

The Board of Pilot Commissioners Pilotage Rate Review Committee

January 22, 2020

PHIPPS REPORTING

Raising the Bar!

January 22, 2020

THE FLORIDA BOARD OF PILOT COMMISSIONERS
PILOTAGE RATE REVIEW PUBLIC HEARING
COMBINED PORT AREA OF JACKSONVILLE AND FERNANDINA

LOCATION: Courtyard Jacksonville Beach Oceanfront
1617 North First Street
Jacksonville Beach, Florida 32250

DATE: Wednesday, January 22, 2020,
commencing at 9:01 a.m.

COMMISSIONERS PRESENT:

Bob Benson, Chair
Michael Jaccoma, Vice Chair
Sherif Assal
Carolyn Kurtz
Edward Russo

ALSO PRESENT:

Donna McNulty, Esq.
Richard Law
Galen Dunton
Anne Ahrendt
Mandie Ackerman

Alan Twaits, Crowley Maritime
George Meros, Esq.
Tara Price, Esq.
Captain William Kavanaugh, Jr.
Captain Nathan Cook
Captain Chris Mons
Captain Joseph Brown
Terry Thornton, Carnival Cruise Lines

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1 P R O C E E D I N G S

2 January 22, 2020

9:01 a.m.

3 - - -

4 CHAIR BENSON: Good morning. It is 9:01 on
5 January 22nd. We are here for the meeting of the
6 Pilot Rate Review Committee hearing for the
7 combined port area of Jacksonville and
8 Fernandina.

9 And I want to start with in terms of opening
10 comments instruction-wise, we'll do roll call,
11 and then we'll defer to Attorney Donna McNulty
12 who is going to talk a little bit about
13 procedurally how we're going to respond and
14 what-have-you and give everybody an opportunity
15 for comments.

16 So, Anne, roll call, please.

17 MS. AHRENDT: Yes, sir. Commissioner Assal.

18 CHAIR BENSON: He's not here yet.

19 MS. AHRENDT: Okay. Commissioner Jaccoma.

20 COMMISSIONER JACCOMA: Here.

21 MS. AHRENDT: Commissioner Kurtz.

22 COMMISSIONER KURTZ: Here.

23 MS. AHRENDT: Commissioner Russo.

24 COMMISSIONER RUSSO: Here.

25 MS. AHRENDT: Commissioner Benson.

1 CHAIR BENSON: Here. Thank you.

2 Okay. With that, Donna, if you will.

3 MS. McNULTY: Thank you. Good morning,
4 everybody.

5 This is a hearing before the Pilotage Rate
6 Review Committee to address the St. Johns Bar
7 Pilot Association in Fernandina Pilots, LLC's
8 revised application for change in the rates of
9 pilotage at the combined port areas of
10 Jacksonville and Fernandina that was filed
11 October 1, 2019.

12 Commissioners, you're here to consider all
13 materials presented and to determine if the rate
14 of pilotage should be modified either up or down,
15 and upon making such a determination, state on
16 the record the reasoning for such a decision
17 based upon the evidence presented. Your decision
18 should be based solely upon the record before you
19 and not upon any independent knowledge or
20 personal bias.

21 As you know, in determining whether the
22 requested rate change will result in fair, just,
23 and reasonable rates, the committee is required
24 to give primary consideration to the public
25 interest in promoting and maintaining efficient,

1 reliable and safe piloting services.

2 Section 310.151(5), Florida Statutes, sets
3 forth a number of factors for the committee to
4 consider, which include the following: Average
5 net income of pilots, reasonable operating
6 expenses of pilots, pilotage rates in other
7 ports, amount of time spent piloting, prevailing
8 compensation available to individuals in other
9 maritime services, the impact the rate change may
10 have on an individual pilot compensation, and
11 whether such change will lead to shortage of
12 licensed pilots, projected traffic, cost of
13 retirement, physical risk inherent in piloting,
14 special characteristics of the port, any other
15 factors the committee deems relevant. The CPI or
16 other comparable indicators may be used but may
17 not be the sole factor in fixing rates.

18 Also, subsection (6) of that section
19 provides the basic outline of vessel
20 characteristics you can consider: The length,
21 the beam, net tonnage, gross tonnage, or dead
22 weight tonnage, freeboard or height above the
23 waterline, draft or molded depth, or any
24 combination of these or any other relevant
25 characteristics.

1 After your decision in this matter, I'm
2 going to draft an order for the committee to
3 review, so it would go back to another meeting.
4 The committee then will reconvene for the purpose
5 of reviewing that draft.

6 And the draft will be a notice of intent to
7 modify the rates to determine whether it
8 appropriately reflects your decision. The
9 substantially affected person will then have an
10 opportunity to challenge the notice.

11 This is also a simple reminder that you need
12 to find competent, substantial evidence to
13 support whatever decision you make.

14 Any questions thus far?

15 Okay. So also there are a couple of
16 preliminary items. The first one is Crowley, on
17 late Friday, after 5:00, filed a motion to
18 dismiss or alternatively to stay the record of
19 proceedings in this matter. You should have been
20 given a hard copy. I think board staff has
21 already distributed that to you.

22 Also, yesterday the pilots filed a response,
23 which was under the time allowed normally for
24 such a filing.

25 Also, before you even began to entertain

1 that motion, you need to state good cause shown
2 of why you're even entertaining this because it's
3 under seven days before this hearing.

4 So you need to state on the record why you
5 would like -- why you're going to entertain the
6 motion, and then I would suggest then you hear
7 the motion and you rule accordingly.

8 And, Mr. Meros, Mr. Cohen is here. He will
9 have a chance to present it, and then Mr. Meros
10 could, you know, have his response. And, the
11 Chair, you decide how much time to allocate.

12 But item number one would be to state on the
13 record the good cause shown of why you would want
14 to entertain it in under seven days because it's
15 not timely filed.

16 CHAIR BENSON: Okay. Again, that motion,
17 we're not to come to determination as to whether
18 or not we're going to stay it or not, but just
19 whether or not we're going to entertain that
20 motion despite the fact that these two are under
21 the seven-day time frame.

22 So do we have a motion that we're interested
23 in listening to from Crowley as well as the
24 pilots and evaluate whether or not we're going to
25 move forward?

1 COMMISSIONER KURTZ: I would like to make a
2 motion to dismiss the motion.

3 MS. McNULTY: That's premature at this
4 point. The question is, can you even entertain
5 it for discussion?

6 CHAIR BENSON: We want to get an opportunity
7 to discuss it.

8 MS. McNULTY: I would suggest that you do
9 so.

10 COMMISSIONER KURTZ: Okay. Then I'll make a
11 motion to entertain the motion.

12 COMMISSIONER RUSSO: Second.

13 MS. McNULTY: And the grounds -- just state
14 for the record the grounds.

15 COMMISSIONER KURTZ: To give them an
16 opportunity to say what you've all come here to
17 do instead of doing it later.

18 MS. McNULTY: That's fine. So with that --

19 CHAIR BENSON: Okay. Seconded by
20 Commissioner Russo. All those in favor?

21 (Responses of "aye.")

22 CHAIR BENSON: Any opposed?

23 (No responses.)

24 CHAIR BENSON: No. Okay.

25 Is there anyone here from Crowley to

1 present?

2 MR. TWAITS: Yes. I'm Alan Twaits.

3 Mr. Cohen, who is outside counsel in this matter,
4 could not make the meeting today.

5 MS. McNULTY: Could you state your name
6 again, sir?

7 MR. TWAITS: Alan Twaits.

8 MS. McNULTY: How do you spell that?

9 MR. TWAITS: T-W-A-I-T-S. Vice president
10 and chief counsel, Crowley Maritime Corporation.

11 CHAIR BENSON: Before we get started, we're
12 going to give both sides five minutes. I don't
13 want to announce that four minutes into it and
14 have you not have an opportunity to state your
15 position.

16 MR. TWAITS: Yes.

17 Crowley first heard of the -- this
18 proceeding last week, and so we were scrambling
19 to put together both a motion and then a
20 statement, which I hope you received yesterday.
21 We filed a statement for the committee to
22 consider.

23 The motion really was an attempt to link the
24 Port Everglades proceeding to this proceeding
25 because there are certain issues that we feel are

1 very similar and that the committee could be
2 guided by the court. We have an appeal of the
3 Port Everglades proceeding pending with the state
4 court in Florida.

5 Some of the common issues relate to the
6 notice procedure, lack of effective notice,
7 composition of the commission, with kind of a
8 heavy emphasis on pilots, and the issues of the
9 costs of the services and particularly the way
10 pension funds are treated. We treated and
11 addressed those in the Port Everglades
12 proceeding, and those issues are all on appeal
13 before the state court.

14 And given the common three or four of those
15 issues being common to what you're doing today,
16 we thought it would be appropriate for you to sit
17 back and not make a decision today and see what
18 the court has to say about those issues.

19 I apologize for the lateness in the
20 proceedings -- or the filing. We just found out
21 about this proceeding last week.

22 CHAIR BENSON: You had mentioned a filing
23 that you had yesterday. I don't think all of us
24 have seen that, but we will give you an
25 opportunity to do that in the section when it

1 talks about other affected parties.

2 MR. TWAITTS: Yeah. And if I don't have a
3 copy with me today, I thought I did, I'm not
4 sure, but I can get it to the committee later on
5 today. But I will be happy to make a statement.

6 CHAIR BENSON: Mr. Meros, five minutes.

7 (Commissioner Assal enters the room and
8 takes his place with the other commissioners.)

9 MR. MEROS: Yes, sir. Thank you, Mr. Chair,
10 and committee members. George Meros, Holland and
11 Knight. With me is Tara Price of Holland and
12 Knight.

13 This motion should be rejected without more.
14 The notion that -- what Crowley is not telling
15 you is that they did not have actual notice of
16 this proceeding, this proceeding meaning the
17 application, the investigative rate committee and
18 everything going on there.

19 They are not saying that they did not have
20 access to the notice that all of the public
21 received in three different notices to the
22 public. What they're saying, and I don't know
23 how this can be said, the first we heard of this
24 was last week.

25 I will ask the committee after this to make

1 sure that Captain Cook and Captain Kavanaugh can
2 testify specifically relating to the
3 conversations that the St. Johns pilots have had
4 with Crowley over months about these proceedings
5 and the substance of these proceedings.

6 They write in here that -- they don't say
7 anything about the fact that they didn't receive
8 notice. What they argue is that the notice,
9 under the rule, has to be on one notice and not
10 two notices without any support in the rule.

11 The notion that if this -- if this entity
12 and the staff provides full and complete written
13 notice but does it in two pieces of paper, it's
14 somehow insufficient. This is no suggestion of
15 any case law or any law to suggest for a second
16 that has occurred.

17 They then say that, well, there are matters
18 going on in an appeal regarding Everglades and
19 this should be stayed because of an appeal in the
20 Everglades case.

21 Again, no law, no case law to even suggest
22 that this proceeding should be stayed because of
23 proceedings that are entirely separate in the
24 First District Court of Appeal.

25 Crowley lost before this committee. They

1 had the right to appeal. They have. But that
2 doesn't mean that they can hijack this proceeding
3 on the Friday before the three-day holiday just
4 this past week.

5 There is -- and I would -- I would be happy
6 to give you copies of the letter from Mr. Cohen,
7 which was the follow-up to our written motion.
8 We have a written motion in opposition to this.

9 And that letter is dated January 21, 2020,
10 says that, and I quote in part, "The committee's
11 notice practices appear designed to defeat the
12 provision of effective notice to impacted rate
13 payers."

14 They're suggesting, they're asserting, that
15 either members of this committee or its staff are
16 intentionally trying to deprive Crowley of
17 notice. There is nothing anywhere in the record
18 to suggest that.

19 To the contrary, there are notices dated
20 November 22, 2019, specifically providing for the
21 fact that the application has been filed, and I
22 believe you have this -- these in the appendix.
23 There is a notice of December 4, 2019, that
24 specifically provides the time, date and place of
25 the notice. The first one talks specifically

1 about all of the rate changes in there. And then
2 there's a notice dated November 25, 2019, of the
3 investigative committee hearing that provides the
4 date and time.

5 And Crowley, which in its letter says, we
6 are a substantial port user with its base in
7 Jacksonville, is somehow trying to assert that it
8 wasn't until the Friday before the three-day
9 weekend that they did not hear about this,
10 without any affidavits anything else.

11 I would urge the committee to deny the
12 motion.

13 CHAIR BENSON: Okay. Thank you, sir.

14 MR. TWAITTS: May I have a brief response?

15 CHAIR BENSON: One minute.

16 MR. TWAITTS: We did not have actual notice.
17 I'm not denying that notices were published in
18 Florida Register and the newspapers in general
19 circulation. Those were not brought to our
20 attention. We did not see them. We did not
21 catch them. So we don't have anybody generally
22 looking at those.

23 The only outreach that I'm aware of is
24 around Christmastime a pilot contacted our
25 Captain Cole Cosgrove, who's in charge of

1 operations for Crowley shipping, and explained
2 that there was a proposal to increase the rates.

3 The first that the individuals in charge of
4 the liner services, terminals and ports found out
5 about it was when we found out about it through
6 counsel the beginning of last week.

7 CHAIR BENSON: Thank you for your comments.

8 For the record, I want to acknowledge that
9 Commissioner Assal is here. He stepped in at
10 9:10. So make sure that he had the benefit of
11 Mr. Meros's comments.

12 So with that, we need to determine whether
13 or not from what we've heard and what we've read
14 from the filing we're going to accept or dismiss
15 the motion from Crowley and whether or not we're
16 going to proceed.

17 COMMISSIONER KURTZ: I will make a motion to
18 dismiss the filing of Crowley.

19 COMMISSIONER RUSSO: Second.

20 CHAIR BENSON: That's seconded.

21 MS. McNULTY: And on the basis. If you
22 would just briefly, for the reasons.

23 COMMISSIONER KURTZ: They don't seem to have
24 a valid reason for wanting to delay this
25 proceeding and it appears that they were noticed

1 correctly.

2 MS. McNULTY: Okay.

3 CHAIR BENSON: We have a motion by
4 Commissioner Kurtz, seconded by Commissioner
5 Russo. All those in favor?

6 (Responses of "aye.")

7 CHAIR BENSON: Okay. The motion is
8 dismissed, and we'll move forward with the
9 balance of the agenda.

10 All right. I want to invite Mr. Richard
11 Law, who is going to present the findings of the
12 investigative committee. He has a lot of
13 information that will be very helpful in
14 determining what we have in front of us, and then
15 we'll get into the presentation by the other
16 affected persons.

17 Mr. Law.

18 MR. LAW: Thank you very much.

19 Our investigative report will follow the
20 format in Chapter 310 with the 12 factors that
21 are required to be addressed in their
22 application, our report, and for your
23 consideration in setting rates.

24 The application is a joint application for
25 Jacksonville and Fernandina. The last rate

1 increase in Jacksonville was 2004. The last rate
2 increase in Fernandina was 2011.

3 The distance from -- the handle distance in
4 Jacksonville is a 28-mile average. It's
5 variable, as you may have seen in different
6 terminals. We use the average of 28 miles for
7 Jacksonville. Fernandina is 12 miles.

8 The rates are -- existing rates are actually
9 higher in Fernandina. They were again set in
10 2011, even for a shorter distance, but that is a
11 function of the fact that trying to maintain two
12 pilots in a small port with diminishing traffic,
13 the rate review committee or board, whatever it
14 was at that time, has to consider all the factors
15 in order to retain a pilot. And so that's why
16 you'll see a difference in the pilotage rates,
17 even though it's a shorter distance.

18 So if you turn to page 3 of our report, I'll
19 go then through some of the example rate analysis
20 for a small and large vessel.

21 You'll see for Jacksonville the current
22 rates for an example small vessel is currently
23 \$457. In Fernandina, it's \$551.

24 The requested rate would generate pilotage
25 fees of \$995. This would -- this includes not

1 only the new rate structure using draft, tonnage,
2 length and beam, but also adding fixed charges of
3 \$115 for port control and training.

4 In Jacksonville, this small vessel would
5 have a rate increase of 117.7 percent. In
6 Fernandina, 80.6 percentage increase.

7 For a sample large vessel, the existing
8 rates in Jacksonville are 3,526; in Fernandina,
9 \$4,307. The requested rate would increase on
10 both ports to 4,125. So this is -- excuse me.
11 4,240, including the fixed charge. So this is a
12 20 percent increase in Jacksonville for a large
13 vessel and actually a small decrease in
14 Fernandina.

15 There are a couple of other ancillary
16 changes in the rate request. We did not put
17 them -- represent them in the body of our report.
18 I attached it as -- we attached it as Exhibit 1
19 so that you can see everything that the pilots
20 are requesting of the ancillary charges.

21 In 2018 these ancillary charges amounted to
22 only \$205,000 out of close to \$10 million in
23 revenue. So it's about -- it's only about 2
24 percent of what we're talking about here. And
25 even as requested, the rates would be about

1 \$230,000. It wouldn't really go up that much
2 compared to the existing rates, and still just 2
3 percent of the total.

4 The other significant part of this rate
5 request is this 2 1/2 percent CPI adjustment over
6 the next ten years. If you just take that simply
7 as 2.5 percent a year, for ten years, and
8 compound it, after the fifth year, instead of
9 12.5 percent, 5 times 2.5, it would be compounded
10 at 13.14 percent.

11 After ten years, instead of 25 percent, 10
12 times 2.5, it would compound to 28 percent. Just
13 so you know how far this would take the revenue
14 up going out ten years.

