



mohawkglobal
LOGISTICS

315 455 3003
315 455 3032

RECEIVED

152 AIR CARGO ROAD, SUITE 303 | HANCOCK INTERNATIONAL AIRPORT | NORTH SYRACUSE, NEW YORK 13212

2010 JUN 07 PM 3:30

FEDERAL MARITIME COMMISSION

cc: OS
OGC
OM-D
Comm (C)
RTA
BCL
BOE
CREG
Pub

June 2, 2010

Karen V. Gregory, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W. Room 1046
Washington, D.C. 20573-0001

Re: Comments on NVOCC Negotiated Rate Arrangements
Docket No. 10-03, RIN 3072-AC38

Dear Federal Maritime Commission:

I am writing today in response to your request for comments on the captioned topic. As an employee at two and owner of one NVOCC business spanning the last 17 years, I am acutely aware of the issues, problems, and expenses surrounding tariff filing. I am personally very thankful to the Commission for taking on this timely and relevant issue.

So you can better understand my background I will list my employment as follows:
Regional Director, DSL Transportation Services (1994-2001)
President & Owner, Diplomat Global Logistics (2001-2009)
Director, Mohawk Global Logistics (2009-2010)

I previously submitted comments on this issue in 2003 as attached. My comments today come from the context of my experience at each employer separately, but worthy of mention that the issues were virtually identical at each of the NVOCC's listed above.

The rate filing burden came to a head for NVOCC's this year with the combination of two changes in our industry. First is the evolution of how business is transacted in the post-OSRA era under confidential contracting and the seldom-used NVOCC Service Agreement. Second is the new dynamic of an industry suffering through its first sustained drop-off in volume that resulted in monthly or even weekly rate reductions as carriers raced to preserve market share.

With ocean volume dropping during the 18 months leading up to 2010, the carriers began sweeping rate reductions that caused us to file new rates at an unprecedented pace. The pricing overhaul we used to do once or twice each year became a monthly or even more frequent process. The resulting cost to flush and file new tariff rates caused our filing costs to increase by more than tenfold. This does not consider the additional man-hours and associated labor costs that further added to this burden.

While Diplomat Global kept compliant with tariff filing even under this massive workload, it is important to point out that it did not benefit our customers or the shipping public in any way. No one outside of our tariff filing company or the FMC ever accessed our tariff to check on our rates. We know this because Sumner Tariff Service was not asked to grant an access code or

password to any outside company in the eight years they provided tariff services for Diplomat (see attached letter from Sumner Tariff Services, Inc).

Given the effort and costs involved in filing, and the total lack of use by the public, I am very much in support of the proposed rulemaking to exempt NVOCC's from filing rates.

Our customers depend upon us to provide accurate quotes in advance of moving their cargo. They hold us accountable for those rates when we send our invoices. This is all done without our customers ever accessing our tariffs. Instead our quote serves as written memorialization of the rate, and our invoice is the proof that we have billed the customer accordingly.

It would be our plan to incorporate the new NVOCC Rate Agreement (NRA) into our process as soon as lawfully available to us in lieu of rate filing. We can and will incorporate any applicable rules on the body of our quote with a reference to our rules tariff. We will provide free access to the rules tariff online.

There are two points of concern that I have with the NPRM as it is presently worded:

1. The NPRM addresses the exemption as being applicable to licensed NVOCC's only, and seems to have eliminated the same benefit for registered NVOCC's. I would like to suggest that there should be no differentiation between licensed and registered NVOCC's in the final rule. Both types of NVOCC's should be afforded the same benefits under this rule. By not considering each lawful NVOCC in the same fashion when it comes to the filing exemption, it would give licensed NVOCC's an undue competitive advantage over registered NVOCC's, something I think would be contrary to the rationale for making the rule in the first place.
2. The NRA requirements as outlined by the Commission can be easily adopted by the industry provided there are no onerous rules or requirements added to them beyond what has already been stated, except that a provision should be added that allows NRA's to be amended as needed by a process similar to the creation of the NRA itself. It is my hope that the Commission will otherwise keep the filing exemption simple and succinct as it is written.

I will conclude my comments by saying that the resolution of this issue has been a long time in the making. The need for public tariffs no longer exists as common carriage has been replaced by confidential contracting and commodity specific door to door rating. I am pleased to see that today's Commissioners have the foresight and courage to bring this archaic practice to an end. The new NRA's as proposed more closely resemble present-day process that will serve the shipping public much better.

I declare under penalty of perjury that I have read the foregoing and it is true and correct to the best of my knowledge, information and belief.

Executed on June 2, 2010


Richard J. Roche
Director of International Transportation

Attachments:

1. Letter to FMC, Petition No., P5-03 dated 26 August 2003
2. Letter from Sumner Tariff Services, dates April 20, 2010



6315 Fly Road
E.Syracuse NY 13057
Tel: (315) 431-9802
Fax: (315) 431-9803

rich@diplomatglobal.com
OTI License: 17376N

26 August 2003

Secretary, Federal Maritime Commission
800 North Capital Street NW
Washington, DC 20573-0001

Re: Petition No. P5-03
Reply to Petition

Dear Sirs,

Diplomat Global Logistics is an active OTI-NVOCC in the Asia-Pacific trade lane. As such we are compliant with tariff filing provisions through a third party called Sumner Tariff Service, Inc. We are a small business.

Our view on the tariff filing process is that it has evolved into an unnecessary layer and expense for doing business in the NVO trade. We would ask that you respectfully consider our view regarding tariff filing from the standpoint of the basic rules governing common carriage. It is rare that 2 or more customers will ever use exactly the same rate in most tariffs. Rate filings are both commodity and port-pair specific. Door pick-ups and deliveries further erode the common platform for rates. We have no two customers shipping the same commodity, from the same port, to the same door through our services.

Assuming we did have 2 or more customers with the same commodities shipping to/from the same points, we have never had a single enquiry at Sumner Tariff Services for any of our rates on file there. If we are filing such rates for the general public, they are not using them. In fact the only practical reason we are filing rates in our tariff is because the FMC requires us to do so. There are no other end users.

We therefore request that the stringent requirements of tariff filing be lifted for NVO's. Our rate activities are not without process. Diplomat keeps an internal matrix on file inclusive of all rate details (active and quoted) to ensure accuracy with the customers. Perhaps it would suffice in the future if all NVO's were required to simply keep a matrix on file for FMC inspection. I am enclosing a sample of our matrix for your review.

Respectfully Submitted,

Richard J. Roche, President

Diplomat Global Logistics, Inc.

Enclosure: Rate Matrix Excel File

Sumner Tariff Service, Inc.

Transportation Consultants

ROY R. SUMNER
President
Licensed FMC
Practitioners

1012 14TH STREET, N.W.
SUITE 905
WASHINGTON, DC 20005
TEL: (202) 842-1100 FAX: (202) 842-1104
info@sumnertariff.com

April 20, 2010

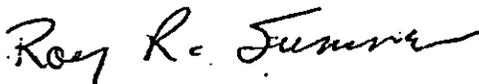
Attn: Rich Roche
Diplomat Global Logistics
6315 Fly Rd
East Syracuse, NY 13057

Re: DIPLOMAT GLOBAL LOGISTICS, INC.

Dear Rich,

Diplomat had a password change on July 29, 2002 when your company requested a new password. According to our records no other company EVER received a password to view the tariff. The FMC had access to the tariff at all times as did Sumner Tariff Service.

Regards,



Roy Sumner
Sumner Tariff Service, Inc.