



C.H. Powell Company

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FEDERAL MARITIME COMMISSION

BEFORE THE FEDERAL MARITIME COMMISSION WASHINGTON, D.C.

COMMENTS SUBMITTED IN RELATION TO DOCKET NUMBER 10-03, COMMENTS ON NVOCC NEGOTIATED RATE ARRANGEMENTS

VERIFIED SUPPORTING STATEMENT OF DAVID E. POWELL

I am David E. Powell, Vice President of C. H. Powell Company, responsible for its NVOCC division. C. H. Powell Company is an Ocean Transportation Intermediary licensed as both an Ocean Freight Forwarder, and a Non-Vessel-Operating Common Carrier, under license number 000176NF. C.H. Powell Company operates 17 offices at major USA ports. C. H. Powell Company has an ownership interest in affiliated companies in China and the Netherlands. C.H. Powell Company has more than 50 dedicated agents throughout the world. C. H. Powell Company transacts approximately 13,000 NVOCC shipments per year.

I submitted comments in June, 2008, supporting regulatory relief for NVOCCs in the area of tariff-based rate filing. I sincerely appreciate the consideration given to my comments and the comments of the shipping community by the Federal Maritime Commission as indicated by the pending Notice of Proposed Rule Making, which will provide much of the requested relief.

Almost two years after my prior comments, the need for NVOCC tariff relief is greater than ever. Continued advances in e-commerce and communicative media make tariff-based pricing antiquated and unworkable in the market. Shippers request direct, customized, pricing schemes, for constantly changing shipment profiles. NVOCCs must provide pricing in the requested formats, while at the same time expensively duplicating the effort in a separate tariff that is never accessed or used. C. H. Powell Company's NVOCC tariff is password protected. In the past ten years, not one customer has ever requested access to its tariff.

I support the proposed rule making, which will allow NVOCCs to opt out of filing freight rates, in favor of customer-specific rate agreements memorialized in writing, including electronic formats.

I support a continuing requirement that an NVOCC maintain a rules tariff, specifically referenced in all its customer relationship documents, with access provided free of charge.

The rate filing exemption should be made available to all lawful NVOCCs, including foreign registered companies. All arguments in favor of regulatory relief apply equally to foreign registered NVOCCs. The shipping public makes no distinction between US licensed NVOCCs



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and foreign registered NVOCCs, nor does it gain any more practical benefit from the regulatory burden placed on one type of NVOCC than on the other. Any discrimination in favor of US licensed entities will open them up to corresponding adverse discrimination from foreign governments.

I am opposed to any continuing restriction on amending rates at any time, including rate increases, as long as any such changes are agreed to by both parties prior to receipt of the applicable cargo. The intent of the exemption is to provide more flexibility to the shipper and the NVOCC. In periods of increasing rates, and during periods of carrier service/rate adjustments, shippers often rely on NVOCCs to adjust their service offerings on short notice, and are willing to pay higher rates for expedited shipment, or conditional rates depending upon the exact service eventually provided. Documented rates in writing agreed to in advance by shippers eliminate the need for tariff-based restrictions such as advanced notification for rate increases.

I declare under penalty of perjury that I have read the foregoing and it is true and correct to the best of my knowledge, information and belief.

Executed on June 1, 2010,

David E. Powell