15 The requested rate structure is taking -- is
16 following the pattern that Miami and Port
17 Everglades have gone to, the four-tier rate
18 structure going from strictly draft and tonnage
19 to length, draft, tonnage and beam.

20 These four -- there are four tiers in this
21 rate structure for up to 10,000 tons. Between
22 10- and 40,000 tons, over 40,000 tons, and then
23 the last tier is over 40,000 tons with a draft --
24 and a draft -- excuse me -- a draft of over 40
25 feet and tonnage at 80,000 tons.

1 We have presented in Exhibits 2 and 3 some
2 very important information relative to how these
3 four tiers work with various size vessels.

4 The first, Exhibit 2, is where we take all
5 of the -- all the handle data that was provided
6 for the year 2017 and '18. It was a full year,
7 but that's what the pilots used their projections
8 with.

9 So we took that data and recalculated all
10 their existing revenue -- excuse me -- their
11 existing rates to come up and reconcile to their
12 actual revenue and their audit. And then we take
13 the new rates, the requested rates, and calculate
14 that to calculate the new revenue, and then the
15 revenue -- the historical revenue based on
16 existing rates, and then we layer that into
17 tonnage layers.

18 If you look at Exhibit 2, you will see the
19 different layers. I think we ought to look at
20 this now while I'm presenting this because I
21 think it's very important for you to see the
22 effect of the tier structure and how the smaller
23 vessels as a group in the 10,000-or-less ton are
24 getting a 75 percentage increase, and then it
25 diminishes the larger the ship. 10,000 to

1 20,000, a 56 percent increase. 20- to 30-, 27
2 percent. So it's a declining increase based on
3 the size of the ship.

4 Exhibit 3. What we tried to do here is just
5 give you some examples of some selected ships so
6 that you can just see exactly how it applies,
7 because when you look at aggregating a layer of
8 tonnage, you kind of lose the detail.

9 For instance, in Exhibit 1, page 1 of 2, you
10 will see the first ship, the Cheetah, well,
11 that's that small ship that shows the 117 percent
12 increase requested versus the old rates.

13 I think currently the example that stands
14 out the most, and I think this is something you
15 really need to heavily consider here, is the Pine
16 versus the ALS Apollo.

17 Now, what's happening here is the Pine is at
18 39,145 tons. The Apollo is 40,030. Well,
19 that's -- the Apollo is barely into that next
20 bracket, but look what happens. It's only
21 getting -- the Pine is getting only a 7.85
22 percent increase, and a ship just marginally
23 larger is getting almost a 55 percent increase.

24 So I think that shows you that the tiers and
25 how they break and how one ship could be one ton

1 over and have a disparity in what you might
2 consider fair, reasonable and just rates.

3 So I think everything that we have here to
4 look at, this is one of the most significant
5 things for you to focus on: What is a fair rate
6 structure to consider?

7 Now, I didn't -- Excel Analysis has 3,600
8 lines of Excel code in it, so I didn't want to
9 give all that to you.

10 CHAIR BENSON: Not every line item, please.

11 MR. LAW: But it's right here if anybody
12 wants to look at it later. You can see every
13 ship with the before and after if anybody would
14 like to see any of that.

15 But hopefully I'm giving enough information
16 for you to recognize that kind of disparity in
17 that.

18 COMMISSIONER KURTZ: Richard, I have a
19 question about that, actually.

20 Do we have the draft -- do we have the other
21 information besides tonnage for those two ships
22 to compare?

23 MR. LAW: Yes.

24 COMMISSIONER KURTZ: Because I'm seeing that
25 you have two of the biggest jumps -- well, one of

1 the biggest jumps is the draft charge.

2 MR. LAW: I have it. I don't know that I
3 gave you every exhibit, but if you want -- well,
4 on Exhibit -- well, I just didn't want to
5 overload you-all.

6 COMMISSIONER KURTZ: No, I understand --

7 MR. LAW: And I do --

8 COMMISSIONER KURTZ: -- just for
9 comparison --

10 MR. LAW: -- have it. I printed it out so
11 you can see it.

12 COMMISSIONER KURTZ: Okay. One at 20-foot
13 draft and one was a 40-foot draft for a safe
14 draft.

15 MR. LAW: Minor difference. It's the break
16 point that makes a difference. Okay?

17 COMMISSIONER KURTZ: Okay.

18 MR. LAW: But I'll give it to you when we
19 take a break if you'd like to see some of the
20 differences.

21 COMMISSIONER KURTZ: Okay. Thank you.

22 MR. LAW: And even up till yesterday
23 when I'm going through this, writing down the
24 actual -- what's the different between the Pine
25 and that ship, and just to be sure, you know, we

1 had it -- they were fairly close.

2 There was a difference in draft, but not so
3 much that it would create that big of a
4 disparity. It's the break point, because all the
5 rates change. It's not just the physical
6 characteristics. All the rates change when you
7 jump from under 40 and then go to 40. Okay?

8 CHAIR BENSON: If you retrieve that at the
9 break, I'd like to put it on the record any
10 additional information given to commissioners,
11 please.

12 MR. LAW: Okay.

13 CHAIR BENSON: Thank you.

14 MR. LAW: Just to let you know, I'm just
15 going to follow along in the way the report is
16 written and just make some observations in
17 general, not to repeat everything, whatever it
18 is.

19 If you move to page 4 on the Projected
20 Traffic and Revenue, there's -- the port
21 authority feels like traffic is going to be
22 steady. The pilots have given us information
23 where they've lost a ship here -- or a customer
24 here or there.

25 And probably the main thing to think about

1 is there's no way to predict traffic and it will
2 vary from year to year. And if you look at the
3 table of historical traffic in this port, it
4 is -- it's declined by about 8, 9, 10 percent
5 since 2010, but revenue is up.

6 So as far as projecting and looking forward,
7 they may get notice that somebody is taking 50
8 ships out of the port, but what's coming in, you
9 know, the port is working on new business. And
10 the point is, it's volatile and it's
11 unpredictable.

12 But that is one of the 12 factors in the
13 statute that you need to consider, but when you
14 look at trying to project out even to 2020, '21,
15 and even ten years out where you have that CPI
16 increase, you're really getting far out there.

17 And as accountants in the business, we are
18 very hesitant to project out ten years on
19 anything.

20 I'm going to go through Comparable Rates in
21 section 4 of the main body. I'm in the Executive
22 Summary right now. Also, on pilot net income,
23 I'm going to section 2, to give you a little
24 bit -- let you follow along with what we have
25 presented in the report.

1 So I'm going to move along to page 7, which
2 is the Public Interest of Piloting. The main
3 thing here is no one has said anything other than
4 the pilots provide good service here. No
5 complaints, no complaints as far as response and
6 timeliness of their service and quality.

7 Of course, we had a public hearing and
8 nobody came, so we have no complaints, but we
9 don't really have anybody coming to us and saying
10 much. But I would think that if we were to put
11 out a public notice and there was bad service,
12 seems like someone would let us know.

13 All right. Going to page 8 and the
14 Determination of Net Income. Well, let's just
15 get grounded here in what you're doing.

16 You're not setting income. You're not
17 setting income. You're setting rates. So you're
18 setting rates given all the 12 factors. So even
19 though we discussed this as a required element,
20 what do they make, is it competitive, is it
21 comparable, will it attract and retain pilots,
22 that's kind of an isolated analysis but it
23 doesn't really drive your rate analysis. It's a
24 big factor, though. I don't -- I don't want to
25 understate that.

1 Okay. On top of page 5, we have an Analysis
2 of Average Net Income for Pilots, 2018 historical
3 rates and projected with the rate increase.

4 A word on what we start with on the
5 consolidated net income. There's a qualification
6 in the auditor's report on 2017 and it still
7 flows into the compiled financial statements for
8 '18, but they qualified their opinion on the
9 valuation and liability for the pension.

10 And so, actually, in Miami and Port
11 Everglades, the auditors for both of those
12 entities did a lot of work to come up with that
13 liability, and it was a very large number.

14 But in this case, the auditors qualified
15 them. They just didn't want to get into it. But
16 it's important to note, because later when we get
17 down the line here and we start talking about
18 unfunded pension, you can see why it's a soft
19 area.

20 So looking at consolidated net income for
21 two years, that's what their financial statements
22 project. And if you divide that top number by
23 14, that's \$398,000 in salary before other fringe
24 benefits and pension.

25 In 2020 it would be 489,000. Dividing the

1 6,848,000 divided by 14 would be \$489,000.

2 That's what they say in their application. Not
3 us, what they say.

4 So as a result of our investigation, we dig
5 into some details and find that there's some
6 add-backs to their income: Standby labor is
7 where pilots get a little bit extra money for
8 doing extra services off the board; their health
9 insurance and other political and charitable
10 contributions, things like that.

11 We always looked at these things as, are
12 they essential to the function of piloting, and
13 especially like contributions. We just want to
14 be careful and say not necessarily, so let's
15 throw it -- let's add it back to income.

16 On the projected for 2020, the pilot boat
17 correction, just briefly. Their application said
18 they're going to replace a pilot boat for between
19 2.5 and 2.6 million dollars, but their
20 projections only had a pilot boat of 1.2 million.

21 So we caught that and said, you know, give
22 us the effect on these financial statements for
23 correcting your compiled projection, and it came
24 up to that number. So that's what that means.

25 So we come up with adjusted net income,

1 divide by 14, and so the average net income
2 before the pension, you can see, \$432,000, and
3 then 518,000 projected.

4 And then -- then we add in our estimate for
5 the unfunded pension. I'll get into this a
6 little later. It's section 9 of the report. But
7 we've been -- this is probably one of the most
8 contentious areas of what we do, is trying to
9 assign a number or even whether a number should
10 be assigned. And so that's why we separate it,
11 so you know. And you can look at it your own way
12 to assess what do you think that their income is.

13 Moving on to page 10, we will see the effect
14 of revenue with a 2 1/2 percent rate increase.
15 The total increase over from 2020 to 2030 would
16 be a 28 percent increase. But, again, there are
17 too many variables to be projecting out this far.

18 Moving on to part 3, Reasonable Operating
19 Expenses of Pilots. We start with retirement,
20 which is 27 percent of their operating expenses
21 is retirement. So this is the largest expense.
22 1.1 billion paid out to about eight retirees.

23 Moving on to page 11, you'll see that the
24 average retiree was paid 185,000 in 2018. If you
25 project out the rate increase, the pilot with a

1 50 percent share, which would go to 241,000, a
2 little bit less for the pilots who haven't earned
3 a full 50 percent share, which I'll discuss
4 later.

5 Salaries. These are all of their employees
6 and what they make. All of these appear
7 reasonable based on what we've seen in other
8 large ports.

9 Fuel cost. You know, I think a lot is made
10 about fuel cost, but it's really only less than
11 2 1/2 percent of their revenue is fuel. But it's
12 a lot of money, but it's still not significant in
13 relation to the total revenue.

14 Other expenses in the last few years.
15 You'll see on page 12, Deputy Compensation.
16 That's going to go from 140,000 to zero because
17 the pilot became -- a deputy became a full pilot,
18 and then one pilot retired. And then in 2018,
19 they have a lot of professional and legal fees, a
20 lot of it probably having to do with the
21 application, audits. CPAs don't come cheap.

22 (Laughter)

23 CHAIR BENSON: CPAs do not entertain. Thank
24 you. Okay.

25 (Laughter)

1 MR. LAW: Moving on to page 13, Pilotage
2 Rates in Other Ports.

3 The pilots in their application present
4 their competitors as Mobile, Charleston,
5 Savannah, and Brunswick. If you turn to page 14,
6 you will see that the Jacksonville existing rates
7 are lower in every one of those sample vessels
8 than all of the competing ports, and even the
9 proposed Jacksonville rates are lower in all
10 cases.

11 And that was important when we talked to
12 Mr. Menefee with the port authority. When we
13 talked to him, he said, yes, the pilots came to
14 the port authority and said they're going to ask
15 for a rate increase, hadn't had a rate increase
16 since 2004. And he said, just keep it
17 competitive with the nearby ports.

18 And so -- but that's from the port
19 authority, not a customer, and it could be a big
20 difference.

21 The next table shows the distance per mile,
22 and except for as far as the fee for a sample
23 ship, and actually that's using the proposed --
24 the requested rate, Jacksonville would still be
25 under all of them except Mobile as far as fee per

1 mile.

2 Turn to page 15, table 4. You can see that
3 in 2004, the last rate increase, to 2019, the
4 average revenue per handle without a rate
5 increase has gone from 1,593 to 2,669. So
6 they're getting rates with size, and even with
7 less handles, they're getting, you know, more
8 revenue and more per handle without a rate
9 increase.

10 But this has been coming in all the ports.
11 As vessels get larger, economies have scaled for
12 the users of the port.

13 These other tables compare rates in Florida.
14 I don't know that they're all that relevant when
15 you compare it to -- I mean, Jacksonville is a
16 unique port in its own distance, kind of like
17 Tampa. Tampa is a seven and a half-hour handle;
18 Jacksonville is four. These other ports are two
19 and a half. They're shorter-haul ports. I think
20 it's most relevant to compare to the local
21 competing ports along the seaboard.

22 Section 5 of our report analyzes the amount
23 of time spent piloting. If you take the 38,061
24 handles in 2018, divide it by 14, that's 275
25 handles in a year per pilot.

1 If you want to just compare that to our
2 normal workweek, if there are 52 weeks a year and
3 five days a week, that's 260 workdays. So
4 they're doing a little bit more than one
5 four-hour-plus handle a day.

6 And so just to give you a perspective to the
7 average workingman, although pilots work under
8 their -- you know, on watch, off watch, the
9 latter, all the things you've probably heard
10 already in how they -- how they schedule their
11 work and when they're on and when they're off,
12 but the bottom line on the bottom of that page 19
13 is total average work time of about 2,272 hours.

14 There's a lot of -- you know, there's a lot
15 of just not just bridge time but essential port
16 time and being on watch.

17 That last line, first board pilot, is when
18 they're on board as the next available pilot, and
19 it's really critical that they're there to take
20 the next ship. So it's a lot of hours, but it's
21 also critical that they're right there ready to
22 respond.

23 Galen, any comment there?

24 Okay. Galen wrote that part of it.

25 All right. Let's move on to page 20,

1 Prevailing Compensation.

2 Since Port Everglades and Miami, we really
3 haven't had a lot of new information from Captain
4 Quick, who shows up to most of our rate hearings
5 and gives us an update on where things are on
6 what pilots make.

7 I attached Exhibit 5, the Dibner report,
8 that gave a lot of data. It's a little dated,
9 but it gives a lot of information on comparative
10 compensation, and also attached is a letter from
11 Texas where they're talking about data that they
12 have on comparable compensation.

13 I think that given that the rate increases
14 that have been made in Miami and Port Everglades
15 where projected income is now, going back in
16 comparison to where it was when we did this in
17 2004, you know, this request would put them in
18 the, let's say, upper quartile, not the middle,
19 but in the upper quartile of comparative
20 compensation.

21 So does that mean it's attractive and will
22 retain? That's the question.

23 Moving on to part 7, The Impact a Rate
24 Change May Have, I think that the big thing is,
25 does this port get sufficient qualified

1 applicants and are the applicants of a high
2 quality that they can make it from deputy to
3 pilot?

4 So at the bottom of page 21 we are showing
5 you the number of applicants. We have no
6 information on how qualified they are. But it's
7 not like Pensacola and Panama City, where they're
8 lucky to get a couple of applicants because the
9 income is so low.

10 They're going to be attracted to the bigger
11 ports with our income and with good benefits,
12 good quality of life, good place to work and
13 live, and I would think Jacksonville is one of
14 those.

15 I'm going to move on to section 8, Projected
16 Changes in Traffic. I think you can see for the
17 two ports there's a table there going back to
18 2010. There is a decline in both ports in the
19 number of handles.

20 However, in Jacksonville, revenues maintain
21 pretty well. It's actually up from 2010. But
22 when you look at 2016, where the -- or 2015 and
23 '16, when they hit 9.9 million, and then in 2018
24 they dropped down to about 2.8, but on less
25 handles in both cases of those 250 handles or

1 almost -- excuse me -- almost 300 handles
2 decline. So that just shows you that the revenue
3 per handle is increasing.

4 All right. Let's move on to retirement
5 plans.

6 They have a 401(k) plan for their employees.
7 There's two different plans. The plans before
8 2000 -- hired before 2012 get a 15 percent
9 contribution. After that, employees hired after
10 that get a 7 percent profit sharing, plus a 3 1/5
11 percent match. So if they're deferring, they're
12 going to get about 10.5 percent.

13 For the pilots, you can see the number of
14 years of service, age, in order to earn an active
15 pilot's share in the unfunded benefit.

16 So if you work -- you have to work 20 years
17 and hit age 55 to get the minimum of 35 percent.
18 If you work 18 years, you're not vested, and
19 that's a pity. That's the biggest thing in
20 trying to put a number on this unfunded pension.

21 Most 401(k) plans, the most a plan can make
22 you drag out of vesting is six years. And so
23 this is unfunded. This is a nonqualified plan.
24 This is their plan. And so you put in -- you got
25 to put in 20 to earn anything.

1 So on page -- it presents some information
2 here on prior costs on page 24 of what the
3 pension plan costs this organization in prior
4 years. This didn't include Fernandina, by the
5 way.

6 But in 2000, it was 1.5 million with 12
7 retirees. Coming down to 2018 is you've only
8 got -- you have half as many retirees, and the
9 total retirement expense is 1.1 million.

