

DOCKET NO. P4-16

AFFIDAVIT OF RYAN MARIACHER IN SUPPORT OF REPLY OF THE PORT OF HOUSTON AUTHORITY TO THE PETITION OF THE “COALITION FOR FAIR PORT PRACTICES” FOR RULEMAKING

1. My name is Ryan Mariacher. I am Director of the Container Terminals at the Port of Houston Authority (PHA). We have two container terminals: Barbours Cut and Bayport.
2. I am familiar with the petition filed by the “Coalition for Fair Port Practices” in this proceeding. I offer the following testimony which relates to demurrage practices and experiences at the container terminals at PHA.
3. Our container tariffs provide 7 days as a receiving window for exports. The goal is to receive cargo on the docks which is due to be loaded on imminent vessels. There is no penalty to the carrier if a vessel is late and the container dwells longer for 7 days, as long as it loads the originally intended vessel. Similarly, our container tariffs allow 7 days free time, plus 3 additional days if there needs to be a government inspection, for pick-up of import cargo. Our goal is to decrease the time that cargo remains on our docks. We are a transit facility, not a storage facility. Demurrage charges are an important incentive, as well as compensation for use of our facilities. Ideally, there would be no need for demurrage.
4. Although we have very little congestion at the container terminals at PHA, our yearly demurrage charges are substantial: \$6.4 million, 2016; \$12 million, 2015; \$9.2 million, 2014. The reasons for these charges relate to the financial and business practices of the carriers, the shippers, and the truckers, as I explain below.

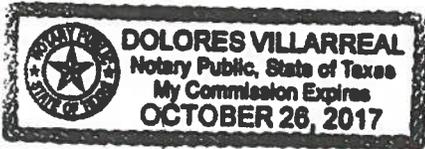
5. Demurrage is likely to occur at PHA container terminals in the following circumstances:
(1) the shipper has not timely paid the ocean carrier; (2) the ocean carrier has overbooked the vessel; (3) there is a shortage of trucks or truck drivers, or the trucking company or drayage company is generally behind schedule; (4) a government mandated inspection has put the cargo on hold (note – we allow an extra 3 days’ free time when there is a government inspection by U.S. Customs & Border Protection or other federal agency); and/or (5) the ocean carrier has failed to pay PHA. Unfortunately, each of these circumstances is not unusual.
6. Provisions in PHA Tariff Nos. 14 and 15 provide that upon application of the carrier, a demurrage credit of one day will be allowed for any occurrence which results in PHA’s inability to provide container services for 24 hours. It is very rare that PHA is unable to provide container services for 24 hours, but we honor this provision. Shippers, however, constantly apply for demurrage credit even when the causes of the delay clearly have no relationship to PHA’s services. We believe this is either because the shipper or trucker does not want to admit fault to the carrier, or the shipper or trucker would prefer not to explain or justify bottlenecks in the inland transportation chain.
7. The management of a port is a very complicated business. We think the “Rules” suggested by the Coalition would be very difficult to administer fairly and consistently and in fact would cause much argument and confusion. PHA would be best off if all cargo moved into and out of its terminals in the free time allotted. The carriers and the shippers are in the best position to achieve that result.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Ryan Mariacher
Director, Container Terminals, Port of Houston
Authority

Sworn to and subscribed before me on the 16 day of FEB, 2017.



NOTARY PUBLIC

My Commission Expires: 10-26-2017