

FLORIDA
 DEPARTMENT OF BUSINESS
 AND PROFESSIONAL
 REGULATION
 P O Box 5377
 TALLAHASSEE, FLORIDA
 32314-5377
 850-717.1980

STATE OF FLORIDA
 APPLICATION FOR A
 CHANGE IN RATES OF
 PILOTAGE

DO NOT WRITE IN THIS SPACE
 FOR OFFICE USE ONLY
REC'D NOV 21 2014

APPLICATION SHOULD BE TYPED

PLEASE CHECK THE APPROPRIATE BOX TO IDENTIFY THE APPLICANT:

- Individual Person
 Single Licensed State Pilot

- Other Entity
 Group of Licensed State Pilots

PART A APPLICANT PROFILE DATA

Name of Individual/Association/Group
 Port Everglades Pilots Association

Name of Authorized Representative & Title
 George N. Meros, Jr.
 GrayRobinson, P.A.
 301 South Bronough Street, Suite 600
 Tallahassee, Florida 32301
 Telephone: 850-577-9090
 Email: george.meros@gray-robinson.com

Home Telephone:
 (Include area
 code)
 (954) 522-4437

Business
 Telephone:
 (Include area
 code)
 (954) 522-4491

Mailing
 Address:

Street and No.

Apartment No.

Social Security Number or Federal Employer
 ID Number (Optional):

P.O. Box 13017

59-0578021

City

State

Zip Code

Port Everglades, FL 33316

Permanent
 Address:

C/O

Street and No.

Apartment No.

1833 SE 17th Street

City

State

Zip Code

Fort Lauderdale, FL 33316

IF PERSONS OTHER THAN A PILOT:

Detailed statement setting forth the substantial interest of the applicant and how the applicant is directly affected by the established rates:

N/A

PART B

1. Name of Port for which rate change is being requested:

Port Everglades

2. Detailed explanation of rate change being requested:

Effective on Final Order

An adjustment in rates providing a tonnage discount of between -25% and -50% to the largest vessels calling at Port Everglades, but resulting in a net adjustment of +11% in rates overall:

a) A draft charge increase as follows:

The current charge of \$13.30 per draft foot with a 14-foot minimum increased to:

For vessels with draft of	0 to 20 feet:	\$18.00 per draft foot (14-foot minimum)
	21 to 30 feet:	\$22.00 per draft foot
	31 to 40 feet:	\$29.00 per draft foot
	Over 40 feet:	\$45.00 per draft foot

b) To promote business at the Port, encourage vessel calls during periods of off-peak berth and pilot utilization, and encourage calls by larger vessels, the following discounted niche categories are requested. After a vessel's second call, the vessel may apply for and receive special tonnage rates as follows:

First 80,000 GT	\$0.0356 per GT and
On tonnage from 80,001–130,000 GT	\$0.0267 per GT and
On tonnage over 130,000 GT	\$0.0178 per GT
Weekly "feeder-size" vessel (less than 18,000 GT)	\$0.0320 per GT
Frequent caller (2,500–80,000 GT)	\$0.0320 per GT

c) No change to the base tonnage rate of \$0.0356 per GT with a 2,500 GT minimum. This charge applies to every movement of a vessel and is based on the highest published tonnage.

d) For weekly scheduled "feeder-size" vessels of less than 18,000 GT, a tonnage charge decrease to \$0.0320 per GT.

e) For frequent calling vessels, calling on a regular service with at least 3 arrivals per week, a tonnage charge decrease to \$0.0320 per GT for the first 80,000 tons.

f) Detention – \$150 per hour after the first 0.5 hours.

g) Canceled or delayed sailing – \$150 after pilot is dispatched to vessel.

- h) Running lines by pilot boat – \$300.
- i) Shifting – \$330 plus draft and tonnage charge.
- j) Placing personnel on or off vessel by pilot boat – \$200.
- k) Piloting or shifting ship or barge without motive power and/or steering – 2.0 x draft and tonnage charge.
- l) Any movement of a vessel operating under a USCG letter of deviation or any vessel with a deficiency that affects maneuverability – 2.0 x draft and tonnage charge.
- m) Anchor – \$400 plus draft and tonnage charge. This charge shall also apply to taking a vessel from anchor, if requested.
- n) Second pilot – When a second pilot is need for safety or at the request of the master, owners, agents, charters, operators, port, or under consultation with the pilot, each pilot will receive full tariff charge.
- o) Deputy training charge – \$20 per certificated deputy pilot per movement on all vessel movements.
- p) Pension charge – \$200 per vessel movement. (Note: This charge is not included in the calculation of the net adjustment of +11% requested above.)

Effective January 1, 2016

Capital investment, maintenance, and pilot-training and education charge – A charge of \$70 per vessel will be assessed per vessel movement.

Effective January 1, 2017

As recommended by the Rate Committee Chairman, a CPI adjustment to the rates will be made based on the change in the CPI (up or down). CPI will be calculated on a rolling 3-year average of the annual CPI, All Urban Consumers published by the United States Bureau of Labor Statistics. The CPI adjustment shall apply to all charges and rates with the exception of special tonnage rates in excess of 80,000 GRT, which shall remain unchanged.

Effective January 1, 2018

A CPI adjustment to the rates will be made based on the change in the CPI (up or down). CPI will be calculated on a rolling 3-year average of the annual CPI, All Urban Consumers published by the United States Bureau of Labor Statistics. The CPI adjustment shall apply to all charges and rates with the exception of special tonnage rates in excess of 80,000 GRT, which shall remain unchanged.

Effective January 1, 2019

A CPI adjustment to the rates will be made based on the change in the CPI (up or down). CPI will be calculated on a rolling 3 year average of the annual CPI, All Urban Consumers published by the United States Bureau of Labor Statistics. The CPI adjustment shall apply to all charges and rates with the exception of special tonnage rates in excess of 80,000 GRT, which shall remain unchanged.

This rate adjustment deals directly with issues raised at the Miami rate-reduction hearing in July 2014. Tonnage charges are reduced on the largest vessels and frequent callers. Draft charges are increased to allocate the revenue more evenly over the entire spectrum of port traffic, and consideration is given to small vessels.

Surcharges, common in most U.S. ports, are introduced to offset some of the more variable expenses and are treated in a way that spreads them evenly across port traffic. Overall revenue is increased to promote a safe, efficient, and reliable piloting service, and the resulting rate is fair, just, and reasonable, as defined by Chapter 310, Florida Statutes. The resulting rate is among the lowest of any of the major ports in the United States.

3. Basis for requested rate change:

Introduction

It is the public policy of the State of Florida—and a policy of the highest order—to secure not minimally qualified pilots, but world-class pilots of the highest skill and expertise. *See* § 310.151(5)(b)6., Fla. Stat. (2014) (providing that, “in order to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots, the overall compensation accorded pilots should be equal to or greater than that available to such individuals in comparable maritime employment”); *id.* § 310.0015(3) (noting that Florida’s regulation of port pilots “benefits and protects the public interest by maximizing safety . . . and enhancing state regulatory oversight”).

Moreover, it is the public policy of the State to out-compete other maritime professions for the best and most capable mariners—and then to hold them accountable to the public, rather than to ship owners and operators, through strict state licensure and regulation. *See ACL Bahamas Ltd. v. Dep’t of Bus. & Prof’l Regulation, Pilotage Rate Review Comm.*, Case No. 10-2335 ¶ 56 (Fla. DOAH Jan. 31, 2012), *approved and adopted*, (Fla. PRRC Apr. 18, 2012) (explaining that wage rate of comparable professions is a “floor” for pilot compensation); *In Re: Application of Port Everglades Pilots Ass’n for Rate Increase in Port Everglades*, Case No. 97-3656, 1998 WL 866445, at *12 (Fla. DOAH Feb. 24, 1998; Fla. PRRB June 10, 1998) (explaining that the “law does not tie pilot compensation to other maritime professions other than to set a ‘floor’ for pilot compensation”).

The legislative mandate to the Pilotage Rate Review Committee is crystal clear. In deciding rate applications, the Committee must “give primary consideration to the public interest in promoting and maintaining efficient, reliable, and safe piloting services.” § 310.151(5)(a), Fla. Stat. (2014) (emphasis added).

To “promote” piloting services means “to contribute to the growth or prosperity of” piloting services. *See* <http://www.m-w.com>. To promote “efficient” piloting services means to make those services “capable of producing desired results without wasting materials, time, or energy.” *Id.* To promote “reliable” piloting services means to ensure piloting services that are “able to be trusted to do or provide what is needed.” *Id.*

The overarching policy of the State of Florida is “to attract to the profession of piloting, and to hold the best and most qualified individuals as pilots.” § 310.151(5)(b)6., Fla. Stat. (2014).

The PEP alternative application, based on real facts and common sense, proves that a moderate, equitable adjustment of the current rate structure will serve the public interest in promoting and motivating efficient, reliable, and safe piloting services in Port Everglades. It has been eleven long years and over 120,000 handles since the PEP has had a rate increase. During that time, the cost of living has increased by 29.6%, and real CPI-adjusted pilot net income has decreased by approximately 14%. The facts will show that despite having the highest number of jobs per day in the country, and despite having to navigate one of the riskiest ports in the nation, the PEP net income is well below the average pilot compensation of 23 organizations consisting of 760 pilots.

This erosion in net income is having a tangible and ominous impact. The pool of approved candidates to fill openings for new pilots at Port Everglades has declined precipitously, from 62 in 1996 to 18 in 2012. But there is an easy and effective remedy for this problem, as the Investigative Committee noted in 2000:

It is in the best interest of the State of Florida to attract the most capable pilots in the country, and nothing attracts them better than good compensation.

For these very same reasons, the FCCA application is contrary to law and should be rejected. Rather than attempting to prove compliance with the statutory criteria, the FCCA uses pejoratives such as “monopoly” to send a subliminal message to the Committee to ignore the mandates of Chapter 310 and begin the dismantling of the piloting profession. The Committee, of course, must reject such a lawless invitation.

The FCCA’s assertion that the gross-tonnage calculation has resulted in a “cost shift” to the few massive cruise ships that call on Port Everglades is incorrect. Nevertheless, without for a moment conceding that threading a leviathan through a narrow limestone channel bristling with private boat traffic is risk-free to port pilots and the citizens of Florida, the PEP has fairly and responsibly addressed the FCCA’s concerns. The PEP recognizes that the traditional tonnage-to-draft ratio has been altered by the arrival of large passenger ships, and this application proposes to adjust rates to shift the balance toward draft. The proposed tariff thus results in lower rates for many cruise ships while modestly adjusting rates to the cargo industry to account for increases in the cost of living and the absence of a rate increase for over a decade. The application will move pilot compensation at Port Everglades closer to the national average without imposing an undue financial burden on maritime sectors.

Argument

If the requested rate is granted, pilotage rates at Port Everglades will remain among the lowest of any major port in the United States. The pilots, with other key businesses at the Port, as well as the Port Everglades Authority itself, continually work to make certain that Port Everglades is competitive with other ports. We understand that in most cases the ship owner and the freight forwarder have a choice of ports, and we will not allow the Port to lose its competitive advantage by imprudently raising pilotage rates.

Since June of 2003 when the last rate change was implemented, the CPI has risen over 29.6%. During the same period of time, the Port Everglades Department of Broward County has raised its charges on cargo vessels by 36% and on passenger vessels by more than 40%. From 2004 to 2013, Port Everglades operating revenue has increased 30.98%. Over the same period, the pilotage revenue has decreased by 8.9%. The rate adjustment in June of 2003 was the last adjustment in pilotage rates at Port Everglades, and in eleven years there has been no change in pilotage fees.

In 2008, PEP elected not to file for any rate changes because of the economy. Despite a decline in pilotage revenue of 17.8% from September 2008 to December 2009, and without a rate increase, the pilots continued to provide the same quality service that port users have come expect. Several customers have recognized the long period since our last rate application and acknowledged that that was a long time without a change. Piloting expenses are the only expense in their budgets that had not increased. They were understandably concerned about how a rate change for passenger vessels only would impact their operations. Most of them would prefer not to have any increase at all but recognize that all costs increase over time. We assured them that we would attempt to address their concerns with our own rate proposal.

While revenue per job has increased since the last rate change, it would be incorrect to assume that this results in the pilots making more money. Total revenue has declined. The number of large vessels has increased, but the primary reason for the increase in revenue per job (88%) is the loss of small- and below-average revenue

traffic (-3900 movements). Since 2010, the first full year that the *Oasis of the Seas* was in operation, revenue per job has increased by \$61.30, or 4.3%—less than half of the rate of inflation. The revenue-per-job number is not a statutory criterion and reflects the average size of vessels more than anything else. It can be affected by the increase or decrease in tonnage or draft, as well as an above- or below-average change in traffic volume by size.

We listened carefully to the arguments before the Rate Review Committee in Miami and to the deliberations of the Commissioners. We have analyzed the FCCA application and have discovered that much of their data and many of their arguments are false. They do not apply to Port Everglades. There has not been an “organic increase” in revenue, either overall or with regard to passenger vessels at Port Everglades. Revenue has fallen. From 2004 to 2013, passenger ship revenue has fallen by 19.9%, and passenger ship tonnage has also fallen. Overall revenue is down by 8.9% over the same period. In 2004, passenger ship revenue represented 57.3% of the total revenue. In 2013, passenger ship revenue represented 50.4% of total revenue—an amount that has fallen for four consecutive years. Even without a rate change, this ratio will continue to fall through 2016.

No question—the *Oasis of the Seas* and *Allure of the Seas* are extremely large. But they have substantial economies of scale and provide significant savings in all aspects of their operation including pilotage. The Genesis project, which became the “*Oasis Class*,” began its design phase in 2004-2005—after implementation of the last rate change. While the pilots did not envision vessels of this size when designing the current rate structure, *Oasis* is its biggest beneficiary. These ships actually call in Port Everglades and operate on a year-round basis. Their tonnage is 25 to 30% greater than the next largest vessel, and the revenue they generate for the pilots is a significant proportion of the overall revenue. This year, the *Oasis*, which previously operated year-round from Port Everglades, reduced its service from the Port to ten months. In 2015, the *Allure* will only operate from our port for six months. In 2016, the *Oasis* will be permanently repositioned and is scheduled to be replaced by a vessel that is 25% smaller.

In the meantime, the *Oasis* and *Allure* actually save the cruise lines on pilotage fees. While these large vessels pay larger pilotage fees than other cruise ships, they accommodate a larger number of passengers and therefore make fewer port calls. Thus, while the FCCA points to the two largest passenger ships in the world in an attempt to show that rates are excessive, not only are those ships outliers whose tonnage far exceeds that of the next largest ship, but the size of the ships allows the cruise line to cruise less frequently.

