

BOARD OF PILOT COMMISSIONERS OF BRAZORIA COUNTY PORTS

PUBLIC HEARING
August 24, 2017

ORIGINAL

PUBLIC HEARING before the Board of Pilot Commissioners of Brazoria County Ports was taken on the 24th day of August, 2017, from 9:00 a.m. to 11:29 a.m., before Stacey Whitley, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at Port Freeport, Administration Building, 1100 Cherry Street, Freeport, Texas.

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CHAIRMAN KRESTA: Good morning, ladies and gentlemen of the jury. Everybody be seated, please. We will convene the open session of the Board of Pilot Commissioners at 9:00 a.m. in accordance with Texas Government Code Section 551.001.

The first item on the agenda is the approval of the following transcript and minutes from the special meetings held June 28, July 10, August 6, August 10, and August 16. Do I hear a motion for approval of the minutes?

COMMISSIONER TERRY: I'll make the motion.

COMMISSIONER SANTOS: Second.

MS. BEVERS: I just wanted to note that that August 6th should have been August 7th.

CHAIRMAN KRESTA: 7th, right?

MS. BEVERS: Yes, sir.

CHAIRMAN KRESTA: So noted. Thank you.

COMMISSIONER HOSS: I have a question. Where are those posted at? Are they ready to be posted?

CHAIRMAN KRESTA: They should be ready to be posted on the website in the book.

MS. BEVERS: Yes.

COMMISSIONER HOSS: All right.

CHAIRMAN KRESTA: Do I hear a second?

COMMISSIONER PIRTLE: I second.

CHAIRMAN KRESTA: Thank you, sir. All in

favor say, aye.

(All commissioners voted aye)

CHAIRMAN KRESTA: All against.

(No votes opposed)

CHAIRMAN KRESTA: The motion carries. We will now recess the open session at 9:02 a.m. and convene an executive session according to Subchapter D of the Open Meetings Act of Section 551.071 (consultation with the Attorney) for discussion -- discussion to follow. And we'll go into executive session at this time.

(Recess from 9:02 to 9:43)

CHAIRMAN KRESTA: Okay. We will now convene the open session with the Board of Pilot Commissioners at 9:43 in accordance with the Texas Government Code, Section 551.

The next item of business is to conduct a public hearing regarding the Brazos Pilot Association's first amended motion for reconsideration of the --

MR. CORDEBA: One second. We're having a technical issue with --

CHAIRMAN KRESTA: We will now reconvene the open session of the Board of Pilot Commissioners at 9:44 in accordance with Texas Government Code, Section 551.001.

The next item of business is to conduct a public hearing regarding the Brazos Pilot Association's first

amended motion for reconsideration of Pilot Board's 10th July, 2017 order. This pilot rate increase request hearing is called to order.

This hearing follows the Brazos Pilots Association's submission of an amended motion for reconsideration and corrected financial statements and supporting documents and is being held pursuant to Texas Transportation Code 66 and Section 68.069, which requires a party to exhaust his administrative remedies before seeking an appeal to a judicial court. Because the Pilot Board cannot act except through orders issued by the Board, it was necessary to reconvene the pilot rate increase request hearing to consider the pilots' amended motion for reconsideration.

The matters to be heard are the Brazos Pilot Association's request to amend the order issued by the Pilot Board on July 10th, 2017 as follows: Request No. 1: No. 1, a 2 percent rate increase for one year commencing on the effective date of this final order; No. 2, a subsequent 3 percent rate increase for one year commencing on the 366th day after the effective date of the final order; and No. 3, a subsequent 4 percent rate increase commencing on the 731st day after the effective date of this final order.

And the Request No. 2 is a surcharge for pilot transportation services consisting of a base charge of a

hundred dollars plus a unit charge calculated as units multiplied by the factor of .11 cents -- point one one, just say that.

Request No. 3, a surcharge for establishment and maintenance of dispatch service was denied without prejudice.

Before commencing the hearing, I note that WGMA and MSC filed objections to the pilots' amended motions for reconsideration and this reconvened hearing and that the pilots filed a response and objection to WGMA's submission. I note that WGMA originally represented that it acted only on behalf of its member MSC and accept WGMA's submission to that extent only. Otherwise, I will rule on the parties' respective objections but will include each as a part of the record.

MR. LETOURNEAU: Mr. Chairman, may I interrupt just one second?

CHAIRMAN KRESTA: Yes, sir.

MR. LETOURNEAU: That is, I think, Dole also filed an objection. And so, you need to rule on that as well.

CHAIRMAN KRESTA: Overrule and the parties be included in this record.

MR. LETOURNEAU: Yes, sir. Okay.

CHAIRMAN KRESTA: Yes, sir. Did you get that?

THE REPORTER: Yes, sir.

CHAIRMAN KRESTA: So, we're going to open up the hearing to allow the pilots' counsel to make whatever arguments they wish in support of the amended motion for reconsideration and present any additional evidence and then I will allow the objecting parties to do the same.

Before doing so, are there any new exhibits to be added to the record?

MR. LETOURNEAU: Mr. Chairman, we have marked as Exhibit K, which is a document that consists of 32 pages. It is indexed information with Brazos Pilots Association's first amended motion for reconsideration. Also, Seathoff notification: Brazos Pilots Association's first amended motion for reconsideration; Mr. Moore/BPA's objection; BPA's corrected financials; MSC's objection; Dole's objection; WGMA's objection; and BPA's response to WGMA's objection.

CHAIRMAN KRESTA: Okay. And anything else? We'll mark these exhibits as K.

(Exhibit K marked)

MS. SAATHOFF: Missy, you have copies for --

MS. BEVERS: Yes.

MS. SAATHOFF: -- available for those that want?

CHAIRMAN KRESTA: Commissioners note, it's this book right here. Make sure everybody has seen it.

MS. SAATHOFF: For the audience, Missy has copies if you --

COMMISSIONER SANTOS: For the record, this is the transparency we have for open record.

CHAIRMAN KRESTA: Does any party object to the introduction of these exhibits? If so, state your objection.

Does either party intend to call any witnesses to testify today? If so, each witness is subject to cross-examination by the other side.

Counsel for the pilots may --

MR. MOORE: Mr. Chairman, BPA has no intention of calling any witnesses but we do want to reiterate our objection to the introduction of any new evidence because the evidence was closed at the hearing on June 28th, 2017. We have no objections to the various pleadings that were made part of the record, including our objections to new evidence, our motions for reconsideration, and the objections of WGMA on behalf of MSC only and Dole's objection.

CHAIRMAN KRESTA: So, you are objecting to what we just entered in or what are you objecting to?

MR. MOORE: No, sir. I'm not objecting to the pleadings. I'm objecting to any evidence. The financial -- the updated financials that were offered into evidence I'm not specifically objecting to because those were provided at the request of the board. But I do reiterate that all of the

evidence was closed pursuant to the procedural rules adopted by the board and pursuant to those rules there is no additional evidence that can be adduced or considered at this proceeding, which is merely a motion to reconsider what was decided on July 10th.

MR. LETOURNEAU: Mr. Chairman, I recommend that you overrule Mr. Moore's objection. In this particular case, the Pilot Board has documents before it that have been submitted by the pilots association, including an amended motion for reconsideration as well as subsequent financial documents and the objecting parties have not to this point had an opportunity to state their positions on the record with respect to those submissions. And so, consequently, because they contain new information submitted by the pilots, the objecting parties should have an opportunity to address those issues before this board.

CHAIRMAN KRESTA: Objection overruled. So be it as noted. The pilots may speak first and the last. And who will be speaking for the pilots at this hearing?

Mr. Brown, how do you wish to proceed?

MR. MOORE: Randy Moore for Brazos Pilots Association.

CHAIRMAN KRESTA: Okay.

MR. MOORE: We've already submitted all of the evidence that would be necessary for the board to make a

decision in favor of the Brazos Pilots Association. And subject to our previously stated objections to any new evidence and without waiver of those objections, I would ask that the board go ahead and reconsider the evidence that BPA offered and that was admitted by the board at the June 28, 2017 hearing of this matter.

I would also ask that you consider in making your decision the transcript of the testimony presented by Brazos Pilots Association and its witnesses at the June 28 hearing. I would also out of an abundance of caution, given what counsel has advised you to do -- and I did want to point out, I am not objecting to any of the pleadings. I'm only objecting to the one offer of new evidence so that I don't waive my legal rights in the event of any necessary appeal. But out of an abundance of caution and subject to those previously stated objections, I would also offer, subject to those objections, the exhibits that were attached to BPA's original motion for reconsideration. And I would, subject to those objections, offer those updated financials that the board had requested and that Ms. Saathoff distributed to all the different parties on that date.

I do want to say with regard to the first amended motion that, again, just like before, the proposal of BPA is two-fold and sort of interconnected. In other words, the 2-3-4 increase is closely akin to 3-3-3 that we

originally proposed in our rate application. And that 2-3-4 is absolutely necessary to pay for the upkeep and maintenance of the new vessel since, as we know from the previous testimony, that's going to be a dual engine vessel. We're still hopeful that we can get the Tier 3 engines. We're running out of time to be able to do that. If we have to get Tier 4 engines because of the time constraints and the BPA rules, then quite frankly the 2-3-4 will not be sufficient to pay for all of the maintenance and upkeep of the new upgraded engines and meeting all of the TCRQ and RER requirements for those engines.

The 2-3-4 is also tied into the proposed unit charge and the surcharge that is part of the unit charge because that is what pays for the boat. So, that is still proposed to be a transparent path of pass through of money to Texas Bow Employees Credit Unit. Obviously it has to be collected by BPA pursuant to the Transportation Code and we will collect it but that money will be subject to the specific lien rights of Texas Bow Employees Credit Union. They will have a lien on that particular unit charge and surcharge until the boat is fully paid for. So that everybody can see that the money goes to them and whatever those collections of the unit charge and unit surcharge are each month, TDECU gets that money. BPA doesn't.

We're hopeful that if you approve of the unit

charge and the surcharge that you'll also consider that the 2-3-4 is an absolute and necessary component of that boat charge because that's the only way we can pay for the maintenance and pulling those engines out. You've already seen the cost of Tier 3 engine maintenance pursuant to our financials and the financials that Port Freeport provided you at the original hearing on June 28th. And so, it is imperative that if you're going to do one, you need to do both one and two so that, you know, we can maintain the boat and maintain the safety and efficiency of the port.

The only other thing I'll point out is we're still hopeful that we can squeeze enough money out of this proposal, if you choose to approve it, so that we can get at least a -- at least one or two competent deckhands to ride on that pilot boat along with our boat operator because that's what industry has requested. In fact, the board has mentioned that on a couple of occasions, Mr. Singhania specifically mentions that that's one of his wishes. But as you know, in order to get or retain anybody of any note or of any worth, we're probably going to have to pay those people at least \$40,000 annually.

With respect to the first amended motion, you know, we've been through a lot together. We are really, really hopeful that we can work together to get the boat and the surcharge done so that we can keep this port running the

way it has been running. And, again, I'll remind you this is the safest, most cost efficient port that there is along the Gulf coast and we want to keep it that way and we want your help in keeping it that way. And that's all I have at this point. Thank you.

MR. LETOURNEAU: Mr. Chairman?

CHAIRMAN KRESTA: Yes, Mr. Letourneau.

MR. LETOURNEAU: Mr. Moore made mention of the fact that he's offering exhibits to the original motion for reconsideration. The amended motion for reconsideration withdrew the original motion for reconsideration. And so, these exhibits are not part of the record and I would recommend denying the admissibility of the exhibits appended to the pilots' original motion for reconsideration.

CHAIRMAN KRESTA: Motion carried. Denied.

Next we'll proceed with the objecting parties' presentation. Who will be speaking for Dole and who will be speaking for MSC and how do you wish to proceed? Anybody? State your name for the record and who you represent.

MS. LARMOND: Shareen Larmond. I am with West Gulf Maritime Association representing Mediterranean Shipping Company. And did you want me to proceed?

CHAIRMAN KRESTA: That's fine.

MS. LARMOND: Thank you for this opportunity to be heard again regarding the motion for reconsideration on

the amended petition filed by the Bronze Pilots Association. Our argument is a simple one. The order issued originally on July 18th was final and complete. The pilots are now wanting to introduce a new application with new terms, including a 4 percent rate increase which was not introduced or financially supported in their original application. And one does not make an appeal or an argument that pertains to the order in place but is, yet, another bite at introducing another rate application.

We just heard that they want financial funding for deckhands, which was also not part of the evidence that was presented to this commission at the last hearing. It was not even ruled on by this commission as, yet, another example of somewhat a new rate application instead of arguments regarding the order that's already in place.

The board was quite clear and succinct in the discussion that the pilots should be able to account for needed items such as a pilot boat and not relying on industry for funding these necessary items as part of a business plan. And yet, again, they are asking for funding for this pilot boat.

To clear up anything, we will rely on the evidence that was presented at the previous hearing and support the final order as it was rendered on July 18th. And that is our argument.

CHAIRMAN KRESTA: Okay. Is there any more objecting presentations? State your name, please, and who you represent.

MS. RUIZ: Darlene Ruiz, Mediterranean Shipping Company. Thank you for having me back again.

CHAIRMAN KRESTA: Okay.

MS. RUIZ: We were under the --

MS. SARTHOFF: Where's the microphone?

MS. RUIZ: We were under the impression --

CHAIRMAN KRESTA: Hold on. Just make sure that's on.

MS. RUIZ: -- we had an agreement.

CHAIRMAN KRESTA: Is it on? I don't know if it's on. Just checking.

MS. RUIZ: We had an agreement. We agreed to the original decision. And we asked that the pilots -- the pilot association come up with a better business plan, audited financials. And with the original decision, we also asked that the Port pursue their proposal on the purchase of the pilot boat and also pursue their proposal on the dispatch service. But as far as we're concerned, we do not agree with any reconsideration that has been brought up. Thank you.

CHAIRMAN KRESTA: Anybody else? Thank you. State your name, please.

MS. WARBH: Sarah Warb with Hale Fresh Fruit.

I would like to address the comment also that Mr. Moore made. He said if this was approved, they could squeeze enough money for deckhands but then also said the 2-3-4 is for the maintenance cost and the boat (sic) fee for the boat fee. So, again, I'm a little confused now that they're asking for some of that money to go to an additional request.

The basic facts haven't changed. They were asking for a 3-3-3. Now it's a 2-3-4. In the end, it's 9 percent over three years, exactly the same thing that was denied. The pilot boat fee is structured different. It's a lower cost up front but the term to recover the capital investment is just being spread out longer. Essentially it's the same thing.

At the last hearing we noted some flaws and unaccounted revenue in the assumptions that were justified -- used to justify this boat. And those items remain unchanged. We've seen no additional data that's changing that. The vessel traffic will be increasing they claimed 15 to 29 percent but all of that revenue is still unaccounted for. Per the testimony by the CPA, he was asked to increase 3 percent for the next three years. That 3 percent only amounts to \$110,000 in additional revenue. On Page 89 of the testimony, the average pilot bill was said to be about \$4,000. If the pilots increased their movements by 20 vessels per month, which was their projection, that equals

\$900,000. So, where is the difference? It's not accounted for anywhere. The port users should not be forced to fully fund this capital asset which we receive no ownership in and then we have to turn around and pay a tariff to receive the services of the said asset. As it stands today, the tariff in place currently covers all of their expenses and is still enough to pay the pilots 37 to 39 percent above the average salary that was testified to.

From the outside looking in, it seems they made a business decision not to save for the most important tool they need to do their job. From the day they bought their last pilot boat, they knew the useful life of that asset and should have planned accordingly so when it came time, they would be able to purchase a new one.

The requested pilot fees are unreasonable and quite frankly Dole does not see why the lack of a clear business plan should negatively affect our bottom line. Our tone and demeanor would be completely different if the Brazos Pilots Association would have presented a capital plan where they have -- would have shown their efforts in funding a good portion of this project but just needed a little help. Unfortunately, the Association has not given us any indication of what financial investment they plan to do for this asset. So, we respectfully ask that you hold your decision to only do the 2 percent CEI increase for one year

and then come back and re-evaluate everything. Thank you.

CHAIRMAN KRESTHA: Thank you. Is there any more objecting parties? That's it. Okay. We'll go to pilots closing, if you have one.

MR. MOORE: Yes, sir, we do. First off, let me respond to some of the points that the objecting parties have attempted to make this morning. First off, the order of July 10th is clearly not a final order, as we stated in our objection that we filed to WQMA's objection the other day. We timely filed a motion for reconsideration of the July 10th order. I'll leave it to you to talk to your good counsel to find out what legal effect that has. But essentially the legal effect of that is to stay the effect of the July 10th order until all remedies have been exhausted -- administrative remedies and you have ruled on either the motion to reconsider or the first amended motion to reconsider. There never was a final order. That's why we're here and that's why we're having this public meeting today. It's a fairly simple legal process to figure it out and I'll leave it to Mr. Cordoba to give you that legal advice.

Again, we keep hearing about audited financials. I would invite the objecting parties and the board to reread Chapter 68 of the Transportation Code which governs all of our operations and deliberations here today. If you find the word "audited financial statement" in there

anywhere, please E-mail it to me because I've read it a hundred times and it doesn't contain that word. And we're not obligated to provide anybody any audited financials. We are obligated to provide you the financial information that is specifically set forth in the Transportation Code and until the legislature changes that, that is exactly what EPA intends to do. We intend to fulfill all legal obligations.

