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# Hapag-Lloyd hit with FMC rail demurrage complaint



*Hapag-Lloyd paid a \$2 million civil penalty in June over detention fees it assessed to a drayage firm for containers the trucking company could not access. Photo credit: Frank Gaertner / Shutterstock.com.*

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Eric Johnson, Senior Technology Editor | Dec 29, 2022, 2:29 PM EST



A Wisconsin-based non-vessel-operating common carrier (NVO) is accusing Hapag-Lloyd and its subcontractor CSX of improperly levying nearly \$300,000 in fees against the NVO after it exceeded its contractually allowed container free time attempting to retrieve boxes it says it could not access.

The complaint, filed with the Federal Maritime Commission (FMC), comes five months after Hapag-Lloyd paid a \$2 million civil penalty over alleged unfair assessment of detention fees against a drayage operator. This is just the latest in a barrage of complaints levied against various container lines through the FMC in recent months, a flurry that has been accelerated by major reform of US ocean shipping law signed by President Joe Biden in June.

In a complaint filed Dec. 23, Milwaukee-based NVO ME Dey and Co. said it has been hit with nearly \$300,000 in storage fees on 13 containers that moved from Rotterdam to Nashville in August via Hapag-Lloyd and its rail subcontractor CSX.

At issue, Dey said in the filing, was CSX's inability to make those 13 containers available to Dey's drayage partner prior to the expiration of Dey's free storage time, called demurrage. Dey says the containers were not available for pickup at the CSX rail terminal in Nashville because they had not been mounted on chassis and Dey's drayage partner was not being allowed to provide its own chassis.

"The storage charges were the result of failing to mount the containers on chassis, which was beyond Dey's control," the NVO said in its complaint.

Between Sept. 6 and Oct. 7, Dey said it and its drayage partner, New Age Logistics, attempted multiple times to get the containers mounted on chassis or provide their own bare chassis, attempts that were allegedly declined by CSX.

"CSX further advised that Dey's trucker could not come in to recover the containers with its own chassis because the containers were owned by the steamship line," Dey said in the complaint. "CSX further reported that the failure of Hapag to provide chassis to transport the containers at issue was why they were placed into [inaccessible] stacks at the rail terminal."

Both Hapag-Lloyd and CSX declined to comment about the complaint to the *Journal of Commerce*.

### **Already paid fees to CSX**

The NVO said it has already paid \$136,500 in fees to CSX so the railroad would release the containers from its Nashville facility. Concurrently, Dey said it has attempted to get Hapag-Lloyd to waive its own demurrage fees and get assistance from the carrier in having the fees already paid to CSX refunded because CSX acted as a subcontractor for Hapag-Lloyd.

more than \$153,000. But Hapag-Lloyd said Dey would be responsible for any renegotiation or payment of storage charges to CSX, according to the complaint. Hapag-Lloyd then reneged on the agreement to waive its demurrage, Dey alleges, and issued a final demand letter to the NVO on Dec. 1 informing Dey that its account would be “inactivated” and its business relationship with Hapag-Lloyd severed unless Dey immediately paid \$156,932.

The complaint highlights both the volume and speed of complaints filed with the FMC since the Ocean Shipping Reform Act of 2022 (OSRA-22) was signed into law in June. As of Dec. 1, the commission had received more than 175 complaints against a number of container lines since OSRA-22 came into effect, most enabled by a new provision that allows complaints filed with the FMC to be fast-tracked.

The Dey complaint also underscores the extent to which the assessment of fees for container storage, theoretically intended to promote freight fluidity through terminals, remains a muddled picture despite OSRA-22 attempting to untangle the confusion.

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