

*East coast truckers want the meter running while they wait
for loads from congested ports*

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With the crowding, delays and other headaches caused by the west coast's recent port labor dispute, it's not surprising that Pacific trade shippers have been re-routing significant volumes to America's Atlantic and Gulf ports. You might expect the east coast transportation infrastructure to welcome warmly those extra business revenues, but problematic congestion and delays in New York and New Jersey have accompanied the added volume. Now it's the east coasters' turn to face the music of port service problems.

True, marine terminal operators of the Empire and Garden States, when considered as a collective operation, handle volumes that rival or exceed facilities most anywhere in the country. But those ports apparently, at least allegedly, don't have a mechanism in place to facilitate fluid transfer of current cargo volumes from offloading stevedores to waiting truckers. Consequently, a lot of drayage operators and other motor carriers are waiting in longer lines to receive or drop off their loads. Those longer waits translate into lost trucker revenues.

True, the port tariffs at issue include provisions for payment to truckers of \$50.00/hour wait fees (a/k/a "detention penalties"). The problem is that truckers' meters for those fees don't get turned on until a rig passes through the terminal gate. Backups are so long now that truckers often have to twiddle their thumbs for several hours before crossing the terminal boundary. That means fewer hauls per day and no kick back for the lost time. In any event, fifty bucks an hour doesn't make a dent in losses suffered by drastically reduced hauls. Many of the upset truckers are mom-and-pop operations that can't survive on just one or two jobs a day.

When talks broke down between the ports and the Association of Bi-State Motor Carriers ("ABSMC", representing the aggrieved truckers), the ABSMC filed a petition with the Federal Maritime Commission ("FMC"), which has regulatory authority over such port issues. That petition, which is a procedural step below and less formalized than an actual complaint, essentially is an ABSMC statement that, "hey, we're ticked and we want the FMC to look into the matter." It's directed against the New York Terminal Conference, and also names a number of port entities who might be directly or indirectly responsible for items alleged.

The petition charges that port practices essentially are "manipulating entry through the terminal gate or point of entry," such that truckers are unfairly shouldering the costs and burden of ports' inability to handle inbound volumes. The teamsters want port tariffs to provide for reasonable wait fee calculations, i.e., to include "queue waiting time." They also want certain port tariff provisions removed, such as those allowing "excessive free

time.” Lastly, the petition addresses “roadability issues and exclusions that exempt time spent due to lack of equipment or maintenance and repair.” The truckers aren’t happy with how the marine terminal operators keep their facilities truck friendly, and want the port authority to pony up necessary funds to improve the situation.

The petition grumbles about the ports’ alleged retaliatory actions against ABSMC members related to the wait fees. The truckers previously won an unrelated arbitration against the ports, allegedly prompting the latter to modify their tariffs “to prevent reasonable detention penalties from being paid.” Such “right back at you” measures are a no-no under federal law.

In response to the petition, the FMC recently issued a “Notice of Filing and Request for Comments” asking players potentially impacted by the ABSMC’s petition to speak up. The FMC will take a look at submitted comments and decide whether it should take action (or whether the ABSMC must file a formal complaint).

The unexpected gush of east coast volumes may or may not be short lived. This presents marine terminal operators with the dilemma of how to accommodate the current congestion in the context of trucking services. Improvement revenues clearly would be justified if New York and New Jersey will continue receiving the current volumes. However, a labor and equipment investment sufficient to alleviate the ABSMC’s concerns might not be justified if the current environment is just a fluke. Meanwhile, however, the east coast ports should take appropriate measures to ensure that the trucking industry doesn’t bear the brunt of increased congestion.

Ref: Petition of the Association of Bi-State Motor Carriers, Inc. to Investigate Truck Detention Practices of the New York Terminal Conference at the New York/New Jersey Port District, available on the Federal Maritime Commission’s website at www.fmc.gov.