

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 20, 2016

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APPLICATION OF

J. WILLIAM COFER

On behalf of himself and all other licensed
branch pilots in the Commonwealth of
Virginia who are members of the
Virginia Pilot Association

CASE NO. PUE-2016-00098

For approval of a revision of rates
and charges for pilotage

ORDER FOR NOTICE AND HEARING

On August 31, 2016, J. William Cofer, on behalf of himself and all other licensed branch pilots in the Commonwealth of Virginia who are members of the Virginia Pilot Association ("Association"), filed an Application with the State Corporation Commission ("Commission") for approval to revise the Association's rates and charges for pilotage services. The Association, among other things, proposes an increase in the Association's annual revenues by 6.9% to recover increased operating expenses and to fund additional capital improvements and salary and benefit increases.¹

The Association also filed, in Appendix C, a proposed schedule of rates and charges, which are expected to produce the requested increase in annual revenues.² The proposed pilotage rates and charges are based on the gross tonnage formula approved by the Commission

¹ Application at 3-5.

² *Id.* at 5, Appendix C.

in the Association's last rate case, Case No. PUE-2006-00046.³ As directed by the Commission in the 2006 Order, the Association also filed, in Appendix E, alternative pilotage rates and charges based on combination gross tonnage/draft charges, which are also designed to produce the total proposed increase in annual revenues.⁴

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that this matter should be docketed; the Association should provide public notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Application; interested persons should have the opportunity to file comments on the Application or participate as a respondent in this proceeding; and the Commission's Staff ("Staff") should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. Further, we find that a Hearing Examiner should be appointed to rule on all discovery matters that arise during the course of this proceeding.

Accordingly, IT IS ORDERED THAT:

(1) As provided by § 54.1-918 of the Code of Virginia ("Code"), the Association's Application is docketed and assigned Case No. PUE-2016-00098.

(2) As provided by § 12.1-31 of the Code and 5 VAC 5-20-120, *Procedure before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), a Hearing Examiner is appointed to rule on any discovery matters that may arise during the course of this proceeding.

³ *Id.* at 8, Appendix C. See *Application of J. William Cofer, On behalf of himself and all other licensed branch pilots in the Commonwealth of Virginia who are members of the Virginia Pilot Association, For approval of a change in the basis for determining pilotage charges and a revision of rates and charges for pilotage*, Case No. PUE-2006-00046, 2006 S.C.C. Ann. Rept. 429, Final Order (Sept. 11, 2006) ("2006 Order").

⁴ Application at 10, Appendix E.

(3) A public hearing on the Application shall be convened at 10 a.m. on February 28, 2017, in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive into the record the testimony of public witnesses and the evidence of the Association, any respondents, and the Staff. Any person desiring to offer testimony as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and identify himself or herself to the Commission's Bailiff.

(4) The Association shall make a copy of its Application, as well as a copy of this Order for Notice and Hearing, available for public inspection during regular business hours at the Association's business office at 3329 Shore Drive, Virginia Beach, Virginia 23451. A copy also may be obtained by submitting a request to counsel for the Association, Eric M. Page, Esquire, Eckert Seamans Cherin & Mellott, LLC, 919 East Main Street, Suite 1300, Richmond, Virginia 23219. If acceptable to the requesting party, the Association may provide the documents by electronic means. Copies of the public versions of all documents filed in this case also shall be available for interested persons to review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

(5) On or before October 28, 2016, the Association shall cause the following notice to be published as display advertising (not classified) once a week for two consecutive weeks in newspapers of general circulation in the cities of Norfolk, Portsmouth and Newport News, Virginia:

NOTICE TO THE PUBLIC OF AN APPLICATION
BY THE VIRGINIA PILOT ASSOCIATION TO
INCREASE THE RATES AND CHARGES FOR PILOTAGE
CASE NO. PUE-2016-00098

On August 31, 2016, the Virginia Pilot Association ("Association") filed an Application with the State Corporation Commission ("Commission") for approval to revise the Association's rates and charges for pilotage services to increase the Association's annual revenues by 6.9%. The proposed pilotage rates and charges are based on the gross tonnage formula approved by the Commission in the Association's last rate case, Case No. PUE-2006-00046.

Interested persons are encouraged to review the Application and supporting documents for the details of these and other proposals.

TAKE NOTICE that the Commission may apportion revenues among customer classes and/or design rates in a manner differing from that shown in the Application and supporting documents and thus may adopt rates that differ from those appearing in the Association's Application and supporting documents.

The Commission entered an Order for Notice and Hearing in this case that, among other things, scheduled a public hearing on February 28, 2017, at 10 a.m., in the Commission's second floor courtroom located in the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, to receive testimony of public witnesses and the evidence of the Association, any respondents and the Commission's Staff. Any person desiring to testify as a public witness at this hearing should appear in the Commission's courtroom fifteen (15) minutes prior to the starting time of the hearing and contact the Commission's Bailiff.

