



RECEIVED  
2017 APR 10 PM 1:11  
OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMMISSION

615-255-1122  
FAX 615-742-6144 (Operations)  
FAX 615-780-3246 (Office)  
22 STANLEY ST.  
NASHVILLE, TENNESSEE 37210  
[www.tcwonline.com](http://www.tcwonline.com)

February 2, 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:

TCW 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. TCW fully supports the policy statement requested by the Coalition which would help bring about more reasonable demurrage and detention practices for cargo moving through our nation's seaports. We urge the FMC to begin a formal rulemaking on this matter as soon as possible.

I am President of TCW, a position I have held for the last 25 years. Roughly 70% of TCW's revenue comes from international, intermodal services we provide throughout the Southeastern US. We have terminals in both Charleston, SC and Savannah, GA. While both of these ports have been proactive in addressing driver turn times, there are still instances where demurrage and detention practices are not modified to be practical for the circumstances we face.

Additionally I serve as a member of the Intermodal Interchange Executive Committee (IIEC) who handles dispute resolution cases between motor carriers and marine carriers who are participants of the Uniform Intermodal Interchange Agreement (UIIA). We handled in excess of 100 dispute cases relative to the delays caused by the Ports of LA and Long Beach during the ILWU slowdown. Measurable data on the turn times at these ports was valuable in reviewing these cases where the marine carriers refused to adjust their demurrage and detention practices during this slowdown.

Our company has experienced repeated incidents of severe congestion at container terminals in U.S. ports which have prevented us from picking up our cargo and/or returning empty containers. This has occurred in both ice storms and hurricanes and we are at the marine carrier's mercy as to whether or not they choose to adjust their rules. Even in instances where one or two additional free days are granted, this does not address the extended time period for delays that are caused by the bunching that is created.

Whether those incidents involved weather, labor contract negotiations, the arrival of very large ships or other disruptions, the port delays were beyond our control. All too frequently shippers and truckers are being charged demurrage and detention penalties for late pickup or return of containers when it is not their fault. If the terminal is closed during normal working hours, or if a container is unavailable for pickup during the free time period due to congestion or other disruption at the port, carriers and terminals should not assess demurrage. The same is true for detention charges when attempts to return an empty container are frustrated. These are real costs that hurt American businesses and American competitiveness.

The Coalition for Fair Port Practices has proposed a policy statement that would help to stop this unfair practice. The FMC has the authority to ensure that demurrage and detention practices are fair and reasonable and it needs to act to address this problem.

The FMC has taken important steps to examine port congestion issues challenging carriers, shippers, terminals and intermediaries. As the next step, we urge you to grant the petition and open a rulemaking on the Coalition's policy statement to ensure that US imports and exports are not burdened with unfair demurrage and detention charges. Thank you for considering our views.

Respectfully,

A handwritten signature in black ink, appearing to read "David Manning", with a stylized flourish at the end.

David Manning  
President  
TCW, Inc.