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Congress of the United States
House of Representatives
Washington, DC 20515-1315

September 22, 2003

Bryant I. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, DC 20573

RE: Petition P3-03

RECEIVED
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 FEDERAL MARITIME COMMISSION

Dear Commissioners:

It is my understanding 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. The antiquated regulatory scheme governing NVOCCs should be revised due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace. I write in strong support of the UPS petition currently pending before the FMC.

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

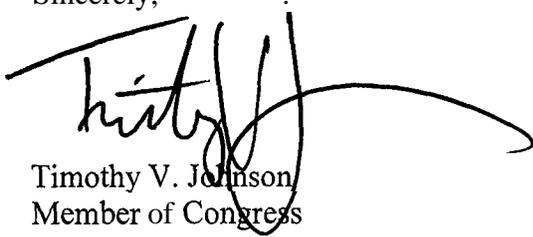
Since passage of OSRA, however, the state of the U.S. ocean shipping industry has changed dramatically. There has been unprecedented consolidation among ocean carriers resulting in the loss of major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have 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 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 NVOCCs and vessel operators, and ultimately benefit ocean shipping consumers around the world.

I am hopeful the FMC will give the UPS petition its' utmost consideration and render an equitable decision on this matter based upon the merits of the case.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy V. Johnson", with a long, sweeping horizontal flourish extending to the right.

Timothy V. Johnson
Member of Congress