

**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 THE PORT OF  
PANAMA CITY AND CROSS-LICENSED SERVICE  
FOR THE PORT OF PORT ST. JOE FILED BY  
THE ST. ANDREW BAY PILOTS ASSOCIATION, LLC

CASE NO.: PRRC 2018-1

**NOTICE OF INTENT TO MODIFY THE PORT OF PANAMA CITY AND CROSS-  
LICENSED SERVICE FOR THE PORT OF PORT ST. JOE RATE OF PILOTAGE**

Pursuant to the provisions of Section 310.151, Florida Statutes, and Rule 61G14-22, Florida Administrative Code, the Pilotage Rate Review Committee (Committee) met at a duly-noticed public meeting in Panama City Beach, Florida on August 8 and 9, 2019, to review the rate modification application filed by the St. Andrew Bay Pilots Association, LLC, (Pilots).

Committee members present were Robert Benson, Sherif Assal, Capt. Brian Seuter, and David Wilkins. Legal advisors to the Board were Donna McNulty, Special Counsel, and Edward Tellechea, Chief Assistant Attorney General. The Committee granted the Pilots' motion to be represented by Qualified Representative Paxton N. Crew, Esq., who is a lawyer who practices primarily in Texas.

**THE APPLICANT**

St. Andrew Bay Pilots Association, LLC, (Pilots) is an association composed of present harbor pilots that is treated as a partnership for tax purposes and which performs the pilotage

services at the Port of Panama City and cross-licensed services for the Port of Port St. Joe. The purpose of the Pilots is to provide pilotage services in a safe and efficient manner and in compliance with the provisions of Chapter 310 Florida Statutes, the rules promulgated thereto, and any other provisions of law governing the provision of pilotage services. As such, the Pilots are entitled to charge pilotage rates as provided in Section 310.151, F.S., and, as further provided therein, to seek rate increases by filing an application with the Committee.

The Pilots submitted an application on July 31, 2018, and an addendum on October 2, 2018, to satisfy the deficiency letter of August 3, 2018. The Pilots seek the requested rate increase to assist it in maintaining the requirements set forth in Chapter 310, Florida Statutes, because of the significant decrease in pilot revenue and the significant increase in cost since 2001. The Pilots requested 15% increases in Draft and Unit Rate charges, which is estimated to increase pilotage revenue for those two items by \$96,000. Other requested ancillary charges are estimated to increase pilotage revenue by \$143,000. This includes a \$200 flat charge per movement for boat replacement and maintenance, which would generate \$98,800, docking or undocking charges which would generate \$36,500, and minor ancillary charges totaling \$7,700. The Pilots also request a 2% per year increase in the Draft and Unit charges for the five succeeding years after the requested rate change.

As provided in Rule 61G14-22.007 the Committee convened its Investigative Committee. During the Investigative Committee process, it received one letter of concern from Transmarine Chartering, Inc., stating the requested rates would increase its cost by 42%, asking the Committee to spread the increase over a three to five-year period. The Investigative Committee also contacted Wayne Stubbs, Port of Panama City Port Director. He stated that he recognizes the Pilots have not had a rate increase since 2001 and need to have enough pilotage revenue to attract and maintain

qualified pilots with sufficiently reliable boats. He also stated his port competes primarily with ports in Mobile, Pascagoula, and Gulfport and that keeping all port charges within a reasonable range of those ports are important to maintain port traffic and new business.

At the conclusion of the Investigatiye Committee's review of the Port, a report was prepared, and the findings rendered to the Committee as required by Rule 61G14-22.007. All data and correspondence received by the Investigative Committee were referenced and attached as exhibits to said report.

Key assertions of the application can be found on pages 3 through 7 of the report of the Investigative Committee and the application submitted, which are part of the record. The Pilots' assertions, requesting sufficient rates and revenue to maintain adequate pilot boats and to attract and retain a second pilot upon Capt. Frudaker's retirement, are paramount to its rate application.

