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Secretary (FOIA)

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From: Ian A. Lane < Ilane@fmc.gov>

Cc: FOIA <foia@FMC.gov> Sent: Wed, Mar 8, 2017 2:38 pm

Subject: FMC FOIA 17-010 acknowledgment/response

This acknowledges receipt of and responds to your Freedom of Information Act (FOIA) request below filed with the Federal Maritime Commission (Commission), on February 19, 2017 pursuant to the Commission rules at 46 C.F.R. §503.31-34. Your request seeking index digests of Counsel Opinions as described has been assigned FMC FOIA number 17-010.

A document responsive to your request is attached and provided in full. With this response your request will be considered closed.

Administrative appeals should be submitted to the Chairman of the Federal Maritime Commission pursuant to 46 C.F.R. §503.32.

There will be no charge for responding to your FOIA request. When corresponding with the Commission regarding this FOIA request, please refer to the assigned FMC FOIA number provided above. Feel free to contact Ian Lane of my staff or me at 202-523-5725 if you have any questions.

Sincerely,

Rachel E. Dickon Assistant Secretary/FOIA Public Liaison Federal Maritime Commission

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LEGAL OPINIONS

of

THE GENERAL COUNSEL

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SECTION	TITLE		DATE	M.A. VO UME
25	DISTANCES			
26	DUAL RATE CONTRA	CTS		
		FMC form of contract	5/24/65	65-8
		Unreasonable	10/2/39	22:201
		Damages	5/10/63	
		Government cargo	12/12/63	
		Injunction	5/24/65	
		"Merchant Shipper"	11/22/63	
27	DUAL RATE SYSTEM			
		Eliminations	5/4/60	145:51
		Amendments	11/22/63	
		Date of filing	8/6/62	
		Hearing Requirements	1/17/63	
		Independent carrier	5/15/63	
		Legality	1/23/62	
		Open Rates	5/15/63 11/14/63	
		Tariff filing	4/23/63	
28	DUTIES OF CARRIE	RS		
29	ENFORCEMENT OF O	RDERS		

SECTION	TITLE		DATE	M.A. VOLUME
30	FAIR RETURN			
31	FAIR VALUE OF PE	ROPERTY		
32	FALSE BILLING			
		"Prepaid" bill of lading	6/20/66	66-1
33	FERRIES			
		Exempted	9/12/62	
		FMC Jurisdiction	1/24/64	
3 <b>L</b>	FIGHTING SHIP			
		Prevention of	6/14/37	3-346
35	FILING OF REPORT	nS		
		Common carrier	5/6/48	116:21
		False reports	12/2կ/կ8	118:212
		Foreign data	4/19/50	124:149
		Penalty	11/4/42	48:236
		Rate Base under G.O. 5	4/6/65	65-7
36	FILING OF TARIF	rs		
		Municipality	3/28/50	124:65
		Bulk cargo excluded	2/18/63	
		Advance filing, increase	4/18/63	
		A.M. vs. P.M. filing	2/26/64	
		Bureau Domestic Regulation	1/7/65	65-1

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36	FILING OF TARIFFS	S (Continued)		
		Joint filing of tar ff's	3/23/65	65-5
		Independent Carriers	9/16/65	65-12
		Port-to-Port	10/11/67	67-6
37	FINANCIAL STATEM	ENTS		
		Domestic carriers	5/22/62	
		Nonvessel owner	5/14/52	
		Virgin Island trade	6/18/62	
		Waiver of	10/29/62	
		Common carriers	11/16/62	
38	FREIGHT FORWARDE	RS		
		Subject to A t (1916)	3/20/43	55:65
		Profit sharing	9/8/44	86:67
		Rebating	11/16/կկ	89.146
		Liability	11/21/51	130:213
		Brokerage	3/6/53	135:134
		Agents	11/30/53	137:165
		Licensing	4/19/56	141:203
		ICC Jurisdict on	5/21/56	142.46
		Penalties	5/18/60	145 - 75
		Broker defined	1/11/62	
		Divesture	4/17/64	

SECTION	TITLE		DATE	M.A. VOLUME
38	FREIGHT FORWARD	ERS (Continued)		
		"FOB" Shipment	8/20/63	
		Foreign forwarders	1/26/62	
		Hawaii & Alaska	4/17/62	
		Interstate	1/29/63	
		Puerto Rico	5/22/62	
		Purchase of foreign forwarder	2/18/64	
		Qualifications	11/22/63	
		Requirements	1/29/63	
		Section 15 agreements	1/7/63	
		Shipper connected	8/30/63	
		Unlicensed	8/21/63	
		Cargo moving in Bond	3/23/65	65-6
		Bonded Cargo	3/23/65	
		Dual Status, Nonvessel oper.	7/14/65	65-11
		Licensing by Detroit Port Comm.	5/25/67	67-1
39	FREE SERVICES			
		Gifts	5/26/60	145 88
		Transportation	9/19/60	145:143
		Entertainment	4/7/60	145։ 28

