

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

NF Energía LLC)
)
)
)
 Docket No. CP21-496-000

**ADDITIONAL SCOPING COMMENTS BY NON-GOVERNMENTAL
ORGANIZATIONS**

Comité Diálogo Ambiental, Inc.; El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática; Comité Yabucoeño Pro-Calidad de Vida, Inc.; Alianza Comunitaria Ambientalista del Sureste, Inc.; Sierra Club Puerto Rico, Inc.; Mayagüezanos por la Salud y el Ambiente, Inc.; Coalición de Organizaciones Anti Incineración, Inc.; Amigos del Río Guaynabo, Inc.; and Unión de Trabajadores de la Industria Eléctrica y Riego, (collectively, the Joint NGO's) hereby submit this addition to our November 25, 2024 Scoping Comments.¹

The Joint NGOs respectfully request that the Commission consider these comments and recommendations in determining the appropriate scope of its environmental review of NF Energía's operation under the Natural Gas Act and National Environmental Policy Act. In addition, the Joint NGOs request that, for the reasons detailed herein, FERC (1) withdraw the temporary approval granted to NF Energía to supply fuel to San Juan Units 5 & 6; (2) require NF Energía to submit updated Water Suitability Assessment filings; (3) condition any further LNG operations on both immediate and ongoing demonstrations of technical competence, financial capacity, and compliance with Coast Guard and FERC safety requirements.

¹ *Scoping Comments of Environmental Issues by Non-Governmental Organizations*, FERC Accession No. 20241125-5229 (Nov. 25, 2024), available at <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=52A00B56-DFCD-CD7E-B181-936567900001>.

TABLE OF CONTENTS

I. NF Energía Lacks Technical Competence and Financial Ability to Safely Operate the LNG Import Terminal.....	3
A. Dramatic Credit Downgrades and Bond Market Chaos.....	3
B. Financial Weakness Exposed in Securities and Exchange Commission (SEC) Filings	4
C. Institutional Disqualification from Puerto Rico Projects.....	6
II. NF Energía is Causing Major Hazards in San Juan Harbor by Using Larger LNG Tankers in Violation of Coast Guard Restrictions.....	8
III. NF Energía's Own Actions and Changed Circumstances demonstrated that FERC can Withdraw its Temporary Approval of the LNG Import Terminal Without Harming Grid Reliability.....	18
A. Sudden Withdrawal of the Energos Princess on the Eve of Hurricane Erin.....	20
B. A Rapidly Increasing Capacity of Rooftop Solar + Storage Can, And Already Is, Supplanting NF Energía-fueled Gas Plants.....	21
IV. FERC Should Withdraw the Limited Temporary Authorization Granted Four Years Ago in the April 2021 Order on Show Cause.....	22

I. NF Energía Lacks Technical Competence and Financial Ability to Safely Operate the LNG Import Terminal.

As explained in our Scoping Comments, FERC must incorporate consideration of an applicant's technical competence and financial ability into the Commission's review of LNG projects. 15 U.S.C. § 717(b); Scoping Comments at Sect. IV; *see also In re Palisade Irrigation Dist.*, 73 P.U.R.4th 257 (F.E.R.C. 1986) (rejecting license application because applicant lacked the "legal or technical competence to ... construct and operate the project.").

Our scoping comments detailed a long history of NF Energía's problems in this regard. More recent developments only amplify concerns about the applicant's ability to operate the LNG Terminal reliably and safely.

