



U.S. Department
of Transportation
**Maritime
Administration**

Southeast Federal Center
1200 New Jersey Avenue, SE
Washington, DC 20590

October 16, 2022

Mr. W. Richmond Beevers
Chief, Cargo Security, Carriers and Restricted Merchandise Branch
90 K Street, NE 10th Floor
U.S. Customs and Border Protection
Washington, DC 20229

Dear Mr. Beevers,

This letter responds to your October 15, 2022, letter forwarding an October 15, 2022, request from Naturgy Aprovevisionamientos S.A. (Naturgy) and AES Andres DR S.A. (AES) to waive the Jones Act pursuant to 46 U.S.C. § 501(b). Specifically, U.S. Customs and Border Protection (CBP) requests that the Maritime Administration (MARAD) conduct a market survey to determine whether there are U.S.-flag coastwise-qualified vessels available to meet national defense requirements with respect to this waiver request.

Naturgy and AES request a waiver to allow the foreign-flagged METHANE PRINCESS to transport 30,000 cubic meters of liquified natural gas (LNG) from the Dominican Republic to San Juan, Puerto Rico for delivery on October 16, 2022. Although the voyage between the Dominican Republic and Puerto Rico does not involve transportation between coastwise points, our understanding is that this fuel was originally transported on October 1, 2022 from Calcasieu Pass, Louisiana by a non-coastwise-qualified vessel to the Dominican Republic, where it has been stored since October 6, 2022. Based on our understanding of relevant CBP administrative rulings, the storage of the fuel in the Dominican Republic has not broken the continuity of the voyage from Louisiana for Jones Act purposes, so that the relevant voyage to consider is from Louisiana to Puerto Rico. Since part of the transportation of the subject fuel—from Calcasieu Pass to the Dominican Republic—has already occurred via a non-coastwise-vessel, any further transportation of the fuel by any vessel to a U.S. port would require a waiver to avoid a violation of 46 U.S.C. § 55102.

MARAD cannot conduct a retroactive market survey of vessel availability for the waiver request under 46 U.S.C. § 501(b) because the relevant transportation commenced October 1, 2022. However, given the applicant's statement that LNG is needed in Puerto Rico under current conditions, CBP requested a two-hour market survey closing at 5:00 p.m. October 15, 2022, to determine "whether there are any coastwise-qualified vessels that can deliver 30,000 cubic meters (or any other quantity) of LNG to the EcoElectrica LNG terminal in Penuelas, Puerto Rico, by October 16, 2022." MARAD conducted the survey as requested and continued to engage industry members with capacity until 8:00 this morning. The survey yielded the following results.

Vessel Name	Ship Type	Capacity (m3)	Operator	Availability
Q-LNG 4000	ITB	4,000	Harvey Gulf	October 18, 2022

Since the time of your original request, we have also received information from other federal agencies and reviewed a letter from the Governor of Puerto Rico, dated October 14, 2022, describing the emergency status on the island caused by Hurricane Fiona. In that letter the Governor—the principal leader responsible for response and recovery efforts on the island—describes an ongoing emergency where power outages will “could continue if we are unable to replenish LNG to EcoEléctrica, since it only has enough LNG to continue to generate electricity for less than 24 hours. This could also affect hospitals and businesses, which is particularly damaging considering that we are still recovering from Hurricane Fiona.” The letter from Puerto Rico’s Governor describes an immediate need for fuel to be delivered within a day. If the national defense requirement is determined to be delivery of LNG by October 16, 2022, then based on the results of the survey and ongoing outreach to industry and Federal agency partners, no U.S.-flag vessels appear to be available to deliver fuel today.

CBP has also requested a market survey to determine whether there are any coastwise-qualified vessels already on the water with intended delivery of LNG to the EcoElectrica LNG terminal in Penuelas, Puerto Rico, and if so, what their anticipated arrival and delivery dates are; and the availability of coastwise-qualified vessels that can deliver 30,000 cubic meters (or other quantity) of LNG to the EcoElectrica LNG terminal in Penuelas, Puerto Rico, between October 17 and October 26, 2022. As stated above, we are aware of one vessel that has some capacity to deliver LNG on October 18, 2022. MARAD is currently conducting a market survey regarding these questions and will respond in separate correspondence with our determination based on the results of that survey.

The waiver request made by the Naturgy and AES is novel and problematic. We propose that we meet at your earliest convenience to discuss the survey process in such scenarios.

If you have any further questions or concerns, please contact Michael Hokana on my staff at Michael.Hokana@dot.gov.

Sincerely,



Rear Admiral Ann C. Phillips (USN, Ret.)