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September 30, 2024

CLARIFICATION OF  
OPINION AND AWARD  
INTEREST ARBITRATION PROCEEDINGS  
PURSUANT TO REVISED CODE of WASHINGTON  
(RCW) 47.64.300 – 47.64.320

In the Matter of a Dispute Between )  
 )  
Washington State Department of )  
Transportation (Ferries Division) )  
 )  
and ) 2025-2027 Collective Bargaining  
 ) Agreement  
Inlandboatmen’s Union of the Pacific )  
 )  
\_\_\_\_\_ )

Appearances:

For the Employer: Elizabeth Delay Brown, Assistant Attorney General  
Sara L. Wilmot, Assistant Attorney General  
Mynor R. Lopez, Assistant Attorney General  
Office of the Washington Attorney General  
PO Box 40145  
Olympia, WA 98504

For the Union: Robert H. Lavitt, Attorney  
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## **PROCEDURAL BACKGROUND**

The undersigned arbitrator issued a decision in this matter on August 5, 2024. Subsequently, the parties contacted him requesting a clarification of one aspect of his decision. The “Award” section in question reads as follows:

Effective July 1, 2025, all unit members with a valid AB merchant mariner credential will receive an additional \$1 per hour market adjustment.

In the “Decision” section, the arbitrator explained this section of the award as follows:

The second special provision is to provide a market-based adjustment for deck bargaining unit members at or above the AB level. Testimony and evidence presented by both sides indicate that a critical shortage of fully qualified seamen exists. The Coast Guard even temporarily loosened its sea hours requirements for obtaining AB status. Due to Coast Guard regulations, having enough ABs and higher to staff vessels is mandatory for sailings. Providing an extra incentive for OSs to obtain their AB can help alleviate this shortage. The extra adjustment will facilitate hiring ABs as well.

A \$1 per hour market adjustment for AB-qualified unit members will help make WSF the employer of choice in the market. For the largest group, ABs, the wage would go up by 4% plus \$1, equaling a 6.5% raise in the first year. For the highest-paid IBU-represented classification, AB Relief Working Bos'n / Quartermaster, the increase would be 6%.

According to the State's FTE count, 263 unit members are in AB-qualified positions. Providing each of those positions a \$1 per hour supplement would cost the WSF approximately \$547,000 per year. Over the two year agreement, the cost would be \$1,094,000. The annual cost is the equivalent of a .74% increase for the whole bargaining unit.

The parties held a videoconference with the arbitrator on August 28, 2024. They then submitted briefs on the interpretation dispute, which were received by the arbitrator on September 27, 2024.

The Employer interprets this award section as requiring them to pay the \$1 per hour supplement only to employees who are working in an AB (or higher) assignment. They read it as requiring the payment of the additional \$1 per hour to OSs only while they are assigned to an AB position on a vessel. WSF also reads the award section as excluding from the pay provision shore gang personnel who hold AB credentials.

The Union interprets this award section as requiring the payment of the \$1 per hour supplement on an ongoing basis to all bargaining unit members who hold AB credentials. They argue that the section

includes OSs with AB credentials, even when working as OSs. They argue that it would also include shoregang personnel who hold valid AB credentials.

### **EMPLOYER'S POSITION**

The WSF interpretation is “supported by the language in your Opinion and the record created in the interest arbitration hearing. Additionally, it is more financially feasible than the union’s interpretation,” the Employer argues.

The Employer calculates that the “difference between the parties’ interpretations is \$500,000” over the two-year agreement. “If the intent of the \$1 per hour supplement was to help alleviate cancelled sailings, the testimony at the hearing from Ms. Smith, Deputy Director Marine Operations, indicated that cancelled sailings are **NOT** due to lack of AB qualified employees, but due to call outs,” the Employer contends.

The Employer adds that “Additionally, if the intent of the \$1 per hour supplement was to incentivize OSs and others to obtain their AB credentials, that incentive already exists at Rule 29 in the CBA...Rule 29 provides for incentives such as ‘100 % of training costs’ and vacation and compensatory time to allow employees to seek AB credentials.”

In conclusion, “WSF and OFM respectfully request that Award #4 is clarified to read: Effective July 1, 2025, all unit members with a valid AB merchant mariner credential working as an AB will receive an additional \$1 per hour market adjustment.”

### **UNION'S POSITION**

“Reading the Award to apply the market adjustment more broadly, i.e., to those who are AB-qualified regardless of whether they are currently or primarily working in an AB position, is consistent with the intent of the Arbitrator’s Award,” the Union contends.

“Although based at the Eagle Harbor facility, Shoregang employees can and do still work in the fleet. They also are called upon to move vessels as part of their duties,” the Union points out.

“The State’s interpretation would blunt the impact of the Arbitrator’s Award,” the Union asserts. “If the intention is to incentivize non-AB credentialed mariners to pursue their AB card, then limiting the Award only to those who already have their AB credential does not make sense. Instead, rewarding those who obtain their AB card with the market adjustment can potentially change employee behavior. This

would better serve the objective of increasing the number of AB sailors.” The Union argues that “the WSF benefits by that individual having their AB credential in-hand to cover in a bump-up situation. The IBU’s reading of the Award recognizes that value.”

### **ANALYSIS**

The purpose of a clarification of an interest arbitration award is to provide the arbitrator an opportunity to clear up what the parties found to be ambiguous award language. It is understandable how the two sides interpreted this section of the award in different ways.

The “award” section of the decision lays out a seemingly unambiguous order to pay \$1 an hour supplement to “all unit members with a valid AB merchant mariner credential.” However, the parties were correct to dig deeper and read the arbitrator’s explanation of this aspect of the award, quoted above.

The key relevant clauses in the explanation are the following:

Testimony and evidence presented by both sides indicate that a critical shortage of fully qualified seamen exists...Due to Coast Guard regulations, having enough ABs and higher to staff vessels is mandatory for sailings. Providing an extra incentive for OSs to obtain their AB can help alleviate this shortage.

The record of the arbitration hearing included evidence that OSs were assigned AB positions on a vessel as needed to meet Coast Guard requirements. Nothing in the record indicated that shoregang personnel played a similar role. Applying the \$1 per hour adjustment to shoregang would be contrary to the intent of this awarded provision. Applying it to all OSs with AB credentials who stand ready and willing to assume an AB sailing slot when needed is consistent with the award.

**CLARIFICATION OF AWARD**

Item (4) of the August 5, 2024, Award is to be interpreted as to include all bargaining unit members with an AB credential, except shoregang personnel, for all hours worked. Shoregang personnel, if assigned to work an AB slot on a vessel sailing, will be paid the supplement for hours worked in that capacity.



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Paul D. Roose, Arbitrator  
Date: September 30, 2024