

ORIGINAL

Magdalene Grant

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**From:** Secretary  
**Sent:** Tuesday, September 30, 2008 2:15 PM  
**To:** Karen Gregory; Magdalene Grant  
**Subject:** FW: Reply Comments of SUPERIOR BROKERAGE SERVICES, INC. in Support of petition no. p1-08 for Exemption from Mandatory Rate Tariff Publication

**Importance:** High

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**From:** Mark R. Kittel [mailto:mkittel@sbs-intl.com]  
**Sent:** Friday, September 26, 2008 1:47 PM  
**To:** Secretary  
**Subject:** Reply Comments of SUPERIOR BROKERAGE SERVICES, INC. in Support of petition no. p1-08 for Exemption from Mandatory Rate Tariff Publication  
**Importance:** High

Original and 15 copies sent to the Commission via FedEx AWB# 7911 4809 2149

**REPLY COMMENTS OF SUPERIOR BROKERAGE SERVICES, INC.  
IN SUPPORT OF PETITION NO. P1-08 FOR EXEMPTION FROM  
MANDATORY RATE TARIFF PUBLICATION**

**I. Introduction**

The following comments are submitted by Superior Brokerage Services, Inc. ("SBS"), a Federal Maritime Commission ("FMC" or "Commission") licensed Ocean Transportation Intermediary / Freight Forwarder.<sup>(1)(1)</sup> It is SBS' understanding that the FMC is considering a petition filed by the National Customs Brokers and Forwarders Association of America that would exempt non-vessel-operating common carriers ("NVOCC's") from the present requirement to establish, publish, maintain and enforce tariffs setting forth ocean freight rates. SBS supports the relief requested in the above-cited petition and calls on the FMC to proceed timely to implement this much needed regulatory reform measure now before the Commission.

**II. SBS Supports and Urges Implementation of the Relief Proposed**

SBS encourages the Commission to approve this exemption quickly. The current tariff publication rules serve no useful purpose in today's global marketplace. There may have been a valid reason for tariff publication (and filing requirements prior to the 1984 Ocean Shipping Reform Act) when the regulations were established decades ago. However, times and the international liner shipping and logistics industry have

changed significantly since the date of enactment of the Ocean Shipping Reform Act of 1984. Business is now carried out in a global economy; shippers have become more sophisticated and it is time to update the regulations to correspond with today's commercial realities.

In my individual capacity, I have been associated with the NVOCC business for almost 25 years. During that time, I have personally met with hundreds of customers and filed thousands of tariff rates. Not once has a customer ever inquired about rates on file with the FMC or sought to review the published rates that we are all required to file and maintain as a condition of appropriate compliance with current FMC laws and regulations.

We estimate that millions of dollars are spent on rate publishing and maintenance each year under the current program. This is a waste of both private sector and taxpayer funds. NVOCC companies devote significant resources (i.e.; employees, computer systems and payments to tariff bureaus) to publish rates that are seldom, if ever, accessed by the shipping public. Taxpayers lose because present regulations require the industry to maintain rate publishing systems and the FMC to focus its limited resources and staff on tariff compliance and enforcement activities, all for information (which though in the public domain) is not accessed by the public. The question needs to be asked: "why spend millions of dollars to accumulate and regulate information that is basically archived, seldom, if ever used and serves no public or commercial purpose?"

The ocean shipping public would be better served by eliminating unnecessary tariff publication regulatory requirements and associated costs. Given that the NVOCC industry consists of thousands of small and medium size companies, reduction of administrative costs achieved through relaxation of unnecessary regulatory requirements would eventually "trickle down" to the shipping public via lower costs and increased shipping flexibility.

Since the terrorist attacks of 2001, NVOCC's have had a significant amount of added costs associated with new and emerging security requirements, such as C-TPAT and the 24 hour advance manifest reporting requirements and very soon, the 10+2 initiative currently being evaluated by Customs and Border Protection. The administrative costs incurred by both the private and public sectors for these programs are worthwhile and serve a very useful purpose—keeping our nation safe. But the industry and especially small forwarding

companies need "regulatory offsets" so their limited resources can be invested in programs that benefit the shipping public and contribute toward our nation's security. As times change and new regulations are implemented to reflect a changing environment, perhaps some balance can be achieved by "sun setting" antiquated regulations such as the tariff publication requirements which no longer serve any meaningful purpose.

The Bush Administration has commented that small businesses are the economy's economic engine and represent a bountiful future for the United States. Unnecessary regulations, such as the requirement for tariff publication, unduly burden the small businesses that are integral to our nation's economic success.

### **III. Conclusion**

We understand that the Commission has the specific statutory and regulatory authority to grant the relief sought in the pending petition. Moreover, the relief proposed speaks to the Ocean Shipping Reform Act's call by Congress for the FMC to rely increasingly on private sector initiatives and less so on regulatory oversight. SBS hopes that the FMC will consider these comments in the positive manner in which they are intended. We encourage the FMC to suspend the NVOCC tariff publication and maintenance requirement as it would provide the beneficial effect of increasing competition for the shipping public and benefit small to medium size businesses by reducing administrative costs for NVOCC's .

Sincerely,

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<sup>[1][1]</sup> Superior Brokerage Services, Inc. holds FMC Ocean Transportation Intermediary/Freight Forwarder license no. 018910NF.