With regard to the lady from Dole's confusion about deckhands, I wish she would have listened more closely. What I said was I hoped that we could squeeze enough money out of the 2-3-4 to maybe get a deckhand. So, words are important, I understand that, which is why I was careful in couching my words as being hopeful. I can't promise anything because the 2-3-4, I'm afraid, may not be sufficient to actually maintain these engines and to get them overhauled as required by the manufacturer if they're Tier 4 engines. And we've already gone over that quite a bit.

With regard to the unit charges that are proposed in the first amended motion for reconsideration, I don't think it takes a math genius to figure out that the charge or the amount paid per movement by a smaller vessel will be much less than the cost per movement to a larger vessel when you base it on a unit charge and a surcharge. So, you haven't seen any evidence that it is going to detrimentally affect either Dole or MSC and you won't because

1 there is no such evidence.

2 Nate regard to the final matter, as we pointed
3 out at the hearing on June 28th, the rate increase requested,
4 both Items 1 and 2 does not enrich in any way any individual
5 pilot of Alamos Pilots Association. The 2-3-4 is there to
6 maintain the boat, to maintain those engines, and hopefully
7 if there's any excess -- which I don't think there's going to
8 be quite frankly -- maybe we can get a deckhand on a boat for
9 a change. But given what we've gone through so far, we just
10 didn't want to reach that far at this particular point in
11 this venture. But I will point out that the unit charge, as
12 I said before, is transparently going to go straight from BPA
13 to a bank so we can further enrich the financial system of
14 the United States. It's not going to us.

15 And by the way, it doesn't take a math genius
16 to figure this out either. In about a year, there's going to
17 be two additional -- possibly two additional branch pilots
18 coming on board to BPA. Now, when you do division, I believe
19 that when the number is divided by a larger number, you
20 always get a smaller number. So, in this particular
21 instance, any earnings that may be currently going to the
22 three pilots, obviously will be decreased by the increased
23 number of branch pilots simply because the divisor is now
24 larger. And so, I do want to reiterate, it is -- this is not
25 an individual pilot-enriching rate application. This is one

1 that took three years to bring before you. We have the
2 support of everyone at the port except for MSG and Dale.

3 So, we ask again that you consider the letters
4 of support that have been sent to you by BP, Osaka, Fireport
5 LNG, Dow Chemical, Phillips 66, and the others and that you
6 support this rate application and that you pass it. Thank
7 you.

8 CHAIRMAN KRESTA: Thank you. Pursuant to
9 Texas Government Code Section 68.066, the Pilot Board may
10 require relevant additional information it considers
11 necessary to determine a proper pilotage rate. In that
12 light, I have the following additional questions for the
13 pilots. You were talking about -- first of all, I want to
14 ask about the engines. You went from Tier 3 to Tier 4. At
15 this time which ones are being ordered?

16 Mr. Moore, I asked you because you said three
17 times Tier 3, Tier 4. Which one is ordered?

18 CAPTAIN BLANTON: We haven't ordered anything
19 yet.

20 CHAIRMAN KRESTA: Which one are we going to
21 get?

22 MR. MOORE: If we get it by September 1st, if
23 we get an order --

24 CHAIRMAN KRESTA: That's six days away.

25 MR. MOORE: That's correct.

1 CHAIRMAN KRESTA: Is there a ruling on
2 June 1st about engines being a certain class? I'm asking.

3 MR. MOORE: I don't know the answer to that.

4 CHAIRMAN KRESTA: I'll direct that back to
5 you, Daniel.

6 CAPTAIN BLANTON: It depends on the
7 horsepower. So, we were at -- the 805 horsepower is the
8 cutoff. So, that's -- that's where we're trying to get. I
9 talked to the boatbuilder and we have some room on that and
10 what we could do. But it's not just us ordering the boats.
11 That's the problem that we're running into is everyone is
12 trying to get under this threshold. The thing that's really
13 going to nail us is there's four double hull New York State
14 ferries that are going in the line right in there. So, you
15 have multiple, multiple keels trying to get laid.

16 CHAIRMAN KRESTA: Tier 3 or Tier 4?

17 CAPTAIN BLANTON: If we can get a decision
18 quickly, we can get a Tier 3.

19 CHAIRMAN KRESTA: Is it best to go to Tier 4?
20 I'm asking.

21 CAPTAIN BLANTON: No.

22 CHAIRMAN KRESTA: And the reason?

23 CAPTAIN BLANTON: I'm not an engineer but --

24 CHAIRMAN KRESTA: No. No. No. It's just
25 my -- I'm asking for the most --

1 CAPTAIN BLANTON: Operational maintenance
2 costs are going to be increased in Tier 4 engines. We can do
3 our job cheaper, safely, and more efficiently for all of our
4 customers with Tier 3 engines.

5 CHAIRMAN KRESTA: Fair enough. Because I'm
6 just going to the point of when will there be a requirement
7 where the Tier 3 is out of date versus a Tier 4 coming into
8 date? That's what I'm asking.

9 CAPTAIN BLANTON: We'll be grandfathered.
10 Once we get the keel and the engine identified, we'll be able
11 to stay there.

12 CHAIRMAN KRESTA: Okay. And we'll start with
13 the questions from the board and see if you have any
14 questions they would like to pose to the pilots. And Rody,
15 would you like to start this off, Commissioner Santos?

16 COMMISSIONER SANTOS: Just a clarification on
17 the Tier 3. Is it bigger than 800 horsepower that we need to
18 get or lower than 800 horsepower?

19 CAPTAIN BLANTON: It depends on if you set it
20 up as continuous duty or intermediate duty. And so, there's
21 things that we can do if we're going to go with the QCM 19s
22 or the C 18s or the different manufacturers to keep you where
23 you're at underneath that 805 horses.

24 COMMISSIONER SANTOS: 895. Okay. And, again,
25 for the record, if everything goes -- hopefully -- what are

1 you going to do with the old boat?

2 CAPTAIN BLANTON: So, from a -- from our
3 standpoint economically it doesn't make sense to keep that
4 old boat. If -- the bank has a lien on it. If the bank
5 would release the lien, I would hope that we could apply for
6 a TERP. If we are approved for a TERP and the bank accepts
7 that, then we'll give that money to the bank to pay off the
8 principal. That's our plan. We don't -- for us to have to
9 store and maintain that extra boat is a cost that -- it's not
10 in our best interest. So, we'll -- if we can get it out of
11 our assets, it's going -- the bank has a lien on it. So,
12 whatever we do with it they're going to have to approve it
13 and it will go to the principal. Does that make sense?

14 CHAIRMAN KRESTA: Is that the oldest of two
15 boats right now or is that the --

16 CAPTAIN BLANTON: That's the 36-year-old boat.

17 CHAIRMAN KRESTA: Just clarifying.

18 CAPTAIN BLANTON: We have to have at a minimum
19 two boats.

20 CHAIRMAN KRESTA: I know. I just wanted to
21 clarify that.

22 COMMISSIONER SANTOS: And the bank has a lien
23 on the oldest boat?

24 CAPTAIN BLANTON: It will have a lien on both
25 boats.

1 COMMISSIONER SINGHANIA: Shane, turn your
2 speaker on.

3 COMMISSIONER PIRTLE: I'm sorry. Audited
4 financials are something that we did ask for because we
5 thought what we received were a little bit weak and there was
6 some difficulty in understanding some of that. So, we needed
7 that so we knew what was going on because we are the ones
8 that are responsible for making a rate increase.

9 I guess the other one I would say is I wish we
10 had been at this point six months ago making a decision
11 instead of at the line of the point where you need to make
12 these -- this order done quickly on the boat. Other than
13 that, I don't really have any questions at this point.

14 CHAIRMAN KRESTA: Commissioner Terry.

15 COMMISSIONER TERRY: Yes. Do I understand
16 there's been no order placed for a new pilot boat? None?

17 CAPTAIN BLANTON: No. I have been in
18 communications with the shipbuilder and, you know, they're
19 very -- they want to build our boat. They understand our --
20 the time constraints we're working with. And they will work
21 with us if we can find resolutions soon. Currently we have
22 no order.

23 COMMISSIONER TERRY: Okay. Thank you.

24 CHAIRMAN KRESTA: Commissioner Singhania.

25 COMMISSIONER SINGHANIA: Thank you. I have

1 COMMISSIONER SANTOS: The new one and the old
2 one?

3 CAPTAIN BLANTON: The new and old one to get
4 this new boat. That was a condition. And they have the
5 first lien on the tariff.

6 COMMISSIONER HOSS: All three boats plus the
7 tariff?

8 CAPTAIN BLANTON: Yes.

9 CHAIRMAN KRESTA: Thank you, John. That's
10 where I was heading.

11 COMMISSIONER SINGHANIA: Can I clarify one
12 question? The tariff -- I'm sorry -- the tariff you're
13 mentioning over here, is the tariff --

14 CAPTAIN BLANTON: The line charge.

15 COMMISSIONER SINGHANIA: -- the specific item
16 for the boat?

17 CAPTAIN BLANTON: Correct.

18 COMMISSIONER SINGHANIA: I just wanted to be
19 sure. Thank you.

20 CHAIRMAN KRESTA: Commissioner Pirtle, any
21 questions?

22 COMMISSIONER PIRTLE: No direct questions, I
23 guess. Audited financials were one of those things that we
24 did ask for to address but we did ask for those because what
25 we received, we thought, was a little bit weak --

1 only one comment, if I may. When you talk about safety and
2 you're talking about third deckhand, to me it's not a
3 question of whether there is a rate increase or not. I
4 believe in you don't do anything if you think it's unsafe.
5 It doesn't matter how it impacts your profit or what. So,
6 the adding of the deckhand should not be tied to, in my mind,
7 in my business, to the rate increase. That's what I want to
8 say, sir.

9 CAPTAIN BLANTON: But, I mean, the -- if you
10 look at the whole system as an overall safety concept, the
11 boat is a part of the safety concept, the dispatch is part of
12 the safety concept. It's all tied into safety together. So,
13 to identify one specific part -- you know, if you push the
14 balloon in somewhere, you just create a bubble somewhere
15 else. But I understand your sentiment, sir. But the whole
16 concept of the Brazos Pilots is a safety program.

17 COMMISSIONER SINGHANIA: You mention about --
18 earlier in your testimony about a pilot getting -- going
19 overboard, you know. I remember that incident very well
20 because that pilot was my friend and his son was a good
21 friend of my young boy, too. So, it still pains me to have
22 that. I did not know that you did not have a third deckhand
23 that would help. But anyway, that's one comment I want to
24 make because no amount of profit should be put first above
25 safety.

CHAIRMAN KRESTA: Thank you, Commissioner
Boss.

COMMISSIONER BOSS: Yes, sir. I have a couple
questions and comments on the financial information that's
been presented. I realize that this is not audited. It's
just been cleaned up from the last presentation. And I note
that after the cleanup, you now show a profit for the year of
2016 versus the 260,000-dollar loss that was previously
represented. And I think that that goes towards why the
board has mentioned audited because it's quite apparent that
there needs to have been some help. I apologize for that.

The comment was the financial information
that's been presented now shows a \$2,000 -- almost a
93,000-dollar profit for the year versus the two hundred and,
I think it was, sixty thousand -- I'm working from memory --
of the -- presented at the last hearing. And while this is
not an audited financial, it's much cleaner. I also note a
few items now that stand out. The repair and maintenance for
the year on the boat looks to be about \$26,000. Is that a
"yes" or a "no"?

CAPTAIN BLANTON: It depends on the boat and
what we did that year. But to your point, if you would have
listened in the hearing, the accountant told you that the
reason that those numbers were different was because of the
buyout of John Ganning. And the reason that there was a

difference is because it hasn't been corrected for the taxes
yet. He testified to that. And he testified that those
balances would be reconciled once they did the taxes. That
was the statement from our accountant. That was the
explanation on the gap between the two hundred and the
92,000.

COMMISSIONER BOSS: But those were presented
as loss.

CAPTAIN BLANTON: And they were reconciled.

COMMISSIONER BOSS: And I'm looking here, I
see some other questionable items. The accountant charges
31,000 to do your books. That's a lot of money. The -- my
point is from what I was presented in the last hearing, we
now have a lot cleaner-looking information and for what I was
asked to act on in the last hearing, I could not in good
conscience support. Now I have much better information to
work with.

Captain Blanton, can you tell me what the
minimum charge is to move a vessel -- that EPA charges to
move a vessel? What's your minimum?

CAPTAIN BLANTON: I believe it's just under a
thousand dollars.

COMMISSIONER BOSS: But you do have a minimum
charge?

CAPTAIN BLANTON: There is a minimum charge,

correct.

COMMISSIONER BOSS: Do you have very many of
those?

CAPTAIN BLANTON: We do have some. They run
the whole gamut. We do everything from the small survey
boats, which are typically the minimum charge, all the way up
to the crude oil ships. But the trend here lately is that we
get larger vessels. So, the number of minimum charges that
we do are becoming fewer and far between. We do less of
them. But I mean, some clients, you know -- if I can use
Linda, for instance. Linda when she brings in the big survey
fleets, we'll get a whole slew of the minimum charges. And
there's no liner services in particular and there's no large
frequent trades that produce minimum charges. Typically it's
project gear or someone who has a specific purpose. Mostly
tied with the oil and gas that produces a minimum charge.

COMMISSIONER BOSS: And I have always assumed,
apparently incorrectly, that the pilots -- the branch pilots
are the owners of the EPA, of the association; is that
correct?

CAPTAIN BLANTON: That's correct.

MR. MOORE: That's correct.

COMMISSIONER BOSS: And would they not be
equal owners?

MR. MOORE: They are equal owners.

CAPTAIN BLANTON: They are.

COMMISSIONER BOSS: Can you explain the
discrepancy in the balance sheet that shows that there's --
they're not equal owners? That they're not of equal value.

CAPTAIN BLANTON: They do have equal value.

MR. MOORE: Not aware of any discrepancy.

COMMISSIONER BOSS: May I read you the
numbers?

MR. MOORE: You sure can.

COMMISSIONER BOSS: Captain Tier owes a value
of 300,000; Captain Blanton, 320,000; Captain Burns,
\$160,247.13.

CAPTAIN BLANTON: If I can explain that.

COMMISSIONER BOSS: Please.

CAPTAIN BLANTON: The value of the asset is
measured annually and when Captain Blanton bought in six
years ago and when Captain Burns bought in 15 years ago,
depending on the capital assets, the evaluations of the boat,
the evaluations of the real property value, that number
changes. If you read 68, it specifically tells you how to
evaluate Brazos Pilots Association. And we evaluate Brazos
Pilots Association in accordance with Chapter 68. That's a
real value of the current -- of the boat, the property, and
the liquid cash we have on hand.

COMMISSIONER BOSS: Okay. I have no further

1 questions at this time, Mr. Chairman.
2 CHAIRMAN KRESTA: Thank you, sir. I want one
3 more -- you know, talking about the Chapter 68 to provide
4 financials and it's not in Chapter 68 to provide a tariff for
5 the boat. So, when you go with this tariff for the boat, the
6 board may require relevant conditional information it
7 considers necessary to determine the proper pilotage rate.
8 So, if we're calling this a pilotage rate for the boat, then
9 we are requiring more information and that's the way it
10 reads. Now, we require that information to be transparent.
11 So, if you want to follow Chapter 68, that's how it's read.
12 Is that right, Mr. Moore? And that's what it says.
13 MR. MOORE: No. I tend to disagree with you.
14 It does say in Chapter 68, the particular provision that
15 you're reading -- I don't have my book in front of me but it
16 does say that the board can request additional relevant
17 information. To me -- and I think it says relevant financial
18 information. You probably --
19 CHAIRMAN KRESTA: I just read it to you. The
20 board may require relevant additional information. And
21 relevant means whatever they consider relevant for the
22 tariff.
23 MR. MOORE: That's exactly right. Relevant
24 to --
25 CHAIRMAN KRESTA: That's why I'm asking.

1 can't exceed the literal terms.
2 CHAIRMAN KRESTA: In my book and your book
3 it's limited by how we interpret it. That's how it is.
4 MR. MOORE: Or how it's read, that's correct.
5 CHAIRMAN KRESTA: Or how it's read --
6 interpreted, read, whatever.
7 MR. MOORE: Unfortunately for us, we elect all
8 of those people that wear those black robes and they
9 interpret it finally for us so we know what it means.
10 CHAIRMAN KRESTA: Unfortunately for us we hire
11 lawyers to interpret it different ways.
12 MR. MOORE: I hear you. My -- I assure you,
13 my clients understand exactly what you're saying.
14 CHAIRMAN KRESTA: All right. I just wanted to
15 make that point understood.
16 COMMISSIONER TERRY: Mr. Chairman, I have
17 another question to clear my mind up. How can you be in
18 business for 17 years and not make an arrangement for a piece
19 of equipment that you are going to wear out that makes you a
20 living? That doesn't make sense to me. And how are you
21 going to get the next boat after this one wears out another
22 15 years from now if you don't put some funds away to buy a
23 boat with? Has this become a practice in business that
24 hasn't been carried through with?
25 CAPTAIN BLANTON: It's a very distinct animal.