The FCCA makes much of the fact that the *Oasis* and *Allure* make up 14% of pilot revenue. This points, however, to the business risk in Port Everglades. Loss of a single vessel for mechanical problems, shipyard periods, and repositioning—all factors that have affected the schedule of these two ships—has a significant downside impact to our revenue and income. Since berth scheduling is done well in advance for a cruise-ship season, unexpected interruptions in vessel schedule result in unplanned loss to the pilots, but frequently are insurable to the cruise companies. In 2003, 22.2% of pilot revenue came from just two vessels. Four years later, neither vessel was calling Port Everglades. Both companies went out of business, and their business was not replaced.

Port Everglades is the only port in the United States that provides tiered discounts for tonnage. These tonnage-based tiers extend to all vessels and do not—and should not—discriminate by vessel type. Container, RO/RO, Tanker, and General Cargo vessels are all eligible to take advantage of the discounts, provided they meet the tonnage criteria. In 2004, there were 706 vessel movements on ships over 80,000 GRT. In 2013, there were 1,012 vessel movements on ships over 80,000 GRT, and, of these, 345 were movements on ships over 130,000 GRT. All of these ships received a discount from the standard pilot rate, and all of these ships were passenger vessels. At the time of the last rate change, the largest passenger ship was the *Queen Mary II*, at 148,528 GRT. This ship has received a discount every time it called at Port Everglades. Of the 44 passenger ships calling Port Everglades during the 2014-15 season, only four are larger than the *Queen Mary II*.

Our rate request expands the discounts on the largest vessels by decreasing the tonnage rate on the top two tiers. The new rate gives a 50% discount on tonnage over 130,000 GRT and a 25% discount on tonnage between 80,000 and 130,000 GRT. The net result is a total tonnage charge for the *Oasis* that is 25% lower than the standard rate.

We have incorporated some of the recommendations from our customers in our requested rates. These include incentive tonnage discounts to customers in two categories: (1) weekly feeder vessels of less than 18,000 GRT; and (2) frequent-calling vessels up to 80,000 GRT, calling on a regular service with at least three arrivals per week. The tonnage tiers above 80,000 tons would also apply. The first category—feeder vessels—is in our current rate structure, while the second is a new category. These categories represent areas in which the port is attempting to expand service in order to achieve better berth utilization during off-peak times. Success in attracting business in these areas will also have the added benefit of increasing pilot utilization.

We have structured the rate adjustment to meet the expressed intentions of the Rate Review Committee, while providing what are plainly fair, just, and reasonable rates. Draft charge increases serve to spread revenue more evenly over the entire business. We have provided draft tiers which, on the low side, minimize the impact of rate increases on our smallest companies. As the draft tiers increase, the ships that are closest to the hard rock bottom of the channel and those with the greatest mass and inertia will pay more. On the top end, the draft tier levels are set at recognized ship handling levels subject to “shallow water” maneuvering effects.

Historically, across the entire business, pilot revenue was approximately 70% tonnage-based and 30% draft-based (70:30). Since the arrival of the *Oasis* and *Allure*, this ratio has shifted toward tonnage. In 2013, the tonnage-to-draft ratio was 78.4:21.6. In addition to providing discounts to large vessels, our proposed rate shifts tonnage charges to draft, improving the ratio and moving it beyond historical norms, to a 65:35 tonnage-to-draft ratio.

Increased expenses continue to be a major concern. While the cost of major medical and other insurance often rises at rates greater than the CPI, pilots who have responsibility for these areas of our business have had some success in managing the increases. Fuel costs have risen dramatically since the last rate application (+214%). We have repowered all of our boats with more fuel-efficient and environmentally sound engines, but this ongoing cost remains a significant concern. While the level of service has remained unchanged, the poor economy has forced us to make difficult choices in the maintenance and operation of our pilot vessels and infrastructure. We do our best to forecast expenditures and budget for them, but in some cases we are forced to postpone certain expenditures and fund more urgent ones.

We have carefully reviewed much needed capital expenditures on our building, boat shed, and pilot boats. We will have to fund these essential projects from pilotage revenues generated by the requested rate increase. Many of these expenditures have been delayed in favor of more immediate problems, such as legislative and legal expenses to fend off FCCA attacks and legitimate concerns over a 25% rate reduction application and its impact on our business operation. We are approaching the limit of these delays.

We have added two surcharges to spread some of the costs more evenly across all port traffic, rather than weighting it toward larger vessels. Outside of the State of Florida, we were able to find only a single port that did not include surcharges as part of their rates. The proposed surcharges include a deputy training surcharge and a surcharge for capital investment, maintenance, and pilot training.

The first of these requested charges is a deputy-training surcharge, which would only be charged when a deputy was in a training program. This type of surcharge—fundamentally a cost-recovery charge—is common on the West and Gulf Coasts of the United States. The Florida Statutes require pilots to “train and compensate” deputy pilots. § 310.0015(3)(d)1., Fla. Stat. (2014). The State selects deputy pilots for Port Everglades with no

input from the pilot organization. While most deputies successfully complete the program, about 12.5% do not. This comes at a high cost to the pilots and currently can only be passed on through a rate increase. And not all deputies progress through the program at the same rate. A training surcharge fairly addresses these costs.

The second surcharge is also designed to spread major expenses more evenly across all port traffic. It combines pilot continuing education training and capital expenses and maintenance in a single charge and again is designed to recover some of the costs associated with these factors. Since the last rate hearing, the Port Everglades pilots have purchased two pilot boats for their operation and replaced six engines in the boats. None of this was projected at the last rate hearing. In addition, the engines have been rebuilt a number of times. Four boats are required to meet maintenance schedules and service the traffic, particularly during peak cruise ship times, to maintain our one-hour call policy and 15 minute cruise ship entry interval. With a 20- to 28-year life span for pilot boats, pilots must purchase a new boat every five to seven years. The great recession has put us behind the curve on our equipment replacement schedule. STCW95 reached full implementation in 2003—after our last rate adjustment. While we have continued to perform annual training and simulation exercises, our review of pilot organizations around the country convinces us that we must do more to be in line with pilots across the country.

We have incorporated many of the stated concerns and wishes in the proposed rate. Notably, all of our customers expressed complete satisfaction with the level of pilotage service rendered, especially in light of the fact that the pilotage rates for Port Everglades would continue to be among the lowest in the country, even after the proposed rate adjustments.

Pension Charge

In order to address the issues enumerated by the Rate Committee, we have evaluated a funded retirement plan. We view this issue as separate and distinct from the rates. Preliminary discussions with our retirement consultant have identified a requirement of \$4.1 million per year for an initial ten-year period to establish a fully funded pension program. This would amount to a per-vessel charge of \$550 per vessel movement and would be a significant burden on consumers of the port. For purposes of this application and discussion, we suggest as an alternative a pension surcharge of \$200 per vessel movement to begin funding a pension program. This surcharge will begin to create a funded and qualified pension program for the PEP and to address the retirement of only active pilots and employees. If the Committee intends to pursue a funded program, we suggest the Committee consider funding in a range from \$125 per movement for a partially funded plan, or up to \$550 per movement for a fully funded plan. Ultimately, the current unfunded plan would be phased out.

Creating a plan is complicated. It requires careful analysis and reworking of long-standing contracts and commitments to both active and retired pilots. A key element in the decision is the level of funding. Following a positive decision by the Committee, PEP would proceed with the careful structuring of a viable plan for presentation to the Committee prior to issuance of the final order.

The PEP listened carefully to the Committee discussion at the rate hearing in Miami on July, 31, 2014. Our non-funded retirement agreement is similar to most pilot retirement systems throughout the United States and in many respects to that of the Biscayne Bay Pilots. We do not provide lifetime medical benefits to our retirees, and the spousal benefit is limited to ten years from the date of retirement. The plan is funded from current revenue and has reached its maximum cap. Any reference in our plan to 50% of pilot income is in terms of the upper limit of the benefit received. It is not a given or assumed amount and going forward will be considerably less than this limit. Upon the retirement of additional pilots, individual retirement benefits will be reduced while the cost of the plan will remain constant relative to the gross pilotage.

Our plan has been in effect since 1960. It has been reviewed and discussed in the rate-setting process on eleven

separate occasions before the Board of Pilot Commissioners (the “BOPC”) and also in administrative hearings. Throughout the 1970’s, 1980’s, and early 1990’s, the plan was administered at little cost to the Port’s users, primarily because there were few if any retirees. Most recently, at a rate hearing on April 17, 2001, the PEP suggested funding the plan. In its final order (Case No. 01-01), the BOPC concluded that funding retirement from the general operating revenues is a lesser imposition on users and took no action to fund the plan.

During discussions on legislative issues over the last year, maritime users and particularly members of the FCCA have made it clear that they wish to have mandatory retirement ages for pilots. The Legislature has not acted on these recommendations, but the PEP has for more than 25 years, through its retirement agreement, provided mandatory retirement at the age of 65.

The statute clearly recognizes the value of a retirement system in attracting and retaining qualified individuals to the profession of piloting in Florida. Prior to the Miami rate hearing, we did not believe it possible to create a funded plan. One need only look at the implications to a non-funded program of drops in business, rate reductions, political manipulation, and changes to the statute to understand the inherent risk in a non-funded program. In evaluating these risks, the PEP realize that the current retirement formula as compared to those available at other ports across the country puts them at a disadvantage in attracting deputy pilot candidates.

Despite having similar unfunded retirement programs within their companies, the members of the FCCA have suggested the creation of a funded and qualified retirement program. At the Miami hearing, some Committee members seemed to agree that this was necessary as well. In the limited time available to us, we have benchmarked other pilot plans around the country to identify retirement programs, their funding mechanisms, and levels of funding. We have partnered with a major investment firm and are assessing how these plans were instituted. By the time of the rate hearing, we will be able to offer a framework for implementation. Our objective was to meet the goals expressed by members of the Committee and to create a plan that would provide for our members in retirement. At the same time, we have considered phasing out the current plan over time. The pension surcharge will be the funding mechanism for this plan.

Conclusion

We recognize that shippers have a choice when determining a destination for their vessels. Our requested rates meet the requirement of fair, just, and reasonable rates for pilots and consumers alike. They do not discriminate based on vessel type and gives consideration to ships that call our port frequently. They address the effects of rising costs while providing stable rates going forward. In order to continue to attract the best and brightest pilot candidates, the requested rates will help to correct the disparity in incomes between Port Everglades pilots and the national average of pilots across the country. They will enable the pilots at Port Everglades to continue to provide safe, efficient, and reliable piloting service at the levels that customers have come to expect, and, despite the modest, overall increase in pilot revenue, Port Everglades pilots will continue to have among the lowest pilotage rates in the United States. If a vessel owner chooses to call at a different port, in almost every case, they will pay more for their pilot.

Our pilots answer not only to ships calling on Port Everglades, but to all the citizens of the State of Florida, and to its economy and natural resources. We know that the port and the ships it accommodates need to arrive and depart on time in order to operate profitably. We work tirelessly to accomplish that. But most critically, pilots have the independence to say “no” to a cruise ship that wants to depart hurriedly in order to please its owner, or to report a cargo ship that has defective equipment or is discharging waste into the sea.

With that independence comes awesome responsibility and risk. Pilots cannot afford to make a single mistake.

Aspiring pilots leave their well-paid jobs in the maritime industry, go through three years of underpaid and

arduous training without any certainty of passing the final examination, and subject themselves to liability because they expect to be well compensated. Sufficient compensation to attract the best and brightest pilots is the least expensive insurance policy that the State of Florida can obtain to protect the lives of its visitors and residents, the property of those who do business in this State, the natural environment that deserves our care, the State's quality of life and appeal to tourists, and the economic activity that depends on our ports.

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4. Effective Date of Last Pilotage Rate Change:

June 13, 2003

Pilotage Charges Increased at that time:

<u>Charge</u>	<u>From</u>	<u>To</u>
Draft (13-foot minimum)	\$12.91 per draft foot	\$13.30 per draft foot (14-ft min.)
Tonnage:		
For vessels over 80,000 GRT:		
a) First 80,000 gt	\$0.0348 per gt	\$0.0356 per gt
b) Next 50,000 gt (80,000–130,000 gt)	\$0.0333 per gt	\$0.0343 per gt
c) Any additional tonnage	\$0.0320 per gt	\$0.0330 per gt
For weekly scheduled 'feeder-size' vessels:		
Up to 18,000 gt	\$0.0333 per gt	\$0.0343 per gt

All other charges remained unchanged.

5. FINANCIAL INFORMATION

(a) PILOT

The completed financial statements are attached to this application as Appendices A and B.

**APPLICATION FOR CHANGE OF RATES OF PILOTAGE
PAGE FOUR**

(REQUIRED BY PILOT APPLICANT/OPTIONAL BY NON-PILOT APPLICANT):

Number of Vessels Handled During:

Tonnage of Vessels Handled	Second Preceding Fiscal Year F/Y/E: 2012	Last Fiscal Year F/Y/E: 2013	Estimated Current Fiscal Year F/Y/E: 2014	Projected Next Fiscal Year F/Y/E: 2015
Less than 500 GRT	23	32	30	30
500 - 1000 GRT	235	239	167	167
1000 - 2000 GRT	172	166	146	146
2000 - 5000 GRT	1580	1485	1493	1493
5000 - 10000 GRT	1400	1303	1421	1421
10000 - 20000 GRT	1067	990	782	782
Over 20000 GRT	2959	3166	3489	3366
Draft of Vessels Handled				
Less than 8 feet	16	14	47	47
8 - 10 feet	383	313	211	211
11 - 15 feet	910	939	952	952
16 - 20 feet	1072	1019	1066	1066
21 - 25 feet	1608	1510	1502	1516
26 - 30 feet	2081	2213	2371	2263
31 - 35 feet	868	858	867	838
Over 35 feet	498	517	512	512
Length (LOA) of Vessels Handled				
Less than 100 feet	27	5	5	5
100 - 250 feet	869	889	906	906
250 - 500 feet	2593	2372	2341	2346
500 - 750 feet	2178	2392	2371	2362
Overt 750 feet	1769	1725	1905	1786

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7(a). Comparison of the average net income of pilots in the port, using current rates, including the value of all benefits derived from services as a pilot, to the projected average net income using the requested rates.¹

	PRIOR YEAR (2012)	PRESENT YEAR (2013)	PROJECTED YEAR (2014: +5.2%)	PROJECTED YEAR II (2015: -1.70%) ²
Total Number of Pilots	18	17	17	18.5
Gross Pilotage Fees	10,953,151	10,935,160	11,492,537	11,297,190
Operating Expenses	4,767,103	5,047,267	5,524,662	5,589,432
Net Income	6,186,048	5,887,893	5,967,875	5,707,758
Average Net Income Per Pilot	343,669	346,347	351,051	308,527

	PRIOR YEAR	PRESENT YEAR	PROJECTED YEAR I	PROJECTED YEAR II
<i>Other reasonable operating expenses of pilots (unaudited):</i>				
Average Net Income Per Pilot	343,669	346,347	351,051	308,527
<i>Items added back (per pilot) from previous rate hearings:³</i>				
Corporation Funded Pension Contribution	7,228	7,228	7,228	7,228
Present Value of Non-Funded Retirement Plan	25,000	25,000	25,000	25,000
Corporation Major Medical	26,304	26,505	27,308	28,220
Corporation Life Insurance	1,440	1,440	1,440	1,440
SUBTOTAL	403,641	406,520	412,027	370,415
<i>Expenses previously added back, though they are clearly common and reasonable expenses in the maritime industry:</i>				
Political Contributions	632	165	0	0
Business Promotion and Lobbying ⁴	5,354	4,553	4,353	4,045
ADJUSTED TOTAL PER PILOT⁵	409,627	411,238	416,380	374,260

¹ PEP provides these statements based on information from attached audited financial statements.