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μо	GOVERNMENT OR CHARITABLE CARGO				
		Filing of tariffs	2/9/62		
		Special rates	2/1/52	131:145	
41	HANDLING, BEYOND	SHIP'S TACKLE			
		No violation	7/21/39	20:45	
		Charges	2/20/40	27:125	
42	HARTER ACT				
43	HEARING PROCEEDI	NGS			
		Admissibility of inter-agency memorandum	6/5/64		
		Not required	12/23/54	140:33	
141;	INFORMAL COMPLAI	NT			
		Reparations	3/20/63		
		Indemnity, letter of	1/13/64		
		Terminal operator	6/30/64		
45	INSTITUTION OF P	ROCEEDINGS			
		Court injunction	2/21/49	119:92	
46	INSURANCE				
		Investigation	5/18/37	3:180	
47	INTERCOASTAL				
		Exemption	6/12/40	30 121	

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48	INTERSTATE	Canal Zone	10/30/39	23:150
		Philippine's	8/21/40	32:87
		TCC	11/12/40	34:68
		American Samoa	1/7/65	65-1
49	INVESTIGATIONS			
		Inspecting records	1/31/39	13:50
		Initiated by FMC	9/17/48	117 169
5 <b>0</b>	JOINT SERVICE			
		Revenue agreement	11/12/40	34:65
		Common tariffs	3/23/65	65-5
52	JONES ACT			
		Alaska	2/1/39	18:01
		Suspension	11/23/62	
52	JURISDICTION			
		Railroads	4/15/37	3:53
		Agreements	8/13/37	<b>4</b>
		Arrangements	5/17/39	17:140
		"Possessions"	10/30/39	23:150
		Contracts	12/14/39	25:108
		Between ports	12/27/39	23:234
		Refusing cargo	2/13/LjO	27:59
		Coastwise	6/8/40	30:103

SECTION	TITLE		DATE	M.A. VOLUME
52	JURISDICTION (Co	ontinued)		
		Philippines	8/21/40	32:87
		Far East Conference	4/28/49	120:52
		Regulatory Power	10/5/49	127 · 94
		Exclusiveness	1/13/60	1կկ։ 173
		Barge operator	1/24/64	
		Clayton Act	1/21/64	
		Reorganization Plan	4/2/63	
		Cargo which is lumber	2/3/65	65-3
		Lighterage in Alaska	8/5/66	66-3
53	LEASES Carriers and Po	rts or Terminals		
		Agreement	7/16/63	
		Anti-competitive	2/9/62	
		Cargo limitation	1/24/63	
		Elevator and port	5/22/61	146:16
		Jurisdiction, FMC	8/9/62	
		Preferential assignment	9/6/63	
		Profit sharing	9/12/60	145:136
		Stevedores	8/27/63	
		Tarıffs	9/18/60	145:141
		Waterfront facilities	10/30/62	

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54	LIABILITY OF CA	ARRIERS		
		Limitation by forwarder	11/21/51	130 213
55	LIGHTERAGE			
		Ship-to-shore, Alaska	8/5/66	66-5
56	LIQUIDATED DAMA	AGES		
57	LOADING AND UN	LOADING		
-10		_		
58	LOSS AND DAMAG	Е		
59	MERCHANT MARIN	ድ ለጣጥ በፑ ኀዕጋሪ		
77	MERCHANI MAREN	B ROI 01 1930		
60	MISQUOTING RAT	ES, ET AL.		
		Shipper	7/21/39	20 47
		Forwarder	3/1/50	123.231
		Carrier	կ/13/60	145:47
61	MONOPOLY			
		Joint purchases	12/26/61	
62	NONCONFERENCE (	CARRIERS		
63	NONCOMPENSATOR:	Y RATHS		

