aye.)
CHAIR: Opposed? Okay. All right, that
was kind of long but it was good. So now --
yes, Commissioner Jennings.
MR. JENNINGS: You've -- you've promoted
me --
CHAIR: Counselor.
MR. JENNINGS: -- Mr. Chairman, but I will
refrain from voting. No, there -- there is
still the issue of, I think for lack of a
better term, air. Do you want to discuss that
now?
CHAIR: Help me out.
MR. JENNINGS: Well, the -- it's the
concept of air, as opposed to -- go ahead.
MR. OATIS: The concept of air is somewhat
addressed in Section 12 under relevant
information, where it talks about the FCCA, the
FCCA assertion about the increase in size of
the cruise vessels, vessels, and how that is
impacting the fee rate that they're being
charged. But I'll open it up to additional
discussion.
CHAIR: Okay. I mean, yes, the concept
was discussed. I don't think anybody would
disagree with the concept but what are you
asking?
MR. SOLA: That was the reason I made the
motion, because I agreed with that aspect --
CHAIR: Right. And I think what Clark is
looking at here is just to kind of solidify
that as a finding of fact for the concept of,
of the air, or the --
MR. SOLA: Let me go ahead and -- the
reason that I made the motion in Section 12 was
because Mr. Law's assertion of the difference
in rates, and the epical tonnage of the air,
which was --
CHAIR: So is that adequate?
MR. JENNINGS: Yeah, I think that that --
yes, sir.
CHAIR: Okay.
MR. JENNINGS: Yes, sir, I just wanted a
little bit more explanation on where we were
going with that, because clearly when you start
talking about GRT, and we heard the FCCA talk
about, you know, Admiral Baumgartner explaining
gross tonnage, and how much of that was in fact
air, and we just, we didn't consider that as a
-- excuse me. You just needed to consider
that. And I wanted, I wanted that on the
record.
CHAIR: Okay, that's good. Any other
items like that that you can think of that --
MR. JENNINGS: No, sir, not at this, not
at this time. Oh, sorry, Mr. Law does. Mr.
Law.
MR. LAW: Just from being an observer on
what I heard from both sides, in addition to
what is in Section 12, it seems to me that
there were two presentations with air factor,
by the pilot's value, passenger, other factors,
and those were two very significant parts of
this whole pay rate I believe, and so if you're
finding a fact -- you just accepted the air
factor, but are you also acknowledging the
passenger value tonnage assertions that are
made by this side?
Are you taking it directly from FCCA's
perspective, or are you blending it with these
factors on that side to come up with a fair
adjustment rate? I'm just -- I'm just an
observer, but I think a fact needs to be -- I
think what we need to have is something on the
record of what you think about what was
presented.
MR. JENNINGS: No, that's absolutely
correct. And as we go through this process I
suspect that we will have more of a discussion,
but I think what Mr. Law is suggesting, and
it's a valid, you know, welcome suggestion,
because if you want to have some general
discussion of that right now, and point to the
record to explain where you're going, because
that is a key element to, to any type of rate
adjustment that, that seems to be coming down
the road here, so do you want to discuss it
now, and start pointing to the material
presented by the pilots, and by the FCCA, or do
you wish to just incorporate that as we go
through, but you do need to be cognizant of
that, and you are going to have to add some
more material.
CHAIR: Okay, Commissioner --
MR. OATIS: And I guess in discussing that
I think there's a different in there

10 (Pages 37 to 40)

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

CHAIR: Commissioner Kurtz.

MS. KURTZ: There's this assumption that
all cargo vessels, you know, the deck sort of
stops close to the water, and that there's
nothing above it, and so the cargo that's on
deck, you know, isn't part of the equation.

There are other kinds of cargo vessels that do
have very high enclosed decks, the car carriers
and lumber carriers, and they look like cruise
ships but they don't have balconies, and
they're big, wind affected, high sided, and
their tonnage is higher, and they pay according
to tonnage because, you know, that's how it's,
it's done, you know, the draft accounts for how
much cargo is on board, but the design of the
ship is to serve their purpose specifically.

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

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

CHAIR: Commissioner Sola.

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

But in -- in the assertion done by Mr.
Law, and the motion that I made for Section 12,
I believe that the cargo vessels are being
charged additionally for air on that, on that
area of over 100,000 GRT's.

CHAIR: Commissioner Winegeart.

MR. WINEGEART: I think the gross tons

that you pointed out is an accurate indicator
of revenue that a vessel can generate, and that
is how pilots should be, should be based,
because if not why don't you charge the same
dollar amount for every vessel that comes in?

There has to be a sharing of the expense to
port users for the infrastructure of the pilot
association, and the way to do that is to --
the vessels that have the ability to pay more
because they can make more money with their
vessels, which the gross tonnage is an
indicator of that. That's how you have the
infrastructure of the pilot --

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

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

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

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

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

11 (Pages 41 to 44)
than other vessels.

CHAIR: Commissioner Kurtz.

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

MR. SOLA: Commissioner Kurtz, I tried to
find that online, and I couldn't find it.

