

December 8, 2017

Ms. Rachel E. Dickon
Assistant Secretary
Federal Maritime Commission
800 North Capitol St. NW, Room 1046
Washington, DC 20573-0001

Email: secretary@fmc.gov

Re: Petition No. P4-16—*Petition of the Coalition for Fair Port Practices for Rulemaking*;
Notice of Intent to Testify of the Coalition for Fair Port Practices

Dear Assistant Secretary Dickon:

In response to the Commission's November 16, 2017 notice, the Coalition for Fair Port Practices ("Coalition") respectfully submits its Notice of Intent to Testify at the hearings scheduled on January 16-17, 2018 in the above referenced proceeding.

The Coalition commends the Federal Maritime Commission ("Commission" or "FMC") for its decision to schedule public hearings on the Coalition's Petition for Rulemaking concerning demurrage and detention practices of ocean carriers and marine terminals applied during periods of port congestion or other circumstances impacting the accessibility of our nation's seaports. The Coalition appreciates the opportunity to explain the concerns of importers, exporters, and drayage operators who are assessed demurrage and/or detention/per diem when cargo cannot be delivered or equipment cannot be returned due to port congestion or other circumstances that are beyond their control. The Coalition believes that the FMC can play an important role in helping to avoid unfair and unreasonable practices by issuing a policy statement that would provide guidance to the industry as to demurrage and detention/per diem practices that are consistent with the Shipping Act of 1984, as amended.

The following industry representatives and legal counsel respectfully request to testify collectively as a panel on behalf of the Coalition:

Industry Representatives:

- Ms. Laura Crowe, Senior Director, Global Logistics, Walmart Stores, laura.crowe@walmart.com, Ph.: 479-204-2677.
- Mr. Don Pisano, President, American Coffee Corporation, dpisano@amcof.com, Ph.: 201-433-2807.
- Fred Johring, President, Golden State Express, fred@gsltrans.com, Ph.: 310-667-5210.

- Association of Bi-State Motor Carriers represented by Robert Leef, Senior Vice President, East Region, ContainerPort Group, Inc., bob.leef@containerport.com, Ph.: 973-733-4990 x 3228.

Legal Counsel:

- Karyn A. Booth, Partner, Thompson Hine LLP, karyn.booth@thompson.hine.com, Ph.: 202-263-4108.
- Nick DiMichael, Senior Counsel, Thompson Hine LLP, nick.dimichael@thompsonhine.com, Ph.: 202-263-4103.

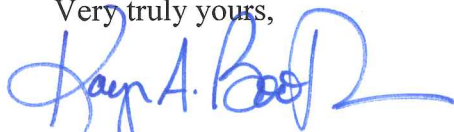
The Coalition respectfully requests that each company witness be allowed 5 minutes for his/her testimony (a total of 20 minutes) and legal counsel (combined) requests 25 minutes for a total of 45 minutes. All parties testifying for the Coalition would be very glad to respond to the Commission's questions.

The Company representatives will testify about the following issues based on their specific experiences: concerns and challenges regarding the assessment of demurrage and/or detention/per diem charges when ports are congested and cargo cannot be picked up or equipment returned within the applicable free time period through no fault of the importer/exporter or drayman; the holding of cargo hostage until such payments are made; the substantial adverse impact that carrier and terminal demurrage and detention/per diem practices have on company supply chains; the difficulties and inefficiencies in negotiating with carriers and terminals to resolve demurrage and detention per diem disputes; and the need for the FMC to exercise its jurisdiction to issue a policy statement that would clarify demurrage and detention practices that are consistent with the Shipping Act.

Legal counsel will testify about the FMC's authority to interpret and clarify reasonable demurrage and detention practices governed by 46 U.S.C. § 41102(c); the key principles that should be addressed in any FMC policy statement, which would offer guidance to industry stakeholders but would not be legislative rule enforceable as a matter of law; and the reasons why existing remedies, i.e. costly and time-consuming adjudications and non-binding informal dispute resolution, are inadequate solutions to the problem, based on the absence of any standards as to how the agency might interpret section 41101(c) with respect to demurrage and detention/per diem practices in the containerized trades.

The Coalition looks forward to participating in the hearings. Please contact the undersigned should you have any questions.

Very truly yours,



Karyn A. Booth

Counsel for the Coalition for Fair Port Practices