1 MR. MOORE: Relevant to the rate application.
2 CHAIRMAN KRESTA: And the rate application is
3 a tariff. As far as the boat fee, that's a tariff. And
4 that's the rate application because you've got 2-3-4 --
5 MR. MOORE: That's right.
6 CHAIRMAN KRESTA: -- and you're going to put
7 as a tariff rate or anything else. So, the board can require
8 it. And that's --
9 MR. MOORE: The board can request it.
10 CHAIRMAN KRESTA: Require, request. I'm
11 looking at require.
12 MR. MOORE: If you're looking at require, then
13 your requirement has to be in accordance with the provisions
14 of Chapter 68.
15 CHAIRMAN KRESTA: It says additional
16 information.
17 MR. MOORE: And so, we've provided the
18 additional information that you requested. I do not think --
19 and I don't know that we're ever going to agree to this --
20 that if the specific financial information that is required
21 to be provided by BPA for a rate application doesn't include
22 audited financials, that you can, then, read in audited
23 financials because of that one provision at the end that said
24 additional financial information may be required. You're
25 still limited by the literal terms of the statute and you

1 the pilots organizations. There's no other business that has
2 to go before a board to set its rate. If you look at the
3 history of how boats are bought up and down both coasts, this
4 system is -- of what we suggest is how dozens and dozens of
5 pilot boats -- it's because it's transparent. If you put the
6 fee in the tariff, you cannot pull that fee back out. So, in
7 order to get transparency so everyone can see where the money
8 is going, that's why you do these as an individual line
9 charge, so everyone can see. The whole purpose of the tariff
10 is to try to get transparency. And we have one of the lowest
11 rates there is.
12 We're not trying to re-invent the wheel on how
13 to buy pilot boats. This is the standard. This is what
14 industry has asked us to do. The alternative to buy pilot
15 boats is to put all of this into a big fungible account that
16 lacks the transparency that this board is requesting. That's
17 why we do it on the individual line charge. And it is not
18 distinct to Freeport what we're requesting. Almost every
19 single boat that's currently financed or being paid for in
20 the state is financed under a scheme similar to this. This
21 is also done in Louisiana, up and down both coasts. This is
22 the norm. This is not the exception, I assure you.
23 COMMISSIONER TERRY: You're telling me it's
24 not the norm to set aside funds to replace the boat with and
25 take it all out in salaries?

1 CAPTAIN BLANTON: No, sir, it is not, unless
2 it was specifically asked for on the tariff to identify for
3 the boats. Previously what they did is they dropped pilots
4 off the bar to pay for the boats in Freeport. But that's not
5 the position that we're in now. We're in a position that we
6 have to add more pilots onto the bar.
7 COMMISSIONER TERRY: What would you say the
8 average salary of a pilot was for last year? Annual salary.
9 CAPTAIN BLANTON: I think we testified to
10 that.
11 COMMISSIONER HOSS: What was it?
12 CAPTAIN BLANTON: In the high four hundreds.
13 COMMISSIONER HOSS: How many --
14 CHAIRMAN KRESTA: Commissioner Hoss, Terry,
15 are you through?
16 COMMISSIONER TERRY: Yes, sir.
17 CHAIRMAN KRESTA: Hoss.
18 COMMISSIONER TERRY: Thank you.
19 COMMISSIONER HOSS: How many years have pilots
20 been operating here in Freeport?
21 CAPTAIN BLANTON: Well, I mean, how far back
22 in the annals do you want to go? The original pilot in
23 Brazos was a guy named Jeremiah Brown. He was also the
24 captain of a small ship called the POKET that was captured.
25 It later became the INVINCIBLE and that ship was the one that

1 fired the first shots in the battle for Fort Velasco.
2 COMMISSIONER HOSS: Good. I probably could
3 have safely just said that the only time there wasn't a pilot
4 was when Stephen F. Austin showed up.
5 CAPTAIN BLANTON: Jeremiah Brown was the man.
6 COMMISSIONER HOSS: Good for Mr. Brown.
7 And --
8 MR. SPATHOFF: I learned something today.
9 COMMISSIONER HOSS: I love history. Did --
10 previously how have the pilots paid for their boat?
11 CAPTAIN BLANTON: The 36-year-old boat, I do
12 not know on that one. I know for the 17-year-old boat they
13 dropped pilots off at the bar.
14 COMMISSIONER HOSS: Please explain that
15 statement. I'm not familiar with it.
16 CAPTAIN BLANTON: They reduced the number of
17 pilots and they used those fees to pay for the boat.
18 COMMISSIONER HOSS: How many -- what's the
19 maximum pilots that you're aware of we've ever had?
20 CAPTAIN BLANTON: As far as I know, the
21 maximum number of pilots -- and, again, it depends on the age
22 of the pilots, you know. We're in a position now that we
23 took extra pilots. The most that I know of was six.
24 COMMISSIONER HOSS: So, we've had up to six
25 pilots. Today we have three pilots; is that correct?

1 CAPTAIN BLANTON: We have -- well, we have
2 three pilots and two deputies. So, that will be five.
3 COMMISSIONER HOSS: Two in training. They're
4 not qualified to charge for services; is that correct?
5 CAPTAIN BLANTON: I don't think you understand
6 how it works. When the ship and the tariff moves, if a
7 deputy pilot is eligible, we charge the tariff. So, if a
8 pilot -- a full branch pilot or a deputy pilot moves that
9 ship, the tariff that this board set is the rate that we
10 charge.
11 COMMISSIONER HOSS: Okay. So, basically right
12 now we have five pilots, then; is that correct?
13 CAPTAIN BLANTON: No, sir. A pilot has a
14 branch pilot commission from the State of Texas. The two
15 deputies are working on deputy pilot certificates.
16 COMMISSIONER HOSS: But they still charge for
17 being pilots?
18 CAPTAIN BLANTON: The association charges on
19 their behalf and it charges the fee that is set by this
20 board, the tariff.
21 COMMISSIONER HOSS: Now I'm not understanding
22 the difference between the branch pilots and the deputy
23 pilots.
24 CAPTAIN BLANTON: It's in 68.
25 COMMISSIONER HOSS: If there's no difference

1 in your charging and -- but there's a difference in their
2 authority; is that correct?
3 CAPTAIN BLANTON: I would strongly recommend
4 you read 68 and it outlines the difference between a branch
5 pilot and a deputy branch pilot. The pilots can only charge
6 the tariff that this board sets. You cannot charge a
7 different rate, any more or any less.
8 COMMISSIONER HOSS: Let me get off the rate,
9 then. The three branch pilots are the ones that are owners
10 in the association; is that correct?
11 CAPTAIN BLANTON: Correct. The three branch
12 pilots are the only people that are eligible to own the
13 association. The two deputy branch pilots are employees of
14 the Brazos Pilots Association.
15 COMMISSIONER HOSS: To me that's a good enough
16 differential. I appreciate that. No further questions.
17 CHAIRMAN KRESTA: Okay. Thank you. Any more
18 questions by the board? All right. Let's take a short break
19 here. We'll go into recess for just a minute and take a
20 short break and we'll reconvene here in just a little bit,
21 about ten minutes.
22 (Recess from 10:34 to 10:45)
23 CHAIRMAN KRESTA: We'll come out of recess at
24 10:45. At this time we're out of recess and going back to
25 the public hearing. Deliberations, is that the step we're at

1 right now?

2 We're back out of recess and -- for this

3 hearing. We are in the deliberations part of it. And we'll

4 be talking for the pilots here -- pilot board to come to an

5 agreement on the issues at hand. But we're going to ask the

6 pilot board members to vote on each aspect of the pilots'

7 amended motion for reconsideration. You may vote for,

8 against, or propose a modification to each request as stated.

9 The first one we're going to talk about is a

10 2 percent rate increase for one year on the effective date of

11 the final order followed by a 3 percent for the one year

12 commencing on the 366th day after effective date of the final

13 order, and followed by the subsequent 4 percent rate

14 commencing on the 731st day of the effective date of the

15 order. Would anybody like to have any discussion on this

16 right now before we go into the motions as far as the board

17 is concerned?

18 COMMISSIONER SINGHANIA: May I?

19 CHAIRMAN KRESTA: Yes, sir, Commissioner

20 Singhania.

21 COMMISSIONER SINGHANIA: My feelings are still

22 the same as last time, with that addition of branch pilots

23 and the way you are seating the crew for the future growth.

24 So, rate increase is, to me, very acceptable. And also just

25 looking at the proceedings that -- what we have gone through

1 would be granting rate increases far into the future and we

2 don't have the ability to monitor that and check our progress

3 along the way. That's why I am reluctant to grant a rate

4 increase that exceeds a 12-month period.

5 CHAIRMAN KRESTA: With that respect, I'll

6 speak -- Commissioner Hoss. If you're through.

7 COMMISSIONER HOSS: Yes, sir. I'm done.

8 CHAIRMAN KRESTA: If we were to talk about

9 having a rate increase for three years -- for one, two, and

10 three -- we can require each year to have financials provided

11 to us in the order. And that's our -- that's according to

12 the code here and hire anybody that wants to interpret it.

13 I'm going to interpret it every year there's an increase --

14 if you get an increase that year, you're going to provide

15 financials. I don't care when it's voted on but I can say

16 that, too, as far as when we require it. It says require at

17 each rate increase. So, if the rate increase takes place

18 this year, next year, next year, you should be able to get

19 financials and that's requiring -- it says requiring it right

20 here.

21 COMMISSIONER HOSS: Okay.

22 CHAIRMAN KRESTA: I'm going by what the code

23 is and what was brought to our attention, the reason I'm

24 saying that.

25 COMMISSIONER FIRTLE: I might also add there

1 for a month and a half or two, the amount of time it takes to

2 process a rate request is quite a bit. So, I would like our

3 board to consider whatever we do but do it for three years so

4 that it saves us the time and agony and it's not that big of

5 a deal whether it is one year, two year, three years. So, we

6 consider the three-year part.

7 CHAIRMAN KRESTA: Okay. Would anybody else

8 like to discuss this one? Mr. Hoss.

9 COMMISSIONER HOSS: Yes, sir.

10 CHAIRMAN KRESTA: I seen you reach for it as

11 the reason I was asking.

12 COMMISSIONER HOSS: Yes, sir. Thank you.

13 Commissioner Singhania, I would like to address that time

14 frame. I believe that while this board has asked for

15 financial information and we've gone to a lot of effort to

16 get good, clean financial information that we're -- that we

17 can use for decision making purposes and it's been pointed

18 out that only under the water code it's not required to have

19 audited financial information. That's just a request on our

20 part, which actually the request, I believe, is to make sure

21 it's good, clean, and solid. And I know that we would need

22 that to monitor the financial information over whatever the

23 period is that you feel comfortable with, two, three years.

24 And I would -- don't see any assurances that we would be

25 getting that ability to monitor the information. So, we

1 was, I believe, an agreed-upon direction of using agreed-upon

2 procedure from Kennemer Masters as far as auditing

3 financials.

4 COMMISSIONER SINGHANIA: I'm sorry?

5 COMMISSIONER FIRTLE: In part of the

6 discussions back and forth with BPA, there was an agreed-upon

7 decision to use what's called agreed-upon procedures for

8 auditing.

9 COMMISSIONER SINGHANIA: Here or somewhere

10 else?

11 COMMISSIONER FIRTLE: In our previous

12 discussions with BPA.

13 COMMISSIONER HOSS: Have the pilots actually

14 agreed to that? I didn't hear that. If so, I'm remis. But

15 whether they did or they didn't, the -- Paul, I would -- I

16 would be open to a multi-year increase that if the financials

17 were not received that that increase immediately cease until

18 those are in place. So that if we granted a two-year or

19 three-year period, then if we didn't receive the quality

20 financial statements, say, within 30 days, the end of the

21 year, that that -- those rates actually just go away, they

22 stop or revert back to what they were when they started. I

23 would be okay with that.

24 CHAIRMAN KRESTA: Just seeing how you felt

25 about that. Does anybody have any more weigh-in on it?

1 Terry.
2 COMMISSIONER TERRY: You know, I would -- I'm
3 not -- for -- we voted this one year that -- take a look at
4 it and it doesn't have to be 2 percent next year. If it
5 needs more but how about the increase in business? If it
6 generates more that -- in the coming years because new
7 business coming in, which we're very hopeful for but I -- if
8 the rest of my fellow commissioners wants to go for two years
9 and take a look at it, I would be apt to do so.
10 CHAIRMAN KRESTA: Okay. And Pavi.
11 COMMISSIONER SINGHANIA: May I ask a question?
12 A 2 percent increase, if I heard numbers -- and Phyllis,
13 please help me or somebody -- was like \$189,000 based on last
14 year. What is the 2 percent increase?
15 MS. SPATHOFF: The pilots should be able to
16 answer that.
17 COMMISSIONER SINGHANIA: I heard a number
18 189,000 thrown out.
19 MS. SPATHOFF: Sixty-eight. It's closer to
20 sixty-eight or seventy.
21 COMMISSIONER SINGHANIA: 70,000 for two
22 year -- 2 percent increase?
23 MS. SPATHOFF: Based on --
24 CAPTAIN BLANTON: It's sixty grand.
25 COMMISSIONER SINGHANIA: That's -- my question

1 is like if you're looking at 60,000 or 70,000 or 80,000,
2 whatever it is, hey, that -- to come over here, already takes
3 smaller than that, you know -- I'm sorry. Maybe, or whatever.
4 I mean, there's a lot of cost involved and time involved.
5 So, that's why I was thinking three years is much more
6 reasonable and I'm sure attorneys might not like that.
7 CAPTAIN BLANTON: If you could -- you're
8 getting away from the point of it. The point is for the
9 engines. If you want someone to go out and buy an asset that
10 requires a certain amount of capital investment for the
11 engines, if we can't get the threshold of the 2-3-4, then we
12 need to look at a smaller boat or we need to look at a
13 different option because a 65-foot boat is what we were
14 targeting. The 2-3-4 is what we were targeting because
15 that's what we talked about with industry.
16 CHAIRMAN KRESTA: Thank you. We're right now
17 looking at commissioners to finish talking on deliberations.
18 CAPTAIN BLANTON: Sorry.
19 CHAIRMAN KRESTA: That's fine. You asked a
20 question. That's fine.
21 COMMISSIONER SANTOS: Mr. Chairman --
22 CHAIRMAN KRESTA: Yes, sir.
23 COMMISSIONER SANTOS: -- right now we have a
24 2 percent granted for one year. And above and beyond that we
25 have policy where we're setting some procedures with our

1 auditors so we can get some clean, good, and solid
2 information. With 2 percent for this year, let's just set
3 the precedent, keep it at 2 percent. Let's see what kind of
4 good, clean, and solid information we get next year and then
5 at that time do the three and four. That's just my take at
6 it. Right now I would like to see what kind of -- what kind
7 of material we would be getting every year because it's going
8 to be important for us to review that good, clean, solid --
9 and I keep saying that because it's quoted here.
10 CHAIRMAN KRESTA: Yes, sir. All right.
11 Mr. Pirtle.
12 COMMISSIONER PIRTLE: Yes, sir. I guess, just
13 one of those occasions when I tend to agree with
14 Commissioner Singhanian that I don't want to go through
15 another rate increase next year and the following year and
16 this discussion. And I know from consideration of the pilots
17 they need to have something to plan on for the next few
18 years. Doing 2 percent now and then coming back and doing
19 2 percent next year and 3 percent or whatever it may be also
20 makes it difficult on a business planning standpoint. So, I
21 would tend to agree with going with whatever we do, whether
22 it's -- whatever that percentage is for a three-year period
23 and let's set that. We always have the opportunity to come
24 back and look at it. But I don't see a lot of change there.
25 It would be a little bit of an increase and, of course,

1 that's additive but whatever the percentage is I think we
2 need to make that action for three years.
3 COMMISSIONER TERRY: Mr. Chairman --
4 CHAIRMAN KRESTA: Yes, sir, Mr. Terry.
5 COMMISSIONER TERRY: -- I would like to point
6 out that, you know, we're obligating more that won't even be
7 seated here in three years from now. The problem is in some
8 cases that there will be an obligation there that the
9 commissioners won't be here. So, we're reaching beyond the
10 scope of this board even.
11 COMMISSIONER PIRTLE: I would point out that
12 we do that in almost every one of our contracts that we sign
13 out to 50 years.
14 COMMISSIONER TERRY: You want to make this 50
15 years with the pilots?
16 COMMISSIONER PIRTLE: No, sir.
17 COMMISSIONER TERRY: Okay.
18 COMMISSIONER PIRTLE: I don't think most of
19 these pilots are -- even the branch -- the deputy pilots may
20 not be here in 50 years.
21 COMMISSIONER SINGHANIA: Mr. Chairman --
22 CHAIRMAN KRESTA: Yes, sir.
23 COMMISSIONER SINGHANIA: -- one comment
24 about -- I should have figured that out what Captain Blanton
25 said with the income of \$3.1 million in 2016, the 2 percent

1 is \$62,000.
2 CHAIRMAN KRESTA: Yes, sir.
3 COMMISSIONER SINGHANIA: I'm trying to confirm
4 that. Thank you.
5 CAPTAIN BLANTON: Math is irrefutable.
6 COMMISSIONER SINGHANIA: I'm sorry?
7 CAPTAIN BLANTON: Math is irrefutable.
8 COMMISSIONER SINGHANIA: Yeah. I should have
9 done that myself. Thank you. If I say, based on that,
10 2 percent being 60,000 and even if you are off by -- some
11 think \$120,000 a year is not going to make a big difference
12 until we get the statement again. That's my question.
13 CHAIRMAN KRESTA: Okay. Would any other
14 commissioners like to add anything to this?
15 COMMISSIONER HOSS: Yes, sir.
16 CHAIRMAN KRESTA: Okay.
17 COMMISSIONER HOSS: We have a -- we've
18 discussed the time frame. And the ask here is -- it's a --
19 over a three-year period and we have multiple rate increases
20 starting the first year at 2 percent, second year 3 percent,
21 third year 4 percent. And I don't believe anybody really has
22 a problem with the CPI increase. And that was my support of
23 this rate increase at the last meeting is that that was about
24 the -- in line with the CPI. And, again, I'm reluctant to go
25 three years into the future because we don't know what the