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

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

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

the port charges a fee for how many, how much
room you take up at a dock, and there's a graph
that the Biscayne Bay Pilots presented having
to do with port fees and, you know, all sorts
of other things, and it showed, you know, the
pilots revenue is squat and everyone else's
revenue is going up. And we were told at some
point, or it was written down, the, you know,
that the vessel is charged according to its
gross tonnage, not its physical dimensions. So

I found that very interesting, and wondering
why it's acceptable for one entity to charge
you according to that and, and not another.

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

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

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

MS. KURTZ: Yeah.

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

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

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

CHAIR: Yeah, I agree with Commissioner

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

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

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

CHAIR: We have plenty of people her.

MR. JENNINGS: Well, Mr. Chairman, if I
may probably just one protective motion so I
don't run afoul of something later, if I could
have a motion from someone on the committee
to essentially say that with regards to all the
exhibits attached to the investigative report,
where they relate to those facts, to have
adopted that you include those in your motion
to adopt. Essentially I want you to adopt the
exhibits where they support the findings that
you've already made.
MR. WINEGART: So moved.
CHAIR: All right, why don't we take a five minute break, a restroom break while we get paper, and we'll come back --
MR. JENNINGS: Do you want to take care of that motion?
CHAIR: No, let's -- two -- we got two Board members that have gone out --
MR. JENNINGS: Sorry.
CHAIR: So let's convene at 10:10.
(Thereupon, a brief break was taken off the record and the proceeding continued as follows.)
CHAIR: Okay, let's reconvene here. It's 10:15. Ms. Ann sent an e-mail to all the Board Members, and some of the interested parties.
The first e-mail should be deleted, I cannot open it, and -- the second and third. But it's actually going to be presented here on the screen. Mr. Oatis, are you ready?
MR. OATIS: Yeah. I was hoping to get it to a full screen so everyone could see it, but --
CHAIR: Do the printouts not work?
MR. OATIS: Well, the printouts don't have the, the notes, unfortunately. I guess in here we can still pass them out. The notes can be seen up there.
CHAIR: And this handout is what?
MR. OATIS: Essentially consistent with what's on the presentation, just formatted differently, and comments coming through.
MR. WINEGART: Okay, before we jump into that -- are these two different --
MR. OATIS: Yeah, it's Bate's (phonetic) case -- it's two different pages.
MR. WINEGART: It's two different pages.
CHAIR: All right, so we had a motion on the floor from Commissioner Winegart to accept exhibits from the investigative report. Do I have a second?
MS. KURTZ: Second.
CHAIR: A second from Commissioner Kurtz.
Any other discussion? All in favor say aye.
(Aye.)
CHAIR: Opposed? Okay, that passed.
Okay, Commissioner Oatis, you have the floor.
MR. OATIS: Thank you. As Joe Wilkins mentioned last night following the, the conversations we had, we had a lot of tasks ahead of us, as far as trying to consider what a rate structure would look like in order to, to integrate all of the, the findings of facts as we have now accepted them into the record, and so the initial concept was looking at the, the Port Everglades application, because it provided a rate, a tiered structure. And I think what we saw on that tiered structure was the benefit, and the value that would provide in recognizing the different levels of vessels, basically looking at the concept of air, that we had just been discussing.
An when we got into the actual calculations I realized it was a lot more complex to try and apply the Port Everglades application on its face using the same numbers, using the same ranges, and so the approach that was taken basically to apply concepts from that application, concepts from that tiered rate structure in order to integrate them into our current facts, so a lot of thought went into it. Again I think that it's important to keep in mind what we're going to be using it is the 2016 actual amounts that were provided in, in Mr. Law's report, but they are, they're aggregated such that you can see that they are in their gross tonnage ranges, and so to some extent when you aggregate the information like that it almost functions as an estimate, because we don't have each specific handle, we don't have any specific handle information, and so the -- the purpose in all of this is to provide an apples to apples comparison to that report that was provided in, in Mr. Law's findings.
So what you'll see here that we have currently on the screen is basically a break down of that report, and the way that it's broken down is showing the vessels under 100,000, and then the vessels 100,000 and above. It breaks down the total revenue as provided, so this, this amount ties out to the dollars which was in the report. It somewhat breaks it out then into the two different fees, one being the gross ton fee, and the other being the, the draft fee.
Now the -- it's somewhat of a challenge, again, because we're dealing with what I'm going to say is our estimates, is that when we got to the, the draft fee, and tried to back into the amounts that were shown in the report,
there was a large margin of error. I think it was 10 to 15 feet, right, if I were, if I remember correctly, that you know, the feet of draft in deriving what the fee was that had to have been charged based on the overall revenue, and so -- again keeping in mind that these are estimates, what we're attempting to do here is essentially to focus on the, the gross rate fee, in order to determine on a tiered level, looking at every 10,000 of GRT once you get past the first initial 5,000, and how it was calculated.

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

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

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

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

And included in the findings of the facts that from, from Item 12, as we've recently discussed, there are a number of considerations that are included in here in order to reflect -- I think that the, what you'll see here in these three tiers is the, the mathematical depiction of the marginally decreasing risk that these modern highly sophisticated passenger vessels contribute to the pilotage service, and so in that consideration it reflects the, the skill and the expertise of the captains and their crew. It reflects the advances propulsion technology with the azipods, with the thrusters, and the ability to maneuver.

