

RANDY NEUGEBAUER
19TH DISTRICT, TEXAS

COMMITTEES
AGRICULTURE
SCIENCE
RESOURCES

Congress of the United States

House of Representatives

ROOM 1026
LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4319
(202) 225-4005

GEORGE H MAHON FEDERAL BUILDING
1205 TEXAS AVENUE, SUITE 810
LUBBOCK, TX 79401
(806) 763-1 611

3800 EAST 42ND STREET, SUITE 605
ODESSA, TX 79762
(432) 550-0743

October 30, 2003

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

Dear Commissioners:

It is my understanding that the United Parcel Service (UPS) has filed for an exemption on Non-Vessel Operating Common Carriers (NVOCC's) from entering into confidential contracts with their customers. Due to the operational characteristics of UPS and recent developments within the ocean shipping marketplace, the antiquated regulatory scheme governing NVOCC's should be revised. I write in strong support of the UPS petition currently pending before the Federal Maritime Commission (FMC).

During consideration of the Ocean Shipping Reform Act (OSRA) revisions of 1998, Congress carefully considered all aspects of the shipping industry including the role of NVOCC's. Based on the nature of ocean shipping at the time, Congress determined that NVOCC's should be regulated differently than vessel operators. In the late 1990's most NVOCC's 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 NVOCC's should operate under published tariff system when dealing with their customers.

However, the state of the U.S. ocean shipping industry has changed dramatically since the 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 NVOCC's.

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

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. White anticipating dramatic changed in the ocean industry with the passage of OSRA, Congress did not contemplate

RECEIVED
03 NOV -7 AM 10:43
FEDERAL MARITIME COMMISSION

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 NVOCC's 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 based upon the merits of the UPS case.

Sincerely,

A handwritten signature in black ink, appearing to read "Randy Neugebauer", with a long horizontal flourish extending to the right.

Randy Neugebauer

RN/stm