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October 29, 2019

Federal Maritime Commission
Rachel Dickon
Commission Secretary
secretary@fmc.gov

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

Honorable Commissioners:

On behalf of UNIS Transportation LLC, a member of the Harbor Trucking Association, we first wanted to thank the commission for taking time to address this important issue. It has been a growing concern of the ours that we have been the victim of unreasonable business practices that have undermined the once well intended practice of using detention and demurrage to incentivize an expedient movement of cargo. Now, I find myself the subject of unreasonable charges and saddled with the expensive administrative burden of proving that I am not at fault for charges I never agreed to and am not responsible for. These unreasonable practices have caused great financial distress to my company, while serving as a profit center for the entities who charge detention and demurrage. The leadership of the Federal Maritime Commission (FMC) on this important issue has been greatly appreciated by the motor carrier community, and we strongly urge you to move forward with adopting the interpretive rule to help end the current abuses that result from antiquated rules regarding detention and demurrage.

1. The proposed rule provides important guidance to the maritime industry regarding how the FMC will evaluate the reasonableness of port demurrage and container charges.
 - There is a need for FMC guidance to address serious concerns over ocean carrier and marine terminal demurrage/detention charges as demonstrated in the Fact-Finding Investigation and the Petition filed by the Coalition for Fair Port Practices.
 - The proposal identifies key principles and examples of reasonable practices that will be considered by the FMC in the context of a 10(d) claim as to demurrage/detention, while providing the necessary flexibility to account for differing factual circumstances (e.g. rule provides a non-exhaustive list of principles but is non-binding).
 - The proposal will greatly benefit the US maritime industry by promoting efficient cargo handling and delivery, improving commercial fairness in the assessment of the charges, while also reducing confusion and disputes.
2. The Interpretive Rule seeks to align demurrage/detention rules and practices with their intended purpose of incentivizing efficient cargo handling and delivery.
 - The Incentive Principle is supported by the law and Shipping Act policies.
 - Support suspension of charges (or at least extension of free time) where efficiency incentives are not able to be achieved.
 - Appropriate for cargo interests to fulfill their responsibilities to receive and pick up cargo but no need for advance payment of all charges where credit has been agreed to between shipper and ocean carrier. Also, pre-payment should not apply to disputed charges.
3. Comments on Specific Aspects of the Interpretive Rule

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- Scope of the Rule: Rule broadly applies to all charges applied to use of marine terminal space or shipping containers, except freight, and to containerized trade only.
 - Cargo Availability. Under the current rules and the Shipping Act, cargo is deemed available when it is unloaded from the vessel. However, in this case the cargo is never truly available until later. With cargo being held for holds by customs, being inaccessible because the terminal has kept it in a “close area”, or, in the more modern terminal operations, the container not having an available appointment, cargo is rarely, if ever, available when the free-time clock starts. Knowing when cargo is actually available will help ensure that pickup is timely scheduled—reducing idle and wasted hours truckers spend waiting for containers to become available. Free time should be tied to actual cargo availability and not vessel arrival since you cannot incentivize efficient cargo pickup if the cargo may not yet be available (i.e. held in a closed yard or location at the terminal). Free time should be stopped if container is no longer available. Important to consider the workings of terminal appointment systems in evaluating reasonableness—should be some minimum period of appointment availability.
 - FMC correctly determined that the manner in which notice of cargo availability is communicated is a critical aspect of reasonableness. Notice must be timely and readily accessible to the contracting party or its designee, must provide clear information as to when and where cargo may be retrieved, and “push notices” are favored.
 - Government Inspections. Need input here as to which of the 3 offered approaches makes the most sense: (1) waiver or extension of free time; (2) cap on the amount of charges that may accrue; or (3) no escalation of demurrage/detention during inspections. Option 1 seems the most commercially-oriented but understand that parties may see benefits in the other proposals.
 - Dispute Resolution. FMC has properly identified the types of policies, rules and practices that would greatly improve dispute resolution processes. Defined time frames should apply to both filing and responding to claims must operate to facilitate resolution of disputes and not unreasonably cut off claims.
 - Billing. Agree with FMC that demurrage/detention invoices must include adequate information to allow a shipper/trucker to audit and contest the charges. Favor invoicing that is tied to contractual relationships rather than ownership or control of the assets, i.e. ocean carriers should continue to bill their customers directly, rather than terminals billing for demurrage, since parties should be able to negotiate demurrage terms in their service contracts.
 - Evidentiary guidance. Support FMC proposal encouraging the identification of information that can facilitate dispute resolution, such as appointment logs and trouble tickets.
 - Terminology. Support FMC proposal for the use of more consistent demurrage and detention terminology in carrier and terminal tariffs, including that the most common understanding of these terms is based on the source of the charge (land for demurrage) and (container for detention) as opposed to the location (inside or outside the terminal).
4. FMC should proceed to adopt its proposed interpretive rule promptly. Below is an example from today, Oct 29.

