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September 24, 2003

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The Honorable Bryant L. Van Brakle, Secretary  
Federal Maritime Commission  
800 North Capitol St.  
Washington, DC 20573

Dear Secretary Van Brakle:

I write to urge that FMC give strong consideration to the UPS petition currently pending before the FMC, which requests an exemption from the prohibition against Non-Vessel Operating Common Carriers (NOVCCs) entering into confidential contracts with their customers.

The state of the U.S. ocean shipping industry has changed dramatically since the passage of the 1998 revisions to the Ocean Shipping Reform Act (OSRA). As a result, UPS may suffer a competitive disadvantage because of its status as a NOVCC and the requirement that it must publish tariffs rather than enter into confidential contracts. UPS' capital base and significant annual capital contributions to its asset-based transportation infrastructure would appear to distinguish it from the majority of NOVCCs, which are non-asset firms. Therefore, Congress' concerns in the OSRA for the risk of nonperformance of service contracts would not apply to UPS in the same manner as to the non-asset NOVCCs, which lack such resources.

It is my hope that full consideration will be given to the UPS petition. If you have any questions of me in this matter, please do not hesitate to contact me.

With warm regard, I am

Sincerely,



NICK J. R&HALL, II  
Member of Congress

NJR/tpl

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FEDERAL MARITIME COMMISSION