

S E R V E D
December 10, 2014
FEDERAL MARITIME COMMISSION

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DOCKET NO. 14-13

**METRO FREIGHT SERVICES, INC. d/b/a MARITIME EXPRESS LINES –
POSSIBLE VIOLATIONS OF SECTION 19(e)(3) OF THE SHIPPING ACT OF 1984 and
46 C.F.R. PART 515**

DECEMBER 10, 2014, SCHEDULING ORDER

On November 20, 2014, the parties filed a Joint Status Report with a proposed schedule upon which they had agreed. The proposed schedule, modified to include responses to proposed findings of fact, is entered as an order.

February 27, 2015	Last day to serve written discovery requests
March 30, 2015	All discovery to be completed
April 13, 2015	Rule 95 statements to be submitted
May 13, 2015	BOE to file proposed findings of fact, brief, and appendix
June 12, 2015	Respondent to file response to BOE's proposed findings of fact, Respondent's proposed findings of fact, brief, and appendix
July 2, 2015	BOE may file reply to Respondent's proposed findings of fact and reply brief. A reply may not raise new grounds for relief or present matters that do not relate to the response and must not reargue points made in the opening motion.

FORM REQUIREMENTS FOR DOCUMENTS.

A. Stipulations.

The parties may, by stipulation, agree upon any facts involved in the proceeding. 46 C.F.R. § 502.162. The parties are expected to attempt to narrow the issues and to shorten the proceeding by stipulations. Stipulations must be signed by the parties. This document must set forth stipulations in numbered paragraphs. Each paragraph must be limited as nearly as practicable to a single factual proposition. The parties must provide an electronic copy of the Stipulations in a word-processing format *to the Office of Administrative Law Judges.*

B. Proposed Findings of Fact.

This document must set forth proposed findings of fact in numbered paragraphs. Each paragraph must be limited as nearly as practicable to a single factual proposition. Each factual proposition must be followed by an exact citation to evidence that the party contends will support the proposed finding of fact; *i.e.*, a page number in the Appendix.¹ *See* 46 C.F.R. § 502.221. The party filing Proposed Findings of Fact must provide an electronic copy of the Proposed Findings of Fact in a word-processing format to all parties *and to the Office of Administrative Law Judges.*

C. Response to Proposed Findings of Fact.

This document must set forth verbatim each proposed finding of fact to which it responds, then admit or deny the proposed finding. Each proposed finding of fact that the responding party denies must be followed by an exact citation to evidence that the responding party contends will rebut the evidence the proposing party claims supports the proposed finding of fact. The party filing a Response to Proposed Findings of Fact must provide an electronic copy of the Response in a word-processing format to all parties *and to the Office of Administrative Law Judges.*

¹ 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 . . . numbers are not sufficiently specific.” *S. Cal. Gas Co. v. City of Santa Ana*, 336 F.3d 885, 889 (9th Cir. 2003).

D. Appendix.²

The documentary evidence on which a party bases its Proposed Findings of Fact must be included in an Appendix in the following format:

1. The cover of the appendix must identify the party or parties that prepared the appendix; *e.g.*, “BOE’s Appendix.”
2. The pages of the appendix must be numbered sequentially.
3. The appendix must begin with a table of contents identifying each document and identifying the appendix page at which each document begins and noting if any pages are entitled to confidential treatment.
4. Each party must ensure that all documents in its appendix are legible.
5. The parties are instructed, to the extent practicable, 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 Metro Freight contends that a document included in BOE’s appendix rebuts the evidence BOE claims supports a proposed finding of fact, Metro Freight should cite to BOE’s appendix rather than include a second copy of the same document in its own appendix.
6. The parties should include in the appendix only those pages necessary to identify the document and support its proposed fact. For instance, if support for a party’s proposed fact is found on pages 79 and 80 of a deposition transcript, the party should include the cover sheet, pages 79 and 80, and only those preceding and following pages necessary for context, not the entire deposition transcript.
7. If a party includes documents in a language other than English in its appendix, Commission Rule 7 provides:

Every document, exhibit, or other paper written in a language other than English and filed with the Commission or offered in evidence in any proceeding before the Commission under

² The parties can see an examples of the format required for the Proposed Findings of Fact (“Served October 4, 2007, Procedural Order, Attachment A Administrative Law Judge Tentative Findings of Fact”) and the Appendix (“Served October 4, 2007, Procedural Order, Attachment A Administrative Law Judge Tentative Findings of Fact, Appendix”) in the proceeding *Clutch Auto, Ltd. v. International Touch Consolidator, Inc.*, FMC No. 1880(F), accessed from the Commission’s web site through “Docket Activity Logs.”

this part or in response to any rule or order of the Commission pursuant to this part, must be filed or offered in the language in which it is written and must be accompanied by an English translation thereof duly verified under oath to be an accurate translation.

46 C.F.R. § 502.7. Unless the document has already been translated by another party, the party who wants to use the document must supply the translation.

8. The parties must avoid including multiple copies of the same document in the appendix.

E. Brief.

A party's brief must meet 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) must be included in the Proposed Findings of Fact described above. The pages of the Proposed Findings of Fact do not count toward the page limitation stated in Commission Rule 221(f). The party filing a brief must provide an electronic copy of the brief in a word-processing format *to the Office of Administrative Law Judges*.

F. Electronic Copies of Documents in a Word-Processing Format.

Electronic copies of documents in a word-processing format should be provided by email or on a portable electronic storage device. The parties are directed to consult with each other to determine the most practicable way to send electronic copies to each other. The parties are directed to send the electronic copy to the Office of Administrative Law Judges at the following email address – judges@fmc.gov – or send a portable electronic storage device directly to the Office of Administrative Law Judges.



Clay G. Guthridge
Administrative Law Judge