

AD HOC COMMITTEE TO REVIEW THE PILOTAGE RATE SETTING PROCESS

REPORT TO THE CALIFORNIA BOARD OF PILOT COMMISSIONERS

24 FEBRUARY 2022

Summary of Recommendations

The Ad Hoc Committee to Review the Pilotage Rate Setting Process has developed recommendations for the Board to adopt.

- 1) The Committee recommends to the Board of Pilot Commissioners (BOPC or Board) that the Board propose and advocate to both the Administration and the Legislature that the statutory pilotage rate setting process be changed. Specifically, Harbors and Navigation Code sections 1190,1191, and 1200-1203.
 - a) Recommends language which eliminates the inefficient and politicized process with the legislature as the final determinant in the rate setting process
 - b) Recommends language which includes the Secretary of California State Transportation Agency (CalSTA) to approve the decision of the Board for adjustment of pilotage rates.
 - c) Recommends rate hearings be conducted by an impartial Administrative Law Judge (ALJ) who shall prepare a proposed decision for the Board's consideration.
 - d) Recommends the Board's available actions, after the ALJ's proposed decision is issued, as follows:
 - i) The Board adopts the ALJ's proposed decision in its entirety.
 - ii) The Board makes technical, clarifying, or other minor changes in the proposed decision that do not affect its findings and conclusions and adopt the proposed decision in its modified form.
 - iii) The Board rejects the proposed decision and refers it back to the ALJ for consideration of specified evidence or issues and requests submission of a new proposed decision.
 - iv) The Board rejects the proposed decision with supporting written explanation.
 - e) Recommends adopting an established utility rate-setting formula for determining revenue requirements. Revenue Requirement = (TNI x # of Pilots) + operating costs and expenses.
- 2) The Committee recommends the Board endorse and propose the following changes to regulations:
 - a) Recommends language requiring a pre-hearing conference and parties to develop stipulations prior to a rate hearing conducted by an Administrative Law Judge.
 - b) Recommends a process which allows for an expedited schedule in the case of a joint petition. The Committee suggests creating a procedural path which allows a joint petition to forego a lengthy rate hearing process provided it remains uncontested following public comments.
 - c) Recommends language determining expected elapsed time between rate hearings.
 - d) Recommends establishing a timeline for each step of the process to encourage a timely submission of Final Order.

- 3) The Committee finds no reason to stay with the status quo and instead recommends the Board, upon acceptance of any or all the recommendations, to instruct Board staff to engage with the California State Transportation Agency to support the changes to statute. The Committee concludes these recommendations are the culmination of 24 months of Board and Committee deliberations, conducted with significant stakeholder input and the primary ownership rests with the Board to seek the recommended statutory and regulatory reforms.

COMMITTEE MISSION

“To evaluate the efficiency and effectiveness of the current State legislative rate setting process by reviewing various pilotage rate setting processes at other pilotage commissions, and to determine whether changes to the current pilotage rate setting process would be beneficial to the State, Board-licensees and the shipping industry. The Committee will present their findings and recommendations to the Board.”

BACKGROUND

Throughout 2020 the Port Agent for the San Francisco Bar Pilots (SFBP) reported to the Board a significant drop in vessel traffic with commensurate reduction in revenue into the pilotage system due to the COVID-19 pandemic. At each monthly meeting the Board grappled with ways to use existing statute to assist in responding to the system shortfall. By July of 2020 it was frustratingly obvious to the Commissioners that no quick response was possible. A change to the rates would require a bill be carried to the Legislature. The legislature was disrupted by COVID and were dealing with COVID related bills only. AB 1372 (Bonta), a bill revising the process for changing the rates, was to be introduced by the San Francisco Bar Pilots in June but was never heard by the Assembly. The Board began to work on evaluating long-term changes to statute which would help make the system more responsive while also considering more immediate short-term solutions to the system’s COVID related revenue loss. In December, the SFBP requested the Board to consider establishing a committee to review the rate setting process. The Pacific Merchant Shipping Association (PMSA) also agreed the rate setting process should be reviewed. In February 2021 the AD HOC Committee to Review the Rate Setting Process was formed. The committee has met frequently since inception.

