

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 22-35

M.E. DEY & CO., INC.,

COMPLAINANT,

v.

HAPAG-LLOYD AG and HAPAG-LLOYD (AMERICA) LLC,

RESPONDENTS.

JOINT MOTION TO EXTEND BRIEFING SCHEDULE

Complainant M.E. Dey & Co., Inc. (“Dey” or “Complainant”) and Respondents Hapag-Lloyd AG and Hapag-Lloyd (America) LLC (“Hapag” or “Respondents”) (together “the Parties”), by their undersigned attorneys, hereby submit this joint Motion to Extend the Briefing Schedule in FMC Proceeding No. 22-35.

The current schedule, as set forth in the April 19, 2023 Scheduling Order, provides that Complainant’s Brief, Proposed Findings of Fact, and Appendix are due on September 25, 2023. This is followed by Respondent’s Opposition Brief, Responses to Proposed Findings of Fact, Proposed Findings of Fact, and Appendix, due on October 25, 2023.

On May 11, 2023, Respondents filed a Third-Party Complaint against CSX Transportation, Inc. (“CSX”). CSX filed a Motion to Dismiss the Third-Party Complaint on June 5, 2023, which Motion to Dismiss is pending before the Presiding Officer.


In the event that the Motion to Dismiss is denied, CSX would become a party to the proceeding, additional discovery would be required, and a more substantially revised scheduling order would be required. If the Motion to Dismiss is granted, it appears Complainant would have less than 30 days after that ruling to submit its Brief and accompanying documents by the current September 25 deadline. In either case, the Parties are in agreement that it makes little sense to require Complainant to file its brief until after the CSX Motion to Dismiss has been decided.


Therefore, the Parties hereby move that the following revised schedule apply in the event the CSX Motion to Dismiss is granted:

- Complainant's Brief, Proposed Findings of Fact, and Appendix due on September 25, 2023, or 21 days after an Order is issued granting the CSX Motion to Dismiss, whichever date is later.
- Respondent's Opposition Brief, Responses to Proposed Findings of Fact, Proposed Findings of Fact, and Appendix, due 30 days after the filing of Complainant's Brief.
- Complainant's Reply Brief due 15 days after the filing of Respondent's Opposition Brief.

The Parties make this proposal based on the understanding that because an Order granting the Motion to Dismiss would subject to appeal by one or both Parties as well as review by the Commission's own motion, the revised briefing schedule proposed above would be stayed pending resolution of an interlocutory appeal of the Order granting the Motion to Dismiss.

Respectfully submitted,


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Attorneys for Respondents

Dated: August 22, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of August 2023, the foregoing Motion to Extend Briefing Schedule was served via electronic mail on:

Federal Maritime Commission

Office of the Secretary
secretary@fmc.gov

Federal Maritime Commission

Presiding Administrative Law Judge
judges@fmc.gov



A handwritten signature in blue ink, appearing to read "Willy Pollock", is written over a horizontal line.