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STATE OF CALIFORNIA
BOARD OF PILOT COMMISSIONERS
for the
BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN

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COPY

PUBLIC HEARING

Pilot Rate Hearing

January 12, 1999 - 10:10 a.m.

Pages 1 - 17, Inclusive

Pilot Commission Office
World Trade Center, Suite 234
San Francisco, California

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Reported by: Mae J. Chu

MAE J. CHU REPORTING
P. O. Box 27504
San Francisco, California 94127
Fax: 415/584-0634
Telephone: 415/386-9018

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BOARD OF PILOT COMMISSIONERS

DIANE C. MILLER
President

WILLIAM FIGARI
Vice President

THOMAS E. HAND

ROBERT MAYER *

ARTHUR J. THOMAS

Also Present: Captain Patrick Moloney
Executive Director
Alice Evans, Secretary
Board of Pilot Commissioners
State of California

Board Counsel: Raymond M. Paetzold
Paetzold, White & Brodsky
180 Grand Avenue, Suite 330
Oakland, California 94612-3741
Telephone: 510/267-0112

* Absent

1
2 San Francisco
California

January 12, 1999
10:10 a.m.

3 CHAIRPERSON MILLER: We move on now to the
4 pilotage rates.

5 Alice, I need you to take the roll, please,

6 MS. EVANS: Okay.

7 Commissioner Figari.

8 COMMISSIONER FIGARI: Here.

9 MS. EVANS: Commissioner Hand.

10 COMMISSIONER HAND: Here.

11 MS. EVANS: Commissioner Mayer is absent.

12 Commissioner Miller.

13 CHAIRPERSON MILLER: Here.

14 MS. EVANS: Commissioner Thomas.

15 COMMISSIONER THOMAS: Here.

16 MS. EVANS: You have a quorum.

17 CHAIRPERSON MILLER: Okay. I will do the
18 introduction here.

19 The rates that the San Francisco Bar Pilots may
20 charge their customers are set by statute. The Board's
21 function in the establishment of those rates is to hold
22 hearings when requested to do so by anyone directly
23 affected by pilotage rates.

24 The purpose of such a hearing is to receive and
25 consider evidence relevant to the setting of pilotage

1 rates and to develop recommendations to the legislature.

2 The last such rates hearing was in 1996, at
3 which time the Board voted to recommend incremental rate
4 increases for the years 1997, 1998, and 1999. The
5 California legislature accepted those recommendations and
6 passed them into law.

7 In what, I believe, today is an historic step
8 forward, the principal parties to pass rate hearings
9 formed a working group to review pilotage rates and
10 develop a joint proposal for rates to be in effect for the
11 next three years.

12 An agreement was reached by PMSA and the San
13 Francisco Bar Pilots last November. And that agreement is
14 now before the Board.

15 At this time, I will ask for the Board counsel
16 to summarize the key provisions of that agreement and what
17 the Board is required to consider.

18 Ray.

19 MR. PAETZOLD: I'll pass out the written
20 agreement and make extra copies available to the public.

21 In this package is a copy of the one-page
22 agreement between PMSA, my letter dated November 23, 1998,
23 requesting clarification on a number of issues, Captain
24 Greig's response to my letter, and PMSA's concurrence with
25 that response.

1 Briefly, the rate agreement includes incremental
2 increases in the mill rate and the draft foot charge, that
3 is the bar rate of 4 percent the first year, 3 percent the
4 second year, and 3 percent the third year.

5 The way that works is the rate that is in effect
6 in 1999 will be increased by 4 percent for the year 2000.
7 The rate in effect in the year 2000 will be increased by 3
8 percent the following year. And the rate in effect in
9 2001 will be increased by 3 percent for the year 2002.

10 That is the same result, by the way, that this
11 Board had concluded after the rate hearing in 1996 for a
12 4-3-3 incremental increase.

13 The rates for bay and river moves, or inland
14 rates, will be increased by 22 percent over the 1999 rate,
15 effective January 1 in the year 2000. That rate will be
16 increased by 15 percent, effective January 1 in the year
17 2001, and by 10 percent for the year 2002.

18 The current statute allows the Board to also
19 change the mill rates, either up or down, as the number of
20 pilots licensed by the Board either increases or decreases
21 above or below the number 60.

