

IN THE UNITED STATES COURT
FOR THE DISTRICT OF PUERTO RICO

CAPTAIN TOMÁS BUSTO-
ÁLVAREZ, ET AL.,

Plaintiffs,

v.

NFENERGIA LLC,

Defendant.

Civ. No.: 25-1462 (SCC)

ORDER

On September 17, 2026, the Plaintiffs alerted the Court of Defendant NFEnnergia's intention for the LNG AMUR/River's (the "AMUR River") next port of call to deliver liquefied natural gas to be the Port of San Juan. Docket No. 346. The wrinkle, according to the Plaintiffs, with Defendant NFEnnergia's plan to use the AMUR River, instead of the Energos Maria or the Energos Princess, to deliver the liquefied natural gas, is that that decision violates the Interim Stipulation of Measures (the "Stipulation") at Docket No. 124. Plaintiffs specifically claim the use of the AMUR River contravenes the Stipulation, for at least two reasons. First, they claim that the Stipulation only contemplated maneuvers regarding two LNG vessels, to wit, the Energos Maria and the Energos Princess. Second, they argue that the intended maneuver violates

Paragraph 3 of the Stipulation. That paragraph describes the tugboats to be used for “LNG tankers navigating and berthing in the San Juan Harbor.” Docket No. 124, pg. 2. Plaintiffs contend that, albeit knowing that the AMUR River is larger than the Energos Maria and the Energos Princess, Defendant NFEnergia has failed to specify the tugboats that will be used for the maneuver. The Court instructed Defendant NFEnergia to show cause as to the arguments raised by the Plaintiffs and ordered that, until this dispute is resolved, “no movement of the” AMUR River, “or of any LNG vessel, other than the MV Energos Maria and the MV Energos Princess shall occur within the Port of San Juan.” *See* Docket No. 348.

Defendant NFEnergia responded to Plaintiffs’ position, Docket No. 349, and Plaintiffs replied, Docket No. 353. Based on the written submissions, the Court scheduled an Emergency Hearing. Docket No. 352. During the Emergency Hearing the Court determined that the Stipulation does not exclusively apply to the Energos Maria and the Energos Princess. But in doing so, the Court noted the relevant context—that is, that the Stipulation’s limited scope could be attributed to the fact that no other vessels were mentioned or contemplated during the proceedings that ultimately resulted in its crafting. Furthermore, the Court ordered the parties to “file a Joint Motion assuring that the pilots on duty were provided with the necessary information, that they are comfortable to move

forward with the maneuver and that the tugs that will be used comply with Paragraph 3 of the Stipulation[.]” Docket No. 354. What has ensued since the Emergency Hearing and the Court’s directives at Docket No. 354 has been a blitzkrieg of filings, *see* Docket Nos. 357, 362, 363, 364, 367, 368, 370, 371, 372. This is the Court’s attempt at carving out a path to move forward.

First thing is first. Are the Plaintiffs satisfied that Paragraph 3 of the Stipulation will be complied with if the maneuver of the AMUR River occurs? As things stand, they are not.¹ Defendant NFEnergia represents that, for this call, the following tugs will be available: (1) Ava M. McAllister; (2) Maxwell Paul Moran; (3) Audrey McAllister and (4) Hayley Moran. Docket No. 363, pg. 5. It adds that it “has furnished a bollard-pull certificate and an American Bureau of Shipping class certificate for each[.]” *Id.* But Plaintiffs say those are half-truths. Docket No. 364, pg. 8. Plaintiffs counter the documents produced do not allow them to ascertain the current class status of the tugs. *Id.* The Court understands Plaintiffs’ request for current certificates is not unreasonable and is something Defendant NFEnergia can obtain. Accordingly, Defendant NFEnergia shall **immediately** procure and produce the same.

¹ Based on the representations advanced in Defendant NFEnergia’s latest filing, Captain Daniel Montes, a fellow member of the San Juan Bay Pilots Corporation, does not appear to have a problem with the lack of up-to-date certificates. Docket No. 370. He is not, however, a plaintiff in this suit. But more on that later.