CURRENT RATE SETTING PROCESS

The process for setting pilotage rates is set in Harbors and Navigation Code sections 1200-1203.

- Any party directly affected by pilotage rates may petition the Board for a public hearing.
- At the conclusion of the hearing the Board shall review and evaluate all evidence.
- The Board’s findings and recommendations for final determination are submitted to the Secretary of the Senate and the Chief Clerk of the Assembly.

- It is incumbent upon the petitioning party to find a legislative author for the rate recommendation.

The procedures for holding rate hearings are contained in Title 7 of the California Code of Regulations, division 2 article 7 [236].

- The Board's role in the setting of pilotage rates is to hold public hearings to investigate such rates and make recommendations to the Legislature.
- Factors to be considered by the Board in preparing its recommendation to the Legislature on pilotage rates are detailed.

IDENTIFIED PROBLEMS WITH THE CURRENT RATE SETTING PROCESS

The Committee requested stakeholders formally present their concerns with the current process and suggest process improvements that could be adopted by the State of California.^{1 2}

Key take-aways from these presentations to the Committee include:

- The process is too lengthy and must follow the legislative calendar. The process requires the petitioning party to find a legislator to author/sponsor the rate bill.
- The process has flaws in evaluating evidence.
- The process needs to make rate setting more formulaic and consistent.
- The process creates a highly contentious and politicized environment.
- The process is not responsive, cannot update rates without legislative involvement.

EFFORTS AND WORK OF THE COMMITTEE

1. History of the Rate Setting Process at the Board

Executive Director Allen Garfinkle presented the Committee with a staff report "Historical Review of the Rate Setting Process"³ The Committee reviewed this report which dated back to a revision to statute in 1962.

Legislative action in 1970 reaffirmed the need of a Pilot Commission for San Francisco, San Pablo and Suisun Bays. The Governor's Reorganization Plan of 1969 eliminated state regulation in San Diego and Humboldt Bays but retained state regulation of pilotage in the San Francisco Area due, in part, to a large number of differing types of local government and port authorities in the region.

The staff report outlined rate hearings for the years between 1976 to 2002. The report gave the Committee background on the involvement of an Administrative Law Judge (ALJ) for the years 1991-

¹Letter from San Francisco Bar Pilots to the Ad Hoc Committee to Review the Pilotage Rate Setting Process, May 17th, 2021.

² Letter from Pacific Merchant Shipping Association to the Ad Hoc Committee to Review the Pilotage Rate Setting Process, May 17th, 2021.

³California Board of Pilot Commissioners, staff report "Historical Review of the Rate Setting Process". April 7th, 2021.

1995 to conduct the rate hearings, oversee the submission of evidence, determine findings and make recommendations to the Board. The use of an ALJ “sunsetted” after five years and responsibility for rate hearings returned to the Board.

Since no legislative action was taken on the Board’s rate recommendations from the 2011 and 2015 rate hearings, the staff report did not provide additional details. A Navigation Technology Surcharge recommendation from the 2015 rate hearing has been the only legislative action since 2002. Stakeholders have submitted reports on their legislative efforts for recent years. Since the forming of this committee, PMSA and SFBP collaboratively introduced AB 807 which provided the pilotage system with emergency relief in the form of a surcharge to help defray the cost of pilot boat maintenance and an update to the pilot dispatching program. Although AB 807 also introduced language for the BOPC to temporarily adjust rates in response to catastrophic cost increases to the pilotage system the legislation did not address catastrophic revenue decline.

