



A member of the **KWE** Group

February 9, 2017

Ms. Rachel E. Dickon, Assistant Secretary
Federal Maritime Commission
800 North Capitol Street N.W.
Washington, DC 20573-0001

Re: Petition No. P4-16

Dear Assistant Secretary Dickon:

APL Logistics is pleased to respond to the Federal Maritime Commission (FMC) *Federal Register* notice published on December 28, 2016 concerning a petition for rulemaking from the Coalition for Fair Port Practices. Our organization fully supports the rulemaking requested by the Coalition and we urge the FMC to begin a proceeding to consider this matter as soon as possible.

Our organization is APL Logistics and I am the Regional Trade Compliance Manager. We are an ocean transportation intermediary, NVOCC and Forwarder, engaged in the business of arranging the movement of international ocean cargo for our various customers.

In recent years, there have been a number of situations where the vessel and/or marine terminal operators have assessed significant amounts of demurrage or detention in situations where neither we nor our customers are at fault. All too frequently shippers and truckers are being charged demurrage and detention for late pick up or return of empty containers when in fact, the delays were due to terminal congestion, labor contract negotiations, or the arrival of large vessels, all beyond the control of the importer/exporter.

If terminals are closed during normal working hours, have closed yard locations, or containers are unavailable due to yard congestions, carriers and terminals should not assess demurrage.

The port congestion situation in 2014, our organization and our customers received inappropriate and very large demurrage invoices, one customer incurred over \$375,000.00 - the Hanjin bankruptcy has thus far, cost our organization \$57,000.00 in demurrage. Our organization continues to experience terminal delays and congestion at many Southern California terminals, this is further exacerbated by the Pool of Pool chassis shortages at various terminals; East and West Coast. We rely on the daily notifications of terminal closures or yard areas blocked (via email alerts or terminal websites postings) often changing hourly, which ultimately prevents us from picking up our cargo, yet the demurrage clock continues.

This demonstrates the need for the Commission to take additional steps. By doing so, the Commission would both provide a needed incentive to those parties to work harder to increase the efficiency of their operations and significantly reduce the amount of time spent contesting or litigating demurrage and detention bills, which often are denied.

Challenging the demurrage bills at the Commission, even with the assistance of the Consumer Affairs Dispute Resolution Service, is time consuming. APL Logistics was successful in recouping a small amount of demurrage with the great assistance of the CADRS services and we thank the commission, yet the effort took almost one year. For that reason, we believe that the Commission should consider adopting a policy or rule, as proposed by the Coalition, that makes it clear that it would be inappropriate for the carriers and MTOs to assess demurrage and/detention charges in situations where the delays are clearly beyond the control or fault of the OTIs and their customers.

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I would like to emphasize that we are not asking the Commission to add new regulations, since the Petition makes it clear that the assessment of demurrage and detention in situations where the delays are not attributable to the cargo interests, is unlawful and violates the Shipping Act.

We accordingly urge the Commission to initiate a proceeding to consider this important issue.

Respectfully,

Marina Radcliffe
Regional Trade Compliance Manager
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