



**A** CUSTOMS  
BROKERAGE, INC.

**ORIGINAL**

5400 NW 84<sup>TH</sup> AVE. DORAL, FL. 32766



**BEFORE THE  
FEDERAL MARITIME COMMISSION  
WASHINGTON, D.C.**

**PETITION OF NATIONAL CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF  
AMERICA FOR EXEMPTION**

**FROM MANDATORY RATE TARIFF PUBLICATION**

**DOCKET NO. P1-08**

**VERIFIED SUPPORTING STATEMENT OF GABRIEL RODRIGUEZ**

I am Gabriel Rodriguez, President of A Customs Brokerage, Inc.

A Customs Brokerage, Inc. (ACB) is a Customs Broker and Licensed NVOCC operating under the license no. 17899NF.

ACB is a member of the Florida Customs Broker and Forwarder Association (FCBF) and is a licensed NVO for over 6 years, we are very familiar with issues relating to the requirements for mandatory publication of ocean rate tariffs and are supporting the NCBFAA's petition to exempt NVOCCs from having to memorialize rates that have been negotiated with shippers in rate tariffs.

Rate publication is unfortunately a daily task for our company in order to ensure that we maintain compliance with the outdated regulations of the Federal Maritime Commission. Clients call or e-mail us to solicit pricing for specific shipments. We quote our clients via e-mail or fax but in any case always in writing. Many times after having compared to the market (other NVOCC's) our clients will come back to us with the price levels that they would like for us to provide them in order to proceed in shipping cargo with us. If it is within our means, we will adjust the rates and therefore we update our tariff to adapt to the daily changes in our shipping. It is a very clear process in which a shipper is fully aware and the rates and services are documented for practical purposes as well as legal purposes.

Another constant change whereby we are constantly updating our tariff is due to the dynamic nature in which carriers are continuously revising their rates due to increases or decreases in bunker, fluctuations in currency and other factors. It seems that rates in certain trade lanes are changing almost on a daily basis. Again in order to maintain compliance we are updating the tariff and also as a logical business decision, we are sending out advisories to all clients of ours that are affected by this change updating our pricing to them. This provides for a duplication of process in which the ending result is that our clientele are always informed in writing what our pricing is for any given trade lane.



We can be considered a small NVOCC in comparison to other multinational NVOCC's. The burden that we carry in order to ensure compliance is a daily routine that is both costly and inefficient as noted by our duplication of efforts stated above. I can estimate that on a weekly basis we spend approximately 10-12 hours per week ensuring proper tariff publication and endure costs upwards of \$20,000 per year.

Drawing from the publication of the FMC PAR for 2007, the FMC itself is already in the mind frame to carry out this request. "The Federal Maritime Commission's vision is: Fairness and efficiency in U.S. Maritime Commerce<sup>1</sup>." This petition seeks exactly this, a fair and efficient process. The Commission has the right mentality for this matter now we simply urge you to carry out what is correct and requested by the public.

Our tariff filing is currently outsourced to a third party tariff filing agent. We use a template to provide the filing agent the necessary information to have the updated rates uploaded into our tariff. We then use the same information to populate another template that we distribute to our customers that would be affected by the filing. It is necessary to note that no client will ship without having a documented rate directly sent from us to them. While it is not incumbent upon us to send our advisory to our clients they would have no other knowledge of our rates other than this advisory. While our rates are accessible via our public tariff, to date since we first filed our tariff almost six years ago, we have not had one request to access this information. I am confident in stating that I am sure that most shippers are not even familiar with the tariff, the filing process, and the purpose that it serves.

When the NSA's were adopted, we believed this would be a huge progress for us in being able to improve our competitiveness with other large NVOCC's as well as to simplify our pricing strategy amongst larger customers. However we were quickly brought back to reality as from the inception of NSA's we have been able to sign only one NSA and this was cancelled by our customer citing it was complicated, confusing and they simply did not feel it was necessary. The NSA's bring to light the reality that most shippers are not aware of FMC regulations and need only a documented price quote to ship cargo. Furthermore, the reality of the NSA is that it is more time consuming and costly.

At the beginning of our NVOCC service, due to a lack of knowledge, and so as to not violate our published rates, we had to turn away an excessive amount of business. Through the years we became more familiar with the regulations and the little loopholes that exist that allowed us to legally move cargo with proper rates filed. As early as last year in a meeting of the FCBF that was attended by several FMC officials, the question was posed: "Why does the requirement for tariff filing still exist if it suits no reasonable means to the public largely since they are unaware it exists and two since there are many different manners to file different rates for same cargo in same trade lanes?" The answer by a Washington FMC official was: "I am sorry I am not at liberty to discuss the reasons behind the laws and regulations, I can only enforce them!" We believe it is time that we take a serious look at regulation and stop enforcing it for the sake of enforcing it! It is an archaic regulation that no longer suits its intended purpose.

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<sup>1</sup> Federal Maritime Commission. Performance Accountability Report (PAR) 2007. Washington: Federal Maritime Commission, 2007



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We urge those of you at the Federal Maritime Commission to put into action the spirit of OSRA enacted by Congress in 1988. It is time to stop enforcing laws that no longer apply simply because they are on the books. It is time to revamp those laws and make them applicable to the times we are in by approving the request of the NCBFAA.

I, Gabriel Rodriguez declare under penalty of perjury that the foregoing is true and correct. Further I certify that I am qualified and authorized to file this verified statement.

Executed on September 8, 2008.

*Gabriel Rodriguez*

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