1 CPI is going to be. We don't know if it's going to be
2 4 percent or 2 percent or 1 percent.
3 And if we're sort of taking a shot at that,
4 then we ought to grant them like a 2 or 2 1/2 percent over a
5 multi-year period because that would be more in line with
6 what I've seen is the CPI. I'm -- I don't know -- I'm not
7 comfortable with these different rate increases that jump up
8 and down and I'm not comfortable with the justification that
9 this has to do with the maintenance of the boat. We keep
10 adding things back in that -- it's a brand-new boat. It's
11 not going to have any significant maintenance for the next
12 year or two. And if you're worried about the maintenance of
13 the boat that's going to last for 15 or 20 years, then why
14 are we only asking for a three-year rate increase? I go with
15 Mr. Terry, why wouldn't we do it for the life of the boat?
16 So, I'm cluttering these things. I can see a
17 CPI increase for wages for the pilots if they -- how they
18 choose to spend their money, their wages, that's their
19 business. They have business overheads to meet, payroll to
20 meet. I understand all that. But just granting what's on
21 the table here I'm not comfortable with.
22 CHAIRMAN KRESTA: Okay. With that being said,
23 my position I'm -- I take the stand that I feel real
24 comfortable with the three-year deal like Mr. Singhanla
25 talked about. And we can do this at a percentage basis of

1 the 2 percent is my take on it. And knowing that it's
2 covering the boat cost -- I mean, when you have a boat cost
3 and maintenance cost, that was stated at the very first but
4 your next line item is a boat cost also. So, this raise, per
5 se, 2 percent -- I'm going to say a raise, I'm going to say
6 CPI, I'm going to say boat cost, whatever, that should be
7 figured in how you figure your business. And that shouldn't
8 be tied -- if it's tied to a boat going by what counsel has
9 said as maintenance of the boat, it should be going into an
10 escrow account to take care of the maintenance of the boat
11 and pay for the boat. But that's not the case here and
12 that's not the way we see it. That's the way I see it, is it
13 should be -- we can do a three-year term. I feel this way,
14 too.
15 But with that being said, is there anything
16 else? If so, Mr. Singhanla, would you entertain the
17 motion -- the chair will entertain the motion by the board.
18 COMMISSIONER SINGHANIA: Do you want me to
19 make a motion?
20 CHAIRMAN KRESTA: Yes, sir, that's what I'm
21 asking.
22 COMMISSIONER SINGHANIA: I would like to make
23 a motion that we give them -- I'm not that hung up on two and
24 three, by the way. 1 percent difference is not \$30,000. So,
25 with all the work being done right now, I can go with

1 3 percent every year for three years.
2 CHAIRMAN KRESTA: All right.
3 COMMISSIONER SINGHANIA: Rather than going up
4 and down.
5 COMMISSIONER HOSS: Would you amend that
6 motion to say that it's based on us getting good financial
7 information and if that financial information is not
8 provided, that the -- that the rate increase ceases to exist?
9 COMMISSIONER SINGHANIA: Well, the next rate
10 increase. Like, to me, if we give them 3 percent now, we've
11 got the financial information. And if you are giving the
12 next rate increase 367, whatever the day is, before we give
13 that, we should have the next financial information rather
14 than withdrawing the rate increase, what we give them today.
15 COMMISSIONER HOSS: Your motion, as I
16 understand it, is good for a three-year period and it does
17 nothing -- there's nothing in there about financial --
18 receiving financial -- or acting --
19 COMMISSIONER SINGHANIA: I can amend that. I
20 can amend that.
21 COMMISSIONER TERRY: You're going to have to
22 rescind the other one before you can do this.
23 COMMISSIONER SINGHANIA: Whatever the legal
24 procedure is --
25 MR. GORDON: Just amend your motion. You can

amend your motion.

COMMISSIONER ROSS: You can amend your motion.

CHAIRMAN KRESTA: Yes. It hasn't been recognized yet. You're still talking about it. As far as --

MR. CORDOBA: He's still formulating his motion.

CHAIRMAN KRESTA: Commissioner Ross is talking to him about it. So, it hasn't been recognized yet.

COMMISSIONER SINGHANIA: So, I can amend my motion?

MR. CORDOBA: Yes.

COMMISSIONER SINGHANIA: I would amend my motion to 3 percent rate increase right now and another 3 percent a year from now with the caveat, whatever you want to call it, they will furnish new financial statement for the next year before that, and then another 3 percent the following year with them giving us the financial information before that. Is that okay with you? Is that what you were trying to ask me to do?

COMMISSIONER ROSS: Would the rate increase cease if they don't provide that financial information?

COMMISSIONER SINGHANIA: For that next year.

COMMISSIONER ROSS: For that year?

COMMISSIONER SINGHANIA: Yes, sir.

COMMISSIONER SANTOS: Within 90 days of the

366th day of the first year. I need that information.

COMMISSIONER ROSS: Would you amend that to put a hard number on it, Commissioner?

CHAIRMAN KRESTA: I heard it.

COMMISSIONER SINGHANIA: No problem.

CHAIRMAN KRESTA: I mean, I'll redo it the best way I can.

COMMISSIONER SINGHANIA: One question I do want to ask on that one --

CHAIRMAN KRESTA: Okay.

COMMISSIONER PIRTLE: I'm sorry. We're in a point of order --

CHAIRMAN KRESTA: We're talking about a motion.

COMMISSIONER SINGHANIA: Before I amend, I have a question. Is there a point of order or --

CHAIRMAN KRESTA: That's fine. Go ahead.

COMMISSIONER SINGHANIA: How long does it take -- we are talking about to be effective when? September 1?

CHAIRMAN KRESTA: Within ten days of the order.

COMMISSIONER SINGHANIA: Let's say September 1 for our numbers. That means they will have to provide us the 2017 information by end of August, July -- June 1st of next

year and that should be reasonable. Yes, sir, I can do that.

CHAIRMAN KRESTA: Okay.

COMMISSIONER SINGHANIA: Thank you. I didn't want to say it was due on January, which may be unreasonable for that. Okay. So, amend it or should I have to restate?

MR. CORDOBA: Why don't we restate it so we make sure we have a clean record.

CHAIRMAN KRESTA: I would like to restate that just -- and clarification. Mr. Singhania has posed a motion.

COMMISSIONER SINGHANIA: I want to make a new motion. Withdraw the first one. Restate it that we grant the pilots, BPA, a 3 percent increase for the year 2017 effective September 1st. And then another 3 percent increase effective two thousand -- September 1, 2018, provided the financial statement for the current year is available by June 1st of 2018. And then another 3 percent in September 1, 2019, provided the financial information for 2018 running year is available by June 1, 2019. Is that okay, Rudy?

COMMISSIONER SANTOS: I'll second that motion.

CHAIRMAN KRESTA: I've got a second by Commissioner Santos. Now we have a question on your motion. Does anybody have a question on it? Can I ask a question just to clarify and make it simple for the deal? I want to stop right there. How about the fiscal year? When is y'all's fiscal year?

CAPTAIN BLANTON: January.

MS. SAATHOFF: It's a calendar year.

CHAIRMAN KRESTA: I'm just going to throw this to the commissioners. Would it be best to go a fiscal year or you want to go middle year? I'm asking y'all. If we don't want it, that's fine with me.

COMMISSIONER SINGHANIA: I don't -- I'm not hung up one way or another. Does it make any difference with them, I guess, that's my question?

CHAIRMAN KRESTA: The reason I'm saying the fiscal year, it will be more complete.

COMMISSIONER SINGHANIA: Is that when they ask for rate increase with the users of the --

MS. SAATHOFF: Are you talking about their reporting year?

CHAIRMAN KRESTA: Financials.

MS. SAATHOFF: And they report on a calendar year basis.

CHAIRMAN KRESTA: That's why I'm asking the commission right here if we want to consider that. If not, that's fine with me. I'm just going by --

MS. SAATHOFF: I think that's what -- I think that's what --

COMMISSIONER SINGHANIA: I'm sorry?

MS. SAATHOFF: I think that's what your motion

1 was, was basically calendar year.
2 COMMISSIONER ROSS: No. He was very specific.
3 CHAIRMAN KRESTA: He said June.
4 COMMISSIONER SINGHANIA: He said September 1.
5 COMMISSIONER HOSS: He said September 1. I
6 wrote it down. It's not -- I support a calendar year because
7 it's easier on the --
8 CHAIRMAN KRESTA: Fiscal year?
9 COMMISSIONER HOSS: It makes -- it's a lot
10 cleaner than mid-year operations.
11 CHAIRMAN KRESTA: That's why I want to bring
12 it up here, just for that statement, guys.
13 COMMISSIONER SINGHANIA: I've modified three
14 times. I can do it one more time.
15 COMMISSIONER PIRTLE: Just amend the calendar
16 year instead of September 1.
17 COMMISSIONER HOSS: The rate would have to be
18 contingent upon the reporting. So, yes. The rate, he said,
19 would be effective September 1 with financials basically from
20 June or three months prior to that.
21 MS. SAATHOFF: June to June is what you're
22 trying to say.
23 COMMISSIONER SINGHANIA: June the 1st for the
24 year 2017, 2018.
25 CHAIRMAN KRESTA: The rate?

1 on a 2 percent rate increase. I would politely suggest that
2 we consider including that in making our effective date
3 retroactive because, otherwise, I think we're going to create
4 an undue burden on somebody to figure out how to unwind
5 invoices that have already been issued with 2 percent on
6 them.
7 CHAIRMAN KRESTA: Fair enough. That's okay
8 with me.
9 COMMISSIONER SINGHANIA: Let me ask one
10 question. John, would it be more appropriate that we say we
11 add another 1 percent to the previously approved 2 percent?
12 MR. GORDOBA: I think what would effectively
13 happen today is that you're going to rescind and if you were
14 to make and pass this motion today and sign an order today,
15 you're going to -- by doing that, you're going to be
16 rescinding and vacating what you previously did.
17 COMMISSIONER SINGHANIA: My question was
18 practicality, how much paperwork that introduces for the
19 billing they've already sent. To me, the 1 percent for a
20 month, if you divide by -- 30,000 by 12 is \$2500.
21 MR. MOORE: If I might, Mr. Singhania, what we
22 would do is if we voided the July 10th order and rescinded
23 it, the 2 percent that we were required to collect under that
24 previous interim order would not be a big deal for BPA to
25 identify and refund because of the limited amount of time

1 MS. SAATHOFF: Okay.
2 COMMISSIONER ROSS: We have -- and I have a --
3 CHAIRMAN KRESTA: I've still got the motion on
4 the floor as read. But the discussion keeps getting
5 clarified.
6 COMMISSIONER HOSS: Does the two thousand --
7 has the 2 percent that we granted a few weeks ago already
8 been engaged?
9 CAPTAIN BLANTON: It will be --
10 COMMISSIONER SINGHANIA: I would like to think
11 that's rescinded.
12 COMMISSIONER TERRY: It's been engaged
13 already.
14 COMMISSIONER HOSS: It's been engaged already.
15 Are you going to underline that?
16 COMMISSIONER TERRY: We've got to rescind
17 this.
18 CHAIRMAN KRESTA: That's what we talked about
19 earlier, guys, is a new motion is in the final order that
20 will take care of the -- No. 1 as rescinding it off when you
21 make a new motion as far as legal. I want -- that's what
22 we're at.
23 COMMISSIONER HOSS: Yes. But the practical --
24 excuse me. The practical side of that is that there's
25 already been bookkeeping and invoices and stuff issued based

1 that it's been collected. And that would probably be the
2 cleaner way to do it, to rescind the previous order and
3 provide in any new order that BPA will simply refund the
4 2 percent that it may have collected from anybody during that
5 interim period before the new order takes effect.
6 COMMISSIONER TERRY: Rescind it to make it --
7 COMMISSIONER HOSS: Or you could -- if I
8 understood where you were going, Ravi, that you're going to
9 add 1 percent and pick up 3 percent from, say, ten days from
10 now and just go ahead and bump up to -- because it's --
11 monstrously in the grand scheme of things it's not a big deal.
12 I just don't want to agree to something on this Board that
13 winds up causing the pilots to have to unwind their
14 bookkeeping for six weeks or so.
15 CHAIRMAN KRESTA: Mr. Ross --
16 COMMISSIONER HOSS: Yes, sir.
17 COMMISSIONER TERRY: Let's go from this date
18 forward.
19 MR. LETOURNEAU: I'm not sure if that's
20 workable or legally appropriate to do that retroactively. I
21 think Mr. Moore's suggestion makes more sense.
22 COMMISSIONER ROSS: All right. Fair enough.
23 COMMISSIONER SINGHANIA: What we are talking
24 about, 1 percent -- no -- 2 percent effective --
25 MS. SAATHOFF: Leave your motion the way you

1 had it.

2 CHAIRMAN KRESTA: The motion the way you've
3 got it is taking out 3 percent starting September 1st is the
4 way you stated it.

5 COMMISSIONER SINGHANIA: Is that okay or is
6 there a problem?

7 COMMISSIONER PIETLE: If I might, the one
8 consideration that the Chairman was suggesting is that we
9 start with their fiscal year, which would be calendar year
10 January 1.

11 COMMISSIONER SINGHANIA: January 1.

12 COMMISSIONER PIETLE: And then it's clean all
13 the way through. Otherwise, you're going to start collecting
14 in three months.

15 COMMISSIONER SINGHANIA: But this 3 percent is
16 not coming at the top of the --

17 CHAIRMAN KRESTA: Let me -- let me --

18 COMMISSIONER PIETLE: No. No. The 2 percent
19 is rescinded.

20 CHAIRMAN KRESTA: Let me clarify what y'all
21 are talking about. The only thing I was talking about, I
22 wasn't even pertaining to percentages. I was just talking
23 about the financial reporting. That's all I was referring
24 to.

25 MS. SAATHOFF: Whether or not you want

1 calendar year financials that match their tax reporting --

2 CHAIRMAN KRESTA: Right. That's what --

3 MS. SAATHOFF: -- period or did you want it
4 from June to June?

5 CHAIRMAN KRESTA: In the middle of the year is
6 what I'm talking about.

7 COMMISSIONER TERRY: January to December.

8 COMMISSIONER SINGHANIA: To me, if they are
9 putting out -- if they put out financial statement once a
10 year, the calendar year. So, that should be for the calendar
11 year. But my question is if effective January 1, 2018 and
12 the calendar year we're looking to get financial for 2017 but
13 practically that would not be available for another month or
14 two.

15 COMMISSIONER ROSS: You could stay with what
16 you've given, Ravi, and say that you would like the
17 financials to be the previous calendar year and from
18 January 1 through June of the year after the request going
19 up. In other words, you want -- let me restate that in a
20 little cleaner way. You want financial information up to
21 within 90 days of the rate to go into effect.

22 COMMISSIONER SINGHANIA: Okay. If that's
23 practical, then I will.

24 COMMISSIONER PIETLE: You're going to cause
25 them to do a second financial audit.

1 COMMISSIONER SINGHANIA: To me, John, it's not
2 going to make a big difference.

3 COMMISSIONER ROSS: Not an audit.

4 COMMISSIONER PIETLE: Review, presentation,
5 whatever you want to call it.

6 COMMISSIONER SINGHANIA: The only question
7 there is, John, with the money we're talking about for 30,000
8 or 60,000 or whatever it may be, why the previous year's
9 financial statement may be good enough or you're looking at
10 how the trend is.

11 COMMISSIONER ROSS: It will be nine months out
12 of date.

13 COMMISSIONER SINGHANIA: Yeah but --

14 COMMISSIONER TERRY: That's a long time.

15 COMMISSIONER ROSS: That's three quarters of a
16 year.

17 COMMISSIONER SINGHANIA: I'm looking at more
18 of a microscale -- okay. If that's the desire, I can change
19 my motion. To me, it was -- I could live with the previous
20 year's. We can modify that.

21 CHAIRMAN KRESTA: Okay. Is there any changes?

22 MS. SAATHOFF: What's the motion?

23 CHAIRMAN KRESTA: The motion as presented by
24 Mr. Singhanis will be a 3 percent increase starting
25 September 1 of this year, 2017, and consecutive three years.

1 COMMISSIONER TERRY: Three percent or --

2 THE REPORTER: I'm sorry, Mr. Terry. I can't
3 hear you.

4 CHAIRMAN KRESTA: Mr. Terry, would you say it
5 again?

6 COMMISSIONER TERRY: You said 3 percent. Are
7 we going to add a cent and a half on it or 3 percent more?

8 CHAIRMAN KRESTA: 3 percent is what
9 Mr. Singhanis --

10 COMMISSIONER SINGHANIA: 3 percent is the
11 total. That includes the already-approved 2 percent.

12 CHAIRMAN KRESTA: It's just one more plus is
13 what Singhanis is saying.

14 COMMISSIONER SINGHANIA: 3 percent is the
15 total. It would replace the 2 percent that is already in
16 effect.

17 MS. SAATHOFF: Correct.

18 CHAIRMAN KRESTA: That's right. That's what
19 he -- and it's three years consecutive starting
20 September 1st. And financials will be given to the board
21 every year as long as the rate is in effect. If financials
22 are not given, the rate ceases.