10 So with the rate increase, if the rate
11 request is granted, the total retirement costs
12 will go up almost \$450,000. And the average
13 retiree -- they'll be six in 2020 -- will be
14 getting \$225,000. That's estimated off their
15 projection and not what we would say is what is
16 that full share of net income.

17 That number is taken off what they put in
18 their projection as 1.5 million in estimated
19 pension costs. They've got their own calculation
20 of how they determine retirement -- a retiree's
21 share, but I'm just going to go with what they
22 projected since it's such a convoluted
23 calculation.

24 So in trying to come up with a valuation of
25 the pension plan, you know, we've been through

1 this 20 times now, and I'm not an actuary and I
2 don't think you're going to hire an actuary to do
3 this because of the vesting, and it's not funded.

4 Nobody puts money away and has the
5 investment risk of putting that money away to
6 have a future benefit. It's just -- it's just a
7 hybrid plan, and putting a number on it is hard
8 for even me to do.

9 So what we try to do is just go through the
10 same analysis that we've done every year and
11 present to you the negative factors of why you
12 should really discount that number, and then the
13 positive factors for you to consider.

14 And it's really just a matter of judgment.
15 It's not our judgment. It's your judgment in how
16 you want to look at that number. And that's why
17 it's segregated.

18 So in this analysis, as we've seen
19 retirement benefits go up, then we came up with a
20 number of about \$55,000 dollars. And so I'm
21 just -- we just backed off to the 45,000, which
22 we've used in previous rate hearings to kind of
23 put it in a ballpark, but also to let you know,
24 we tried to estimate something here. So you can
25 look at it however you want.

1 I think you know by either -- if you were at
2 the port, the Physical Risk Inherent, on page 26,
3 when it's rough out there, I don't need to say
4 much more. And so it is -- it can be very
5 dangerous, very rough. I think you know.

6 And the last part is the CPI Analysis.
7 Since 2004 the consumer price index has increased
8 39.6 percent. On the bottom of page 29, I tried
9 to just kind of normalize the data we have for
10 income over the past rate applications that we've
11 seen. And because from year to -- you can't just
12 pick one year and say, that's what they make, or
13 try to use the CPI against that one benchmark.

14 So I just tried to take '95, 2000 -- 2007,
15 which is data that we've had in prior
16 investigations, audits and things that we can
17 rely on, but these did not necessarily include
18 the pension. This was really just the
19 distributions.

20 So that's why when we calculate this -- this
21 average of 346 and apply the CPI and say that it
22 would reach about \$483,000, and then compare it
23 to the pilot's projected income of 489-, it's
24 really that first number on page 9 where we say,
25 take the total consolidated net income before our

1 committee adjustments, those -- that's what
2 they're thinking their income is. Okay?

3 And so, yes, you can compare that 483- to
4 perhaps our number of 518,000, and there would be
5 a different variance. But when you look at that
6 in 1995, we weren't including a valuation of the
7 unfunded pension. So I don't think it's fair
8 to compare that to the bottom line of 563- on
9 page 9.

10 Can you follow me?

11 Okay. The last CPI analysis, and this is
12 where I will complete our report, is just looking
13 at the revenue per handle and seeing how it
14 has -- compares to the change in the CPI.

15 If the revenue per handle in 2014 were to be
16 projected, it would come up to -- go from -- it
17 would go up to \$2,166, but the revenue per handle
18 is 2,669. Therefore, the increase over the CPI
19 is \$503.

20 So they're keeping up to some degree by just
21 revenue per handle and size of ships. So they're
22 getting -- and this is common in most of the
23 ports. There's an organic growth of revenue
24 without rate change.

25 Galen, do you have anything to add?

1 MR. DUNTON: No, sir.

2 MR. LAW: So that concludes our
3 presentation, and we'll be happy to answer any
4 questions.

5 CHAIR BENSON: Any questions from the
6 commissioners?

7 COMMISSIONER JACCOMA: I would like to ask
8 you a question, Mr. Law.

9 You included in your report the average
10 income was \$500,000 per pilot that was reported
11 in a previous hearing?

12 CHAIR BENSON: I think that was Mr. Quick,
13 Quick's comments?

14 MR. LAW: I'm sorry?

15 COMMISSIONER JACCOMA: Yeah. George Quick,
16 when you referenced his.

17 MR. LAW: Oh, yeah.

18 COMMISSIONER JACCOMA: Did that amount
19 include any add-backs that you know of?

20 MR. LAW: I don't recall.

21 COMMISSIONER JACCOMA: And how about the
22 Dibner report that's included? Do you know if
23 that includes any add-backs or if that's just net
24 income?

25 MR. LAW: I don't know.

1 CHAIR BENSON: Do we have data on the
2 average CPI increase over the last ten years?

3 MR. LAW: Yes. There's an exhibit on the
4 CPI that you should be able to look at. It's
5 Exhibit 7.

6 CHAIR BENSON: Okay. Thank you. I'll get
7 to that on the break.

8 Any other questions from any other
9 commissioners? Okay. It is 10:03. I'd like to
10 suggest we take a break till 10:15, come back and
11 have a presentation by the pilots. Thank you.

12 (A break was taken from 10:03 a.m. to
13 10:18 a.m.)

14 CHAIR BENSON: Welcome back. We're at the
15 point of listening to the presentation by the
16 St. Johns Bar Pilots Association. I'll apologize
17 in advance for turning my back on everybody when
18 I start looking at the various graphics across
19 the room and whatever. I'll make it short or
20 whatever.

21 Mr. Meros, are you going to start off?

22 MR. MEROS: Yes.

23 CHAIR BENSON: You have the floor.

24 MR. MEROS: Chair Benson, if I may have two
25 minutes and then go right into testimony.

1 CHAIR BENSON: Okay.

2 (Pause)

3 MR. MEROS: Thank you all, committee members
4 and staff.

5 I just first want to say that -- just
6 fundamentally that for the past 16 years, the
7 St. Johns pilots have not had any rate increase.
8 During that same period of time, the CPI has
9 increased by 37 percent.

10 When the legislature has directed that fair,
11 just and reasonable means that there must be a
12 sufficient way to compensate pilots so that the
13 public interest is taken care of in the provision
14 of effective, efficient and safe piloting
15 services, it is hard to imagine an advertisement
16 that says, come to Jacksonville to be one of the
17 best and brightest pilots, where you don't get a
18 raise in 16 years and have a 37 percent rate
19 increase.

20 If the committee agrees to the pilots'
21 proposed rates today, the rates in Jacksonville
22 and Fernandina will remain significantly lower
23 than the rates at competing ports. Captain
24 Kavanaugh will talk to you about that in just a
25 little bit.

1 In the past 16 years, the federal ship
2 channel has remained virtually unchanged, but the
3 footprint of the largest ships have increased
4 dramatically by 75 percent. That makes the
5 pilot's work more challenging and, frankly, the
6 risk more dangerous to all concerned in the port.

7 And, really, with that -- I could say a lot
8 more, but I want to make this as quick as we
9 possibly can. So that would be my opening, and I
10 would like to have Captain Kavanaugh as our first
11 witness.

12 And if I may, Mr. Chair, so that we're not,
13 you know, going back and forth, I'm just going to
14 stand over there and speak with Mr. Kavanaugh so
15 he can -- Captain Kavanaugh can speak with me, if
16 that's okay.

17 CHAIR BENSON: Yeah.

18 CAPTAIN WILLIAM HARDEE KAVANAUGH, JR.,
19 having been produced as a witness, testified as
20 follows:

21 EXAMINATION

22 BY MR. MEROS:

23 Q Captain Kavanaugh, please tell us your full
24 name.

25 A William Hardee Kavanaugh, Jr.

1 THE STENOGRAPHER: Do I need to swear in the
2 witness?

3 MR. MEROS: No.

4 THE STENOGRAPHER: Okay.

5 Q Tell us about your maritime experience,
6 please.

7 A I attended the US Merchant Marine Academy,
8 Kings Point. I graduated there in 1998 with a dual
9 major in Marine Engineering and Nautical Science.

10 1999, I started my CP career, and by the
11 time I was 30, I had earned my unlimited master's
12 license.

13 Q And how many handles have you performed
14 approximately in your career?

15 A Somewhere close to 3,000 handles.

16 Q Now, there are some charts here that I
17 believe you have either prepared or have provided
18 information supporting those charts?

19 A Yes.

20 Q Okay. Can you just go ahead and tell us
21 what those charts reflect for purposes of this
22 hearing?

23 A I'll start with the one on the left. The
24 one on the left is an overview of our harbor
25 management system. It shows who the users of our AIS

1 and DTS services that we provide in Jacksonville.

2 The second one shows the tariff changes from
3 2004 to 2020 for Jaxport, which is the primary
4 terminal for commercial traffic in Jacksonville.

5 The next one is a fleet notice. I redacted
6 the name of the company, one our customers, but they
7 had two incidents where they hit the north jetty
8 coming in during a day like today, which is strong
9 northern winds. They are not required to take pilots.
10 They tend to do so more regularly now.

11 The next slide is just a slide to show the
12 size of the larger ships that we're bringing in now in
13 reference to the tallest building in Jacksonville. We
14 have two or three ships on a weekly basis that are,
15 you know, approaching 1,100 feet, and every once in a
16 while we have ones that are 1,145 feet long.

17 And then the final one is comparison with --

18 MR. MEROS: Let me interrupt one second.

19 Chair, can you see that?

20 CHAIR BENSON: I can move. Yeah.

21 Q (By Mr. Meros) Go ahead.

22 A So the next one is a -- it's a comparison of
23 gross tonnage and draft rates in competing ports. You
24 know, we chose the ports of Charleston, Savannah,
25 Brunswick and Mobile because these are our competitors

1 as far as ports go for commerce in the Southeast.

2 We're -- if you average the draft rates, the
3 current draft rates of those four ports, you know,
4 Jacksonville is on average 38.1 percent lower than
5 these ports.

6 And when you compare the rates for the draft
7 per foot, we're on average of 39.9 percent lower than
8 the competing ports. And it's no coincidence that,
9 you know, in the 16 years since our last, you know,
10 rate change, CPI has increased 39 percent.

11 So even though there is some organic growth
12 as the ships get larger, we have fewer handles because
13 more cargo is being carried on fewer ships. So the
14 shippers have an economy of scale where they benefit
15 from having fewer calls, but they're carrying more
16 cargo in each transit in and out.

17 In the application, I presented the
18 information from Jaxport that showed, you know, the
19 increasing amount of, you know, automobiles,
20 passengers, oil cargo, and containers is continually
21 increasing despite the gradual decline in vessel
22 numbers, because the vessels that are calling now,
23 especially the container ships, are, you know, two
24 times to three times larger than the ones that we're
25 following in, you know, 2007, 2008.

1 With the opening of the new Panama Canal,
2 the ship size for a container ship has gone from a
3 965-by-106 container ship that would carry around
4 4,500 TEUs, which is a measure of number of containers
5 that they're able to carry, to now we're seeing
6 vessels that are, you know, 1,145 feet long, 158 feet
7 wide, and they can carry almost 1,200 [sic] TEUs.

8 It's a huge increase, and our channel is
9 still basically the same width. We are undergoing a
10 dredging project which will eventually widen it in
11 some areas, but only up to the Dames Point Bridge at
12 this time.

13 But we're still going to have two-way
14 traffic, so we're sharing the -- you know, the
15 waterway with other vessels. So even though the
16 largest vessels, they're taking up more room, which
17 leaves less room for everybody else, so the risk
18 increases for all vessels on the river, you know, with
19 the two-way traffic.

20 Q Let me stop you a minute there.

21 There was discussion by Mr. Law about a tier
22 change and what impact that had. Can you explain a
23 little bit what you know about that?

24 A So the -- for vessel sizes, there was --
25 there's kind of a break around 10,000. Once you get

1 to 10,000 gross tonnage, there's not very many vessels
2 that are 11,000, and then it starts to pick back up
3 again.

4 The same -- I don't know how many -- maybe
5 look, Mr. Law, but there are only a handful of vessels
6 that are in the -- you know, between 39,000 gross tons
7 to 41-, 42,000 gross tons. So it was a very small
8 location to make a break.

9 And you're correct that there is a disparity
10 between those two levels, but it was -- I think it's
11 the most gentle one that we could come up with.

12 Otherwise, you'd have to do a formula that
13 was just based on gross tonnage or some other formula
14 that was spread out across all tiers, and there
15 wouldn't be a separate tier system. Everyone would be
16 affected all the way through.

17 Q Now, let me ask you very briefly about the
18 retirement plan. Is the retirement plan a matter of
19 contractual obligation with the pilots that have a
20 interest in the retirement plan?

21 A Yes. It's a -- we're contractually bound to
22 support, and we pay monthly to the retirees, and it's
23 a contract that we cannot get out of. It's not
24 something that we could not do. We would be subject
25 to litigation.

1 Q And have you ever considered a funding plan?

2 A We have considered a funding plan. It's
3 extremely expensive to make the transition because
4 someone has to fund it.

5 So you would have to go back to either
6 industry would have to fund it where they would be
7 paying additional, say, 400 to \$500 per vessel to put
8 money into a fund that would then be used to pay
9 retirees.

10 Q If you would -- really, I'm going to stop
11 right there. No, no, I'm not going to stop. I
12 haven't asked you this.

13 Did you prepare the application?

14 A Yes, I did.

15 Q Did you develop the data in support of the
16 application?

17 A Yeah. I collected all the data from our
18 scheduling program that we have, exported it all to
19 Excel and then sorted through it.

20 Q Was the data that you put into the
21 application accurate and complete?

22 A Yes, it was.

23 MR. MEROS: That's all I have.

24 No questions? Okay. So I would like to
25 have Captain Cook step up.

1 CAPTAIN NATHAN COOK,
2 having been produced as a witness, testified as
3 follows:

4 EXAMINATION

5 BY MR. MEROS:

6 Q Captain, tell us your full name and your
7 position with St. Johns Pilots Association.

8 A Nathan Daniel Cook, and I'm president of the
9 St. Johns Bar Pilot Association.

10 MR. MEROS: And, Mr. Chair, this testimony
11 will be limited to testimony related to
12 communication with Crowley for purposes of this
13 record at a later time.

14 CHAIR BENSON: Okay.

15 Q (By Mr. Meros) Have you had in the past,
16 distant past or recent past, communications with
17 Crowley relating to the original application filed and
18 the revised application?

19 A We have.

20 Q Can you go ahead and please explain that to
21 the commission?

22 A Captain Kavanaugh, Captain Joe Brown and
23 myself met at Crowley headquarters in Jacksonville,
24 met with Cole Cosgrove, vice president, Crowley
25 Shipping, Global Ship Management Division, and Captain

1 Gary Eckerd, the director of commercial operations for
2 Crowley Shipping. That was January 4th of last year.

3 Q And last year being '18 or '19?

4 A '19.

5 Q Okay.

6 A We had a meeting at 2:00 at Crowley
7 headquarters. During that meeting we brought to their
8 attention that St. Johns Bar Pilot Association was
9 going to apply for an application for a rate of change
10 at the port.

11 They acknowledged this. Cole Cosgrove asked
12 us specifically to give consideration to their new
13 Conrail vessels, which Cole Cosgrove was the lead on.
14 They've just been built. They are in the line of
15 service, weekly service, servicing Jacksonville and
16 Puerto Rico.

17 And he asked us to give them consideration
18 during this rate application, and Captain Kavanaugh
19 did an excellent job of providing that consideration.

20 Q And how was that consideration provided?

21 A We used the rate formula developed during
22 the Port of Miami, the box formula, to minimize the
23 impact on these Jones Act, US flag, US crew, US built
24 vessels, to provide consideration during this.

25 Q After those communications, did you have

1 more recent communications with Crowley?

2 A Correct. After the application was properly
3 noticed, Captain Kavanaugh went around and met
4 partners in the port. I had our office manager, Lee
5 Adolph, contact Cole Cosgrove on December 17th and set
6 up a meeting so we could meet face-to-face and discuss
7 the application.

8 Q Let me stop you there. That's December 17th
9 of this year? '19?

10 A Of '19. 2019.

11 Q I'm sorry.

12 A 2019. So that meeting was set up at Crowley
13 headquarters at 12:30, December 19th, 2019. Captain
14 Kavanaugh and I arrived at the headquarters around
15 12:20, signed in with their office, very documented,
16 regimented process of coming into the office. I'm
17 sure it's been documented.

18 We waited for that meeting for 45 minutes.
19 Repeated efforts to contact Cole Cosgrove the
20 receptionist sent were unanswered, and after 45
21 minutes, Captain Kavanaugh and myself left.

22 Q Have you had any further communications with
23 Crowley?

24 A Again, I reached out to Cole Cosgrove. I
25 got him on a phone call on December 23rd. I just

1 again made him aware that we had a rate application
2 coming up in January, we wanted to meet with them, be
3 up front, professional about the process.

4 We told him we were meeting with Tote
5 Services on January 3rd, and I referenced our meeting
6 on January 4th of 2019, where he asked us specifically
7 to give consideration to his Conrail vessels.

8 I referenced that in that phone
9 conversation. He agreed it would be a good idea to
10 meet, and he would contact me with a date for that
11 meeting.

12 Q What happened after that?

13 A Never heard anything from him. January 9th,
14 sent him another email. He responded, setting it
15 tentatively for January 14th, that afternoon, to meet
16 with Captain Kavanaugh and myself to discuss the rate
17 application.