22 The agreement calls for no rate change if there
23 is a decrease from the current number of pilots, 63, to
24 60. Once the number of pilots falls below 60, the mill
25 rate will be reduced by one-half of the average annual

1 audited net income per pilot or the mill rate equivalent
2 of that number.

3 Also, once below 60, if the number of pilots has
4 increased, the mill rate will be increased, again, by
5 one-half of the annual audited net income per pilot. That
6 term and that figure is something that is in the statute
7 and is used in the pension plan as well.

8 A third item that is part of the agreement
9 involves the pilot boats. I think everyone here knows the
10 Pilots and the Board are working at developing and having
11 built new -- either one or two new pilot boats. All the
12 costs associated with the replacement of the station
13 boats, or the pilot boats, will be paid for through a
14 separate surcharge. And it is not going to be a part of
15 the rate increases.

16 The net proceeds from the sale of any of the
17 existing pilot boats, and that includes run boats as well
18 as station boats, will be used to reduce the debt on the
19 new boats. That will also be a provision that will be in
20 the statute.

21 A fourth item in the agreement will not be set
22 forth in the statute, but it is going to be in the minutes
23 of the Board and that is the establishment of joint
24 pilot-industry committees, one to address safety and
25 quality issues. That committee has already been

1 established and has met once last year, last December, and
2 will be meeting again this month as had been reported at
3 the regular board meeting.

4 Another committee will be established to conduct
5 a long-term review of pilot pensions. That has not yet
6 been established, but I expect that we'll be hearing more
7 about that shortly.

8 That is the summary of the agreement as modified
9 by the correspondence between Board counsel and the
10 parties to the agreement.

11 The notice went out -- actually, I think
12 President Miller is going to be addressing the fact that
13 this hearing was noticed. I'm not aware so far of any
14 member of the public having asked to present evidence on
15 this issue.

16 However, I should note that the Harbors and
17 Navigation Code does require, before the Board makes any
18 recommendations to the legislature regarding rates that,
19 as most of you are quite familiar with, that there are
20 certain facts that need to be considered.

21 I'm going to pass those around at this time, a
22 copy of Section 1203 of the Harbors and Navigation Code.
23 There are extra copies for the members of the public.

24 I'd like to briefly run through those factors to
25 help guide the Board in its thinking in terms of what its

1 next role is with regards to this rate agreement.

2 What Section 1203 states is that in preparing
3 its recommendations the Board shall give consideration to
4 other relevant factors, in addition to any audit that
5 might have been required by the Board. None has been
6 required.

7 Item (a) is cost to the Pilots, individually.
8 Two things about that that I'd like to comment on. One is
9 that the rate agreement that is before the Board is one
10 that was arrived at, through my own knowledge, in
11 arm's-length negotiations over some period of time between
12 the two parties that have been most often the parties at
13 any past rate hearings; that is, PMSA and the San
14 Francisco Bar Pilots Association.

15 The costs to the Pilots of providing service is
16 something that is very well-known to both of those
17 parties, and is also quite well-known to the Board through
18 its monthly finance committee review of those costs and
19 the report of that committee to the Board. I believe that
20 the Board does have adequate information to consider that
21 item, as required by the statute.

22 Section 1203(b) requires the consideration of
23 the net return to the Pilots sufficient to attract and
24 hold persons capable of performing the service, and also
25 the relationship of that income to any changes in the cost

1 of living indices.

2 Similarly, that is an item that generally is
3 familiar to both the Board and the members participating
4 in the rate agreement.

5 The Board is also quite familiar with the past
6 experience in the ability to attract members to the
7 training program, which the Board knows, and I think
8 everyone in the audience knows, is currently closed
9 because there are more pilots than the Board is currently
10 authorized for.

11 Item (c), pilotage rates charged for comparable
12 services rendered in other ports, which was an item that
13 was the topic of considerable discussion in evidence
14 submitted to the Board at the last rate hearing, I believe
15 the Board members that are currently sitting around the
16 table and most of the people in the room are familiar with
17 that evidence, as were PMSA, as well as the Bar Pilots, in
18 drawing up this agreement. I think the Board may conclude
19 that it has accurate information on this item as well.