2. Review of Pilotage Rate Setting in Maritime States:

There are twenty-four coastal states with a pilotage regulatory program. Nineteen states set rates through an administrative process. The most common model exists in ten states where the state’s pilot commission sets rates. Three states utilize their public utilities commissions, two states have a single purpose pilot rate commission, four other states have unique administrative bodies set rates. Only five of the twenty-four states have chosen to have the legislature participate in the rate-setting process. In two of these states, the legislature is the sole rate-setting body. One state has rates set by legislature, but special service fees are set by pilot commission. In the remaining two, of which California is one, the legislature sets rates based on recommendations by the pilot commission.⁴

The Committee heard from PMSA that consensus would be hard to attain if the Committee pursued recommending a rate setting process in which rates were set solely by the Board of Pilot Commissioners.

All stakeholders suggested, and the Committee focused on, reviewing the rate setting processes in the other west coast states: Washington, Oregon, and Hawaii. Stakeholders had familiarity with and respect for the processes in place in those states.

Pilotage Rate Setting for State of Washington:

In Washington, the Utilities and Transportation Commission establishes tariffs and rates that are fair, just, reasonable, and sufficient for the provision of pilotage services.⁵

As part of our research, the Ad Hoc Committee to Review the Rate Setting Process reviewed:

- Washington State Joint Transportation Committee Final Report, Community Attributes Inc. and Gleason & Associates, January 18, 2018.

⁴ Walter S. Tabler. *Report on Pilotage Rate Setting Processes in the United States*, (Tabler Consulting, LLC, 2020): 1.

⁵ Washington Statute RCW 81.116.020(3)

- Washington State Utilities and Transportation Commission (UTC) Legislative Report on Establishing Marine Pilotage Tariffs, June 29th, 2021.
- WA UTC Final Order – Order 09, Docket TP-190976. November 25th, 2020.

The pilotage rate setting process in Washington recently went through a transition. In 2018 the legislature transferred the responsibility for setting rates from the Board of Pilot Commissioners (BPC) to the Utilities and Transportation Commission (UTC). This transfer of responsibility was based in large part on findings in the Washington State Joint Transportation Committee (JTC) report. There were several key findings in this study pertaining to rate setting. The report concluded “[there was] no clearly defined methodology for the tariff and fee rate-setting process” and gave the legislature a choice to transfer the rate-setting authority to the WA UTC or retain authority at the BPC but act on additional recommendations in the report to improve the current process.⁶

Washington State, in the UTC Final Order, established a formula to establish a revenue requirement.⁷

$$\text{Revenue Requirement} = \text{Expenses} + \text{Depreciation} + \text{Interest} + \text{TDNI}$$

TDNI refers to “Total Distributable Net Income”. $\text{TDNI} = \# \text{ of pilots} \times \text{DNI}$

The WA UTC determined they first needed to derive an appropriate revenue requirement formula. From that formula they can determine the relevant inputs to arrive at the revenue requirement.

Pilotage Rate Setting for State of Oregon:

The Oregon Board of Maritime Pilots (OBMP) is established within the Public Utilities Commission (PUC) of Oregon. The OBMP is tasked with fixing “at reasonable and just rates, pilotage fees...”⁸. The OBMP is authorized to conduct rate hearings and shall contract with the OR PUC for the use of administrative law judge to conduct the hearing.⁹

The OBMP also has an established formulaic approach to establishing rates. This is well described in BP 12 Final Order dated July 27th, 2021, page 4 “The Ratemaking Process.” The Final Order describes ratemaking as a two-step process in which the Board first determines a reasonable and just total revenue level and then sets rates for specific tariff items to produce the appropriate amount of total revenue.

$$(\text{TNI} \times \# \text{ of pilots}) + \text{expenses} = \text{Target Total Revenue}$$

Where TNI means Target Net Income, alternatively Net Distribution per Pilot.

⁶ Washington State Joint Transportation Committee Final Report, Community Attributes Inc. and Gleason & Associates, January 18, 2018. 68-74.

⁷ WA UTC Final Order – Order 09, Docket TP-190976. November 25th, 2020. 16.

