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Congress of the United States

House of Representatives  
 SECRETARY  
 FEDERAL MARITIME COMM  
 Washington, DC 20515-1313

JUDY BIGGERT  
 13TH DISTRICT, ILLINOIS  
 COMMITTEES.  
 EDUCATION AND THE WORKFORCE  
 FINANCIAL SERVICES  
 SCIENCE  
 STANDARDS OF OFFICIAL CONDUCT

September 19, 2003

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

RE: Petition P3-03

Dear Secretary VanBrakle:

It is my understanding that UPS has filed for an exemption from regulations that prohibit Non-Vessel Operating Common Carriers (NVOCC) from entering into confidential contracts with their customers. Due to recent developments within the ocean shipping marketplace and the operational characteristics of UPS, I write in strong support of the UPS petition currently pending before the FMC.

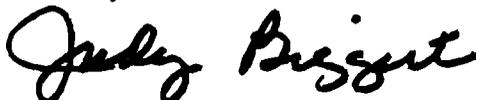
With passage of the Ocean Shipping Reform Act (OSRA) of 1998, Congress signaled that NVOCCs would be regulated differently than vessel operators. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs must make public their rate structures, unlike vessel operators which can engage in confidential contracting.

However, the state of the U.S ocean shipping industry has changed dramatically since passage of OSRA, when most NVOCC's were small enterprises that neither owned ocean vessels nor the cargo being shipped. 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 have a competitive advantage over NVOCC's like UPS, which is required to publish its rate structure.

UPS operates the most sophisticated, integrated, intermodal transportation network in the world, which includes air, rail, surface and NVOCC transportation. In addition, UPS is registered with the Department of Transportation as a "carrier" in the surface and air freight industries. Because of its large capital base and its significant annual capital investments in transportation infrastructure and assets, there is little risk that UPS will not be able to meet the obligations of its service contracts. Given its asset-intensive nature, UPS has mitigated the risk of non-performance that motivated Congress in 1998 to prescribe a different regulatory structure for NVOCC's than vessel operators.

While anticipating dramatic changes in the ocean shipping industry with the passage of **OSRA**, Congress could not contemplate how fast or how smoothly the market could adapt to these **changes**. That is why Congress granted broad exemption authority to the FMC. In recognition **of** the evolution of the ocean shipping industry and the unique characteristics of UPS, I urge the FMC to exercise its exemption authority and seriously consider granting UPS's petition. In doing so, the FMC **will** level the playing field between asset-intensive **NVOCC's** and **vessel** operators to the benefit of ocean shipping customers around the world.

Sincerely,

A handwritten signature in black ink that reads "Judy Biggert". The signature is written in a cursive, flowing style.

Judy **Biggert**  
Member of Congress



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OFFICE OF THE SECRETARY  
FEDERAL MARITIME COMM

# Judy Biggert

U.S. House of Representatives

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FAX TRANSMISSION COVER SHEET

DATE: 9/22/2003

TO: BRYANT L. VANBRAXLE 523-0014

- FROM:
- U.S. Representative Judy Biggert
  - Paul Doucette
  - Danielle English
  - Dean Franks
  - 
  - Kathy Lydon
  - Jeff Hennie
  - Dawn Troost
  - Jaimie Vickery

COMMENTS:

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