Second, three days ago, Plaintiffs represented that the pilots on duty were prepared to carry out the maneuver if the following three conditions were satisfied: “(1) that the pilots receive written confirmation from the Captain of the Port that he had no objection to movement and berthing of the AMUR River, having been advised of her beam and of the encroachment stated in NFE’s pending permit application; (2) that the wind conditions, including gusts, be below 10 knots, and (3) that standby tugs be in place while the AMUR River was moored.” Docket No. 362, pg. 3. The parties agree that the second condition is a nonissue. The active disputes therefore concern the first and third conditions.

Simply put, the first condition is asking for Defendant NFEnergia to provide assurance that the AMUR River fits into the berth pocket. Once again, context is key. This request is important due to statements made by the Captain of the Port in prior Letters of Recommendation. A review of the same reveal that, the Captain of the Port’s blessings for LNG vessel movements have been granted based, in part, on the premise that the dimensions of the LNG vessels to transit towards the Port of San Juan were less than those of the AMUR River and after continuous evaluation that the safety measurements put in place to ensure its safe berth and subsequent mooring were sufficient. Defendant NFEnergia could put the kibosh on this first dispute if it provides the information requested by the

Plaintiffs and that the Court ordered it to produce or if it provides documentation certifying that the AMUR River will fit into the berth pocket. Instead, Defendant NFEnergia has continued to stall proceedings by refusing to provide this critical information.

Making matters worse is the recent development that, Captain Daniel Montes (“Captain Montes”), has stated under penalty of perjury that after “evaluat[ing] the factors that pilots ordinarily consider in determining whether a vessel movement may safely proceed,” he has volunteered, to, as one of the pilots now on duty, perform the maneuver with the AMUR River. Docket No. 370-1, pg. 2. Based on that assertion, the Court is forced to conclude that Captain Montes, who the record reflects has repeatedly aligned his interests with Defendant NFEnergia, was provided documentation that allowed him to conclude that the AMUR River fits into the berth pocket. This begs the question: if the information exists, why has Defendant NFEnergia withheld the same from the Plaintiffs?² The Court is simply at a loss for words as to why this information has yet to be provided. Accordingly, Defendant NFEnergia is ordered to **immediately** provide **all** the information that Captain Montes relied on to conclude that the vessel’s dimensions are safe to perform the maneuver, in addition to producing the

² Now, if the information does not exist, that in turn would mean that Captain Montes has effectively perjured himself.

information that Plaintiffs have been requesting and the Court previously ordered it to produce.

The third condition also makes sense. To be clear, the Plaintiffs have not refused to perform the maneuver at issue. Rather, they have acted to ensure that it is done in a safe manner. They have also been sensible with their demands and have offered an alternative: if the AMUR River does not fit into the berth pocket, notwithstanding the potential encroachment, while it is moored, there should be at least two standby tugboats for safety purposes. Docket No. 369, pgs. 4-5. Defendant NFEnergia refuses to pay for those stand by tugs. Instead, it tries to divert the Court's attention by reframing Plaintiffs' request for the standby tugs as an attempt to litigate a separate matter that is currently before a sister court and concerns the use of standby tugs. Docket No. 363, pgs. 4-5. The Court reviewed the issues at play in that case and has concluded that at the crux of that complaint are certain regulations adopted by the San Juan Bay Pilots Corporation. While the regulations address the use of standby tugs, they are not being invoked in this case as the reason for why the standby tugs are required. Given how things stand, if Defendant NFEnergia cannot provide the information showing that there is no encroachment, it follows that additional security measures, such as the use of two standby tugs, should be put in place. The Court understands that the main issue as to this

condition is Defendant NFEnergia's refusal to pay for the standby tugs, but, instead of complying, it has spent both considerable ink and money in the motion practice that has taken place since the filing of Plaintiffs' motion last week. What is stopping Defendant NFEnergia from, at least based on these extraordinary circumstances, paying for the standby tugs? Only Defendant NFEnergia knows the answer to this question.