18 And the morning of January 14th, I sent him
19 an email confirming that. Still waiting for a reply.

20 Q Let me ask you a question that I was going
21 to ask Captain Kavanaugh but I forgot, which is an
22 increasing problem of mine.

23 But tell us a little bit just briefly about
24 Fernandina and the size and the usage of Fernandina
25 versus Jacksonville.

1 A Their traffic compared to ours is less than
2 5 percent.

3 Q And what types of vessels?

4 A Small bulk ships, small reaper ships.

5 Q Does Crowley call in Fernandina?

6 A They do not.

7 MR. MEROS: That's all I have.

8 CHAIR BENSON: Okay.

9 MR. MEROS: Excuse me. Maybe not.

10 And perhaps you've done this -- if I may
11 switch to Captain Kavanaugh a minute.

12 Did you testify or can you show whether
13 after the increase, the rates in Charleston,
14 Savannah and Brunswick would be approximately
15 \$600 less?

16 CAPTAIN KAVANAUGH: I do. For the Crowley
17 vessels?

18 MR. MEROS: Yes.

19 CAPTAIN KAVANAUGH: I have information, but
20 it's not on --

21 MR. MEROS: Just briefly tell us about that.

22 CAPTAIN KAVANAUGH: So the proposed rate
23 change would increase the existing rates after 16
24 years, total of \$312.66, on average, for the
25 Conrail vessels.

1 If these same vessels were to call in
2 Charleston, Savannah or Brunswick, which would be
3 the logical other ports they would call on the
4 East Coast, they would be between \$663 to \$621
5 more for in and out.

6 So that's a significant amount. The
7 Fiorella, the Varamo. There are other vessels
8 that call Jacksonville. They are 548 feet long.
9 They have a gross tonnage of 50,375. The rates
10 for those would be -- they actually would be
11 slightly more than what is currently charged in
12 the competing ports, on average, \$157 more, but
13 it's still significantly less than the \$657 for
14 the Conrail vessels, which call twice per week.

15 So that's where we showed just a -- created
16 a reduced rate specifically for those vessels
17 after discussing our rate increase with one of
18 our customers. We did our best to minimize the
19 impact to those particular vessels.

20 MR. MEROS: That's all I have with this
21 gentleman. And I would like to speak with
22 Captain Mons.

23 CAPTAIN CHRIS MONS,
24 having been produced as a witness, testified as
25 follows:

1 EXAMINATION

2 BY MR. MEROS:

3 Q Captain, tell us your full name and also go
4 ahead and tell us your maritime experience.

5 A My name is Captain Chris Mons. I went to
6 the US Merchant Marine Academy, graduated in 2000 with
7 a Bachelor of Science in Maritime Operations and
8 Technologies. I've been in the Port of Jacksonville
9 coming up on 13 years.

10 Q And with the St. Johns Pilots, do you play a
11 role with regard to communications equipment and other
12 technical equipment?

13 A Yes. I'm one of the lead pilots on all
14 things technology- and communication-oriented,
15 orientation with PPU's and what we're using with our
16 AIS technology to manage our traffic flow.

17 Q In the application there's reference to a,
18 quote, "BTS," close quote, or an HMS. Can you explain
19 what that is?

20 A Sure, yes. A BTS is a vessel traffic scheme
21 or system, and it's typically put in place in the
22 United States by the Coast Guard following a study
23 that a water would require it to increase the safety
24 and efficiency of vessel movement.

25 Every -- every few years they do a study in

1 Jacksonville -- it's actually probably closer to
2 several years -- to see whether it would be required.
3 We have developed a system over time.

4 Do you mind if I stand up by the board just
5 to --

6 Q Oh, no. Please do.

7 CHAIR BENSON: Yes.

8 A We just created an overview of the river in
9 our port area. At the very top is the Port of
10 Fernandina, and down here is our furthest -- our
11 furthest port down here, Green Cove Springs. And
12 there's the entrance to the St. Johns River.

13 The little red circle is our pilot station,
14 and these red boxes are critical areas where you don't
15 want two vessels to meet, whether it's really strong
16 cross currents, narrow sections of the channel with
17 the rock side, and where a vessel would be crabbing
18 through, and you can't really meet two vessels there.

19 So out of the necessity for the safety of
20 the waterway, we developed a multi-faceted system
21 which includes AIS visibility of the entire river from
22 not only the pilot's station, but each pilot carrying
23 PPU's. So it's kind of like a mesh of information
24 where all the vessels are moving.

25 And we have vessels checking in or doing a

1 security call on Channel 13 when passing those. And,
2 of course, there's waterway users that aren't -- you
3 know, aren't using pilots or necessarily tie into it.

4 But as keepers of the waterway out there,
5 we're letting them know as we pass, hey, there's an
6 outbound ship; you might want to get on Channel 13.
7 All commercial traffic will be on 13.

8 And then this station is manned 24/7 via
9 VHF, AFKIS, email, taking phone calls, and anybody can
10 call the pilot station at any time, get what the
11 movement of vessel traffic is on the river, where it's
12 at, when they should start in.

13 We have small tugs and barges come from all
14 over that may not take a pilot, but they will call the
15 pilot station ahead of time. They let us know what
16 our inbound/outbound traffic looks like. We provide
17 that information. It just makes their transit
18 smoother.

19 Q Captain, let me ask you this question. Who
20 paid for that?

21 A We did. We developed it solely in-house.
22 It did take a lot of expertise and finances to
23 develop, and it's continually being developed and
24 updated.

25 Q Was that a significant experience to develop

1 that?

2 A Yeah. Yes, it was.

3 Q Were you compelled to pay for that or was
4 that on your own?

5 A We were not -- it was just for the benefit
6 of the river and waterway.

7 MR. MEROS: That's all I have.

8 Chair, if I could have five minutes, I think
9 we have one more witness that will be relatively
10 short, but I want to speak to him for a moment.

11 CHAIR BENSON: Sure. Take five minutes.

12 (Off the record)

13 MR. MEROS: Okay. We're going to have our
14 next witness present, and then I think we have a
15 couple questions before we start.

16 CHAIR BENSON: Sure. You can proceed.

17 CAPTAIN JOSEPH JAMES BROWN,
18 having been produced as a witness, testified as
19 follows:

20 EXAMINATION

21 BY MR. MEROS:

22 Q Captain Brown, tell us your full name and
23 your maritime experience.

24 A My name is Joseph James Brown. I'm a 1981
25 graduate of New York Maritime. Graduated with a

1 Bachelor of Engineering in Electrical Engineer.

2 I went to sea from that point until 1994.

3 1990 to '94, I sailed as master on a tanker. '94, I
4 became a pilot. I've been a pilot for 25 years here
5 in Jacksonville, and I have over 7,500 trips on this
6 river.

7 Q Have you been involved in the training of
8 new pilots as they come in as a deputy pilot?

9 A Yes, absolutely. I've trained most of the
10 guys and I helped prepare (indiscernible).

11 Q In recent times, have you noticed any
12 changes in the level of experience of individuals that
13 come in as deputy pilots and hopefully as full pilot?

14 A Well, years ago, when I came in 25 years
15 ago, we were required to have an unlimited master's
16 license to commit to this port. That's since changed.
17 The standards have been lowered throughout the state
18 to basically a second mate with a year sea time.

19 So we're seeing candidates of various
20 experience now. And with lesser experience or no
21 command experience, you're seeing a longer training
22 program.

23 Q So tell us just a little bit about the
24 training program and the costs of the training
25 program.

1 A So it's a -- it's gone up to a
2 two-and-a-half year program now. It's almost three
3 years, yeah. And a lot of that is to address the
4 larger vessels we have. To gain that experience, it's
5 riding hands-on with experienced pilots, learning
6 that.

7 We're doing simulation. We're doing manned
8 model schools in the United States and overseas, like
9 Port Revel, which is like the gold standard in the
10 world for ship handling, you know.

11 And all this and constant -- constant
12 challenging of our pilots, you know, through their
13 training program as they advance to that level, and
14 they have to provide proficiency to advance to the
15 next level.

16 Q What type of financial investment does it
17 take to train these pilots?

18 A Well, you know, the first number of months
19 they're earning a salary and not generating any
20 income. So that's -- we've had -- you know, plus, in
21 our training program over the years, we've had two
22 pilots wash out.

23 And you're talking about a year of salary, a
24 year of time and effort, and then all of a sudden
25 we're set back now two to three years of getting a new

1 pilot.

2 So that's a cost to the association. It's
3 an expense, you know, in our simulation training and,
4 you know, maintaining a person for a year. So
5 everything we do costs money, obviously.

6 MR. MEROS: Okay.

7 Chair, I believe that's it with Captain
8 Mons. And if members want to ask any questions,
9 we can just bring them up to the table.

10 CHAIR BENSON: Ms. Kurtz, do you have a
11 question?

12 COMMISSIONER KURTZ: Yes, I have a question
13 for Captain Mons.

14 CAPTAIN MONS: Yes.

15 COMMISSIONER KURTZ: So you talk about
16 carrying a PPU. So it's a portable navigation
17 system that interfaces with the ship, correct?

18 CAPTAIN MONS: Yes.

19 COMMISSIONER KURTZ: Yes. And how much does
20 that unit cost?

21 CAPTAIN MONS: It's about \$6,000 per pilot.

22 COMMISSIONER KURTZ: Okay. So you have how
23 many -- so you have 14 pilot?

24 CAPTAIN MONS: 14 pilots, correct.

25 COMMISSIONER KURTZ: You probably have a

1 couple of extra?

2 CAPTAIN MONS: Yes.

3 COMMISSIONER KURTZ: So I can't do that
4 math, but -- so, yeah. So that's like -- yeah,
5 around \$100,000 that you guys had to fork over
6 just for your own personal -- to be safer in all
7 that.

8 CAPTAIN MONS: Yes.

9 COMMISSIONER KURTZ: So did you have funding
10 for that or you guys just -- you paid for that
11 yourself?

12 CAPTAIN MONS: No, we paid for that
13 ourselves.

14 COMMISSIONER KURTZ: And do you pay an
15 annual maintenance fee for those?

16 CAPTAIN MONS: Yes. Actually, yes, we do.
17 We pay an annual maintenance fee for upgrades to
18 the software, maintenance of the software,
19 inputting the latest Army Corps of Engineers
20 survey data into the software on a quarterly
21 basis.

22 COMMISSIONER KURTZ: Yeah. And then I
23 know -- you know, we use those too, a similar
24 system probably in Tampa. We're on about a
25 three-year renewal cycle. How often do you have

1 to replace your units?

2 CAPTAIN MONS: Well, we actually -- we have
3 not replaced them yet. We're doing a maintenance
4 cycle on them, but they're still the original
5 units that we purchased.

6 COMMISSIONER KURTZ: Right. Which is how
7 many years ago?

8 CAPTAIN MONS: It's six years now.

9 COMMISSIONER KURTZ: Okay. So that's
10 probably coming that you'll have that expense
11 again?

12 CAPTAIN MONS: That's correct.

13 COMMISSIONER KURTZ: Okay. I was just
14 curious. Thank you.

15 CAPTAIN MONS: Thank you.

16 COMMISSIONER JACCOMA: I'd like to ask a
17 question. Is this the only chart or example of
18 the waterway that we're going to see here? Is
19 there another one?

20 CAPTAIN KAVANAUGH: That should be it.

21 COMMISSIONER JACCOMA: If you could, could
22 you please show me like the locations of the
23 various docks that customers use?

24 CAPTAIN MONS: Sure. Mr. Chairman --

25 CHAIR BENSON: Yes, by all means.

1 COMMISSIONER JACCOMA: I know we were on the
2 boat the other day, but just seeing it here might
3 be a little easier.

4 CAPTAIN MONS: Yes, absolutely.

5 So the red dot, that's where we started out.
6 We ran out the jetties out here to about Buoy 3
7 and 4, turned back around, and this is coming
8 back down through Mayport, the Coast Guard
9 station where the Sunbeam shrimp trawler is down
10 the way from.

11 Mile point is this state turn with the
12 Intracoastal Waterway, and that's the first
13 little shipyard, the AD Systems. Then you come
14 up through training wall, short-cut turn, and
15 this -- this area right here, this is Blount
16 Island. You have Blount Island Command, our
17 busiest container terminal, Blount Island, as
18 well as car berths and (indiscernible).

19 Where 295 crosses out at the Dames Point
20 Bridge that we went under, that's a restriction
21 for air draft with regard to larger vessels
22 trying to get up river from that.

23 Right on the other side of that is TraPac.
24 That's where a lot of the post-Panamax container
25 vessels are going currently.

1 This is a car berth. Plus we have the
2 cruise ships, the Austin Terminal. And then up
3 the river, this section, all the way to about
4 Talleyrand, is mostly bulk products and oil
5 terminals that are past one of the tanker docks.

6 And then right -- this furthest container
7 terminal up here is Talleyrand Jaxport Terminal.
8 That's where the Crowley vessels would go.
9 There's a paper warehouse up there as well as the
10 Southeast Toyota Distributorship.

11 And then at congruent points sitting in
12 between these two points down here is North
13 Florida Shipyard. And then once you get past
14 that, there's small stuff that goes to the
15 Jacksonville Landing. You have small passenger
16 vessels there.

17 And then you have like barges and like
18 little Caribbean island runners that will come
19 out here that will come out in Green Cove Springs
20 where shipyard carriers (indiscernible).

21 COMMISSIONER JACCOMA: So then the furthest
22 in container operations that you have is
23 Talleyrand?

24 CAPTAIN MONS: That's correct. Yes, that's
25 the furthest one.

1 COMMISSIONER JACCOMA: And that's where --
2 who is the customer there?

3 CAPTAIN MONS: That's Crowley.

4 CHAIR BENSON: Captain Kavanaugh, I have a
5 question with regards to the proposed rates.

6 You have the \$115 of fixed charges, and that
7 is across the board. Is any consideration to
8 some of the large -- smaller vessels?

9 Jacksonville was at \$457 and \$115 rate for that
10 versus the larger vessel, which is like 3,500.

11 Any consideration in terms of, you know,
12 modifying the flat rate to have less of a pop to
13 the smaller vessels?

14 CAPTAIN KAVANAUGH: The smaller vessels in
15 Jacksonville have been getting charged. When you
16 compare what the minimum charge is for
17 Charleston, which is \$1,300, that's their minimum
18 charge, plus they have another \$75 fuel charge
19 added on.

20 Our minimum charge right now of \$457 really
21 wouldn't cover the cost to take someone out and
22 put them behind a vessel off a sea buoy.

23 If you called Sea Tow Jacksonville right
24 now, they probably wouldn't take you out because
25 it's really rough. But assuming it was a nice

1 day, they're going to charge you \$300 per hour
2 with a one-hour minimum.

3 So a minimum of \$300 during the day, during
4 daylight, and at night they're going to charge
5 you \$400 per hour, and then smaller boats that
6 are 26-feet long that aren't all weather and
7 they're not designed for transferring passengers.

8 But just -- there is a cost with us just to
9 get out to the ships, and \$457 maybe barely
10 covers us getting out there, but it doesn't cover
11 our next two or three hours of our, you know,
12 transit inbound.

13 CHAIR BENSON: I'm sure the hundreds of
14 pages of documents we have, it's in there, but
15 what percentage of your volume in terms of
16 handles with the smaller ships?

17 CAPTAIN KAVANAUGH: There's not that many,
18 honestly.

19 Maybe, Mr. Law, do you have that number?

20 MR. LAW: It's in Exhibit 2 and 3.

21 CAPTAIN KAVANAUGH: I don't have that with
22 me.

23 CHAIR BENSON: Okay. I'll take a look at it
24 at the break.

25 You're looking at that relative to what it

1 costs you to provide the service?

2 CAPTAIN KAVANAUGH: Yes.

3 COMMISSIONER ASSAL: Pertaining to the
4 equipment, that is already a cost that's already
5 in your operations today. Correct me if I'm
6 wrong.

7 CAPTAIN MONS: Yes. As far as the PPU's?

8 COMMISSIONER ASSAL: Yeah. I mean, that's a
9 cost that you've been incurring for the past six
10 years.

11 CAPTAIN MONS: That's correct.

12 COMMISSIONER ASSAL: Or longer in some pilot
13 stations. So that's not something new or a cost.
14 That's already standard in your operations,
15 right?

16 CAPTAIN MONS: Yes.

17 COMMISSIONER ASSAL: We all have that in our
18 different businesses. And if we have to get
19 things that makes it safer and better for our
20 pilots and the vessels and the waterways, we're
21 going to do that anyway. So there's already a
22 cost that's built into it. So whether they get
23 new upgrades, we all have that expense that's
24 already built in.

25 But the system is great and having it open

1 to the public to be able to become safer for you
2 and pilots, for the vessels, I think is great.

3 But one of the biggest things that I have,
4 Chair, and to everyone here, is that whether it's
5 Crowley, whether it's the cruise lines, whatever,
6 the shipyard, you guys are a vendor of theirs
7 that's mandated by the state and required to have
8 certain pilotage and so on.

9 For a year he said -- the president said
10 he's contacted Crowley. Has Crowley or any of
11 your customers known about or discussed what is
12 fair for you guys as the pilots looking for an
13 increase?

14 Do you know, Captain Kavanaugh?

15 CAPTAIN KAVANAUGH: What do you mean, did
16 they --

17 COMMISSIONER ASSAL: What I'm asking is -- I
18 guess let me get specific.

19 Did you discuss with any of your customers,
20 your Crowley, cruise lines, whatever customers
21 you have, what you would be looking for in a rate
22 increase that would be fair to bring to the board
23 to make that decision that we might feel might
24 not be fair for both sides?

