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April 21, 2014					
FEDERAL MARITIME COMMISSION					

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DOCKET NO. 13-04

STREAK PRODUCTS, INC., and SYX DISTRIBUTION, INC.

v.

UTi, UNITED STATES, INC.

**ORDER GRANTING IN PART RESPONDENT'S
AMENDED MOTION TO ENLARGE TIME TO SUPPLEMENT DISCOVERY**

BACKGROUND

On April 7, 2014, I issued an order granting in part and denying in part the motion to compel discovery filed by complainant Streak Products, Inc. (Streak). *Streak Products, Inc. v. UTi, United States, Inc.*, FMC No. 13-04 (ALJ Apr. 7, 2014) (Memorandum and Order on Complainants' Motion to Compel). The order required respondent UTi, United States, Inc. (UTi) to supplement responses to discovery on or before April 21, 2014.

On April 14, 2014, UTi filed a Motion for Enlargement of Time to Supplement Discovery. The motion sought to enlarge the time for UTi to serve the supplemental responses to discovery required by the April 7, 2014, Order. On April 15, 2014, I denied the motion without prejudice because the motion did not state what good faith effort, if any, was made to determine whether there was any opposition to the relief sought and, if there was opposition, what effort was made to narrow the areas of disagreement or that the discussion occurred as required by Commission rules. *Streak Products, Inc. v. UTi, United States, Inc.*, FMC No. 13-04 (ALJ Apr. 15, 2014) (Order Denying Without Prejudice Respondent's Motions to Enlarge Discovery Periods). *See* 46 C.F.R. § 502.71(a) ("Before filing a non-dispositive motion . . . , the parties must attempt to discuss the anticipated motion with each other in a good faith effort to determine whether there is any opposition to the relief sought and, if there is opposition, to narrow the areas of disagreement. The moving party must state within the body of the motion what attempt was made or that the discussion occurred and whether the motion is opposed.").

On April 16, 2014, UTi filed an amended motion for enlargement of time to supplement discovery. The motion seeks to enlarge the time to serve UTi's supplemental responses to May 30, 2014, or "[a]t minimum, Respondent requests thirty (30) days to supplement discovery, as typically granted pursuant to 46 C.F.R. § 206(b)(2). In such case, the deadline to respond would be extended until May 7, 2014." (Amended Motion for Enlargement of Time to Supplement Discovery at 1 n.1.) The amended motion states: "UTi conferred with Complainants' counsel regarding this motion. Complainants' counsel informed UTi that it opposes enlarging the deadline until May 30, 2014." *Id.* at 1. The motion does not describe the effort to narrow the areas of disagreement.

As grounds for the amended motion, UTi states: (1) SYX Distribution Inc. ("SYX") was not a complainant at the time discovery was served and UTi did not originally search for or review documents associated with SYX; (2) identification of shippers of computer storage devices or other electronic devices and determination of rates charged will be a lengthy process; (3) the UTi qualifying individual who oversaw FMC regulated activities has left the company; (4) the person who manages day-to-day activities on tariff publication and rate quotes will be out of the country until April 21, 2014; and (5) deposition of Complainants' expert is scheduled for April 24, 2014, in Prague, Czech Republic, and will require counsel's preparation and travel.

On April 21, 2014, Complainants filed an opposition to the amended motion to enlarge time. Complainants contend that the information "should have been produced by UTi long ago, regardless of whether UTi was providing transportation services for Streak or SYX." (Complainants' Opp. at 1.) Complainants contend that much of the information that the order requires UTi to produce does not concern Complainants' shipments, but UTi's charges to other shippers. (*Id.* at 2.)

DISCUSSION

UTi has stated good cause to enlarge the time to serve its supplemental responses beyond April 21, 2014. Given the procedural history of this case, enlargement to May 30, 2014, is not justified. Therefore, it is hereby

ORDERED that the Amended Motion for Enlargement of Time to Supplement Discovery be **GRANTED** in part. The time for UTi to serve its supplemental responses to discovery required by *Streak Products, Inc. v. UTi, United States, Inc.*, FMC No. 13-04 (ALJ Apr. 7, 2014) (Memorandum and Order on Complainants' Motion to Compel) be enlarged to May 7, 2014.


Clay G. Guthridge
Administrative Law Judge