

**PROCEDURAL RULES FOR PUBLIC HEARINGS CONCERNING CONTESTED  
PILOTAGE RATE APPLICATIONS BEFORE THE BOARD OF PILOT  
COMMISSIONERS FOR BRAZORIA COUNTY PORTS**

In the event that the Board receives a timely written objection to a Pilotage Rate Application ("Rate Application") filed under Section 68.063 of the Brazoria County Pilots Licensing and Regulatory Act ("the Act") from any person who demonstrates a legitimate interest (the "Objecting Party") in the application, these procedural rules shall apply to the public hearing required by Section 68.064 of the Act.

In order to demonstrate a legitimate interest in a Rate Application proceeding as required by Section 68.064 of the Act, the objecting person or entity must have timely filed a written objection to the Rate Application and must provide a brief summary including adequate information to the Pilot Board Commissioners for Brazoria County Ports (the "Pilot Board") in order for legitimacy to be determined.

1. The Rate Hearing will commence on June 28, 2017, at 1:00 p.m. local time at 1100 Cherry Street, Freeport, Texas, before the Port Freeport Pilot Board. The Pilot Board's duly designated Presiding Officer of the Hearing ("Presiding Officer") will be the Chairman of the Pilot Board.
2. At the commencement of the Rate Hearing the Chairman of the Board of Pilot Commissioners for Brazoria County Ports ("Chairman") will call the Rate Hearing to order, briefly describe the matters to be heard before the Pilot Board and ask for appearances from the parties. At this time, the Board shall make a determination on whether each objecting party has timely filed its objection and has demonstrated a legitimate interest in the Rate Application as required by Section 68.064 of the Act.
3. The Presiding Officer will state that the procedures included as Exhibit H of the Pilotage Rules and Procedures adopted by the Pilot Board June 8, 2017 will apply to the public hearing to ensure that all participants will have a fair opportunity to present to the Pilot Board their respective positions on the Rate Application pending before the Pilot Board, along with supporting materials, testimony and/or evidence and to ensure that the Rate Hearing will proceed in an orderly and expeditious manner, consistent with due process, applicable law and with the public interest.
4. After the Presiding Officer calls the Rate Hearing to order and before Applicant opens its case, Port Staff shall submit relevant information to the Pilot Board related to the Rate Application being considered.
5. An Applicant shall have a total of two (2) hours to present opening and closing statements, evidence and/or testimony in support of its position on the Rate Application, unless the Pilot Board finds good cause to extend such time.

6. The Objecting Parties collectively shall have a total of two (2) hours to present opening and closing statements, evidence and/or testimony in support of their respective positions on the Rate Application, unless the Pilot Board finds good cause to extend such time.
7. Applicant shall have the right to make the first opening statement and the last closing statement.
8. A duly licensed court reporter will transcribe the proceedings and will certify the official record of the proceedings; the Pilot Board will maintain the official transcript of the proceedings, along with exhibits that will be made part of the record; pursuant to Section 68.069 of the Act, the Pilot Board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with the hearing against one or more of the Applicants and/or Objecting Parties.
9. All testimony will be under oath, with all witnesses sworn by the Chairman or duly licensed court reporter.
10. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their own affairs shall be admissible in the hearing, whether or not such evidence would be admissible in a court of law in Texas; however, irrelevant, immaterial, harassing, abusive or unduly repetitive evidence shall be excluded. The Chairman will rule on any objections raised by the parties at the hearing and may confer with counsel for a recommendation with respect to any such objections.
11. Counsel for the respective Parties will have the right to cross-examine all testifying fact and expert witnesses, who are timely designated under paragraph thirteen (13) below, and who are called to testify by the opposing party; time expended in cross-examination by a party will be subtracted from that party's allocated hours to present evidence and/or testimony.
12. The Commissioners of the Pilot Board shall have the right to ask questions of any witness who may be called to testify by the Parties; the time consumed by the Commissioners' questions and the witness' answers will not count against the time allocated to the party who called the witness.
13. On or before *time*, (CDT), June 21, 2017, counsel for the Parties shall exchange: (i) their respective witness and exhibit lists and a copy of each exhibit for the Rate Hearing; and (ii) copies of all demonstrative exhibits or materials, including, but not limited to Power Point presentations, that they intend to use during the Rate Hearing, with copies of the foregoing items in (i) and (ii) above to counsel for the Pilot Board; to be considered timely filed, the respective witness and exhibit lists, exhibits and demonstrative materials of the Parties must be served upon the respective counsel for the Parties and for the Pilot Board on or before *time*, (CDT), June 21, 2017. To the extent that the respective witness lists include any designated expert witnesses, the designation must include a copy of a current CV for each designated expert witness and a copy of each expert witness' report in a form that generally complies with what is required in civil actions in Texas state courts; persons not listed in said witness lists and expert witnesses whose designations do not include current CVs and the

expert's report(s) shall not be permitted to testify at the Rate Hearing as experts; exhibits not included in said exhibit list nor timely filed shall not be admitted into evidence at the Rate Hearing, without first obtaining leave from the Chairman. The Parties shall not be permitted to use during the Rate Hearing any demonstrative materials that are not timely filed.

14. On or before *time*, (CDT) June 26, 2017, counsel for the respective Parties shall exchange, with copies provided to counsel for the Pilot Board, any written objections they may have to any of the persons or exhibits listed in the witness and exhibit lists for the Rate Hearing submitted by the opposing party pursuant to paragraph twelve (12) above; to be considered timely filed, the respective written objections of the Parties must be served upon the respective counsel for the Parties and for the Pilot Board on or before 10:00 a.m., (CDT) June 26, 2017. The Chairman will rule on any said objections prior to the presentation of any evidence on the first day of the Rate Hearing.
15. If requested by the Pilot Board, Port Staff shall submit to the Pilot Board, with copies provided to counsel for the respective Parties and to counsel for the Pilot Board, any requested information relevant to the Rate Application.
16. No rebuttal testimony or evidence will be allowed during the Rate Hearing.
17. After the Parties have concluded their respective presentations of their evidence on the Rate Application, counsel for the Parties may present final summations to the Pilot Board, to the extent that the respective Parties have not exhausted the time allocated to each of them above.
18. At the conclusion of the final summations by counsel for the Parties, the Pilot Board will proceed to publicly deliberate the Rate Application. Thereafter, the Pilot Board shall grant, deny, or modify the Rate Application.
19. Pursuant to Texas Transportation Code section 68.067, in acting on the Rate Application, the Pilot Board shall consider:
  - a. Characteristics of vessels to be piloted;
  - b. Costs to pilots to provide the required pilot services;
  - c. The effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Brazoria County ports and the persons residing in the board's jurisdiction;
  - d. An adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties;
  - e. The relationship between the pilotage rates in Brazoria County ports and the rates applicable in other ports of this state;
  - f. The average number of hours spent by a pilot performing:
    - (1) Pilot services on board vessels;

- (2) All pilot services; and
  - g. The average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established.
20. The decision of the Pilot Board granting, denying or modifying the Rate Application will be included in one final order approved by the Pilot Board, which will state the effective date of any rate change. The Pilot Board shall file the final order with the county clerk not later than the 20<sup>th</sup> day after the closing date of a hearing held as provided by Section 68.064(b) of the Act.

***Pilot Board Approved June 8, 2017***