SECTION	TITLE		DATE	M.A. VOLUME
64	NONVESSEL OPERAT	ING COMMON CARRIER		
		Common carrier agreements	10/26/62	
		Dual status as freight forwarder	7/14/6∜	65-11
65	OPERATING COSTS			
		Obtaining	1/-7/51	126/242
66	ORDERS, AGENCY			
		Noncompliance	8/13/37	<b>4</b>
		Compliance	7/6/38	9:158
		Cease and desist	2/7 <b>/40</b>	26:232
		Negative	11/12/40	34:67
		Suspension	3/26/41	36:82
		Immunity	3/2/60	145:4
		For documents	7/14/60	145:117
		General Orders 6, 7 and 9	3/3/65	65-4
		General Orders 5 & 11	4/6/65	
67	OTHER PERSONS			
		Conferences	7/15/60	145:110
		Terminals	12/12/61	
		Municipalities	2/9/62	
		Nonvessel owner	11/22/63	
		Self inclimination	3/2/60	145 4
		Cargo Inspection Company	6/27/67	67-2

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68	OVERCHARGES			
		Carriers	1/13/40	26:117
		Time limit for claim	5/15/63	
69	PASSENGERS			
		Reduced Fare	10/12/38	11:12
		Refunds	10/6/43	67:35
		Rate differences	11/26/40	34:103
		Discrimination	1./7/60	145:28
70	PENALTIES			
		Severity	2/12/60	144 195
		Self incrimination	3/2/60	145:4
		Forfeitures	6/2/60	145:93
		Merchant Marine Act, 1936	11/29/61	
		Mitigation of	8/2/63	
		Treble Damages	10/10/67	67-5
		For unreasonable practices	10/12/67	67-7
71	PICKUP AND DELL	IVERY		

72 POOL CARS

SECTION	TITLE		DATE	M.A. VOLUME
73	POOLING AGREEME	VTS		
		Irregular service	8/27/40	32:125
		Regulating	11/3/47	114:149
		Diverse citizens	9/28/48	117:203
		Criteria for	5/7/51	128:95
		Joint service	3/13/56	141:187
74	PORTS			
		Amendment to S. 16	7/13/39	19:247
		Canal Zone	10/30/39	23 150
		Refusing entry	7/15/52	133:159
		Conference unanimity	9/8/55	141:36
<b>7</b> 5	PORT EQUALIZATION	NC		
		Preference	2/15/39	13:156
		Agreements	3/4/63	
		Tariffs	3/12/63	
75.1	POWERS OF COMMIS	SSION		
		Plenary	6/14/37	3:346
		Other than regulatory	10/6/37	5:9
		Transport Act, 1940	4/9/41	36:188
		Car <sup>1</sup> riers	7/12/41	38.51

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76	PRACTICES			
		Carriers	7/24/39	20:54
		Retalletion	7/15/52	133.159
		Outside conference agreement	10/3/61	
		Exclusive stevedore agreement	1/4/62	
77	PREFERENCE			
		Discrimination	2/15/39	13:156
		Shipper	5/26/60	145:88
		Berth Assignmen <sup>†</sup>	8/2/63	
		Exclusive use	8/6/63	
		Pier license	9/26/63	
78	PRIVILEGED COMMU	NICATIONS		
		Immunity	3/2/60	145:4
		Admissibil	6/5/64	
79	PROCEDURE			
		Oral argument	3/30/39	15.140
		Refusal to answer	8/21/63	
80	PROJECT RATES			
		Section 14b not applicable	11/22/63	
81	PROPORTIONAL RAT	ES		
82	PUBLIC INTEREST			
		Licensing of terminals	7/6/67	67-3

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83	QUORUM PRESENT			
		Commissioner participation	12/5/63	
84	RATES			
		Great Lakes	2/6/39	13:92
		Puerto Rico	7/18/39	20:13
		Foreign	12/1/39	24:196
		Discriminatory	2/14/42	կ1։22կ
		Schedules	12/2/59	144:145
		Observed	11/20/59	144:148
		Reduction	4/7/60	145:28
		Establishing	3/14/61	145:197
		Bulk Cargo	9/26/63	
		Filing	2/12/63	
		Proportional and Joint	4/6/65	65-7
85	RATE REDUCTIONS			
		Too low	6/14/37	3:346
		Under section 26(16)	9/7/38	10 141
		Students	10/12/38	11:12
		Government employees	10/14/38	11.16
		Conferences	4/22/63	
		Passengers	6/6/62	
		Refunds	3/20/64	
		In excess of 15% spread	11/22/63	

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85	RATE REDUCTIONS	G (Continued)		
		Suspension	9/19/61	
		Violations (33)	1/5/62	
		Violations (16)	1/5/62	
86	RATE STRUCTURE	3		
87	RATE WARS			
88	REBATES			
		Dividends	5/22/61	146:22
89	REFUNDS			
		Application	12/10/39	25:143
		Tariff rules	3/20/64	
90	REORGANIZATION	PLAN NO. 7		
		Quorum of the Commission	12/5/63	
91	REPARATIONS	Typographical errors	12/18/39	25:142
		For brokerage	3/24/54	139:124
		For inland transportation	1/25/65	65-2
92	RETALIATION			
93	REJECTED TARIFF	rs		
		No authority	1/7/55	140:41
		Retention of copies	10/18/62	