² 2015 Projected Revenue with 11.2% rate increase applied for ½ year.

³ Items are added though required to be treated as normal business costs. See § 310.151(5)(b)9., Fla. Stat. (2014).

⁴ Much of this money is used to secure state and federal funding for dredging and other infrastructure improvements, including development of additional acreage at Port Everglades. Business promotion includes money spent on the minority mentoring program set forth in Chapter 310, Florida Statutes. The lobbying and other political influence of the cruise and general shipping industry have made our level of awareness and involvement especially essential.

⁵ Other reasonable operating expenses of pilots are provided with attached PEP financial statements.

7(b) Comparison of the average net income of pilots as follows:

(1) 2015 no change in rates; (2) 2015 FCCA rate request of -25% for passenger vessels, applied for only 6 months of year; (3) 2016 projected with PEP rate request, with rates applied for year 1 and year 2 requested rates; and (4) 2016 projected with FCCA rate request of -25% for passenger vessels applied for entire year.

	No Rate Change (2015)	FCCA Rate Request (2015 – 6 months of - 25%)	PEP Rate Request (2016 Full Year)	FCCA Rate Request (2016 – Full year -25%)
Total Number of Pilots	18.5	18.5	18	18
Gross Pilotage Fees ⁶	10,715,256	10,006,951	12,279,064	9,112,673
Operating Expenses	5,455,652	5,294,867	6,214,054	5,495,280
Net Income	5,259,604	4,712,084	6,065,010	3,617,393
Average Net Income Per Pilot	284,303	254,707	336,945	200,966

	2015 (No Rate Change)	FCCA Rate Request (2015 – 6 mos. -25%)	PEP Rate Request (2016 Full Year)	FCCA Rate Request (2016 – Full year -25%)
<i>Other reasonable operating expenses of pilots (unaudited):</i>				
Average Net Income Per Pilot	284,303	254,707	336,945	200,966
<i>Items added back (per pilot) from previous rate hearings:⁷</i>				
Corporation Funded Pension Contribution	7,228	7,228	7,228	7,228
Present Value of Non- Funded Retirement Plan	25,000	25,000	25,000	25,000
Corporation Major Medical	28,220	28,220	28,220	28,220
Corporation Life Insurance	1,440	1,440	1,440	1,440
SUBTOTAL	346,191	316,595	398,833	262,854
<i>Expenses previously added back, though they are clearly common and reasonable expenses in the maritime industry:</i>				
Political Contributions	0	0	0	0
	4,045	4,045	4,045	4,045
ADJUSTED TOTAL PER PILOT ⁸	350,236	320,640	402,878	266,899

⁶ Gross Pilot fees includes projected revenue from changes in traffic and specific rate request applied.

⁷ Items are added though required to be treated as normal business costs. See § 310.151(5)(b)9., Fla. Stat. (2014).

⁸ Other reasonable operating expenses of pilots are provided upon completion of PEP's financial statements.

APPLICATION FOR CHANGE OF RATES OF PILOTAGE
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8. a) Pilotage rates in other ports deemed relevant by the applicant:

An objective way to determine whether pilotage rates are fair, just, and reasonable is to compare the costs to the customer. A customer who chooses to ship goods through Port Everglades pays less (and after the requested rate change, will continue to pay less) pilotage per unit of cargo than almost anywhere else in the United States. The customer will pay less per container, per barrel of petroleum, per ton of bulk cargo, and per passenger at Port Everglades than at any other port of comparable size.

Port Everglades is the eighth largest container port by TEU (source: Colliers) and the third largest port for passenger ships (source: FCCA) in the United States. It is also the largest tanker port by volume in the State of Florida, (source: Port Everglades) and handles among the most product tankers in the United States. Below is a comparison of other major U.S. ports and major ports within the State of Florida. *See Appx. C.*

Table 1 - Rate Comparison for Major Florida Ports

Florida Port	Rate \$/ft	Min Feet	GT \$/ton	Minimum Ton	Standard Vessel Fee			Large Cruise
					Minimum	Medium	Large	
Tampa	39.27	12	0.0713	2,600	657	\$2,586	\$5,135	\$10,920
Jacksonville	21.20	15	0.0464	3,000	457	1,856	3,232	7,070
Key West	18.40	12	0.0345	2,000	290	1,260	2,498	5,330
Miami	17.43	14	0.0364	2,500	335	1,280	2,564	5,568
Port Canaveral	12.50	12	0.0280	2,500	220	962	1,940	4,258
Port Everglades (current)	13.30	14	0.0356	2,500	275	1,158	2,373	5,225
<i>Port Everglades (proposed)</i>	<i>various</i>	<i>14</i>	<i>0.0356</i>	<i>2,500</i>	<i>341</i>	<i>1,396</i>	<i>2,958</i>	<i>4,969</i>
Average (Mean)					\$368	\$1,500	\$2,957	\$6,194

Source: Published pilot tariff rate sheets for each port.

Table 2: Rate Comparison for Major United States Ports - 2014 Data
(rank by large vessel charge)

Port	Rate \$/ft	GT \$/ton	SChg Y/N	Standard Vessel Fee			Effective Date
				Small	Medium	Large	
Baltimore	Time	EC Pilot Unit	Y	\$3,057	\$8,186	\$14,367	1/1/2014
New Orleans	109.33	DWT	Y	3,962	6,022	10,301	7/1/2014
New York	0.00	EC Pilot Unit	Y	1,399	1,954	7,282	1/1/2014
Arkansas/Corpus Christi	36.61	GC Pilot Unit	Y	1,218	1,784	6,926	8/1/2014
San Francisco	10.26	0.09181	Y	876	3,146	6,792	7/1/2014
Columbia River (Portland)	11.44	0.0615	Y	2,843	4,225	6,196	4/15/2014
Houston	74.26	GC Pilot Unit	Y	2,241	2,945	6,064	1/1/2014
Galveston	47.18	GC Pilot Unit	Y	1,384	3,260	5,860	5/14/2014
Crescent River	62.15	DWT	Y	2,607	3,966	6,023	1/1/2014
Tampa	37.27	0.0713	N	633	2,586	5,135	2/1/2010
Puget Sound (Seattle)	LOA	0.1042	Y	1,157	2,206	4,994	1/1/2014
Mobile	33.00	0.0550	Y	1,270	2,892	4,827	1/1/2014
Charleston	24.85	0.6100	Y	1,346	2,231	4,335	1/1/2014
Boston *	86.64*	0.0105	Y	1,288	2,450	4,287	1/1/2014
Associated Branch	55.89	DWT	Y	1,355	2,056	4,278	7/1/2014
Virginia	31.20	0.0596	N	805	1,075	4,169	10/1/2006
Jacksonville	21.20	0.0464	N	498	1,856	3,232	1/1/2004
Savannah	25.72	0.06126	Y	1,371	2,374	3,160	7/1/2014

<i>Port Everglades (Proposed)</i> **	15,22,29,45	0.0356	Y	505	1,396	2,958	
Miami	17.433	0.0364	N	405	1,280	2,564	4/1/2002
Port Everglades	13.3	0.0365	N	325	1,158	2,373	6/13/2003
Average (Mean)				\$1,455	\$2,812	\$5,530	

Standard Vessels Utilized:

Small Vessel	LOA 342', Beam 55', Depth 26.9', GRT 2033, DWT 5196, Draft 18'
Medium Vessel	LOA 636', Beam 79', Depth 26.9', GRT 23200, DWT 26800, Draft 25'
Large Vessel	LOA 965', Beam 106', Depth 70.2', GRT 53208, DWT 67616, Draft 36'
EC Pilot Unit - (LxB)/10,000	
GC Pilot Unit (LxB)/100	

* Boston has a graduated rate for Draft Based on Tonnage ranging from \$54.57 to \$133.09 per draft foot

** Port Everglades(Proposed) - Tiered tonnage \$0.0356,\$0.0320,\$0.0267,\$0.0178

Source: Published pilot tariff rate sheets for each port.

Table 3 - Port Comparison for Large Cruise Ship - 2014 Data
(ranked by cost)

Port	One-Way Cost Large Cruise Ship
Mobile	\$18,499
San Francisco	16,875
Columbia River (Portland)	11,416
Tampa	10,920
Baltimore	10,919
Puget Sound (Seattle)	10,911
Houston	10,058
Savannah	9,347
New Orleans	8,865
Virginia	8,539
Arkansas/Corpus Christi	7,884
Charleston	7,837
New York	7,610
Jacksonville	7,070
Miami	5,568
Key West	5,330
Port Everglades (current)	5,225
<i>Port Everglades (proposed)</i>	4,989
Port Canaveral	4,258
Galveston	3,244
Average (Mean)	\$8,768

Passenger Vessel Used for Comparison:

Cruise: *Navigator of the Seas* (LOA 1021' Beam 127', Depth 70', GRT 139570, DWT 9616, Draft 28')

Notes on Rate Comparison:

- Of the eighteen ports compared outside of Florida, sixteen have surcharges in addition to their standard rates. This includes charges for transportation, communications, pension plans, pilot boats, board operations, capital expense, continuing education, pilot training, helicopter transport,

fuel, and insurance.

- Only one of the eighteen ports outside of Florida had no rate increase in 2014.
- All ports outside of Florida have regular adjustments for inflation, most on an annual basis.
- The following twelve ports have additional charges added to the base pilotage rate for pilot-assisted docking or for a docking master: Jacksonville, Tampa, Charleston, Savannah, Mobile, Crescent River, New Orleans-Baton-Rouge, Boston, New York, Delaware River, Maryland, and Virginia. The service is provided at Port Everglades at no additional charge.
- Few ports on the East or Gulf Coasts cater to as diverse a range of tanker, bulk, passenger, Ro/Ro, freight and break-bulk, container, barge, and U.S. Navy traffic as Port Everglades. Most ports serve more concentrated segments of the maritime industry. After the requested rate is in effect, the pilotage rates at Port Everglades will continue to be lower than those in competing and comparable Florida and U.S. ports for virtually every category of vessel.

Pension Surcharge:

- The following ports charge all vessels additional fees in order to fund pilot pension plans: Crescent River, Associated Branch, New Orleans-Baton Rouge, New York, and San Francisco. This charge is as much as 37% over the pilot rate.

b) (REQUIRED BY PILOT APPLICANT/OPTIONAL BY NON-PILOT APPLICANT)

Time Spent by Applying Pilot
on Actual Piloting Duty
(Actual Hours/Year)

Time Spent by Applying Pilot on Other
Essential Support Services
(Actual Hours/Year)

Time Spent on Actual Piloting Duties.

“Time spent on actual piloting duty includes handle time, transit time to and from the vessel, and administrative time related to that handle.” *ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 53, *approved and adopted*, (Fla. PRRC Apr. 18, 2012).

Time spent on actual piloting duty is an estimated 2 hours and 37 minutes. This includes approximately 1.75 hours of bridge time per vessel. The pilots moved the primary boarding area further offshore to two miles seaward of the Port Everglades buoy after the tragedy of 9/11, when federal law enforcement agencies requested that the pilots conduct a security assessment on all inbound vessels, which we continue to do on each and every boarding. The largest vessels are being boarded as far as three miles offshore when conditions require. The larger vessels require not only more time to get to the bridge, but more sea room to properly position the vessel for the channel approach. This has increased our transit time inbound by about 12 minutes. The increased average vessel size has also added transit time, due to slower transit speeds in the inner channel and intercoastal waterway to avoid adversely affecting other vessels docked in the port.

The time spent transiting to or from a ship by pilot boat can be greater during rough weather when the pilot boat cannot safely run at full speed. An idle speed/minimum wake zone in all areas of the port extending to the inner channel greatly increases the time necessary to get to a ship or return to the dock. Time spent traveling between the pilot office and the port can be longer during peak traffic hours and on days with multiple passenger ships. On average, five minutes is spent per ship logging ship information for billing and record keeping purposes.

The PEP moved 7,383 ships in 2013—an average of 434 movements for each of the port’s seventeen pilots. Therefore, in 2013, the average pilot’s time spent on actual piloting duty was 1,136 hours. This is among the highest work levels of piloting groups in the United States for which data are available.

The PEP is a 24-hour-a-day, seven-day-a-week, 365-day-a-year operation. It requires just a one-hour notice for both inbound and departing vessels—the shortest call requirement of any pilot group in the United States. This means that all pilots on watch are on call and must be able to reach the port within 35 minutes of being called. Each pilot is on watch for four weeks straight (no weekends or holidays off) and therefore has 26 weeks of base time on watch every year. For the first two weeks of the on-watch time, pilots primarily work either the day shift (from 0700 to 1900) or the night shift (from 1900 to 0700); for the latter two weeks, they switch. During the busy cruise-ship season, and sometimes during the low season as well, a pilot will be called during his twelve hours of “off time” to pilot an arriving or departing vessel. Because of their unique schedule requirements, it is most often a cruise ship (they all seek to arrive and depart within the same narrow window of time).

For an additional eight weeks every 17 months, in their off-watch time, a pilot will be one of two “designated pilots.” The designated pilot is on call to come in if another pilot is injured, sick, or unavailable for another reason, such as family emergency or attendance to other pilot business matters. This equates to approximately 5.66 weeks per year of standby time per pilot.

There can also be a need to call in additional pilots during their off-watch time when a foreseeable spike in traffic is indicated on the schedule. This most often happens on the weekends during the peak of cruise-ship season. This generally occurs eight to twelve weekends each year and will result in calling in two pilots each, both on Saturday and Sunday, for a total of 108 additional man hours, which would be 45.5 additional hours per pilot per year (24 days x 2 pilots x 2.25 hours, divided by 17 pilots).