Admittedly, at first blush, the conditions that are being disputed are not explicitly mentioned in the Stipulation. However, they encompass the spirit of the same.³ The transcripts that memorialized the proceedings leading up to the execution of the Stipulation highlighted the overarching concern attached to this action: the safety of those on the island of Puerto Rico and who, in turn, may be directly impacted if something goes wrong with the maneuvers of the LNG vessels

³ The Court also adds that During the Emergency Hearing, Plaintiffs repeatedly directed the Court to excerpts from the transcript of proceedings that took place back in November 2025. Specifically, the Court was directed to the statements made by Attorney Alberto J. Castañer-Padro, counsel for Defendant NFEnergia. During the November 2025 proceedings, Attorney Castañer-Padro, represented to this Court that "the infrastructure on the terminal is tailormade to the current vessel," so he reasoned that conducting simulations larger than the vessels that were being used, would, essentially be a fool's errand. Docket No. 201, pg. 52. This bolsters the Court's understanding that the consequences of bringing in a larger vessel than the Energos Maria and Energos Princess was not contemplated in the Stipulation, precisely because, based on Defendant NFEnergia's representations, that scenario was not a possibility.

transiting the Port of San Juan. To date, and notwithstanding how the merits of the pending suit shake out, that remains the Court's north star.

A final note. As the clock struck midnight, the Puerto Rico Public-Private Partnerships Authority and the Office of the Energy Czar (collectively, the "Government Energy Offices") filed an Urgent Informative Motion. Docket No. 367. There, they acknowledged that they are not parties to this suit. But they offered to facilitate discussions between those that are. To be clear, the record shows that the Government Energy Offices and Genera PR LLC moved to intervene. *See* Docket Nos. 63, 85, 102. While those requests were denied, Docket Nos. 90, 129, those rulings were never intended to prevent those entities from lending a helping hand to the Plaintiffs and Defendant NFEnergia, should their assistance be necessary and accepted by the parties.

Having clarified this point, if the Government Energy Offices and any other entity understand that they can facilitate discussions between the parties and assist in the production of the documents being requested, they do not require the Court's approval to engage in those conversations. After all, this is not the time to, at the expense of the people of Puerto Rico, continue playing hot potato regarding who is to blame for the precarious situation the island's electrical grid is in.

In Spanish, there is a saying that goes like this: “se les vio la costura,” meaning that someone’s motives have become apparent. It is undisputed that the San Juan Bay Pilots Corporation is comprised of eight pilots. Seven are the Plaintiffs in this case, the other is Captain Montes. Given the timeline of events, the Court is under the impression that Defendant NFEnergia has purposefully stalled the disclosure of critical information as a tactic to gain time until Captain Montes went on duty and expressed his acquiescence, as he has repeatedly done, to Defendant NFEnergia’s demands. Surprisingly, Defendant NFEnergia’s detailed motion stating Captain Montes’ availability to conduct the maneuver was filed an hour after he went on duty. *See* Docket No. 370. The only way that Captain Montes could have reviewed the voluminous production he claims, under penalty of perjury, to have reviewed, for Defendant NFEnergia to have prepared its motion and for Captain Montes’ affidavit to have been prepared, is if all that drafting had been in the works hours prior.

Accordingly, on before **2:00 p.m. on September 25, 2026**, Defendant NFEnergia shall show cause as to why it should not be sanctioned for its lack of candor when it failed to disclose the Revised Public Notice during the Emergency Hearing, why it stalled proceedings and wasted the Court’s time until Captain Montes went on duty, and why it has failed to comply with the

Court's order of production. Further, also on or before **2:00 p.m. on September 25, 2026**, Defendant NFEnergia must comply with the directives outlined in this Order. Importantly, failure to comply with this Order may result in the imposition of monetary sanctions in the amount of \$10,000.00. The interim relief afforded at Docket No. 348 remains in place.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 24th day of September 2026.

S/ SILVIA CARREÑO-COLL
UNITED STATES DISTRICT COURT JUDGE