

IN RE: APPLICATION ADJUSTMENT

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BEFORE THE BOARD OF PILOT COMMISSIONERS

TO PILOTAGE RATES DATED

§

FOR THE

MAY 30, 2017

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PORTS OF BRAZORIA COUNTY, TEXAS

FINAL ORDER ON APPLICATION FOR ADJUSTMENT TO PILOTAGE RATES

On the 28th day of June, 2017, came on for consideration before the Board of Pilot Commissioners for the Ports of Brazoria County, Texas the Brazos Pilots Association's ("Pilots") 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 the objecting parties and consideration of the factors set forth in Section 68.067 of 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 Pilots' Amended Motion for Reconsideration.

The Pilots Amended Motion for Reconsideration seeks the following:

Brazos Pilots Association Request 1

A Two percent (2%) rate increase for one (1) year commencing on the effective date of this the Final Order, followed by a subsequent three percent (3%) rate increase for one (1) year commencing on the 366th day after the effective date of this Final Order, followed by a subsequent four percent (4%) rate increase commencing on the 731st day after the effective date of this Final Order.

IT IS THEREFORE ORDERED the Brazos Pilots Association Request 1 is hereby MODIFIED AS FOLLOWS:

- 3% rate increase for 1 year effective 10 days from the date of this order.
- 3% rate increase for 1 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 timely provide such financial statements this rate increase will not take effect.
- 3% rate increase for 1 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 2

A Surcharge for pilot transport service consisting of a Base Charge of \$100.00 plus a Unit Charge, calculated as units multiplied by the factor 0.11.

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 \$100.00 plus a Unit Charge (as defined in the Tariff), calculated as units multiplied by the factor of 0.10. The duration of this rate increase will be until the boat is paid off. The Pilots are required to provide payoff statements on a monthly basis. The loan status and tariff will be reviewed by the Pilot Board before the expiration of 8 years from the date of the loan origination. Any excess funds collected under this tariff shall be applied towards the loan balance, save and except allowing for 4 months payments being in an escrow account after the boat is placed in service.

Brazos Pilots Association Request 3

A surcharge for establishment and maintenance of dispatch service, denied without prejudice.

IT IS THEREFORE ORDERED the Brazos Pilots Association Request 3 is hereby MODIFIED AS FOLLOWS: Denied, with direction to the working group, the Port Operations and Pilots work together to come up with a good dispatch service within one year from the date of this order.

This Final Order shall completely replaces and vacates the Final Order on Application for Adjustment to Pilotage Rates on July 10, 2017. It is intended by the Board of Pilot Commissioners that this order is final as to the Brazos Pilots Association's Application for Adjustment to Pilotage Rates dated May 30, 2017, and is appealable as permitted by Section 68.068(b) of the Texas Transportation Code. The Parties have now exhausted all of their administrative remedies.

IT IS FURTHER ORDERED that the two percent (2%) additional pilotage fees charged and collected by the Brazos Pilots Association during the interim Final Order of July 10, 2017 for the performance of pilot services between July 20, 2017 and the effective date of this Final Order shall be refunded by the Pilots to the shippers and consignees that paid such fees either directly or through appropriate agents.

It is further intended by the Board of Pilot Commissioners that this order shall also act as a resolution memorializing the action of the Board of Pilot Commissioners as to the Brazos Pilots Association's Application for Adjustment to Pilotage Rates dated May 30, 2017.

SIGNED on the 24th day of August, 2017


Paul Kresta, Chairman


Shane Pirtle, Secretary