

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

HUBBELL INCORPORATED AND HUBS, INC., *Complainants*

v.

DSV AIR & SEA, INC. AND DSV OCEAN TRANSPORT A/S,  
*Respondents.*

**DOCKET NO. 23-09**

Served: February 16, 2024

**ORDER OF:** Erin M. WIRTH, *Chief Administrative Law Judge.*

**INITIAL DECISION APPROVING SETTLEMENT AGREEMENT<sup>1</sup>**

On January 25, 2024, Complainants Hubbell Incorporated and HUBS, Inc. and Respondents DSV Air & Sea, Inc. and DSV Ocean Transport A/S filed a joint motion seeking approval of a settlement, confidential treatment of the settlement agreement, and voluntary dismissal of the complaint (“Motion”) with a copy of the confidential settlement agreement. The parties state that the settlement resolves both this proceeding and a related action pending in Delaware Federal District Court and was reached during a mediation with the Commission’s Office of Consumer Affairs & Dispute Resolution Services (“CADRS”). Motion at 1-2.

Using language borrowed in part from the Administrative Procedure Act, Rule 75 of the Commission’s Rules of Practice and Procedure gives interested parties an opportunity, *inter alia*, to submit offers of settlement where “time, the nature of the proceeding, and the public interest permit.” 46 C.F.R. § 502.75(b); *see* 5 U.S.C. § 554(c). If dismissal is sought due to a settlement by the parties, “the settlement agreement must be submitted with the motion for determination as to whether the settlement appears to violate any law or policy and to ensure the settlement is free of fraud, duress, undue influence, mistake, or other defects which might make it unapprovable.” 46 C.F.R. § 502.72(a)(3). “Unless the order states otherwise, a dismissal under this paragraph is without prejudice.” 46 C.F.R. § 502.72(a)(3).

The Commission has a strong and consistent policy of “encourag[ing] settlements and engag[ing] in every presumption which favors a finding that they are fair, correct, and valid.” *Inlet Fish Producers, Inc. v. Sea-Land Serv., Inc.*, 29 S.R.R. 975, 978 (ALJ 2002) (quoting *Old Ben Coal Co. v. Sea-Land Serv., Inc.*, 18 S.R.R. 1085, 1091 (ALJ 1978)). *See also Ellenville Handle Works, Inc. v. Far Eastern Shipping Co.*, 20 S.R.R. 761, 762 (ALJ 1981).

The law favors the resolution of controversies and uncertainties through compromise and settlement rather than through litigation, and it is the policy of

---

<sup>1</sup> This initial decision will become the decision of the Commission in the absence of review by the Commission. Any party may file exceptions to this decision within twenty-two days of the date of service. 46 C.F.R. § 502.227.

the law to uphold and enforce such contracts if they are fairly made and are not in contravention of some law or public policy. . . . The courts have considered it their duty to encourage rather than to discourage parties in resorting to compromise as a mode of adjusting conflicting claims. . . . The desire to uphold compromises and settlements is based upon various advantages which they have over litigation. The resolution of controversies by means of compromise and settlement is generally faster and less expensive than litigation; it results in a saving of time for the parties, the lawyers, and the courts, and it is thus advantageous to judicial administration, and, in turn, to government as a whole. Moreover, the use of compromise and settlement is conducive to amicable and peaceful relations between the parties to a controversy.

*Old Ben Coal*, 18 S.R.R. at 1092 (quoting 15A AM. JUR. 2D *Compromise and Settlement* § 3 (1976)).

“While following these general principles, the Commission does not merely rubber stamp any proffered settlement, no matter how anxious the parties may be to terminate their litigation.” *Old Ben Coal*, 18 S.R.R. at 1092. However, if “a proffered settlement does not appear to violate any law or policy and is free of fraud, duress, undue influence, mistake or other defects which might make it unapprovable despite the strong policy of the law encouraging approval of settlements, the settlement will probably pass muster and receive approval.” *Old Ben Coal*, 18 S.R.R. at 1093. “[I]f it is the considered judgment of the parties that whatever benefits might result from vindication of their positions would be outweighed by the costs of continued litigation and if the settlement otherwise complies with law the Commission authorizes the settlement.” *Delhi Petroleum Pty. Ltd. v. U.S. Atlantic & Gulf/Australia – New Zealand Conf. and Columbus Line, Inc.*, 24 S.R.R. 1129, 1134 (ALJ 1988) (citations omitted).