20 Item (d), methods for determining pilotage rates
21 in other ports and harbors, that is an item that the Board
22 in the past has considered to be of minimal relevance to
23 the issue of setting rates as opposed to it being relevant
24 to the issue of how the Board goes about setting rates,
25 the methods of determining rates elsewhere.

1 Again, it's information that the Board had
2 available to it at the last rate hearing, and that the
3 parties had available to them when they reached the rate
4 agreement.

5 Item (e), economic factors affecting the local
6 shipping industry, this is an issue also that the parties
7 are well familiar with, the Board is well familiar with,
8 through the monthly Board meetings.

9 Item (f), additional factors, the volume of
10 shipping traffic is reported monthly to the Board.
11 Therefore, the Board members should have adequate
12 information, not to say, as to any of these things the
13 Board cannot request additional information on the items
14 if it needs it. But it is available and reported on a
15 monthly basis to the Board, and, therefore, also available
16 to PMSA and, of course, it's coming from the San Francisco
17 Bar Pilots Association.

18 The number of pilots available to perform
19 services, part of subsection (f), is information that is
20 readily available to the Board. I believe the current
21 number is still 63. Is that correct?

22 COMMISSIONER THOMAS: Correct.

23 MR. PAETZOLD: Income paid for comparable
24 services, this is similar to the information I received,
25 rates charged for comparable services; that is, what do

1 the other ports that have similar pilotage grounds to the
2 Board charge?. That information was discussed at length at
3 the last rate hearing. I believe it's still well in the
4 forefront of the consciousness of the Commissioners around
5 the table.

6 The other factors of a related nature, that's
7 the language of the statute, typically, and most recently
8 in considering the rate hearing procedures, the Board has
9 looked at the risk to pilots to their personal safety,
10 that is an issue that I believe all the Commissioners are
11 well familiar with at this point. Almost all of the
12 commissioners have actually gone out on a pilot boat and
13 have heard, over the months, considerable information, and
14 also on the issue of pilot ladder safety, that has
15 recently been a topic at the forefront for the Board.

16 Changes in navigation and safety equipment is
17 information that has been addressed in past finance
18 committee meetings. And pilot and port activities,
19 particularly with regard to training governmental advisory
20 bodies, navigational aides and the like, is information
21 that is readily made available to the Board.

22 I believe, in short, that all of the statutory
23 factors that the Board is required to consider before
24 making recommendations to the legislature have been
25 adequately made available, or information about them has

1 been made available to the Board and certainly is known to
2 the parties that have reached this rate agreement.

3 I'd like to also make one last comment before I
4 conclude my brief remarks -- I apologize for making them
5 so long but I think it's necessary -- and that is that I
6 would like to make sure that the record reflects that the
7 president of PMSA, John McLaurin, has expressly stated
8 that although he could not be present today and that he
9 recognizes that the two industry members are no longer a
10 part of the Board; therefore, there are vacancies on the
11 Board that would normally be representing industry that
12 PMSA expressly supports the Board's actions today to go
13 ahead with considering the agreement and taking action on
14 it.

15 That is not the case with regards to rate
16 hearing procedures, which is a separate issue dealing with
17 the regulatory or rule making action of the Board. So I'm
18 confident that there is no impediment for the Board to
19 proceed on this matter.

20 That's the end of my comments.

21 CHAIRPERSON MILLER: Thank you, Ray.

22 On December 7, 1998, the Board sent a notice to
23 all interested parties, informing them about today's
24 hearing and offering them an opportunity to submit
25 evidence for the Board's consideration.

1 To date, no one has notified the Board of his or
2 her intention to provide evidence on this matter or to
3 otherwise oppose the rate changes that have been jointly
4 proposed by PMSA and the Bar Pilots.

5 Is there anyone in the audience who wishes to
6 present evidence to the Board on this matter?

7 MR. PAETZOLD: Let the record reflect that
8 there are five members in the audience, representing
9 Pilots and industry, and that no one has indicated an
10 interest in presenting evidence on this matter.

11 CHAIRPERSON MILLER: Is there anyone who wishes
12 to address the Board on this matter?

13 MR. PAETZOLD: Same comment. No one has
14 indicated an interest from the audience to comment on the
15 matter.

16 CHAIRPERSON MILLER: Hearing none, the record
17 is now closed. And the Board will deliberate on whether
18 to adopt the jointly proposed rate changes as the Board's
19 recommendation to the legislature.