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

Again this is somewhat based on estimates, ultimately looking to do an apples to apples comparison. And so the Tier 1 structuring for the fee is a, it's a 12.4 increase. Again some of the challenges we face here in doing this analysis is that we can't necessarily look at it on a five year projection right now, so this is taking a one year snapshot. And this -- this provided the 12.4 increase to the base rate, and so that is, what that is is that's a two year compounded increase of 6%. So from that rate we then have a decrease based on a marginally increasing gross tonnage, so once we get to 50,000 there is a 35% decrease to the rate for all gross tons over the 50,000, 40,000 amount.

That continues on until a third tier. Once you get to 100,000 it provides for another 35% decrease to the rate for the marginal increase in gross tonnage over that amount. And so that applies consistently, again, to passenger and cargo vessels. You can see that the rates are being applied in that handle. The note here, and this was something that we had talked about last night during our discussion, was the neopanamax, in the request for two pilots on a neopanamax, so again to have a discussion, to have an integration of...
that concept into this calculation, the, the
90,000 gross ton cargo ships were deemed to be the neopanamax ships, and so they had a double
grade for the use of two pilots.

MR. SOLA: Which ones?

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

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

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

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

Questions?

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

MS. KURTZ: Thank you.

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

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1. did you say that you included two pilots on every job over 90,000 tons?
2. MR. OATIS: At the 90,000 tons, yeah, just to, just to reflect some inclusion of the neopanamax.
3. MR. WINEGARTH: So how many jobs would that be that you have double pilot --
4. MR. OATIS: A hundred and two.
5. MR. WINEGARTH: I think that's a miscalculation, a good way to say it, but I'll leave that to the Biscayne Bay Pilots to let us know.
6. MR. JENNINGS: Mr. Chair, we look to you now for procedure --
7. CHAIR: Let's finish the Board comments first -- yeah, I wanted to follow up on that comment from Commissioner Winegeart. So that's the 0315, and basically, I mean basically you just doubled, is that -- okay. And that number of handles isn't there today, right?
8. MR. ASSAL: It's not there.
9. CHAIR: Right. Okay, so did you take --
10. just the methodology I hadn't bounced back, did you take a hundred and two handles away from other categories, or add, was that added to --

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

1. CHAIR: That already was there.
2. MR. OATIS: Yes. Yeah, all -- all those amounts were taken from the base case.
4. MR. OATIS: The only amounts that theoretically would have changed are the ones highlighted in yellow.
5. CHAIR: Okay. And what is the -- I don't have it on your budget. If you add up the harbor control fee in totality what, what's the annual numbers that would come out of that?
6. MR. OATIS: It's about 500,000 --
7. CHAIR: Did you already say that?
8. MR. OATIS: No.
9. CHAIR: Okay, so that's 500,000 of a new revenue for a new fee that you're introducing, and that fee exists at Everglades today. Do you --
10. MR. OATIS: It's actually high -- it's higher than most other ports, was my understanding.

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

MR. LAW: Yes.

CHAIR: Mr. Law.

MR. OATIS: And also I think --

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

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

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

MR. LAW: To everything?

MR. OATIS: Yes.

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

MR. OATIS: No, to everything, before we get too far into the details.

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

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

CHAIR: Commissioner Kurtz.

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

MR. OATIS: And the way that -- and, you know, we actually had good discussions about that as well, because to some extent you have to tier into this, because if you don't start with a -- if you have a vessel that has 49,000 tons, versus another one that came in at 51,000 ton, if you, or at any different breaking level, if you don't have a tiered structure that 51,000 ton vessel could pay less than 49,000 tons, so you have to somewhat start an integration process. So rather than going from 0-100, and then having a larger percent decrease it's slowly starting to phase in a decrease at higher levels.

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

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

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

CHAIR: Is that how the Everglades is?

MR. OATIS: No, theirs is as I believe 80.

CHAIR: 80.

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

CHAIR: Commissioner Assal.

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

MR. OATIS: Correct.

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

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

MR. ASSAL: And on top of that, in the $100 handling fee, of harbor control fee, when you add all that up the small ships, or the small boats are going to be affected heavily.

If you look at the numbers from 335 to 618 that's almost 100% costing. I like the tier.

I'm going to give my opinion. At least I like the structure. Whether we agree on the percentages, or where it should decrease, or get that volume discount, whatever you want to call that, the break, I think it's great, I just -- my concern is that the increase of 12.4 plus the handling fee, it adds, when you talk about 5,000 per handles, increases, and the 12.4%, it's just a significant amount to get hit at one time.

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

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

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

MR. ASSAL: Okay.

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

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

CHAIR: Other questions?

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

And I also agree on the, where the tiering starts. I agree with Commissioner Kurtz. I think we all -- we discussed how the, some of these tons, just 40,000, 50,000, 60,000, 70,000 were already, the cargo was already paying more per handle, or per whatever, per whatever, so I think the tiering points need to be adjusted.

And then again I'll just reiterate the, the amount of money on the neopanamax. I don't think that would come to fruition.

MR. OATIS: That was in the report. The hundred and two handles for the 90,000 ton cargo vessels was provided for in Mr. Law's investigative report from the information he had received.

