



A Global Logistics Provider

Date: February 1, 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:

This submission is in response to the Federal Maritime Commission (FMC) *Federal Register* notice published December 28, 2016 concerning a petition for rulemaking from the Coalition for Fair Port Practices. As a company who advocates and supports the Trade and those matters having an impact on this industry we are thankful for the opportunity to respond. This company fully supports the rulemaking requested by the Coalition and urge the FMC to begin proceedings to consider this matter.

J.W. Allen & Company, Inc. is an ocean transportation intermediary engaged in the business of arranging movement of international ocean cargo for various shipper/receiver clients.

In recent years vessel operators and/ or marine terminal operators have assessed substantial penalties due to conditions or events utterly outside the control of OTI's or their customers. Having particularly negative influence on the ability to timely pickup or deliver cargo or containers has been recurring port congestion resulting from significant weather events, port labor issues, or inadequate port infrastructure. Yet, while these events collectively or individually are beyond our control port and ocean carriers have routinely assessed demurrage and/or detention charges.

The existing system of debating with carriers or ports over the appropriateness of receiving demurrage or detention bills under these circumstances, or should the carrier or ports refuse to even engage in a dialog on the matter, challenging these bills at the Commission even with the assistance of the Consumer Affairs Dispute Resolution Service is time consuming and unwieldy. Therefore, it is our belief the Commission should consider adopting a policy or rule, as proposed by the Coalition, that makes clear it would be inappropriate for the carriers and MTOs to assess demurrage and/ or

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detention charges in situations where the delays are clearly beyond the control or fault of the OTIs and their customers.

While the Petition makes clear the assessment of demurrage and detention in situations where delays are not attributable to cargo interests is unlawful and violates the Shipping Act, it must be emphasized the Commission is not being asked to add new regulations. Still, occasions where this company or its customers have received inappropriate and often very large invoices demonstrates that the Commission should make it clear to the carriers and ports they need to act more responsibly. By doing so the Commission would provide both a needed incentive to those parties to work harder to increase the efficiency of their operations as well as significantly reducing the amount of time spent arguing or litigating demurrage and detention bills.

Accordingly, the Commission is respectfully urged to undertake proceedings to consider this very important issue.

Respectfully,



W.J. Yennie
Vice President- Exports
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