A. Dramatic Credit Downgrades and Bond Market Chaos.

In June 2025, both S&P Global Ratings and Fitch Ratings, major credit rating agencies, downgraded New Fortress Energy, operating in Puerto Rico through its subsidiaries NF Energía and Genera PR, to "CCC" rating amid concerns over heightened refinancing risk and insufficient liquidity to meet debt obligations.² In the wake of the downgrades, some bonds issued by New Fortress Energy plummeted to record lows, trading below 50 cents on the dollar, which in turn persuaded at least two groups of the company's lenders and creditors to organize and retain counsel.³ These rating actions, combined with collapsing bond valuations, bluntly illustrate

² *New Fortress Energy Inc. Downgraded to 'B-' On Weak Credit Measures; Outlook Negative*, S&P GLOBAL June 4, 2025 (available at <https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3382361>); *Fitch Downgrades New Fortress Energy's IDR to 'CCC'; Removes Negative Watch*, FITCHRATINGS, June 5, 2025 (available at https://www.fitchratings.com/research/corporate-finance/fitch-downgrades-new-fortress-energy-idr-to-ccc-removes-negative-watch-05-06-2025?utm_source=chatgpt.com); *S&P downgrades New Fortress Energy to 'CCC' amid refinancing concerns*, INVESTING, July 14, 2025 (available at <https://www.investing.com/news/stock-market-news/sp-downgrades-new-fortress-energy-to-ccc-amid-refinancing-concerns-93CH-4134522>).

³ Carl Surran, *New Fortress Energy plunges as creditors reportedly organize amid sliding bond prices*, SEEKING ALPHA, June 13, 2025 (available at <https://seekingalpha.com/news/4458116-new-fortress-energy-plunges-as-creditors-reportedly-organize-amid-sliding-bond-prices>); Reshma Basu, *Creditors to New Fortress Energy Organize Amid Bond-Price Slump*, BLOOMBERG, June 13, 2025 (available at <https://www.bloomberg.com/news/articles/2025-06-13/creditors-to-new-fortress-energy-organize-amid-bond-price-slump?embedded-checkout=true>).

mounting investor skepticism about the energy company’s ability to service its debts, a troubling sign for an operator in charge of critical energy infrastructure that could have even more serious consequences for public safety, power stability, and Puerto Rico’s economy. Puerto Rico’s residents already are expected to shoulder a vast debt burden;⁴ they must not be put in the untenable position of paying still more to cover a failing company’s unfunded expenditures.

B. Financial Weakness Exposed in Securities and Exchange Commission (SEC) Filings.

On September 5, 2025, New Fortress Energy filed a Form 10-Q with the SEC, with the company’s conclusion that “the Company’s current liquidity and forecasted cash flows from operations are not probable to be sufficient to support, in full, its obligations as they become due, and there is substantial doubt as to the Company’s ability to continue as a going concern.”⁵ To start, the company reported a \$755M loss over the first six months of the year, with negative operating cash flow during that time. *Id.*

New Fortress Energy owes nearly \$850,000 in loans related to the Company’s business in Brazil.⁶ New Fortress Energy failed to make a required \$79,100 payment to the loan holders on August 17, 2025, which allows those loan holders to make the entirety of New Fortress Energy’s debt payable on demand. *Id.*

New Fortress Energy owes nearly \$300,000 on its Term Loan A Credit Agreement.⁷ The company explained that it does not expect to meet the terms of that loan. *Id.* The noncompliance gives the debtholders the option to accelerate repayment schedule or require New Fortress

⁴ *In re: The Financial Oversight and Management Board for Puerto Rico v. The Commonwealth of Puerto Rico, et al.*, No. 17-03283 (Bankr. D.P.R.).

⁵ New Fortress Energy Inc., *FORM 10-Q* at 8, SEC (June 30, 2025), available at https://ir.newfortressenergy.com/node/10066/html#i4ac9b56f28454a6e89cff0485c9df4eb_19

⁶ *Id.* at 14, 26. *See also*, Press Release, New Fortress Energy Adds 1.6 GW, 15-year Contracted Power Asset to Existing Brazilian Infrastructure Portfolio (Dec. 27, 2023) available at <https://ir.newfortressenergy.com/news-releases/news-release-details/new-fortress-energy-adds-16-gw-15-year-contracted-power-asset>.

⁷ *Supra* note 6, Form 10-Q at 7.

