Marty Langtry

From: Marty Langtry
Sent: Monday, March 12, 2012 2:03 PM
To: 'secretary@fmc.gov'
Subject: Docket No. 11-09, Comments on Proposed Adjustment of the Amount for the FMC Optional China Bond Rider

Please see attached comments:

FTN Comments on
FMC NPR Re NVO...

Copies are also being sent via FedEx.

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ORIGINAL

Before the Federal Maritime Commission

Comments in Response to the January 11, 2012 Notice of Proposed Rulemaking Regarding Adjustment of the Amount for the Optional Rider for Proof of NVOCC Financial Responsibility for Trade With the People's Republic of China

Docket Number 11-09

Submitted by

FedEx Trade Networks Transport & Brokerage, Inc.

FedEx Trade Networks Transport & Brokerage, Inc ("FedEx Trade Networks") hereby submits these comments in response to the Federal Maritime Commission's ("FMC") *Notice of Proposed Rulemaking* regarding an adjustment to the optional rider amount, which serves as proof of NVOCC financial responsibility in trade with China. FedEx Trade Networks is a large freight forwarder and non-vessel operating common carrier ("NVOCC") licensed by the FMC. FedEx Trade Networks provides transportation services worldwide, and we submit these comments based on our long experience in the ocean transportation industry.

In the *Notice of Proposed Rulemaking*, the FMC proposes to adjust the minimum amount of the NVOCC bond to satisfy Chinese Ministry of Commerce ("MOC") requirements. The minimum bond would increase from $96,000.00 to $125,000.00 USD, the later value equating to 800,000 RMB. The change is proposed in response to a MOC request and would be granted by the U.S. "in a spirit of comity and good faith with our trading partner." FedEx Trade Networks agrees. Because of currency fluctuation and a lack of clarity in the 2003 *Memorandum of Consultations* to the *Agreement on Maritime Transport between the Government of the United States of America and the Government of the People's Republic of China*, the increase is reasonable. It is more cost effective and convenient for U.S. NVOCCs to use bonds to satisfy MOC requirements for conducting NVOCC business than to make a cash deposit in a Chinese bank. While the proposal would increase NVOCC liability amounts, FedEx Trade Networks has not experienced a demand on our bond by the MOC and no complaints have been reported by others on the FMC website.

The FMC additionally proposes to change the method by which NVOCCs can demonstrate financial responsibility. The agency would allow bond amounts to be aggregated. FedEx Trade Networks strongly endorses this proposal. The 2003 *Memorandum of Consultations* only requires that the NVOCC ". . . [p]rovides evidence of financial responsibility in the total amount of 800,000 RMB or $96,000 U.S. (certificate of bond as proof of credit.)." There is no requirement that any portion of the full sum be set out in a bond rider. Allowing NVOCCs to meet the increased bond requirement by maintaining a bond of at least $125,000.00 would both fully satisfy the terms of the U.S.-China agreement and be more cost effective and efficient.