

**BEFORE THE
FEDERAL MARITIME COMMISSION**



Petition No. PI-22

**Petition of Expeditors International of Washington, Inc. for a
Temporary Exemption from the Statutory Tariff Publication
Requirements**

Expeditors International of Washington, Inc. ("Expeditors" or "the company"), a non-vessel-operating common carrier (NVOCC) licensed by the Federal Maritime Commission (FMC), hereby urgently requests, pursuant to 46 USC 40103 and 46 CFR 502.92, an exemption from the statutory tariff publication requirements at 46 USC 40501 and the corresponding FMC regulations at 46 CFR 520.7(c), 520.8(a)(1) and 520.8(a)(4), to allow time for it to cope with the consequences of a targeted cyber-attack that caused it to shut down most of its operating systems globally in protection of its systems, including its ability to access and update its electronic ocean transportation rate tariffs.

A February 20, 2022 press release issued by the company explains the situation in more detail as follows:

SEATTLE, WASHINGTON – February 20, 2022, Expeditors

International of Washington, Inc. (NASDAQ:EXPD) announced that on February 20, 2022, we determined that our company was the subject of a targeted cyber-attack. Upon discovering the incident, we shut down most of our operating systems globally to manage the safety of our overall global systems environment. The situation is evolving, and we are working with global cybersecurity experts to manage the situation. While our systems are shut down we will have limited ability to conduct operations, including but not limited to arranging for shipments of freight or managing customs and distribution activities for our customers' shipments.

The security of our systems, minimizing the impacts on our customers, and providing our customers with timely and accurate information are our highest priorities. We are conducting a thorough investigation to ensure that our systems are restored both promptly and securely, and on a parallel track, evaluating ways with our carriers and service providers to mitigate the impact of this event on our customers. Since it is extremely early in the process, we cannot provide any specific projections on when we might be operational, but we will provide regular updates when we are able to do so confidently.

NVOCC shipment documents issued by Expeditors have been directly affected, because they are linked to its tariff to ensure that rates charged conform to those in the published tariff. Without access to the tariff, those documents and related freight bills must be issued by other means, based on available rate information not affected by the cyber-attack.

For that reason, Expeditors requests an exemption from the statutory tariff publication requirements for customer shipments that must continue to move while the issues related to the cyber attack are being resolved.

The requested exemption would apply to shipments for which a rate has been quoted in writing to a shipper, and agreed by the shipper, but which cannot be published in the tariff until the operation of the tariff has been restored. Ordinarily, rates published in the tariff based on these agreed quotations are reductions from the general cargo NOS rate that would otherwise apply. Under the law and related FMC regulations such rates are effective upon publication. Apart from the tariff, it is Expeditors' practice to keep written internal records of such agreed rate quotations. It would continue to do so during the tariff interruption period, so that the tariff can be updated to reflect the agreed rates once service is restored.

Expeditors has more than 100 offices on five continents. It handles a very large volume of ocean cargo, making the rating of shipments and the updating of the tariff a complex undertaking. The company is therefore asking for a 90 day exemption to allow enough time to restore operation of the tariff and update it accordingly.

The requested exemption would meet the statutory requirements that it will "not result in substantial reduction in competition or be detrimental to commerce." 46 USC 40103(a). The exemption would not in any way affect competition. It would benefit shippers by allowing them to have uninterrupted service at agreed rates. Especially in this period of supply chain disruption and port congestion arising from the pandemic, the requested exemption would avoid further strain on an ocean transportation system already under duress.

The FMC has granted tariff exemption requests in two other recent cases where carriers have been the targets of cyber-attacks. *Petition of CMA CGM S.A., et al for a Temporary Exemption from the Standard Tariff and Service Contract Filing Requirements*, Petition No. P2-20, served October 20, 2020. *Petition of Kawasaki Kisen Kaisha, Ltd. and "K" Line America, Inc. for a Temporary Exemption from the Standard Tariff and Service Contract Filing Requirements*, Petition No. P1-21, served April 9, 2021. Granting relief in those cases, the FMC noted that it only has statutory authority to grant exemptions prospectively, and that updating of tariff rates for shipments affected by the shutdown of the tariff prior to the date of the exemption would have to be processed under a separate procedure, pursuant to 46 USC 40503 and the regulations at 46 CFR 502.271(b), within 180 days from the date of sailing of the vessel from the port at which the cargo was loaded. If an exemption is granted, Expeditors anticipates that it would follow those procedures for shipments on which rates were quoted and agreed during the period from the date of the attack to the effective date of the exemption.

For the reasons set forth above, Expeditors respectfully requests a 90 day exemption from the tariff publication requirements at 46 USC 40501 and the FMC regulations at 46 CFR 520.8(a)(1) and (4).

Respectfully submitted,

A handwritten signature in black ink that reads "Richard D. Gluck". The signature is written in a cursive style with a prominent initial "R".

Richard D. Gluck

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February 25, 2022