⁸ Oregon Statutes; ORS776.115(5)(a)

⁹ Oregon Statutes; ORS776.129(1)

Pilotage Rate Setting for State of Hawaii:

The Director of the Department of Commerce and Consumer Affairs (CCA) establishes rates of pilotage in the State of Hawaii. The director, in setting rates of pilotage, shall fix such amounts as will be a fair charge for the services rendered with due regard to necessary operating expenses, maintenance of, depreciation on, and return on investment for property used in the business of pilotage, and the rates and charges of pilotage at comparable ports of the United States.¹⁰

A hearings officer presides over a public rate hearing and files a recommended decision with the Director.¹¹

By limiting the scope of investigation into rate setting processes to our neighboring west coast states, the Committee was able to focus on respected systems with which the stakeholders had familiarity. The other maritime states did not receive the same in-depth investigation these three states did.

Common in the three states investigated is the inclusion of an administrative law judge (ALJ) or hearings officer (in Hawaii) to conduct the rate hearing, collect evidence and make a proposed decision. The proposed decision was handed to a different entity in each case; the UTC in Washington, the OBMP in Oregon, and the Director of CCA in Hawaii. Each of these three entities had final authority to publish rates and/or tariffs.

PROPOSED SOLUTIONS TO IDENTIFIED PROBLEMS

“The process is lengthy and follows the legislative calendar. The process requires the petitioning party to find a legislator to author/sponsor the rate bill.”

Both SFBP and PMSA informed the Committee the process through the legislature is lengthy, costly and legislators also question why they are involved with the rate setting process.

Perhaps the most difficult task for the Committee to evaluate has been to recommend a rate setting process which ensures a proper evaluation of the evidence, provides a necessary appeals opportunity, and establishes a process which has removed politicized outcomes.

The Committee is recommending changing the two-step rate setting process from one that must go through the legislature for adoption to one in which the Board’s rate decision, based on an ALJ’s recommendation, is reviewed and approved for adoption by the Secretary of the CalSTA.

The inclusion of a legislative review and adoption of rate recommendations from a pilot commission is rare in the maritime states with pilot commissions. As stated earlier in this report, 5 of 24 states utilize the legislature in the process and only one state other than California has a recommendation from a pilot commission subject to legislative approval.

¹⁰ Hawaii Statutes HRS Ch462A-11

¹¹ Hawaii Administrative Rules 16-96-8.2

The current California process of moving a Board of Pilot Commissioners rate recommendation before the Legislature falls to the petitioning party (or parties in an uncontested hearing) to find a legislative sponsor to carry the bill. At no time is it incumbent on the BOPC or CalSTA to move a rate recommendation. In the Committee's opinion, this contributes to a politicized outcome at the legislature as stakeholders are free to intervene directly with legislators outside of the public hearing conducted at the Board. The rate setting process evaluated in our neighboring western states does not include their legislatures. Although each state has a different rate setting body, the decision at that body requires no further validation.

Since the Committee's recommendation is to remove the legislature from the process, there was concern there would no longer be an avenue for appealing a Board rate decision when procedure has not been followed. The Committee considered California administrative procedures and deliberated on ways to ensure an appeals element was included in the recommendation. The Committee determined a suitable process would be to submit the Board decision to the CalSTA Secretary for review and acceptance. The Committee determined it was sufficient to submit the Final Order of the Board with the ALJ proposed decision. The Committee did not desire allowing for a reopening of evidence or for an alternate decision from the Secretary. The Secretary, in their review, would accept the decision, reject the decision with an explanation or remand it back to the Board for further deliberation. The Secretary's review is expected to be quick and thus be an improvement over the lengthy legislative process.

"The process has flaws in evaluating evidence."

PMSA informed the committee they felt the current process of determining recommendations or the substance of the recommendations from the Board which are placed in front of the Legislature result in politicized outcomes and lack confidence from ratepayers, lawmakers, and the Administration.¹²

The assertion that the evidence at recent previous rate hearings wasn't adequately or fairly evaluated was refuted by Board Staff and a Commissioner who was present for those hearings. The Committee agrees with PMSA that this is an area of concern which should be recognized and can be improved upon.