23 COMMISSIONER SINGHANIA: For the next year?

24 CHAIRMAN KRESTA: For the next year.

25 COMMISSIONER SINGHANIA: Rate increase.

1 CHAIRMAN KRESTA: Is that the way I got it
2 understood?
3 COMMISSIONER SANTOS: Yes, sir.
4 CHAIRMAN KRESTA: We have a second by
5 Commissioner Santos.
6 MR. LETOURNEAU: Mr. Chairman, just for
7 clarification, when would the financials be required to be
8 submitted by the pilots?
9 COMMISSIONER SINGHANIA: In my motion, I said
10 June 1st for the previous year.
11 COMMISSIONER HOSS: You would want them
12 through June 1st.
13 COMMISSIONER SINGHANIA: I was putting for the
14 previous year.
15 COMMISSIONER HOSS: My misunderstanding.
16 CHAIRMAN KRESTA: For the previous year?
17 COMMISSIONER SINGHANIA: Yeah.
18 CHAIRMAN KRESTA: All right.
19 COMMISSIONER PIRTLE: So, just a question.
20 This net increase, then, roughly will end up being a total of
21 about 4 percent and it will stay in place for how long?
22 COMMISSIONER TERRY: Where did 4 percent enter
23 into it?
24 COMMISSIONER PIRTLE: If you take 3 percent of
25 3 percent of 3 percent --

1 understand what you're saying. It stays -- once you get a
2 raise, you get a raise.
3 COMMISSIONER PIRTLE: Right. So, it stays in
4 the rate continuously.
5 CHAIRMAN KRESTA: Yeah. Yes, sir.
6 COMMISSIONER SINGHANIA: To clarify, after
7 three years when they come back, you know, then it's really
8 up to us whether we grant them increase or change it or
9 reduce it.
10 CAPTAIN BLANTON: There's no mandate for us to
11 come back. We may not --
12 CHAIRMAN KRESTA: Hold on. One at a time for
13 the reporter.
14 COMMISSIONER SINGHANIA: After three years, if
15 they come back for another rate increase, then at that time
16 it's up to us whether we accept that or grant that or change
17 that.
18 CHAIRMAN KRESTA: It stays. Any more
19 discussion on this one? We'll go for a vote on this. All in
20 favor --
21 MS. SAATHOFF: Who seconded?
22 CHAIRMAN KRESTA: Commissioner Santos.
23 MS. SAATHOFF: Correct. I didn't hear.
24 COMMISSIONER TERRY: Now we can discuss.
25 CHAIRMAN KRESTA: We had a second and that was

1 COMMISSIONER TERRY: That's not 4 percent.
2 COMMISSIONER HOSS: That's 3.3.
3 COMMISSIONER TERRY: Effective rate about
4 12 percent.
5 COMMISSIONER PIRTLE: Total increase will be
6 somewhere in that area. I didn't --
7 THE REPORTER: I'm sorry. I can only get one
8 of y'all at a time.
9 COMMISSIONER PIRTLE: The dollar amount is
10 what I'm trying to get to.
11 CHAIRMAN KRESTA: Any more discussion? One at
12 a time, please.
13 COMMISSIONER PIRTLE: That will stay in effect
14 until changes are rescinded at some point.
15 CHAIRMAN KRESTA: For three years as stated in
16 the motion.
17 COMMISSIONER PIRTLE: But how are you going to
18 back it out?
19 CHAIRMAN KRESTA: I'm sorry. All right. Let
20 me just clarify that. It's only effective for three years;
21 is that correct?
22 COMMISSIONER PIRTLE: That's what I'm trying
23 to clarify.
24 CHAIRMAN KRESTA: I know. I don't know how
25 you want to back it out. That's the part I'm trying to

1 all discussion and that's what that was. Did you have
2 anything else to say?
3 COMMISSIONER TERRY: I just want -- how about
4 a plan if it doesn't -- if they don't make their payments?
5 What kind of plan have they got in case they didn't make
6 their payments?
7 CHAIRMAN KRESTA: You want to talk about that
8 one on the boat?
9 COMMISSIONER TERRY: That's what we're talking
10 about.
11 CHAIRMAN KRESTA: No, sir. We're talking
12 about 2 percent for three years.
13 COMMISSIONER TERRY: It is for payment on the
14 boat. Isn't it 2 percent --
15 COMMISSIONER SINGHANIA: No. No. No.
16 CHAIRMAN KRESTA: That was for the maintenance
17 they said.
18 COMMISSIONER TERRY: For the maintenance.
19 CHAIRMAN KRESTA: That's what they're saying.
20 COMMISSIONER TERRY: Okay.
21 COMMISSIONER HOSS: That's for their CPI
22 raise. What they choose to do with that money is their
23 business, Bill.
24 COMMISSIONER SINGHANIA: CPI raise -- I mean,
25 to me, adding the other pilots right now and all that. The

operating -- operating will account for that.

CHAIRMAN KRESTA: Thank you, Ravi. The next one will be No. 2. We had the motion on the table and three years, 3 percent, September 1st for three years. Financials to go with it every year. All in favor say aye.

(All commissioners voted aye except one)

CHAIRMAN KRESTA: All opposed.

COMMISSIONER TERPFI: No.

CHAIRMAN KRESTA: Motion did carry with a vote of six -- six to five -- six to one -- five to one. And carried.

We'll go to the second issue for the pilot transfer -- transport service consisting of a base charge rate of \$100 plus a unit charge calculated as units multiplied by the factor of .11. Right now I would like to throw that out for discussion. And, Mr. Santos, would you start that out for discussion on the second one, a surcharge for pilot transport services consisting of a base charge rate of a hundred dollars with a factor of a .11 charge multiplier.

COMMISSIONER SANTOS: Mr. Chairman, yea, sir. I present it with a hundred-dollar base charge and then the factor of .11. The calculations and the paper trace on all that, I think, will be important for us to see the vessel counts. I think it's been projected and agreed upon by all

people. Maybe a simpler way of doing this is a percentage across the board. I haven't run those numbers but the numbers that have been presented with the base charge and the .11 it seems like it would work for me, if this is the case.

CHAIRMAN KRESTA: Okay. And Mr. Hoss, what do you have for this discussion on this?

COMMISSIONER HOSS: We've been given a lot of information to look at. And I think there's two things here for me to work with before we get into the mechanics of the numbers is, first of all, the philosophy of whether or not this board is to subsidize a private organization. And I don't believe that the pilots can appreciate the fact that this board is a public entity and I think the pilots want to use the board's authority to increase fees or invoke fees but they shun the transparency that a public entity requires and they hide behind the shield of private entity along the way. And I don't believe that -- I think that a lot of this dissention between the board and the pilots is -- that's the root of it. And it's two different philosophies, that the board has to be a public entity and has to be transparent and we're good stewards of what we do.

Nobody has disputed the fact the pilots need a new boat. We've questioned a lot of the numbers that's been presented and a lot of the information presented, the validity is very questionable. And as a public figure, I

have trouble supporting fees for a private entity, particularly when the information provided has been questionable or overlooked. And I don't know if that's true accidents or if it's been conveniently overlooked.

Having said that, I do believe the pilots need assistance in getting a new boat. The board offered them a solution to their problem and they have turned us down. So, we're back at this again. And I'll say that staff has done what the board asked them to do at the last meeting or through the last order, which is present as a plan to vote on. There's several complex plans. The pilots have a complex method of computing their fees. It may be common to all ports but it's complex to the average person, average business where we have unit charges and we have draft charges and we have -- everything has to be calculated. Apparently their fees range from a minimum of about \$750, give or take a little bit, up to, say, fifteen, \$16,000. And I would like to be able to support something that is fair all the way across that spectrum. And I'm going to go with Commissioner Santos' suggestion and I realize that staff has put together a base charge or were asking -- excuse me -- staff didn't do this. Pilots have presented --

CHAIRMAN KRESTA: Clarification. Thank you.

MS. SANTOPE: I was going to say, wait a minute,

COMMISSIONER HOSS: It happens to be similar to some discussions we've had. But what's been put forth is a hundred-dollar base charge plus a unit charge calculated by the multiplier factor of, looks like, .11. Being a simple person, I would rather look at a percentage boat fee. I'm going to use that term and stick with it because, in my opinion, that is not a raise for the pilots. It is a distinct line item, a tariff item that is invoked by this Port and the authority of this Board against harbor users to help pay for a pilot boat. And I'm going to use the term help pay for. I do not believe that this board should fully fund a boat. And when you say, well, we're not funding it, you say, well, we have 60 percent of the users or the petrochemical users primarily are supporting of this, I wonder how many of those petrochemical users actually write a check to the BPA for services rendered. I'm guessing not many. So, they can probably use pass throughs to move it on.

I feel the Board should help the pilots with their boat, and I would like to see us discuss a percentage boat fee applied to each invoice. I believe that's fair for the smallest of invoice users and fair for the largest of the invoice users. As to what that fee is, I am open for discussion. I understand that there's numbers that's been put on the table about what the pilots need to pay their interest for the first year and pay their boat payments

1 throughout the year. So, that's my position so far.
2 CHAIRMAN KRESTA: Mr. Letourneau.
3 MR. LETOURNEAU: Mr. Chairman, our court
4 reporter has come to a point where she needs to depart. And
5 so, we would propose going forward, that the balance of the
6 hearing be recorded and that each person please identify
7 yourself so we have it clear on the record as to who is
8 speaking from this point forward.
9 CHAIRMAN KRESTA: Everybody good? Thank you.
10 *(This ends the portion of the proceedings*
11 *where a court reporter was present at*
12 *11:29 a.m.)*
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1 STATE OF TEXAS
2 COUNTY OF BRAZORIA
3

4 REPORTER'S CERTIFICATE
5 PUBLIC HEARING
6 August 24, 2017
7

8 I, the undersigned Certified Shorthand Reporter in and
9 for the State of Texas, certify that the facts stated in the
10 foregoing pages are true and correct.

11 I further certify that I am neither attorney or counsel
12 for, related to, nor employed by any parties to the action in
13 which this testimony is taken and, further, that I am not a
14 relative or employee of any counsel employed by the parties
15 hereto or financially interested in the action.

16 SUBSCRIBED AND SWORN TO under my hand and seal of office
17 on this the 27th day of September, 2017.

18
19
20 Stacey Whitley, CSR
21 Texas CSR 3999
22 Expiration: 12/31/2017
23 307 ARROWWOOD STREET
24 Lake Jackson, Texas 77566
25 979-285-9197

BOARD OF PILOT COMMISSIONERS OF BRAZORIA COUNTY PORTS

PUBLIC HEARING
AUDIO TRANSCRIPTION
August 24, 2017

ORIGINAL

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CHAIRMAN KRESTA: Commissioner Terry, would you like to talk anything about this?

COMMISSIONER TERRY: I'm going to stay right now.

CHAIRMAN KRESTA: Okay. Duly noted, Mr. Terry. Commissioner Pirtle?

COMMISSIONER PIRTLE: I'm going to lean towards what Commissioner Santos is recommending.

COMMISSIONER SINGHANIA: Is it on?

MS. SATHOFF: Turn it on and state your name.

COMMISSIONER PIRTLE: I'm sorry. Shane Pirtle. Commissioner Pirtle. We've had quite a bit of discussion about this this morning and I'm going to lean towards the direction of -- at this point recommend the -- suggested fee and multiplier, some form thereof. Whether going back and trying to go back to a fee or a percentage because that gets back close to what we've already done.

CHAIRMAN KRESTA: Okay. Commissioner Singhania.

COMMISSIONER SINGHANIA: Commissioner Singhania. Where we are today and what our needs are, we definitely need a new boat. And how we are -- we need to see the new boat happens. I like Commissioner Hoss' comment, I believe, in simplicity of (inaudible) -- to have as a percentage fee rather than calculate based on the length,

width, breadth, whatever of the ship. It's too complicated and the money -- I looked at the numbers. I'm not that big of the numbers to make that big of a difference to any user, whether general users, petrochem or what. So, what we come up with, it should be our suggestion to keep it simple as a percentage of the existing fee. And secondly, it should be transparent that it's accounted for and disappears when the boat is paid off.

CHAIRMAN KRESTA: Yes, sir. Okay.

Commissioner Kresta. I want to talk about -- my thing is if we do it as a percentage with the weight and average of -- I would like to see, you know, percent go with the \$75 and 10 percent per vessel multiplier of width and height and all that good stuff. But it's equal to all components of the terminal people. So, that's what I would like to look at and it's equal to everybody. And if -- but these parts that you have as far as a percentage, Mr. Hoss, we'll have to figure out what would work as far as a straight percentage. And you're saying a percentage of a fee that's calculated as a pilotage fee -- a percent of the pilotage fee?

COMMISSIONER HOSS: I'm saying a percentage of their total invoice.

CHAIRMAN KRESTA: So, you're going to put money on all tariffs or the boat invoice? That part I don't understand because that total invoice, there's draft fees,

1 there's pilotage fees. I think we're talking more -- a
2 higher number than what we see because I've got to see an
3 invoice of what it says before I could look at that. Because
4 the original one by Commissioner Santos is a percentage times
5 pilotage fee -- I mean, a flat rate times a unit fee and it's
6 straight, hard dollar. I do not know what an invoice looks
7 like. So, with that being said, that's why I asked that
8 question.

9 COMMISSIONER HOSS: This is Mr. Hoss. We were
10 presented in a previous meeting, previous -- what did they
11 call that -- the request to reopen the hearing. Not the
12 current amended model but the first draft they gave us a few
13 weeks ago asking us to reopen the hearing had an invoice
14 attached to it and --

15 CHAIRMAN KRESTA: Is it in here?

16 COMMISSIONER HOSS: -- my concern is that
17 we've been focused on the unit fees and that these unit fees
18 have a flat rate plus percentage on the unit fee as a
19 multiplier but fails to take into account the drafting
20 charge. And not being totally familiar with what they've
21 done, what we're looking at is applying a fee to pay for a
22 boat based on a portion of the invoice, not the entire
23 invoice.

24 CHAIRMAN KRESTA: That's not what you just
25 said. I'll buy that for now. You said according to the

1 invoice. That's the reason I'm asking.

2 COMMISSIONER HOSS: I'm just saying that even
3 if you --

4 CHAIRMAN KRESTA: (Inaudible) Invoice. I'm
5 sorry.

6 COMMISSIONER HOSS: Right. If you look on our
7 previous minutes, previous rate increase requests, go back a
8 few years, there's discussion about the draft fee plus the
9 per unit fee. And what we're doing is we're concentrating on
10 only a portion of the invoice, not the whole invoice amount.
11 And I can't tell you percentage-wise how much we're leaving
12 off. Is that 10 percent of the invoice, 5 percent, or
13 60 percent? I'm saying that we're looking at only a fraction
14 of what's being invoiced for services rendered. Why not just
15 take a percentage like -- I'm going to pull a number out of
16 thin air and say why not take 3 percent or 4 percent of the
17 whole invoice and go that applies to boat fee.

18 CHAIRMAN KRESTA: How much?

19 COMMISSIONER HOSS: I picked 3 or 4 percent
20 out of thin air. That's just a number. We've gone to great
21 lengths to look at how many ships will be coming into the
22 harbor over the next ten years, sizes of the vessels, what
23 they pay and we're trying to be fair about this. I want to
24 be fair about it. But the pilots have a very arcane way of
25 billing or invoicing for their services. And I think that

1 we're focused on only a portion of their invoice, not the
2 whole. And rather than get into having to calculate this
3 every time, I'm just saying like a fuel surcharge that goes
4 on the bottom of an invoice for shipping companies, you go,
5 okay, there's a fuel surcharge fee. Bang, there's a boat fee
6 and it's a percentage of the whole.

7 CHAIRMAN KRESTA: Of the whole?

8 COMMISSIONER HOSS: Of the whole.

9 CHAIRMAN KRESTA: Okay. Anybody have a
10 weigh-in on that? Because -- this is Commissioner Kresta.
11 And John, I'm (inaudible) -- I don't know if you have or not
12 but I'm going to ask the pilots, a movement sub, is that your
13 cost? Is that -- is that what the movement sub means?

14 COMMISSIONER HOSS: Can the pilots assist us
15 on something, please?

16 MR. MOORE: What's the question?

17 CHAIRMAN KRESTA: On this invoice I'm looking
18 at now it says movement sub. Is that y'all? I'm making
19 sure.

20 CAPTAIN BLANTON: We have a subtotal of the
21 movement but there's also other charges in there. We have an
22 education charge and everything. And sometimes it adds
23 ships. What you -- is there a specific question or something
24 behind the theory of how the rate would be and I can --

25 CHAIRMAN KRESTA: I'm trying to get my head

1 around it. Commissioner Hoss said we want to do the total
2 invoice and I'm trying to separate what the pilots charge and
3 get my head around a percentage. So, just what the pilot
4 charges. And I'm just asking on the invoice here, does
5 movement sub mean that that's a pilotage fee? I understand
6 the rest of the fees. I just don't see a pilotage fee myself
7 on mine.

