

Magdalene Grant

From: Secretary
Sent: Tuesday, September 30, 2008 2:20 PM
To: Karen Gregory; Magdalene Grant
Subject: FW: Petition P1-08 Comments of Serra International (F) & Serra Shipping(NVO)
Attachments: p1-08 - Cert. of Serv. -Serra 09.26.08.pdf, p1-08 - comment-Serra 09.26.08.pdf

From: Jeanette Gioia [mailto:jgioia@serraintl.com]
Sent: Friday, September 26, 2008 10:07 AM
To: Secretary
Cc: egreenberg@gkglaw.com
Subject: Petition P1-08 Comments of Serra International (F) & Serra Shipping(NVO)

Att: Assistant Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Attached please find an electronic version of comments sent 9/25/08 by DHL Tracking No. 29128516955 to your office. Separate copy was sent per attached Certificate of Service to Edward D. Greenberg, Esq. Please note one immaterial typographical error was corrected in the electronic version.

Best Regards,
Jeanette R. Gioia
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ORIGINAL

**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

Jeanette R. Gioia

I am Jeanette R. Gioia, President of Serra International, Inc. (OTI 0282F) and its' wholly owned NVOCC subsidiary, Serra Shipping, Inc. (OTI 16314N). I am the Qualifying Officer for Serra's licenses. Serra operates as an NVOCC from three of its U.S. office locations, working with its own network of long-established agents in approximately 30 countries. Serra is very familiar with the regulatory and operational issues of rate tariff filing.

Serra supports the petition of the National Customs Brokers and Forwarders Association of America, Inc. ("NCBFAA") to exempt NVOCCs from having to memorialize in tariffs rates that have already been negotiated and accepted with shippers. We agree with the NCBFAA's statement that eliminating the existing tariff-filing requirement would be "beneficial to the NVOCC and shipper industries" and recognize that the market has changed since the inception of the regulation. The tariff-filing requirement does not provide any real benefit to our customers, but means that Serra must bear additional and unnecessary cost in compliance. At the same time it exposes us to potential penalties for tariff-based violations that serve no useful purpose.

Much of our NVOCC export freight is obtained through our overseas agents. They will email us requesting a quotation on specific traffic for a specific client. We will put together a full package of costs after obtaining quotes from steamship lines for full container movements and other NVOCCs for less than container loads. Our agents will then quote the foreign importer based on a complete movement from door-to-door.

Sometimes the rate sold is even a flat per/kg cost from ex U.S. factory to the importer's facility in the foreign country. When goods move under a Serra Shipping bill of lading, it has been very difficult and time-consuming for Serra to construct and file rates that comply with the U.S. regulations. Over the years, it has been a constant struggle to educate our overseas agents to understand that the same commodity must be sold for the same rate to different importers. The commodity based ocean freight tariff for NVOCC activity simply does not exist in other countries and it is not well – understood for good reasons. The fact that a tariff exists is not the reason the business has been obtained. The shipment moves because the customer was quoted a competitive rate that was determined by the market. The rate is filed for compliance purposes after the business has been secured and before it has been shipped. To have to construct and file an ocean freight rate based on commodity and origin / destination ports and points becomes an unnecessary exercise.

It is clear to us that our tariff is of no interest to shippers and consignees. Serra files its' rates with Dart Maritime and pays for each entry and amendment. Dart Maritime has advised us that they have no record of anyone other than the FMC requesting access to our tariff. What is of interest to our customers and overseas agents is that they can obtain a competitive rate for moving their goods. If Serra can not provide it, they will go to another company regardless of what is in our tariff.

The rates we negotiate with the customer or our overseas agents are normally confirmed in writing as an email or formal quote to avoid any confusion concerning the terms under which the freight would move. The shipping public's interests are protected because they have been quoted and agree to a specific rate structure that works for them.

Serra has never used NVOCC Service Arrangements ("NSAs") as an alternative to tariff filing. Our customer base is simply not interested in signing or committing itself under such an agreement when they can obtain market rates as needed.

We support the NCBFAA's request that NVOCCs be exempted from mandatory publishing of rate tariffs for ocean transportation. We do not think that the rate exemption should be limited only to those instances where NVOCCs "have individually negotiated rates with their shipping customers and memorialized those rates in writing. We believe that commercial practice, the understanding of the parties, and contract law will determine the appropriate form for memorializing rates between the NVOCC and their shippers.

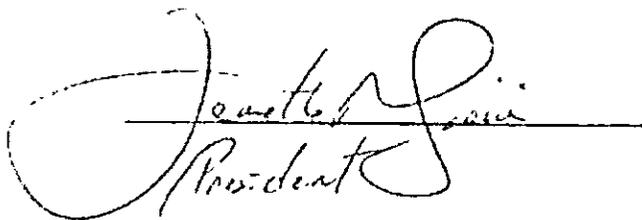
To specifically state that the rate must be in writing will force discussions of what is sufficient proof that the requirement has been satisfied along with where and how the communications must be maintained for record-keeping compliance. Serra agrees with the NCBFAA that it should not be "necessary or appropriate for the Commission to

dictate the particular form which should be used". Serra believes that the very requirement for insisting that the rate be "memorialized in writing" will naturally need further explanation. It should be made specifically clear that the sufficiency of a writing should never be the basis for an enforcement inquiry. Any dispute as to the sufficiency of a writing should only be a matter between a shipper and the NVOCC, and differences should be resolved by application of contract law, and by courts, if necessary. We suggest that the exemption be allowed to be voluntary and made relevant for the shipping public by the commercial relationship between the customer and the NVOCC. It should not be the subject of agency regulation.

Although tariffs were needed under the system of common carriage, Serra believes that since the de-regulation of the freight industry and the evolution of contract carriage, the filing of tariffs has outlived its usefulness in the current competitive market driven economy.

I, Jeanette R. Gioia 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 25, 2008.



Jeanette R. Gioia
President



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**Docket No. P1-08
Certificate of Service**

I, Jeanette R. Gioia, President of Serra International, Inc. and Serra Shipping, Inc. certify that a copy of Serra's Supporting Statement to Docket NO. P1-08 was sent today, September 25, 2008 to Petitioner's counsel, Mr. Ed Greenberg, Esq. via DHL Tracking no. 29128652151.

Address for service was:

Mr. Edward D. Greenberg, Esq.
Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C.
1054 Thirty-First Street, N.W., Suite 200
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Jeanette R. Gioia
September 25, 2008