The three states the Committee closely evaluated all used an ALJ or a hearing officer to conduct the meetings. Our Board utilized an ALJ to conduct rate hearings from 1991 to 1995. The Committee is recommending the Board again utilize an ALJ to conduct the hearings, hear evidence and make recommendations.

The benefit of using an ALJ to hear evidence addresses two issues. The hearing and weighting of evidence is performed impartially by an experienced adjudicator. Also, the Board contracts with an ALJ to serve a role the board may not be equipped to handle themselves, with the qualifications of the Commissioners on the Board at any time. This was also illustrated as an area for improvement in the JTC Report from Washington.¹³

¹² Letter from Pacific Merchant Shipping Association to the Ad Hoc Committee to Review the Pilotage Rate Setting Process, May 17th, 2021.

¹³ Washington State Joint Transportation Committee Final Report, Community Attributes Inc. and Gleason & Associates, January 18, 2018, 73.

However, the Committee recommends the Board remain the authority which makes rate determinations. The actions available to the Board once presented with the ALJ proposed decision have been discussed a great deal. The Committee has used elements within the California Administration Procedures Act (APA) as inspiration to understand options typically available to a deciding authority.¹⁴ The Committee is recommending the Board be limited to four actions.

1. The Board adopts the ALJ's proposed decision in its entirety.
2. The Board makes technical, clarifying, or other minor changes in the proposed decision that do not affect its findings and conclusions and adopt the proposed decision in its modified form.
3. The Board rejects the proposed decision and refers it back to the ALJ for consideration of specified evidence or issues and submission of a new proposed decision.
4. The Board rejects the proposed decision with a supporting written explanation.

There are other options which the APA affords which the Committee is not recommending. The Committee is not recommending the Board have the opportunity to reject the ALJ 's proposed decision and instead be able to decide the case themselves upon the record, including the transcript, with or without taking additional evidence. The Committee understands having this option available would not resolve the initial problem identified. Any decision of the Board will require a quorum vote of four members of the Board. (Harb. & Nav. Code § 1150(c).)¹⁵

“The process needs to make rate setting more formulaic, consistent.”

Both PMSA and SFBP informed the Committee the rate setting process would be less politicized and potentially more responsive if the approach to rate setting followed a more formulaic reasoning. Though the pilotage system is not set up as a typical regulated utility, the established principles of utility rate setting should apply to qualify as “fair, just and reasonable.” One of the attributes of a sound rate structure defines “rates should effectively yield total revenue requirements under the fair return standard.”¹⁶ Following an approach based on a determined total revenue required to operate the pilotage system will give consistency on how the factors presented in evidence are weighted and should provide for revenue stability from year to year.

Both the states of Washington and Oregon utilize this formulaic approach on rate setting to give order to the evidence heard and justify changes to pilotage rates.

The Committee is recommending changes to the statutes to include the formula similar to the formula used by the OBMP for setting rates. Revenue Requirement = (TNI x # of Pilots) + operating costs and expenses.

¹⁴ Cal Government code 11517

¹⁵ The Committee debated another format for approval which would have required an industry member and a pilot member to vote in agreement. This argument was rejected by a majority of the committee stating this would have required a super majority which is not otherwise required in statute.

¹⁶ Bonbright, James C, Principles of Public Utility Rates, Columbia University Press, New York, NY, 1961. 291.

California statutes and regulations both give guidance to consideration of relevant factors in setting rates.^{17 18} The Committee found that although these give guidance to the rate process, they are unnecessarily verbose, have uncertain origins, and are not conducive to defining the components factoring into the formula being recommended. The Committee asked stakeholders to develop factors which would be expected to be used in determining the formula variables Target Net Income (TNI), number of pilots and operating costs.