Energy to provide additional protections for the remaining debt.⁸ “If substantially all of the Company's outstanding indebtedness is accelerated, the Company would not have sufficient liquidity or capital resources to satisfy the outstanding principal obligations.”

New Fortress Energy owes more than \$500M on its 2026 Notes, and that debt matures on September 20, 2026. If NFEnergía fails to pay that debt, that failure automatically accelerates several other outstanding amounts, running into billions of dollars.⁹

New Fortress Energy discovered flaws in its accounting procedures, meaning the company may have additional financial concerns it does not yet know about.¹⁰

As stated above, New Fortress Energy has already conceded that its current liquid assets and cash flow are probably not sufficient to make timely payments on these debts. The company further explains that its “significant indebtedness” reduces “operational and financing flexibility”

⁸ *Id.* “As of the date of this filing, the Company does not expect to be in compliance with the consolidated first lien ratio or the fixed charge coverage ratio included within the Revolving Facility, Letter of Credit Facility and Term Loan A Credit Agreement for the fiscal quarter ending September 30, 2025. If the Company is not in compliance with these covenants and this non-compliance is not waived, the lenders have the right to accelerate the repayment of the outstanding principal under the Revolving Facility and Term Loan A and require cash collateralization of all outstanding letters of credit. If lenders choose to accelerate under those facilities, substantially all of the Company's outstanding indebtedness would be payable on demand.”

⁹ *Id.* “Additionally, we have \$510.9 million aggregate principal amount outstanding as of June 30, 2025 under our 2026 Notes, which mature on September 30, 2026. If more than \$100 million of the 2026 Notes remain outstanding 91 days prior to this maturity date (the “Springing Maturity Date”), the outstanding principal of \$2.7 billion under the New 2029 Notes becomes due. If any of the 2026 Notes remains outstanding on the Springing Maturity Date, the outstanding balance under the Revolving Facility becomes due. As of June 30, 2025, the Revolving Facility was fully drawn with \$710.4 million in revolving loans and \$19.5 million in letters of credit. Additionally, if any of the 2026 Notes remain outstanding on July 31, 2026, the outstanding principal under the Term Loan B becomes due. Also, if any of the 2026 Notes remain outstanding 60 days prior to the maturity date of the 2026 Notes, the outstanding principal under the Term Loan A becomes due. As of June 30, 2025, there was \$295.0 million outstanding under the Term Loan A and \$1.27 billion outstanding under the Term Loan B.”

¹⁰ *Id.* at 64: “We have identified material weaknesses in our internal control over financial reporting, and our management has concluded that our disclosure controls and procedures were not effective as of June 30, 2025. Failure to remediate the material weaknesses or any other material weaknesses that we identify in the future, or if we otherwise fail to maintain an effective system of internal controls, could result in material misstatements in our financial statements and impact our ability to accurately or timely report our financial condition or results of operations. In addition, investors may lose confidence in the accuracy and completeness of our financial reports and the trading price of our common stock may decline.”

for the company and its subsidiaries, including NF Energía.¹¹ The company's financial issues are already harming NF Energía's ability to operate safely: as detailed in Point II below, in July, NF Energía switched from towing its LNG tankers with powerful tugboats compliant with the Coast Guard's requirements, to less expensive, less powerful, noncompliant tugboats.

These disclosures are not speculative. They come directly from New Fortress Energy's SEC filing, revealing a fragile liquidity profile that raises substantial doubt about the company's ability to continue as a going concern.

FERC has recognized that "inadequate financing may result in threats to public safety and environmental resources..." and that project operators' failure to comply with "safety directives" can stem "at least in part due to the alleged lack of financial capacity to meet Commission requirements..."¹² In previous cases where "[n]on-operational projects or non-compliant projects can pose public safety hazards..."¹³ FERC has required submission of both a financing plan and a financial assurance plan, based on a "reasonable possibility that the licensee could find itself in the position of having insufficient funds ... to continue constructing or operating" a project.¹⁴ NF Energía clearly acknowledges that possibility here, but FERC does not have a financing plan or a financial assurance plan from the company to ensure safe operation of the project and controlled closure of the project if necessary.