Thus, a pilot at Port Everglades spends a minimum of 2,184 hours on piloting watch duty (26 weeks x 7 days x 12 hours), 475 hours on standby piloting time (5.66 weeks x 7 days x 12 hours), and 45.5 hours on off-watch piloting, for a yearly total of 2,704 hours.

Time Spent on Other Essential Support Services

Though common in the industry, the PEP does not employ extra personnel to handle dispatching duties. This essential task is performed by the lead pilot on duty. The extra time and effort that each pilot expends on handling the dispatching component of the job, rather than hiring additional personnel to do this work, saves a minimum of four employees working 24 hours a day for 365 days a year, or 515 hours per pilot per year (8,760 hours, divided by 17 pilots).

The managing pilots handle pilot-related administrative and liaison responsibilities. We have two co-managing pilots, one from each watch, to liaison year-round with consumers, the port, regulatory authorities, and the general maritime community. This includes attending regular meetings of the PEP, harbor safety committee, and harbor security committee, as well as meetings with the customers of the port on a regular basis. Some pilot associations hire full-time business managers, and others remove one of their pilots from piloting duty to perform this essential service. At Port Everglades, the managing pilots rotate every three years among all the working pilots. The two managing pilots together fill the role of a full-time pilot representative. This position consumes approximately 31 hours each week, or 1,612 hours each year, or 95 hours per pilot per year.

The pilots have a legal duty to train deputy pilots. *See* § 310.075, Fla. Stat. (2014); Fla. Admin. Code R. 61G14-13.001. To comply with this mandate, we have a Deputy Pilot Training Committee, which oversees the deputy pilot training program. These pilots create, update, and revise the training program approved by the BOPC and supervise the deputy trainees during their 2.5- to 3-year training programs. They also oversee the progress of the trainees,

submit volumes of required documentation at each phase of advancement, and submit requests for issuance for permanent certificates and state licenses to the full group of pilots and the BOPC. The Committee consists of three pilots. These duties consume five hours per month, for a total of 180 hours annually for the 3-member Committee.

The PEP has a committee of four pilots in charge of continuing education and training. This committee researches training facilities and programs and determines the training syllabus for all pilots. It meets once in each 28-day cycle for four hours, for a total of 208 hours (4 pilots x 4 hours x 13 meetings annually).

The following are examples of training in which the Port Everglades pilots participate: Advanced ECDIS for Pilots, Advanced AZIPOD Training, Bridge Resource Management for Pilots, Emergency Shiphandling, ship-specific training for new classes of vessels (*e.g., Oasis and Allure of the Seas*), and manned-model shiphandling courses. Classes can be as short as one day and as long as one week. Training is conducted during a pilot's off-watch time.

The Port Everglades pilots are involved in many aspects of the piloting profession. Two pilots are members of the BOPC. Three pilots are members of the board of directors of the statewide pilot organization—the Florida Harbor Pilots Association (the “FHPA”). One is the vice president of the FHPA. Meetings for both groups require pilots to attend in their off time, or require the standby “designated pilot” to be called in to cover for those individuals.

Three of the Port Everglades pilots have taken regular rotations in Kuwait supporting America's war on terror as part of the Naval Reserve. This has necessitated other pilots being called in to perform their piloting duties during the time that pilots were serving overseas.

One pilot is responsible for the administration of the watch rotation for the year, as well as the scheduling of the designated-pilot roster. This task requires about two hours per month to prepare the monthly schedules, as well as about four hours per year for major adjustments and review. This amounts to a total of 28 hours per year (2 hours x 12 months + 4 hours).

The daily operations of the business are also handled by pilots rather than outside managers. The pilots have eight full time, non-pilot employees to assist with this operation year-round. This includes two office staff and six USCG-licensed boat captains. Management of a corporation of this size would reasonably require at least two full-time executive employees to handle administrative tasks such as supervision of boat, dock, and building-maintenance staff, medical and dental insurance program administration, USCG-approved drug testing and reporting and administering, pension-plan administration, legal and banking oversight, and other human resources tasks (*e.g., workers' compensation*), new construction boat building program, fuel purchasing and consumption oversight, EPA compliance, radio gear (both mobile and base), and purchasing and procurement. About half of the tasks the pilots perform as executive managers occur when pilots are on standby duty; the balance occurs during off-duty cycles. Since two outside executive employees would work 40 hours per week for a minimum of 48 weeks per year, each of the seventeen pilots devotes an average of at least 225 hours per year to these tasks.

Additional Relevant Information (Required by Pilot Applicant/Optional by Non-Pilot Applicant):

The Average Number of Jobs per Day

The average Port Everglades pilot performs more jobs per day—approximately 2.5—than the average pilot of any of the 23 pilot organizations analyzed by Dibner Maritime Associates (“DMA”). The PEP are this productive because the route they serve is relatively short (despite sharp turns and the increased distances that pilots must travel to and from the embarkation points for larger vessels and the turn-arounds and navigation to Southport). Their productivity is also enhanced by the fact that a substantial portion of the trade are tankers, tank tug-barge units, and dry bulk that are more likely than containerhips to arrive at all hours because the terminals at which they call can

operated around-the-clock with a small number of personnel. By contrast, containerships tend to prefer early arrivals so that they can be docked, cleared by customs, and ready to handle cargo with a first shift.

DMA’s latest analysis of the average number of jobs per pilot per day is below. It is based on the number of jobs performed and the number of days per year that a pilot is on watch and available for duty—typically 182.5 days on a pure day-on/day-off arrangement, or 168.5 days if the pilot organization provides vacation time and coverage for illness. Port Everglades and Port Miami are 182.5-day on-watch organizations. Other than Brazos/Freeport, Texas, none of the other pilot associations analyzed performs more than 2.08 jobs per day. The weighted average is 1.09.

Average Jobs Per Day Per Pilot	
Port	Jobs/Day
Port Everglades FL	2.53
Brazos/Freeport TX	2.44
Miami FL	2.32
Long Beach CA	2.08
Los Angeles CA	1.99
Savannah GA	1.73
Sabine River / Bar TX	1.57
Mobile AL	1.49
Corpus Christi / Ingleside TX	1.44
Assoc. Branch Mississippi LA	1.42
Jacksonville / St. Johns FL	1.24
Charleston SC	1.23
Pascagoula MS	1.21
Weighted Average	1.09
Lake Charles LA	1.06
Columbia River WA/OR	1.01
Crescent – Mississippi River LA	0.98
Houston TX	0.93
Puget Sound WA	0.89
New Orleans / Baton Rouge / Mississippi River LA	0.64
Columbia River Bar WA/OR	0.38

The number of jobs is largely a function of the distance travelled and the speed at which ships can safely be piloted. The long trips on the Lower Mississippi River and the Houston Ship Channel, for example, require greater times, thus limiting pilots to one trip per day, with pilots held in reserve to meet variations in the numbers of ships moving each day. For this reason, some pilots perform less than one trip per day in the normal course of on-watch duties.

One consequence of the high number of pilot jobs at Port Everglades is that these pilots have more movements between ship and shore by pilot boat or automobile. This adds more “set up” time per day, even though the trips by pilot boat and automobile may be somewhat shorter in length. This can bear on the total task time, which consists of bridge time and other task time (largely transportation, moving aboard ships to and from the bridge, waiting for boats and automobiles, and margins of time to assure on-time arrival).

Because Port Everglades pilots perform approximately 2.5 jobs per day, they have the challenge of maintaining their sleep cycles during their week on duty. Rather than move to the bottom of the roll of on-duty pilots in order to rest, a Port Everglades pilot is better served and better rested by a fairly swift day that entails an average of two or three jobs in fairly quick succession, and then going home to rest when they are tired and used to sleeping. Given that the average assignment will take 2.6 hours, their daily task time is between 5.2 and 7.8 hours, net of waiting time between jobs. Thus, the work-day is intensive, with little time to eat, relax, or recompose.

At ports with longer basic inbound or outbound trips (say, 3 or 4 hours), a pilot might be able to perform that assignment and a shorter job, such as a movement within the harbor, from anchorage to berth, berth to anchorage, or berth to berth. This fills in the working day without extending it in a manner that disrupts the sleep cycle.

Like many ports, Port Everglades experiences periods of peak activity that require more pilots at some times and fewer at other times of the day. Containerships often prefer to arrive in the pre-dawn hours in order to be moored, cleared by customs, and prepared for the first shift of longshore and stevedoring gangs to promptly begin work at lower labor rates. Many cruise ships also prefer to call at ports in the morning to discharge passengers completing a voyage and embark passengers beginning a voyage. This can create a major morning surge of pilot activity over a few hours. By contrast, tankers and bulk carriers tend to be able to load and discharge cargoes at any time of day.

Trends in Pilot Compensation Over Time

Background

The PEP provides ship-piloting services in a manner similar to the vast majority of pilots in the United States: they operate as a distinct association, serve a specific geography, are under the oversight of a statewide or port area commission or port authority, and are subject to selection and performance review of a commission and, in the event of a significant incident, investigation by the U.S. Coast Guard and the National Transportation Safety Board. The pilots are accepted, trained, and appointed by a process that involves examinations to be trained, deputized, and formally appointed. Pilots are subject to injury and even death (most typically in transfers between ship and pilot vessels), and these incidents can end careers. By the same token, more than 1,200 state-commissioned pilots in the United States handle more than 300,000 ship sailings and arrivals each year, with very few incidents caused by pilots.

Indeed, in more than 83 years of PEP operations, not a single drop of petroleum has been spilled in what is the largest single petroleum product receiving port on the Atlantic Coast of the United States, and no loss of life or major incident has occurred in a port that has handled more than 90,000 ship movements during the most recent decade.

Compensation and Inflation

Compensation must rise at least with inflation in order even marginally to preserve buying power. The Consumer Price Index (“CPI”) in the United States and related CPI’s for regions of the nation are critical metrics carefully prepared by the federal government. Between 2000, when PEP’s current tariff process was applied for, and the present time, the Miami-Fort Lauderdale CPI has increased by 45%. With no rate increase since that tariff adjustment, the buying power of the pilots’ compensation has been significantly eroded.

The selection of persons to be candidates for pilot training and progression to deputy pilots and then full pilots is based on examinations, education, maritime work experience, physical condition, and dedication to the demands of a distinctive profession. No other maritime profession requires ship masters of the cargo vessels that form more than 99% of the world’s fleet of seagoing ships to perform what pilots perform. Ship masters generally depend upon pilots and their ship-handling expertise, experience, knowledge, and skill to navigate in channels, turn ships, and berth and unberth in locations where the risks of collision or allision (striking fixed objects) is high.

To attract well-qualified pilots to the profession and to Port Everglades, and to keep them at Port Everglades, competitive net income is essential. If sufficient net income is not provided, the upper echelons of candidates and younger pilots with mobility will apply for positions at other ports, remain in the shipping industry as ascending officers, take shore management jobs in the maritime industry, or rely on their education outside the industry.

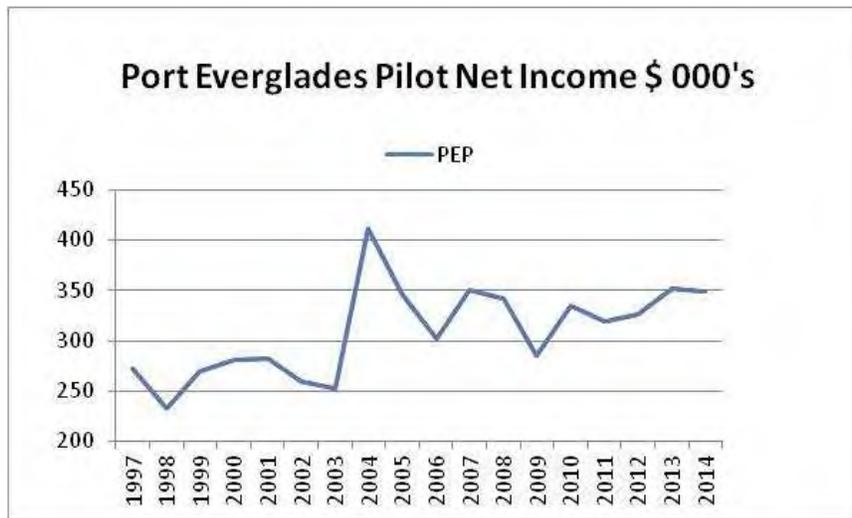
According to data made available by Clarksons Shipping’s research division, in early 2014 there were 463 cruise ships in the world and 88,359 seagoing ships over 100 gross tons. Cruise ships represent 0.35% of the world fleet—

about one-third of one percent. Cruise shipping constitutes a significant portion of ship calls in Port Everglades, Miami, and Port Canaveral, but that is anomalous.

Trends in State Pilot Compensation in the United States

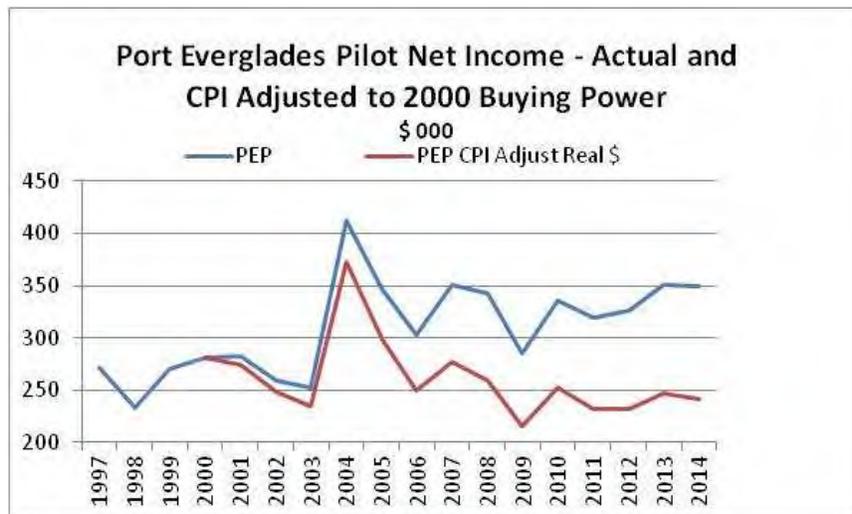
Between 2000 and 2014, the average net income of pilots at Port Everglades increased in current dollars as ship traffic and the 2002 rate increase took effect. The volatility in net income is due largely to variations in the number of day cruise vessel operations, which appeared, peaked, ceased, and was recently replaced in part by a smaller high speed ferry/vehicle service to Freeport. The peak income during 2004 can be largely attributed to a lag between a rapid increase in passenger vessel business and the length of time necessary to appoint and train deputy pilots to meet the demonstrated business need. It is compounded by the failure to complete the training of one deputy pilot. In the period from 2004 to 2008, the number of pilots increased from 16 to 20.

