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BEFORE THE  
FEDERAL MARITIME COMMISSION

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2009 DEC 24 PM 1:05

DOCKET NO. P1-08

FEDERAL MARITIME COMMISSION

PETITION OF THE NATIONAL CUSTOMS BROKERS  
AND FORWARDERS ASSOCIATION OF AMERICA, INC.  
FOR EXEMPTION FROM MANDATORY  
RATE TARIFF PUBLICATION

MOTION OF THE NATIONAL CUSTOMS BROKERS AND FORWARDERS  
ASSOCIATION OF AMERICA, INC. TO SUPPLEMENT THE RECORD

Pursuant to the provisions of 46 C.F.R. §502.73, the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA") respectfully seeks leave to supplement the record in this proceeding to add an additional verified supporting statement. In support of this motion, the NCBFAA states as follows:

This proceeding was initiated on July 31, 2008 when the NCBFAA filed its petition with the Commission for a limited exemption from the provisions of the Shipping Act of 1984 that presently require non-vessel operating common carriers ("NVOCCs") to publish all ocean freight rates and freight tariffs. In both the Petition and the numerous accompanying verified statements, the NCBFAA explained that eliminating the costly and unnecessary regulatory burden of NVOCC rate tariff publication would be beneficial to the NVOCC and shipper industries, would be consistent with the policies underlying the Ocean Shipping Reform Act ("OSRA") of 1998, would recognize the fundamental changes in the marketplace that have occurred as a result of OSRA, and otherwise satisfied the criteria for the Commission's exercise of its exemption authority under 46 U.S.C. §40103. Shortly after the filing of the NCBFAA's

Petition, the Commission issued a Notice of Filing of that document and invited interested persons to submit views or arguments in reply no later than September 26, 2009.

Thereafter, the Commission received comments in response to the Petition from a large number of parties, virtually all of which – with the exception of several tariff publishing companies – strongly supported the requested exemption. Those comments came from a number of NVOCCs, trade associations (such as the National Industrial Transportation League, the New York-New Jersey Foreign Freight Forwarders and Brokers Association, and the Household Goods Forwarders Association), and members of Congress. In addition, the U.S. Department of Transportation (“DOT”) filed comments supporting NCBFAA’s petition, reminding the Commission that DOT had been supporting an exemption from NVOCC tariff filing since 1991 and pointing out that “the case for the exercise of the Commission’s exemption authority has only grown stronger over the years.”<sup>1</sup> And, the trade association representing the liner shipping industry, the World Shipping Council, filed comments that took issue with several statements in the Petition, but otherwise took no position with respect to the relief sought by the NCBFAA.<sup>2</sup>

Although more than a year has passed, and notwithstanding the overwhelming support expressed for the Petition, the wasteful burden of rate tariff publication for the NVOCC industry remains in place. One of the members of the NCBFAA, Dennis J. Rowles, President of DJR Logistics, Inc., recently reached out to the NCBFAA in order to see what progress was being made with respect to the relief sought in the Petition. Mr. Rowles’ inquiry resulted from the significant costs his company continues to bear by being compelled to pay a tariff publishing agent each time it becomes necessary to modify a rate item in the DJR tariff. Consequently, although the record in this proceeding already contains supporting testimony from well over 60

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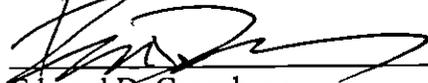
<sup>1</sup> Comments of the U.S. Department of Transportation, filed September 26, 2008, at 7.

<sup>2</sup> See Comments of the World Shipping Council, filed September 26, 2008.

parties, and although the only opposition to the relief sought is that of the self-serving statements submitted by several tariff publishing companies, these burdens and wasteful costs on the industry remain. In view of the passage of time since the original petition and responsive Comments were filed, the NCBFAA believes that it is appropriate and useful for the Commission to review this additional statement from DJR Logistics.

Accordingly, the NCBFAA requests that the Commission grant leave to supplement the record in this matter and receive the Verified Statement of Dennis J. Rowles into the record.

Respectfully submitted,



Edward D. Greenberg

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Washington, DC 20037-4492

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Facsimile: 202/342-5219

Attorney for

THE NATIONAL CUSTOMS BROKERS AND  
FORWARDERS ASSOCIATION OF AMERICA,  
INC.

DATE: December 24, 2009

**BEFORE THE  
FEDERAL MARITIME COMMISSION**

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**DOCKET NO. P1-08**

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**PETITION OF THE NATIONAL CUSTOMS BROKERS  
AND FORWARDERS ASSOCIATION OF AMERICA, INC.  
FOR EXEMPTION FROM MANDATORY  
RATE TARIFF PUBLICATION**

**VERIFIED SUPPORTING STATEMENT OF DENNIS J. ROWLES**

I am Dennis J. Rowles, President of DJR Logistics, Inc., which operates from offices located at 23 Independence Court, Folcroft West Business Park, Folcroft, Pennsylvania 19032. DJR has been operating as both an ocean freight forwarder and NVOCC under FMC License No. 4649NF from these offices, and I personally provide services as a licensed customs broker. In addition to its U.S. operations, we also have a partnership with a sister company in Hong Kong, DJR Logistics China, Ltd., which is a full service international logistics provider. In addition, DJR is a member of the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA") and both my company and I are familiar with the issues raised by the NCBFAA in the petition it filed seeking an exemption from the existing requirements that NVOCCs publish all changes in their rate tariffs.