C. Institutional Disqualification from Puerto Rico Projects.

One reason for New Fortress Energy's financial distress is the failure to win approval of anticipated projects, in particular those related to continued expansion of the San Juan LNG

¹¹ *Id.* at 81: "We have incurred, and may in the future incur, a significant amount of debt. The agreements governing our significant indebtedness place restrictions on us and our subsidiaries, reducing operational and financing flexibility and creating default risks."

¹² January 19, 2021 Notice of Inquiry, Docket RM21-9-000, paras. 8, 11.

¹³ January 2021 NOI, para. 8. FERC has recognized that a "licensee's lack of financial resources is often a key factor in a project becoming non-operational." *Id.* para. 10.

¹⁴ Marseilles Land and Water Co., 137 FERC 62,235 at P. 80 n. 46.

Terminal. The company's SEC filing states: "***Our ability to generate revenues is substantially dependent on our current and future long-term agreements and the performance by customers under such agreements.***" One example: on June 18, 2025, New Fortress Energy was disqualified from participating in Puerto Rico's power generation auction.¹⁵ The company failed to meet the auction's "stringent" requirements with its "non-conforming" bid.

NFenergía was also seeking a 15-year agreement giving the company exclusive rights to fuel San Juan gas plants, with minimum annual volume of 70M MMBTu, and an estimated total cost of \$20B. As reported by Bloomberg News, in mid-July, Puerto Rico's Fiscal Oversight Management Board (FOMB) halted NFenergía's \$20 billion long-term LNG supply agreement with Puerto Rico, citing "profound concerns" with the process.¹⁶ Then on July 24, 2025, through a formal letter to the FOMB, the procurement agency stated that NFenergía missed critical deadlines in the negotiation process.¹⁷ In September 2025, the procurement agency reached a draft agreement with NFenergía on a drastically shorter and smaller contract: a seven-year agreement with a 40M MMBtu annual minimum, and an estimated cost of \$4B.¹⁸ Importantly, Puerto Rico removed the exclusivity clause of the agreement to guard against the likelihood that NFenergía will, at some point in the future, fail to provide timely fuel shipments. *Id.* The draft agreement remains subject to the FOMB approval, which is by no means assured. *Id.*

¹⁵ Fatima Gulzar, *New Fortress Energy Disqualified from Puerto Rico Power Auction, Bloomberg Says*, YAHOO!FINANCE, June 18, 2025 (available at <https://finance.yahoo.com/news/fortress-energy-disqualified-puerto-rico-182229201.html>).

¹⁶ *Puerto Rico watchdog halts New Fortress' \$20 billion supply deal*, Bloomberg News reports, REUTERS, July 10, 2025 (available at <https://www.reuters.com/business/energy/puerto-rico-watchdog-halts-new-fortress-20-billion-supply-deal-bloomberg-news-2025-07-10/>); *Puerto Rico Ends \$20 billion LNG Contract Talks with New Fortress Energy*, Bloomberg News says, GCAPITAN, July 23, 2025 (available at <https://gcaptain.com/puerto-rico-ends-20-billion-lng-contract-talks-with-new-fortress-energy-bloomberg-news-says/>).

¹⁷ Puerto Rico ends talks with New Fortress on \$20B LNG deal, BLOOMBERG, July 24, 2025 (available at <https://subscriber.politicopro.com/article/eenews/2025/07/24/puerto-rico-ends-talks-with-new-fortress-on-20b-lng-deal-00471129>).

¹⁸ Press Release, New Fortress Energy Reaches Milestone Agreement for Long-Term Gas Supply with Puerto Rican Government (Sept. 16, 2025) available at <https://ir.newfortressenergy.com/news-releases/news-release-details/new-fortress-energy-reaches-milestone-agreement-long-term-gas>. The agreement excluded the gas plant at Mayaguez.