20 First, do any of the Commissioners wish to
21 address the Section 1203 factors?

22 COMMISSIONER FIGARI: No.

23 COMMISSIONER THOMAS: No.

24 I think it might be important for the Board --
25 at least for this member of the Board -- to indicate that

1 Mr. Paetzold's comments relating to Section 1203 were very
2 appropriate, on the mark, and, I'm sure, indicated
3 precisely what the Board has done in the past.

4 CHAIRPERSON MILLER: Thank you.

5 May I have a motion?

6 COMMISSIONER FIGARI: I'll make a motion.

7 COMMISSIONER HAND: Are we moving to accept
8 the --

9 Okay. You moved. I second. And then I just
10 have a few comments.

11 MR. PAETZOLD: We probably should state the
12 motion, for the record.

13 CHAIRPERSON MILLER: Go ahead, Captain Figari.
14 Do you want to make the motion to adopt the
15 proposed change?

16 COMMISSIONER FIGARI: Yes. I make the motion
17 that we adopt the proposed rate change agreed to by PMSA
18 and the San Francisco Bar Pilots as the Board's
19 recommendation to the legislature and have the Board
20 counsel prepare the appropriate language to implement
21 these changes.

22 CHAIRPERSON MILLER: Thank you. Any second?

23 COMMISSIONER HAND: I second.

24 Now, I think that answered it right there. I
25 was wondering how you were going to include the

1 clarification language in the stipulation. And
2 apparently, you're going to deal with that.

3 MR. PAETZOLD: As Commissioner Hand was saying,
4 the "you" is me, Board counsel. What I intend to do is,
5 prior to the Board's regular board meeting scheduled for
6 the 21st of this month, I will prepare the statutory
7 changes -- proposed statutory changes and make sure PMSA
8 and the San Francisco Bar Pilots have a chance to review
9 them, make sure they're satisfactory and, in fact,
10 implement what the parties intended. And then it will be
11 forwarded to the legislature in accordance with the
12 Harbors and Navigation Code.

13 COMMISSIONER HAND: Okay. That satisfies me.

14 CHAIRPERSON MILLER: We need to take the roll
15 call vote.

16 MS. EVANS: Commissioner Figari.

17 COMMISSIONER FIGARI: Aye.

18 MS. EVANS: Commissioner Hand.

19 COMMISSIONER HAND: Aye.

20 MS. EVANS: Commissioner Mayer is absent.
21 Commissioner Miller.

22 CHAIRPERSON MILLER: Aye.

23 MS. EVANS: Commissioner Thomas.

24 COMMISSIONER THOMAS: Aye.

25 CHAIRPERSON MILLER: Thank you very much. The

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motion carries.

And that concludes the hearing on this issue.

COMMISSIONER THOMAS: Not quite, please.

CHAIRPERSON MILLER: Oh. Commissioner Thomas.

COMMISSIONER THOMAS: One comment, again, for the record.

I think the Board should express its thanks to the Pilots and Captain Greig and Captain Nyborg and to PMSA and Mr. McLaurin and those who met with the Pilots in hammering out the agreement that was presented to the Board for adoption this morning; and that was adopted.

It's an indication that when a real effort is made on the part of the Pilots and of the maritime industry that the results can be very satisfactory to all parties.

And I hope I speak for all of us when I say, "Thank you, Pilots. Thank you, Industry."

CHAIRPERSON MILLER: Thank you.

Off the record.

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The Pilotage Rate Hearing concluded at 10:30 a.m.

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CERTIFICATION

I, MAE J. CHU, do hereby certify that the Board of Pilot Commissioners Public Hearing re Pilot Rates, was taken by me, a shorthand reporter, on January 12, 1999;

That the testimony was thereafter reduced to a transcript in typewritten form with the aid of a computer translation system; and that the foregoing is a complete and true record of said proceedings.

I further certify that I am not of counsel or attorney to any of the parties of the said proceedings nor in any way interested in the outcome of this cause, and that I am not related to any of the parties thereto.

Dated: January 24, 1999



Mae J. Chu