Although DJR is a small company, we do represent a number of commercial accounts in providing NVOCC services. In doing so, we take great pride in our regulatory compliance efforts and have always attempted to operate in accordance with the Commission's regulations which literally require us to publish all changes in the rates we offer to our customers in our rate tariffs. While publishing rate changes in advance in our rate tariffs has always been burdensome,

the turbulent nature of the ocean shipping marketplace in these economic conditions has made this task extraordinarily difficult and expensive.

It should come as no surprise that DJR, as is the case with other NVOCCs and beneficial cargo owners, is required to sign service contracts with the various steamship lines by which the ocean carriers are able to pass along general rate increases, bunker adjustments, currency adjustment factors, peak season surcharges, and a wide variety of other surcharges and adjustment factors on virtually a daily basis. Consequently, the time when DJR signed a service contract and knew what rates would be applicable for the entire year is over.

As just one example, DJR is up to Amendment 26 for a service contract it signed with one of the lines. In most cases, this means that their rates are increasing, so that the rates in the DJR tariff for our customers must of necessity also increase. On other occasions, the ocean carrier rates on specific traffic have decreased, in which case DJR must also reduce its rates to its customers for competitive reasons.

Virtually every rate change by the steamship lines requires that we need to make multiple changes in our rate offerings to our customers, as even a modest percentage increase or decrease in the underlying carrier rates requires that we modify the rates for LCL cargo, 20-foot containers, 40-foot containers, high cube containers, etc. Consequently, every rate change by the carriers causes us to pay our tariff publishing company anywhere between \$3.25 to \$13, since this requires multiple changes to the various rate items in our rate tariff. As an example of this expense, I have attached a copy of a bill we received recently from our tariff publishing company, Dart Maritime Service, Inc. that amounted to \$4,737. As you can see, that bill covers just the most recent two-month period of October and November, 2009 and essentially averages out to an annual total of somewhere between \$25,000 to \$30,000.

This is obviously a very significant cost to a small company like DJR. Of course, if DJR is bearing this expense for its relatively modest operations, I can only assume that the cost of larger NVOCCs for keeping rate tariffs current is that much higher.

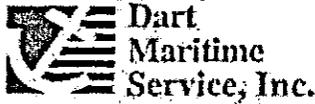
If there was any purpose served by bearing this cost, continuing the rate tariff publication obligation might be justified. However, the fact is that none of our customers have accessed the website to review our tariffs. Instead, we are in constant communication with the various customers and we memorialize the changes via emails or other written communications. As a result, there has never been any confusion about what rates are being assessed at any given time. Nor are we aware that any one else has had occasion to access our rate tariff, so that all of this information is being placed in a constantly changing electronic database that appears to serve no useful function.

Accordingly, we respectfully request that the Commission eliminate this archaic rule that serves no useful purpose and permit us to provide more efficient service without having to bear this substantial, unnecessary cost.

I, Dennis J. Rowles, declare under penalty of perjury that the foregoing is true and correct.

DATED: December 24, 2009

  
Dennis J. Rowles



P.O. BOX 480655  
 CHARLOTTE, NC 28269

# NOV BILLING DETAIL

Date  
 12/10/2009

Bill To

DJR LOGISTICS, INC. (DJRL500)  
 ATTN: DAWN MALLOUGH  
 FOLCROFT WEST BUSINESS PARK  
 23 INDEPENDENT COURT

Terms	Due Date
Net 10	12/20/2009

Date	Reference Number	Item/Description of Services	Qty	Rate	Amount
10/31/2009	Balance forward				2,595.37
11/10/2009	R7465	2P - Rate Filing	15.00	3.25	48.75
11/10/2009	R7447	1P - Commodity Descrip. Filing	3.00	3.25	9.75
11/10/2009	R7447	2P - Rate Filing	5.00	3.25	16.25
11/13/2009	PMT #42829.				-48.75
11/19/2009	R7593	2P - Rate Filing	159.00	3.25	516.75
11/19/2009	R7596	2P - Rate Filing	159.00	3.25	516.75
11/20/2009	R7612	2P - Rate Filing	151.00	3.25	490.75
11/20/2009	R7611	2P - Rate Filing	133.00	3.25	432.25
11/23/2009	R7618	2P - Rate Filing	49.00	3.25	159.25

Current	1-30 Days Past Due	31-60 Days Past Due	61-90 Days Past Due	Over 90 Days Past Due	Amount Due
2,190.50	6.50	2,540.12	0.00	0.00	\$4,737.12

Phone #	Fax #	E-mail	Web Site
704-837-7950	704-631-4667	accounting@dartmaritime.com	www.dartmaritime.com