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

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

MR. WINEGAR: Which they are not today, so --

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

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

MS. KURTZ: There are. And, you know, I
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amount of handles have gone down, so that means
the amount of work has been reduced, instead --
instead of having a smaller ship you've got
a bigger ship. And that has to go in
consideration as well.

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

Right now if you go to one side or
another, one wants 23%, the other one wants 40,
38%, so I mean, so where do we go from here?
So we have to come up with something to try to
feel what is best -- at the end of the day
safety is the biggest consideration, but cost
is a consideration for any of the industries,
to the details a little bit. I mean how do you want to see this presented? Do you want to see one step at a time?

CHAIR: Right.

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

MR. SOLA: One step at a time.

CHAIR: Well, let's just --

MR. SOLA: That's my suggestion.

CHAIR: I mean let's just sort of inventory the issues. I mean, okay, so I think we all like the multi step rate, rate model.

The only question is where, where the rates change, right? I think we all -- I think we're all agreeing on that. Do we all accept the harbor control fee concept?

MR. ASSAL: Yes.

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

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

CHAIR: The eleven million in -- the eleven million.

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

CHAIR: Which coincidentally is the harbor control fee --

MR. ASSAL: Right.

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

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

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

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

CHAIR: Well, in my mind the harbor control fee addresses some of that, because
that, that to me is new revenue, so I would
accept that that's over the base, and, you
know, conceptually that's money that can help
fund some of the asset replacement types of
issues.

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

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

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

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

If they had come back and said, look, here
is all the leverage that we have, and this is
what we did, and this is the result, and this
is the best I can do, and then I would have
said, okay, yeah, they would need more money.
But what I saw was, no, I'm not even going to
talk about that issue, about costs, I'm going
to instead just show you comparisons of others,
and compare it to revenues of the cruise lines.
I just saw a complete avoidance of tackling
that issue, and so my belief is if they tackle
it over the next couple years, and, and then
truly realize that they have, you know, run
this, pruned, they're running this business as
efficient as it can, then I think we ought to
raise the rates.

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

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

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

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

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

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

MS. KURTZ: Well, in the maritime industry
a third mate on a ship gets paid what a third
mate gets paid on a ship regardless of whether
they've been a third mate for a month or ten
years. So, you're paying for the position,
so that model carries through to the higher
levels. Deputy pilots do make less because the
value of their work is lower, but once you
become a full partner and qualify to take a
regular turn to do any sized vessel when it's
your turn it has always been considered fair to
pay equal partners an equal amount, because you
might do a big ship day one day and a little
ship another day. You don't pay pilots per the
size of the vessel that they're on.
CHAIR: That's a choice.
MS. KURTZ: Wow, I think there might be
some things about how an association operates
that I'm not sure you really understand the,
the consequences of what you're suggesting.
CHAIR: And that -- and that may be fair.
MS. KURTZ: Because it's a really unusual
industry, and, you know, you call people at
3:00 in the morning to go to work, well, am I
going to get a little ship or a big ship, how
much money am I going to make? You're on a
fair rotation, and you get over the course of a
year a very close equal number of handles, and
hours, and sizes of ships, and, all of that,
which is why they're paid equally. And
that's why it's a partnership. That's why it's
structured that way rather than having an
employer/employee relationship.
CHAIR: Well, okay, I mean I accept that.

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

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

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

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

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

(Applause.)

CHAIR: Okay. Other questions.

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

MR. WINEGARD: I would just like to comment on the, the number of pilots, and the availability, about leaving the association — some — what we have to consider is what the, the impact of whatever change we make today has on the ability to attract pilots in the future, not, not what has, not that we have good pilots

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

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

CHAIR: Okay. So we were talking about what are components that we agreed on in the model. And so we agreed on the step up. We agreed on the harbor control fee. Trying to keep the revenue neutral is something obviously we don't all agree on. The issue of the largest cargo ships if something we want to change. Then we have the rate, the overall rate increase which was going across the board basically.

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

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

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

MS. KURTZ: Right. I wouldn't figure it into a revenue calculation, but it needs to be on the books so that they have the ability to say this is what the charge is, to avoid a
Chair order your vessel correctly.

Chair: Right. Okay, so have you made the adjustment on the first item?

Mr. Oatis: Yes. So the first request of adjustment was to remove the double fee for the large cargo, so that was completely eliminated so that it is coming in under a single pilot. So basically no, no impact to any of the other gross ton tiers. The overall impact was to reduce income.

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

Mr. Oatis: Well, the two things I think we need to address there, one, where is that break going to be, where are they going to be, and two, what will the percentages be in the decrease, because they, they work hand in hand.

Ms. Kurtz: The Port Everglades model that were sort of trying to work around, what, what's their break point for tonnage and percentage?

Mr. Oatis: It's 80,000 --

Mr. Law: 80, 250 --

Mr. Oatis: And 130, right?

Mr. Law: I think it's up to 130, and then above 130.

Mr. Oatis: So 80 and 130.

Ms. Kurtz: Could we try that, just to see what --

Mr. Oatis: And with the magnitude of the adjustment -- we can't compare to -- Port Everglades was a different model. The adjustment was a much smaller adjustment. We would --

Mr. Assal: If I may have a discussion while he's working on some of this. I'm assuming that with the possibilities of acquiring in, or looking to acquire new pilots' boats, wouldn't that reduce some of the cost of the maintenance, and that kind of stuff, in the first few years? Because you buy them new I'm assuming they're a year old, or something of that nature, with a warranty, versus the same maintenance costs are going to be -- on a pilot's boat, I'm trying to understand.