Each of these events, taken individually—credit downgrades and bond collapse, operating losses, negative cash flow, failure to make timely debt payments, nonconforming bids and bid disqualifications, missed deadlines, and project revenues cut by 75%—raise serious questions about NFEnergía’s financial ability and technical competence to operate the LNG Terminal. Taken together, they demonstrate that NFEnergía lacks the financial ability, technical competence, and will, to safely operate the LNG Terminal.

II. NFEnergía is Causing Major Hazards in San Juan Harbor by Using Larger LNG Tankers in Violation of Coast Guard Restrictions.

NFEnergía’s September 2021 application included a long-since obsolete description of its planned marine vessel operations.¹⁹ That application claimed that the applicant would supply the LNG Terminal and a Floating Storage Unit of 30,000 cubic meters with “pocket-sized” LNG vessels of 6,500 and 15,000 cubic meters, and laid out an Emergency Response Plan and Zones of Concern based on those smaller vessels.²⁰ The Coast Guard issued a 2018 Letter of Recommendation Analysis and other approvals based on those claims.²¹ But by September 2024, NFEnergía was consistently violating its Coast Guard approvals by using LNG tankers with capacities up to 155,000 cubic meters—more than **10 times** the capacity of the vessels described in the application—such as the Gaslog Singapore, the Energos Maria, and the Energos Princess.²²

¹⁹ Letter requesting NFEnergía LLC to file a response to engineering information request (Feb. 7, 2025), FERC Accession No. 20250207-3011: “...the current version of the application and associated documentation, WSA, LOI, and LOR do not support the current vessel operations.”

²⁰ *Id.*

²¹ *Id.*

²² *Id. See also* September 27, 2024 letter from the Coast Guard to FERC, FERC Accession No. 20240927-3059; Comment of Pedro Saade-Llorens (March 28, 2025) FERC Accession No. 20250328-5060, and NFEnergía LLC submits response to FERC’s 02/07/2025 engineering information request (April 15, 2025), FERC Accession No. 20250415-5275.

When the Coast Guard learned of these violations after the fact, the Coast Guard determined that “the waterway was **not suitable** for” these larger vessels.²³ The Coast Guard stated that the vessels obstructed the navigable channel, in violation of 33 USC 409, and obstructed other vessels using the channel.²⁴ The Coast Guard also expressed significant concerns with the “unique challenges for vessel navigation” caused by the larger LNG tankers.

Concerned by the impact of the larger vessels in the already-dangerous San Juan Bay, and scrambling to keep up with NF Energía’s repeated practice of taking action before obtaining required prior approvals, the Coast Guard provided interim, extremely limited authority for NF Energía to operate one such vessel, between sunrise and sunset, and when winds are below 10 knots and gusts below 15 knots, accompanied by “four escort-rated tugs of sufficient horsepower and bollard pull.”²⁵ As discussed below, NF Energía does not appear to be complying with these restrictions. NF Energía’s unsafe “local short-term uses of” San Juan Harbor are adversely affecting the “maintenance … of long-term productivity” of the Harbor, violating a key NEPA principle.²⁶

To begin with, NF Energía is not satisfying the wind-related and safety restrictions imposed by the Coast Guard. The Energos Maria arrived at the Port of San Juan at 12:14pm on

²³ *Id.*

²⁴ *Id.*

²⁵ Attachment FERC-NF Energía-1-6 (Captain Of The Port Order #113-25: ENERGOS MARIA (IMO # 9320374)), April 11, 2025, FERC Accession No. 20250415-5275, NF Energía claims its LNG supply is most critical during hurricane season: but “Maximum wind speeds occur in July”, in the heart of hurricane season. And due to the Coast Guard’s wind restrictions, NF Energía will be least able to provide fuel at the time the company itself acknowledges it is needed most. *See* USACE IRF/EA Assessment, *supra* at ES-2 – ES-10. Moreover, it is unclear whether NF Energía has received Coast Guard authorization for its large LNG tankers even when the tankers are not directly contravening Coast Guard orders. On April 15, 2025, NF Energía explained that the company does not have general Coast Guard approval to operate these larger vessels – rather, the Coast Guard approves each individual trip. “NF Energía’s current use of a larger vessel is authorized on an individual basis upon every entry into the harbor by Captain of the Port orders.”. *See* Response to FERC Data Requests, Response to Request 2, (April 15, 2025), FERC Accession No. 20250415-5276: NF Energía has not submitted any further information since April on the Coast Guard’s determinations about the use of super-sized LNG tankers. FERC should require NF Energía to submit proof that the Coast Guard has approved each past and planned LNG tanker trip.