A joint stakeholder submission of a formula-based utility model rate-setting statute was provided to the Committee for review.¹⁹ This document provided factors which may be considered when determining the revenue requirement. The following recommended changes are to replace those listed in CA HNC (1203):

In setting the revenue requirement, primary consideration shall be given to the public interest in promoting and maintaining a safe, competent, reliable, and efficient pilotage service:

- a) In determining target net income for individual pilots:
 - (i) The professional skills and experience required of a state-licensed pilot and the difficulty, risk, and lifestyle commitment of providing piloting services, as well as associated activities in support of the pilotage operation.
 - (ii) Evidence of compensation for comparable maritime professions, including individuals in other state regulated pilotage associations.
 - (iii) Evidence of the economic and market conditions existing both locally and within the region of any pilotage association used for the purpose of comparison.
 - (iv) Consumer Price Index and Employment Cost Index.
 - (v) Individual amounts paid to pilots since the last rate order, or as directed.
 - (vi) Any other factor deemed relevant to the determination of target net income.

- b) In determining the number of pilots:
 - (i) The number of licensed pilots determined by a hearing pursuant to Harbors and Navigation Code Sections 1170.1 and 1170.2.
 - (ii) The number of licensed pilots at the time of the rate hearing.
 - (iii) Any projected changes in the number of licensed pilots.
 - (iv) Any other factor deemed relevant to the determination of the number of funded pilots.

- c) In determining operating costs for the pilotage service:
 - (i) All costs of providing pilotage service.
 - (ii) Any projected changes in the cost of providing pilotage service.
 - (iii) The amount of activity, including number of vessels, size of vessels by gross registered tonnage (GRT), length, and draft.
 - (iv) Any recent or projected changes in the amount of activity.
 - (v) Producer Price Index and Employment Cost Index.

¹⁷ Harbors and Navigation Code § 1203

¹⁸ Cal. Code Regs title 7 §236

¹⁹ BOPC Ad Hoc Rate Committee PMSA SFBP Joint Submission, January 13th, 2022.

- (vi) Total gross and net revenue for the pilots' association since the last rate order, including sources of revenue by tariff category.
- (vii) Any other factor deemed relevant to the cost of the provision of pilotage service.

“The rate setting process creates a highly contentious and politicized environment.”

Although rates can be a contentious subject requiring negotiation and concession, the Committee is concerned with a process that has become ineffective to the point where there has been no comprehensive action on pilotage rates for 16 years.

The Committee has evaluated several options at restructuring the rate process for pilots working on the Bays of San Francisco, San Pablo, Suisun, and Monterey. The recommendations being made are based on successful processes established in the States of Oregon and Washington.

The recommendation to move the rate setting process away from the Legislature and instead include a requirement for administrative approval by the CALSTA Secretary is another effort by the Committee to address both contention and politicization. By design, the Committee's recommendation limits the Secretary to a review of the Board's decision along with the ALJ's proposed decision. The Secretary would have no ability to make modifications beyond those made at the Board. This encourages the Board to submit a decision which is sound and has the interest of the State, as well as the stakeholders, in mind.

Contention between parties is expected to be minimized by adopting a formulaic approach to determining rates. As explained in the previous section, both PMSA and SFBP have informed the Committee that a process with clear determinates allows for the evidence to be heard with consistent application from hearing to hearing.

BOARD OF PILOT COMMISSIONERS' ROLE IN SETTING RATES

The Committee disagrees with the premise that rate setting should not be the responsibility of the Board as cited in the letter to the Committee from PMSA. Paraphrasing California Harbors and Navigation Code (HNC) Division 5, Chapter 1, section 1100, the board functions to ensure a competent, efficient and regulated pilotage. The function of rate setting is an integral part of the Board's responsibilities. There is no evidence of legislative intent or directives from the executive branch to reduce the Board's role in rate setting.

