

OREGON BOARD OF MARITIME PILOTS

BP 9

In the Matter of the Petition of the Columbia) FINAL ORDER
River Pilots for a Change in Pilotage Rates.) No. 10-01

DISPOSITION: REVISED RATE SCHEDULE ADOPTED

I. PROCEDURAL HISTORY

Background. On September 30, 2009, pursuant to OAR 856-030-0010, the Columbia River Pilots filed a Petition for a Change in Pilotage Rates (COLRIP Petition) for the Columbia and Willamette River Pilotage Ground (CWRPG). The Port of Portland on October 30, 2009, and the Port of Vancouver on November 3, 2009, each filed Counter-Petitions and became parties to the proceeding. Columbia River Steamship Operators Association (CRSOA) filed a Response and Counter Petition on December 17, 2009. Pursuant to a Request for Extension of Time to File Rate Petition filed by the Columbia River Bar Pilots (CRBP) on October 29, 2009, the Administrative Law Judge (ALJ) granted CRBP an extension of time until November 19, 2009, in which to file its Rate Petition (CRBP Petition). The CRBP Petition was timely filed on November 19, 2009.

A joint schedule for the proceedings was established at a prehearing conference held on December 8, 2009, and noted in the Prehearing Conference Report issued by the ALJ on December 15, 2009. On January 26, 2010, the ALJ issued a Ruling and Memorandum establishing the list of issues that were to be considered in the rate proceedings for each pilotage ground.

On March 2, 2010, CRBP moved for a change of schedule, noting that it had reached a settlement agreement with the Ports of Portland, Vancouver, Longview, and Astoria (the Ports) and that CRSOA had withdrawn from active participation in the evidentiary process. On March 4, 2010, the ALJ issued Protective Order 10-01. Due to the fact that the COLRIP and CRBP Petitions were proceeding on different discovery and negotiation tracks, by Ruling and Memorandum of March 26, 2010, the two petitions were placed in separate dockets, with the CRBP docket being removed from BP 9 and placed in the newly established docket designated as BP 10.

On March 12, 2010, COLRIP filed its list of Witnesses and Exhibits to be used at the hearing. On April 1, 2010, COLRIP filed a Motion for Leave to Supplement the Record which was granted without opposition by Ruling of April 9, 2010.

All of the parties waived their rights to cross examine witnesses or to file Reply Testimony, and the hearing dates were removed from the schedule.

On April 16, 2010, COLRIP, CRSOA, and the Ports filed opening briefs. CRSOA also filed Objections and Motions to Strike COLRIP Testimony, and COLRIP filed Motions to strike both CRSOA's Objections and Motion to Strike and the Exhibits and portions of the Opening Brief filed by CRSOA. The ALJ disposed of the objections and motions in Rulings of April 21 and 23, 2010, and CRSOA filed an amended opening brief pursuant thereto. All parties filed reply briefs on April 26, 2010. On April 29, COLRIP filed a Motion to Strike exhibits and portions of the Port's Brief or permission to file further response, and the Ports filed a Response on May 3. The COLRIP Motion was granted on April 30, 2010.

II. THE RATEMAKING PROCESS

Statutory Requirements. ORS 776.115(2) establishes the general goal of providing efficient and competent pilotage service on all pilotage grounds. In doing so, the Board shall "[r]egulate and limit the number of licensees and trainees under this chapter, such number of licensees and trainees to be regulated and limited to the number found by the board to be required to render efficient and competent pilotage service. The primary consideration of the board is public safety." ORS 776.115(2).

ORS 776.115(5)(a) authorizes and directs the Board to set "reasonable and just" rates and fees. ORS 776.115(8) requires the Board to establish rates for a period of not less than two years. The rates may include automatic adjustment provisions to reflect changing economic conditions. *Id.*

OAR 856-030-0000 addresses the determination of pilots' target net income (TNI) and expenses. The rule provides that:

The Board shall for each pilotage ground establish a rate structure which provides for efficient, economical, and competent pilotage services and fair compensation for pilotage services and expenses:

(1) In determining the number of pilot positions needed and fair compensation for services and expenses, the Board shall consider:

- (a) The amount of activity, including number of vessels, number of pilot assignments, size of vessels by net tonnage and length, and draft;
- (b) Any change in the amount of activity since the last rate order;
- (c) The public interest in prompt and efficient service;
- (d) The professional skills and experience required of a pilot and the difficulty and inconvenience of providing the service, including time necessary to perform the service;

