

Stan Levy Consulting, LLC

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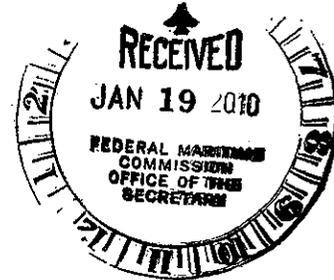
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January 18, 2010.

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Ms. Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573-0001



Re: Petition P1-08 - National Customs Brokers and Forwarders Association of America,
Inc. – Exemption from Rate Tariff Filing

ORDER TO SUPPLEMENT THE RECORD Served January 5, 2010

Dear Sir or Madam,

Enclosed are original and 15 copies of my Supplemental Comments in the above referenced petition.

I understand that the Service Requirements were waived in the Order.

Please send any issuances to me via email at stanlevyconsult@gmail.com.

Sincerely,

Stan Levy
President
Stan Levy Consulting, LLC

January 18, 2010.

INTRODUCTION

I am president of Stan Levy Consulting, LLC, which provides consultation, commercial and regulatory advice to international maritime and domestic transportation companies and their service providers. I am a Federal Maritime Commission (FMC) licensed practitioner.

I previously submitted comments in this proceeding.

COMMISSION'S ORDER on January 5, 2010

The Commission "reopens the record for the limited purpose of receiving updated tariff cost information and any replies thereto from previous commenters of record..."

PETITIONER'S REQUEST

On August 5, 2008, the National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA) requested that the FMC "to initiate a formal proceeding ... to consider exempting NVOCCs from specified tariff obligations".

The NCBFAA proposed a voluntary exemption for non-vessel common carriers (NVOCCs), who are licensed or registered with the FMC, from the requirements of the Shipping Act 1984 (SA1984), as amended, to publish and adhere to "rate" tariffs. Additionally, any disputes arising from the common carriage of such cargo with NVOCCs would be resolved in a Court of law instead of with the Federal Maritime Commission (FMC). These rates would be "memorialized in writing" with FMC access to them.

Almost all the comments submitted by NVOCCs, including the statements in the Petition, support this exemption due to the cost and difficulty of compliance with the tariff regulations and the usefulness of tariffs.

Now a new statement has been added to the record which basically has the same information previously submitted by other NVOCCs, namely the cost and difficulty of compliance with the tariff regulations and the usefulness of tariffs.

January 18, 2010.

BACKGROUND

Concerning the cost of tariff publishing, when Congress in 1984 decided to keep tariffs, it was mindful that it was continuing to impose a regulatory cost onto carriers. Subsequently in the early 1990s, during their budget process Congress instructed the FMC to implement an “automated” tariff system. During that process, the FMC made studies and issued a report on the cost to carriers of tariff compliance, and then decided to proceed as authorized by Congress. The current regulations were made effective on May 1, 1989 without any new compliance requirements which would cause any increase in cost to the carriers.

ANALYSIS of the COST OF TARIFF COMPLIANCE

If the FMC decides to implement a Proceeding and wants to consider the cost of tariff compliance, then it will need facts. I recall the statements of the World Shipping Council submitted in this proceeding: “... it is important that the Commission proceed on a factually accurate record, and that the Commission not incorporate into its ultimate decision assumptions that are unproven and that could lead to less than fully informed decision making ...”

The new statement by DJR Logistics brings into focus that facts are needed for the many questions and issues raised about the cost of tariff compliance noted by many commenters.

Yes, it may cost anywhere from \$2,000 (O.T.S. Astracon LLC on 01/11/2010) to over \$100,000 per year (Panalpina on 7/25/1008), but that does not quantify what is a reasonable cost for tariff compliance.

COMMENTS

DJR Logistics states that it costs \$3.25 to make a rate filing. Based on my tariff publishing experience, I believe that this is a reasonable fee. Furthermore, it seems to be reflective of the fees charged 10 years ago, showing that the cost of compliance has not been escalating or even kept up with inflation.

There have been other time periods of volatile markets causing rates to fluctuate wildly. In such times, tariff compliance costs will increase accordingly. Carriers can employ efficient tariff publishing strategies to keep these costs under control.

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CONCLUSION

I do not believe that the cost of tariff compliance should be considered as possibly "detrimental to commerce" which is one basis for the Commission to grant an exemption. Tariffs are not required mainly for the Carriers' benefit but to assist Shippers and to enable the Commission to fulfill its statutory duties. Exempting carriers from tariff compliance could be detrimental to commerce because there would be higher legal costs associated with settling disputes in a Court of law instead of the FMC, or even worse for Shippers to refrain from contesting Carrier rates without the benefit of a tariff. It is highly unlikely that any cost savings achieved by eliminating tariff compliance would be passed onto shippers as claimed by the Petitioner.

The FMC was well aware of the cost of tariff compliance when it implemented the current regulations effective on May 1, 1989, which reduced some burdens by eliminating tariff filing. The only change since then is the number of NVOCCs and their awareness of tariff compliance.

However, the issues of overly burdensome regulations, access to tariffs and their usefulness raised by the Petitioner should not be ignored.

Rather than exempting any common carrier from the requirements of SA1984, as amended, the FMC should consider reforming their tariff regulations so that they can perform their duty and maintain the regulatory framework envisioned by Congress. Such a reform should bear in mind the cost of tariff compliance and making tariffs more user-friendly and accessible.

I strongly support the Petitioner's request that the FMC initiate a proceeding to review and hopefully reform the tariff regulations for both NVOCCs and VOCCs to make tariff compliance less burdensome, tariffs more accessible, and tariff information more useful.

Respectively submitted,

Stan Levy
President
Stan Levy Consulting, LLC