

**FEDERAL MARITIME COMMISSION**  
**Office of Administrative Law Judges**

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

v.

HAPAG-LLOYD AG AND HAPAG-LLOYD (AMERICA) LLC,  
*Respondents.*

**DOCKET NO. 22-35**

Served: April 10, 2023

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**ORDER OF:** Linda S. Harris CROVELLA, *Administrative Law Judge.*

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**ORDER ON BEIC’S MOTION TO INTERVENE**

M.E. Dey & Co., Inc., (“M.E. Dey”) initiated this proceeding by filing a complaint, which was later amended, alleging that Hapag-Lloyd AG and Hapag-Lloyd (America) LLC, (collectively, “Hapag-Lloyd”) violated 46 U.S.C. §§ 41102(c) of the Shipping Act of 1984 and 46 C.F.R. § 41104(a)(14) of the Ocean Shipping Reform Act of 2022, and 46 C.F.R. § 545.4 and 545.5(d) of the Federal Maritime Commission regulations in connection with actions undertaken by Hapag-Lloyd to collect demurrage and storage fees on containers which were unavailable for pick up and were not released until said fees were paid. On March 27, 2023, Hapag-Lloyd submitted an answer to the amended complaint denying the allegations and raising affirmative defenses.

On March 31, 2023, a motion for leave to intervene (“Motion to Intervene”) was filed by the Commission’s Bureau of Enforcement, Investigations, and Compliance (“BEIC”) pursuant to 46 C.F.R. § 502.68(c)(ii) of the Commission’s Rules of Practice and Procedure. On April 7, 2023, Hapag-Lloyd filed a response to BEIC’s motion to intervene (“Response”), in which it asserted that Respondents take no position on BEIC’s motion but object to the characterization of the facts in the motion. M.E. Dey did not file a response.


Commission Rule 68(c)(2)(ii) specifically addresses intervention by BEIC (formerly known as the Bureau of Enforcement or “BOE”), stating: “The presiding officer or Commission may permit intervention by...the Commission’s Bureau of Enforcement upon a showing that its expertise is relevant to one or more issues involved in the proceeding and may assist in the consideration of those issues.” 46 C.F.R. § 502.68(c)(ii).

Here, BEIC requests to intervene so that it may apply its expertise by presenting “BEIC’s interpretation of the Shipping Act as applied to Respondents’ practices, providing a broader perspective than may be expected from the private litigants to the dispute.” Motion to Intervene at 3. BEIC asserts that its expertise as the enforcement arm of the Commission will assist “in elucidating whether Respondent’s actions constitute its normal, customary, and continuous

practices.” *Id.* Finally, “BEIC seeks to participate as a limited party to this proceeding by submitting briefs as necessary—primarily those addressing the application of 46 U.S.C. § 41102(c) to the facts of this case—but reserving the ability to address jurisdictional or other procedural issues.” *Id.* at 4. BEIC will not participate in discovery, so it will not affect the progress of the discovery schedule, nor will it prejudice “the parties’ adjudicative rights....” *Id.*

The parties have not commenced discovery, and BEIC does not propose to participate in examining witnesses or presenting evidence, so its limited participation is unlikely to unduly delay or broaden the scope of the proceeding. In addition, no party opposes BEIC’s limited participation. Finally, BEIC’s expertise is relevant to and may assist in consideration of one or more issues in this proceeding. 46 C.F.R. § 502.68(c)(ii). Accordingly, it is hereby **ORDERED** that BEIC’s motion to intervene be **GRANTED**.

Since BEIC does not seek to participate in discovery, it need not be consulted regarding a proposed discovery schedule but should be consulted regarding a proposed briefing schedule. A joint status report with proposed discovery and briefing schedule is due on April 17, 2023.

  
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Linda S. Harris Crovella  
Administrative Law Judge