25 Did that -- did you have ever discussions

1 with your customers, the third-party customers
2 that are going to pay for these rate increases,
3 about the cost or what you were looking for for
4 increases?

5 CAPTAIN KAVANAUGH: Yes. We spoke with
6 Carnival. We spoke with Tote Maritime. We spoke
7 with TraPac, which is another large container
8 terminal, and those are the people we spoke with.

9 So are you asking how much of a rate
10 increase is reasonable, or are you asking us --
11 what exactly is your --

12 COMMISSIONER ASSAL: Well, I actually --
13 yeah, I'm asking you, did you discuss specifics
14 of what you felt might be needed to help you as
15 pilots, what would be an adequate increase that
16 you might be able -- that they know what they
17 might be incurring?

18 CAPTAIN KAVANAUGH: Well, I guess rates,
19 pilotage rates, which are set, you know, they're
20 set in different states by different boards. But
21 the average rates are what were -- I guess
22 comparing our rates against, and our rates are
23 39, 40 percent lower than the rates charged in
24 other comparable ports.

25 And so we did not go and seek a 40 percent

1 increase, you know, for our -- as a rate increase
2 when, according to Mr. Law, I think it's about a
3 25 or 26 percent increase just based on the
4 rates, as far as what the rate increase would be.

5 And then we requested a 2 1/2 percent
6 increase per year for ten years following that,
7 which would give the customers -- they have cost
8 stability.

9 They know how much it was going to be for
10 each year thereafter, because, you know, we
11 realize that our customers, the shipping lines,
12 they will eventually pass on the pilotage costs
13 whether it's on a per-container, a per-ton, a
14 per-passenger, per-vehicle, they will pass that
15 on to their users, to their customers.

16 COMMISSIONER ASSAL: I guess that means the
17 answer to the question is no.

18 CAPTAIN KAVANAUGH: Well, I still don't --

19 COMMISSIONER ASSAL: I still haven't gotten
20 the answer to the question.

21 What I'm asking is, does the customer -- and
22 all the stats that you just brought to me, we
23 already know.

24 CAPTAIN KAVANAUGH: Okay.

25 COMMISSIONER ASSAL: We've already seen

1 them. And I have no problem. I'm not talking
2 about other cities because we're talking about
3 Jacksonville pilots' rate and viewpoint, right?

4 So my concern, did we talk to the customers?
5 Yes, Mr. Customer, you're going to get an
6 increase. How big of an increase? What are we
7 talking? I mean, did we have specific
8 conversations with our end users?

9 One of the biggest challenges that I have,
10 Chair, is that we -- I think everyone needs a
11 raise. I'm in the service world. I'm in the
12 business world. And I think it's how we approach
13 our customers to ask for an increase determines,
14 but we're being asked as a body to basically just
15 validate whatever everybody wants, which is
16 unfair for businesses as well.

17 And just like if you have to do something
18 and there's only certain people that did it, and
19 say, oh, no, your rate increase just tripled to
20 those radio communications, and you don't have a
21 choice or you drop it.

22 We're talking about, did we talk to the
23 customers specifically and ask, by the way,
24 Mr. Customer, based upon what we're requesting
25 from the board or from the body, your rate's

1 going to go up probably around 10 percent, 20
2 percent, 30 percent?

3 Then we could make a decision instead of
4 having to be forced to make what we felt is
5 correct.

6 CHAIR BENSON: Okay. Let me say this.

7 What I'd like to do right now is ask
8 questions of anybody who's presented anything.
9 Okay?

10 COMMISSIONER ASSAL: Okay.

11 CHAIR BENSON: We're going to get into
12 deliberations at the end --

13 COMMISSIONER ASSAL: Okay.

14 CHAIR BENSON: -- and then everybody can put
15 on the table exactly how they feel about the
16 position, the approach, and the factual content.

17 What I want to make sure is, while we have
18 the pilots here and the pilot representatives,
19 ask any questions you have in a statement of fact
20 or something else that may or may not have been
21 covered, and then we'll have other affected
22 parties go and then call for deliberations.

23 COMMISSIONER ASSAL: I apologize. I'll wait
24 till deliberation.

25 CHAIR BENSON: Okay. Anything else from the

1 pilots?

2 MR. MEROS: No, sir.

3 CHAIR BENSON: Okay. Thank you very much.

4 Okay. I don't know that we need to take a
5 break right now. If we do it after the first
6 presentation -- we will, but now we'll invite any
7 other affected persons that want to make a
8 presentation in connection with this rate
9 hearing. If you want to come up and identify
10 yourself.

11 Please identify yourself and then you can
12 have the floor.

13 MR. THORNTON: I will. My name is Terry
14 Thornton, T-H-O-R-N-T-O-N. I'm senior vice
15 president of Nautical and Port Operations for
16 Carnival Cruise Line. I'm a 43-year veteran for
17 the cruise industry, 33-year veteran with
18 Carnival Cruise Line.

19 Part of my responsibilities now is I have
20 responsibility for the Operations Center in Miami
21 that supports our 27 ships year-round, 365, 24
22 hours. Provides all support for our ships. So
23 that's one of my responsibilities.

24 So I just want to maybe make some
25 differentiations between ourselves and a cargo

1 operation.

2 For those of you who don't know, we have a
3 home port here in Jacksonville. It does about 80
4 cruises a year. It brings 200,000 people to the
5 Jacksonville area. The research has shown that
6 we provide a hundred million annual outgoing
7 benefit to the community and over 500 jobs.

8 So from a our standpoint, it's a real
9 different operation than the cargo. We've been
10 here since 2004, and we've continued to support
11 the port and grown the size of our ships to the
12 point where our only restriction right now is the
13 Dames Point Bridge of bringing a bigger ship.

14 So we've been here for the long haul, and
15 we're the only cruise operator in the Port of
16 Jacksonville. And I just want you to understand
17 from our perspective a little bit about the
18 Carnival brand and the Carnival customers so you
19 understand.

20 We are a very mass-market cruise line. Our
21 guests are not wealthy. They expect a very
22 affordable cruise price for their cruise. And in
23 order for us to be profitable, that puts a heavy
24 pressure on us controlling our costs.

25 So while I fully understand everything that

1 was in the report and everything that's been
2 presented today, we don't take lightly the kind
3 of cost increase that we're facing with these
4 increases.

5 We did have a very productive conversation
6 with Captain Kavanaugh, and we did lay out some
7 alternatives for his consideration. We couldn't
8 come to an agreement, but I would like for the
9 committee to consider at least what we had
10 proposed and see if that could be at least under
11 consideration.

12 Our constructure, because we are part of
13 Carnival Corporation, that's our large corporate
14 holding company, we have nine different cruise
15 brands, over 105 ships around the world. We are
16 a New York Stock Exchange traded company.

17 And I think all of us that are in business
18 today know what the New York City Stock Exchange
19 expects: What is next quarter's earnings? And
20 so we really have to deliver, and that's why
21 we're laserly focused on our costs.

22 I don't mean this in any kind of threatening
23 way, but we evaluate the profitability of each of
24 our ships in the home ports we operate
25 continuously. And our ships, unlike hotels, are

1 movable assets, and we do have the ability to
2 move our capacity and our assets around based on
3 where we think will drive the most profitability.

4 And so, like I said, I don't mean that in a
5 threatening way, but I just want it to be
6 considered, as the committee considers this, that
7 that is a risk.

8 So in rounds numbers, I was surprised
9 actually reading the report, that we were the
10 sixth -- or the fourth largest revenue-producer
11 for the pilots, at \$600,000 a year.

12 Also, if I understood the report correctly,
13 the revenues from the port, I think in 2019, are
14 going to be about \$9.8 million revenue, not
15 income. If I understood the increase correctly,
16 that's going to go to 11.5 million in 2020
17 depending on usage by January 1. That's about a
18 \$1.7 million increase.

19 If the Carnival operation should leave,
20 600,000 would go away and it would reduce the
21 increase by a third of what you're proposing.

22 So, again, I don't mean this is a
23 threatening way, but I just want you to
24 understand the magnitude of what we're talking
25 about from our operation.

1 So what I would like to propose the
2 committee consider is that we would accept the
3 approximately 20 percent increase. What we would
4 like is time to find efficiency to get the
5 operations funded, and we'd like that not to be
6 implemented until January 31st of 2021.

7 So we need time to find efficiency in
8 operation that help offset this cost to us. So
9 we'd like the time to figure this out.

10 As an example, our cruises are very heavily
11 booked already for 2020. So we have a very
12 limited opportunity to mitigate the increase in
13 any changes in our revenue structure.

14 The other thing is, then, the 2 1/2 percent
15 CPI increase over a ten-year period. You have to
16 understand from our business perspective, I
17 understand your business is very different, this
18 is a monopoly that we're dealing with the pilots.
19 There's no other business that I know that can
20 mandate a 2 1/2 percent in their revenues no
21 matter what happens in the business.

22 And so that's a little difficult for us to
23 understand, and a little bit harder for us to
24 plan in advance to mitigate that.

25 So we do understand the need for an

1 increase, and so what we propose is for the
2 committee to consider a 1.5 percent increase a
3 year for over the ten-year period.

4 Again, that will provide us a better
5 opportunity to find mitigating offsets to the
6 increase and allow us to continue to operate
7 effectively in the Port of Jacksonville.

8 I did not say one thing I should have said.
9 We get tremendous support from the pilots here in
10 Jacksonville. We're going to have a challenging
11 day tomorrow. Our ship is coming back to the
12 port tomorrow. We're experiencing about 50-knot
13 winds coming back to Jacksonville. I know it's
14 going to be a very challenging situation when the
15 ship arrives tomorrow.

16 But the pilots are there for us when things
17 are good. They're also very supportive of when
18 things are not so good. If we have a medical
19 emergency, if we have a technical problem, if we
20 have an issue that we have to deal with, they've
21 been very supportive of our operations. We're
22 very appreciative of that.

23 So with that, I'd like to -- can you at
24 least consider our comments? And I'll be happy
25 to answer any questions you might have.

1 COMMISSIONER JACCOMA: I'd like to know what
2 is the cost per passenger due to the increase?
3 Have you done any math to determine what the
4 costs are going to be?

5 MR. THORNTON: Round numbers, it's 40 cents
6 a passenger.

7 COMMISSIONER JACCOMA: 40 cents per
8 passenger is the cost if they get the increase?

9 MR. THORNTON: That is correct. That's the
10 cost of the increase.

11 COMMISSIONER JACCOMA: The cost of increase.
12 Is that passed directly on to the passenger?

13 MR. THORNTON: Let me explain that, because
14 I ran revenue management for Carnival Cruise
15 Lines for a long time, so it's all the pricing
16 across everything.

17 So the way we look at our business is how
18 many passenger days we have. So across our whole
19 company, we have 25 million passenger days. So
20 you could say, Terry, what if you just added one
21 dollar to the price of the cruise? You would put
22 \$25 million to our bottom line.

23 Well, it just doesn't work like that. Our
24 guests, when they buy their cruise, they pay us a
25 price for the cruise. They pay us a passenger

1 cost for the things you're talking about. They
2 give us a credit card for one number. That
3 affects how much they pay for the cruise.

4 So even if the price for the cruise went up
5 by 40 percent, or 40 cents, I can guarantee you
6 it will have an impact on what we charge for the
7 cruise.

8 I know how silly that sounds, but I did this
9 for a number of years, and like I said, if we can
10 increase the price of our cruise by 40 cents, we
11 should be doing it now. It just does not work
12 that way.

13 COMMISSIONER JACCOMA: Another question.
14 What is the name of the ship?

15 MR. THORNTON: Carnival Ecstasy. It had
16 been Carnival Elation, but we changed last year
17 to Carnival Ecstasy.

18 COMMISSIONER JACCOMA: Is that ship
19 approximately 30 years old?

20 MR. THORNTON: Just under 30 years. About
21 26.

22 COMMISSIONER JACCOMA: So how many years do
23 you expect useful life out of that, and if you do
24 replace it, will it be another vessel that can
25 fit inside that berth?

1 MR. THORNTON: We have eight of those ships
2 under Carnival Ecstasy class. The oldest one is
3 Carnival Fantasy. It came out in 1990. Its home
4 port is Mobile, Alabama.

5 I can tell you as long as you continue to
6 invest in the features that this ship has,
7 obviously keep it well maintained and you pay
8 close attention to the crew that you put on a
9 ship, there's really a very long life of these
10 ships.

11 So our ship, the Carnival Fantasy in Mobile,
12 our oldest ship, has some of the highest guest
13 satisfaction at our company, including our new
14 ships.

15 And what's that about? We continue to
16 invest in the ship, and our crew does a fabulous
17 job of giving people what they want on vacation.
18 So the answer to your question is it can go on
19 for a long period of time, as long as we do those
20 things well.

21 And we continue to invest heavily in the
22 ships in all aspects, not only all the technical
23 things that we need to do, but also the guest
24 features and things people want on their
25 vacation.

1 So the next step for Jacksonville, we had
2 talked a long time ago about developing a new
3 port in Mayport. And for good reasons, the
4 public and the local committee didn't feel that
5 was something that they wanted at the time.

6 In order to bring a bigger ship, we can't
7 fit under the bridge with a bigger ship than we
8 have, Carnival Ecstasy, so we have to think about
9 additional kind of investments somehow on
10 infrastructure to allow for a bigger ship to
11 come.

12 We'd be interested in that as a company, I
13 can tell you that. But at this point it's not
14 feasible because of the Dames Point Bridge
15 constraint.

16 CHAIR BENSON: Any questions?

17 COMMISSIONER RUSSO: Like where Michael was
18 going on this, but while you were talking I was
19 doing the same kind of math and came up with a
20 little bit different answer than you're saying.

21 Is the Carnival Ecstasy the only ship you
22 bring in this port?

23 MR. THORNTON: It's the only ship we have in
24 this port, yes.

25 COMMISSIONER RUSSO: And how many passengers

1 are you going to bring in?

2 MR. THORNTON: Well, just under 200,000 a
3 year.

4 COMMISSIONER RUSSO: Per ship?

5 MR. THORNTON: For that ship, yeah.

6 COMMISSIONER RUSSO: Per ship, per entrance,
7 per trip.

8 MR. THORNTON: No. Each ship is around 24-
9 2,500 per trip.

10 COMMISSIONER RUSSO: Right. And the
11 increase per trip if this rate increase goes
12 through is what?

13 MR. THORNTON: 40 cents a passenger.

14 COMMISSIONER RUSSO: No. What's the total
15 dollars?

16 MR. THORNTON: In and out, if you combine
17 them both, so if you have to do that, it's a
18 \$1,200 increase.

19 COMMISSIONER RUSSO: \$1,200?

20 MR. THORNTON: That's correct.

21 COMMISSIONER RUSSO: I'm sorry. How many
22 passengers per ship? On that ship?

23 COMMISSIONER RUSSO: Yes.

24 MR. THORNTON: Per trip, about 24- or 2,500
25 per trip.

1 COMMISSIONER RUSSO: Mr. Law, could you just
2 double check that and let me know if that's
3 correct before you censor something significantly
4 less or significantly larger?

5 MR. THORNTON: It's approximately \$90,000 in
6 an increase for the whole year, across the 80
7 voyages.

8 MR. LAW: So the \$1,200 divided by 2,400
9 passengers is 50 cents.

10 COMMISSIONER RUSSO: Good. Okay. Thank
11 you.

12 MR. THORNTON: As I said, I did have very a
13 productive conversation with Pilot Kavanaugh, and
14 so we just could not agree on my proposal that I
15 just laid out for you.

16 CHAIR BENSON: Okay. Any other questions?
17 Thank you for your comments. Appreciate it.
18 Anyone else? Are you back? Can you
19 identify yourself?

20 MR. TWAITTS: Nice to be back.

21 Mr. Chairman, Commissioners, thank you for
22 the opportunity to be heard today.

23 We've been over some of these notice issues.
24 I was glad to hear that the pilots reached out
25 back in January of 2019 to Cole Cosgrove and

1 tried to reach out to him again in December. It
2 was an interim period of ten months, none months,
3 where we didn't hear from the pilots.

4 And during that time, October 1st, there was
5 an application filed, a statutory publication.
6 We were not aware of it. Maybe that's on us, but
7 it would have been, I think, helpful to us and
8 helpful to the commission if there had been
9 continued outreach on the actual application and
10 the fact-finding meetings that were held in
11 November and December, which we were unaware of,
12 and which, I think, would have benefited all of
13 us.

14 I think, as been stated in the past, it's of
15 benefit to the commission board in making its
16 judgments that the cruise is hurt and certainly
17 the cargo is hurt. And Crowley is one of the
18 major operators here.

19 It seems telling to me that my understanding
20 is during the fact-finding meetings in November,
21 December, the only participants were pilots. We
22 would have participated had we had better
23 knowledge.

24 So I think that's an effective notice issue
25 here that hopefully will be improved with better

1 regulation, better communication. Maybe better
2 regulation.

3 So we've done our calculations. I've heard
4 a lot of numbers. Mr. Law, we've been -- tried
5 to review your report as best as we could in the
6 short period of time we had as well as the
7 application.

8 It's been, from what we could tell, a
9 meaningful increase of \$478,000 earnings for the
10 most recent year projected to be \$564,000 for
11 2020, under the proposal. And with the 2.5
12 percent increases each year, the number goes up
13 to over 600,000 in 2030. When you add benefits,
14 it goes up to 700,000.