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94	REVENUE			
		Retroactive adjustment	2/26/62	
95	ROUTES			
96	RULES AND REGUL	ATIONS		
		Analysis A.P.A.	8/1/46	107:197
		Authority to presumbe	2/18/64	
97	SEGREGATION			
98	SELF POLICING			
		Conference chairman	3/6/56	141:180
		Nuetral body	6/5/61	146:28
		Under section 15	5/28/64	
99	SERVICE			
		Split deliver	11/25/36	1:138
100	SHIPPER COMPLAI	NTS		
101	SHIPPING ACT, 1	916		
	Section 1			
		Application outside U.S.	10/3/61	
		Jurisdiction	1/5/62	
		Exempted carrier (ferry)	9/12/62	
		laws of other countries	8/29/63	
		"Other persons"	11/19/64	

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102	SHIPPING ACT, 19	916		
	Section 14, Dual	l Rates		
		Amended agreement	1/22/63	
		Breach of contract	7/31/63	
		Bulk cargo	2/18/63	
		Cancellation	5/10/63	
		Common carr e status	12/12/63	
		Contract by volume	9/18/62	
		D' scounts	5/15/63 11/14/63	
		Filing requirements	8/6/62	
		Government Aid Cargo	11/22/63	
		Hearings	1/17/63	
		Interim legislation	5/15/63	
		Legal expenses	8/27/63	
		Nonconference member	2/11/63	
		Obligations of merchant	8/20/63	
		Project rates	11/22/63	
		Public Law 87-346	1/23/62	
		Surcharges, Interpretation	6/4/65	65-9
		Tariff Increases	2/12/63	
		Volume rates, terminals	11/5/62	

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103	SHIPPING ACT, 1	916		
	Section 15, Agr	eements		
		Admission	7/6/39	19:34
		Admission	8/5/55	141 7
		Agency agreements	9/5/63	
		Agreements	2/12/60	144:195
		Agreements	8/23/40	32:98
		Agreements	6/1/45	95:1
		Agreements	12/27/39	25:234
		Apportioning Revenue	3/19/63	
		Cancellation	5/23/60	145:84
		Concurrences, tariffs	12/12/61	
		Competing carrier	12/2/40	34:137
		Container leases	11/22/63	
		Contingent membership	10/2/61	
		Cooperative chartering	7/31/63	
		Disapproval	11/12/40	34 - 65
		Equalization rules	3/4/63	
		Foreign to foreign	7/22/54	139:66
		Fixing rates	1/17/62	
		Injunction	2/21/49	119:92
		Intercorporate relations	7/8/65	65-10

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103	SHIPPING ACT, 1	SHIPPING ACT, 1916			
	Section 15, Agr	eements (Continued)			
		Joint purchase	12/26/61		
		Modification	9/9/40	32:237	
		Modification	9/15/47	114:52	
		Modification	7/2/48	116:234	
		Not within section	11/14/49	120.11	
		Not within section	11/17/54	139:224	
		Not within section	3/24/61	145:205	
		Not within section	8/13/37	4:203	
		Not within section	1/4/40	26:41	
		Not within section	2/8/40	27:1	
		Objectionable phrases	7/31/63		
		Open rates	10/3/61		
		Orders	3/2/60	145:4	
		Other sovereign	5/28/64		
		Penalty	8/13/37	<b>4</b> +2 <b>0</b> 3	
		Pooling	11/22/63		
		Pooling	8/27/40	32:125	
		Pooling	11/3/47	114:149	
		Pooling	9/28/48	117:203	
		Pooling	3/13/56	141:187	

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103	SHIPPING ACT, 19	216		
	Section 15, Agre	ements (Continued)		
		Prior to approval	3/28/62	
		Proposed conference	7/17/63	
		Purpose of meeting	12/8/61	
		Rates	2/15/39	13:158
		Revenue adjustment	2/26/62	
		Space charters	11/2/62	
		Termination	4/7/41	36-132
		Termination	5/22/40	29:240
		Termination	8/27/40	32:125
		Transshipment	8/7/50	125:141
		Subject matter	1/3/49	118:217
	Section 15, Agre	ements - Leases, Terminals, Ports,	etc.	
		Approval by prior agreement	8/2/63	
		Arbitrary assessments	9/18/61	
		Dock charges	9/18/60	145:141
		Equalization rules	3/12/63	
		Exclusive use	8/6/63 9/6/63	
		Fixing rates	12/17/62	
		Furnishing facilities	1/24/63	
		Grain elevator	5/22/61	146:16

