

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 22-35

M.E. DEY & CO., INC.

COMPLAINANT,

v.

HAPAG-LLOYD (AMERICA) LLC

RESPONDENT.

MOTION FOR LEAVE TO AMEND COMPLAINT

Complainant M.E. Dey, Inc. (“Complainant” or “Dey”), by its undersigned attorneys, submits this Motion requesting leave to file the attached Amended Complaint in accordance with Rules 66 and 69 of the FMC Rules of Practice and Procedure.

On January 17, 2023, Hapag-Lloyd (America) LLC (“Hapag USA” or “Respondent”) filed a motion to dismiss Dey’s original Complaint of December 23, 2022, which Complaint alleged Respondent’s violations of the Ocean Shipping Reform Act of 2022, 46 U.S.C. 101, *et seq.* (OSRA 2022). In its Motion, Respondent asserts that it is a United States subsidiary and agent for Hapag-Lloyd AG (a German ocean common carrier) and that the Commission therefore lacked personal jurisdiction over it.

In light of that Motion, Dey moves to file the attached Amended Complaint joining Hapag-Lloyd AG as a respondent, as well as naming Hapag USA as a respondent based upon pendent jurisdiction. Pendent jurisdiction exists because the claims against Hapag USA “arise[] ‘out of a common nucleus of operative facts’ with” those against Hapag AG, “over which the Commission

has jurisdiction as a VOCC.” *Tcw, Inc v. Evergreen Shipping Agency (am.) Corp. & Evergreen Line Joint Service Agreement*, 2022 WL 18068977, at *3 (FMC 2022). The Respondents have consented to the Amended Complaint naming Hapag AG as a Respondent, but do not consent to concurrent jurisdiction over Hapag USA.

For the foregoing reasons, Complainant respectfully requests that Your Honor grant its Motion to Amend the Complaint.

Respectfully submitted,



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Attorney for M.E. Dey & Co., Inc.

Dated: February 1, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of February, 2023, served the foregoing document upon all parties of record by emailing a copy to each such person.



Brendan Collins