

June 5, 2015

Secretary,
Federal Maritime Commission
800 North Capital Street, N.W.
Washington DC. 20573-0001

Subject: Petition NO. P2-15 filed by the National Customs Brokers and Freight Forwarders Association of America, Inc.

Dear Commissioner:

We are writing to you in support of the petition filed by the NCBFFA on April 23, 2015.

We will limit our comments to the NRA filing as we have never been able to secure a NSA from one of our clients. They rejected the idea stating that they did not want to be committed to a long term contract should our service levels fail to meet their requirements.

We have however taken advantage of the NRA exemption which has saved our company thousands of dollar in direct outlays to the Tariff Filing Companies.

Our primary business is ocean import services from the Far East, so our comments regarding the NRA issue relates to the services of the VOCC industry in the Trans-Pacific Trade Lane.

As a small family run NVOCC, our VOCC contracts included clauses for the implementation of GRI (General Rate Increases,) Bunker Adjustment factor increases or decreases and PSS (Peak Season Surcharges). The imposition of the PSS charge is subject to extension depending on market condition. What used to be a standard time frame of July 1 to October 31 each year, has over the past few years started earlier, i.e. June 15, and have in some years been extended through to January of the following year.

Because the VOCC must publish any increase 30 days in advance of implementation, but can reduce a rate with immediate effect, they are, as a standard, announcing a GRI almost on a monthly basis and then essentially deciding later whether or not the increase can stick based on market conditions. Each time this happens we send the notices from the VOCC to our customers in a broadcast email advising them of the potential increase. We then spend countless hours and days tracking and looking for updates as to what, exactly,

the VOCC's will do in terms of implementing the GRIs so that the NRAs sent to our customers are as in line with the market conditions as possible.

If the market conditions are such, shortly before (and sometimes extremely shortly before) implementation, the VOCC will either reduce the GRI or eliminate it completely.

This puts us, the NVOCC in a very difficult position. As mentioned in the petition, in order to try to balance the operational costs of maintaining and updating NRAs against the need to stay competitive in the market place, we limit the NRA to a monthly or bi-monthly basis. However, since we need to have the NRA accepted prior to accepting cargo and we cannot change it once accepted for the length of the term, we find ourselves caught in an impossible position.

If the GRI is reduced after we have submitted our NRA to the customer, we are charging them freight rates that are above market conditions. Because the customer is not contractually committed to the NRA, they can simply stop booking cargo with our service because our rates are too high.

So, for example, if we submit an NRA to a customer with the full amount of the increase included, 2 days later the VOCCs reduce the GRI, and 3 days later a competitor sends a spot quote to our customer, our pricing is essentially out of market within 3 days of implementation and we've been beaten (assuming all things are equal) by as much as \$800-\$1000. This also causes our customer to question the trust that they have in us that we work so hard to earn. It is easy for the customer in this scenario to think that we are deliberately overcharging, when in reality we are just victims of a combination of the current VOCC culture of throwing a GRI against the wall and seeing what sticks, and the burdensome regulations that do not allow us the agility to react to the changes to continue to satisfy our customer.

Similarly, if we commit to rates for a longer period of time than 30 days (based on the rate filing requirements of VOCCs for increases) and do not have the ability to change the rates (even if the change is agreed to by both the NVOCC and the shipper), we face the possibility of losing revenue on every shipment should the VOCC industry impose a GRI during the time frame of the NRA. Some of the GRI announced over the past few years were as much as \$800.00 per 40' container. If because of an NRA timeline we had to absorb \$800.00 in additional cost, we would be out of business very quickly.

In summary, the result of the current setup is either the importer overpays for ocean freight services because the NRA cannot be changed (and the NVOCC risks damaging a

relationship with its customer), the NVOCC faces the serious loss of revenue and potentially being put out of business by issuing long period NRAs, or the NVOCC issues 1 day or 1 week NRAs which increases the NVOCCs operational expense and floods the shipper with constantly changing pricing.

To truly protect the shipping public and the NVOCC industry, we feel the Petition by the NCBFAA should be accepted and the rules changed accordingly to allow the NVOCC community the agility it needs to satisfy its customers and stay competitive in the marketplace.

Sincerely,

Dennis J. Rowles
President