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March 29, 2004

**Mr. Bryant VanBrakle
Secretary
FEDERAL MARITIME COMMISSION
800 N. Capital Street, N.W.
Tenth Floor
Washington, D.C. 20573**

**Re: PETITION NO. 04-04
PETITION OF FEDEX TRADE NETWORKS TRANSPORT &
BROKERAGE, INC, FOR EXEMPTION FROM THE TARIFF PUBLISHING
REQUIREMENTS OF SECTIONS 8 AND 10 OF THE SHIPPING ACT OF
1984, AS AMENDED**

COMMENTS OF DHX, INC. IN SUPPORT OF PETITION

Dear Secretary VanBrakle:

The Federal Maritime Commission, by publication dated March 17, 2004, has noticed the above referenced Petition which contains a request for exemption from the tariff publication requirements of the Shipping Act of 1984. The Petition further seeks the authority to enter into confidential contracts with shippers. The Petition notes that it is being filed to protect FEDEX Trade Networks Transport & Brokerage from competitive disadvantage. The Petition identified other Ocean Transportation Intermediaries that have pending exemption petitions. (Pet. at pages 1-2). DHX strongly supports the approach advocated by FEDEX Trade Networks Transport & Brokerage, Inc.

The issue of tariff filing for non-vessel operating ocean common carriers vis-a-vis vessel operating carriers has been ongoing since enactment of the Ocean Shipping Reform Act. The requirement of tariff 'filing' represents a two-fold burden. First, it is a matter of administrative costs, Secondly, it can work to inhibit the timely quotation of prices and movement of 'opportunity cargoes'. Such cargoes represent last minute movements, diversions or the like, the movement of which is of business necessity for the shipper. The difficulty arises however, if the NVOCC which is offered this cargo has either no specific rate or needs to adjust its rates to accommodate the needs of the shipper. Under such circumstances, the prerequisite of a "prior existing rate" can work to inhibit the NVO's ability to attract and transport that cargo.

The Shipping Act of 1984, as amended by OSRA, greatly relaxed the criteria which are required to establish grounds for an exemption. In fact,

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it may be concluded, based upon the general policies of "encouraging competition", that Congress has conveyed to the Commission a clear mandate to take any and all steps which may increase competition.

The FEDEX Petition, which incorporates earlier document filings in other Petition proceedings, requests that an exemption be extended to "all qualified third-party logistics companies" (Petition at page 2). DHX concurs in this approach and would likewise submit that this approach is the most reasonable, fair and efficient means of addressing this matter.

The instant petition clearly articulates to the Commission the fact that carriers which remain obligated to comply with tariff regulations will be greatly disadvantaged in the event that the Commission limits its actions to the few NVOCCs that have filed petitions. There is no doubt, that if the Commission does not undertake to make any tariff exemption industry wide, the Commission will eventually receive a Petition from virtually all OTI/NVOCCs.

A review of prior exemption petitions under Section 35 of the Shipping Act, 1916 provides clear precedent for this "industry-wide" approach. In 1991 the Commission granted a multi-trade Section 35 exemption petition submitted by Puget Sound Tug & Barge Company. That exemption decision is reported at 26 S.R.R. (Pike & Fischer) 61 (FMC, November 29, 1991). Simply, in 1991 there was a jurisdictional distinction between the Federal Maritime Commission and the Interstate Commerce Commission. There was a very substantial amount of 'forum shopping' due to major differences between the type and extent of regulation. The FMC tariff regulations required 30 days notice for carriers to make rate changes. The ICC tariff regulations permitted rate reductions on one (1) day's notice. The carriers that remained under FMC regulation were at a serious competitive disadvantage resulting in the loss of business to the ICC regulated carriers. The Commission, in recognition of this competitive disadvantage, exempted ALL carriers in the Hawaii and Alaska ocean trades from the Commission's tariff regulations and then established an exemption which permitted FMC carriers the same rate flexibility as existed under ICC regulation. There is little or no fundamental difference between what has been proposed by FEDEX Trade Networks in its Petition and the relief that the Commission afforded under Section 35 in 1991.

DHX, Inc. hereby submits that the exemption sought by FEDEX Trade Networks should be granted and FURTHER that such general exemption be extended industry-wide to all Ocean Transportation Intermediaries.

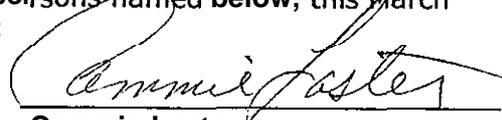
Respectfully submitted,



Bradley 1. Dechter
President
DHX. INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached comments of DHX, Inc. in support of Petition No. 04-04 has been served upon the persons named below, this March 29, 2004, by first-class mail, postage prepaid:


 Cammie Laster

<p>Penelope W. Register Senior Vice President and General Counsel FedEx Trade Networks Transport & Brokerage, Inc. 6075 Poplar Ave., Suite 422 Memphis, TN 38119</p>	<p>Thomas F. Donaldson, Jr. Vice President, Legal Department David W. Spence Managing Director, Legal Department Federal Express Corporation 3620 Hacks Cross Road, Bldg. B Memphis, TN 38125</p>
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