

S E R V E D  
March 8, 2016  
FEDERAL MARITIME COMMISSION

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**DOCKET NO. 15-02**

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**COMBUSTION STORE LIMITED**

v.

**UNIGROUP WORLDWIDE – UTS**

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**ORDER TO SUPPLEMENT THE RECORD**

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On March 7, 2016, Combustion Store Limited filed Complainant's Consent Motion to Dismiss with Prejudice. The Motion states: "Pursuant to the parties' Joint Status Report filed February 16, 2016, the parties have resolved the above-captioned action. Accordingly, Complainant respectfully requests that this matter be dismissed with prejudice immediately."

The Commission has a strong and consistent policy of "encourag[ing] settlements and engag[ing] in every presumption which favors a finding that they are fair, correct, and valid." *Inlet Fish Producers, Inc. v. Sea-Land Serv., Inc.*, 29 S.R.R. 975, 978 (ALJ 2002), quoting *Old Ben Coal Co. v. Sea-Land Serv., Inc.*, 18 S.R.R. 1085, 1091 (ALJ 1978) (*Old Ben Coal*). "While following these general principles [encouraging settlements], the Commission does not merely rubber stamp any proffered settlement, no matter how anxious the parties may be to terminate their litigation." *Old Ben Coal*, 18 S.R.R. at 1092. If "a proffered settlement does not appear to violate any law or policy and is free of fraud, duress, undue influence, mistake or other defects which might make it unapprovable despite the strong policy of the law encouraging approval of settlements, the settlement will probably pass muster and receive approval." *Id.* at 1093.

Commission Rule 72 governs dismissals of Commission proceedings.

(a) *Voluntary dismissal.* (1) *By the complainant.* When no settlement agreement is involved, the complainant may dismiss an action without an order from the presiding officer by filing a notice of dismissal before the opposing party serves either an

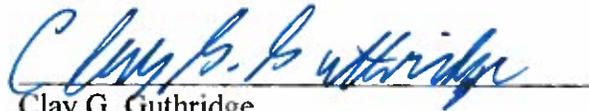
answer, a motion to dismiss, or a motion for summary decision. Unless the notice or stipulation states otherwise, the dismissal is without prejudice.

(2) *By stipulation of the parties.* The parties may dismiss an action at any point without an order from the presiding officer by filing a stipulation of dismissal signed by all parties who have appeared. In the stipulation the parties must certify that no settlement on the merits was reached. Unless the stipulation states otherwise, the dismissal is without prejudice.

(3) *By order of the presiding officer.* Except as provided in paragraphs (a)(1) and (a)(2) of this section, an action may be dismissed at the complainant's request only by order of the presiding officer, on terms the presiding officer considers proper. If the motion is based on a settlement by the parties, the settlement agreement must be submitted with the motion for determination as to whether the settlement appears to violate any law or policy and to ensure the settlement is free of fraud, duress, undue influence, mistake, or other defects which might make it unapprovable. Unless the order states otherwise, a dismissal under this paragraph is without prejudice.

46 C.F.R. § 502.72(a). See *SSA Terminals, LLC and SSA Terminals (Oakland), LLC v. the City of Oakland, Acting by and Through Its Board of Port Commissioners*, FMC No. 09-08 (FMC Sept. 3, 2013) (Order to Supplement the Record); *Seagull Maritime Agencies Private Ltd. v. Gren Automotive, Inc.*; *Centrus Automotive Distributors Inc.*; and *Liu Shao, Individually*, FMC No. 13-03 (FMC Aug. 16, 2013) (Order to Supplement the Record).

The motion states that the parties have “resolved” this matter, implying that the parties have reached a settlement. Therefore, the parties are ordered to file a joint memorandum and a copy of any settlement agreement as required by Rule 72.



Clay G. Guthridge  
Administrative Law Judge