

**BEFORE THE
FEDERAL MARITIME COMMISSION**



Petition No. P1-21

**PETITION OF KAWASAKI KISEN KAISHA, LTD. AND "K" LINE AMERICA, INC. FOR A
TEMPORARY EXEMPTION FROM STANDARD TARIFF & SERVICE CONTRACT FILING
REQUIREMENTS**

Pursuant to Rule 92 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.92, Kawasaki Kisen Kaisha, Ltd. and their agents, "K" Line America, Inc. (hereunder "K" Line) hereby urgently petition the Federal Maritime Commission ("FMC" or "Commission") for a temporary exemption from 46 C.F.R. § 520.7(c), 46 C.F.R. § 520.8 (a)(1), 46 C.F.R. §520.8(4), 46 C.F.R. §530.8(a)(1), 46 C.F.R. §530.3(i) and 46 C.F.R §530.14(a). "K" Line seeks this temporary exemption for the sole purpose of best serving its customers by requesting retroactive application of tariff publications and service contract filings impacted by the recent cyber-attack against K Line, for a period of up to 60 days following the cyber-attack. As set forth herein, impacted publications include tariff rates, charges and rules; impacted filings include both original service contracts and amendments.

We recognize and appreciate the Commission's gracious extension of 30-day flexibility for service contract and amendment filings as the shipping industry navigates the coronavirus pandemic. Given major system impacts due to the recent cyber-attack, we respectfully request authorization to retroactively apply agreed service contract rates and terms to shipments received by "K" Line on or after March 17, 2021, for a period of 60 days.

Similarly, "K" Line requests flexibility to retroactively apply tariff rates, charges and rules communicated to its customers but for which its systems are currently unable to facilitate tariff publication. "K" Line seeks this flexibility to best serve its customers and will not use this flexibility to apply increased tariff rates or charges to customers absent an alternate form of written 30-day notice clearly communicated to customers. Granting this petition will allow "K" Line to apply service contract rates agreed upon with customers and tariff terms offered to

customers for shipments received before filing or publication can be accomplished, rather than requiring customers to pay higher tariff rates due to “K” Line’s inability to conduct timely service contract filings or tariff publications.

Under the Shipping Act, exemptions are authorized if the Commission finds that “the exemption will not result in substantial reduction in competition or be detrimental to commerce.” 46 U.S.C. § 40103(a). As set forth below, the relief requested herein will benefit U.S. commerce, as opposed to inflicting harm, and will not serve to reduce competition.

A malicious cyber-attack against “K” Line severely inhibited the operation of “K” Line’s information systems starting on March 18, 2021. “K” Line notified the Commission on March 19, 2021, the day the extent of the attack was discovered. The attack has impacted “K” Line’s ability to timely publish tariff rates and rules and to timely file service contracts and amendments.

Considering the foregoing, “K” Line hereby requests relief from the Commission’s regulations to allow tariff publications and service contract filings to have retroactive application so long as they are published and filed within 60 days following March 17, 2021.

In granting this petition the Commission will support the flow of U.S. commerce by allowing “K” Line to honor rates, charges and rules offered to its customers. “K” Line is leveraging currently functional systems to track its commitments to customers and minimize any negative impacts on customers from this cyber-attack. The flexibility to publish and file those commitments as soon as practicable is crucial to reducing potential burdens on customers. Granting this petition will serve to keep the global supply chain moving. The Commission will aid commerce by allowing the “K” Line to continue tariff and service contract filings necessary for the market flow of commerce to/from the United States. The relief requested herein will not reduce competition or be detrimental to commerce; quite the opposite is true, as it allows “K” Line to continue offering sustainable transportation services to U.S. customers.

Given the extraordinary nature of this cyber-attack and its far-reaching impacts on “K” Line’s ability to perform functions vital to ocean common carriers, “K” Line appreciates the Commission’s urgent consideration of this petition.

Respectfully submitted,
/S/
John P. Meade
General Counsel
“K” Line America, Inc.
On behalf of itself and
Kawasaki Kisen Kaisha, Ltd.
March 23, 2021