Stakeholders have lauded the Board's Executive Director and Assistant Director for the improvements the Board of Pilot Commissioners has made in areas of financial oversight such as surcharge administration and requiring submission of an annual audited financial statement by SFBP. Praise has also been given for improvements in incident investigations, medical assessment, and the development of fatigue regulations. The Board has extensive data reporting requirements for the Pilots in the form of

the 237(d) report that guides discussions on rates and pilot power. The Commissioners are Governor appointed and Senate Rules Committee confirmed. In 2007, after the Cosco Busan incident, the Legislature and Administration alike reaffirmed the importance of a properly functioning Board of Pilot Commissioners. The Committee believes the expectation of the Board by the Government and People of California is to ensure our actions are open, fair and transparent. To remove the responsibility of rate setting would be to forego responsibilities in ensuring a competent, efficient, and regulated pilotage.

The Board's role is not to usurp the ALJ's decision or to disregard the findings or the decision of the ALJ but instead to carefully review the ALJ's proposed decision and work within the framework of Board expertise to review the ALJ's findings of fact and proposed decision.

CalSTA SECRETARY ROLE IN RATE SETTING PROCESS

The Committee proposes a unique element to the rate setting process to address key concerns in the existing process.

By suggesting the rate setting authority be moved from the Legislature, the Committee recognized there needs to be an opportunity in the process that keeps the Board accountable for the rate setting decision and an opportunity which also kept the State involved.

By recommending the Secretary review the Board's rate decision along with the proposed decision by the ALJ, the Committee is proposing a check before a final rate order is published.

The Committee debated and recognized the role of the Secretary and the authority which would be granted. The Committee agreed the Secretary's involvement should be to review the Board's decision and either agree or disagree. The proposed process allows the Secretary to have the opportunity to remand the decision back to the Board with questions before giving approval. If the Secretary does not give approval, then a written explanation is required. This is an important overview by the agency.

It is expected that an ALJ administered rate hearing would generate a Board decision requiring little room for further review. The expected review by the Secretary is not expected to create an additional burden on CalSTA staff. The Board should expect a timely response so they may move forward with a revised rate.

Ad Hoc Committee to Review the Rate Setting Process

Process Outline

1. Notice of Intent to File Petition Process
 - a. Negotiated stipulations
 - b. Joint Petition / rate agreement
 - c. Partial stipulations on issues and file a joint petition
 - d. Executive Director apprises Board and parties of developments and timelines
2. Petition for Rate Hearing
 - a. ALJ (Administrative Law Judge) requested by Board staff and assigned
 - b. Joint Petitions are favored, with an expedited schedule and process as directed and administered by the ALJ to meet notice requirements
3. Pre-hearing Process
 - a. Initial disclosures, discovery, pre-hearing conference, evidentiary disputes, establish briefing schedule, and any other required details to meet the party(s)' need
 - b. Hear stipulations
 - c. Narrow focus of rate request
4. Rate Hearing with Administrative Law Judge
 - a. ALJ conducts the hearing, determines findings, conclusion
 - b. ALJ submits proposed decision to the Board
5. BOPC action regarding proposed decision (requires 4 votes for Board action)
 - a. Adopt the proposed decision in its entirety
 - b. Make technical, clarifying, or other minor changes in the proposed decision that do not affect its findings and conclusions and adopt the proposed decision in its modified form
 - c. Reject the proposed decision and refer it back to the ALJ for consideration of specified evidence or issues and request submission of a new proposed decision
 - d. Reject the proposed decision with supporting written explanation
6. BOPC submits the final decision of the Board to Secretary of the California State Transportation Agency for review
 - a. Board submits adopted decision of the Board, which includes the ALJ proposed decision
 - b. Secretary is limited to assessing whether the findings of fact support the Board's conclusions
 - c. Secretary actions
 - i. Approve
 - ii. Remand back to the Board for clarification
 - iii. Not approve (with written explanation)
7. Board receives Secretary approval
 - a. Publishes revises rates
 - i. BOPC website
 - ii. Letter from Board Staff to SFBP