15 So we too are concerned about the 2.5
16 percent increase, and we request that the
17 commission, the committee members, take a hard
18 look at that.

19 The proposal, again, according to our
20 calculations, is 23.2 percent above the CPI
21 increase of 36 percent from 2004. In other
22 words, it's above and beyond the CPI increase of
23 36 -- our calculation was 36. I heard 39 percent
24 earlier today. It's -- the proposal itself will
25 be 23.2 percent above the CPI from 2004.

1 A 36 percent CPI increase, again, from our
2 calculations, would mean about a \$7,000 increase
3 in earnings as opposed to what we see as an
4 \$86,000 increase with that additional 22.3
5 percent.

6 We love the pilots. We love the job they
7 do. But we would request the board to take a
8 hard look at those numbers and that increase as
9 well as the 2.5 percent increase over time.

10 Simply applying the CPI average revenue,
11 apply the CPI increase of 36 percent, we get an
12 average revenue of \$2,166 per handle.

13 Applying the proposal, the average handle
14 goes up to 2,669. So you can see there's a
15 significant difference between CPI and the
16 proposal. We are wondering why such a large
17 increase.

18 We understand, although there hasn't been an
19 increase since 2004 in the rates and the formula,
20 we've heard today that there's been organic
21 increases based on the size of the vessels, and
22 the pilots' rates continue -- the pilots' earnings
23 have continued to increase.

24 Is there an attempt to shift the burden to
25 smaller vessels? It seems there is. Crowley has

1 two Conrail vessels. And we appreciate the
2 discussion surrounding that in the beginning of
3 2019 apparently, and by our calculation, the
4 increase for the Conrail vessels, our two newest,
5 largest vessels go to Puerto Rico, is 12 percent.

6 However, we have smaller vessels at the port
7 that go to other points in the Caribbean and
8 Central America, and the average increase there
9 is between -- will be between 51 and 57 percent
10 for those vessels, meaning \$184,000 per year
11 increase in total.

12 So the impact on Crowley in one year under
13 the proposal is 184,000, and build after that.

14 We've heard and we saw in the report and the
15 application that the Neopanamax super-sized
16 vessels, cargo vessels, are a significant part of
17 the justification for the increase. And we're
18 wondering why that's being done now.

19 We think it's premature. The dredging
20 operation will not be complete, our understanding
21 is, until sometime in 2021, maybe going into
22 2022. And so the Neopanamax vessels will
23 probably not be able to come into the port until
24 2021, 2022.

25 So, again, we think that the pilots could

1 come in when it's closer to time when we see the
2 reality of the Neopanamax vessels and ask for an
3 increase for the pilot boat, which they want in
4 order to serve the bigger vessels.

5 The costs, and I think it's been alluded to
6 earlier, for the new pilot boat for the
7 Neopanamax vessel is 2.6 to \$4 million.

8 It's all captured in year one rather than
9 serve the financially or commercially more normal
10 way to expense something over life of the boat,
11 say, 10 years, 10 to 20 years even.

12 We're wondering, I guess, why we're seeing
13 that cost built into the rates now and whether
14 the amount is correct and speculative.

15 I guess finally going back to our old fun
16 topic of pension costs, we're concerned about the
17 unfunded pension scheme that's here. A
18 significant portion of the increase goes to the
19 retired pilots. We're wondering how that serves
20 the current users of the port.

21 Our understanding is that out of the
22 increase under the proposal, it would essentially
23 be about \$40,000 on the average, a \$40,000 raise,
24 if you will, to the retired pilots, retired
25 pilots, getting them up to about \$225,000 per

1 year in pension costs.

2 So I guess what we're hoping to see the
3 committee and the board do is take a longer and
4 deeper look at the pension costs. I think the
5 committee and the board has benefited from
6 Mr. Law's view, but could benefit further from an
7 actuarial look at what's going on and what makes
8 sense here and compare it to other pension plans.

9 And so we think that, again, look at rates
10 that are more in line with the CPI, less than --
11 look at less than the 2.5 percent increase on a
12 yearly basis, and do not approve the proposal
13 until these costs are better understood.

14 And we ask that you give users besides
15 Crowley, other users, a little more time to give
16 you their input and impact on their operators.
17 Thank you.

18 CHAIR BENSON: Any questions?

19 COMMISSIONER RUSSO: Just don't want to
20 drill down to the same analytics here with regard
21 to unit costs.

22 The firm you represent, Crowley, I might
23 understand, their primary customers are
24 containers and cars?

25 MR. TWAITTS: Yes. Well, containers mostly,

1 and cars.

2 COMMISSIONER RUSSO: And cars.

3 MR. TWAITS: As far as either roll-on
4 roll-off or in containers. Correct.

5 COMMISSIONER RUSSO: Have you done the
6 analytics in terms of what the increase will be
7 per container or car?

8 MR. TWAITS: We can do that. I don't have
9 that with me. By the way, I have the statement
10 mentioned. I can supplement the statement with
11 that information, but we do know what the total
12 impact is, which is \$184,000.

13 COMMISSIONER RUSSO: Right.

14 MR. TWAITS: But per unit, I don't know
15 that --

16 COMMISSIONER RUSSO: Well, we know what it's
17 going to be per --

18 MR. TWAITS: -- we can get that.

19 COMMISSIONER RUSSO: Well, we know what it
20 is or you should know what it is per trip in and
21 out, and you know how many containers on a
22 vessel. You know how many cars are on a vessel.

23 Mr. Law, put you on the hot seat. Or maybe
24 you should confirm his math, but that's -- maybe
25 as we proceed, you can provide that information

1 to us.

2 MR. TWAITS: We have a 184- backup in what
3 we submitted yesterday.

4 MS. McNULTY: May I interject?

5 That was not given to people because nobody
6 has a -- I don't have a copy of that. I don't
7 believe that's been distributed to --

8 MR. TWAITS: Can I give you a copy of the
9 statement for the record?

10 CHAIR BENSON: That, or if you want to
11 disseminate the information that's in that
12 statement, then we will take the statement
13 itself. But, yes, why don't you share that with
14 the group as opposed to submitting it without us
15 knowing what's in it.

16 MS. McNULTY: I don't know how long it is.
17 Are you going to read it into the record?

18 MR. TWAITS: Yeah. Could I prevail upon you
19 to take it and make copies and distribute it?

20 CHAIR BENSON: At the break we can make
21 copies. We'll take it and at the break we'll get
22 copies and we'll look at that prior to our
23 deliberations.

24 MR. TWAITS: Thank you.

25 MS. McNULTY: Make sure that the committee

1 has it as well as pilots.

2 CHAIR BENSON: Okay. Anything else?

3 COMMISSIONER JACCOMA: I would like to ask,
4 the vessels you have, some of those are US flag
5 vessels?

6 MR. TWAITTS: The Conrails are US flag. The
7 two larger, L and G, very modern vessels, are US
8 flag, Jones Act vessels.

9 COMMISSIONER JACCOMA: So they're Jones Act
10 vessels?

11 MR. TWAITTS: Yeah. And then the smaller
12 vessels are foreign flag vessels, the vessels
13 that go to the Caribbean, not Puerto Rico, the
14 Caribbean and Central America.

15 COMMISSIONER RUSSO: And with the Jones Act
16 cargo you carry on that, are you able to pass
17 that cost on to your customer?

18 MR. TWAITTS: You know, you try. You're in
19 competition. We have -- we're in competition
20 with the services out of the Gulf as well.
21 Eventually we try to catch up, but it's not an
22 immediate -- you know, we don't have a surcharge
23 for this. We'll look at it and we will attempt
24 to catch up.

25 COMMISSIONER RUSSO: You don't know offhand

1 what that cost per container would be?

2 MR. TWAITS: And I guess, if I can answer
3 further, most of our contracts are one-to-two
4 years in length. So the catch-up period is
5 generally one to two years, at best.

6 COMMISSIONER KURTZ: I heard you ask a
7 question about cost per container, though.

8 COMMISSIONER JACCOMA: Yes.

9 COMMISSIONER KURTZ: Can you address that?

10 MR. TWAITS: I can address that, not today.
11 I mean, I can address that later. I don't have
12 that with me.

13 COMMISSIONER ASSAL: The new L and G
14 vessels, how many containers do they carry?

15 MR. TWAITS: 2,000 --

16 COMMISSIONER ASSAL: 2,000?

17 MR. TWAITS: 3,000 --

18 (Simultaneous cross-talk)

19 COMMISSIONER ASSAL: How many times a week
20 do they come in?

21 MR. TWAITS: Once a week.

22 COMMISSIONER ASSAL: Once a week. So we're
23 talking about 4,000 containers at 52 weeks, even
24 if we did 50, that's 200,000 -- that's 200,008 to
25 be exact.

1 Am I pretty close on that math? 200,008,
2 and the increase is what, 180,000?

3 MR. TWAITTS: Yeah, 184-.

4 COMMISSIONER RUSSO: You're talking about
5 less than a dollar.

6 COMMISSIONER ASSAL: No, no, no, no. Yeah,
7 that's correct. You're right.

8 MR. LAW: 90 cents.

9 COMMISSIONER RUSSO: 90 cents. Thank you.

10 COMMISSIONER ASSAL: 90 cents? All right.

11 MR. LAW: I'm considering not every ship has
12 full capacity.

13 COMMISSIONER ASSAL: Not every container's
14 got product in full.

15 COMMISSIONER RUSSO: But it's just a guide
16 for now. We'll see how this goes.

17 COMMISSIONER ASSAL: It's a dollar fifty.

18 COMMISSIONER KURTZ: A dollar a container.

19 COMMISSIONER ASSAL: Okay.

20 CHAIR BENSON: Anything else?

21 COMMISSIONER ASSAL: That's all.

22 CHAIR BENSON: Okay. Thank you for your
23 comments.

24 MR. TWAITTS: Thank you.

25 CHAIR BENSON: Any other affected party

1 persons out there that want to make a statement?

2 How about public comments?

3 Yes.

4 MR. LAW: Can I make an observation?

5 CHAIR BENSON: Yes.

6 MR. LAW: The new pilots' boat will be
7 depreciated over ten years. It's not going to be
8 recovered in year one. I just want to make sure.

9 COMMISSIONER JACCOMA: I thought I said
10 that.

11 (Simultaneous cross-talk)

12 COMMISSIONER RUSSO: Good. Thank you,
13 Richard.

14 CHAIR BENSON: Any other public comments?

15 Okay. We're going to take -- what time is
16 it now? 11:30. We're going to take a break for
17 lunch and get back at 1:00 for deliberations, and
18 we'll start promptly at 1:00.

19 (A break was taken from 11:30 a.m. to
20 1:00 p.m.)

21 CHAIR BENSON: Okay. Folks, I have 1:00.
22 We said we're going to start promptly.

23 I would like to acknowledge the fact that
24 the committee members all received a copy of the
25 January 21st letter from Crowley. And we also

1 received copies of the various exhibits from the
2 pilots that we have in front of us for our
3 reference as we go forward.

4 I believe the pilots would like to put
5 something on the record. Yes, sir.

6 MR. MEROS: Yes, sir. George Meros on
7 behalf of the pilots. Thank for your time.

8 The pilots prepared this application with
9 the greatest care to comply with all the
10 statutory criteria. The pilots stand by the
11 application as it.

12 That said, if the committee elected to delay
13 implementation of the rate increases until July
14 2020 as to all port users without discrimination
15 among different port users, the pilots would not
16 object to that, but that is simply entirely up to
17 committee.

18 CHAIR BENSON: Okay. Thank you. That was
19 July, you said?

20 MR. MEROS: July 2020.

21 CHAIR BENSON: Okay. Thank you.

22 Before we get into some of the detail here,
23 and by no means am I concluding this before some
24 active discussion and a determination from this
25 committee, I want to thank my fellow

1 commissioners, our staff team, our attorneys, and
2 everybody that participated in this process.

3 I know it's very costly both in time and
4 expense to go through this process, and I was
5 very impressed with what we saw and
6 what-have-you, and hopefully this will come out
7 with a fair and reasonable determination. But
8 they want us to make a determination, but didn't
9 acknowledge the fact that there's been a lot of
10 people who have put in a lot of work on this, so
11 I thank you very much.

12 And with that, we have -- we're going to
13 shift to the deliberations side of our meeting.
14 And there's two things we need to do.

15 There is going to be just some active
16 discussion among the commissioners in terms of
17 our thoughts and whether or not we're going
18 to accept this particular rate request as
19 presented or modified; and the other is going to
20 be Donna McNulty, our counsel, is going to walk
21 us through the various factors that we are to
22 remind ourselves is going to drive this decision,
23 and we're going to go through each factor to
24 document for the record when she comes up with
25 her write-up of what we decided.

1 So from the commissioners' perspective, do
2 you want to have a general conversation first?
3 We'll walk through these factors and then open it
4 up for discussion and deliberations.

5 COMMISSIONER RUSSO: Yes, I'm interested in
6 counsel's perspective. Thank you.

7 MS. McNULTY: Okay.

8 As you-all are aware, this -- you know, the
9 legislature has laid out all the different
10 factors that were mentioned a little bit earlier
11 in my opening presentation, that you consider the
12 following factors when you actually determine the
13 rates.

14 So, you know, from Mr. Law's report, it's
15 laid out according to those statutory factors for
16 your consideration.

17 So my suggestion would be to -- we'll go
18 factor by factor. And I think it would be best,
19 if you're open to it, to vote on each factor as
20 you get to it and see if you -- you know, look at
21 the report, see if that -- you're okay with that
22 evidence.

23 If there's something that you think needs to
24 be modified or discussed, that would be an
25 appropriate time to do that prior to your voting

1 on the factors.

2 Are you open with that?

3 COMMISSIONER RUSSO: Sure.

4 MS. McNULTY: So if you could turn to
5 Mr. Law's report. On the first fact you would
6 have the summary. As you know, he went through
7 that this morning.

8 But the first factor regards -- is the
9 public interest -- regards the public interest,
10 so, "The public interest in having qualified
11 pilots available to respond promptly to those
12 needing their service." And that is on page 7 of
13 the report.

14 CHAIR BENSON: We're going to entertain a
15 motion to approve the fact that we've been
16 provided with supportive documentation.

17 MS. McNULTY: Well, or if you agree with the
18 assertions on page 7 supporting factor No. 1, and
19 if there's something you want modified, this is
20 the time that you raise it, because this is the
21 basis and support for your ultimate decision;
22 because, again, these are the factors, including
23 there's one that's like a general that says,
24 "Other" that you're looking at, and these are
25 what will support whatever rate you ultimately

1 come up with.

2 COMMISSIONER JACCOMA: So we need a motion
3 then to accept it?

4 MS. McNULTY: If you don't have any
5 questions, sure.

6 COMMISSIONER JACCOMA: I'll make a motion to
7 accept item 1 of the investigative report as
8 written.

9 COMMISSIONER RUSSO: I'll second that.

10 CHAIR BENSON: All those in favor?

11 (Responses of "aye.")

12 CHAIR BENSON: Number 2.

13 MS. McNULTY: Factor 2 is a "Determination
14 of the average net income of the pilots at the
15 port," as delineated on page 8. It starts on
16 page 8 of the investigative report.

17 (Pause)

18 CHAIR BENSON: A motion?

19 COMMISSIONER KURTZ: Can we talk about it
20 first or make the motion and then discuss?

21 MS. McNULTY: Either way you want.

22 COMMISSIONER KURTZ: Okay. So I still -- I
23 would like to address the estimated value of the
24 unfunded pension.

25 I know Richard Law as pulled it out, as has

1 been the practice. But I still have a strong
2 opinion that this is an expense to active pilots.
3 It's not a benefit to active pilots.

4 This is money that a pilot who's active one
5 day less than 20 years won't receive a penny of
6 this because you're not vested until you put 20
7 years in.

8 So there's phantom benefit to a pilot for 19
9 years and 360 days, you know. So there's that.
10 So I don't really see that as a benefit to an
11 active pilot, certainly not until they're vested
12 in this plan.

13 And if you -- let's say you don't become a
14 pilot when you're 30. You know, let's say you
15 become a pilot when you're in your 40s. You will
16 never reach fully vesting in this plan.

17 So I just really object to considering this
18 as a benefit to active pilots. I really feel
19 very strongly that this is an expense for active
20 pilots.

21 CHAIR BENSON: I hear where you're coming
22 from, and it is an expense to active pilots
23 because there is, you know, in excess of a
24 million dollars being spent for the active
25 pilots' expenses for the obligations they have

1 toward the retired partners.

2 I do think we should incorporate some value
3 for that, because at the end of the day, while
4 there is a forfeiture, you're at six or seven
5 active pilots that have a six-figure stream of
6 income through their death, you know.

7 So I don't think we can totally disregard
8 it. I'm not defending the \$45,000 number. I'm
9 not -- you know, I'm on board with you with
10 regard to every one of the active pilots out
11 there are not collecting this. They're, in fact,
12 paying it from the association.

13 But in my mind I do consider that in terms
14 of, you know, some kind of benefit. And there's
15 forfeiture and what-have-you, and you mentioned
16 an actuarial that would factor all that in.

17 I don't know that that's necessary, but I
18 still see it as something out there for the
19 pilots, particularly the ones that have been out
20 there for a number of years ago now that, you
21 know, they're banking on this, you know.