8 CAPTAIN BLANTON: There's only one fee. We
9 don't break it out. There's an education fee and the tariff.
10 But it's all in there. When we send an invoice --

11 CHAIRMAN KRESTA: You're saying everything --

12 CAPTAIN BLANTON: -- you get one bill with one
13 number.

14 CHAIRMAN KRESTA: The movement sub --

15 CAPTAIN BLANTON: The movement is an inbound
16 and then an outbound. And then sometimes there's a ship or
17 sometimes people have multiple movements.

18 CHAIRMAN KRESTA: That's what I wanted to
19 know.

20 MS. SPATHOFF: That's the education charge.

21 CHAIRMAN KRESTA: That's fine. I wanted to
22 make sure. The proposal John is saying is -- would be the
23 charge on the education charge, a unit charge, a draft
24 charge, and all that. The way it's lined out is a movement
25 sub is less than all those put together is what I'm looking

1 83.
2 CAPTAIN BLANTON: So, what we're talking about
3 is a unit charge.
4 CHAIRMAN KRESTA: Sure.
5 CAPTAIN BLANTON: A unit charge is just the
6 length and the width of the ship. And then that gives you a
7 dollar amount.
8 CHAIRMAN KRESTA: And on this --
9 CAPTAIN BLANTON: And you're talking about a
10 multiplier off that. If you do just a percentage of the
11 charge like Commissioner Hoss previously stated, some of the
12 ships are minimum charge of 700 and some of them run to
13 15,000. When you do not have that base charge in there of a
14 hundred dollars, you can see that the scale is exponentially
15 skewed to the top. So, 3 percent of \$700 and 3 percent of
16 the \$15,000, you're shifting all the costs up. When you have
17 a baseline in there, it flattens that scale a little bit.
18 So, it's still progressive in the way that the curve works.
19 There's still -- the larger ships are paying more but without
20 the flat fee in there, the disparity or the difference
21 between the two is much, much greater. When you put a
22 minimum charge in there, it brings the scale down a little
23 bit.
24 So, in the sense of fairness or in the spirit
25 of fairness, that was the compromise because we understood

1 that the 200-dollar charge to ask a small -- a smaller scale
2 size vessel and the larger scale size vessel to pay the
3 two -- the same \$200 is a little bit unfair but you can't
4 swing the pendulum completely in the other direction and say,
5 well, we're going to charge just on a percentage because then
6 you went from, well, the top end is paying the same as the
7 bottom end and then you're saying, well, now the bottom end
8 is going to pay substantially less. So, the baseline in
9 there, wherever the board decides it may be, was just to get
10 the disparity between the tops and the bottoms down.
11 So, I mean, as I testified, the median range
12 is probably around \$4,000 for a trip. But the minimum charge
13 doesn't reflect that in \$700 and the only way that you can
14 get the median value of the cost of the actual service of
15 pilotage, which I don't know the number off my head but we'll
16 just saying for argument sake it's somewhere in the middle of
17 four or \$5,000. If there's some people that are paying \$700
18 and there's -- some people are paying 15,000, that's --
19 that's how you get that scale in the middle. And if you
20 don't have that baseline multiplier -- again, it was in the
21 sense of fairness only. Does that make any sense?
22 CHAIRMAN KRESTA: Yeah. I agree.
23 COMMISSIONER HOSS: I have a question on that.
24 CHAIRMAN KRESTA: Mr. Hoss.
25 COMMISSIONER HOSS: Captain Blanton, you've

1 gone through that and I deeply appreciate what you just said.
2 And would you agree that we're focusing on the per unit
3 charge here? What's proposed has been focusing on a per unit
4 charge?
5 CAPTAIN BLANTON: The unit charge is the
6 truest reflection of the size of the ship.
7 COMMISSIONER HOSS: How can you -- tell me,
8 then, how the draft charge impacts that.
9 CAPTAIN BLANTON: The draft charge is added to
10 the unit charge depending on the draft of the vessel on
11 particular vessels.
12 COMMISSIONER HOSS: And can you give me an
13 example of what a draft charge might be?
14 CAPTAIN BLANTON: It depends on the vessel and
15 what its draft is. But it's a matrix. So, you would enter
16 your draft and you get a multiplier. You multiply your draft
17 by that matrix value. That's a dollar amount. The dollar
18 amount will, then, be applied to the unit charge.
19 COMMISSIONER HOSS: But we're not considering
20 the draft charge in this proposed item; is that correct?
21 CAPTAIN BLANTON: Correct. For simplicity
22 sake, what we're trying to identify is the size of a vessel.
23 The unit charge is the truest reflection of the size of the
24 vessel. So, the -- if you can just simplify it, we had a
25 target number at the end that we had to get. So, we were

1 trying to accumulate a dollar value of X to meet our minimum
2 note. So, that's -- that was the target we were trying to
3 get. How we got there is if we weren't going to do a fixed
4 rate of 200, we had to identify a scale that we could use to
5 get to X. The truest reflection of the size of the vessel
6 within our tariff is the unit charge. It's a function of the
7 length times the width. So, that will give you a box of the
8 vessel you're in. And then the factor of .11 gets you to
9 where the -- basically what it was is, I think, eight of the
10 12 months of the year we wanted to meet the minimum --
11 collect the fee -- the minimum fee for our mortgage that
12 we'll owe the bank. That's how we came up with the .11.
13 So, there was a couple months in there that we
14 were short of it and there were the majority of the months
15 that we were over it. So, that -- that's how the .11 -- 100
16 times the unit charge and it's -- the whole function of it is
17 to target a specific dollar amount, which is around \$20,000
18 per month to meet the note. And then -- but if you win on
19 certain months, it still goes to an escrow account. So, it's
20 used against the principal. So, in theory the more ships
21 show up and the larger ships show up, you end up just paying
22 the loan off sooner rather than later.
23 CHAIRMAN KRESTA: Got it taken care of,
24 Mr. Hoss?
25 COMMISSIONER HOSS: What I heard was a

1 response that talks about the unit charge but -- and how
2 complex it is to compute the draft charge.
3 CAPTAIN BLANTON: It's length times width,
4 air.
5 COMMISSIONER HOSS: What about draft charge?
6 You said there's a matrix for that one, too.
7 CAPTAIN BLANTON: It's a separate charge
8 depending on what the draft of the ship is.
9 COMMISSIONER HOSS: So, we have not considered
10 the portion of your invoice called draft charge --
11 CAPTAIN BLANTON: Not all vessels receive
12 draft charges.
13 COMMISSIONER HOSS: That's news to me, too.
14 Thank you.
15 COMMISSIONER SINGHANIA: Based on the
16 explanation that Captain Blanton just provided, you know, I
17 like Commissioner Hoss' idea of the percentage of the fee.
18 Keep it simple because that includes the size of the vessel.
19 CHAIRMAN KRESTA: Yes, it does. Commissioner
20 Kresta. I understand both of them relate to the size of the
21 vessel. As I look at the invoice and educate myself, it says
22 units on there. Okay. And that's how they come up with
23 their fee. Okay. And that's -- that's what we're talking
24 about. I believe John is saying --
25 COMMISSIONER SINGHANIA: The (inaudible) --

1 CHAIRMAN KRESTA: Sure.
2 COMMISSIONER SINGHANIA: (Inaudible) my
3 knowledge and that side is getting --
4 CHAIRMAN KRESTA: Yes, sir. That will be
5 fine. On one of them. But the draft part of it is -- I just
6 want to understand. John, you want to include that in there
7 or just the unit or just the pilotage fees is what I'm
8 asking, John.
9 COMMISSIONER HOSS: I would take a percentage
10 of a whole invoice and make that the tariff that was
11 originally proposed to us somewhere in --
12 (Audio tape cuts off)
13 CHAIRMAN KRESTA: The original was like a
14 hundred dollars.
15 COMMISSIONER HOSS: No. The original was --
16 CHAIRMAN KRESTA: 200-dollar draft fee.
17 COMMISSIONER HOSS: The original was a
18 2 percent charge on the -- on each invoice as a boat fee.
19 COMMISSIONER SINGHANIA: John, it was \$200 per
20 trip charge.
21 CHAIRMAN KRESTA: It was \$200 per move.
22 COMMISSIONER SINGHANIA: Yeah, per move.
23 CHAIRMAN KRESTA: Per move, Mr. Hoss.
24 COMMISSIONER HOSS: Somewhere in there in one
25 of our discussions we had a -- we looked at this as a

1 percentage of the whole, which was a 2 percent number and
2 that number does not meet the requirements. The pilots --
3 remember, we've asked staff to look at this, too. And so,
4 we've had a lot of material on the table. What the pilots
5 had proposed is what's here on the table, which is 100-dollar
6 fee plus multiplier.
7 CHAIRMAN KRESTA: Multiplier in cents --
8 COMMISSIONER HOSS: Correct.
9 CHAIRMAN KRESTA: -- times the unit?
10 COMMISSIONER HOSS: Right. And there's no
11 mention of their draft fee.
12 CHAIRMAN KRESTA: That's right. Draft fee is
13 separate according to the invoices.
14 COMMISSIONER HOSS: That's right. It's over
15 and above what we're dealing with. I propose that we look at
16 a straight percentage of the total invoice. I don't have a
17 number to go with that. I said 3 to 4 percent. I packed
18 that number out of thin air. I think that that will put us
19 in the ballpark of the numbers that the pilots have proposed
20 a need. And philosophically my question is does this board
21 go for 100 percent payment of the boat or a percentage
22 thereof? And, again, they're a private entity and they're
23 asking us to buy their equipment for them through the use of
24 our powers.
25 CHAIRMAN KRESTA: Okay. So, Commissioner

1 Terry.
2 COMMISSIONER TERRY: Yes. If this all goes
3 for the payment of the vessel, what's -- one way or the other
4 (inaudible) when the vessel is paid for, it's going to be
5 over with. That may save the boat (inaudible). So, when the
6 boat is paid for, that's when it goes out, right? It comes
7 off of it.
8 COMMISSIONER SINGHANIA: That's what I
9 understand, too, Bill, is once the boat is paid off, it goes
10 away. What we are talking about, what is the equitable way
11 to do it.
12 COMMISSIONER HOSS: Correct.
13 COMMISSIONER SINGHANIA: And I think that's
14 why I like Commissioner Hoss' suggestion to keep it simple.
15 Whatever that three, four, five -- whatever the percentage
16 may be.
17 COMMISSIONER HOSS: Right. I'm saying you add
18 it to two thousand -- this is --
19 COMMISSIONER SINGHANIA: 2,000 (inaudible) on
20 the invoice dated July 3rd, 2017 --
21 COMMISSIONER HOSS: And you don't have to get
22 into all the deep calculations on it. You just add a
23 percentage.
24 UNIDENTIFIED MALE: That invoice that you're
25 looking at, what's the total?

1 COMMISSIONER HOSS: Two thousand ==
2 COMMISSIONER SINGHANIA: I want to keep it
3 simple.
4 COMMISSIONER HOSS: And that is -- for
5 clarification, that is an example of their extreme low end of
6 their charges. So, focusing only on that invoice is not
7 fair. You have to just -- you have to also look at the high
8 end of the invoices, too. It may be it's necessary to put a
9 fee -- a minimum charge, even if -- let's just say 3 percent
10 was a number and you look at it and go, that's just not
11 enough. There may have to be a 50 or 75-dollar flat fee that
12 goes on there so there's a minimum. Because I can understand
13 the difficulty on the pilots to bring in a vessel that does
14 not generate enough income to even pay for the fuel to go out
15 and get it. I'm just going to guess that that 2,000-dollar
16 invoice is a breakeven invoice at best for pilots.
17 COMMISSIONER SINGHANIA: John, but that 2,000
18 rate is already happening.
19 COMMISSIONER HOSS: Correct. That's right.
20 We're working off the real existing invoice.
21 COMMISSIONER SINGHANIA: So, it's not == so,
22 if you just take the percentage of it, we are reimbursing
23 them for the boat.
24 COMMISSIONER HOSS: Correct.
25 COMMISSIONER SINGHANIA: That's simple rather

1 than making two calculations or whatever.
2 COMMISSIONER HOSS: Correct. Now, I will say
3 that if this board would rather look at what's been proposed
4 and we get into some rather complicated issues here, fine, so
5 be it. I feel obligated to bring up what I would believe is
6 a simple methodology for doing this.
7 CHAIRMAN KRESTA: Mr. Hoss, what ==
8 COMMISSIONER HOSS: I'll end my discussion
9 with that, yes, sir.
10 CHAIRMAN KRESTA: You do?
11 COMMISSIONER HOSS: Yes, sir.
12 CHAIRMAN KRESTA: The only reason I'm
13 saying -- I don't want to go through the whole invoice. We
14 don't know what the whole invoice is going to be on every
15 ship.
16 COMMISSIONER HOSS: Correct.
17 CHAIRMAN KRESTA: So, I'm not going -- I am
18 very opposed to not knowing what I am giving a rate on every
19 invoice. Okay. Now, I can look at an invoice and tell me
20 how many units it is and that's -- you just multiply the
21 units times the factor that we had that's in place, like the
22 .11. I'm going to use that. Or .10. And that's your
23 charge. 67 units times the .10 is \$67.
24 COMMISSIONER HOSS: Okay.
25 CHAIRMAN KRESTA: That's pretty simple to me.

1 But if I take the whole invoice -- and I don't know how the
2 invoices are made. Somebody else made out the invoices and
3 I'm going to get a percentage of the invoice and I don't know
4 what they're getting actually, I for one don't know that.
5 I'm not feeling comfortable with that. That's just my
6 opinion and that's how I feel about that because I'm not
7 generating this invoice. They are generating the invoice but
8 they are also bound by a charge of units and that's how it
9 starts out. So, if you start off with the main one, if it
10 was 67 units, that's just simple math. That's 67 times .10.
11 That's \$67. That's it.
12 COMMISSIONER HOSS: Plus a hundred-dollar fee.
13 CHAIRMAN KRESTA: Plus your hundred-dollar
14 fee. I'm taking care of the math part that everybody has a
15 problem with right now. But as far as going with the whole
16 invoice, I don't have control over this whole invoice. I
17 want to get some help -- audit it based on -- they can put
18 something in there any time that we don't even know about but
19 it's all there.
20 MS. SRATHOFF: It's all in the tariff.
21 CHAIRMAN KRESTA: So many invoices are not
22 going to be even is what I'm saying.
23 COMMISSIONER HOSS: I'm just saying that we're
24 focusing only on a portion of the invoice. Maybe we should
25 just take it ==

1 CHAIRMAN KRESTA: That's all I'm saying
2 because the invoices won't be all even is all I'm saying. A
3 portion will be put out in my eyes.
4 COMMISSIONER HOSS: I'm uncomfortable knowing
5 that we focused on only a portion of an invoice and we
6 haven't looked at the whole picture.
7 COMMISSIONER SINGHANIA: May I jump in for a
8 question?
9 CHAIRMAN KRESTA: Yes.
10 COMMISSIONER SINGHANIA: If you look generally
11 through the December income statement or profit and loss
12 statement, you have in that one is the pilotage fees,
13 \$3,130,410.31. And we accept that as an accounting sheet
14 there. And if I hear Commissioner Hoss right, if we are
15 paying 3 percent, 4 percent, 2 percent of that, that should
16 be pretty transparent without looking at each invoice.
17 CHAIRMAN KRESTA: Right.
18 COMMISSIONER SINGHANIA: If you trust that
19 number, then 2 percent or 3 percent or 4 percent of that
20 should be pretty transparent.
21 COMMISSIONER HOSS: Yes, sir. That's exactly
22 where I took my number from. Thank you. Yes, sir.
23 COMMISSIONER SINGHANIA: I can understand.
24 COMMISSIONER HOSS: I'm sorry I got into the
25 invoice part. That's exactly the number I was looking at.

COMMISSIONER TERRY: And when the boat is paid for, it's paid for.

CHAIRMAN KRESTA: That's all I want to make sure of, what portion of the invoice you're talking about, John. Bottom line, are you talking -- because you said --

COMMISSIONER HOSS: I'm talking about the gross.

CHAIRMAN KRESTA: Bottom line.

COMMISSIONER HOSS: So, maybe I have done a poor job of presenting something here in my concern when I know that I can look at the income statement and look at the pilotage fees on the income statement for the year and go, okay, there's a percentage and that goes to pay for the boat. It's a simple number.

CHAIRMAN KRESTA: That's fine, a simple number. Every invoice can be different. That's all I'm asking. I didn't want to get a portion. I --

COMMISSIONER HOSS: Every invoice is different anyway.

CHAIRMAN KRESTA: That's right. That's why I make that statement here for y'all.

COMMISSIONER HOSS: Yes, sir. I may have used a poor example and I apologize if I confused everything. Commissioner Singhania has actually made it much clearer.

COMMISSIONER SINGHANIA: Thank you, sir.

CHAIRMAN KRESTA: Yeah. Any more discussion on this? Are you through, John?

COMMISSIONER HOSS: Yes, sir.

CHAIRMAN KRESTA: Anybody else? We've got to figure out the percentage on your basis. At this time I will entertain a motion --

COMMISSIONER SINGHANIA: Let me ask one more question. Sorry. Phyllis, in your calculations when we were doing some evaluations, how much money is needed every year you're projecting to pay for the boat? Like 200,000?

CHAIRMAN KRESTA: Would you -- let me ask that question and would you ask the pilots that, please. Redirect that, please.

