

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
PILOTAGE RATE REVIEW COMMITTEE

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/19/2012
File #	2012-02495

ACL BAHAMAS LIMITED and
INDIAN RIVER TERMINAL,
INC.,

Petitioners,

DOAH Case No. 10-2335

vs.

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION, PILOTAGE
RATE REVIEW COMMITTEE,

Respondent,

and

THE FLORIDA STATE PILOTS'
ASSOCIATION, INC., and the FORT
PIERCE PILOTS ASSOCIATION,

Interveners.

_____ /

FINAL ORDER

THIS CAUSE came before the PILOTAGE RATE REVIEW COMMITTEE (hereinafter referred to as the "Committee") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at a duly-noticed public meeting on April 13, 2012 in Orlando, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order (a copy of which is attached hereto and incorporated herein by reference) in the above-styled cause. Board members present were **Jorge Viso, Carlos Treuba, Thayer Smith, Matthew Sams, John Fox, and John Fernandez**. Legal advisor to the Board was **Clark R. Jennings**, Assistant Attorney General.

APPEARANCES

For Respondent: Timothy Dennis, Esq.
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Committee makes the following findings and conclusions.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
2. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

1. The Committee has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 310, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

DISPOSITION

1. The rates and determinations originally set forth in the NOTICE OF INTENT TO APPROVE IN PART AND DENY IN PART THE PORT OF FORT PIERCE PILOTAGE RATE INCREASE APPLICATION FILED BY THE FORT PIERCE PILOTS ASSOCIATION filed 31 March 2010 is approved and adopted and incorporated herein by reference.

THEREFORE IT IS ORDERED AND ADJUDGED:

That the rates of pilotage at the Port of Fort Pierce shall be increased to the following rates

effective May 1, 2010:

1. A draft charge of \$26.60 per draft foot, measured up to the next 1/10th foot, with a minimum charge for ten (10) feet, i.e., \$266.00;
2. A tonnage charge of \$.0600 per Gross Registered Ton (GRT) with a minimum charge for 2000 GRT, i.e., \$120.00;
3. Docking / undocking fees are eliminated;
4. Shifting rates are increased as follows:
 - a. Same Slip - \$250.00
 - b. Different Slip - \$386.00;
5. A towed barge charge of .0300 per GRT with no minimum charge.

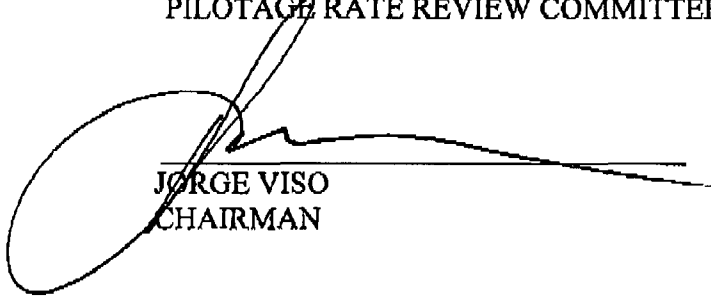
IT IS FURTHER ORDERED AND ADJUDGED:

That all funds related to this cause which have been deposited and held in escrow pursuant to s. 310.151(4)(b), F.S. along with all interest accrued thereon shall be paid over to the Fort Pierce Pilots Association.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 18 day of APRIL, 2012.

PILOTAGE RATE REVIEW COMMITTEE



JORGE VISO
CHAIRMAN

Voting for the Order

Jorge Viso
Carlos Treuba
Thayer Smith
John Fox
John Fernandez

Voting against the Order

Matthew Sams

NOTICE OF APPEAL RIGHTS

PURSUANT TO SECTION 120.68 FLORIDA STATUTES, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW UNLESS WAIVED. PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF THE NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEALS, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to J. Michael Pennekamp, Esquire, Fowler, White, Burnett, P.A., Espirito Santo Plaza, 14th Floor, 1395 Brickell Avenue, Miami, Florida 33131; to Sandra I. Tart, Esquire, Fowler White and Burnett, P.A., 777 South Flagler Drive, Suite 901 West Tower, West Palm Beach, Florida 33401; to Warren Husband, Esquire, Metz, Husband & Daughton, P.A., Post Office Box 10909, Tallahassee, Florida 32302-2909; to William Wetzel, Fort Pierce Pilots Association, 620 Colonial Drive, Vero Beach, Florida 32962; to W. David Watkins, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; to Timothy Dennis, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; Clark R. Jennings, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 this 19th day of April, 2012.

Brandon M. Nichols