

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN THE MATTER OF THE ARBITRATION
BETWEEN

ENERGÍA COSTA AZUL,
S. DE R.L. DE C.V.,

Petitioner,

v.

SHELL MÉXICO GAS NATURAL,
S. DE R.L. DE C.V.,

Respondent.
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Civil Action No. 22-cv-06988

~~PROPOSED~~ ORDER
GRANTING EX PARTE
ATTACHMENT

WHEREAS, on August 16, 2022, Petitioner Energía Costa Azul, S. de R.L. de C.V. ("ECA") filed a Motion for an *Ex Parte* Order of Attachment in Aid of Arbitration pursuant to Federal Rule of Civil Procedure ("FRCP") 64 and New York Civil Practice Law and Rule ("CPLR") 7502(c) against Respondent Shell México Gas Natural, S. de R.L. de C.V. ("Shell" or "Respondent") seeking to attach all monies, accounts, property and/or interest in property of Respondent, up to the amount of \$160,443,425.07, as are on deposit with or held by Citibank N.A. or such other bank, financial institution or third party that has possession of monies, accounts, property and/or interest in property of Respondent ("Garnishees");

WHEREAS, Petitioner has demonstrated that *ex parte* relief is necessary due to the possibility that Respondent, a non-domiciliary entity, will remove or dissipate assets if notice of this request for attachment is given to Respondent;

WHEREAS, Petitioner has demonstrated that it has satisfied the grounds for an *ex parte* attachment under CPLR 7502(c) because attachment is needed to secure payment of a foreign

arbitral award granting monetary relief against Respondent, and without an attachment, the award may be rendered ineffectual;

WHEREAS, Petitioner has identified an account held by Respondent at Citibank N.A. in New York;

NOW, THEREFORE, upon the *ex parte* motion of Petitioner through its attorneys Kaplan Rice LLP, **IT IS HEREBY**

ORDERED that Petitioner's Motion for an *Ex Parte* Order of Attachment in Aid of Arbitration is GRANTED and this Order of Attachment shall be effective immediately and shall remain so unless otherwise amended or vacated by this Court.

IT IS FURTHER ORDERED that the amount to be secured by this Order of Attachment is \$160,443,425.07.

AND IT IS FURTHER ORDERED that pursuant to FRCP 64, and Articles 62 and 75 of the CPLR, the U.S. Marshal for the Southern District of New York or any District in the State of New York, or any person appointed to act in his place and stead shall, pursuant to CPLR 6214, levy without taking possession within this Court's jurisdiction upon such monies, accounts, property and/or interest in property of the Respondent as will satisfy the above-mentioned sum of \$160,443,425.07 as are on deposit with or held by the Garnishees (the "Levied Property").

AND IT IS FURTHER ORDERED that pursuant to CPLR 6214, any levy perfected by service of this Order of Attachment shall be extended and any levy by Petitioner on the Levied Property shall remain valid until 30 days after the date of the resolution by this Court (or the agreement of the parties) of any motion to confirm and/or motion to vacate this Order of Attachment or any levy served pursuant to this Order of Attachment;

AND IT IS FURTHER ORDERED that in order to avoid the need to make repeated service of this Order to maintain the effectiveness of this levy on the Garnishees, the statutory 90-day period under CPLR 6214(e) shall be extended and any levy by Petitioner on the Levied Property shall remain valid until 30 days after the date of the resolution by this Court (or the agreement of the parties) of any motion to confirm and/or motion to vacate this Order of Attachment or any levy served pursuant to this Order of Attachment;

AND IT IS FURTHER ORDERED that, within five days of being served a copy of this Order of Attachment, each Garnishee shall serve the statement required by CPLR 6219 upon Petitioner's counsel, Kaplan Rice LLP, by delivery to Howard J. Kaplan at hkaplan@kaplanrice.com;

AND IT IS FURTHER ORDERED that, within ten days of serving this Order of Attachment on the Garnishees, Petitioner shall move – via proposed order to show cause – to confirm this Order of Attachment, pursuant to CPLR 6211(b).

AND IT IS FURTHER ORDERED that Petitioner shall post a bond in the amount of \$15,000 as security within 14 days of this Order of Attachment.

Dated: New York, New York

August 2022

September 6, 2022


United States District Judge