Exhibit 1



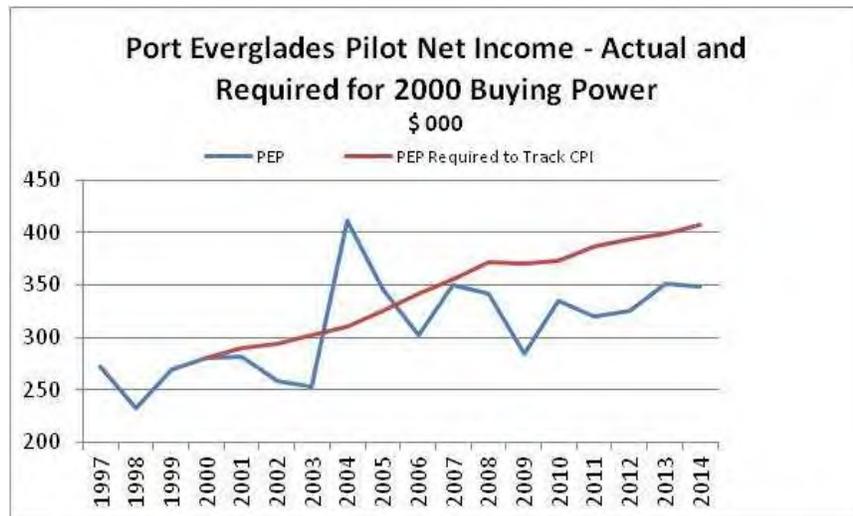
In real terms, PEP pilot net revenue actually declined, as shown by the red line below, which tracks the impact of inflation on the buying power available to pilots. PEP purchasing power of about \$280,000 in 2000 declined to about \$240,000 in 2014.

Exhibit 2



To keep pace with the inflation, PEP income would have had to increase as shown in Exhibit 3 below. Beginning in 2001, rates would have had to rise gradually to just above \$ 400,000 for 2014—simply to maintain purchasing power in the Miami-Fort Lauderdale area.

Exhibit 3



Beginning in the late 1990’s, the State of Louisiana Pilot Fee Commission (which set the rates and compensation of four pilot organizations with more than 300 full pilot positions in force or applied for) developed the Automatic Tariff Rate Adjustment Mechanism (“ATRAM”). ATRAM is a mechanism to annually adjust fair and reasonable operating costs (other than net income) on a lagging basis based upon prior-year audited financials.

The ATRAM process also established a minimum level of compensation based upon the average rate of CPI increases for the prior five years. Only when average pilot compensation in an organization fell below this net income figure would the Commission consider adjusting tariffs to bring average pilot net income up to the minimum compensation level. In more than ten years since full implementation of ATRAM, adjustments have not been necessary because traffic, revenues, and adjustments to the number of pilots have been adequate.

Exhibit 4 shows that the required net income for PEP closely tracks Louisiana’s ATRAM minimum. Had the PEP’s purchasing power been adjusted in line with the CPI, it would have been close to this mechanism and the net income of more than 300 pilots in Louisiana.

Exhibit 4

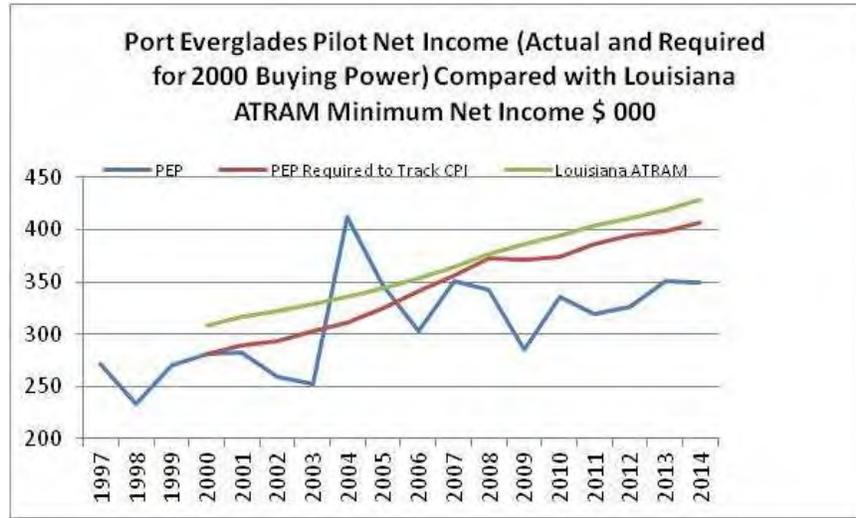
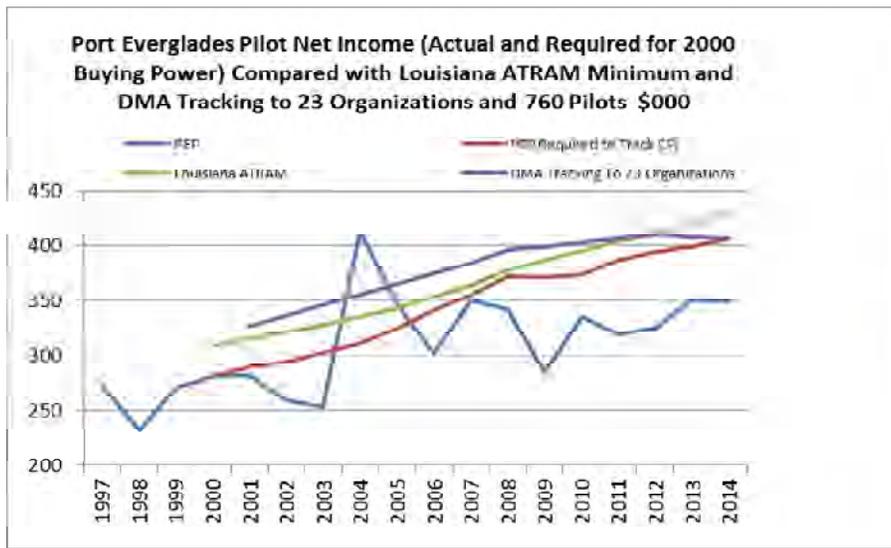


Exhibit 5 shows that the trend of an increasing set of pilot organizations from Charleston, South Carolina, to the Puget Sound in Washington State closely followed the ATRAM net-income floor: by 2014, the average net income was approximately \$407,000.

Exhibit 5



During this same time frame, DMA’s analysis of pilot organization net income, pilot staffing, and related metrics has broadened and deepened from the few pilot incomes roughly disclosed around 2002 and the PEP rate case at that time. DMA has more than 12 years of experience, which now encompasses 23 pilot organizations from Savannah, Georgia, to Hawaii and Puget Sound. These organizations comprise more than 760 pilots.

The slight decline in pilot net income that has occurred since 2010 reflects several forces that are not shipping- or compensation-controlled. These include the following:

- The substantial increase in U.S. and Canadian crude oil has reduced imports of crude oil into the Gulf, reducing inbound crude oil tankers and imports. This reduction has only partially been offset by increased volumes of the exported petroleum products and domestic U.S.-flag tankers and large tug-barge units.

- The Great Recession and its impacts have moderated demand for a wide range of raw, semi-finished, and finished goods.
- Fewer large ships in some types of trade (notably the container trade) have reduced the numbers of calls.
- The appearance of wider ships has reduced the numbers and drafts of some dry bulk carriers, tankers, and containerships.
- The peaking of U.S. petroleum product consumption has moderated tanker shipments and deliveries.

As the growth of U.S. crude production moderates and U.S. exports of liquefied natural gas, petroleum gas (ethane, ethylene, and propane/butane) begin, pilots in some ports will experience growth once again. Pilot organizations will continue to adjust the numbers of pilots to meet workloads, while assuring that they have the capacity to meet demand fluctuations.

The underlying shipping charts convey a critical message:

- Pilot compensation in ports other than Port Everglades has generally increased in line with the CPI.
- The PEP have earned less than their peer average and have experienced declining buying power.
- The cruise industry, with one-third of one percent of the world's merchant fleet, has been afforded disproportionate power to disrupt the compensation of professionals in a manner that is at odds with the treatment of pilots outside of Florida, and which jeopardizes public safety and the interests of the State.

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- c) Prevailing Rate of Compensation of Individuals in Other Maritime Services of Comparable Professional Skills (If deemed relevant by the Applicant)

Classification of Maritime Services

Rates of Compensation (per/year)

The professional skills and role of the licensed state pilot within the regulatory structure of the State of Florida are unique, and pilots cannot reasonably be compared to any other single maritime professional. Pilots function as components of an independent small-business enterprise, bearing responsibility to provide the infrastructure and support services that make the practice of their profession possible. The most accurate way to determine a rate of compensation in other maritime services of comparable professional skills is to compare the income of pilots in ports around the United States that compete for the same talent from the same small pool of qualified candidates.

At the Biscayne Bay hearing in July 2014, Captain George Quick testified that average pilot compensation in the United States is between **\$400,000** and **\$430,000**. This number does not include all of the pilots' benefits. Income in this range is supported by the Louisiana Public Service Commission and independent consultant, DMA.

Every Port Everglades pilot is a graduate of one of the State or Federal Maritime Academies. Several have advanced educational degrees, such as MBAs, JDs, and an MA in International Relations. All of them had other opportunities both ashore and afloat but elected to pursue careers as pilots. Piloting is considered to be the pinnacle of the maritime profession. It is the final stage to which a deck officer can advance after spending years going to sea. For that reason, and to motivate a captain to abandon his seagoing career, or a senior deck officer to make the sacrifices and effort to become a pilot, pilot compensation has historically been significantly higher than that of a sea-going master. This high level of compensation meets the legislative objective to "attract to the profession of piloting, and to hold the best and most qualified individuals as pilots." § 310.151(5)(b)6., Fla. Stat. (2014). While at past hearings we have offered alternative career paths of maritime graduates as comparable maritime professions, the most direct and accurate comparison is to pilots in other U.S. ports.

Every pilot and deputy pilot in Port Everglades had a USCG Unlimited Tonnage Master's license prior to entry into the Deputy Pilot Training Program. At Port Everglades, this is the entry level credential. Section 310.151(5)(b)6., Florida Statutes, sets the wage rate for comparable professions as the floor compensation level. *See also ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 57. Currently, the wage rate for a master working 182 ½ days per year is **\$304,066**. (Source: Master's, Mates & Pilots.) This is 49.8% higher than in 1996 (Investigative Report – PEV 2001, C-9) and closely matches the CPI over the same period.

Unlike the pay of Masters, the pay of PEP has not kept pace with inflation. In 1990, pilot income was **\$358,000**. In 1998, the BOPC targeted income at **\$368,000**, following extensive litigation all the way to the Florida Supreme Court. Adjusted for inflation, this target for 2013 would be **\$533,600**. Pilot income remains well below the inflation-adjusted target set as a reasonable level by the BOPC and affirmed by the Court. Compensation at this level would put Port Everglades exactly where it used to be 16 years ago in relation to other ports around the country; above the national average but far from the highest paid. That compensation level proved sufficient to attract enough qualified candidates, including minorities, unlike the current situation in Port Everglades. The income shown for 2013 in Section 7 of this application remains below the level achieved 23 years earlier in both nominal and real terms.

Over many rate hearings, the FCCA has suggested a number of professions for comparison, including firemen, construction workers, air-traffic controllers, and foreign cruise ship officers. None of these positions has the necessary experience, skills, or credentials to be sought as pilots, and therefore none meets the statutory criteria. The FCCA rate reduction would reduce individual pilot compensation below the legally mandated "floor" for pilot compensation. *ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 56. On this basis alone, its rate request must be rejected.

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Pilotage Charge Item	Present Charge as of: 06/13/2003	Actual Revenue for 12 Months Preceding Application	Requested Charge	Revenue Based on Requested Charge, as Applied to Actual Activity of Preceding 12 Months	Increased Revenue, Based on Requested Charge Applied to Preceding 12 Months	Percentage of Increased Revenue on Preceding 12 Months Activity
<u>DRAFT CHARGES:</u> Per Foot Minimum to feet	\$13.30 14'	\$2,344,826	0 to 20': \$18.00 21' to 30': \$22.00 31' to 40': \$29.00 41' to 50': \$45.00	\$3,998,996	\$1,645,670	+70.2%
<u>TONNAGE CHARGES:</u> Per Gross Registered Ton Minimum GRT Maximum GRT	\$0.0356 \$0.0343 \$0.0330 2,500 gt min	\$8,424,894	\$0.0356 (NC)* \$0.0320 \$0.0267 \$0.0178	\$7,825,378	(\$599,516)	-7.1%
<u>DOCKING/ UNDOCKING:</u> All Vessels . . .	None Charged	\$0	None Requested	\$0	\$0	0.0%
<u>SHIFTING:</u> All Vessels . . . Vessels without steering/motive power Minimum In Zones: (grouped together)	\$300	\$162,040	\$330	\$178,244	\$17,244	+10.0%
<u>OTHER CHARGES:</u> Deputy Trainee Anchor Cancel/Detention Running Lines Pilot Boat USCG Deviation	None Charged \$300 \$100 \$100 \$200 None Charged	\$0 \$1500 \$800 \$0 \$800 \$0	\$20 per move \$400 \$150 \$300 None Requested 2 x Pilotage	\$150,000 \$2,000 \$1,200 \$0 \$0 \$0	\$150,000 \$500 \$400 \$0 \$0 \$0	New Charge +30.3% +50.0% + 0.0% +0.0% +0.0%

Overall: \$10,934,860 \$12,155,818 +11.2%

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10. Detailed explanation of special characteristics, dangers and risks of the port for which the rate change is being requested:

