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Date: September 17, 2003

Mr. Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, DC 20573

Re: **Petition P3-03**
Petition P5-03

Dear Mr. VanBrakle:

Global Link Logistics, Inc., a licensed non-vessel operating ocean common carrier ("NVOCC") respectfully submits the following comments in response to the referenced Petitions:

1. General Statement

In Global Link's view, the Petitions present issues of far greater significance than their simply stated purposes of (a) obtaining authority to enter into service contracts by certain NVOCCs or (b) eliminating or changing tariff publishing requirements for NVOCCs. As Section 16 states, the Commission may only grant an exemption if it "finds that the exemption will not result in a substantial reduction in competition or be detrimental to commerce." All the Petitions must be viewed in the full and complete context of NVOCC operations, competition between and among NVOCCs, and between and among NVOCCs and vessel operating common carriers, as well as in the context of services to shippers and impact on the marketplace. In short, the Petitions have significant and important market and market power considerations that in Global Link's view necessitate much more extensive proceedings than the simple filing of petitions and responses.

2. Service Contracts

To the extent that any petitioner contends that the FMC may, under Section 16 of the Shipping Act of 1984, as amended, authorize an NVOCC to enter into service contracts, it is Global Link's opinion that such petitioners have not made even the slightest effort to demonstrate that Section 16 can be utilized to create authority where it does not exist, much less have they justified that if Section 16 could be applied it should be applied in the circumstances proposed. Global Link reads Section 16 as allowing the FMC to exempt a petitioner from "any specified activity" under the requirements of the Shipping Act. The fact is that the Petitioners are not seeking to be exempted from an activity required of them under the Act; rather they seek just the opposite; they seek authority to engage in an activity from which they are prohibited by the Act. What these petitioners seek is not an "exemption" under even the broadest meaning of the word. For this reason, petitions seeking authority for NVOCCs to enter into service contracts should be denied.'

¹ We note that the appropriate forum for an amendment to Section 8(c) of the Shipping Act of 1984, as amended, is legislative: the United States Congress. We also note that in considering the amendments that constitute the Ocean Shipping Reform Act of 1998, the Senate specifically and overwhelmingly rejected a proposed amendment to allow NVOCCs to enter into service contracts with their customers.

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In addition, we think that the Commission must recognize that service contract authority for some or even all NVOCCs would significantly and unalterably change the competitive market between and among NVOCCs with the potential effect of reducing or eliminating meaningful competition. For example, would large NVOCCs have such an advantage with service contract authority that they would drive smaller NVOCCs out of business? Would there be an impact on the competitive market between and among NVOCCs and vessel operating common carriers? Is it conceivable, for example, that NVOCC service contract authority could eliminate certain vessel operator's tenuous market connections and make questionable their continued investments in vessels and equipment? Certainly, these issues need to be explored thoroughly by the Commission.

3. Tariff Publication

Global Link believes there is a better case to be made for relieving NVOCCs, and for that matter, vessel operating common carriers, **from** the requirement of publishing and maintaining tariffs on the Internet. First, this is clearly under the exemption authority in Section 16. Second, there is no reliable evidence that publication of tariffs on the Internet in any way assists shippers to determine **freight** rates and services by NVOCCs or by ocean common carriers. Most shippers either get quotes directly **from** carriers or through agents who call the carriers for rate quotations. The only rationale for publication of tariff rates is that the concept of common carriage by water requires a holding out to the general public on a non-unjustly discriminatory basis of ocean transportation services. Candidly, while there is a risk that elimination of published tariffs on the Internet could become a slippery slope that leads ultimately to full and complete administrative deregulation of common carriage by water, Global Link believes there should be a means by which publication of tariffs is eliminated, but private maintenance and regulation of tariff rates continues. Admittedly, this might make FMC oversight and enforcement under Section 10 more difficult but the costs of maintaining published tariffs are high and the benefits are small and under such circumstances a change is warranted.

Global Link understands that elimination of published tariffs or even the publication of rate spreads within a percentage range also carries with it issues of ensuring that common carriers perform in accordance with the requirements of Section **10(b)**. Because the benefits of elimination or reduction of tariff publication in terms of costs are significant, Global Link hopes that the **FMC** can **find** a way to grant the petitions relating to tariff publication while continuing to provide the enforcement necessary to assure that carriers are living up to their responsibilities as common carriers and meeting the requirements of section 1 O(b) of the Act.

Respectfully submitted,

Global Link Logistics, Inc.



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Chief Operating Officer