

**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 TO INTERVENE AS PARTY

FRS – Fast Reliable Seaway, LLC, Antillean Marine Shipping, Corp., Betty K Agencies (USA), L.L.C., God is Able Shipping LLC, and River Terminal Services, Inc., by and through their undersigned counsel, in accordance with the Florida Administrative Code and the Florida Administrative Procedure Act Code move to intervene in this case and as grounds in support state as follows:

1. FRS – Fast Reliable Seaway, LLC, Antillean Marine Shipping, Corp., Betty K Agencies (USA), L.L.C., and River Terminal Services, Inc., (“Miami Operators”) operate vessels that regularly navigate in and out of Port Miami. Because the vessels the Miami Operators sail are foreign-flagged, they contract with the Biscayne Bay Pilots, Inc. for pilotage services.

2. The Biscayne Bay Pilots, Inc. are the sole organization for harbor pilots governed by the Department of Business and Professional Regulation, Board of Pilot Commissioners Pilotage Rate Review Committee for vessels transitioning in the Port Miami.

3. Because this action concerns the pilotage rate for Port Miami and the Pilotage Rate Review Committee recently approved a significant rate increase for harbor pilots in the Port Miami, the

Miami Operators seek to intervene in this action as a party. *See Fla. Admin. Code Ann. r. 28-106.205* (“Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene.”).

4. Facially, this Motion may appear late, because it was not filed “at least 20 days before the final hearing.” *Id.* However, this Committee may still grant the right to intervene and “impose terms and conditions” to “limit prejudice” to the named parties “for good cause shown.” *Id.*

5. Here, good cause exists to allow for intervention as this stage, because the Final Order filed on May 9, 2018 was not adopted at a duly-notice “final hearing¹.” Rather, the May 9, 2018 Final Order was a byproduct of a settlement reached April 26, 2018 and approved by the Committee presumably during the meeting of the “The Pilotage Rate Review Committee” on April 27, 2018 that followed the “General Board Meeting.”

6. The “Notice of Meeting” published in advance of the April 27, 2018 on March 22, 2018 gave no indication that there would be a “final hearing “on April 27, 2018 or that “final agency action” was being considered. As such, the triggering event (“the final hearing”) for setting the deadline for intervention (“at least 20 days before the final hearing”) never properly occurred, because no “final hearing” was ever noticed.

7. In accordance with Fla. Admin. Code Ann. r. 28-106.205, Port Miami, FRS – Fast Reliable Seaway, LLC and Antillean Marine Shipping, Corp. state as follows:

¹ “The presiding officer shall set the time and place for all hearings and shall serve written notice on all parties at their address of record. No less than 14 days’ notice shall be given for the hearing on the merits of the petition unless otherwise agreed by the parties or unless otherwise provided by law.” *See Fla. Admin. Code Ann. r. 28-106.208.*

- (a) Intervenors, the Miami Operators, are represented by Jordan S. Cohen, Esq., JCohen@wickersmith.com and Brandon J. Hechtman, Esq., BHechtman@wickersmith.com, of Wicker Smith O'Hara McCoy & Ford, P.A., 2800 Ponce de Leon Boulevard, Suite 800, Coral Gables, FL 33134, Phone: (305) 448-3939, Fax: (305) 441-1745;
- (c) As set forth above (¶¶ 1-3), Intervenors, are entitled to participate in the proceeding as a matter of constitutional and statutory right, pursuant to agency rule, and because their substantial interests are subject to determination and will be affected by the proceeding;
- (d) The Intervenors oppose the agency action set forth in the May 9, 2018 Final Order.
- (e) The Intervenors via their counsel has sought to confer with counsel for the parties of record. Counsel for Biscayne Bay Pilots, Inc. advises that it opposes the relief. Counsel for Petitioners has not yet received comment as to whether the other parties consent or object to the relief sought herein. On June 6, 2018, counsel for the Intervenors sent letters via email and U.S. Mail attempting to make contact.

WHEREFORE, FRS – Fast Reliable Seaway, LLC and Antillean Marine Shipping, Corp., in accordance with Fla. Admin. Code Ann. r. 28-106.205 request this Motion to Intervene be granted to allow them to protect their substantial interests affected by the pilotage rate increase adopted by the Committee and published for the first time on May 9, 2018 .

Date: June 7, 2018

/s/ Jordan S. Cohen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing documents has been provided by U.S. Mail and e-mail to: Thomas F. Panza, Panza, Maurer & Maynard, P.A., Bank of America Building, Third Floor, 3600 North Federal Highway, Fort Lauderdale, FL 33308, TPanza@panzamaurer.com; Donna E. Blanton, Radey Law Firm, 301 South Bronough, Suite 200, Tallahassee, Florida 32301, dblanton@radeylaw.com; Clark R. Jennings, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, clark.jennings@myfloridalegal.com; and by U.S. Mail and facsimile David Wilkins, Chairman, Division of Professions, Board of Pilot Commissioners, 2601 Blair Stone Road, Tallahassee, FL 32399-0791, Fax: (850) 488-8040; Robert Peltz, The Peltz Law Firm, 10220 SW 141st Street, Miami, FL 33176, rpeltzlaw@gmail.com; Carolyn Kurtz, Tampa Bay Pilot Association, 1825 Sahlman Drive, Tampa, FL 33605, pilotmom42@aol.com; James Winegeart, St. John's Bar Pilot Association, 4910 Ocean Street, Atlantic Beach, FL 32233, winegeart@jaxpilots.com; Cheryl Phipps, Port Everglades Pilot Association, P.O. Box 13017, Port Everglades, FL 33316, anjinsanpe@aol.com; Michael Jaccoma, Biscayne Bay Port Pilots Association, 2911 Port Boulevard, Miami, FL 33132, 4mpilot@gmail.com; Bruce Cumings, Port Everglades Pilot Association, P.O. Box 13017, Port Everglades, FL 33316, brucecumings@yahoo.com; Thomas Campbell, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, FL 32399-0783, Thomas.Campbell@myfloridalicense.com; on this 7th day of June, 2018.

/s/ Jordan S. Cohen
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