Lengths of Various "Pilotage Waters" Channels: (Include "Average Length" of Pilotage Trip and estimated time to complete pilotage "dock to dock".)											
Lengths:	<table> <tr> <td>Pilot Boarding Area to Sea Buoy</td> <td>2+ Miles</td> </tr> <tr> <td>Sea Buoy to Turning Basin</td> <td>2 Miles</td> </tr> <tr> <td>ICW to Southport Berth 33</td> <td>1.5 Miles</td> </tr> <tr> <td>Dania Cut-Off Canal</td> <td>1.5 Miles</td> </tr> <tr> <td>(Average estimated time to complete pilotage:</td> <td>1.5 Hours)</td> </tr> </table>	Pilot Boarding Area to Sea Buoy	2+ Miles	Sea Buoy to Turning Basin	2 Miles	ICW to Southport Berth 33	1.5 Miles	Dania Cut-Off Canal	1.5 Miles	(Average estimated time to complete pilotage:	1.5 Hours)
Pilot Boarding Area to Sea Buoy	2+ Miles										
Sea Buoy to Turning Basin	2 Miles										
ICW to Southport Berth 33	1.5 Miles										
Dania Cut-Off Canal	1.5 Miles										
(Average estimated time to complete pilotage:	1.5 Hours)										
Widths of Various "Pilotage Waters" Channels:											
Widths:	<p>Main Outer Channel = 500' (narrows to 450' near jetties and into Turning Basin)</p> <p>ICW Southward to Dania Cut-Off Canal = 400'</p> <p>Dania Cut-Off Canal to: (a) Port Dania = 60' (b) West Basin = 50'</p>										
Depths of Various "Pilotage Waters" Channels:											
Project Depths:	<p>Main Ship Channel to: (a) Jetties = 45' (b) Inner-Bar Cut = 42'</p> <p>Main Turning Basin = 42'</p> <p>North Extension of Basin = 31'</p> <p>South Extension of Basin = 36'</p> <p>ICW to Dania Cut-Off Canal = 42'</p> <p>Turning Notch = 42'</p> <p>Dania Cut-Off Canal to West Basin = 12'</p>										
List of Unusual Hazards to Navigation:											
<p>Strong, unpredictable cross currents interacting with tidal currents in the outer channel. Strong tidal currents prevail in the inner channel, ICW, and the turning basin, especially when excess water is released through the canals of the South Florida Water Control District. The rocky sides and bottom of the channel and turning basin will cause extensive damage and possible pollution if touched by ships or barges. There are three converging waterways with a sharp 105-degree turn of a narrow, rock lined channel. We are by-passing extremely large passenger ships with very large, deep-draft containerships in a channel that is only 60% of the width that the U.S. Army Corps of Engineers ("ACOE") would design today for the same vessels. We are docking deeply loaded tankers in occupied slips that are less than 60% the width of that which the port's Master Plan engineers have designed for the very same vessels. Very high level of recreational boat traffic, many with unskilled operators. There are protected, pristine corals in the approaches to and lining the sides of the ship channel.</p>											

List “Weather-related” Hazards to Navigation:

Northeasters increase the strength and unpredictability of cross currents in the outer channel. Southeasters will greatly increase the difficulty of handling deep-draft vessels, especially during flood tides. Inland heavy rains increase the strength of ebb tides, both through run off and Flood Control, particularly increasing the degree of difficulty in Port Dania, Southport, and the Turning Notch, and when handling loaded tankers in the slips. Heavy swell conditions may restrict or prohibit transit of deeply laden vessels crossing the outer bar. Strong wind-driven flood current has a tendency to work on the stern of deeply loaded vessels to turn them crossways in the main ship channel.

List any limitations imposed by Association as to drafts, lengths, tonnages, beams, types, etc., of vessels handled within port’s pilotage waters and provide reasons for same:

See Appendix D for Harbor Safety Agreement, Berth Draft Restrictions, Letters of Guidance, Limitation, and Restriction.

Other Relevant Information

See Appendix E for Final Report of the U.S. Coast Guard’s Ports and Waterways Safety Assessment (“PAWSA”). The report, which is discussed more fully below, confirms that Port Everglades is one of the most challenging and dangerous ports in the nation.

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11. Detailed statement explaining how the requested rate change will result in fair, just and reasonable rates, taking into consideration the public interest in promoting and maintaining efficient, reliable, and safe piloting services and further taking into consideration the factors set forth in Section 310.151(5)(b), Florida Statutes.

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

Eleven years without a change in rates has resulted in a serious erosion in PEP compensation and buying power. During the same period, operating expenses have increased. Pilot boats are essential for prompt service to ships, but they are costly and continually in need of repair and upgrades. Continued stagnation in pilot buying power—not to mention a punitive, irrational reduction in rates sought by the FCCA—would lead to difficult choices to delay pilot boat repairs or forego new purchases. Equipment failure will surely follow, and pilots will not be available to respond as promptly. And, as discussed in Section 11(7) of this application, there is an equally disturbing shortage of new, well-qualified pilots able to replace the pilots who will retire soon.

The public interest in securing qualified pilots available to respond promptly to vessels cannot be stronger. A single error by a port pilot can have disastrous consequences. Indeed, pilots cannot make mistakes; one mistake would be too many. A single error can jeopardize thousands of lives, billions of dollars of property, an irreplaceable environment, the State’s tourism and economy, and the supply of basic necessities to large metropolitan areas. With its large population centers, heavy reliance on tourism, and unique environment, perhaps no State depends so much on the skill and expertise of pilots as Florida.

In South Florida, a single grounding that blocks Port Everglades would spell disaster. Port Everglades supplies 95% of all petroleum products to twelve counties in South Florida, including gas to gas stations and aviation fuel to three airports. South Florida has an estimated 72-hour supply of these products. After 72 hours, the tank farms would begin to run dry, and South Florida would come to a standstill.

Similarly, South Florida is home to the Great Florida Reef—the only living coral barrier reef in the continental United States. An oil spill caused by the port’s narrow channels, or its unforgiving limestone bottom, would devastate South Florida’s pristine ecosystem, as well as its tourism industry. In 2013, 13 million tourists spent \$10 billion in Broward County. A spill would tarnish the white sandy beaches and bring tourism to a complete standstill.

There is no room for error, and the policy of the State is to ensure, through competent rewards, that these interests are entrusted to the best and brightest. Even an error rate of 1% would translate to approximately 70 incidents at Port Everglades every year. Such incidents have not occurred—not because pilotage is easy and the profession unnecessary, but because Florida has taken the necessary steps to attract capable and skillful pilots. The risk of an incident is never remote, and the successful performance of Florida’s port pilots should not suggest that the hazards are minimal, that skilled pilot candidates are plentiful, or that deep rate reductions will not decrease the availability of top-notch pilots and thus increase the risk of error. The State cannot risk mediocrity in its piloting services.

It is only because Florida’s pilots perform an arduous service so flawlessly, and overcome the shifting challenges of pilotage so masterfully, that the FCCA can even pretend that there must be no need for pilot services. The Legislature knows better. It recognized that “the waters, harbors, and ports of the state are important resources” and found it “necessary in the interest of public health, safety, and welfare to provide laws regulating the piloting of vessels utilizing the navigable waters of the state in order that such resources, the environment, life, and property may be protected to the fullest extent possible.” § 310.001, Fla. Stat. (2014). In fact, the Legislature deemed piloting “an essential service of such paramount importance that its continued existence must be secured by the state” rather than “left open to market forces.” *Id.* § 310.0015(1). Because port pilots provide services “essential to the economy and the public welfare,” the State enacted a system of regulations to ensure a supply of eminently qualified pilots. *Id.* § 310.0015(2); *see also In Re: Application of Port Everglades Pilots Ass’n for Rate Increase in*

Port Everglades, 1998 WL 866445, at *6 (“Thus the Board views its primary duty as being to set rates that will guarantee the continuation of services provided by pilots at the high degree of professionalism and quality.”).

2. A determination of the average net income of pilots in the port, including the value of all benefits derived from service as a pilot.

Detailed information regarding average pilot net income is provide with our audited financial statements in Appendix A and summarized in Section 7 of this application.

3. Reasonable operating expenses of pilots.

Detailed information regarding the operating expenses of PEP are provided with our audited financial statements in Appendix A. Summary information is provided in Section 7 of this application.

4. Pilotage rates in other ports.

The prevailing rates of pilotage in other ports are shown in Section 8(a). The rate as proposed will redistribute some of the revenue from the tonnage charge to the draft charge and extend lower tonnage rates to larger vessels and frequent callers. The rate resulting from our request will continue to be among the lowest at any major port in the United States, and port users will continue to pay less for quality pilotage than at other major ports. In fact, the resulting rate will be half of the national average. The addition of surcharges spreads the costs of certain items evenly across all vessels, while special tonnage rates made available after a vessel’s second call at Port Everglades, together with a reasonable increase in draft rates, will recalibrate rates in a manner that is fair and equitable.

Even if one were to disregard all of the evidence showing the hazardous nature of Port Everglades, and assume that less distance is the only factor to be considered, with the new rate, users of pilot services would still pay less than in most of the ports in the nation. The cruise ship companies will pay less for what they deem to be less and the pilots will still make less than the national average of pilot income. To pursue anything lower, as the FCCA does, is a clear sign of a targeted attack against the piloting profession in general and the Port Everglades Pilots in particular.

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

The amount of time each pilot spends on actual piloting duty and on other essential support services is discussed in Section 8(b) of this application. The Port Everglades Pilots’ time spent on pilotage duty is above the national average and the number of jobs per day is the highest of any major port in the United States.

6. The prevailing compensation available to individuals in other maritime services of comparable professional skill and standing as that sought in pilots.

The prevailing compensation of other maritime services that may be considered comparable to those provided by pilots is summarized in Section 8(c). Notably, some of our pilots, in addition to being licensed Master Mariners, hold advanced degrees, including MBAs, JDs, and MAs. Port Everglades competes directly with other ports around the United States for the same talent. Every pilot currently at Port Everglades was recruited from somewhere outside the State of Florida. Furthermore, all pilots were Masters prior to entering the training program. They relocated to take their positions and chose to be pilots at Port Everglades over many other opportunities. Since 2001, compensation relative to other ports has fallen, and so has interest in a career as a Port Everglades Pilot. As discussed in Section 11(7), we have had increasing difficulty attracting the highest scoring deputy pilot candidates in some previous examinations when those candidates have had the opportunity to choose between Port Everglades and other ports. To attract the best and brightest, it is crucial that we stem the declining level of income.

While the FCCA points to the salaries of cruise vessel captains as evidence of an appropriate compensation for port pilots, this is not a suitable comparable for numerous reasons. First, foreign crew of foreign-flagged vessels do not pay U.S. income taxes. Most European nations have tax codes that allow mariners to pay minimal or zero income tax if they spend more than six months a year outside of their home countries, greatly increasing their disposable income. Captains and crew take strategic “vacations” to make sure they do not exceed that six-month period in

their home countries. As a matter of fact, many have alternative residences in the United States, and South Florida in particular. Second, foreign-flagged captains are not the pool from which the State of Florida is attempting to attract pilots. They are ineligible. While a U.S. citizen can become a foreign-flagged captain, it is rare because of the significantly lower level of compensation compared to working in the U.S. merchant fleet.

The final reason a comparison cannot be made is that a pilot must have a wider range of technical skills to handle the different vessels that call on the port, with their different sizes and operational and handling characteristics. *See In Re: Application of Port Everglades Pilots Ass'n for Rate Increase in Port Everglades*, 1998 WL 866445, at *13 n.21 (concluding that pilots possess a “qualitatively different level of skills” from a ship master “as a result of the local pilots’ specialized knowledge and standards for licensure”). A pilot must board and disembark vessels in good weather and bad, at day and at night, and thus assumes greater physical risks than a captain who navigates a vessel on the open seas. A pilot operates under constant stress, as the handling of a vessel in and around a port, where groundings and collisions are most likely to occur, is the riskiest part of the vessel’s journey. *See ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 6 (“[T]he most dangerous part of any sea voyage for the ship and for the public at large is when the ship is moving into or out of port.”). And, while a ship captain is a salaried employee, a pilot is a private businessperson who assumes the risks and rewards of a fluctuating market, including more extensive risks of civil and criminal liability, and makes large capital investments (a single pilot boat at a major port might cost \$1.2 to \$2 million, *see id.* ¶ 45). *See In Re: Application of Port Everglades Pilots Ass'n for Rate Increase in Port Everglades*, 1998 WL 866445, at *10 (noting that pilots are “independent business people” subject to “a capital risk that employees are not subject to”). Thus, a pilot can be held liable for negligence in the operation of a vessel, *see Bethlehem Steel Corp. v. Yates*, 438 F.2d 798 (5th Cir. 1971); *Tampa Port Auth. v. M/V Duchess*, 65 F. Supp. 2d 1279, 1291 (M.D. Fla. 1997), and is directly responsible to the State, which can take action against his or her license, *see Lerro v. Dep’t of Prof’l Regulation*, 388 So. 2d 47 (Fla. 2d DCA 1980). The FCCA claims that it failed to uncover any recent instance of a pilot being held liable; this fact testifies to the skill with which pilots have handled vessels, and does not suggest that pilots cannot be subject to crushing liability upon the occurrence of a single negligent act. If this suggests anything, it is that the system is working. Judgment is being rendered and decisions are being made on the side of safety, rather than allowing undue influence by economic pressures.

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

The State must continue to provide sufficient incentives to entice the best and brightest mariners—mariners with years of experience—to the piloting profession. The barriers to the profession are steep. Candidates are expected to abandon their existing employment; to study hundreds of hours for an examination that merely qualifies the chosen candidate to become a deputy pilot; to enter a 3-year training program that requires at least 3,250 transits; to take a rigorous final examination if the deputy completes the training program; and then, if successful, to enter into business as an independent contractor, with its array of risks, liabilities, and capital investments, and not only expose his or her own life and well-being to the physical dangers of pilotage, but to assume daily responsibility for the lives, property, and welfare of Florida’s visitors and residents. Against these obstacles, and to attract the best and brightest mariners, the State must provide—as it has done for years—incentives that are real and compelling.

It is not easy to motivate the most desirable mariners to abandon their employments in order to *attempt* to become port pilots. A qualified mariner might have ten or twelve years of experience as a master or chief mate and might, in his or her current employment, have earned valuable pension benefits. On the other hand, not only is a new career uncertain—the candidate might never complete the training course or pass the final examination years later—but a pilot encounters various risks unique to the profession. First, a pilot is subject to constant physical dangers in embarking and disembarking from vessels in all weather conditions, at any time of day or night. *See In Re: Application of Port Everglades Pilots Ass'n for Rate Increase in Port Everglades*, 1998 WL 866445, at *5. In 2013, Captain Frank Knowles, a pilot in Panama City, fell from a ladder at night; the darkness prevented his rescue. And, as a contractor and self-employed business person, rather than a salaried employee, a pilot must make substantial capital investments and is uniquely exposed to civil liability. *See ACL Bahamas Ltd.*, Case No. 10-2335

¶ 61. Additionally, there is ever increasing criminal liability as our prosecutorial system has become relentless in its determination to administer punishment to anyone involved in a shipping transportation-related incident.

The State, moreover, must attract pilots with a unique combination of skills. Of course, a pilot must maneuver large vessels. But a pilot must also learn every facet of the port, including the changing variables affecting safe transit, such as weather patterns, tidal movements, and the speed and direction of currents. *Id.* ¶¶ 7, 10, 29. A pilot must adapt to a variety of ships and become familiar with each ship’s equipment, mechanical condition, and performance characteristics. *Id.* ¶ 58 (“While background as a master or mate is useful, a pilot must possess superior close-quarter ship handling skills and the ability to handle a wide variety of vessels.”). On foreign vessels, a pilot must coordinate with foreign crews that might speak little English. It is simple common sense that the best qualified mariners will expect to be well compensated for the trials and challenges that a career in piloting imposes.

