



People Who Know®

February 27, 2017

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

Re: Petition of the Coalition for Fair Port Practices for Rulemaking (Petition No. P4-16)

Dear Assistant Secretary Dickon:

Crowley Maritime Corporation operates liner services between Florida and Central America and the Caribbean through its affiliates Crowley Latin America Services and Crowley Caribbean Services. We are one of the largest liner operators in those trades, the largest liner operator at the Port Everglades terminal in South Florida, and a major operator in Jacksonville, Florida. The Commission is being asked by a shippers coalition to enact new regulations regulating when and how demurrage and detention can be charged to shippers by liner operators and marine terminal operators. Demurrage and detention have always been a matter of commercial negotiation between shippers and carriers in service contracts for the most part, and as a tariff matter for the small portion of cargo not carried through service contracts. Crowley strongly opposes new regulations in this area. Detention and demurrage should continue to be a matter of commercial negotiation. Crowley strongly supports the comments of the World Shipping Council who have also filed comments in opposition.

There is no record of sustained need for new regulation in this area. The shipper petition would transfer risk for detention and demurrage situations to liner operators (and marine terminal operators). The shippers petition would require carriers and terminal operators to extend terminal and equipment return free time in any situation in which the inability of a shipper to retrieve cargo from a terminal or to return equipment to a terminal “is not the fault of the shipper”. This proposal would practically eliminate the ability to charge detention and demurrage. Shippers could claim any delay is out of their control and carriers and terminal operators would be forced to prove otherwise. Big shippers would be the only beneficiary of this proposal.

Carriers are at liberty to take action to mitigate demurrage and detention charges where circumstances permit and shippers are at liberty to negotiate the terms for detention and demurrage with carriers. In practice, detention and demurrage are already difficult to enforce and collect. The proposal would make it near impossible. The Commission should not get in the middle of commercial realities and attempt to intercede through regulation in this area, and clearly not on the one sided basis proposed.



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Carriers like Crowley and shippers have been presented with circumstances in the past, like major hurricanes, when carriers and shippers have settled demurrage and detention claims fairly through commercial negotiations, taking into account the factual circumstances and events beyond both parties control. In these circumstances carriers have often mitigated such charges where it is equitable to do so. Crowley strongly believes that regulating in this area would be misguided, and would create greater inequity and would ultimately prove more costly for both shippers and carriers. We urge the Commission to deny the petition and not undertake rulemaking proceedings.

Sincerely,
Crowley Maritime Corporation

A handwritten signature in blue ink, appearing to read "Alan R. Twaits". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

By: Alan R. Twaits
Vice President and Chief Counsel – Corporate Legal Services
Crowley Maritime Corporation