



LEGACY SUPPLY CHAIN SERVICES

BEFORE THE
FEDERAL MARITIME COMMISSION

DOCKET NO. 17-04 REGULATORY REFORM INITIATIVE

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COMMENTS OF LEGACY SUPPLY CHAIN SERVICES, INC.

I am Vice President of Legacy Supply Chain Services, Inc., (FMC License number 3502-R), located at 5360 Capital Ct. STE 100, Reno, NV 89502. Legacy Supply Chain Services, Inc. is a licensed ocean transportation intermediary and offers these comments as an OTI.

The Commission is seeking comments that will be responsive to the recent Executive Order issued to federal agencies to identify regulations that:

- a) eliminate jobs, and inhibit job creation;
- b) are outdated, unnecessary, and ineffective;
- c) impose costs that exceed benefit; and
- d) are inconsistent, and interfere with regulatory policy.

The FMC is specifically requesting that the shipping public provide comments on ways to make the Commission's regulations less burdensome and more effective in achieving the objectives of the Shipping Act.

We are encouraged that the Federal Maritime Commission is sincere and is currently motivated to take steps to amend its rules governing the licensing, financial responsibility requirements and duties of Ocean Transportation Intermediaries as well other areas relating to automated tariff publication, NSA, NRA and co-loading requirements. It is our expectation that



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the Commission would adopt, amend, or remove rules which would have the effect of adapting the U.S. maritime industry to rapidly changing industry commercial conditions by the removal of regulations which are outdated, unnecessary, ineffective, and inconsistent with current Administration regulatory policy.

Tariff Publishing Requirements. At the heart of this deregulatory reform should be the elimination of the mandatory tariff publishing systems (including NRA's, NSA's, and co-loading rules for OTIs). Tariff publication as a mechanism for pricing ocean transport is patently "outdated, unnecessary, and ineffective" as indicated in the Executive Order. Buyers and sellers of ocean freight should be able to fix buy and sell rates without government interference, just as any other industry. In fact, this has already been accomplished for Indirect Air Carriers by reforms initiated in 1979 without any negative results to the shipping public. To the contrary, rate fluidity in the IAC industry has resulted in competitive pricing benefits to the shipping public. Tariff publication with third party publishers or in-house clearly "imposes costs that exceed benefit", another of the Executive Order standards for removal of burdensome regulations. IACs are completely free to negotiate with their shipper customers unfettered by any commercial federal regulations, other than those related to national security, which are reasonable under our current circumstances.

The following are specific reasons for the removal of tariff publication requirements:

- I have been associated with the NVOCC business for over 30 years. Not once has a customer ever inquired about rates on file with the FMC or published in tariffs. Clearly, one has to question the value of a regulation that requires the daily accumulation of and publication of tariff rates that have never once been accessed by the shipping public or which provide any public service benefit whatsoever.



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- Since the tariff system was initiated the commercial marketplace has matured. Shippers are very sophisticated and aware of rate and service levels. The marketplace offers robust competition. There are thousands of carriers (including OTIs) offering rates to shippers on a continuing basis. The internet provides exponentially more rate/service transparency platforms than the clunky ineffectual and burdensome FMC tariff rate system. A shipper would never even think of going to an FMC published tariff rate system for ocean freight pricing. On the other hand, there are various internet methods to secure rate quotes by which shippers are bombarded with freight quotes within minutes. These are accessed by shippers going directly to OTI websites or to other real time rate comparison platforms available to the shipping public. Shippers have no need for the FMC tariff system as evidenced by the fact that that no one uses it. In many cases shippers are not even aware it exists.
- As previously mentioned the FMC tariff system offers no substantive advantages to the shipping public. It's only purpose appears to be a hammer used to pummel small and medium-sized USA businesses (NVOCCs) to submit to large penalty settlements with the Bureau of Enforcement. Many times these penalties involve strictly technical issues where there is no commercial "victim". Inevitably, allegations of failing to publish appropriate tariff rates are tagged on to increase the penalty. The FMC provides little, if any direction with respect to how documents should be prepared, carrier contracts signed, etc., and more particularly, the correct use of the co-loading rules within the tariff regulatory system has become even more mystifying. The FMC website routinely headlines six figure settlements for "alleged" violations but does not provide detailed guidance as to how others can comply with obscure federal statutes, regulations or their interpretation. It is not that



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the industry does not want to comply. The problem is the FMC provides little or no meaningful guidance. Dealing with the FMC is the regulatory equivalent of “guess what number I am thinking of”. In any case, the nonsensical tariff publishing of rates regulations, and all other regulations which make reference to these should be eliminated in that they are costly and achieve no worthwhile industry benefit.

- Millions of dollars are spent annually trying to comply with an ambiguous regulatory system that does not contribute in any meaningful way to the public good. Carriers, including OTIs devote significant resources (i.e., employees, computer systems and payments to tariff bureaus) to publish rates that are seldom, if ever, accessed by the shipping public. Ultimately, shippers and taxpayers pay the price of unnecessary tariff filing regulations. Tariff filing regulations require carriers to maintain rate publishing systems and the FMC to focus its limited resources and staff on corresponding tariff compliance and enforcement activities, all for information which is not accessed by the public. The question needs to be asked: why spend many millions of dollars to accumulate and regulate information that is basically archived, never used and serves no public or commercial purpose?

NRAs, NSAs, and Co-loading. NRAs, NSAs and Co-loading mechanisms are merely regulatory outgrowths of the archaic tariff rules. In fact, these mechanisms came into being as a result of the Commission’s statutory authority to exempt certain activities from the statutory requirements of tariff publishing. Therefore, it would seem insensible to do away with tariff rate publication and retain the exemptions to these. In other words, if there are no rate tariff publication requirements, why have other mechanisms to exempt one from tariff publication? NRAs, for example, have become another collection bin for inane enforcement. Currently these are being



overregulated by Commission staff. There are requirements imposed on their use which are not based on regulatory requirements. Commission staff issues “cease and desist” orders on the use of NRAs if the regulations (many times the unwritten regulations) are deemed to have been violated, The NRA concept should be allowed to exist if they are commercially useful to OTIs and their customers, but they should not be another source for the collection of penalties. NRAs should be allowed to contain the full understanding of the parties without restrictions. Or they can be the vehicles for single isolated shipments. The marketplace should dictate their use. Again, we note by comparison the economically healthy environment of IACs and their customers commercially unfettered by federal regulation. In this deregulated environment, there would be no need for NSAs. They would be superfluous. Due to recent interpretations by Commission staff, co-loading regulations have also become useless and should be eliminated. The staff has taken the legal stance, based on an FMC case, *California v. Yang Ming* (1990), that carrier to carrier agreements are unlawful if the masterloading NVOCC is a party to a service contract. The conclusions of this Commission staff interpretation is that such arrangements are nothing more than unlawfully allowing a non-party to a service contract access to that service contract. There have been some large penalties compromised based on those interpretations. The co-loading rules have, therefore, become useless by uncertain enforcement and should be eliminated. OTIs and their customers should be left free to structure their commercial relationships without federal interference.

Conclusion. President Trump has stated that small businesses are the economy’s economic engine and that his administration will take steps to eliminate unnecessary regulation so small businesses can lead our economy to a growth rate exceeding 3%. Unnecessary tariff publication regulations unduly burden small businesses that are integral to our nation’s economic success. The choice is



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simple. We either spend funds on regulations and their resulting enforcement that contribute little if anything to the public good and which serve no useful purpose, or we use our very limited capital in a productive manner to encourage job creation, and to discourage the loss of jobs. ,

DATED: June 27, 2017

Russ Romine