The Committee has reviewed the application, the Report of the Investigative Committee with appended exhibits, the various exhibits and documents submitted by the Pilots, any affected entity, and the public at large, as well as the testimony and any supporting exhibits of the following individuals:

Richard H. Law, CPA  
Law, Redd, Crona & Munroe, P. A., CPAs  
Tallahassee, Florida

Captain Rick Frudaker  
St. Andrew Bay Pilots Association  
Panama City, Florida

Captain Zach Condon  
St. Andrew Bay Pilots Association  
Panama City, Florida

Paxton Crew  
The Crew Law Firm  
League City, Texas

Wayne Stubbs  
Port Director  
Port of Panama City  
Panama City, Florida

### **THE STATUTORY FACTORS**

The Committee is charged with determining the rates of pilotage based upon a list of factors set forth in Section 310.151(5) which states as follows:

(a) In determining whether the requested rate change will result in fair, just, and reasonable rates, the Committee shall give primary consideration to the public interest in promoting and maintaining efficient, reliable, and safe piloting services.

(b) The Committee shall also give consideration to the following factors:

1. The public interest in having qualified pilots available to respond promptly to vessels needing their service.
2. A determination of the average net income of pilots in the port, including the value of all benefits derived from service as a pilot. For the purpose of this subparagraph, "net income of pilots" refers to total pilotage fees collected in the port, minus reasonable operating expenses, divided by the number of licensed and active state pilots within the ports.
3. Reasonable operating expenses of pilots.
4. Pilotage rates in other ports.
5. The amount of time each pilot spends on a actual piloting duty and the amount of time spent on other essential support services.
6. The prevailing compensation available to individuals in other maritime services of comparable professional skill and standing as that sought in pilots, it being recognized that in order to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots, the overall compensation accorded pilots should be equal to or greater than the available to such individuals in comparable maritime employment.
7. The impact rate change may have in individual pilot compensation and whether such change will lead to a shortage of licensed state pilots, certificated deputy pilots, or qualified pilot applicants.
8. Projected changes in vessel traffic.
9. Cost of retirement and medical plans.
10. Physical risks inherent in piloting.
11. Special characteristics, dangers, and risks of the particular port.
12. Any other factors the Committee deems relevant in determining a just and reasonable rate.

(c) The Committee may take into consideration the consumer price index or any other comparable economic indicator when fixing rates of pilotage; however, because the consumer price index or such other comparable economic indicator is primarily related to net income rather than rates, the Committee shall not use it as the sole factor in fixing rates

of pilotage.<sup>1</sup>

The Committee finds that the data set forth in the Investigative Committee report fairly represents the state of shipping activity in the Port as well as accurately describes the operations of the Port and the activities of the pilots serving the Port. The Committee further finds that the financial data presented both as historical fact and as projections reasonably reflects the present and future financial state of pilotage charges (and the income derived therefrom) in the Port. The Committee accepts the Investigative Committee's application of the above-mentioned data to the various factors set forth in Section 310.151(5) and the conclusions set forth in its reports.<sup>2</sup> Moreover, to the extent that they do not contradict the findings of the Investigative Committee Report the Committee accepts the written submissions of the Pilots as accurate. Specifically, as to the individual elements specified as follows the Committee makes the following findings:

1. The public interest in having qualified pilots available to respond promptly to vessels needing their service.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on page 6 of the Report of the Investigative Committee.

2. A determination of the average net income of pilots in the port, including the value of all benefits derived from service as a pilot. For the purpose of this sub-paragraph, "net income of pilots" refers to total pilotage fees collected in the port, minus reasonable operating expenses, divided by the number of licensed and active state pilots within the ports.

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<sup>1</sup> As the Committee opined in its decision on the requested rate decrease for the Port of Miami (PRRB Case No. 96-01 at page 8), it is the Committee's position that its authority extends to granting a rate decrease or increase, in whole or in part, or to deny the request completely. As will be set forth below the Committee also asserts its authority to grant relief which is contingent upon actions which must occur in order for the rates to take permanent effect.

<sup>2</sup> To the extent that the Committee has accepted the findings of the Investigative Committee in its Report, those findings should be read as though set out in full herein including any reference material contained in the appendices thereto.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 9 and 10 of the Report of the Investigative Committee.

3. Reasonable operating expenses of pilots.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 11 and 12 of the Report of the Investigative Committee.

4. Pilotage rates in other ports.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 12 through 16 of the Report of the Investigative Committee.

5. The amount of time each pilot spends on actual piloting duty and the amount of time spent on other essential support services.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 17 and 18 of the Report of the Investigative Committee.

