

88454-7

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

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/22/2018
File #	

CASE NO. PRRC 2014-1

IN RE: APPLICATION FOR A CHANGE IN RATES OF PILOTAGE FOR ORT 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.

Respondents

PETITIONERS' MOTION TO STRIKE

FRS – Fast Reliable Seaway, LLC, Antillean Marine Shipping, Corp., Betty K Agencies (USA), L.L.C., God is Able Shipping LLC, River Terminal Services, Inc., and Seaboard Marine, Ltd. (collectively “Petitioners”) file and serve this motion to strike the Biscayne Bay Pilots’ (“Pilots”) Response in Opposition to Motions to Intervene and as grounds in support state:

1. 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. moved to intervene on June 8, 2018.
2. By operation of Rule 28-106.204(1), the response to this first motion was due on June 15, 2018.
3. Seaboard Marine, Ltd. then moved to intervene on July 23, 2018.
4. By operation of Rule 28-106.204(1), the response to this second motion was due on July 30, 2018.

5. The Pilots' consolidated response filed on August 21, 2018 is inexplicably out of time¹ and should be stricken. *See e.g. In Re Mhc Sys., Inc.*, 2001 WL 237527 (Feb. 9, 2001) ("ORDERED that North Fort Myers Utility, Inc.'s Motion to Strike the untimely-filed Response to its Motion for Summary Final Order is hereby granted."); *In Re Utilities, Inc. of Florida*, 2003 WL 346457 (Feb. 12, 2003) ("With regard to UIF's responses to the Citizens' First and Second Motions to Compel, as OPC points out, these responses were untimely filed. OPC's Motion to Strike Untimely Pleadings is therefore granted.)²

6. Counsel for the Petitioners' have conferred with counsel for the Pilots in an effort to seek resolution of this Motion to Strike and counsel for the Pilots advises that the Pilots oppose.

WHEREFORE the Petitioners respectfully request this untimely and thereby unauthorized response by the Pilots to the motions to intervene should be stricken along with any other and further relief that the Committee deems necessary and just.

Dated: 8/22/2018

/s/ Jordan S. Cohen

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¹ It is ironic that the Pilots filed their response so late, because the thrust of their opposition to the motions to intervene is that the Petitioners are too late to participate in this administrative proceeding. The Pilots' (untimely) response in opposition coincidentally was filed the same day the Third District Court of Appeals held it would be scheduling oral argument on a related petition for writ of *certiorari*. Oral argument is now scheduled to take place on November 6, 2018.

² In the pending petition for writ of *certiorari*, the Pilots equate themselves to a utility.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing documents has been provided by e-mail to: AGC.Filing@myfloridalicense.com; Woodard, Krista at Krista.Woodard@myfloridalicense.com; Marlene K. Stern at Marlene.Stern@myfloridalegal.com; Clark R. Jennings at Clark.Jennings@myfloridalegal.com; Donna E. Blanton, Esq. at dblanton@radeylaw.com; Brittany Adams Long, Esq. at balong@radeylaw.com; Lauren Thompson, Esq. at lthompson@radeylaw.com; Thomas F. Panza, Esq. at tpanza@panzamaurer.com; Jennifer Graner, Esq. at jgraner@panzamaurer.com; on this 22nd day of August, 2018.

/s/ Jordan S. Cohen
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