

**BEFORE THE
FEDERAL MARITIME COMMISSION**

Docket No. 14-06

**SANTA FE DISCOUNT CRUISE PARKING, INC. d/b/a EZ
CRUISE PARKING; LIGHTHOUSE PARKING, INC.; and
SYLVIA ROBLEDO d/b/a 81st DOLPHIN PARKING**

Complainants

v.

**THE BOARD OF TRUSTEES OF THE GALVESTON
WHARVES and THE GALVESTON PORT FACILITIES
CORPORATION**

Respondents

JOINT STATUS REPORT

Complainants Santa Fe Discount Cruise Parking Inc. d/b/a EZ Cruise Parking, Lighthouse Parking, Inc. and Sylvia Robledo d/b/a 81st Dolphin Parking and Respondents The Board of Trustees of the Galveston Wharves (“Board of Trustees”) and Galveston Port Facilities Corporation (“GPFC”) hereby submit this joint status report and proposed schedule for the completion of discovery pursuant to 46 C.F.R. § 502.201(h) and the Commission’s June 25, 2014 Initial Order.

1. Status of this Action, Discovery, and any Pending Motions

Since the Parties filed their previous Joint Status Report on August 8, 2014, the following events have occurred:

- A. On September 5, 2014, the parties mediated with Ms. Rebecca Fenneman of the Office of Consumer Affairs and Dispute Resolution. Mediation was unsuccessful.

B. On September 18, 2014, counsel for the Parties participated in a conference call with Ms. Fenneman as a follow-up to mediation discussions.

C. On September 18, 2014, counsel for Respondents advised counsel for Petitioners that the Board of Trustees of the Galveston Wharves was scheduled to meet on September 22, and that there would be an agenda item for the Board of Trustees to consider a revision to Tariff Item No. 111, which would eliminate the category of “Off-Port Parking Users” access fees (i.e. those charged based on \$28.88 per space per month) which Petitioners complained of herein, and charge all persons covered by this Item based on the per-trip charges set out therein. Complainants contend that the Port cannot charge any access fee other than those provided for in the order in the federal action until their claims are resolved or subject to final adjudication.

2. On September 18, 2014, counsel for the parties Complainants agreed to postpone depositions in this case for 30 days, and to jointly request that existing deadlines be postponed 30 days from the current deadlines as follows, in order to evaluate and take appropriate action following the revision to the Tariff, if adopted, and also provide time for additional settlement discussions:

Parties’ Joint Proposed Schedule

October 15, 2014	Parties may commence with depositions of fact witnesses.
November 31, 2014	Complainants must designate affirmative expert witnesses and produce expert reports for same.
December 14, 2014	Deadline for Parties to serve written discovery requests. The Parties are ordered to respond to discovery requests within 30 days of service.
January 1, 2015	Respondents must designate affirmative expert witnesses and produce expert reports for same.
January 18, 2015	Parties must designate rebuttal expert witnesses and produce expert reports for same. Deadline for Parties’ to complete discovery. Parties may depose rebuttal experts prior to

D. On September 19, 2014, counsel for Complainants submitted a proposed settlement offer to counsel. Respondents did not accept the September 19, 2014 settlement offer.

E. On September 22, 2014, the Board of Trustees of the Galveston Wharves approved a modification to Item 111 of its Tariff Circular No. 6.

1. Respondents contend this modification eliminated the “Off-Port Parking Users” access fees (i.e. those charged based on \$28.88 per space per month) which Complainants complained of herein, and provides that commencing October 1, 2014, all persons accessing Port Property for commercial purposes who are covered by Item 111 will pay access fees on a per-trip basis.

2. Complainants contend that Respondents’ modification to Item 111 of its Tariff Circular No. 6 continues to be unlawful because: Respondents are attempting to recover the same amounts of money from Complainants by a different means; the modification continues to preferentially exempt certain commercial vehicles (i.e., “taxicabs”) from access fees on its face; the modification fails to resolve Complainants’ previous and outstanding discriminatory practice complaints with regard to Tariff enforcement issues. Complainants will amend their pleadings in this action to include allegations challenging the propriety of the “modification” within thirty days of the Board of Trustees of the Galveston Wharves’ approval on September 22, 2014. Accordingly, Claimants contend that their claims have not been rendered moot. They also contend that outstanding issues remain in this proceeding with regard to reparations and attorneys fees for the disparate treatment.

F. To date, Respondents have produced approximately 15,883 pages of records in response to Petitioners' Requests for Production, and Petitioners have produced approximately 783 pages of records in response to Respondents' Requests for Production.

G. Respondents intend to file a Motion to Dismiss Petitioners' claims as moot, based on the changes to Tariff Item No. 111 discussed above. Petitioners have advised that they will oppose this Motion.

3. Agreements Between Parties Relating to Discovery Disputes and to Expedite this Proceeding

In order to engage in prospective settlement negotiations and to resolve issues relating to the Modification of the Tariff as discussed above, the parties agreed to jointly request that existing deadlines be postponed 30 days from the current deadlines set forth above in the Parties' Joint Proposed Schedule.

To date, no modifications have been made to the Joint Proposed Schedule submitted on August 8, 2014 other than the agreement to postpone depositions and the modifications to the Schedule discussed above.

Dated: September 26, 2014.

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(facsimile by permission)

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed this document on this **26th day of September 2014**, and that a true and correct copy of the foregoing was served on all counsel of record *via* certified mail – return receipt requested and email, as indicated below:

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