Copies of the public version of all documents filed in this case are available for interested persons to review in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia 23219, between the hours of 8:15 a.m. and 5 p.m., Monday through Friday, excluding holidays. Interested persons also may download unofficial copies from the Commission's website: <http://www.scc.virginia.gov/case>.

The Association's Application, as well as the Commission's Order for Notice and Hearing, also may be inspected during regular business hours at the Association's business office at 3329 Shore Drive, Virginia Beach, Virginia 23451. Copies of these documents also may be obtained, at no charge, by submitting a written request to counsel for the Association, Eric M. Page, Esquire, Eckert Seamans Cherin & Mellott, LLC, 919 East Main Street, Suite 1300, Richmond, Virginia 23219. If acceptable to the requesting party, the Association may provide the documents by electronic means.

On or before February 21, 2017, any interested person may file written comments on the Association's Application with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to file comments electronically may do so on or before February 21, 2017, by following the instructions on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All such comments shall refer to Case No. PUE-2016-00098.

Any person or entity may participate as a respondent in this proceeding by filing a notice of participation on or before November 28, 2016. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be filed with the Clerk of the Commission at the address set forth above. A copy of the notice of participation as a respondent also must be sent to counsel for the Association at the address set forth above. Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"), any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2016-00098. For additional information about participation as a respondent, any person or entity should obtain a copy of the Commission's Order for Notice and Hearing.

On or before December 30, 2016, each respondent shall file with the Clerk of the Commission, and serve on the Commission's Staff, the Association, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and

each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission at the address above. Respondents also shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2016-00098.

The Commission's Rules of Practice may be viewed at <http://www.scc.virginia.gov/case>. A printed copy of the Commission's Rules of Practice and an official copy of the Commission's Order for Notice and Hearing in this proceeding may be obtained from the Clerk of the Commission at the address above.

VIRGINIA PILOT ASSOCIATION

(6) On or before November 28, 2016, the Association shall file proof of the newspaper publication required by Ordering Paragraph (5) with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118.

(7) On or before February 21, 2017, any interested person may file written comments on the Application with the Clerk of the Commission at the address shown in Ordering Paragraph (6). Any interested person desiring to submit comments electronically may do so on or before February 21, 2017, by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/case>. Compact disks or any other form of electronic storage medium may not be filed with the comments. All comments shall refer to Case No. PUE-2016-00098.

(8) On or before November 28, 2016, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. If not filed electronically, an original and fifteen (15) copies of the notice of participation shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6). The

respondent shall simultaneously serve a copy of the notice of participation on counsel to the Association at the address in Ordering Paragraph (4). Pursuant to Rule 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUE-2016-00098.

(9) Within five (5) business days of receipt of a notice of participation as a respondent, the Association shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Association with the Commission, unless these materials already have been provided to the respondent.

(10) On or before December 30, 2016, each respondent may file with the Clerk of the Commission at the address set forth in Ordering Paragraph (6) and serve on the Staff, the Association, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. If not filed electronically, an original and fifteen (15) copies of such testimony and exhibits shall be submitted to the Clerk of the Commission. In all filings, the respondent shall comply with the Commission's Rules of Practice, including: 5 VAC 5-20-140, *Filing and service*; 5 VAC 5-20-150, *Copies and format*; and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUE-2016-00098.

(11) On or before January 31, 2017, the Staff shall investigate the Application and shall file with the Clerk of the Commission an original and fifteen (15) copies of its testimony and exhibits, and each Staff witness's testimony shall include a summary not to exceed one page. The Staff shall serve a copy thereof on counsel to the Association and all respondents.

(12) On or before February 14, 2017, the Association shall file with the Clerk of the Commission: (a) any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page; and (b) a summary not to exceed one page of each direct witness's testimony if not previously included therewith. The Association shall simultaneously serve a copy of the testimony and exhibits on the Staff and all respondents. If not filed electronically, an original and fifteen (15) copies of such rebuttal testimony and exhibits shall be submitted to the Clerk of the Commission at the address set forth in Ordering Paragraph (6).

(13) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney if the interrogatory or request for production is directed to

the Staff.⁵ Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(14) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Eric M. Page, Esquire, Eckert Seamans Cherin & Mellott, LLC, 919 East Main Street, Suite 1300, Richmond, Virginia 23219; and C. Meade Browder, Jr., Esquire, Division of Consumer Counsel, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Divisions of Energy Regulation and Utility Accounting and Finance.

⁵ The assigned Staff attorney is identified on the Commission's website, <http://www.scc.virginia.gov/case>, by clicking "Docket Search," and clicking "Search Cases," and entering the case number, PUE-2016-00098, in the appropriate box.