COMMISSIONER SINGHANIA: How much money do you need for payment of the boat? And also if applied, we're not going to change this every year to 2 percent or whatever we agree to? So, if the payment amortization over ten years is -- one second -- \$200,000 and, Captain Daniel, you got next year 300,000. So, you pre pay extra out. So, if they get paid -- you said about ten years, maybe get paid in seven years and that's when it stops. So, how much minimum do you need every year to pay the boat?

CAPTAIN BLANTON: We were targeting 20,000 a month. That will cover --

COMMISSIONER SINGHANIA: That's \$240,000.

CAPTAIN BLANTON: That would cover the note. But I would just caution the board if you do a straight percentage charge like you're talking about, it skews everything to the top and that -- you know, the top end customers are going to be -- you know, as Commissioner Hoss pointed out, that he was looking at a 2,000-dollar tariff. And that may not represent the true cost of the service. So, it's proportional. That's why some people pay a little bit more, some people pay a little bit less. And when you just -- if you do not have a base fee in there, you're skewing the majority of the cost for the boats to the top end users. That's my only word of caution to you.

CHAIRMAN KRESTA: Okay. And we've got to figure out, you know, that part of it, John. But at this time, does anybody else have anything else they want to talk about on this issue?

The chair recognizes this as an ongoing discussion and we'll ask for a motion at this time. Would anybody like to entertain a motion? I will entertain one.

UNIDENTIFIED MALE: Just quickly running some numbers, if I might add. It looks like it can be more like 8 to 9 percent, not 4 percent to get \$240,000 a year.

COMMISSIONER SINGHANIA: I've got the calculation over here. For 200,000 -- excuse me. I've got a calculation in front of me. Just simple math really. It's

For \$240,000 per year, based on pilotage fees of 3,130,000 like we were talking about, round numbers, it's about, Commissioner Hoss, 6 1/2 percent. And really, that's going to keep going up even at 6 1/2 percent.

MR. CORDOBA: Just a reminder to make sure you state your name for the recording so -- for the record.

COMMISSIONER SINGHANIA: For that comment it was Ravi Singhania.

MR. CORDOBA: Got you.

COMMISSIONER HOSS: You and Bill sound so much alike.

COMMISSIONER TERRY: I don't know where (inaudible) --

COMMISSIONER PIRTLE: This is Commissioner Pirtle. Given this information, I am going to propose that we stay with the 100-dollar fee and propose that we go with 10 percent actually.

CHAIRMAN KRESTA: Ten cents, .10? .10?

COMMISSIONER PIRTLE: .10.

CAPTAIN BLANTON: It's not a cent. It's a multiplier.

CHAIRMAN KRESTA: That's what I --

COMMISSIONER PIRTLE: Thank you, sir.

COMMISSIONER SINGHANIA: Multiplied, divided by a hundred -- this is Commissioner Singhania. What you're

1 saying is .10 times length times width divided by a hundred?
2 CAPTAIN BLANTON: May I? It's a hundred --
3 CHAIRMAN KRESTA: Just a minute. (Inaudible)
4 right now.
5 UNIDENTIFIED MALE: This is all
6 interpretation, I assume.
7 CHAIRMAN KRESTA: We have a motion made on the
8 floor by Commissioner Firtle of the fee to be \$100 and .10
9 multiplier.
10 COMMISSIONER SINGHANIA: I'm going to clarify
11 the multiplier is (inaudible) --
12 CHAIRMAN KRESTA: I'm looking for a second,
13 please.
14 COMMISSIONER SINGHANIA: Second.
15 CHAIRMAN KRESTA: Second by Commissioner
16 Singhanian. Now we'll have discussion on it, please.
17 COMMISSIONER SINGHANIA: I want somebody to
18 clarify, what is the multiplier? .10 times what?
19 CAPTAIN BLANTON: Are you asking me?
20 COMMISSIONER SINGHANIA: Yeah.
21 CAPTAIN BLANTON: The way it would reflect is
22 \$100 plus, parentheses, the unit charge. The unit charge is
23 length times width. That gives you a dollar amount of X.
24 The dollar amount of X multiplied by .10 in parentheses.
25 MS. SAATROFF: It also -- the unit charge

1 definition is in the tariff --
2 CAPTAIN BLANTON: The unit charge is a
3 function -- it's a matrix. It's length times width. That
4 gives you a dollar amount.
5 MS. SAATROFF: But it's defined in your -- in
6 the published --
7 CAPTAIN BLANTON: It is published in our
8 tariff, yes, sir. Yes, ma'am. Sorry. That will be the
9 dollar amount. The --
10 COMMISSIONER SINGHANIA: A hundred dollars is
11 the trip charge -- the --
12 CAPTAIN BLANTON: The hundred dollars is the
13 base and then that's what shows the top and the bottom
14 towards the middle.
15 COMMISSIONER SINGHANIA: The balance is --
16 CAPTAIN BLANTON: The portion that captures
17 the actual representation of the vessel size is the unit
18 charge. The unit charge is published within the Brazos
19 Pilots tariff. It is a function of the length times the
20 width. That gives you a dollar amount. That dollar amount
21 multiplied by .10 will give you a number. That number added
22 to the \$100 will be the boat fee.
23 COMMISSIONER SINGHANIA: So, if the length is
24 600 feet and the width is 200 feet, for my calculation,
25 simple, so that will be 1200-dollar charge for that --

1 CAPTAIN BLANTON: You just created the most
2 interesting vessel in the world.
3 COMMISSIONER SINGHANIA: You divide by a
4 hundred.
5 (Multiple people talking)
6 COMMISSIONER SINGHANIA: Captain Blanton has
7 got some good (inaudible) over here. Thank you. Phyllis,
8 where I got confused is the .10 divided by a hundred and
9 then (inaudible) --
10 CHAIRMAN KRESTA: Is there anything else for
11 the motion? The chair recognizes the motion as stated. I
12 will ask for the motion to be made in accordance to Mr. Shane
13 but do you want to add anything to that motion as far as
14 closing it in?
15 COMMISSIONER FIRTLE: The duration would be
16 when the boat is paid off, yes. One boat. When this boat is
17 purchased and paid off, yes, and this fee goes away.
18 COMMISSIONER SINGHANIA: May I add to the
19 discussion?
20 CHAIRMAN KRESTA: Yes, sir.
21 COMMISSIONER SINGHANIA: It should be very
22 transparent and should be noted on a yearly -- what do you
23 call -- financial statements.
24 CHAIRMAN KRESTA: Right. The escrow account
25 should be showed on the financials.

1 COMMISSIONER SINGHANIA: On the financial
2 statement and if there is more money generated, it should be
3 prepaid.
4 COMMISSIONER FIRTLE: I'll amend my motion to
5 include that, yes. Commissioner Firtle. Sorry.
6 CHAIRMAN KRESTA: Right now I've
7 got (inaudible) -- I'll take the vote right now, Daniel. But
8 I want you to close that in, please, if you would and say --
9 put a year on it.
10 COMMISSIONER FIRTLE: A year?
11 CHAIRMAN KRESTA: So many years to where it's
12 not just stretched out and paid on forever. Say it's eight
13 years and you're going to come look at it. Because on the
14 paperwork we seen from the BPA, as this proposal says,
15 100-dollar charge with 11 -- .11 multiplier. With
16 projections it's saying it's seven and a quarter years it
17 will be paid for. Right at eight. So, what I'm asking for
18 the motion to be closed in in eight years. It will be
19 brought back to us.
20 COMMISSIONER SINGHANIA: I'm sorry. We get
21 paid in six years, depending upon --
22 CHAIRMAN KRESTA: They can but I want to
23 put -- I want to put a top on it is all I'm saying.
24 COMMISSIONER HOSS: Not to exceed.
25 CHAIRMAN KRESTA: Not to exceed.

1 COMMISSIONER SINGHANIA: That way.
2 CHAIRMAN KRESTA: Yes, sir. They can pay it
3 off earlier.
4 COMMISSIONER SINGHANIA: It will get paid off
5 earlier, it depends on the revenue.
6 CHAIRMAN KRESTA: Correct.
7 CAPTAIN BLANTON: What bank would loan you
8 money if you didn't meet --
9 CHAIRMAN KRESTA: I'm agreeing with you. All
10 I'm saying is it's just a point for you to come back and
11 show, okay, we ain't got it paid for in eight years or we do
12 have it paid for in eight years. That is the issue is all
13 I'm saying.
14 CAPTAIN BLANTON: May I make --
15 CHAIRMAN KRESTA: And your loan may have a
16 call feature, too.
17 CAPTAIN BLANTON: We need to identify if -- if
18 you want closure, can we just identify it for the dollar
19 amount that we agree, the 2.5 million-dollar -- If you put a
20 time frame in there and the bank sees that we have an open
21 principal and then the funding that they have a lien on goes
22 away, it's going to be a big issue for me. Does that make
23 sense?
24 COMMISSIONER TERRY: It's going to go away
25 when the boat is paid for.

1 and you'll have a flowing balance. You can see it goes down.
2 That -- if you read --
3 CHAIRMAN KRESTA: We'll see that going down
4 with the part saying that we'll get that from you but all we
5 want to do is say this will be reviewed.
6 CAPTAIN BLANTON: It's a condition of the
7 mortgage. If you read --
8 CHAIRMAN KRESTA: Fair enough.
9 CAPTAIN BLANTON: -- the mortgage condition,
10 it's in there.
11 CHAIRMAN KRESTA: (Inaudible) I'm not going to
12 pay out it off when the boat is paid for but review it for
13 dang sure.
14 CAPTAIN BLANTON: Review is good for us. We
15 plan on sending that in because it's a term of the mortgage
16 actually.
17 CHAIRMAN KRESTA: That's the same thing how
18 credit union is going to do to you. They're going to do the
19 same thing.
20 CAPTAIN BLANTON: You'll get it monthly.
21 CHAIRMAN KRESTA: Right. It's just for that
22 boat. Everybody comfortable with that?
23 COMMISSIONER BOSS: I don't mind adding to be
24 reviewed in eight years, Commissioner Firtle, to the motion.
25 That's fine.

1 CAPTAIN BLANTON: I understand that but what
2 if it doesn't go away before the time frame that you set?
3 CHAIRMAN KRESTA: That can be adjusted at that
4 time. All I'm saying is I want to see it -- everybody
5 needs -- you need to bring it to a review. That's all. I
6 think that's what the board would like to see; is that
7 correct?
8 COMMISSIONER BOSS: It's been presented as a
9 seven-year note.
10 CHAIRMAN KRESTA: Right.
11 COMMISSIONER BOSS: And so, putting an eighth
12 year on it seems to be easy enough to make the payoff. I'm
13 not understanding the problem.
14 CHAIRMAN KRESTA: Eight years to pay off with
15 the projection that they present it to us is all I'm asking.
16 I'm just trying to put it as a review, not a requirement --
17 let me say this should be reviewed.
18 CAPTAIN BLANTON: May I? Just so you know,
19 the escrow terms, the condition of it is we send in the line
20 charge or what it is, what boats we paid, what -- how much we
21 sent to them and we have to send that to them every month.
22 CHAIRMAN KRESTA: That's transparency is all
23 this is.
24 CAPTAIN BLANTON: Yeah and the bank will get
25 that line charge for the boats. So, you can see where it is

1 CHAIRMAN KRESTA: Okay.
2 COMMISSIONER FIRTLE: From the date of --
3 CHAIRMAN KRESTA: The motion on the floor
4 is -- I need to write this down. One hundred dollars, .10
5 multiplier for the new pilot boat and the loan will be
6 reviewed in eight years and every year we'll be getting
7 statements from the pilots association. Is that --
8 CAPTAIN BLANTON: We --
9 CHAIRMAN KRESTA: I said year.
10 MR. MOORE: We can get them monthly.
11 CHAIRMAN KRESTA: Fair enough.
12 MR. MOORE: If you say year, we'll give them
13 to you monthly anyway.
14 CHAIRMAN KRESTA: Okay. Monthly. Is that
15 correct on the motion?
16 COMMISSIONER FIRTLE: Yes, sir, it is.
17 CHAIRMAN KRESTA: Do you stand behind that
18 amended motion, please?
19 COMMISSIONER FIRTLE: Yes. One is when do we
20 implement this?
21 CHAIRMAN KRESTA: The implementation on this,
22 if it's voted on today, is ten days after this hearing,
23 according to the rules. Motion --
24 COMMISSIONER FIRTLE: I agree to that motion.
25 Yes. \$100 plus a .10 multiplier.

1 CHAIRMAN KRESTA: Pirtle.
2 COMMISSIONER PIRTLE: Yes, sir. Regular
3 payoff statements received monthly, or at least for us
4 annually, review in eight years and implementation ten days
5 from the date of this final order.
6 CHAIRMAN KRESTA: And that was Commissioner
7 Pirtle making the motion. And Ravi, you just second that,
8 correct?
9 COMMISSIONER SINGHANIA: Yes.
10 CHAIRMAN KRESTA: Thank you. All in favor say
11 aye.
12 (All commissioners voted aye except one)
13 COMMISSIONER HOSS: No.
14 CHAIRMAN KRESTA: I didn't get a chance to --
15 all opposed?
16 MS. SAATHOFF: State your name.
17 COMMISSIONER HOSS: John Hoss.
18 CHAIRMAN KRESTA: With one vote no, the motion
19 did carry. All right. Just a minute. We're going to -- the
20 third is a surcharge for establishment and maintenance of
21 dispatch service denied without prejudice that was in the
22 order. And I'm going to ask for any discussion on this
23 before I ask for a motion. Is there any discussion on this
24 with the dispatch service?
25 COMMISSIONER SINGHANIA: May I say one thing?

1 port and the pilot board -- the pilots would work together on
2 making this the right setup for them and working with
3 operations as well with the dispatch service.
4 CHAIRMAN KRESTA: Yes, sir.
5 COMMISSIONER SINGHANIA: May I add one more
6 thing?
7 CHAIRMAN KRESTA: Yes, sir, Ravi.
8 COMMISSIONER SINGHANIA: I look at the pilots.
9 They're partners in what we want to do. We want this to be
10 the best port, most efficient port that everybody loves to do
11 business with. And we know we cannot do it without you
12 pilots. So, I know we have gone through a lot of hard
13 thoughts and negotiations and hopefully for the good of
14 everybody we will continue that way and I hope our
15 partnership will continue and grow.
16 CHAIRMAN KRESTA: Okay. Thank you. That's
17 it? The chair does entertain a motion for this Request No. 3
18 on the dispatch system. Entertain any motions anybody can
19 come up with.
20 COMMISSIONER PIRTLE: I'm going to move to
21 deny this at this time and that we work with the pilots in
22 the future to come up with a good dispatch service that is a
23 partnership for everyone.
24 CHAIRMAN KRESTA: Got a motion on the floor by
25 Commissioner Pirtle to deny the charge at No. 3, surcharge

1 CHAIRMAN KRESTA: Yes. I'm sorry. I wasn't
2 looking up at you, Ravi. I'm sorry. I was looking down at
3 the piece of paper reading.
4 COMMISSIONER SINGHANIA: I think there is a
5 very misunderstanding in our channel user community and
6 maybe -- and I think we as the port may have been partially
7 responsible for it. The fear or -- if I use the right word
8 or I don't know what the right word is -- that if we had the
9 dispatch station, then the boats coming to -- ships -- I'm
10 sorry -- ships coming to the public dock or port docks may
11 get a preference over the private channel users. And I'd
12 like to say that and I would hope -- and I know my fellow
13 commissioners will totally agree with me that that has never
14 been the intent and never will be. That the priority of how
15 they come in the system -- how you come in is to be set by
16 the user group. And which all the users are members of it
17 along with the pilots. So, our action was based on -- or at
18 least mine was -- and I'm sure -- to see what is the most
19 cost effective way to accomplish what you -- that we need to
20 do some day. So, I want to make that as a clarified thing so
21 there's not a misunderstanding floating around and the feel
22 unnecessary going into the private channel users.
23 CHAIRMAN KRESTA: Okay. Any more discussion?
24 COMMISSIONER PIRTLE: Yes. Commissioner
25 Pirtle. And I might add, and the hope here is that we as the

1 for the establishment and maintenance of dispatch service
2 denied without prejudice. Do I have a second?
3 COMMISSIONER HOSS: Second.
4 CHAIRMAN KRESTA: Second by Commissioner Hoss.
5 Any more discussion?
6 All in favor say aye.
7 (All commissioners voted aye)
8 CHAIRMAN KRESTA: All opposed?
9 (No votes opposed)
10 CHAIRMAN KRESTA: Motion carried -- motion
11 denied. I'm sorry. I don't know how you want to state that
12 one. Motion carried.
13 COMMISSIONER HOSS: Motion to deny.
14 CHAIRMAN KRESTA: Motion to deny. Thank you.
15 All right. At this time, are there any --
16 MR. LETOURNEAU: Mr. Chairman?
17 CHAIRMAN KRESTA: Yes, sir, Keith. Thank you.
18 MR. LETOURNEAU: We have a couple of
19 housekeeping matters I think we need to address. First, the
20 effective date for the Request No. 1 as well as the last
21 No. 3 needs to be ten days from now for proper notice.
22 (Inaudible) And we still need to rescind the July 10th order
23 and require, pursuant to Mr. Moore's comments, BPH to repay
24 the 2 percent fee that was asked for the July 10th order.
25 CHAIRMAN KRESTA: Okay. Will a commissioner