Chair: Mr. Law.

Mr. Law: I don't know that we can draw a conclusion on that, because to replace one of the boats, we still have two other boats, and there's some unpredictable events that may happen with either boat. But generally if you get a new boat you're going to be under warranty and have lower costs for a number of years, so I don't know that it can be quantified at this point, what would the savings be versus the cost to acquire, the shape, and whatever on it. I think it'd be really hard to quantify.

Mr. Assal: Thank you.

Chair: You'll just tell us when you get that crunched?

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

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

Mr. Oatis: Okay. All right, so we've got that changed.

Chair: Which --

Mr. Oatis: The layers of which the reduced GRT fee would apply, so than them receiving that volume discount at 50,000 it doesn't start until 80,000.

Chair: You applied that to cargo too?

Mr. Oatis: Correct. Only -- only the 90,000 would even get into the benefit of that reduced rate.

Chair: Okay. All right, the next issue was -- yeah, the next issue was the harbor control fee.

Mr. Oatis: I think we're good with that. That's --

Chair: Everybody is good with that, okay. The next issue was overall rate increase, which was the --

Mr. Oatis: Well, I think the -- the second tier, sorry, going back to the tiers, the two assess -- one was the breaking point for each level, the second was the percentage.

Chair: So when you just changed it you left it at 35, right?
MR. OATIS: Correct.

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

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

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

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

CHAIR: So adjusting that back to 6%.

MR. OATIS: At the 6% that they're asking for.

MR. OATIS: So one times —

CHAIR: One time 6%.

MR. ASSAL: Correct.

MR. OATIS: That's the number.

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

MR. OATIS: 11,974,234.

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

MR. OATIS: I'm sorry, Mr. Assal, you want to see it compared — you just want to see that —

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

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

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

MR. OATIS: Or the base case.

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

CHAIR: No. No, there's was —

MR. OATIS: I'm sorry, it was a — it was a significantly higher draft rate, and some of the feedback I received was that it was not —

CHAIR: Is anybody proposing to change that, or —

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

CHAIR: To change the draft rate.

MR. OATIS: The question — I don't know.

Did the pilots ask for an increase in draft rate? They did, okay.

CHAIR: 6% commensurate with the —

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

MR. OATIS: That's the current number. That's the current number. So sliding over the draft —

MR. WINEGEART: Why don't you up that —

MR. OATIS: 17.433 is the current model.

Again, what I had plugged in was the tier model that rates at 28'. It provides for — it's a significant increase. It's basically the 6% compounded over five years, applying that to the rate for 28' and above. So will say that's a hybrid.

MR. WINEGEART: So the current draft rate —

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

MR. WINEGEART: And you're suggesting 23, got it. All right, so that is the new model.

Go back to the summary numbers on the revenues there at the -- I'm looking at the tier, the draft tier, and I'm just trying to figure from the -- this is the original chart, and is -- am I looking at the right place here where it says this 23, decimal 325, it starts at 40.4?

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

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

CHAIR: It's not really two years compounded in interest.

MR. OATIS: It was originally.

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

MR. SOLA: Could you go down?

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

MR. SOLA: So what you've done is you've given the pilots about $500,000, $700,000 extra
per year?
1. MR. OATIS: Closer to $500,000.
2. MR. SOLA: $500,000 extra per year.
3. Increase the rates. Decrease (unintelligible)
4. for the GRT.
5. MR. OATIS: In a tiered structure.
6. MR. SOLA: In a tiered structure.
7. MR. OATIS: Saved the draft.
8. CHAIR: Any other changes anyone would
9. like to make to the model? All right, is it --
10. Mr. White and Mr. Panza, would you all like to
11. comment on where we are, or just give us your
12. observations?
13. MS. WHITE: I'm going to let Captain Marlo
14. speak to that.
15. CAPTAIN MARLO: I have done this, and
16. you're getting a taste of the intense iterated
17. process that this is, and I did it actually in
18. trying to determine what our application rate
19. formula would be, and it was a sophisticated
20. model. And this is a fairly simple one, just
21. because of the fact that it, you know, was put
22. together in a few hours. I'm not saying that
23. you didn't do an amazing effort in the amount
24. of time that you had, but I'm saying, I think
25. with trying to figure out, well, what if we
26. could give a discount to cruise, via through a
27. flat rate discount, or through a tiered tonnage
28. type of discount, is that because the revenue
29. mix is essentially 65/35, or whatever the exact
30. number is today, any discount to cruise would
31. have to be compensated by amplified increase to
32. cargo, and the --
33. The issue right now is that the container
34. industry right now is undergoing a very
difficult economic cycle for all kinds of
reasons, but the number five, I think it was,
container ship carrier in the world went
bankrupt recently, and they owed us some money.
But the point is that it's I think unfair and
unreasonable to apply large increases to the
cargo sector right now for the sole purpose of
giving a discount to cruise simply because
they, they demand it. They -- they come in and
they demand it.
So the -- the rate structure for Port
Everglades being tiered, it's based on the
nature of their composition of traffic. The
rate structure for Jacksonville, for example,
where, where they get car carriers, and things