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From: Brett Arnds (brett.arnds@unisco.com)
Sent: Tuesday, October 29, 2019 9:02 AM
To: 'ytilayardocu' <ytilayardocu@yti.com>; 'NA EQCSouthWest' <na.eqcsouthwest@one-line.com>; jerry.ramos@unisco.com
Cc: 'NA EQCAdmin' <NA.EQCADMIN@one-line.com>; cadrayage@unisco.com;
sergio.maltos@unisco.com
Subject: [cadrayage] one line equipment return

ONE Line

Please be sure you stop the clock on all of the below empties. We will also advise our customers of the extra chassis days and costs they will incur do to ONE line not being able to terminate back at the Ports.

Brett Arnds| UNIS
Director Of Operations
Brett.Arnds@unisco.com
562 572-7210-M; 626 863-4735-0
www.unisco.com
19914 S Via Baron St, Rancho Dominguez, Ca 90220
2131 W Willow St, Long Beach, Ca 90810

From: ytilayardocu (ytilayardocu@yti.com)
Sent: Tuesday, October 29, 2019 8:44 AM
To: NA EQCSouthWest <na.eqcsouthwest@one-line.com>; jerry.ramos@unisco.com;
ytilayardocu <ytilayardocu@yti.com>
Cc: NA EQCAdmin <NA.EQCADMIN@one-line.com>; cadrayage@unisco.com;
brett.arnds@unisco.com; sergio.maltos@unisco.com
Subject: RE: one line equipment return

Good Morning,

Unfortunately we are at max capacity for first shift and on DUAL appointment only.
At your discretion please continue to monitor for possible more open time slots, thank you.

Thank you for contacting YTI Customer Service, we value your business.

Kind Regards,
Jenny De La Torre – Yard Dept
Yusen Terminals, Inc
Ph: 310.548.8209

INSERT LOGO

Fax: 310.548.7175

From: NA EQCSouthWest <na.eqcsouthwest@one-line.com>
Sent: Tuesday, October 29, 2019 7:21 AM
To: jerry.ramos@unisco.com; ytilayardocu <ytilayardocu@yti.com>
Cc: NA EQCAdmin <NA.EQCADMIN@one-line.com>; cadrayage@unisco.com;
brett.arnds@unisco.com; sergio.maltos@unisco.com
Subject: Re: one line equipment return

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

YTI please advise

Thank you,

Jay

Equipment Control – Pacific Southwest (Los Angeles, Long Beach, Oakland, Phoenix)

***For empty return and empty pick up locations, please refer to <http://www.returnlocation.com/>

****Please note, equipment inventory levels are subject to change and ONE cannot guarantee equipment will be available when attempting to pick up an empty****

Ocean Network Express (North America) Inc.