²⁶ 42 U.S.C. 4332(C)(iv) (2022).

June 22.²⁷ The Caribbean Integrated Coastal Ocean Observing System (CarICOOS), using its buoy at the Port of San Juan, measured wind speed of 6.8 meters per second, or 13.2 knots, at that time.²⁸ CarICOOS also reported gusts of 15.9 knots.²⁹ Both exceeded the limits set by the Coast Guard—winds below 10 knots and gusts below 15 knots³⁰—for the operation of large tankers. Then on July 17, the Energos Princess arrived at the Port of San Juan at 6:59pm,³¹ when winds and gusts were 14.77 knots and 17.69 knots, respectively³²—again above the limits set by the Coast Guard for safe LNG tanker movement. The wind and gust speeds, and timing, of other NF Energía tanker movements are not publicly available, but surely FERC can require NF Energía to provide “reliable data and resources” on its vessel movements, which FERC has to have to carry out a proper NEPA analysis.³³ Two examples of noncompliance with the Coast Guard’s safety-based restrictions are already two too many.

The Coast Guard also required that all LNG tanker movements be accompanied by “escort-rated” tugboats.³⁴ According to pilots who operate tugboats in San Juan Harbor, “[a]n ‘escort-rated’ tug is a vessel specifically designed, built, and certified to perform escort operations... Such tugs have greater stability, maneuverability, and bollard pull...”³⁵ For the

²⁷ VESSEL FINDER, Voyage Data for ENERGOS MARIA, LNG Tanker, IMO 9320374 (available at <https://www.vesselfinder.com/vessels/details/9320374>).

²⁸ NOAA, *Standard Meteorological Data File from National Data Buoy Center Station ID 46053, June 2025*, https://www.ndbc.noaa.gov/view_text_file.php?filename=4105362025.txt.gz&dir=data/stdmet/Jun/, (last visited Sept. 25, 2025).

²⁹ *Id.*

³⁰ Attachment FERC-NF Energía-1-6 (Captain Of The Port Order #113-25: ENERGOS MARIA (IMO # 9320374)), April 11, 2025, FERC Accession No. 20250415-5275. NF Energía claims its LNG supply is most critical during hurricane season: but “Maximum wind speeds occur in July”, in the heart of hurricane season. And due to the Coast Guard’s wind restrictions, NF Energía will be least able to provide fuel at the time the company itself acknowledges it is needed most. USACE IRF/EA Assessment, *supra* at ES-2 – ES-10.

³¹ VESSEL FINDER, Voyage Data for ENERGOS PRINCESS, LNG Tanker, IMO 9253715 (available at <https://www.vesselfinder.com/vessels/details/9253715>).

³² NOAA, Nat’l Data Buoy Ctr., Station 41053-San Juan, PR (available at <https://www.ndbc.noaa.gov/data/stdmet/Jul/41053.txt>).

³³ 42 USC 4332(E)

³⁴ Captain Of The Port Order #113-25, *supra* note 35.

³⁵ Complaint, *Capt. Jake Elmstrom et al. v NF Energía et al.*, at 11, NO. 3:25-cv-01462 (D.P.R. Aug. 31, 2025) [hereinafter *Complaint*].

