

CC: 20/030

LYNN WOOLSEY  
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RECEIVED  
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03 SEP 22 AM 9:16  
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September 18, 2003

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03  
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05

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

RE: Petition P3-03

Dear Commissioners:

This letter is in support of the UPS petition currently pending before the Federal Maritime Commission. 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. Due to the operational characteristics of UPS and recent changes within the ocean shipping marketplace, it is time to revisit the regulatory scheme governing NVOCCs.

During consideration of the *Ocean Shipping Reform Act (OSRA)* revisions of 1998, Congress decided that NVOCCs should be regulated differently than vessel operators. In the late 1990s, 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.

However, 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.

Congress has granted broad exemption authority to the FMC, anticipating changes in the ocean shipping industry. However, Congress did not contemplate how fast or how smoothly the market could adapt to these changes. By granting the UPS petition, the FMC will acknowledge the recent evolution of the ocean shipping market place, level the playing field <sup>between</sup> NVOCCs and vessd operators, and ultimately benefit ocean shipping consumers around the world.

I urge the FMC to give the UPS petition full consideration and render an equitable decision based upon the merits *of* the case.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Woolsey". The signature is written in a cursive, flowing style.

Lynn Woolsey  
Member of Congress



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FAX MEMORANDUM

03 SEP 22 AM 9:16

OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

The Office of Congresswoman Lynn Woolsey  
1101 College Avenue, Suite 200  
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Phone: 707/542-7182  
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TO: Bryant VanBrakle

FAX: \_\_\_\_\_

FROM:

DATE: 9/19/03

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Member of Congress

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Tom Roth  
District Communications  
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Stephanie Kenny  
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Intern

Other \_\_\_\_\_

NUMBER OF PAGES (Including Cover): 3

MESSAGE:

*Letter from Congresswoman  
Woolsey. Hard copy to follow.*

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