you would agree it's something that you had to
throw together the night before the hearing.
One of the things that we considered was a
tiered option, and we looked at Port
Everglades, because they're right next to us,
so it, I see why you're drawn to it. It's kind
like, well, gee whiz, it's -- people kind of
look at the geography and say, well, it's
almost the same place, right? And the -- the
issue is that every port has a rates formula
that is crafted based on the mix of traffic in
that port. For example, Commissioner Kurtz
mentioned cargo ships with high, high volume
metric area, like car carriers. They're just
grand boxes that are full of air. It's gross
tonnage, and, and that gross tonnage is used to
carry high value cargo, and they pay a rate
just like cruise ships do. But we don't get
those ships in Miami so -- we get largely
container ships here.
The issue with comparing to Port
Everglades is Port Everglades has a completely
different mix of cargo and cruise, and they
have a lot more cargo. Specifically they have
a lot of tanker traffic. And what I encountered
like that, it's just, it's based on that. If
you were to compare our port to say Key West,
which is 100% cruise, I think their rate is
nearly identical to ours I'm not sure, it
might be a little bit different, but it's
similar. Is it unfair if, if one cargo ship
comes in there, that cruise pays the majority
of, of revenue, and you have to readjust the
rate now because they also have cargo? I mean
they pay 100% of the revenue there.
So it -- it's very -- it's very complex,
and the, the ripple effects of cobbled
the formula last minute are
unquantifiable. And I know there's an effort
here with a simplified model, but I'm looking
at this and I'm saying, gosh, I don't know, I
don't know. I would -- as Commissioner Kurtz
said, I mean I know how to do these things, and
I do them routinely, and I would take quite a
while to really, really, really consider, and
check, and recreate, and everything, on my model
before I would put a rate structure in the
application.
So where we ended up with a small
incrementing annual increase in our rate,
versus a decrease to cruise and large increase to cargo, is, is that we just wanted to say, okay, let's do something that's flat, and fair. I think the -- the risks of this, this process, are, they far outweigh the possible benefits of what you're trying to do.

CHAIR: Okay, thank you. Mr. Frances.

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

Of course from my client's standpoint, I would agree with Mr. Assal on the rate that the pilots are going to receive, the 12.4%, I think that's aggressive, and I think it's high. I think the starting at 50,000 GRTs was an appropriate level. It gives the tiering -- I think this is a system that can last for a period of time, and as Mr. Jennings said it, the maximum, or I mean the minimum period of time would be a year and a half, and I think this will give some, some rate relief to what the cruise ship has been asking for as far as their large vessels, and you know, spreads the risk, and it also gives the pilots additional income of over $500,000.

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

And by any measure of standards for any business if you're decreasing your workload and remaining the same amount of salary then you did receive an increase on some end, and that end would be an increase in your compensation. So I would -- I would -- we would agree with the first model that was put up there. I think that's the model that Mr. Oatis had suggested initially, I think with Mr. Law. And it seems to me like they must have spent a lot of time on it last night to do it, because I would have never been able to do that. Thank you.

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

MR. SOLA: Can I ask --

CHAIR: Yes. I'm sorry, yes.

MR. SOLA: Yes, I could I ask the Captain a question? There are -- for the 70,000 GRT there is 623 handles, I presume by the cruise lines. What are the technical -- are those newer ships that have the modern advanced technology, or are those older ships? I mean we, we talked before that the newer ships were coming out in the year 2000, 2002, and had modern technology, or had the new zipped technology, or are these the older ships?

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

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

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

MR. ASSAL: I do agree, and would like to see it, me, you started at the 60,000 -- no, let me rephrase that, the 70,000 range, versus going starting at the 80,000 -- the majority
of the fleets, and that goes from whether it is cruise or cargo, is in up to the 70,000, the majority, so we're emphasizing on the minority here. So my personal opinion, I get that 50,000 might be low, but I would look at starting at the 70,000.

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

We're supposed to be accommodating the pilots, all of the customers, the public safety, and, you know, the more focused we get on this largest group of midsize ships makes it more obvious to me what the goal is.

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

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

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

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

CHAIR: It's not net neutrality. What is that percent increase, that 40,000 --

MS. KURTZ: Okay, 7% --

MR. ASSAL: Okay, 7% was the first. It's not 40,000, right, so that increase --

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

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

MR. SOLA: Can you run that, Commissioner? Oats?