LNG tankers in question, the pilots note that NF Energía acknowledged a need for “four 80-metric-ton bollard pull escort-related tugs...”³⁶ The pilots state that NF Energía conducted 18 LNG tanker movements with compliant tugs prior to July 31, 2025.

But on July 31, 2025, in the midst of severe financial difficulties detailed above, NF Energía announced that it would conduct subsequent LNG tanker movements with cheaper, lower-capacity tugs that failed to comply with the Coast Guard’s restrictions.³⁷ The pilots were forced to file a lawsuit against NF Energía to “ensur[e] compliance with local and federal law, as well as the safety of those living on the island of Puerto Rico.”³⁸ In that complaint, the pilots that operated the tugboats for NF Energía’s previous LNG tanker movements assert that “NFE’s acts represent … a breach of safe marine practices and standards”, and constitute “a violation of industry safety standards, and present an imminent risk to life, property, and navigation within San Juan Harbor.”³⁹ The court agreed with the pilots, and has issued two Temporary Restraining Orders: finding such “extreme relief” necessary “to prevent irreparable harm” from unsafe LNG tanker maneuvers.⁴⁰

In short, abundant evidence indicates that NF Energía willingly and unlawfully operated the larger LNG tankers in an unsafe manner, in violation of the Coast Guard’s restrictions, and plans to continue doing so. These actions contravening the Coast Guard’s safety-based restrictions add to the already-significant hazards that NF Energía’s LNG Terminal poses to nearby communities and critical resources. To fully grasp the magnitude of the risks posed by NF Energía’s Terminal, it is critical to consider the local context.

³⁶ *Id.* at 5.

³⁷ *Id.* at 5 and 28.

³⁸ September 26, 2025 Order, *Capt. Jake Elmstrom et al. v NF Energía et al.*, at 3, NO. 3:25-cv-01462 (D.P.R. Sep. 26, 2025).

³⁹ Complaint at 13-21.

⁴⁰ September 26, 2025 Order at 3.

Movement of LNG tankers is a “zero-failure undertaking due to the hazardous nature of the cargo involved and the severe consequences of any incident.”⁴¹ And San Juan Harbor is especially hazardous because of “the unique geographic conditions of the San Juan Bay estuary, the critical overreliance of the people of Puerto Rico on this port for essential goods, the regular presence of vessels exceeding recommended dimensional limits...”⁴² as well as “difficult wind and wave conditions, limited channel and turning basin widths, and insufficient Federal Channel depths.”⁴³ In fact, there is a pattern of accidents in the San Juan Bay, including allisions, collisions, and groundings.⁴⁴ In 1985, a collision in the harbor between a tug boat and a general cargo vessel containing tetramethyl ethylenediamine occurred, causing a fire; the tug boat was pulled into the San Antonio Channel where it sank. Another notable example: in 2014 two oil/chemical tankers, the Elandra Lion and Arcturus, made contact near Cataño Oil Dock Terminal #1 during outbound transit under windy conditions.⁴⁵ And more recently, on February 12, 2019, the cruise ship Norwegian Epic crashed into the pier due to prevailing winds.⁴⁶

The Commission’s review of NFEnergía’s application must ensure the “attain[ment] of the widest range of beneficial uses of” San Juan Harbor, and must analyze whether NFEnergía’s use of the harbor is causing “degradation, risk to health or safety, or other undesirable and unintended consequences” to other uses.⁴⁷

⁴¹ Complaint at 10.

⁴² *Id.*

⁴³ See USACE, *San Juan Harbor Puerto Rico, Integrated Feasibility Report and Environmental Assessment* (2018) at ES-2 [hereinafter USACE IRF/EA Assessment].

⁴⁴ See USACE, Jacksonville District, *San Juan Harbor navigation Improvement Study: Final Integrated Feasibility Report & Environmental Assessment*, Appendix J, pp. 12-14 (2018) <https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/7410>.

⁴⁵ *Id.* at 13.