6. The prevailing compensation available to individuals in other maritime services of comparable professional skill and standing as that sought in pilots, it being recognized that in order to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots, the overall compensation accorded pilots should be equal to or greater than the available to such individuals in comparable maritime employment.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 18 and 19 of the Report of the Investigative Committee with the following comments:

The Committee has consistently established through various previous orders<sup>3</sup> related to this

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<sup>3</sup> All references to prior orders of the Committee include Orders of the Pilotage Rate Review Board, the predecessor rate setting entity authorized under Chapter 310.131, Florida Statutes.

and other ports that it accepts the proposition that the pre-pilot career path is the same for persons who remain as senior bridge officers on American-flagged ships and for those who become pilots.

In addition, Section 310.151(5)(b)6, sets the wage rate of “comparable professions” as the floor for pilot income not the ceiling. As was also noted in the Port Everglades (96-03) and Tampa (2008-01) Orders, the Committee has accepted that the wage rate of senior masters on American-flagged ships varies greatly and thus the Committee can find no specific number to use as the only acceptable “floor” for pilot compensation.

The Committee thus uses the range of masters’ salaries as a range of “floors” of pilots’ income to be applied depending on the amount of vessel traffic at a port, the physical characteristics of a port, the associated risks and complexities of handling vessels in a particular port, and the size of vessels handled. The Pilots have not applied for and do not expect to be compensated at the same level as the larger ports. They expressed to the Investigative Committee an understanding that the port is small, with limitations on growth of volume of handles and the size of vessels; and they have chosen to live in Panama City to make reasonable compensation as pilots. As a two-pilot port, it requires substantial commitment to serve the port 24/7, with minimal equipment, minimal backup in case of sickness or injury, self-funded fringe benefits, and minimal pension benefits, compared to other pilot organizations.

7. The impact the rate change may have on individual pilot compensation and whether such change will lead to a shortage of licensed state pilots, certificated deputy pilots, or qualified pilot applicants.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 19 and 20 of the Report of the Investigative Committee.

8. Projected changes in vessel traffic.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on page 20 of the Report of the Investigative Committee.

9. Cost of retirement and medical plans.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on page 21 of the Report of the Investigative Committee.

10. Physical risks inherent in piloting.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on page 21 of the Report of the Investigative Committee. There are many risks listed in the Report of the Investigate Committee. For example, boarding and disembarking a vessel is one of the most difficult and dangerous events of piloting. Tragically, in 2013, Captain Frank Knowles, a 35-year pilot for Panama City, lost his life while boarding an inbound vessel.

11. Special characteristics, dangers, and risks of the particular port.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on pages 22 and 23 of the Report of the Investigative Committee.

12. Any other factors the Committee deems relevant in determining a just and reasonable rate.

The Committee accepts and adopts the findings of the Investigative Committee as reflected on page 23 of the Report of the Investigative Committee under “other relevant information” with the following comments: “The port has 3 conventional single screw tugs available. . . These tugs



are old and according to the pilots are underpowered; not as maneuverable as twin-screw tugs; and are marginally capable in handling the larger vessels in heavy weather.”

13. The Consumer Price Index and Labor Costs.

After considerable discussion, the Committee accepts and adopts the findings of the Investigative Committee as reflected on page 24 of the Report of the Investigative Committee.

**ANALYSIS AND DECISION**

The Committee is of the opinion that the rates of pilotage at the Port of Panama City and Cross-licensed Service for the Port of Port St. Joe should be modified based upon the request for an increase by the St. Andrew Bay Pilots Association, the Investigative Report, the Pilots’ presentation, the statements of any affected entities, and past Committee precedent.

In general, the modified rates are necessary to bring the income of the Pilots closer to where it was before the increase in consumer and other costs, to attract a deputy pilot, and for upcoming necessary boat maintenance and repair costs. The Committee believes that these modified rates assure that the quality of the pilotage services at the Port of Panama City and Cross-licensed Service for the Port of Port St. Joe remain constant. Therefore, the increased rates will allow the Pilots to maintain an average income that is acceptable to them, and thus, acceptable to the Committee.

