

RON LEWIS
SECOND DISTRICT, KENTUCKY

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON HUMAN RESOURCES
SUBCOMMITTEE ON SOCIAL SECURITY
SUBCOMMITTEE ON SELECT REVENUE MEASURES

COMMITTEE ON
GOVERNMENT REFORM

SUBCOMMITTEE ON
NATIONAL SECURITY, EMERGING THREATS AND
INTERNATIONAL RELATIONS

HOUSE REPUBLICAN POLICY COMMITTEE



RECEIVED

ORIGINAL

03 SEP 22 AM 9:00
Congress of the United States
House of Representatives
FEDERAL MARITIME COMM
Washington, DC 20515

September 12, 2003

CC: 0401030
WASHINGTON OFFICE 072
2418 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-3501 10
DISTRICT OFFICES 20
1690 RING ROAD
SUITE 260 30
ELIZABETHTOWN, KENTUCKY 42701
270-765-4360
1001 CENTER STREET 40
SUITE 300
B O W L I N G GREEN, KENTUCKY 42101 01
270-842-9896
1100 WALNUT STREET 02
SUITE P15B 03
OWENSBORO, KENTUCKY 42301
270-688-8858 04
TOLL FREE 1-800-3674676
E-Mail ron.lewis@mail.house.gov 05
Website www.house.gov/ronlewis

Mr. Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, D.C. 20573

RE: Petition P3-03

Dear Commissioners:

I was recently informed that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers (NVOCCs) from entering into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the shipping marketplace, the antiquated regulatory scheme governing NVOCCs should be revised.

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990s, most NVOCCS were small enterprises that neither owned vessels nor the cargo being shipped. In order to protect shippers and to a guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

However, the state of the U.S. ocean shipping industry has changed dramatically since passage of OSRA. There has been unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail, and surface and NVOCC transportation, and is deemed a "carrier" in the surface and air freight industries. Furthermore, UPS makes significant annual capital investments to its' asset-based transportation infrastructure. These facts alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition, citing the recent evolution of the ocean shipping marketplace, is precisely the reason Congress granted such broad exemption authority to the FMC. While

Mr. Bryant L. VanBrakle

September 12, 2003

Page 2

anticipating dramatic changes in the ocean shipping industry with the passage of OSRA, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting this petition, the FMC will acknowledge these changes, level the playing field between NOVCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the UPS petition full and fair consideration.

Sincerely,

A handwritten signature in black ink that reads "Ron Lewis". The signature is written in a cursive style with a large, looping initial "R".

RON LEWIS
Member of Congress