

FEDERAL MARITIME COMMISSION

PETITION OF COMPAÑÍA SUD
AMERICANA DE VAPORES S.A.
FOR AN EXEMPTION FROM 46
C.F.R. § 530.10

Petition No. P1-15

Served: April 1, 2015

BY THE COMMISSION: Mario CORDERO, *Chairman*; Rebecca F. DYE, Richard A. LIDINSKY, Jr., Michael A. KHOURI, and William P. DOYLE, *Commissioners*.

Order Granting Petition

I. Petition

On January 21, 2015, Compañía Sud Americana de Vapores S.A. (CSAV or Petitioner) filed with the Federal Maritime Commission (Commission) the above-captioned Petition for Exemption from 46 C.F.R. § 530.10, pursuant to the Commission's Rules of Practice and Procedure at 46 C.F.R. § 502.76. The Petition was published in the *Federal Register* on February 6, 2015, 80 Fed. Reg. 6713, and the comment period was closed on February 18, 2015. No comment was filed with the Commission.

CSAV is a Chilean vessel operating common carrier. Petition at 1. CSAV entered into a Business Combination

Agreement on April 16, 2014, whereby CSAV agreed to transfer its container shipping business to Hapag-Lloyd AG (HLAG). To effectuate the Agreement, CSAV transferred its container shipping business to its wholly-owned subsidiary Norasia Container Lines Limited (Norasia), a Maltese corporation. As a part of the process, Norasia was added as a party to all of CSAV's existing service contracts to which Norasia was not already a party. Pursuant to the CSAV Group Cooperative Working Agreement filed with the Commission (Agreement No. 011672), CSAV, Norasia, and CSAV's other subsidiaries have been authorized to enter into joint service contracts.

As a result of the change, as of December 1, 2014, all services under the joint service contracts involving CSAV have been provided to shippers by Norasia and by another CSAV subsidiary, Compania Libra de Navegacion Uruguay S.A. Although CSAV remains a vessel operating common carrier due to services with its car carriers and refrigerated vessels, CSAV no longer operates a container service. Petition at 2. CSAV asserts that this change in corporate structure has resulted in no change to the existing operations under the joint service contracts, and has caused no prejudice to any shipper counter-party. As a result, CSAV is a party to joint service contracts under which it no longer provides services to the shippers.

According to CSAV, CSAV's joint service contracts contain no express mechanism for deletion of a party that no longer provides service under the service contract. CSAV believes that it would be an undue burden on CSAV and the shipper parties to its over 500 service contracts to prepare and file individual amendments to remove CSAV from all the joint service contracts prior to their termination in the normal course of business.

Accordingly, in lieu of filings of individual amendment by mutual agreement to remove CSAV as a party, CSAV requests that the Commission permit a universal notice to the Commission and to all affected service contract parties and an electronic notice to each

shipper counter-party. CSAV asserts that the above-referenced notices (and any formal consent required by a shipper) fully informs and protects all shipper counter-parties.

II. Discussion

The Commission's regulations provide that "[s]ervice contract may be amended by mutual agreement of the parties to the contract." 46 C.F.R. § 530.10(b). Amendments to service contracts must be filed with the Commission in the same manner as a new service contract, which requires signing by the parties. 46 C.F.R. § 530.8(b). As CSAV claims, it appears that filing individual amendment for over 500 service contracts may be burdensome both to CSAV and the shippers.

CSAV's Petition seeks an exemption from filings of amendments necessitated solely by an administrative reason due to the change of its corporate structure. Further, as all services are already provided by Norasia or CSAV's other subsidiaries under the relevant joint service contracts, granting the Petition will not result in substantial reduction in competition or be detrimental to commerce.

III. Conclusion

The Commission believes that the process requested by CSAV will adequately protect affected shippers and their rights. CSAV's suggested electronic notice to each affected shipper gives the shipper an option to file an individual amendment.

THEREFORE, IT IS ORDERED, That CSAV's Petition is GRANTED, provided that:

1. Upon granting of the Petition, CSAV notifies, in the form and manner set forth in the Petition, all affected shippers of the change in carrier parties to the joint service contracts;

2. As soon as practical, CSAV file a Universal Notice with the Commission through SERVCON, enumerating all affected service contracts; and
3. If any affected shipper opts to file individual amendment, such amendment shall be promptly filed pursuant to 46 C.F.R. § 530.10(b).

IT IS FURTHER ORDER, That this proceeding is discontinued.

By the Commission.

Karen V. Gregory
Secretary