1 make that motion as far as taking care of this issue with the
2 housecleaning and if y'all need a little help on this.
3 COMMISSIONER SINGHANIA: I'll make a motion.
4 Thank you. (Inaudible) my motion five times. I make a
5 motion the effective date for the 3 percent raise will be ten
6 days from now so proper notice and -- what is RF -- rights of
7 appeal are given. Everybody has their own (inaudible) So,
8 effective date for the 3 percent increase to be at least ten
9 days from now so the proper notice and rights of appeal are
10 given. Still have to rescind -- we have to rescind the
11 July 10 order and require BPA to repay 2 percent raise, which
12 was proposed by the order previously provided.
13 COMMISSIONER HOSS: Second the motion.
14 CHAIRMAN KRESTA: Second by Commissioner Hoss.
15 All in favor of the housecleaning of the legal issues on the
16 motion say aye.
17 (All commissioners voted aye)
18 CHAIRMAN KRESTA: All opposed.
19 (No votes opposed)
20 COMMISSIONER TERRY: (Inaudible)
21 CHAIRMAN KRESTA: We will take a short break
22 to allow counsel to prepare the final order and the board's
23 consideration and we'll have a recess right now and we'll
24 write that up.
25 (Recess taken)

1 approved. Now, I've asked the commissioners to look over the
2 final order that will be presented and make sure there's any
3 adjustments in there and it says what we talked about. Now,
4 I'll start with Mr. Singhanian. Do you see anything in there
5 with yours that you need to talk about?
6 COMMISSIONER SINGHANIA: The motion I made for
7 pilot -- No. 1 -- Request No. 1?
8 CHAIRMAN KRESTA: Yes, sir.
9 COMMISSIONER SINGHANIA: I'm okay with it.
10 And the 2 percent what you call payback or whatever you want
11 to call it, is not in the request but in the later body of
12 the order.
13 CHAIRMAN KRESTA: Fair enough. You're good
14 with that, right? And let's look at Request No. 2. And if
15 that's in there the way it was stated during the meeting.
16 Any comments on that?
17 I believe there was an issue there I was
18 wanting to bring up and talk about. The pilots are required
19 to provide payoff statements on a monthly basis, which was
20 discussed, and the loan status will be reviewed by the Pilot
21 Board before expiration of eight years from the date of the
22 loan origination. There was some question about the rate
23 issue, that it would be at that time looked at. Is that -- I
24 want to ask that question to the people -- the board here.
25 COMMISSIONER HOSS: Mr. Chairman, I understood

1 CHAIRMAN KRESTA: We're coming out of recess
2 and going back to open session in this port hearing and I
3 want to give the commissioners just a few moments to read the
4 final order to make sure it correlates with everything they
5 discussed and they agree with it before I read it and put it
6 into place and see if we're missing anything. And with that
7 being said, if everybody is through reading, tell me yes, no
8 or do y'all want to continue? Mr. Hoss, you --
9 COMMISSIONER HOSS: I'm still reading.
10 CHAIRMAN KRESTA: You're still reading. Go
11 ahead. A few more minutes. Y'all go ahead. Take your time,
12 guys. Make sure we have everything down and documented.
13 Just an update for everybody here, it's a
14 Cat 3 going into Corpus Christi.
15 CAPTAIN BLANTON: Upgraded to a Category 3.
16 At this point we're only doing sailings. We've got two more
17 ships to get out, fourteen and 1800. We've suspended
18 inbound. Galveston has suspended inbound 1300. Houston has
19 suspended inbound until 1245. And it's going to be a
20 multi-day event for everybody. We're looking at potentially
21 three to five days of downtime and significant rainfall.
22 CHAIRMAN KRESTA: Thank you for the update.
23 (Discussion off the record)
24 CHAIRMAN KRESTA: We'll come out of recess,
25 like I said a while ago, and we've got the final order

1 this a little differently. And I believe it was Commissioner
2 Terry had tried to inject that any surplus collected must go
3 to paying off the loan. It should not be kept in an escrow
4 account. So, anything above must go to pay off the vessel,
5 pay off early. And there's no mention of that in here.
6 And I also understood in the discussion that
7 the loan status would be reviewed before the expiration at
8 eight years, if that was not just limited to the loan but
9 whether or not the tariff would remain in place. And that
10 the tariff would be reviewed in addition to the loan --
11 within eight years of the loan. I mean, that was discussion
12 amongst the commissioners and that was -- I heard those being
13 interjected, yes.
14 CHAIRMAN KRESTA: The tariff would be as long
15 as the note is in effect and when it's paid off, it goes
16 away.
17 COMMISSIONER HOSS: Correct. And that's not
18 what this says.
19 COMMISSIONER SINGHANIA: The first part, too,
20 Mr. Chair, that any excess money generated by this tariff
21 will go for the payment of the monthly -- whatever that may
22 be.
23 CHAIRMAN KRESTA: That was all discussed
24 during our deliberations.
25 COMMISSIONER SINGHANIA: Yes, sir.

1 COMMISSIONER ROSS: Yes, sir.
2 CHAIRMAN KRESTA: Is there anything else while
3 we're here, Shane. Commissioner Santos, on that item.
4 Mr. Terry.
5 COMMISSIONER TERRY: I --
6 CHAIRMAN KRESTA: On that item only. Just on
7 that one, No. 2.
8 COMMISSIONER TERRY: (Inaudible) It doesn't
9 say that here that all to be paid over the mortgage of the
10 boat is the way I understand it.
11 COMMISSIONER ROSS: And I heard you distinctly
12 say that you wanted that out.
13 CHAIRMAN KRESTA: All right. And we'll make
14 those changes. Let's go with No. 3 and that was, I think --
15 that was the maintenance of dispatch service denied without
16 prejudice. And it was denied with direction to work with
17 pilots to come up with a good dispatch service. I want to
18 ask the board, should we frame that a little bit further to
19 say to work with -- I believe John talked about it or Shane
20 talked about it -- operations of -- Port Freeport operations
21 and dispatch service should work together?
22 COMMISSIONER FIRTLE: Yes.
23 CHAIRMAN KRESTA: Would you like to put that
24 in there? I'm going back to my memory here because I was
25 saying with direction to work with pilots. You don't say

1 who's going to work. You just said -- we need to clarify
2 that, who's going to work.
3 COMMISSIONER TERRY: And when it's going to go
4 into effect.
5 CHAIRMAN KRESTA: We can do that, too.
6 COMMISSIONER TERRY: Individual working
7 together (inaudible).
8 CHAIRMAN KRESTA: Yes, sir.
9 COMMISSIONER ROSS: I, for one, would like to
10 do that so we can understand how it's going to affect our
11 budget process that we've got to start talking about.
12 CHAIRMAN KRESTA: We'll stipulate the order to
13 work with operations of Port Freeport and the pilots and --
14 COMMISSIONER ROSS: And the work --
15 CHAIRMAN KRESTA: And the work (inaudible),
16 that's right. Can we put that in there? Do you see an issue
17 with that, Keith?
18 MR. LETOURNEAU: Mr. Chairman, I think we're
19 probably going to have to have another motion and we're going
20 to have to perhaps take a short recess and modify the order
21 and --
22 CHAIRMAN KRESTA: The whole order?
23 MR. LETOURNEAU: Yes. So, we should have a
24 motion on the Request No. 2 and also this additional Request
25 No. 3.

1 CHAIRMAN KRESTA: Okay. That being said,
2 we'll open this back up to a motion. And on No. 2 -- who
3 made that one?
4 MS. SAATHOFF: Shane.
5 CHAIRMAN KRESTA: Shane, I'm sorry. I was
6 going to let you -- just amend your motion, Shane, and keep
7 it proper with respect to what the commissioners weighed in
8 on that, if you would, please, sir.
9 COMMISSIONER FIRTLE: All right.
10 CAPTAIN BLANTON: Would it be appropriate if I
11 just made one comment, if you can hear me out or not hear me
12 out.
13 CHAIRMAN KRESTA: Yeah.
14 CAPTAIN BLANTON: For the favor you were
15 talking about what -- the bank is going to hold the escrow
16 account. I know that someone made the suggestion that we not
17 hold fees back. It is going to be applied but if we're going
18 to make -- if you're going to make a determination that all
19 of it should be paid in there, I would think there would be
20 an opportunity to maybe suggest like a five month of mortgage
21 so it will be the cheapest business interruption insurance we
22 can provide. It is our intention to put all that money
23 towards the principal to pay it off as it comes in. But I
24 would strongly request that if it's in your purview to maybe
25 put four or six months of the mortgage fee in there for

1 business interruption that may or may not happen, you know, a
2 hurricane or something like that. We could have those fees
3 where we would be able to float the note until the ships come
4 back.
5 CHAIRMAN KRESTA: Mr. Terry, with that being
6 said, would you consider amending the motion that Mr. Firtle
7 made to not exceed four months of payments in the account?
8 COMMISSIONER TERRY: Yes.
9 CHAIRMAN KRESTA: I'm just talking. That's
10 why I'm asking.
11 COMMISSIONER TERRY: The business
12 interruption? Not to exceed four months.
13 CHAIRMAN KRESTA: Yes, sir. Any other issues
14 with that with the board?
15 MS. SAATHOFF: I would like to make a comment
16 for your consideration, especially in this initial year
17 you're going to accumulate more than -- more than six months
18 as the -- while the boat is being constructed. So, don't
19 restrict them to where those funds with no place to go.
20 COMMISSIONER TERRY: If we let the four months
21 annually --
22 MS. SAATHOFF: After the boat is put into
23 service. But up until the boat is put into service, you need
24 to let them accumulate --
25 COMMISSIONER TERRY: They're only paying

services?

CHAIRMAN KRESTA: Dispatch services. I'll go back to Shane. I think I jumped on you and (inaudible) --

COMMISSIONER FIRTLE: (inaudible) So, it was denied with -- Port Freeport, pilots work together, come up with a new -- within the year, how's that?

COMMISSIONER TERRY: I don't think it should drag out a year, Shane. (inaudible)

COMMISSIONER FIRTLE: It's taken us two months to get to this point, Bill.

COMMISSIONER SINGHANIA: I agree with Commissioner Firtle.

COMMISSIONER TERRY: How long did it take y'all to get (inaudible) --

MS. SAATHOFF: Are we taking --

CHAIRMAN KRESTA: Say who's talking and one at a time. We're just going to put in there with the directions with pilots and Port Freeport operations department -- Port Freeport, leave it at that, and we'll close it in and we should have a plan going forward -- a plan to get started, I'll offer up, within three to four months.

COMMISSIONER SINGHANIA: I have a problem with that because you have user group involved with it.

CHAIRMAN KRESTA: Yes, sir.

COMMISSIONER SINGHANIA: And three months is

very difficult to get all the user group and feedback. I like the one year better. Sorry, Bill. This is not like you can just sit down and come up with something. I think one year will be pressing, in my mind.

COMMISSIONER SANTOS: I'll second the motion so it can come out in a harmonious way.

CHAIRMAN KRESTA: We've got a motion made and a second on the No. 3 to -- direction with the pilots to come up with dispatch service working with the Port Freeport and -- within one year of this date to have it in place. We've got a second, Commissioner Santos.

Any more questions? All in favor say aye.

(All commissioners voted aye)

CHAIRMAN KRESTA: All opposed.

(No votes opposed)

CHAIRMAN KRESTA: Motion did carry. And we'll go back into recess to finalize the order.

(Recess taken)

CHAIRMAN KRESTA: Come back out of recess for the final order --

MS. SAATHOFF: 1:19 p.m.

CHAIRMAN KRESTA: -- 1:19 p.m. On the final order -- can we hear everybody. Thank you. I know y'all don't like me to read very much.

On the 28th day of June, 2017 came on for

consideration before the Board of Pilot Commissioners for the Ports of Brazoria County, Texas Brazos Pilots Association application for adjustment to pilotage rates dated May 30, 2017. The Board of Pilot Commissioners, after reviewing the application for adjustment and after hearing the evidence presented by the pilots and objecting parties and consideration of the factors set forth in Section 68.067 by the Texas Transportation Code rendered a provisional final order on July 10, 2017. Thereafter, the pilots filed a motion for reconsideration on July 19, 2017 and subsequently on August 16, 2017, an amended motion for reconsideration withdrawing their earlier motion.

Texas Transportation Code Section 68.068 requires a party to exhaust its administrative remedies before seeking an appeal to a judicial court. Because the Pilot Board cannot act except through orders issued by the board, it was necessary to reconvene the pilot rate increase request hearing to consider the pilot's amended motion for reconsideration.

The pilots' amended motion for reconsideration seeks the following: A 2 percent rate increase for one year commencing on the effective date of this final order, followed by a subsequent 3 percent rate increase for one year commencing on the 366th day after the effective date of this final order, followed by a subsequent 4 percent rate

commencing on the 731st day after the effective date of the final order.

It is, therefore, ordered the pilots -- Brazos Pilot Association Request 1 is hereby modified as follows: A 3 percent rate increase for one year effective ten days from the date of this order. A 3 percent rate increase for one year effective September 1, 2018 so long as the pilots provide financial statements by June 1, 2018 for the previous calendar year. In the event the pilots fail to provide such financial statements, this rate increase will not take effect. A 3 percent rate increase for one year effective September 1, 2019 so long as the pilots provide financial statements by June 1, 2019 for the previous calendar year. In the event the pilots fail to timely provide such financial statements, this rate increase will not take effect.

Brazos Pilots Association Request No. 2, a surcharge for pilot transport service consisting of a base charge of \$100 plus a unit charge calculated as units multiplied by the factor of .11.

It is, therefore, ordered the Brazos Pilots Association Request 2 is hereby modified as follows: A surcharge for acquisition of one pilot boat consisting of a base charge of \$100 plus a unit charge, as defined in the tariff, calculated as units multiplied by the factor .10. The duration of this rate increase will be until the boat is

1 paid off. The pilots are required to provide payoff
2 statements on a monthly basis. The loan status and tariff
3 will be reviewed at the pilot board before the expiration of
4 eight years from the date of their loan origination. Any
5 excess funds collected under this tariff shall be applied
6 towards the loan balance, save and except allowing for four
7 months' payments being in an escrow account, after the boat is
8 placed in service.

9 Brazos Pilots Association Request No. 3, a
10 surcharge for establishment and maintenance of dispatch
11 service denied without prejudice. It is, therefore, ordered
12 the Brazos Pilots Association Request No. 3 is hereby
13 modified as follows: Denied, with direction to the working
14 group, the port operations and pilots work together to come
15 up with a good dispatch service within one year from the date
16 of this order.

17 The final order -- this final order shall
18 completely replace and vacates the final order on application
19 for adjustments to pilotage rates on July 10, 2017. It is
20 intended by the Board of Pilot Commissioners that this order
21 be -- this order is final as to the Brazos Pilots
22 Association's application for adjustment to pilotage rates
23 dated May 30, 2017 and is appealable as permitted by
24 Section 68.062 of the Texas Transportation Code. The parties
25 have now exhausted all of their administrative remedies.

1 It is further ordered that the 2 percent
2 additional pilotage fees charged and collected by the
3 pilotage -- Brazos Pilots Association during the interim
4 final order of July 10, 2017 for the performance of pilot
5 services between July 20, 2017 and the effective date of this
6 final order shall be refunded by the pilots to the shippers
7 and consignees that pay such fees either directly or through
8 appropriate agents.

9 It is further intended by the Board of Pilot
10 Commissioners that this order shall also act as a resolution
11 memorializing the action of the Board of Pilot Commissioners
12 as to the Brazos Pilots Association's application for
13 adjustment to pilotage rates dated May 30, 2017.

14 Do I hear a motion to accept this order?

15 COMMISSIONER SINGHANIA: So moved.

16 CHAIRMAN KRESTA: We have a motion by
17 Commissioner Singhania to --

18 COMMISSIONER SINGHANIA: Singhania.

19 CHAIRMAN KRESTA: Singhania. Thank you.

20 COMMISSIONER HOSS: Commissioner Hoss will
21 second.

22 CHAIRMAN KRESTA: Commissioner Hoss will
23 second. All in favor say aye.

24 (All commissioners voted aye)

25 CHAIRMAN KRESTA: All opposed.

1 (No votes opposed)

2 CHAIRMAN KRESTA: As presiding officer, I
3 direct that a copy of the board's order shall be filed with
4 the county clerk no later than 20 days following today's
5 date. This hearing is now closed.

6 (Proceedings concluded)

1 STATE OF TEXAS
2 COUNTY OF BRAZORIA

3 REPORTER'S CERTIFICATE

4 PUBLIC HEARING OF AUGUST 24, 2017

5 AUDIO TRANSCRIPTION

6 August 24, 2017

7 I, the undersigned Certified Shorthand Reporter in and
8 for the State of Texas, certify that the foregoing is a
9 correct transcription from the tape recording of the
10 proceedings in the above-entitled matter.

11 I further certify that I am neither attorney or counsel
12 for, related to, nor employed by any parties to the action in
13 which this hearing was taken and, further, that I am not a
14 relative or employee of any counsel employed by the parties
15 hereto or financially interested in the action.

16 SUBSCRIBED AND SWORN TO under my hand and seal of office
17 on this the 24th day of September, 2017.

18 Stacey Whitley
19 Stacey Whitley, CSR
20 Texas CSR 3999
21 Expiration: 12/31/2017
22 307 ARROWWOOD STREET
23 Lake Jackson, Texas 77566
24 979-285-9197
25

