

S	E	R	V	E	D
October 2, 2014					
FEDERAL MARITIME COMMISSION					

**FEDERAL MARITIME COMMISSION**

---

**DOCKET NO. 14-10**

---

**ECONOCARIBE CONSOLIDATORS, INC.**

**v.**

**AMOY INTERNATIONAL, LLC**

---

**SCHEDULING ORDER**

---

On September 30, 2014, the parties filed a joint status report with a proposed schedule. The proposed schedule would close discovery and require filing of dispositive motions by April 1, 2015.

The proposed schedule does not permit enough time to brief and issue a decision in this proceeding by the Commission's deadline of August 15, 2015. Therefore, the dates have been modified to assure that the parties resolve the proceeding in an expeditious manner. To assist the parties in planning and to ensure timely completion of the case, the final briefing schedule is included.

Motions should be filed as soon as possible, but no later than the dates listed below. The parties shall schedule time to complete all depositions, supplemental discovery, and to have discovery motions resolved prior to the discovery cut-off date and they shall be prepared to proceed without any discovery requested after the discovery cut-off date. The parties are urged to consider whether the time and expense put into a dispositive motion could be better spent on their merits briefs and other filings.

To ensure timely progress, the parties will be required to file joint status reports on the first day of every month, beginning on November 1, 2014. In addition, all requests for extensions will be reviewed for good cause, even if the parties agree on the requested extension.

For the reasons stated above, it is hereby

**ORDERED** that the parties abide by the following schedule:

October 15, 2014	Exchange FRCP 26(a)(1) initial disclosures.
November 14, 2014	Preliminary motions due.
December 15, 2014	Expert witnesses disclosed.
January 15, 2015	Motions due.
February 2, 2015	All discovery completed.
March 2, 2015	Complainant files proposed findings of fact and brief with appendix.
April 2, 2015	Respondent files proposed findings of fact and brief with appendix.
April 16, 2015	Complainant files reply brief.

The parties are reminded that a “scheduling order ‘is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.’” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992) (quoting *Gestetner Corp. v. Case Equipment Co.*, 108 F.R.D. 138, 141 (D. Me. 1985)). Moreover, “[p]arties cannot control an agency’s docket or procedures through agreement among themselves.” *Simmons v. United States*, 698 F.2d 888, 893 (7th Cir. 1983). Under the Commission Rules, the presiding officer has the authority to “regulate the course of the hearing” and to “fix the time for filing briefs, motions, and other documents to be filed in connection with hearings and the administrative law judge’s decision thereon.” 46 C.F.R. § 502.147(a). The authority of courts to control their dockets is well settled. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962); *United States v. Hughey*, 147 F.3d 423, 429 (5th Cir. 1998).

The parties’ proposed findings of fact, replies to proposed findings of fact, appendices, and briefs shall be in the following forms:

1. **[Party’s] Proposed Findings of Fact.** This document shall set forth proposed findings of fact in numbered paragraphs. Each paragraph shall be limited as nearly as practicable to a single factual proposition. Each factual proposition shall be followed by an exact citation to evidence that the party contends will support the proposed finding of fact; *e.g.*, a page number in the Appendix.<sup>1</sup> *See* 46 C.F.R. § 502.221. The party shall provide to each other

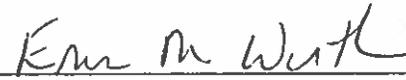
---

<sup>1</sup> Parties must designate specific facts and provide the court with their location in the record. *Orr v. Bank of Am., NT & SA*, 285 F.3d 764, 775 (9th Cir. 2002). “General references [to evidence] without page or line numbers are not sufficiently specific.” *S. Cal. Gas Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003).

party *and to the Office of Administrative Law Judges* an electronic copy of its Proposed Findings of Fact with the hard copy of its Proposed Findings of Fact. The electronic copy shall be in a word-processing format (*e.g.*, Microsoft Word or WordPerfect) and provided by disk, flash drive, or email.

2. **[Party's] Reply to [Party's] Proposed Findings of Fact.** This document shall set forth verbatim each proposed finding of fact in another party's Proposed Findings of Fact, then admit or deny the proposed finding. Each proposed finding of fact that an opposing party denies shall be followed by an exact citation to evidence that the opposing party contends will rebut the evidence the proposing party claims supports the proposed finding of fact. The opposing party shall provide to the party *and to the Office of Administrative Law Judges* an electronic copy of the Reply to [Party's] Proposed Findings of Fact with the hard copies of the Reply to [Party's] Proposed Findings of Fact. The electronic copy shall be in a word-processing format (*e.g.*, Microsoft Word or WordPerfect) and provided by disk, flash drive, or email.
3. **[Party's] Appendix.** The evidence on which a party's Proposed Findings of Fact or reply to another party's Proposed Findings of Fact is based shall be included in an Appendix.
  - a. The cover of the appendix shall identify the party or parties that prepared the appendix;
  - b. The pages of the appendix shall be numbered sequentially, for example CX 1, CX 2, CX 3 or RX 1, RX 2, RX 3, etc. The appendix should be secured in a three-ring binder;
  - c. The appendix must begin with a table of contents identifying the page at which each individual document begins;
  - d. Each party shall ensure that all documents in its appendix are in English and legible; and
  - e. The parties are instructed to cite to a document in an appendix already in the record rather than include the same document in its own appendix. For instance, if Respondent contends that a document included in Complainants' appendix rebuts the evidence Complainant claims supports a proposed finding of fact, Respondent shall cite to Complainants' appendix rather than include a second copy of the same document in its own appendix.
4. **[Party's] Brief.** Each party shall file a brief meeting the requirements of Commission Rule 221, 46 C.F.R. § 502.221, with the exception that the proposed findings of fact required by section 502.221(d) shall be included in its Proposed Findings of Fact described above *and shall not count toward the page limit found in Rule 221(f)*.
5. **Service and Filing.** The parties are encouraged to serve and file hard copies of the documents required by this order by overnight delivery service.

The parties are directed to consult with each other to determine the most practicable way to send electronic copies of documents in a word-processing format to each other. The parties are directed to send the electronic copy in a word-processing format of required documents to the Office of Administrative Law Judges at the following email address: [judges@fmc.gov](mailto:judges@fmc.gov).

  
\_\_\_\_\_  
Erin M. Wirth  
Administrative Law Judge