



August 15, 2022

Mr. Anthony “Tony” Murrello  
Chief Operations Officer  
Maher Terminals LLC  
1210 Corbin Street  
Elizabeth, NJ 07201

Dear Mr. Murrello:

The National Industrial Transportation League ([NITL](#)), urge Maher Terminals LLC (Maher) to reconsider its decision to count Saturdays and Holidays towards free time and impose a new tariff, to address the continued, severe empty containers problem at the NY/NJ Ports.

We strongly object to these measures because it: 1) represents a tremendous hardship for motor carriers and shippers; 2) will negatively impact driver safety; 3) adversely affects driver retention; 4) is discriminatory for those who observe the Sabbath; and 5) is a violation of the May 18, 2020, Federal Maritime Commission’s (FMC) Interpretive Rule on Detention & Demurrage. This decision will do nothing to alleviate the empty chassis problem which is the responsibility of the ocean carriers to remove.

We agree with the specific concerns raised by the Association of Bi-State Motor Carriers ([Bi-State](#)) I to counting Saturdays and Holidays towards free time when Maher Terminals is open. These aligned concerns follow:

#### **HOURS OF SERVICE/DRIVER SAFETY CONCERNS**

When terminals such as yours are open on weekends and holidays, it is because the NY/NJ Port was so congested during the week, additional hours are needed to clear out imports and/or accept empties and exports.

This also means that many of the truck drivers who have worked during the week under those congested conditions are now out of their Federally restricted Hours of Service and cannot safely or legally pull containers until the Hours-of-Service clock re-sets. Driver safety is of the utmost importance and must not be compromised.

Your policy change fails to take these important, mandatory Federal Safety regulations into account. Forcing shippers to pay fees unless the motor carriers' drivers work 6 days a week is not an acceptable practice: it encourages non-compliance and could result in a dangerous decrease in driver safety.

### **DRIVER RETENTION**

This policy, which will force motor carriers to operate on Saturdays and holidays if they are to avoid detention & demurrage charges, will negatively impact driver retention during a time when we are already experiencing a nationwide truck driver shortage.

### **WEEKEND & HOLIDAY EXTENDED HOURS ARE INTENDED TO ALLEVIATE EXTREME CONGESTION AND ARE NOT THE SAME AS FULL WEEKDAY BUSINESS HOURS**

Terminals like yours at the NY/NJ Port open on a weekend or holiday if there is a compelling reason to do so. This typically can occur during periods of extremely high volume where congestion has negatively impacted service levels during the week, or if there has been an extreme event (software outage, weather closures, etc.) that leads the terminal to open and offer extra hours. We understand that this represents a significant expense for the terminal.

That also holds true for motor carriers and their customers. When extra hours are offered on a weekend or holiday, it is difficult to get drivers and staff members to work on those days. There is a significant increase in costs associated with asking people to work on a holiday. In addition, customers are not open for receiving.

The added gates at Maher are not full gates, and do not offer the same level of service that one would expect on a regular workday. When your terminal opens on a Saturday or holiday, you offer a sharply reduced number of gate hours. Even if you are "open on a Saturday" it does not mean that the terminal is "open for business as usual." As an example: your weekday hours are 6am to 7pm, but your

Saturday gate hours on August 6, 2022, are 7am to 3pm. That should not count as a full day of free time.

### **REEFER PLUG-IN AVAILABILITY IS LIMITED ON WEEKENDS & HOLIDAYS**

Accommodations for motor carriers who transport reefers is not adequate on Saturday's and holidays, if their customer is not open for receiving on a Saturday or a holiday, they do not have the capability to plug-in these containers. This results in the shipper to incur fees for not being open outside of normal business hours — a punitive measure that in direct contradiction to the FMC's Interpretive Rule on Detention & Demurrage.

### **VIOLATION OF FMC INTERPRETIVE RULE**

According to the FMC Interpretive Rule that went into effect on May 18, 2020, "Importers, exporters, intermediaries, and truckers should not be penalized by demurrage and detention practices when circumstances are such that they cannot retrieve containers from, or return containers to, marine terminals because under those circumstances the charges cannot serve their incentive function."

Your policy decision fails to recognize that even if the terminals and depots are open on Saturdays and holidays, many of the motor carriers' customers are not open at those times. It is unacceptable to institute a policy that attempts to force motor carriers to return containers on a day when they cannot access those containers from their customers, and/or they will be forced to store those containers until their customers open for receiving.

Charging fees as stipulated under your proposed tariff would penalize motor carriers and shippers under circumstances over which they do not have any control. Assessing fees in a way that is punitive, not incentivizing.

NITL opposes these changes and urgently requests Maher to reverse these new free time conditions and tariffs prior to the August 18, 2022, effective date.

Sincerely,



E. Nancy O'Liddy  
Executive Director