At the same time, the pool of qualified mariners is small—a little over 2,000. *Id.* ¶ 62. Ports in Florida and across the country compete for the best talent. *Id.* The pool is small and shrinking, in part because of the decreasing size of the U.S. Merchant Marine over the past decade and a corresponding lack of seagoing positions available to gain the required experience as a result of the shift of U.S. vessels, such as the cruise lines, to flags of convenience to escape domestic taxes and regulations. Historically, an opening at a large port might have attracted 30 or more applicants. *Id.* ¶ 63. In recent years, the number has been much smaller. Twelve tested for two openings in Port Everglades. Eight candidates tested for three openings in Miami, and eleven sat for two openings at Jacksonville. *Id.* In 2014, only one candidate tested for an opening at in Panama City, and failed. Positions in Fernandina Beach and St. Andrews Bay have gone unfilled with no successful candidates out of the deputy examination. One pilot quit St. Andrews Bay to take a position at a higher paying port. These ports are among the lowest paid ports in the State and reveal an obvious relationship: to attract the best and brightest pilots, the compensation structure must be competitive.

The diminished supply of qualified candidates coincides with a need for additional pilots. Between now and 2020, eight pilots at Port Everglades will be eligible for retirement and will need to be replaced by deputy pilots. All of these pilots were taken on during the expansion of traffic between 1990 and 1996, when the PEP increased from eight to sixteen pilots. This replacement will occur when interest in the piloting profession in Florida is plummeting. The Port Everglades Pilots’ attempts to attract minorities, who receive particular consideration in the appointment process by the Secretary of the Department of Business and Professional Regulation, has revealed that minority candidates have recently received superior opportunities and offers elsewhere. None has even gone so far as to take the deputy examination in Florida.

At the time of its last rate hearing, PEP noted to the BOPC that it was having difficulty attracting the highest scoring candidates to Port Everglades, and that one appointed deputy had quit the program in 1995. When prospective pilots had passed more than one examination, the candidates had chosen the other port over Port Everglades. In its final order in 2001, the BOPC indicated that it would continue to monitor these factors. (PEP Final Order – p.7.)

In 1996, 62 candidates were approved to take the examination to fill one opening at Port Everglades. PEP income was then at its peak. Fifteen candidates passed the examination, and the open positions were filled. That was the last time PEP had a successful female candidate enter its deputy training. Since then, twelve deputies have entered training at Port Everglades (one failed to complete the program). In 2012, the time of testing for our current active deputies, eighteen candidates were approved to sit for the examination—a 71% decline in interest. Only two candidates for two positions passed the examination and were qualified as deputy pilots. Their test scores (95.4 and 92.7) were lower than those of any successful candidate at Port Everglades during the past sixteen years:

Test Date	Announced Openings	Positions Filled	Approved Candidates	Number Testing	Passing Candidates
Mar-96	1	2	62	62	15
Mar-01	1	1	30	28	17
Mar-02	1	1	23	23	13
Mar-03	2	2	26	24	13
Mar-04	2	2	40	31	14
Mar-05	2	2	33	25	13
Mar-12	2	2	18	12	2
Mar-14	1	1	24	20	9

In 2014, an additional test was conducted to fill an open deputy position. While the number taking the examination increased, the interest and success rate were still well below historical standards. The candidate, a licensed Master, will begin training early next year.

These decreases have corresponded with a changed perception regarding compensation. Port Everglades once had a reputation for good compensation and, as a result, was one of the most desired pilotages in the United States. It attracted the best and brightest because it was perceived that its pilots were highly compensated in comparison with competing ports. Unlike many other ports, all pilots at Port Everglades hold the license of master mariner (captain of unlimited tonnage), and some hold master’s degrees and law degrees. But recently, the perception has changed. Port Everglades is reputed to be among the lower-paying pilotages, despite handling some of the largest vessels in the world. This perception has affected the port’s ability to attract the best candidates, and a 25% reduction in rates will further reduce the pool of qualified pilot candidates.

Nothing demonstrates this point more clearly than the ability to attract female pilot candidates. This is an area that the legislature has specifically written legislation designed to target these qualified individuals. In 1996, when compensation was high relative to ports around the United States, Captain Phipps entered the deputy training program in Port Everglades. At that time, she was one of nine female pilots in the country, and one of two in the State of Florida. Since then, pilot compensation nationwide has risen with inflation, and Florida compensation has lagged. Port Everglades has engaged in a robust mentoring program designed to attract women and minorities. Currently, there are more than 30 female pilots in the United States and still only two in Florida. Despite the appeal of living in South Florida, qualified female mariners chose ports outside of Florida where compensation has risen and the political environment, economic situation, and other conditions have been more stable.

The PEP has an active minority mentoring program. Over the past ten years, the PEP has provided scholarships, awards, and internships to twenty minority and female candidates pursuant to Sections 310.0015(3)(d), Florida Statutes. Much to our frustration and sincere disappointment, these robust efforts have failed to attract any minority candidates. In fact, none of those mentoring candidates has chosen to take the examination in Florida, though some have become pilots in other States. Furthermore, captains who have regularly called Port Everglades in the recent past have pursued careers as pilots, but have done so outside of the State of Florida. Of the captains we have spoken to that chose other ports, they all agreed that compensation level was a key consideration in their decision.

A report of the Florida Legislature’s Office of Program Policy Analysis and Government Accountability confirms the perception that rates at Port Everglades are among the lowest in Florida. *See* Appx. F. The report found that Port Everglades’ draft charge (\$13.30) was well below the statewide average (\$19.65), and was trailed only by Fort Pierce (\$12.50) and Port Canaveral (\$12.50). The tonnage rate at Port Everglades was the median rate, but below the mean (\$0.0389). Tonnage rates at major ports—Jacksonville (\$0.0464), Miami (\$0.0364), and Tampa (\$0.07)—all exceeded that of Port Everglades. And Port Everglades has a graduated rate that declines as tonnage increases. Thus, the rate that the report attributed to Port Everglades overstates the rates actually charged at Port Everglades.

According to the United States Maritime Administration (“MARAD”), in 2011 there were approximately 2,300 licensed Master Mariners in the United States. As in Section 8(c) of this application, the Master wage is \$304,066 with funded retirement plans, full health benefits, and union-negotiated COLA increases. Compensation must be sufficient to pull these mariners from their positions. In 2012, only two of these Masters were sufficiently attracted to the opening in Port Everglades to study and pass the examination.

The FCCA overlooks these facts when it finds not a “shred of evidence” that a rate reduction would diminish the high quality of pilotage in Florida. Given the diminished interest in pilotage, this is not the time to peel away the incentives that have attracted the best mariners to Florida, and to thin an already thinning talent pool by slashing pilotage rates by an arbitrary 25%. The FCCA, for its part, presents not a “shred of evidence” that the State will be able to attract the best and brightest mariners even with an arbitrary 25% decrease in rates. In fact, the requested rate decrease is not only arbitrary, but it would return pilotage to the rates paid in 1982—thirty-two years ago. The FCCA asks the Committee to accept without evidence its assertion that such an arbitrary slashing of pilotage rates will have no effect whatsoever on the willingness of highly skilled mariners to abandon their chosen employments and instead embark on careers as port pilots. The Committee should reject that unproven and illogical hypothesis.

A significant percentage of pilot business at Port Everglades (11.5%) consists of U.S. vessels operating in the coastwise trade. If the master’s license contains a USCG endorsement, the master could pilot the vessel into Port Everglades without a port pilot. Despite the option not to employ a Port Everglades Pilot, and due to the exemplary safety record and value of pilotage, the owners choose to pay for this service. These vessels are without exception charged the rates that this Committee sets. Federal law prevents pilots from charging more than the applicable state rate. A reduction in rates would therefore affect this commerce as well. Similarly, U.S. naval vessels regularly make liberty calls at Port Everglades and utilize the services of Port Everglades pilots even though federal law exempts them from the requirement.

Though the FCCA attacks the current rates at Port Everglades as arbitrary, it is the FCCA’s requested 25%, across-the-board decrease for passenger vessels that is arbitrary. A rate is “arbitrary” if it is “not planned or chosen for a particular reason,” or is “not based on reason or evidence.” See <http://www.m-w.com>. The FCCA never explains how it arrived at its number—25%. The fact that the FCCA requested the same percentage decrease in Miami establishes the arbitrariness of the rate and demonstrates that the requested decrease is not tailored to the facts and circumstances of the port. The arbitrariness of the FCCA’s request is underscored by the stated objective of its application to reduce rates at Port Miami (December 2013): to bring the rates at Port Miami in line with the rates at Port Everglades. And, while the FCCA claims that the present rates target their vessels by their gross tonnage, the FCCA seeks a 25% discount for their draft as well. Clearly, 25% was an arbitrary, randomly chosen number.

8. Projected changes in vessel traffic.

Through conversations with port staff, customers, and consultants, as well as an evaluation of currently scheduled traffic patterns, we project a 5.2% increase in revenue for calendar year 2014. Recently, a number of lines have either eliminated service or announced that they will discontinue service. Using the published cruise ship schedule and available cargo line information, we project a 6.8% decline in revenue for calendar year 2015. Based on the available information, we expect a further decline in revenue in excess of 2.0% for calendar year 2016.

The ACOE dredge project originally scheduled for 2007 has been postponed beyond 2021. Port berth expansion projects are not due to be completed until after 2018. At this time, there is no catalyst for revenue expansion in the foreseeable future.

Tanker traffic has declined for ten consecutive years, and this trend is expected to continue. Our bulk and freight ship traffic is tied directly to the construction industry and shows little sign of improvement. Scheduled passenger ship traffic is down approximately 2%. Multi-day cruise ships operating in the summer—the only time with berth

availability—will reduce from five ships to two. Active passenger terminals have reduced from 11 in 2003 to 8. The *Allure of the Seas* will not operate out of Port Everglades year round this year, reducing its calls by 44%. In 2016, the *Oasis of the Seas* will be replaced with a vessel that is 25% smaller. Members of the FCCA have indicated that the Caribbean market is weak and that vessels are being repositioned to China, causing erosion in revenue beyond our forecast. The *Bimini SuperFast* began operations three days a week in the middle of October and abruptly suspended service after just three weeks. This was the only newly announced service, and the opportunity for growth in the near term was effectively eliminated.

Container traffic—the one sector with an increase over the last decade—shows signs of weakness. Three companies (Sea Star, Dole and Chiquita) have indicated that their operations in Port Everglades will cease due to the new low-sulfur fuel regulations to be implemented on January 1, 2015. The Hapag-Lloyd Tuesday service has relocated to Kingston, Jamaica. Other companies have indicated that they are changing their services to other ports due to capacity constraints, berth limits, and crane limitations in the Southport container terminal. Currently, there is no room to expand container operations, and this will continue at least through 2018. The Caribbean economy remains weak, affecting operators in this region. With no new services projected by the Port, the most realistic expectation is that traffic at Port Everglades will decline further.

9. Cost of retirement and medical plans.

Specific cost information is provided with the audited financial statements in Appendix A. In general, medical costs remain a major component of the PEP's expenses. We purchase our medical plan from the Masters, Mates, and Pilots, which provides a plan similar to the plan of seagoing officers. This group plan, which covers our employees as well, is the only plan we were able to find that provided medical coverage while a pilot or boat captain is on duty. Since the last rate application, medical costs have risen 72.1%, well above the CPI, but at a slower rate than many medical plans. Over the period, deductibles have increased and the range of coverage has declined in an effort to control costs.

The pilots and their employees participate in a 401(k) plan funded from the earnings of the corporation. While employee salaries have increased over the years, officer salaries have remained constant since at least 1995. Funding is based on individual salaries, with contribution levels being reduced by 32%. In addition, the pilots have the previously discussed retirement agreement established in 1960. This plan was established prior to the availability of current tax-advantaged retirement plans and provides caps on overall retirement costs. These caps are currently in effect. The cost of this plan is up 12.4% since 2004, less than the CPI, and the number of covered retirees increased from seven to thirteen. Recently, two of these retirees passed away. From this point forward, retirement expense is projected to remain constant relative to gross pilotage, but individual retirement compensation will drop precipitously. By 2020, it is anticipated that there will be 19 or 20 living retirees. The retirement costs will be split among these retirees, resulting in dramatically lower retirement compensation.

The Florida Legislature intended to require consideration of the cost of retirement and medical plans as a factor in setting pilotage rates. It specifically referenced such costs in the statutory guidelines. § 310.315(5)(b)9., Fla. Stat. (2014). The FCCA's argument that the statutory reference to the cost of retirement and medical plans includes only "IRS-approved" plans ignores the statute's clear meaning. The Legislature might have limited the Committee's consideration to IRS-approved plans, but it did not.

10. Physical risks inherent in piloting.

Piloting is inherently risky. Pilots must board ships day and night, 365 days a year, in all weather conditions. Even on a flat, calm day, transferring from a small pilot boat to a rope ladder and climbing up the side of a ship or into a side port is a risky endeavor. The FCCA argues against this well-established fact. It compares the dangers of the pilot profession to numerous other professions, none of which is comparable to piloting. It includes data for other professions, but none for piloting (though it could easily have been obtained from any number of sources).

In fact, the FCCA scoffs at the notion that a substantial income is necessary to compensate pilots for the dangers of their work. It notes that police officers and firefighters encounter physical risks but receive less compensation, and that, in 2012, more florists died in their employments than pilots. But the risks of pilotage are well recognized:

Pilots are transferred from their pilot boat out at sea onto and off of large moving vessels. Once the pilot boat maneuvers alongside the vessel, the pilot typically boards the ship by stepping from the pilot boat onto a ladder hanging from the ship's side. Unfortunately, pilots are frequently injured and sometimes killed in the course of this dangerous transfer, particularly in bad weather. One expert in the piloting profession testified that over the course of a 30-year career, a pilot has a one-in-20 chance of being killed in a boarding accident.

ACL Bahamas Ltd., Case No. 10-2335 ¶ 9.

In 2013, a port pilot in Panama City was killed during such a transfer to a ship. And between January 2006 and February 2007, five of the nation's 1,100 port pilots were killed in the course of their duties—four of them in transfer accidents. See CRUISE SHIP LAW BLOG, *Shaken by Deaths in Their Ranks, Pilots Scrutinize Their Practices and Equipment* (July 1, 2007), available at <http://blog.lipcon.com/2007/07/shaken-by-deaths-in-their-rank.html>. These transfer accidents have resulted in deaths on both cargo and passenger vessels. As one U.S. Coast Guard Marine Safety Unit recently warned, the potential for accidents associated with pilot transfers to vessels remains “a constant threat.” See Appx. G. In addition, while pilots attempt to minimize risks, many pilots experience loss of hearing, impairment of night vision, skin cancers, or sleep disorders. Broken bones and crushed limbs are not uncommon during transfers, and slipping on wet and oily decks occurs regularly. Indeed, all pilots have experienced boarding incidents that have threatened their personal safety and long-term livelihood.

