



Sony Electronics Inc.
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Sent via e-mail to secretary@fmc.gov

Mr. William Cody
Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, D.C. 20573

Re: Docket No. 22-04, Comments on Demurrage and Detention Billing Requirements ANPRM
Comments of Sony Electronics Inc.

Dear Mr. Cody:

These comments are submitted on behalf Sony Electronics Inc. ("SEL") in response to the above-referenced Advance Notice of Proposed Rulemaking (ANPRM) published by the Commission on February 15, 2022.

Headquartered in San Diego, SEL is a leading provider of audio/video electronics and information technology products for the consumer and professional markets. Operations include research and development, engineering, sales, marketing, distribution, and customer service. Most of the products that SEL sells in the U.S. move in the maritime transportation system. Accordingly, SEL has an interest in the ANPRM.

SEL supports the FMC's efforts to promulgate rules that will create minimum billing requirements, including greater transparency and predictability in the process by which detention and demurrage charges are invoiced. This, in turn, should help ameliorate escalating shipping costs that contribute to consumer product inflation.

Please see SEL's responses to the questions contained in the Information Requested section of the ANPRM.

A. Scope

1. Should the Commission include both VOCCs and NVOCCs in a proposed regulation on demurrage and detention billing?

Answer: Yes.

2. Should the Commission include MTOs in a proposed demurrage billing regulation?

Answer: Yes, SEL is in favor of a rule that covers all parties who can bill charges because billed parties should be able to rely on one consistent set of standards.

3. Should a proposed demurrage billing regulation distinguish between the demurrage MTOs charge to shippers and the demurrage MTOs charge to VOCCs? That is, should the Commission regulate the format in which MTOs bill VOCCs?

Answer: Yes, charges should be properly distinguished and identified so that by reviewing a bill the invoiced party can determine which charges are being passed along by VOCCs and which charges are being billed directly to the invoiced party in the first instance.

4. What percentage of demurrage and detention bills contain inaccurate information, and which information is most often disputed?

Answer: A minority of the bills received by SEL contain wholesale inaccuracies.

5. How much does the type of information included on or with demurrage and detention billings vary among common carriers, among marine terminal operators, and between VOCCs and NVOCCs?

Answer: In most cases, they are similar. In view of this, we believe that a higher standard should be set for all and that is why we support this rulemaking.

B. Minimum billing information.

6. What type of information should be required on billings. Should the Commission require certain essential information included on invoices such as [list omitted]:

Answer: All of the above.

C. Billing practices

7. What information or timeframes should be required for VOCC and NVOCC demurrage and detention bills? Should the Commission require different types of information or timeframes?

Answer: At a minimum, the number of days after the last free day.

8. Do common carriers invoice multiple parties for demurrage and/or detention charges? If multiple parties are invoiced for charges, should the billing party be required to identify all such parties receiving an invoice for the charges at issue?

Answer: Yes. Duplicative billing should be eliminated.

9. Should the billing party be required to identify the basis of why the invoiced party is the proper party in interest and therefore liable for the charges? (*i.e.*, as shipper, consignee, beneficial cargo owner, motor carrier or an agent, or as a party acting on behalf of another party pursuant to the common carrier's merchant clause in its bill of lading.)

Answer: Yes.

10. Should the Commission, for purposes of clarity and visibility of charges, require MTOs to bill demurrage directly to shippers (rather than billing VOCCs who then bill shippers for demurrage)? In that scenario, MTOs would bill shippers directly for demurrage, and carriers would continue to bill detention to shippers.

Answer: Yes.

11. How long from the point of accrual of a demurrage or detention charge does it typically take to receive a demurrage or detention invoice or billing?

Answer: Seven days.

12. Should the Commission require demurrage and detention invoices to be issued within 60 days of date when the detention/demurrage/per diem stops accruing?

Answer: Yes.

13. Should the Commission require specific information be included on the invoice regarding how to dispute a charge? If so, what information should be required? For example, should the Commission require invoices to include contact information for disputing charges, identify circumstances for when a charge may be waived, or identify the billing parties' evidentiary requirements sufficient to support a waiver of the charges?

Answer: Yes. As to the last question, it is the billing parties who are in possession of the very information that is most often necessary to show that charges are unreasonable and should be waived.

14. How long from the point of dismissal of a charge does it typically take to receive a refund? Should the Commission require that refunds of demurrage or detention bills be issued within a certain time period and what should that timeframe be?

Answer: Usually thirty days.

15. How would a regulation on demurrage and detention billing requirements impact, conflict with, or preempt any other applicable laws, regulations, or arrangements (such as the UIIA)?

Answer: The proposed billing requirements can be implemented to be consistent with other requirements.

16. Please provide any other views or data you believe would help inform the Commission's decision whether to pursue a proposed regulation on demurrage and detention billing information and practices.

Answer: One of the reasons that SEL writes in support of this rulemaking is that we receive bills for charges that cannot be avoided. For example, we are charged even when there are no available appointments. This is fundamentally unfair and arbitrary. In addition, we are charged when there are dual transaction requirements, i.e., pickup and return of equipment on same date, subject to carrier restrictions that we cannot meet. In this case too, charges are not reasonable. More to the point of FMC's rulemaking, such charges do serve the incentive that charges are supposed to promote - equipment fluidity.

SEL thanks the Commission for initiating this rulemaking and soliciting stakeholder comments.

Sincerely,



Richard Haroian
Vice President
Sony Electronics Inc.