

BEFORE THE FEDERAL MARITIME COMMISSION

Petition No. P4-16

PETITION OF THE COALITION FOR FAIR PORT PRACTICES FOR RULEMAKING

**TESTIMONY OF ROBERT LEEF
SENIOR VICE PRESIDENT, EAST REGION, CONTAINER PORT GROUP
ON BEHALF OF THE COALITION FOR FAIR PORT PRACTICES**

Good Morning,

My name is Robert Leef and I am the senior vice president for the east region of ContainerPort Group. Since 1977 I have been involved in ocean transportation, first with US Lines, then as a drayage carrier owner for 20 years and now with ContainerPort Group. ContainerPort Group is one of the oldest international drayage companies in the United States. Our network of 20 terminals are primarily in the Midwest, Ohio Valley, Gulf and East Coast. We are the largest depot operator for the steamship lines in the Midwest.

I am responsible for all operations for our terminals from Buffalo, NY to Savannah, Ga including all port and rail cities. In my capacity I daily deal with truck drivers that complain about excessive delays and turn times at the various marine terminals at our nation's seaports that are caused by circumstances beyond our control. Our operations team reports to me the significant demurrage and per diem exposure we have due to the delays and the limited hours of operations. Our company in 2017 spent approximately \$369,000 for detention, per diem and demurrage charges, the substantial majority of which was due to causes and delays that were completely beyond our control.

As explained in my statement submitted in support of the Coalition's petition, in 2014, 2015 and early 2016, CPG, and the independent contractors who haul on our behalf, experienced port delays caused by labor disruption, weather, road construction, chassis shortages, system failures, and port congestion. Despite the various factors that were beyond the control of the motor carriers, many Vessel Operating Common Carriers and Marine Terminal Operators still assessed both

per diem and demurrage fees in accordance with the Uniform Intermodal Interchange and Facilities Access (UIIA) Agreement and the Marine Terminal Operator schedules.

Specifically, I explained that we have been charged per diem in situations where containers were returned within the allotted free time to the rail ramp in Columbus, OH, and then railed to the Port of Norfolk, VA which was closed due to a snow storm. The Vessel Operating Common Carrier insisted that CPG (or another party) was liable for per diem incurred while the units sat at a CLOSED Port of Virginia.

In another example, we were assessed substantial per diem during heavy port congestion at Norfolk caused by winter storms in 2015. When we disputed the charges, the Vessel Operating Common Carrier rejected our dispute stating: *"We do not waive [per diem] due to congestion we encourage the truckers to e-mail for the [last free day] so they can plan ahead. The best I can do is offer you a payment plan for the invoice in March/April because unfortunately you will get shut out [for non-payment]."*

Today the WSC and NAWA indicate that congestion and associated detention/demurrage/per diem issues are no longer a problem or have subsided, thereby rendering the relief sought by the petition moot. But this is not a true statement. Based on my experience and, as the Coalition has demonstrated, port congestion and other events impeding port access have occurred periodically for many years and will undoubtedly occur again.

For example, the port of Baltimore was frustrating during 2017. In February delays for reasons out of our control started where turn times were exceeding 4 hours. The delays became exacerbated throughout the year, and resulted in significant demurrage and detention charges for delays that were completely out of our control.

The ocean carriers and terminals claim that commercial negotiations can address concerns over demurrage, detention, per diem. However, that has not been my experience. As shown above, in some cases, the carriers refuse to negotiate. And in the instances where issues are eventually resolved, the business owner has already incurred significant loss of time, resources and efficiency, which translates

into lost revenue. This hurts American business and is all the more reason that the FMC should step in and help address unfair demurrage, detention, and per diem practices.

Also, it is apparent that the port congestion and related demurrage/detention issues have become exacerbated in recent years due in part to the snowball effect of substantially larger vessels. In 1977 when I started my career at US Lines, the largest vessels carried about 1210 TEU's. During this time Howland Hook Marine Terminal in the port of NY/NJ had hours of Monday to Friday from 7am until 4pm. Today in the port of NY/NJ we have vessels that are now over 10,000 TEU in size yet the majority of marine terminals still maintain the same hours of operations Monday to Friday from 7am to 4pm.

While ports have attempted to solve these problems through commercial negotiations, my experience is that these efforts are not sufficient. For example, during the summer of 2013, the port of NY/NJ experienced severe congestion because of a variety of problems. These included labor shortages, operating system failures, a shortage of chassis, construction, and other related issues. The port also experienced a severe winter with record snow and ice and sub-freezing temperatures. In late 2013, the Port Authority convened the Port Performance Task Force in an effort to solve the congestion issues. The Task Force was comprised of representatives from labor, marine terminal operators, ocean carriers, railroads, truckers, intermodal equipment providers, maintenance contractors, beneficial cargo owners, 3PL's, the New York Shipping Association and the Port Authority. In June 2014 the group issued a report.

But despite this effort, three years later we are still faced with the exact same problems that were identified in 2014. It is time for the Federal Maritime Commission to help address this situation and implement guidelines for everyone to follow.

I want to thank the Commission for holding this hearing and for the opportunity to share my views on this important topic.