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April 13, 2017

Via: Email and mail

Ms. Rachel E. Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol Street NW
Room 1046
Washington, DC 20573

Re: FMC Docket No. P4-16; Reply of the Port of Houston Authority to the "Petition for Leave to Supplement the Record" filed by the Coalition for Fair Port Practices

Dear Ms. Dickon:

On behalf of the Port of Houston Authority ("PHA"), I am submitting this letter in response to the "Petition for Leave to Supplement the Record" filed by the law firm Thompson Hine LLP on behalf of the "Coalition for Fair Port Practices."

On February 22, 2017, PHA filed comments in response to the petition filed by the Coalition. In that response, PHA showed that the basic premise of the Coalition's position, namely, that shippers and carriers are entitled to a designated amount of free usage of terminal facilities, has been definitively judicially rejected, as it should have been, in the case of *City of Galveston v. Kerr Steamship Co., Inc.* 362 F. Supp. 289, 294 (S.D. Tex 1973), affirmed (without opinion) 503 F. 2d 1401 (5th Cir. 1974) cert. denied 420 U.S. 975 (1975). *City of Galveston* held that free time is meant only to incentivize swift removal, and demurrage is intended to compensate for use of terminal facilities. *City of Galveston* held that carrier or shipper "fault" was *not* necessary to trigger demurrage. The Coalition has cited no legal authority overruling or distinguishing this case or otherwise supporting its various arguments for free usage of terminal facilities.

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We note additionally that the Coalition still fails even to mention PHA or any port on the Gulf Coast, and hence fails to provide any basis for its new “policy guidelines” which are intended to establish uniform and hence non-competitive terminal usage regulations throughout the United States.

Sincerely,

Amy Loeserman Klein, Esq.
Representing Port of Houston Authority

Erik A. Eriksson, Esq. Chief Legal Officer,
Port of Houston Authority

Linda Henry, Esq. Associate General Counsel
Port of Houston Authority

CERTIFICATE OF SERVICE

I hereby certify that on this _13th_ day of April, 2017 a true and correct copy of the foregoing was served by email where email is provided and by first class mail where email is not provided on the following:

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