“Reaching a settlement allows the parties to settle their differences, without an admission of a violation of law by the respondent, when both the complainant and respondent have decided that it would be much cheaper to settle on such terms than to seek to prevail after expensive litigation.” *APM Terminals North America, Inc. v. Port Authority of New York and New Jersey*, 31 S.R.R. 623, 626 (FMC 2009) (citing *Puerto Rico Freight Sys. Inc. v. PR Logistics Corp.*, 30 S.R.R. 310, 311 (ALJ 2004)).

The parties state:

In this action, Hubbell and DSV, both sophisticated corporate Parties, arrived at the Settlement Agreement through an in-depth, CADRS facilitated mediation and extensive, arm’s length negotiations in which counsel for both Parties and representatives of both Parties participated, and which involved careful consideration of the relative strengths of their positions weighed against the risks and costs of continued litigation. The Parties submit that the Settlement Agreement does not contravene any law or public policy, does not violate the Shipping Act, is neither unjust nor discriminatory, and is free of fraud, duress, or undue influence. The Settlement Agreement does not contemplate any adverse effects on any non-parties or the shipping public and is free of any other defects which might make it unapprovable.

The Settlement Agreement is intended to amicably resolve the contested business disputes between the Parties and the Parties have determined that the Settlement Agreement is fair and reasonable and reflects the Parties' desire to resolve their issues without the need for further, unnecessary expenditure of time and resources by the Parties and the FMC. For these reasons, the Parties respectfully request that the Settlement Agreement be approved and, on that basis, that Hubbell's Verified Complaint against DSV be dismissed.

Motion at 4-5.

Based on the representations in the joint motion and other documents filed in this matter, the parties have established that the settlement agreement does not appear to violate any law or policy or contain other defects which might make it unapprovable. The parties are represented by counsel, have engaged in arms-length settlement discussions, and participated in a mediation with CADRS. The proceeding would require potentially expensive discovery and briefing. The parties have determined that the settlement reasonably resolves the issues raised in the complaint and in the related action in Delaware without the need for costly and uncertain litigation. Accordingly, the settlement agreement is approved.

The parties request that the settlement agreement be kept confidential. Pursuant to Commission Rule 5(b), parties may request confidentiality. 46 C.F.R. § 502.5(b); *see also* 46 C.F.R. § 502.141(j). "If parties wish to keep the terms of their settlement agreements confidential, the Commission, as well as the courts, have honored such requests." *Al Kogan v. World Express Shipping, Transportation and Forwarding Services, Inc.*, 29 S.R.R. 68, 70 n.7 (ALJ 2000) (citations omitted); *Marine Dynamics v. RTM Line, Ltd.*, 27 S.R.R. 503, 504 (ALJ 1996); *Int'l Assoc. of NVOCCs v. Atlantic Container Line*, 25 S.R.R. 1607, 1609 (ALJ 1991).

The confidential settlement agreement has been reviewed by the undersigned and is available to the Commission. Given the parties' request for confidentiality, confidential information included in the settlement agreement, and the Commission's history of permitting agreements settling private complaints to remain confidential, the parties' request for confidentiality for the settlement agreement is granted. The settlement agreement will be maintained in the Secretary's confidential files.

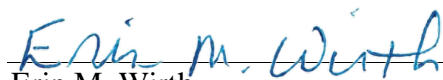
Upon consideration of the motion, the settlement agreement, and the record, and good cause having been stated, it is hereby:

**ORDERED** that the joint motion to approve the settlement agreement between Complainants Hubbell Incorporated and HUBS, Inc. and Respondents DSV Air & Sea, Inc. and DSV Ocean Transport A/S be **GRANTED**. It is

**FURTHER ORDERED** that the request for confidential treatment be **GRANTED**. It is

**FURTHER ORDERED** that the request for voluntary dismissal be **GRANTED**. It is

**FURTHER ORDERED** that this proceeding be **DISMISSED**.

  
Erin M. Wirth  
Chief Administrative Law Judge