

Magdalene Grant

From: Secretary
Sent: Tuesday, September 30, 2008 2:18 PM
To: Karen Gregory; Magdalene Grant
Subject: FW: CH Robinson Petition
Attachments: FMC 9.26.08.pdf

From: Ken Sine [mailto:Kenneth.Sine@chrobinson.com]
Sent: Friday, September 26, 2008 1:07 PM
To: Secretary
Cc: Ken Sine
Subject: CH Robinson Petition

Dear Karen,

I wanted to revert with the attached as per the deadline. Have a great weekend.

Ken

Kenneth D. Sine
Director of Trade
C.H. Robinson Worldwide, Inc.
14701 Charlson Road
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ORIGINAL

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September 26, 2008

Ms. Karen V. Gregory
Assistant Secretary
The Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Dear Karen:

Notice is hereby given that C.H. Robinson Worldwide, Inc. ("CHRW"), and its wholly-owned subsidiary, C.H. Robinson International, Inc ("CHRI"), a Federal Maritime Commission licensed Ocean Transportation Intermediary (FMC No. 3282NF), collectively with its other companies affiliated by common ownership, herein referred to also as "CHRW," has formally petitioned pursuant to 49 U.S.C. 40103 (former section 16 of the Shipping Act of 1984) and 46 C.F.R. 502.67 and 502.69, for an exception from the provisions of the Shipping Act that require non-vessel operating common carriers ("NVOCCs") to publish and adhere to all ocean tariff rates. Specifically, the petitioner requests that NVOCCs be exempted from the provisions of the Shipping Act requiring NVOCCs to publish and adhere to rate tariffs in those instances where an NVOCC has individually negotiated rates with its shipping customers and memorialized those rates and terms in writing. The exemption would be voluntary and apply only to rate tariffs as well as negotiated rates. The rules tariffs would still be published and maintained. Any related disputes would still remain governed by contract law and therefore exempt from 49 U.S.C. 40501 (a), (e), and (g) (formerly sections 8(a), (b), (d), and (g) of the Shipping Act – governing tariff contents and publication, time volume rates, 30 day's notice for increases, and accessibility and accuracy of automated tariffs); 40503 (formerly section 8(e) – setting out procedures for refunds and waivers) and 41104(2), (4), and (8) (formerly sections 10(b)(2), (4), and (8) – prohibiting service not in accordance with tariffs, unfair or unjustly discriminatory practices regarding rates, cargo classifications, cargo space accommodations, loading of freight or adjustment or settlement of claims; and undue or unreasonable preferences or advantages or undue or unreasonable prejudices or disadvantages).

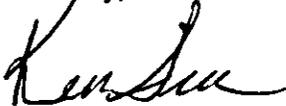
NVOCC service arrangements would continue to be filed with the FMC and essential terms published. All NVOCC negotiated rates would be memorialized in writing. The Commission would still have access to documentation in the event it was needed for all underlying negotiated rates and terms. The exemption would not convey antitrust immunity on NVOCCs. The exemption would only apply to FMC licensed or registered NVOCCs. Our ability to operate efficiently continues to be undermined by regulations that no longer address the current dynamic environment in which we operate. Terms or conditions of service constantly change which requires enormous human capital and expense that ultimately impacts efficiency. It also provides little to no value to the shipping public as customers seldom review the tariffs but

simply rely on the terms and conditions that have been presented at the time of each specific negotiation. The majority of all traffic movements move exclusively on rates and terms that are negotiated. These shipments can be transactional in nature but mostly are long term in the scope of service. Most NVOCC rates can change frequently even for similar commodities moving within the same trade lane. There is always a risk of tariff filing errors which can impede one's ability to move a shipment since most rates that are negotiated tend to move almost immediately after negotiation has been completed and the terms are accepted. It is our belief that most shippers are very satisfied to rely on the rates that are conveyed in writing during the formal negotiation process. Lastly, the average cost for tariff filings per annum exceeds over \$130,000.

The Commission and the industry have had six years of experience under OSRA, and we believe the time is right after the industry has had a positive experience with OSRA and thus why the time is right to exercise the authority Congress gave the FMC in Section 16 which specifically addresses the issue pertaining to the elimination of needless, expensive, and inefficient regulation. By granting this exemption, the Commission would not be shirking its responsibilities to oversee the ocean carrier industry.

We would greatly appreciate your time for due consideration as we believe this petition serves the best interest of all that serve and use the transportation

Sincerely,



Kenneth D. Sine
Director of Trade