22 So I don't look at it completely the same
23 way you do, and I, as you well know, highly
24 regard your perspective. But I see it as an
25 element of compensation, albeit deferred at some

1 point in time, and albeit the fact that they may
2 not see it. Hopefully, they will.

3 And, in fact, if the success of the
4 operations in this port isn't successful as it is
5 right now, it won't be that number. It will be
6 lower. And, in fact, if it ramps up to#####
7 know, a tremendous amount of success, it's going
8 to be higher.

9 But I think it's something that we have to
10 consider as an element of compensation, albeit
11 the fact that every one of the active pilots out
12 there are not collecting this now. They're
13 banking for it being there in 20 years or 25
14 years, whatever.

15 COMMISSIONER KURTZ: I hear you. I'm just
16 expressing opinion.

17 CHAIR BENSON: Great.

18 COMMISSIONER KURTZ: And that's how I feel
19 about it.

20 CHAIR BENSON: There you go, and as we both
21 just stated.

22 Any other comments on this particular item?
23 Okay. We have a motion to --

24 MS. McNULTY: There's no motion yet.

25 CHAIR BENSON: Okay.

1 MS. McNULTY: You need to vote on No 2.

2 CHAIR BENSON: Okay. To vote on No. 2.

3 MS. McNULTY: So you can approve it as it
4 is, you can modify it, you can -- but you need to
5 codify and vote with some rationale as to the
6 average net income of pilots.

7 COMMISSIONER KURTZ: How do you phrase that?

8 MS. McNULTY: Well, do you like what's
9 written? I mean, you could move to approve what
10 is set forth in the investigative committee
11 report, would be the motion, unless you want to
12 modify it. Then you just modify what's in there
13 as you see fit.

14 COMMISSIONER JACCOMA: I have something on
15 that. You know, it says -- on page 8, item 2,
16 "A determination of average income of pilots in
17 the port, including the value of all benefits
18 derived from service as a pilot."

19 And then it goes on further and it tells
20 what net income of the pilot is. And net income
21 of a pilot doesn't say that it includes your
22 retirement benefit. It just says, to me, that
23 the value of the retirement or any other benefits
24 has to be valued.

25 So can we say that we accept his number

1 where it comes out to 4325 or 5187, do we accept
2 those numbers as net income? But we're -- you
3 know we understand that the retirement benefit is
4 unfunded, and even I think Richard will
5 acknowledge that in his report, it's hard to put
6 a number on the value of that.

7 And so we recognize that he has attributed a
8 value of \$45,000 to that. I'm not accepting it
9 or not. We're just saying there's
10 (indiscernible).

11 CHAIR BENSON: Well, we recognize the fact
12 that's a huge estimate.

13 COMMISSIONER JACCOMA: Right. Exactly.

14 CHAIR BENSON: There's no question about
15 that. Yes.

16 COMMISSIONER JACCOMA: I don't know how to
17 put that in a motion, but --

18 MS. McNULTY: But it's also not clear to me
19 really where you're going with that.

20 COMMISSIONER JACCOMA: Well, I'm saying
21 that, according to item 2, it says that you're
22 supposed to come out with net income. It even
23 tells you how to come out to net income, but it
24 says you're also supposed to create -- include a
25 value for all benefits.

1 So he's including a value for all benefits,
2 but that's not to be included in net income
3 because it doesn't say that. It says, "Divided
4 by the number of reasonable operating expenses by
5 the number of licensed pilots in the port."

6 We're still accepting that it is -- there's
7 a value to these things, but we're not including
8 it as net income.

9 MS. McNULTY: Well, you're including it as a
10 benefit.

11 COMMISSIONER JACCOMA: We're including it as
12 a benefit, separate.

13 MS. McNULTY: Okay. Well, if you're looking
14 at the way it's written, and in particular
15 there's a chart on page 9 where it says, "Average
16 Net Income Per Pilot," the projected rate is 518-
17 plus change, and then it says an estimated value
18 of unfunded pension of 45-.

19 So what in the verbiage would you change
20 that way it's written?

21 COMMISSIONER JACCOMA: That's what I'm
22 trying to figure out.

23 If you follow what I'm trying to say is, I
24 would like to separate net income from valued
25 benefits.

1 COMMISSIONER ASSAL: You're trying to only
2 pull the benefits out?

3 COMMISSIONER JACCOMA: I'm not trying to
4 pull -- I'm just trying to separate it so that
5 it's not -- net income is net income. Benefits
6 have a value, and these are what we accept as the
7 value for those benefits.

8 Do you have any thoughts on that, Richard?

9 MR. LAW: I think page 9 is presented to
10 where you -- there's an estimated value, and you
11 look at the net income before or after that. Do
12 you accept that as a finding of fact?

13 And as far as the 45,000 in another part of
14 section 9, we go through valuation estimation,
15 the pluses and minuses of trying to estimate that
16 number.

17 So as a whole, do you think that
18 represents -- is a fair representation of the
19 total income of a pilot that would attract a new
20 pilot or retain somebody, that they may get that
21 benefit one day?

22 That's -- I think that's a summary of what
23 all that is showing, whether it's received or
24 not. And if anybody's up for a pension one day,
25 they have to vest.

1 COMMISSIONER ASSAL: When you're asking to
2 approve section 2, you're asking not just for the
3 first page. You're asking for the second and
4 third pages, right? Because that's part of
5 section 2.

6 MS. McNULTY: Correct.

7 COMMISSIONER ASSAL: So I think putting in
8 there the value -- or didn't Mr. Law put in the
9 value of each line item already?

10 COMMISSIONER JACCOMA: He did. He listed
11 it, but then he comes out with the total net
12 income per pilot, which I don't know --

13 COMMISSIONER ASSAL: But it's a projected.
14 It's not an actual. It's a projected based upon
15 if they get the numbers that they're looking for.
16 Correct me if I'm wrong.

17 MR. LAW: For 2020.

18 COMMISSIONER ASSAL: For 2020. So if you
19 look at it, it's based upon projections, and I
20 think he states it in there, if operating --
21 assuming operating expenses continue to
22 approximately 42 percent of the total revenue,
23 net income would be approximately 58 percent of
24 the revenue. It says it in there. I mean, I
25 don't know where . . .

1 CHAIR BENSON: By leaving it in, it's being
2 focused on. We're focusing on this item. And
3 we're not being blind to the fact that there's an
4 unfunded pension fund (indiscernible).

5 MS. McNULTY: Could you -- I can't hear you.

6 CHAIR BENSON: I'm sorry.

7 My suggestion is that we leave it in,
8 because by leaving it in, we are recognizing the
9 fact that we are considering the unfunded pension
10 opportunities at some future date for retired
11 partners or pilots. And by taking it out would
12 suggest that we're blind to that and be subject
13 to challenge that we didn't visit that particular
14 item.

15 So I personally would leave it in.

16 COMMISSIONER JACCOMA: I guess I wasn't
17 trying to actually remove it, just accept it as
18 value and not part of the actual net income of
19 the pilot.

20 CHAIR BENSON: Of the active pilot, right?

21 COMMISSIONER JACCOMA: Right.

22 MS. McNULTY: But is it something that is a
23 benefit to them over time if they actually
24 receive it?

25 Is that how -- Mr. Law, can you explain

1 how -- why did you include it in the total net
2 income per pilot? Can you elaborate on that a
3 little bit?

4 MR. LAW: It's an imputed value that you add
5 to net income, and it's something that on an
6 annual basis they will accrue a benefit for.

7 MS. McNULTY: Over time?

8 MR. LAW: Right, over time. And so I don't
9 know how you can ignore that benefit, given that
10 how much they pay out otherwise for the people
11 who are now drawing that. I don't know how you
12 can ignore that.

13 But the way it's presented is a matter of
14 fact -- finding of fact was, are the numbers as
15 presented something that you look at as the way
16 it's delineated as something that you consider in
17 setting the rates?

18 Is that a fair way to look at the finding of
19 fact, Ms. McNulty?

20 MS. McNULTY: Yes. I mean, a fact could be,
21 what is the number? A fact could be, should it
22 be in this bucket altogether? So I think you
23 have the combination.

24 Is the number accurate that's projected to
25 the -- and then something like the estimated

1 value of unfunded pension, you've heard the --
2 you read the report of saying that there are too
3 many variables over time, so this is the best
4 estimate that was able to come up with an amount.

5 So you look at these -- all these different
6 numbers, the stand-by labor, the health insurance
7 projected for 2020, and then you look at the
8 average net income per pilot, then the discussion
9 of the estimated value of the unfunded pension,
10 which brings you to the total net income per
11 pilot.

12 So if you're -- and with the caveat as
13 delineated in this section by Mr. Law, the pilot
14 boat correction on this page.

15 COMMISSIONER JACCOMA: And I think Richard
16 pointed out that item 9 shows up later on and
17 it's cost of retirement fringe benefits plans.
18 So we can address that there.

19 CHAIR BENSON: Okay.

20 MS. McNULTY: Are you making a motion?

21 COMMISSIONER JACCOMA: I'll make a motion to
22 accept item 2 as presented in the investigative
23 committee's report.

24 COMMISSIONER RUSSO: Second.

25 CHAIR BENSON: All those in favor?

1 (Responses of "aye.")

2 CHAIR BENSON: All right. Number 3.

3 MS. McNULTY: Is "Reasonable Operating
4 Expenses," and that begins on page 10 of the
5 investigative committee report.

6 CHAIR BENSON: Any discussion?

7 COMMISSIONER KURTZ: There's something on
8 page 11 in the main paragraph in the third
9 section down. I just think it's a miswording of
10 a statement.

11 It says, "Pilots over 60 years old are less
12 agile, more flexible and stronger than younger
13 pilots." So that needs to be reworded. I do not
14 think that that's true.

15 MR. LAW: I should have put less. I saw
16 that last night.

17 COMMISSIONER KURTZ: Right. So we just need
18 to correct that.

19 MS. McNULTY: So how would you like it to
20 read?

21 COMMISSIONER KURTZ: So pilots over 60 are
22 less agile, less flexible and not as strong as
23 the other pilots.

24 COMMISSIONER RUSSO: I think that borders on
25 age discrimination.

1 (Laughter)

2 COMMISSIONER KURTZ: I'll race you up a
3 ladder and you can tell me.

4 COMMISSIONER RUSSO: Sure.

5 CHAIR BENSON: I know who my money is with.
6 (Laughter)

7 CHAIR BENSON: Okay. With that revision, do
8 we have a motion to accept?

9 COMMISSIONER RUSSO: So moved.

10 CHAIR BENSON: Second?

11 COMMISSIONER ASSAL: Second.

12 CHAIR BENSON: All those in favor?

13 (Responses of "aye.")

14 MS. McNULTY: "Pilotage Rates in Other
15 Ports," begins on page 13. And, also, all the
16 exhibits attached to the investigative report are
17 documented and incorporated by reference. Make
18 sure that goes into the basis for your decision
19 as well.

20 CHAIR BENSON: Any discussion?

21 Is there a motion out there to accept?

22 COMMISSIONER RUSSO: I'm on a roll. I'll do
23 it again. Yes, I so move.

24 CHAIR BENSON: Second?

25 COMMISSIONER KURTZ: I'll second.

1 CHAIR BENSON: All in favor?

2 (Responses of "aye.")

3 CHAIR BENSON: Thank you.

4 MS. McNULTY: And then starting on page 17,
5 the next factor is, "The amount of time each
6 pilot spends on actual piloting duties and the
7 amount of time spent on other essential support
8 services."

9 CHAIR BENSON: Any discussion or questions?
10 Motion?

11 COMMISSIONER KURTZ: I make a motion to
12 accept No. 5 as presented.

13 CHAIR BENSON: Second?

14 COMMISSIONER RUSSO: Second.

15 CHAIR BENSON: All those in flavor?

16 (Responses of "aye.")

17 CHAIR BENSON: Okay. Thank you.

18 MS. McNULTY: The next factor is, "The
19 prevailing compensation to individuals in other
20 maritime services are comparable and
21 professionally skilled" -- (indiscernible).

22 CHAIR BENSON: Any questions or discussion?
23 Motion?

24 COMMISSIONER JACCOMA: A motion to accept
25 this one.

1 COMMISSIONER RUSSO: Second.

2 CHAIR BENSON: Second by Mr. Russo.

3 All those in favor?

4 (Responses of "aye.")

5 MS. McNULTY: The next factor to consider
6 is, "The impact the rate change may have on
7 individual pilot compensation and whether such
8 changes would lead to a shortage of licensed
9 state pilots, certified deputy pilots, or
10 qualified applicants." And that beings on page
11 21.

12 CHAIR BENSON: Questions or comments?
13 Motion?

14 COMMISSIONER RUSSO: So move as submitted.

15 COMMISSIONER JACCOMA: I second it.

16 CHAIR BENSON: Second. All those in favor?
17 (Some responses of "aye.")

18 CHAIR BENSON: Yes.

19 COMMISSIONER KURTZ: My only objection is
20 that in projecting a pilot income, now that the
21 unfunded portion is rolled in, that's considered
22 a base number? So the number you're starting
23 with now --

24 THE STENOGRAPHER: Could you speak up?

25 COMMISSIONER KURTZ: Sorry. Right.

1 So because, you know, we had the earlier
2 section where the unfunded portion is valued and
3 added in, now that higher number, including the
4 unfunded portion, becomes your base number in all
5 calculations moving forward.

6 Am I stating that correctly?

7 MR. LAW: Yes.

8 COMMISSIONER KURTZ: So that's just my only
9 objection, is that now it's automatically
10 included, even if you don't agree with it. You
11 know, so automatically everything is going to be
12 higher because of this.

13 And I just wanted to say that as an opinion
14 that, moving forward, none of the numbers show
15 that it's without it and then with it; now the
16 base number is including it as an assumption of
17 something that's accepted.

18 MS. McNULTY: But do you have this report to
19 back it up? So over time you can go back and
20 look at how it was calculated, right?

21 COMMISSIONER KURTZ: I'm just checking
22 before I vote on something that I'm not sure I
23 agree with.

24 MS. McNULTY: No, no. It's fantastic that
25 you ask questions. So I mean, I think it's good

1 to fully discuss. It's just like one of the
2 numbers that Mr. Law pointed to earlier, when
3 they look back in time, it was without something.
4 Right?

5 MR. LAW: Right. So separating it is good
6 for the record.

7 MS. McNULTY: So that going forward, if for
8 some reason it was important to take out that
9 piece, that information is still available to do
10 so.

11 COMMISSIONER KURTZ: Okay.

12 COMMISSIONER RUSSO: And acknowledging that
13 correctly, but I don't think that requires a
14 modification of my motion.

15 CHAIR BENSON: Okay. Next item.

16 MS. McNULTY: Did we vote?

17 CHAIR BENSON: All those in favor?

18 (Responses of "aye.")

19 MS. McNULTY: Sorry. The next one is,
20 "Projected Changes in Vessel Traffic." And that
21 begins on page 22.

22 COMMISSIONER JACCOMA: I'll make a motion to
23 accept as written into the record
24 (indiscernible).

25 THE STENOGRAPHER: I can't hear you.

1 COMMISSIONER RUSSO: He made a motion --

2 COMMISSIONER JACCOMA: Can you hear me?

3 THE STENOGRAPHER: I didn't hear you.

4 COMMISSIONER JACCOMA: Okay.

5 I'll make a motion to accept item 8 as
6 written into the record of the investigative
7 committee report.

8 COMMISSIONER RUSSO: Second.

9 CHAIR BENSON: All those in favor?

10 (Responses of "aye.")

11 MS. McNULTY: Next one is factor 9, "Costs
12 of retirement and medical plans," beginning on
13 page 23 of your investigative report.

14 CHAIR BENSON: Same comments as earlier.

15 COMMISSIONER JACCOMA: Well, on here it says
16 it's a cost. It doesn't say it's a benefit, but
17 it's a cost.

18 COMMISSIONER KURTZ: Why?

19 COMMISSIONER JACCOMA: The cost of
20 retirement and fringe benefits, which I think is
21 what Commissioner Kurtz was alluding to earlier,
22 is it's a cost to the association.

23 CHAIR BENSON: Yeah. It's a cost to the
24 existing pilots and a benefit to those that
25 reached that 20-year minimum level of service and

1 retired.

2 MS. McNULTY: So it's both, is what you're
3 saying?

4 CHAIR BENSON: Uh-huh.

5 COMMISSIONER JACCOMA: I think Richard
6 adequately points out that, you know, a guy could
7 resign before he completes his 20 years of
8 service and get nothing.

9 MR. LAW: Yes.

10 COMMISSIONER JACCOMA: I think I would
11 accept it as is.

12 CHAIR BENSON: The motion is to accept as
13 written?

14 COMMISSIONER RUSSO: Is that a motion?

15 COMMISSIONER JACCOMA: I'll make that a
16 motion.

17 COMMISSIONER RUSSO: Second.

18 CHAIR BENSON: All those in favor?

19 (Responses of "aye.")

20 CHAIR BENSON: Thank you. Next.

21 MS. McNULTY: In next one is, "The Physical
22 Risks Inherent in Piloting." And that begins on
23 page 26.

24 COMMISSIONER KURTZ: I'll make a motion to
25 accept No. 10.

1 COMMISSIONER RUSSO: Second.

2 CHAIR BENSON: All those in favor?

3 (Responses of "aye.")

4 MS. McNULTY: No. 11 would be, "Special
5 characteristics being used in risks inherent" in
6 this particular port. And that begins on page
7 27.

