



THE JUDGE ORGANIZATION

TRANSPORTATION - WAREHOUSING - LOGISTICS

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October 31, 2019

Federal Maritime Commission:

Attn: Rachel Dickon, Commission Secretary -- Docket 19-05, Demurrage & Detention Comments
secretary@fmc.gov sent via email

Re: SUPPORT for Interpretive Rule on Detention and Demurrage under the Shipping Act

Honorable Commissioners:

My company is an intermodal carrier serving the Port of New York & New Jersey. We are a fourth generation family business and we are seriously impacted by the manner in which steamship lines and terminal operators assess detention and demurrage charges. As a member of the Association of Bi-State Motor Carriers we support the FMC's proposed rules. The intermodal carriers represented by the Association of Bi-State Motor Carriers are responsible for moving a majority share of the freight volume that passes through the Port of NY & NJ, the second-largest port in the U.S. and busiest port on the Eastern seaboard. On their behalf, I thank the commission for taking time to address our concerns governing costly abuses that are occurring relating to the assessment of Detention and Demurrage charges. We appreciate your leadership on this issue, and urge you to move forward with adopting the proposed interpretive rule to help end the current abuses, which are a direct result of outdated rules regarding detention and demurrage.

While the practice of using detention and demurrage to incentivize the efficient movement of cargo has been in place for many years, the motor carrier community has growing concerns about abuses in the imposition of these fees. The unfair and unreasonable assessment of detention and demurrage fees pose a considerable financial burden on the intermodal industry, forcing motor carriers and their customers to pay hefty penalties, and assume the costly administrative role in an unfair dispute resolution process.

Intermodal truckers are being held responsible for delays that are a direct result of congestion and inefficiency at the terminals, a situation that is completely beyond our control. Under the current system, terminals directly benefit from *their* inability to service the truckers as they charge Demurrage and Detention at punitive rates set at hundreds of dollars per container per day. There is no economic justification for these charges compared to the value of the equipment. When service levels fall below acceptable rates due to congestion, empty return diversions, or high volume, motor carriers are forced to pay exorbitant penalties. In addition, motor carriers are often being forced by shipping lines to return empties to locations other than where they originated, causing further delays on import pickups, another obstacle to efficiency which results in the unfair assessment of detention and demurrage charges.

The proposed revisions to the Interpretive Rule on Detention and Demurrage will serve to better align the rules and practices with their intended purpose: to incentivize the efficient movement of cargo *for all parties*, while also reducing confusion and disputes.

Congestion in our ports is not only damaging to the trucking industry, but also leads to inefficient commerce, and ultimately, a negative impact on U.S. consumers. We are confident that the proposed interpretive rule change, if adopted, will yield positive results, and urge you to do so.

Thank you for the opportunity to express our support for this important initiative.

Sincerely,

Patrick J. Judge III
Executive Vice President