[377 Butterfield Rd.](#)

[Lombard, IL 60148](#)

Operations Center: 1-866-437-3670

Operations Center Equipment Control Pacific Southwest Team: 1-866-437-3670 ext 3 5

www.one-line.com

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On Tue, Oct 29, 2019 at 8:34 AM Jerry Ramos <jerry.ramos@unisco.com> wrote:

Good morning,

We have been attempting to return equipment for quite some time now but the terminal restrictions have made it almost impossible to do so

After several days we were finally able to secure appts at YTI, but this morning they have dual restrictions for empty returns

Please assist us with stopping per diem clock on the following containers

NYKU0705598

CAIU9374003

MOTU0642772

DRYU4095199

TCKU4354282

TCLU8874295

HNSU4022022

SEGU5972581

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NYKU8017101

DRYU3097540

Thank you

Best Regards,

Jerry Ramos

Dispatcher



Should you have any questions, I can be reached at : Brett.Arnds@unisco.com

Respectfully,

Brett Arnds
Director
UNIS TRANSPORTATION LLC

From: ytilayardocu@yti.com
To: jerry.ramos@unisco.com; "NA EQCSouthWest"; "ytilayardocu"
Cc: "CA Drayage"; brett.arnds@unisco.com
Subject: [cadrayage] one line return
Date: Monday, November 4, 2019 12:11:29 PM
Attachments: [image001.png](#)

Please check back after 1400 for tomorrow's open time slots, thank you.

Thank you for contacting YTI Customer Service, we value your business.

Kind Regards,
Jenny De La Torre – Yard Dept
Yusen Terminals, Inc
Ph: 310.548.8209
Fax: 310.548.7175

From: Jerry Ramos <jerry.ramos@unisco.com>
Sent: Monday, November 4, 2019 9:10 AM
To: 'NA EQCSouthWest' <na.eqcsouthwest@one-line.com>; 'ytilayardocu' <ytilayardocu@yti.com>
Cc: 'CA Drayage' <cadrayage@unisco.com>; brett.arnds@unisco.com
Subject: RE: [cadrayage] one line return

EXTERNAL EMAIL: Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good morning,

Please be advised that we cannot make appts for today or tomorrow at YTI.

Please refer to screenshot, theres no appts at YTI for today or tomorrow 11/5, and YTI has advised they are at max capacity

Help us stop per diem clock for these containers

Thank you

Best Regards,

Jerry Ramos
Dispatcher



19914 S. Via Baron, Rancho Dominguez, CA 90220

Office: 626 - 899 -4629

jerry.ramos@unisco.com | www.UNISCO.com

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From: NA EQCSouthWest (na.eqcsouthwest@one-line.com) [<mailto:na.eqcsouthwest@one-line.com>]
Sent: Monday, November 4, 2019 8:24 AM
To: jerry.ramos@unisco.com; ytilayardocu
Cc: CA Drayage
Subject: [cadrayage] one line return

Hello,
Please secure the next available appt
I have added YTI for your assistance with their appts system

Thank you,

John

Equipment Control – Pacific Southwest (Los Angeles, Long Beach, Oakland, Phoenix)

***For empty return and empty pick up locations, please refer to <http://www.returnlocation.com/>

****Please note, equipment inventory levels are subject to change and ONE cannot guarantee equipment will be available when attempting to pick up an empty****

Ocean Network Express (North America) Inc.

[377 Butterfield Rd.](#)

[Lombard, IL 60148](#)

Operations Center: 1-866-437-3670

Operations Center Equipment Control Pacific Southwest Team: 1-866-437-3670 ext 3
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www.one-line.com



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On Mon, Nov 4, 2019 at 10:23 AM Jerry Ramos <jerry.ramos@unisco.com> wrote:

Good morning,

We have been attempting to return these empties since last week, we were told to secure appts at WBCT and that they would be accepted even though they had dual restrictions, but our drivers were rejected.

This morning we checked and there is no appts available at YTI, wbct is closed, ITS and Trapac have dual restrictions.

Please help with stopping per diem clock on these containers.

Thank you

SEGU5972581 – ONE
TCNU4918089 – ONE
TGHU9362353 - ONE

Best Regards,

Jerry Ramos
Dispatcher



19914 S. Via Baron, Rancho Dominguez, CA 90220

Office: 626 - 899 -4629

jerry.ramos@unisco.com | www.UNISCO.com

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