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

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

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

MR. SOLA: No, I didn't say that. I didn't say that at all. I said what --

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

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

CAPTAIN MARIO: I did. One -- one of the version, maybe it's -- I'm not sure if it's exactly what you're saying, but you can correct me on that. I think one of the things that, that we considered, was we look at, you know, they say big ships are coming, big ships are coming, but what we presented, that we had big ships in 2003 and 2008, 130,000 tons and 150,000 tons, and we had a lot of them, a lot
of handles at those, at those levels, so I think one possible scenario if you're, if you're considering this, is to, you know, start the tier at the, the ships that are upcoming. Okay, the Oasis is coming at 225,000 tons, but maybe start -- again I'm very concerned about modeling on the spot based on a simplification, okay, I'll stipulate everything I'm saying to that, but if you were to start at say 150,000 tons and, and figure out a number that would satisfy the cruise lines' concern about ultra large cruise ships, you know, there, there are other fees that we meet as well, such as the harbor control charge, increasing the minimum draft, which affects small ships, not -- it was that was part of putting a smaller, spreading out the burden across the, the whole spectrum, but the harbor control charge, the minimum draft, the, the tension charge that we added is not something that we expect to generate revenue from but that we need to help manage our, our workload, and our allocation of pilots, because essentially we have certain consumers that, that abuse our time by requiring us to be at ships when they really have no idea when they're going to sail, and we end up sitting on their ships for sometimes through hours plus when we could be on another ship and, and fewer pilots could be on duty at that peak time.

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

MR. WINEGART: Thank you, Captain. The reason I ask that is because I am afraid of unintended consequences in having this tiered system, and we came here because the very large cruise ships, well, they wanted a 25% reduction on all passenger vessels, but the numbers didn't prove that was a valid point, or that cargo vessels would pay more money at certain tonnages.

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

CAPTAIN MARLO: I do see what you're saying. Eventually -- essentially you could accomplish the, what they're asking for by giving a discount to large cruise ships by capping our scale, okay, and the biggest ship probably in Miami right now is 165,000 gross tons, and I think that would be one way to do it. If you could say that, you know, our gross tonnage rate applies up to 165,000 gross tons, and then beyond that there's no charge for the additional tonnage. But with the other fees that we, we need, that essentially impact cargo in, in reasonable ways, I think that's a way to consider.

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

CAPTAIN MARLO: And if I can continue, just one thing to that point. I get what you're saying. When we -- when we considered a tiered tonnage model the issue was it requires, and you're seeing it, it's like a watch. It requires -- it has so many interconnected parts, and they all have to be perfectly implemented. And if -- my concern -- our concern is that when we put together -- if we were to put together an application of a tiered tonnage rate and submit it to you that this would happen, when the committee would say, well, we like that part but not this part, and...
it would become, fall apart, when in fact the
entire thing would have to function as a
unisex, a machine, in order to be functioning.

It was a deep concern, because there's
unknown, unknown downside, and effectively you
could approve an application that we submitted
for the tiered levels but it would not be
exactly the way we submitted it, and that would
confuse the process of dealing with the
consequences. So what you're suggesting, if I
understand it correctly, is since these ultra
large ships are not coming into port yet there
isn't a downside where we are at today, that
we would earn less money off of those ultra
large ships, which is, is what they're, what
they're asking for, what they're planning.

That's -- that's worthy of consideration.

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

MS. KURTZ: What if -- what if we capped
the tonnage at let's say 130,000 gross tons,
you know, at the same, at the same rate, not
with a rate decrease but just cap, cap the
rate. Could you run something like that, to
address vessels that are already coming in?

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

CHAIR: Mr. Sola. You want to take five
minutes before we vote? Okay. All right,
let's take a five-minute break.
(Thereupon, a brief break was taken off the record
and the proceeding continued as follows.)

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

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

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

MS. KURTZ: Implementing the harbor
control fee.

CHAIR: Raise -- raising the harbor
control fee?

MS. KURTZ: No, implementing one. There
isn't one currently. Right, is that correct,
ability to do it. If they get to a point where
they need two pilots they can just do it --
MR. OATIS: I get that -- but I was asking
the difference between me putting that in here
versus just having --
MS. KURTZ: Right. No, just as, as
something that they're approved to be allowed
to do, so the number is really just leaving
everything the same and adding the harbor fee,
increasing the minimum charge --
MR. OATIS: The same amounts --
MS. KURTZ: -- as current, not an increase
in one category and a decrease in another
category.
MR. OATIS: The same as current, as in
where we are before --
MS. KURTZ: Yes.
MR. OATIS: -- any application is
considered.
MR. SOLA: Status quo.
CHAIR: Yes, so if --
MS. KURTZ: Status quo plus the harbor
fee, include, and increasing the minimum fees
for the smallest vessels, and then the ability
to do those other, those other categories of

like a motion just for the three.
MR. OATIS: Is that what you --
MS. KURTZ: Right. I don't agree with the
increase/decrease model as presented.
CHAIR: All right. I got you. All right.
D you want to make that as motion for us to
vote on?
MR. VINCE: I think she wants to see
it.
MS. KURTZ: I think everyone might want to
see it before they say yes or no.
CHAIR: Well, no, her model was not
addressed --
MR. OATIS: I know, I wouldn't say the
model. So what we're saying is take off the
decrees completely, leave the 6% increase,
leave the harbor fee --
MS. KURTZ: No, that's not what I'm
saying.
MR. OATIS: Okay, I'm trying to
understand.
MS. KURTZ: There was a minimum draft fee
from 14' to 18' that they asked for. So I want
to see what that looked like, just to implement
that from the 14' to 18'. But that --

