

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

April 21, 2020

Chairman Neil Chatterjee
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Dear Chairman Chatterjee:

The House Committee on Natural Resources has been closely following efforts by the Puerto Rico Electric Power Authority (PREPA) to transform the energy infrastructure on the island. We are writing to request a meeting with Federal Energy Regulatory Commission (FERC) officials to discuss the commission's jurisdiction and analysis associated with the conversion of two units of the Central San Juan power plant to burn natural gas.

The Natural Gas Act declares that the transportation and sale of natural gas "is affected with a public interest," and that regulation of the industry is "necessary in the public interest."¹ The Act also establishes that the Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of an LNG terminal.² While some exceptions apply, the Act defines the term LNG terminal as "all natural gas facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne vessel."³

NFEnergía has entered into a contract with PREPA for the conversion of two units of the Central San Juan power plant to burn natural gas and for the supply of natural gas.⁴ The initial term of the contract is five years, with up to three 5-year extensions.⁵ NFEnergía will be supplying natural gas via a Floating Storage Unit (FSU) in the San Juan bay.⁶

¹ Natural Gas Act of 1938 (amended 2005).

² *Id.*

³ *Id.*

⁴ New Fortress Energy Signs Contract to Supply Natural Gas to San Juan Power Plant, NEW FORTRESS ENERGY (Mar. 15, 2019) <https://www.newfortressenergy.com/news/2019-03-05-new-fortress-energy-signs-contract-to-supply-natural-gas-to-san-juan-power-plant>.

⁵ *Id.*

⁶ NFEnergía as Seller and Puerto Rico Electric Power Authority as Buyer: Fuel Sale and Purchase Agreement, Exhibit H, 110 (Mar. 5, 2019).

According to statements made by PREPA to the Puerto Rico Energy Bureau, NFEnergía informed PREPA that it had conversations with FERC to discuss the contract.⁷ In these conversations, FERC staff allegedly concluded that the new NFEnergía facility would not be subject to FERC jurisdiction because of the absence of a natural gas transmission pipeline taking natural gas from the NFEnergía facility to the San Juan bay.⁸ The absence of a pipeline does not remove this project from FERC jurisdiction because NFEnergía is still constructing an onshore facility to receive and regasify imported natural gas in Puerto Rico.⁹

Please contact us to discuss the commission's stance on NFEnergía's LNG facilities. During this period of social distancing, our discussion can be conducted remotely. Please contact Margarita Varela-Rosa with the Committee's Office of Insular Affairs at Margarita.Varela-Rosa@mail.house.gov or (202) 748-2828 if you have any questions about this request.

Thank you for your attention to this matter and we look forward to your response.

Sincerely,



Raúl M. Grijalva
Chair
Committee on Natural Resources



Nydia M. Velázquez
MEMBER OF CONGRESS



Jesús G. "Chuy" García
MEMBER OF CONGRESS



Alexandria Ocasio-Cortez
MEMBER OF CONGRESS



Darren Soto
MEMBER OF CONGRESS

⁷ Puerto Rico Energy Bureau, Third Discovery Requests, 10 (Oct. 25, 2019).

⁸ *Id* at 11.

⁹ NFEnergía as Seller and Puerto Rico Electric Power Authority as Buyer: Fuel Sale and Purchase Agreement, Exhibit H, 110 (Mar. 5, 2019).