

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

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**Docket No. 08-03**

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**MAHER TERMINALS, LLC**

**COMPLAINANT**

**v.**

**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY**

**RESPONDENT**

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**THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY'S  
MOTION FOR ENTRY OF A CASE MANAGEMENT ORDER**

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Respondent, the Port Authority of New York and New Jersey (the "Port Authority"), hereby submits this Motion for entry of a Case Management Order.

On March 22, 2016, the United States Court of Appeals for the DC Circuit (the "Court of Appeals") reversed the Commission's December 17, 2014 Memorandum Opinion and Order in this case rejecting Maher Terminals LLC's ("Maher's") Exceptions to Administrative Law Judge Worth's April 25, 2014 Initial Decision, which had dismissed Maher's claims in their entirety. Now that the Court of Appeals's mandate has issued, the Port Authority submits this motion for entry of a Case Management Order and to suggest how the Commission should now proceed.

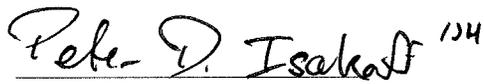
In remanding the case back to the Commission, the Court of Appeals "express[ed] no views on whether the Commission could overrule or modify its previous decisions," but ordered "an adequate explanation of its decision and its policy." March 22, 2016 Opinion at 9. Among

other things, the Court of Appeals sought an explanation as to whether the term “transportation factor,” as used in *Ceres*, is simply a synonym for “reasonable,” and, if so, how the Commission distinguishes between reasonable and unreasonable preferences. *Id.*

The issues thus placed before the FMC by the Court’s decision can be addressed and resolved without further discovery. In order to ensure that this matter proceeds expeditiously, the Port Authority recommends that the Commission issue a Case Management Order providing for two rounds of simultaneous briefing by the parties, the first of which to be submitted to the Commission thirty days after the Commission enters the Case Management Order, limited to twenty-five pages per side, and the second round of briefing to be submitted twenty-one days after the parties submit their initial briefs, and limited to fifteen pages. Accordingly, the Port Authority respectfully requests that the Commission enter a Case Management Order as described herein.

Dated: May 23, 2016

Respectfully submitted,



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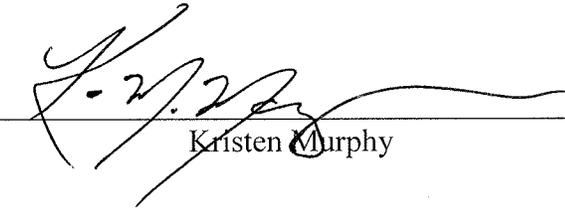
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**CERTIFICATE OF SERVICE**

I hereby certify that I have served the corrected version of the foregoing document upon the persons listed below in the matter indicated, a copy to each such person.

<p><b><u>Via Federal Express and E-mail:</u></b> Lawrence I. Kiern Bryant E. Gardner Gerald A. Morrissey III Rand Brothers Winston &amp; Strawn LLP 1700 K Street, NW Washington, DC 20006</p>	<p>Dated at Washington, DC this 23rd day of May, 2016</p>
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Kristen Murphy