charges as --
CHAIR: So you're -- you want to make that
a motion, or adding that into the other changes
--
MS. KURTZ: Well, it might be good to plug
it in so people can see what the total is so
that, you know, since we're comparing numbers,
and debating whether the rate should remain
flat or not, and so maybe to see what that
looks like.
CHAIR: Well, the --
MS. KURTZ: But I would rather see a
status quo with the addition of those other
charges than to see an increase in a certain
category and a decrease in another --
All right. So you're -- you're proposing
something a little different, because what I
thought you were going to say, what you were
saying is you'd be willing to vote on this
model as presented that has the step up, the
harbor control, the overall rate increase, and
the draft rate component, but then, and then
add these four things. Well, add the other
three. But you're saying, no, just, you would
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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 Winegar. 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
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,
request the double pilots as an option, the
ability for detention is an option, just to
have it there, but not really with any
(unintelligible) --
MS. KURTZ: Sometimes -- just to address
the two pilots on a ship. Sometimes that's
weather dependent. If, you know, very windy,
or there are often daylight restrictions on
these vessels and they want to put two pilots
on to see if they can do it at night. If they
have a ship that large some of these, there's
kind of a growingpain.
MR. JENNINGS: Okay, so we're in
discussion on this item before we vote.
MR. SOLA: My opinion is this is
inconsistent with what we had discussed
earlier, and that we were wanting to provide
relief for those other larger ships. Although
I agree with the harbor fee concept -- I
personally agree with the allowance for -- I
agree with all four of these, I would be
supportive of adding these four components in
the other model that we had, and therefore
voting this down. But obviously if you all
want to vote this up that's your decision.

Then the other one would be off the table.
CHAIR: Yeah, obviously in removing the
tiers it fails to recognize the volume
discount.
MR. OATIS: It's just another increase in
the fees, there isn't (unintelligible). I saw
both sides of it, and it doesn't show any
recognition for one side, it just -- now it's
really one sided. That's my personal opinion.
MR. SOLA: I think the tiered system
hasn't had enough evaluation. I'm concerned
about the unintended consequences of the tiered
system.
CHAIR: Any other discussion? Then we'll
vote on it. Okay, so I'll call the vote, and
the vote will be to accept a rate increase with
those four components, with the rationale that
Commissioner Kurtz provided, and that that
would be our recommendation for this
meeting, for that motion. Okay, Ms. Ann, can
you -- a yes would be agreeing to this rate
increase.
MS. ANN: Commissioner Sola.
MR. SOLA: No.
MS. ANN: Commissioner Kurtz.

step rate there.
MR. LAW: This was something that wasn't
brought up when I was given the opportunity to
speak, because you weren't talking about the
detention fee, but as part of the detention
fee, the new detention fee, even though it's
optional, is twenty five percent, or fifty
percent of the pilotage cost. Under detention
fee you could have somebody with a medical
emergency cause a detention, where you have to
go and get, you know, the paramedics on board,
or whatever, to get the person off, or you
could have a weather condition that came up
suddenly that did that, or some other type of,
of condition, other than the ship just not
wanting to leave. Is all of that taken into
consideration somehow so that if you had a
legitimate reason like a medical condition, or
someone having a heart attack, or something
other, that would be taken into consideration,
and it wouldn't be you were going to leave at
9:03, so you're out. That's all I wanted, was
a clarification. And I'm sorry I brought it up
now, but it wasn't brought up when I had my
opportunity. Thank you.
CHAIR: That's fair. (Unintelligible),
did you have a comment on that?

UNIDENTIFIED SPEAKER: Yeah, I can clarify
that. So when a -- when a pilot is on board a
ship, and the ship is delayed due to an
approaching storm, a squall, or something like
that, that's not a detention, that's the pilot
actually making that call, it's not safe to
leave right now, we're going to wait for thirty
minutes until this weather pattern goes by, or,
or whatever the period is. That's -- that's
not a detention or cancellation when the pilot
makes the call that the ships time will change.

I would also, to (unintelligible) explain for
medical emergencies, yeah, I would stipulate
that we wouldn't change it for medical
emergencies, so you could add that language in
there.

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

MR. WINEGART: The ability to put two
pilots would be at the discretion of the, of
the pilots, due to weather, or other
circumstances.

CHAIR: Is there a second.

MR. SOLA: Second.

CHAIR: Second from Commissioner Sola.

Okay, discussion. Part of the discussion needs
to be the rationale for why we would do this.
Commissioner Sola, would you like to try to
articulate that?

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

The last time the rate review was done, in
1999, and then implemented in 2000, it did not
take into consideration some of the bigger
vessels that we have today. The vessels that
we have today are much larger, and much more
sophisticated, and also we have a major two
billion dollar development going on here at the
port. In our statutory requirement under
Florida Statute 310.151(5) we are supposed to
be fair, just, and reasonable rates, and I
would like to make, very important,
specification to consideration of public
interest.

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

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

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

CHAIR: Thank you. Other discussion?

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

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

MR. ASSAL: After 70,000.

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

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

MS. ANN: Commissioner Sola?

MR. SOLA: Yes.

MS. ANN: Commissioner Kurtz.

MS. KURTZ: No.

MS. ANN: I'm sorry?

MS. KURTZ: No.

MS. ANN: Commissioner Oatis.

MR. OATIS: Yes.

MS. ANN: Commissioner Assal.
CERTIFICATE

(STATE OF FLORIDA)
(COUNTY OF MIAMI-DADE)

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

NATHANIEL TORO, Reporter