Ports such as Port Everglades with relatively short pilotages carry the highest risk. The FCCA agrees the most dangerous part of piloting is transferring from the pilot boat to the ship. A Port Everglades pilot can pilot six ships during his 12-hour watch on a single, busy day. If you consider that a pilot in Port Everglades could pilot 14,000 ships in a career (3,250 as a deputy and the remainder during 20 or 30 years as a full pilot), then it is clear the risks are far greater than at longer ports. In ports with longer transits, the number of ship boardings over a career might not even exceed the number of ships that a Port Everglades deputy is required to handle before becoming a pilot.

The FCCA's comparison of the number of fatalities among pilots, police officers, and firefighters is also misleading because the number of pilots is relatively small. While approximately 35,000 people are employed as law enforcement officers in Florida, only 97 people are active port pilots in this State, and 1,100 nationwide.

Finally, the income of a pilot does not merely compensate for risks to the pilots' own well-being: it purchases the specialized skill necessary to protect interests of vast public importance. Seldom do the lives of thousands of people, the care of property worth billions of dollars, the guardianship of the natural environment, and the welfare and economy of urban centers depend on the abilities of a florist. While firefighters risk life and limb, the error of a single firefighter will rarely cover Florida's coastline with oil, or imperil a \$1-billion vessel, or destroy the United States' only coral reef. The uncommon abilities of a pilot, and the magnitude of the interests entrusted to them, have led all maritime States to ensure pilots a competent income. Indeed, the average income of a port pilot in the United States is \$400,000. *ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 31. The FCCA would have the Committee believe that not only the Florida Legislature, but every State has pursued an irrational public policy.

The risks of piloting remain despite the advanced technologies aboard modern vessels. The FCCA argues that technology—such as advanced navigational and propulsion mechanisms—has eliminated the hazards of piloting, but nothing can be further from the truth. No technology can avert the consequences of human error or take the place of the skill and judgment of the pilot. Indeed, these technologies have caused many of the recent catastrophes that have befallen cruise ships. In 2007, a software glitch on the *Millennium* sent an errant signal to the port propulsion, and the ship went into reverse. The propellers crashed into a rock, and the company lost an estimated

\$28.8 million. In 2008, the malfunction of a propulsion system caused the *Queen Victoria* to crash stern first into a pier on the island of Malta. In 2009, the *Oasis of the Seas* suffered a cascading loss of power to all three azipods during sea trials. In 2013, azipod and propulsion problems caused the *Carnival Legend* and *Carnival Elation* to cut cruises short, and the *Royal Princess* suffered a power loss at sea and was without propulsion for 3.5 hours. More recently, in April 2014, the *Carnival Ecstasy* suffered a power failure and loss of propulsion as it approached Port Canaveral.

In Florida, it should be obvious that technology cannot eliminate human error. In 2010, the Legislature gave serious consideration to proposals to expand off-shore oil drilling. Its advocates extolled the advanced technologies of modern rigs and insisted that those technologies mooted any fears of a spill. But in April 2010, an explosion on *Deepwater Horizon*—an oil rig in the Gulf of Mexico—killed eleven crewmen and ignited a massive fireball. The rig sank into the Gulf, and oil gushed onto the seafloor for three months in the largest oil spill in American history, causing billions of dollars in losses and unfathomable damage to the natural environment. Clearly, technology can be an aid, but it can neither obviate the need for human skill or expertise, nor cover the consequences of human error.

In addition, the technology to which the FCCA refers is neither new nor unique to cruise ships. The Electronic Chart Display and Information System (“ECDIS”) is standard equipment on all ships. Depth sounders have been used for decades, and are required on all ships. And by the time a depth sounder indicates that the bottom is too shallow, it is too late. A large ship cannot stop in place. A pilot is intimately familiar with the water depth in every part of the harbor, however. Watching the depth sounder is no substitute for that knowledge or a safe means of navigation.

The piloting of large vessels, therefore, remains inherently dangerous. These dangers were underscored when the *Costa Concordia* capsized as a result of the master’s error in January 2012. The state-of-the-art, 114,000-GT vessel, launched only six years earlier, capsized in waters that should have been reserved for a port pilot with intimate knowledge of the surroundings. The bridge team failed to alert the master to the danger and failed to understand basic ship-handling principles. The ship sailed too close to the coastline in a poorly lit area, at night and at a high speed. If the *Costa Concordia* had been piloted by a port pilot with an awareness of the rocks, 32 people would not have died.

At Port Everglades, the pilotage fee for the *Costa Concordia* would have been \$4,366—nothing in comparison with the construction cost of the vessel (\$570 million), its salvage cost (\$1.2 billion), the estimated loss of revenue (\$175 million), and untold costs associated with lawsuits, increased insurance premiums, and lost booking revenues for all cruise lines. All in all, the anticipated financial loss of the *Costa Concordia* disaster will clearly exceed \$2 billion. Of course, no dollar figure can come close to estimating the cost of a single human life, let alone 32 lives.

Nor, sadly, is the *Costa Concordia* the only example that illustrates that the dangers associated with large vessels. With the expansion of cruise lines has come an increase in the number of young and inexperienced officers with inadequate shiphandling skills. In June 1995, the *Royal Majesty* grounded off Cape Cod, causing a loss of \$7 million. In August 1999, the *Norwegian Dream* collided with a containership, crushing the bow of the vessel. In April 2005, the *Grandeur of the Seas* was involved in an allision with a dock in Mexico, sustaining a 40-foot gash. In February 2006, the *Crown Princess* turned sharply at a high rate of speed, causing the vessel to heel severely. In August 2006, the *Carnival Celebration* grounded while docking in Nassau, causing hydraulic fluid to spill into pristine waters. In October 2006, the *Enchantment of the Seas* collided with a barge at Grand Cayman Island after dragging its anchor 300 meters. In June 2008, the *Costa Classica* collided with the *MSC Poesia* near Dubrovnik. In May 2009, the *Zenith* grounded outside Copenhagen, and its master was charged with negligence. In September 2009, the *Carnival Legend*, attempting to get underway during a squall, was involved in an allision with the *Enchantment of the Seas* at Cozumel, Mexico. In January 2010, the *MSC Poesia* grounded at Port Lucaya, Grand Bahama Island, due to bridge-team failure and navigational errors, destroying a portion of the environmentally sensitive coral reef. In February 2010, the *Costa Europa* was involved in an allision with a pier in Egypt, and three

crewmembers drowned. On October 31, 2014 the *Bahamas Celebration*, operating under a pilot exemption and with only one working engine, got underway in a rain squall and ran aground and sank in nearby Freeport, Bahamas. The vessel is a total loss and only the shallow depth of water prevented a much greater tragedy.

The State of Florida cannot afford such errors in its ports. As the investigation committee noted in 1999, it is in the State's interest to attract the ablest pilots in the country, and nothing attracts them better than good compensation.

The FCCA seeks to minimize these dangers by noting that pilots need not ignore “justifiable concerns relating to safety.” See § 310.0015(3)(a), Fla. Stat. (2014). But it is not true that pilots can refuse to work except under sunny skies. Rather, the State imposes on pilots an important responsibility to make the sound, independent, and prompt judgments necessary to protect the safety of passengers and the security of the port. The pilots must possess the self-command to withstand the contrary desires of the crew, which is often under pressure from the owner or operator to proceed without delay. See *ACL Bahamas Ltd.*, Case No. 10-2335 ¶ 7. The State empowers pilots—not masters beholden to ship owners—to exercise their judgment, and its policy seeks to attract pilots able to exercise that trust.

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

While Port Everglades is home to the two largest cruise ships in the world (the *Allure* and *Oasis of the Seas*), its 450-foot channels are among the narrowest of the major ports of the United States. The port features an extremely high volume of recreational vessels that share the water with piloted vessels, as well as fishing activity. See Appx. H at 30. The sides and bottom of the channels are rocky, consisting of sheer and unforgiving limestone. *Id.* at 21, 30. Large vessels encounter strong crosswinds and currents, short stopping distances, and swirling currents in the inner channel and basin. *Id.* at 30. Cross currents in the entrance channel are strong and unpredictable, *id.*, and tend to run at right angles to the direction of the channel, see Appx. I. ¶ 351. These currents can approach five knots. *Id.* In the harbor, swirls cause random counter currents. During thunderstorms, winds are severe and shifting and often of gale strength. Appx. H at 30; Appx. I ¶ 347. The approach to the port passes over reefs and endangered corals. Appx. H at 27. Amid the heavy recreational traffic density, the rock walls and bottom, the narrow channels, and cruise ships of unmatched size, the port receives exceptionally large volumes of petroleum cargoes. *Id.* at 7, 24.

Notably, the PAWSA final report, published in 2001, ranked Port Everglades among the most hazardous ports in the United States. See Appx. E. Port Everglades had the highest risk level of *any* port with respect to three metrics: (i) the volume of fishing and pleasure craft using the port; (ii) traffic density, or the congestion and interaction between different vessel types; and (iii) the bottom type, or the extent to which the bottom, if a vessel runs aground, is forgiving. *Id.* at 22, 23, 30. Port Everglades received the second-highest risk level with respect to the strength of its currents, behind only Berwick Bay in Louisiana. *Id.* at 26. And since 2001, the risk has only increased, as the average ship size has increased substantially. In 2001, nobody would have imagined that the largest ships in the world—ships over four football fields in length—would call Port Everglades, with some of the most constricted channels in the country, their home port. To steer these massive ships between tight rock walls requires precision piloting, placing a greater premium than ever upon the skill of the pilots who daily perform this task uneventfully.

The dangers and special characteristics of the Port are further described in:

- Section 10 of this application;
- The PAWSA Final Report, see Appx. E;
- The PAWSA Workshop Report for Port Everglades, see Appx. H;
- *Coast Pilot 4: Atlantic Coast: Cape Henry to Key West* (46th ed. 2014), published by the National Ocean Service, National Oceanic and Atmospheric Administration, an excerpt of which is attached as Appendix I, and which is available in full at http://www.nauticalcharts.noaa.gov/nsd/coastpilot_w.php?book=4; and
- The PAWSA Draft Risk Mitigation Strategy Plan for Port Everglades, see Appx. J.

Consumer Price Index

The Committee may take into consideration, together with other factors, “the consumer price index or any other comparable economic indicator when fixing rates of pilotage.” § 310.151(5)(c), Fla. Stat. (2014). The following data are relevant to the Committee’s consideration of the CPI:

CPI (all urban consumers) from the time of filing last application (December 2000):	+36.70%
CPI from the time of implementation of last stage of rate change (June 2003):	+29.48%
Miami metropolitan area CPI from December 2000:	+43.43%
Miami metropolitan area CPI from June 2003:	+35.52%
Port Everglades tariff rates, cargo, from 2003 to 2013:	+33.76%
Port Everglades tariff rates, passenger, from 2000 to 2013:	+37.70%
Port Everglades passenger revenue from 2004 to 2013:	+49.23%
Port Everglades revenue per passenger from 2004 to 2013:	+129.89%
Port Everglades tugboat rates from 2007 to 2014:	+170.00%
Port Everglades Pilots’ rates from June 2003 to December 2014:	Unchanged
Port Everglades Pilots’ total revenue from 2004 to 2013:	(-8.91%)
Port Everglades Pilots’ passenger ship revenue from 2004 to 2013:	(-19.89%)
Port Everglades Pilots revenue per passenger from 2004 to 2013:	(-9.32%)

See Appx. K (CPI tables); Appx. L (excerpt from 2013 Annual Report for Port Everglades).

These facts speak for themselves. There has been no “organic increase” in revenue since the last rate change in 2003, as the FCCA asserts. Total revenue, passenger revenue, and revenue per passenger have all decreased significantly. Pilot rates in Port Everglades have not kept pace with inflation, nationally or locally. The revenue and tariff rates for the port overall and passenger ships are up significantly. Local tugboat rates are up as well. With its rate-decrease application, the FCCA is attempting to pass its port costs on to the pilots and other port users.

Conclusion

The Legislature’s direction to this Committee is to “give primary consideration to the public interest in promoting and maintaining effective, reliable, and safe piloting services”—not to defer to the uncorroborated statements of the cruise industry. The FCCA has not established that pilotage rates can safely be reduced without any consequences to the “effective, reliable, and safe piloting services” that the public expects.

The FCCA has not even established that pilotage rates are a financial burden to the cruise lines. In a letter dated September 26, 2014, counsel to the PEP requested that the FCCA provide documentation reflecting the financial condition and operating expenses of its members, including financial statements, profit-and-loss statements, balance sheets, statements of operating expenses, and annual financial reports. See Appx. M. The PEP requested data reflecting the pricing methodology of each member cruise line, and how pilotage fees are factored into passenger pricing. The FCCA, which made a parade of Port Miami’s refusal to disclose financial information, never responded. The Committee would be well served by disclosure of information that reveals the burden that pilotage fees impose on cruise lines. The FCCA can hardly claim that rates are excessive and unreasonable unless it can establish the amounts paid in relation to its members’ revenues and the effect, if any, upon passenger prices.

The requested rate will help us maintain the unsurpassed level of efficiency and safety in pilotage service that Port Everglades has traditionally provided. It meets the statutory requirement to promote a safe and efficient piloting service while providing fair, just, and reasonable rates of pilotage for all port users, and it treats all vessels fairly and does not give special preference to one class of vessels or one industry group. We will be better able to attract and

retain experienced, licensed state pilots and certificated deputy pilots. We will continue to provide a work schedule that permits adequately rested and highly trained pilots to report to vessels promptly, year round, 24 hours per day.

**APPLICATION FOR CHANGE OF RATES OF PILOTAGE
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PART C AFFIDAVIT OF APPLICANT (This section must be sworn to in the presence of a Notary Public or an officer authorized to administer oaths)

I hereby certify that I have read the foregoing statements including all attachments and exhibits, and that they are true and correct to the best of my knowledge and belief.

Signature of Applicant

Michele J. Cunningham

COUNTY OF: *Broward*

STATE OF: *Florida*

SUBSCRIBED AND SWORN TO BEFORE ME THIS *21* DAY OF *November* 20*14*



Laurie J. Bodine
SIGNATURE OF PERSON ADMINISTERING OATH

MY COMMISSION EXPIRES