8 COMMISSIONER KURTZ: I'll make a motion to
9 accept No. 11.

10 COMMISSIONER RUSSO: Second.

11 CHAIR BENSON: All in favor?

12 (Responses of "aye.")

13 MS. McNULTY: And then there is, "Any other
14 relevant information." And that begins on page
15 28.

16 COMMISSIONER KURTZ: I'll make a motion to
17 accept No. 11.

18 COMMISSIONER RUSSO: Second.

19 CHAIR BENSON: All those in favor?

20 (Responses of "aye.")

21 MS. McNULTY: And the next one is, "The
22 committee may take into consideration the CPI or
23 any other comparable economic indicator when
24 fixing the rates of pilotage, but they can't be
25 the sole basis."

1 COMMISSIONER JACCOMA: I'll make a motion to
2 accept as written for the record item 13 of the
3 investigative report.

4 COMMISSIONER RUSSO: Second.

5 CHAIR BENSON: All those in favor?

6 (Responses of "aye.")

7 CHAIR BENSON: Okay. Thank you.

8 Now we have whatever discussion we need to
9 have to determine where we go from here in terms
10 of the rate increase and costs.

11 MS. McNULTY: May I make a suggestion?

12 Also, I thought it was helpful to go into
13 the actual application itself to look at the
14 column that says "Requested Charge" so you can
15 look at each of the charges, if that's helpful to
16 you.

17 MR. LAW: Yes. And that's Exhibit 1 of my
18 report.

19 CHAIR BENSON: Okay. Let's look at Exhibit
20 1 then. Page 137.

21 (Pause)

22 CHAIR BENSON: Comments?

23 I spoke to the standard rates on
24 particularly the smaller ships, and I see from
25 Captain Kavanaugh the actual costs of servicing

1 those ships. So I'm okay with the standard
2 rates.

3 The only other thing that I'm struggling
4 with is as to whether or not we're going to have
5 ten years at 2 1/2 percent. That's not too far
6 out. Going through this process is costly and
7 everything else, but that's really setting in
8 stone for quite some time.

9 Maybe we should discuss that a little bit.

10 COMMISSIONER KURTZ: I have a comment about
11 the tiered rate. I really like it. I -- it
12 acknowledges the fact that the larger the ships
13 are and the deeper the ships are, the more risk
14 is involved in moving them safely, especially
15 with two-way traffic.

16 And it's also in the investigative committee
17 report that these channels were not really
18 designed to accommodate vessels of the size that
19 are moving around in the port now.

20 So I do like, as they get bigger and deeper,
21 the charge to reflect that. I think it's a
22 little more accurate depiction of the risk that's
23 involved.

24 COMMISSIONER JACCOMA: As far as that 2 1/2
25 percent each year for ten years, you know, it's

1 been 16 years since the pilots -- for them to get
2 an increase. And I'm sorry for them to have to
3 wait so long, you know.

4 And this kind of is a way to keep from
5 having to do this and making somebody wait so
6 long. So I kind of look at that as maybe
7 offsetting the CPI in the future. Granted, we
8 don't have a crystal ball, but I think 2 1/2
9 percent seems fair to me.

10 COMMISSIONER KURTZ: I agree. I think
11 instead of waiting ten years between hearings and
12 having these big jump percentages that are -- you
13 know, the customers don't like, even though they
14 haven't had to pay increases.

15 COMMISSIONER JACCOMA: Right.

16 COMMISSIONER KURTZ: You know, instead of
17 paying it with a customer all at once like that,
18 you know, this is an adjustment because there
19 hasn't been anything for 16 years; and then a
20 modest 2 1/2 percent every year, you know, that
21 may be all anyone really needs unless there's
22 some huge change in the port or, you know, some
23 other infrastructure issue that we can't even
24 imagine, you know, at the moment.

25 CHAIR BENSON: Right.

1 COMMISSIONER KURTZ: One of the flaws I
2 think in our rate process is there's no expense
3 recovery mechanism. And so I really -- I also
4 like the fixed fee, the \$15 per ship for training
5 and \$100 for the vessel management system,
6 because those are real costs to the group.

7 So, you know, I think, you know, with a
8 fixed fee and moving forward after some
9 adjustment, I think a 2 1/2 percent is a really
10 good thing.

11 CHAIR BENSON: And I don't know that I was
12 challenging the 2 1/2 percent as much as I was
13 challenging going beyond the five years or
14 whatever, ten years and lock it in that way.

15 They do have the opportunity to find that
16 that 2 1/2 percent is not enough to come back to
17 this committee and the costs associated with that
18 effort.

19 COMMISSIONER KURTZ: Yeah. You know, it
20 takes a year to prepare for a rate review, if you
21 do it properly. And then to have -- it's only
22 five years, then in year four you're preparing
23 for a rate review to ask for 1 percent or 2
24 percent.

25 I don't know. I think the ten years just

1 takes so much extra work out of it. And, you
2 know, I suppose a customer could always file
3 something 18 months after a change is made.
4 Anybody can file anything like that for a change
5 rate -- to change the rates.

6 But I think the intent is really good here
7 to streamline our rate process, which is very,
8 very cumbersome for the pilots.

9 COMMISSIONER ASSAL: I think the expense
10 goes to everybody. I mean, pilots, the
11 customers, the end users, the board. We see our
12 financials and negatives just to accommodate
13 everybody.

14 I think that we have to be fair across the
15 board. I don't think that we should standardize
16 increases when you don't know what the future
17 holds, and if you're going to standardize it,
18 you have to play fair for other sides because
19 companies go through hardship.

20 By the way, as we noticed, the pilots have
21 made -- actually, if you want to look at it, they
22 made more money now than they did with less
23 handles. You have half of the amount of handles
24 and making the same amount of money.

25 So, Pilots, what do you call that?

1 CAPTAIN MONS: Bigger ships.

2 COMMISSIONER ASSAL: Okay. But it's still
3 less handles, less work. So I don't disagree
4 with there is an increase that's needed.

5 Ten-year out, we don't have a crystal ball.
6 We don't know what's going to happen. I think
7 that equipment itself, I think, is a cost that --
8 and I don't mean a boat. I think a boat is a
9 highly expensive equipment that the pilots have
10 to incur that somebody is going to have to pass
11 on that's reasonable, because if you're looking
12 at ten years and the boat's lasting 25 and 30,
13 then advertise the boat over 30 or 25. Then that
14 cost gets reduced.

15 But now it becomes a profit stream, because
16 once the boat is paid off, it's just maintenance.
17 Right? Now that's added value.

18 I think equipment to make the pilots safer
19 is standard now. That's standard in the
20 industry. No one is going to take risks.

21 GPS -- I don't know, maybe the smaller pilot
22 organizations don't have the newest technologies
23 and that kind of thing, but I think when you talk
24 about the GPS and tracking and all that stuff,
25 that's pretty much standard in normal workplaces

1 now in a lot of different businesses.

2 I think that we need to look at, given a
3 fair increase, I don't agree with the 2 1/2; I
4 agree with a CPI because I've known companies and
5 we've done it with my organizations, haven't
6 gotten raises in multiple years. It shouldn't be
7 set standard.

8 I think if you're going to do a
9 standardization, I think it has to fair for
10 everyone, because that 1 percent doesn't -- it's
11 not just -- it's an hourly rate that you have
12 built-in costs. You have built-in boat. You
13 have built-in maintenance that you're going to
14 add across the board.

15 And once all those things are done, those
16 expenses or those purchases are still going to
17 stay there. You're not going to give somebody
18 bad credit.

19 And no customer -- I mean, they will, some
20 of them will spend the monies to come back to the
21 board in 18 months, but they're going to go
22 through the same process as the pilots are going
23 through. So it's going to be just as costly for
24 them as it is for the pilots.

25 CHAIR BENSON: Yes.

1 COMMISSIONER KURTZ: I have a comment about
2 the boats. I believe that both of Jacksonville
3 pilot boats -- actually, they have three because
4 they have a boat that furnishes Fernandina.

5 There are two Jacksonville boats. The ones
6 that we rode on yesterday are 19 years olds, I
7 believe, and those boats really don't last 30
8 years. You might get 25.

9 And when you say maintenance, it's not just
10 an oil change. To rebuild an engine is tens of
11 thousands of dollars when you get 20,000 hours on
12 your engines and the blocks might be shot because
13 we're going through the center port. You know,
14 we're looking at a 500- to \$750,000 bill to
15 repower and refurbish an old boat.

16 A new boat the size that they're looking at
17 to be able to run safely offshore is going to be
18 at least one and a half times what a boat would
19 cost of their size now. They're like 52 feet and
20 53 feet. To go to a 64-feet, which is what
21 they're projecting, the cost goes up. It's not a
22 linear thing.

23 So I know we just got a new 53-foot boat
24 that cost \$2 million. So they're looking at, you
25 know, at least \$3 million to build a boat. And

1 then you have to wait one to three years to get
2 your boat. You know, you have to get in line
3 once you order the boat.

4 So, you know, your boat might be paid for,
5 but the maintenance isn't cheap. They have, you
6 know, a full-time mechanic. There's -- it's in
7 the tens of thousands. It's not -- it's not like
8 paying off your car, then it's a couple of
9 hundred bucks a year. It's quite a bit of money
10 even when the boat is paid for and you're doing
11 maintenance.

12 So I just wanted to make that comment
13 because it is something I'm familiar with and I
14 know their boats are old.

15 COMMISSIONER ASSAL: And I'm not
16 disagreeing. I swear I'm not disagreeing with
17 the costs of the boat. I know people tell me the
18 best day is the day you get it and the day you
19 get rid of it, right?

20 (Laughter)

21 COMMISSIONER ASSAL: But you just said
22 something that it takes three years to get, but
23 the customers are paying for it now.

24 COMMISSIONER KURTZ: Because you have to pay
25 along the way. You pay when they cut the metal

1 and they pay --

2 COMMISSIONER ASSAL: I understand that.
3 You've got to give a down payment.

4 COMMISSIONER KURTZ: You know, they don't
5 just send you a bill when it's done. You're
6 paying all along. So, you know, there is a cost.

7 COMMISSIONER ASSAL: Okay.

8 COMMISSIONER KURTZ: And in the meantime,
9 you're hoping your engines on your 22-year-old
10 boat don't blow up, because then you have to
11 replace two engines.

12 COMMISSIONER ASSAL: And they have a 2007.
13 The one I was in was a 2007, so it's only 12
14 years now.

15 COMMISSIONER KURTZ: Okay. Sorry. The one
16 I was on was 19 years old.

17 COMMISSIONER ASSAL: Okay.

18 CHAIR BENSON: All right. While we're on
19 rates, any discussion?

20 Both Carnival and Crowley had talked about a
21 few things, but one of them was, you know, giving
22 them time to react and what-have-you.

23 And the response to that, well, the pilots
24 are not changing their rate request; they have
25 put on the table they would not object to an

1 effective date in July.

2 So when we talk about in regard to whether
3 or not we're going to accept these rates, why
4 don't we talk a little bit about that, if they
5 make a compromise, so to speak, between the
6 parties and giving everybody an opportunity to
7 adjust to the new rates, whatever they may be.

8 Comments?

9 COMMISSIONER KURTZ: I think it's a generous
10 offer to delay it for six months.

11 COMMISSIONER JACCOMA: So the effective date
12 you're requesting would be what, the first of
13 July?

14 CHAIR BENSON: Yes, defer it five more
15 months or six months from the application date.

16 COMMISSIONER RUSSO: That's fine with me,
17 but I don't think it's all that necessary.

18 When they set a criteria for consideration,
19 for me, it's the first thing, the threshold I
20 have to get over, are the requested rates
21 competitive? And we've heard testimony that they
22 are.

23 And I look at the political -- I'm sorry --
24 the practical impacts to the final customer, and
25 I believe that we've determined that it was

1 somewhere around 50 cents for a passenger and a
2 dollar for a container.

3 Then we have to compare that to the relative
4 increase to the value of what is being shipped
5 over the last 16 years, which is not -- but we
6 didn't hear any testimony with regard to that,
7 but that has to have an effect on the relative
8 cost between the fees that we're considering and
9 the value of the items being shipped.

10 So if you look at that over 16 years with
11 the numbers we're talking about per unit, I don't
12 know what the word is for less than de minimus.
13 So I don't see any reason for it to roll into the
14 factor of an additional 50 cents for a passenger
15 and a dollar per container.

16 If the offer is to extend it to an effective
17 date in July, that's fine with me, but I don't
18 think it's necessary at all.

19 CHAIR BENSON: Yes.

20 COMMISSIONER KURTZ: I think it's a sign of
21 goodwill to do it.

22 COMMISSIONER RUSSO: Fine.

23 COMMISSIONER KURTZ: Since they're offering
24 it, and that can help a customer -- you know,
25 give them a few months to adjust or whatever, I

1 have no problem with that.

2 CHAIR BENSON: Yeah.

3 MS. McNULTY: I would like to look at the
4 flat rate fee for the \$100 per vessel handles for
5 inbound and outbound transit, and \$15 for -- you
6 know, for the port fee and the training
7 technology fee.

8 I just want to have you-all state on the
9 record, because when you fix the rates, they need
10 to be based upon the following vessel
11 characteristics which might be tonnage, or any
12 combination of the vessel characteristics listed
13 in the subsection or any other relevant vessel
14 characteristics.

15 So you need to tie those flat rates to
16 vessel characteristics. I don't know if
17 Mr. Meros wants to do that for you-all for the
18 flat rate.

19 MR. MEROS: Are you asking me --

20 MS. McNULTY: If you'd like to chime in.

21 MR. MEROS: Well, respectfully, I think
22 that's not the proper way to analyze it. A flat
23 fee is not necessarily per foot of draft.

24 It's to compensate for some other elements
25 that are simply a part and parcel of the

1 articulated rates. And that's where the training
2 fee goes in, that's where the harbor management
3 system goes in.

4 So I think it's entirely consistent with the
5 statute to have those charges. You can't have
6 charges during the period of a rate increase.
7 You would have to get approval from the
8 committee. But I do not believe statutorily it
9 needs to be tied to a given metric.

10 MS. McNULTY: I'm just trying to reconcile
11 that with the concept that says, "The committee
12 shall fixed rates based upon the following vessel
13 characteristics." And then it lists them.

14 So when you're fixing this flat fee rate,
15 how do you square that with the language of the
16 statute?

17 MR. MEROS: Let me take a look at the
18 statue.

19 COMMISSIONER KURTZ: I mean, you could say
20 any vessel required a pilot, so it's required.

21 MS. McNULTY: So that is it because it
22 applies to all vessels, the flat rate?

23 COMMISSIONER KURTZ: That's because it
24 applies to all vessels.

25 MS. McNULTY: To each and every vessel.

1 COMMISSIONER KURTZ: Yes.

2 MS. McNULTY: So the characteristics of the
3 vessel. So that is the vessel.

4 COMMISSIONER KURTZ: Yes. That it exists
5 and requires a pilot.

6 MR. MEROS: And Captain Kavanaugh said what
7 is the case, and that is each vessel is a unit,
8 in essence.

9 MS. McNULTY: I just wanted to get that on
10 the record that you had discussion on that.

11 CHAIR BENSON: All right, my fellow
12 commissioners. Why do we go from here?

13 COMMISSIONER JACCOMA: I make a motion.

14 COMMISSIONER RUSSO: Second.

15 MS. McNULTY: Wait --

16 COMMISSIONER RUSSO: Well, if the motion was
17 based on --

18 CHAIR BENSON: Maybe you want to have them
19 articulate a little bit more than he just did.

20 COMMISSIONER JACCOMA: I make a motion to
21 accept the rate, the new rate, for Jacksonville
22 to take -- as presented --

23 MS. McNULTY: And Fernandina?

24 COMMISSIONER JACCOMA: And Fernandina Beach.

25 MS. McNULTY: Okay.

1 COMMISSIONER JACCOMA: Thank you. As
2 presented by the pilots upon their request, and
3 to defer the rate to take effect July 1st, 2020.

4 COMMISSIONER KURTZ: I'll second.

5 CHAIR BENSON: Second by Captain Kurtz.
6 Any discussion? All in favor?

7 (Responses of "aye.")

8 CHAIR BENSON: Okay. Passes unanimously.

9 MS. McNULTY: Just for everybody's
10 edification, I will draft an order for your
11 consideration based on everything that happened
12 and then present it to you. I believe that could
13 be a telephonic board meeting if that's amenable
14 to you-all.

15 CHAIR BENSON: Sure. Motion to adjourn?

16 COMMISSIONER KURTZ: I'll make a motion to
17 adjourn.

18 COMMISSIONER JACCOMA: Second.

19 CHAIR BENSON: Thank you very much. We're
20 adjourned.

21 (The public meeting concluded at 1:52 p.m.)

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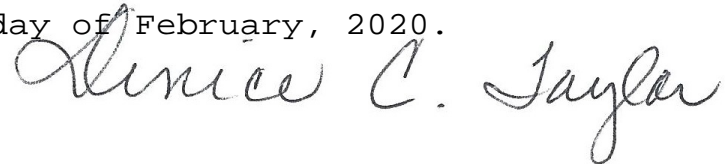
CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF DUVAL

I, Denice C. Taylor, Florida Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings of the Board of Pilot Commissioners held on January 22, 2020, at Jacksonville Beach, Florida, and that pages 3 through 140, inclusive, are a true and complete record of my stenographic notes.

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

Dated this 19th day of February, 2020.



Denice C. Taylor, FPR
Florida Professional Reporter

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\$	55:24	56:4	32:5	42:9,12
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