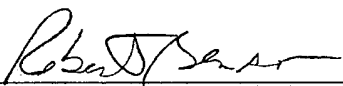
The Committee therefore determines that as of October 22, 2019, the rates of pilotage at the Port of Panama City and Cross-licensed Service for the Port of Port St. Joe shall be modified as follows:

1. DRAFT CHARGE: \$28.75 per draft foot with a 16-foot minimum.

2. PILOTAGE UNIT CHARGE: \$2.65 per unit with a minimum of 175 units
- Calculation for Pilotage Unit Charge:  
 Length Overall (LOA) times the vessel's extreme Beam divided by 100, equals Pilotage Unit (PU), which is multiplied by the Unit Rate (UR) to derive the Pilotage Unit Charge (PUC).
- $$\text{LOA} \times \text{BEAM}/100 = \text{PU}$$
- $$\text{PUC} = \text{PU} \times \text{UR}$$
3. DOCKING OR UNDOCKING: \$0.25 per foot of Length Overall (LOA) for vessels greater than 350 feet.  
 No charge for vessels less than 350 feet calling on the Port of Panama City on a weekly basis.
4. BOW OUT OR PASSING A VESSEL BERTHED IN A NARROW CHANNEL:
- |                  |
|------------------|
| \$100.00 Bow out |
| \$100.00 Passing |
5. SHIFTING CHARGE:
- Long Shift (Port of Panama City (PPC) West Terminal to PPC East Terminal/Berth to Anchorage) Pilotage Unit Charge (PUC) plus Draft Charge plus the Docking/Undocking Fee
  - Short Shift (Shift within Terminal) Pilotage Unit Charge (PUC) plus the Docking/Undocking Fee
  - Dead Shift Double Full Pilotage and Detention Charges after two (2) hours.
6. ANCHORING OR HEAVING ANCHOR CHARGE: \$200.00
7. DETENTION: \$150.00 per half hour.  
 No charge for less than a half hour.
8. CANCELLATION: \$200.00  
 After the pilot has been dispatched.
9. CAPITAL BOAT REPLACEMENT AND MAINTENANCE FUND \$200 per movement
10. PORT ST. JOE TRANSPORTATION AND PER DIEM CHARGE: All trips to and from Port St. Joe for vessel movements will be charged one (1) hour detention.

11. YEARS 2-6 A 2% increase on draft and unit charges per year for five (5) years.
12. All other charges currently in place, including the following, will remain the same:
- Pilot Carried to Sea \$300.00 per day plus all expenses and first class transportation back to pilot's home port
  - Special Services Any other charges, special maneuvers and/or circumstances, by prior arrangement between pilot(s) and vessel's agent and/or vessel's master.

DONE and ORDERED this 25 day of SEPTEMBER, 2019.

  
ROBERT BENSON, CHAIR  
PILOTAGE RATE REVIEW  
COMMITTEE

**NOTICE OF RIGHT TO HEARING**

This Order will become final agency action if no request for a hearing is received by the Pilotage Rate Review Committee (PRRC) by any person whose substantial interests will be affected by this action within twenty-one days after receipt or publication of this notice. A person whose substantial interests will be affected may petition the PRRC for a hearing involving disputed issues of material fact before an administrative law judge pursuant to Section 120.57(1), Florida Statutes, by filing an appropriate petition with the Executive Director of the Committee at Department of Business and Professional Regulation, P.O. Box 5377, Tallahassee, Florida 32314-5377.

A petition for a hearing involving disputed issues of material fact must contain information required by Rule 28-106.201, Florida Administrative Code, *including a statement of all disputed issues of material fact*. The PRRC may refer a petition to the Division of Administrative Hearings for assignment of an administrative law judge only if the petition is in substantial compliance with the rule requirements.

In the absence of such a petition or if the PRRC concludes that the petitioner has not raised a disputed issue of material fact and does not designate the petition for hearing, this Order shall become final agency action for purposes of Section 120.68, Florida Statutes.

In accordance with Section 120.573, Florida Statutes, mediation is not available.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by **Certified Mail** to: **Capt. Rick Frudaker, and Capt. Zachary J. Condon**, St. Andrew Bay Pilots Association, LLC, P.O. Box 1389, Panama City, FL 32402-1389; and **Paxton N. Crew, Esq.**, The Crew Law Firm, P.C., 3030 East Main Street, Suite 260, League City, TX 77573; and by inter-office mail to **Donna McNulty**, Special Counsel, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050; this 27<sup>th</sup> day of September, 2019.

Brandon M. Nichols