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103	SHIPPING ACT, 19	16		
	Section 15, Agre	ements - Leases, Terminals, Ports,	etc. (Contin	ued)
		Informal complaint	6/30/64	
		Lighterage tariffs	9/14/61	
		Mitigation of penalty	8/2/63	
		Nonvessel operating common car ier	10/26/62	
		Not within section 15	8/27/63	
		"Other persons"	12/12/61	
		Port Commission and stevedore agreement	2/9/62	
		Ports	7/16/63	
		Preferential assignment	9/6/63	
		Terminal operations	4/16/63	
		Terminal facilities	9/12/60	145+136
		Union agreements	3/11/63	
		Waterfront facilities	10/30/62	
101:	SHIPPING ACT, 19	16		
	Section 16			
		Discrimination	4/7/60	145:28
		Entertainment	5/26/60	145:88
		Equal rights for shippers	9/26/63	
		Misdescription	3/1/50	123:231
		False billing	1/5/62	
		Free transport	9/19/60	145:143

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104	SHIPPING ACT, 19	916		
	Section 16 (Conf	tinued)		
		Inland cost, payment of	3/31/64	
		Rates	2/14/42	41:224
		Space allocation	12/28/61	
		Undue preference	2/14/42	41 - 224
		Undue preference	10/10/60	145:145
		Undue prejudice	9/8/61	
		Mebates	3/6/53	135:134
		Welpht limitations	1/5/62	
105	SHIPPING ACT, 19	916		
	Section 17			
		Discrimination	2/15/39	<b>13:1</b> 56
		Domestic carriers	1/29/63	
		Exclusive stevedore agreements	1/4/62	
		Other persons	2/9/62	
		Regulation	2/14/42	41 224
		Terminals	8/9/62	
		Terminals	3/28/50	124:65
		Undue preference	2/13/40	27 59
		United States, exempt	2/9/62	
		Unreasonable practice	9/21/40	33.84
		Unreasonable practice	2/20/40	<b>27 1</b> 25

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106	SHIPPING ACT, 19	916		
	Section 18, Tari	ff Filing		
		Bulk carriers	2/6/39	13:92
		Dual capacity, common and contract carriage	4/22/63	
		Exemption (lumber)	2/3/65	65-3
		Force Majeure	9/16/65	65-12
		Government cargo	2/9/62	
		Canal Zone	12/7/38	12:64
		Government passengers	6/6/62	
		Maximum rates	2/14/42	41.224
		Modifications	4/23/62	
		Jurisdiction	8/21/40	32:87
		Port description	3/14/63	
		Reasonable	7/24/39	20:54
		Rate decrease	2/26/64	
		Rejected tariff	7/9/37	4:123
		Rate increase	4/18/63	
		Reparations	12/18/39	25 <b>1</b> 40
		Referrals, Dep't of Justice	11/22/63	
		Refunds	10/6/43	67:35
		Testimony by Charman	10/18/62	
		Through rates	4/19/39	16:167

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106	SHIPPING ACT, 1	916		
	Section 18, Tar	iff Filing (Continued)		
		"Tramp" carriage	11/19/64	
		Transshipment	1/13/41	35+6
		Weight and volume	7/22/63	
		Unlisted ports	1/25/65	
		Viol <b>a</b> tions	2/26/64	
		Violations	7/6/39	19:32
107	SHIPPING ACT, 1	916		
	Section 19, Res	triction, Increase Rates		
		Predatory Practice	6/14/37	3:346
108	SHIPPING ACT, 1	916		
	Section 20, Dis	closure of Information		
		ICC decisions	11/12/40	34·65
		Manıfests	3/6/56	141.180
		Conference as arent	7/15/60	145:118
109	SHIPPING ACT, 1	916		
	Section 21, Fil	ing of reports		
		Railroads	4/15/37	3:53
		Foreign lines	1/17/51	126:242
		Cost differentials	1/23/51	127-1
		Conferences	7/15/60	145:118
		Compliance	6/2/60	145:93
		Compliance	7/14/60	145:117

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109	SHIPPING ACT, 1916			
	Section 21, Filing of report	ts (Cont_nued)		
	Incriminat	ion	3/2/60	145:4
	Production	of records	2/18/64	
220	SHIPPING ACT, 1916			
	Section 22, Complain of vio	lation		
	Conference		7/15/60	145։118
	Statute of	limitations	5 <b>/1</b> 5/63	
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