⁴⁶ *Watch as Norwegian cruise ship crashes into dock*, KMBC NEWS, Feb. 13, 2019 (available at <https://www.kmbc.com/article/norwegian-epic-crashes-into-dock-in-puerto-rico/26315442>).

⁴⁷ 42 U.S.C. 4331(b)(3) (2023).

Within just half a mile of the terminal live approximately 1,700 residents of the Sabana community.⁴⁸ These are families, children and elders whose homes lie in the immediate impact zone.⁴⁹ Added to that number are 1,065 individuals housed in the Metropolitan Detention Center, also located within the same radius. On the whole, 18,251 people live within one mile, 66,548 people within two miles, and 153,843 people live within three miles of NFE's LNG terminal, respectively.⁵⁰

This area is not just residential; it is also a hub of vital services and infrastructure critical to Puerto Rico's stability. As one of the most strategically important areas in all of Puerto Rico, it is responsible for receiving necessary goods and supplies that are later distributed across the archipelago. As such, this area houses key food distribution centers, including the largest grain storage facility in the Caribbean,⁵¹ making any incident a direct threat to the food security of the entire archipelago. In addition, Plaza Provisions—one of Puerto Rico's primary food distributors—operates within the zone,⁵² as does JF Montalvo, one of Puerto Rico's biggest wholesale distributors.⁵³ Another important company, Trailer Bridge, plays a critical role in the supply chain across Puerto Rico, offering service logistics solutions for temperature controlled products, construction materials, and retail goods among other items.⁵⁴ Evidently, any disruption in this zone—particularly an LNG accident—could paralyze the archipelago's economy, interrupt critical supply chains, and have catastrophic effects for Puerto Rico's food security.

⁴⁸ American Community Survey, Census Tract 401.01, Guaynabo Municipio, Puerto Rico, US Census Bureau (2018).

⁴⁹ U.S. Bureau of Prisons – MDC Guaynabo (<https://www.bop.gov/locations/institutions/gua/>).

⁵⁰ Data derived from the relevant census tracts of the 2018 American Community Survey for Puerto Rico.

⁵¹ *Guaynabo Mill Facility*, Ardent Mill, <https://www.ardentmills.com/our-facilities/puerto-rico/guaynabo-mill> (last accessed Sept. 4, 2025).

⁵² Puerto Rico Municipal Revenue Collection Center, (last visited Sept. 4, 2025), <https://www.crimpr.net/>.

⁵³ J. F. Montalvo Cash & Carry, *JFmontalvo* (visited Sept. 25, 2025), <https://jfmontalvo.net>.

⁵⁴ Puerto Rico Ocean Shipping & Logistics Services, *Trailer Bridge* (visited Sept. 24, 2025), available at <https://www.trailerbridge.com/shipping-solutions/caribbean-shipping/puerto-rico/>.

Further underscoring the risk, Guaynabo's Emergency Services Center also operates within this zone.⁵⁵ This raises serious concerns as to how emergency personnel could effectively respond to a disaster if they themselves are within the immediate impact area. This is not the only critical service operation that would be adversely impacted. Two United States Army facilities, the Army Reserve Area Maintenance Support Facility 161 and the Army Terminal Turning Basin, are located about a mile away from NFE's LNG terminal, prompting the Army to express concern that the LNG Terminal may impact operations at those facilities.⁵⁶ The Coast Guard has confirmed that "NFE's proposed operation would obstruct the Army Terminal Turning Basin (18° 25' 51.0888" N; 66° 6' 26.964" W) and the mouth of the Puerto Nuevo Channel (18° 25' 48.6588" N; 66° 6' 15.8148" W).⁵⁷

The risk extends beyond the local residents and workers to include the millions of tourists arriving annually by cruise ships,⁵⁸ whose safety and confidence are essential to Puerto Rico's tourism sector and economy.⁵⁹ As the busiest and largest cruise port in the Caribbean, and ranked among the best 20 ports in the world, the San Juan Cruise Port Terminal, located 2.4 miles from the terminal, receives around 500 cruise ships each year and functions as a central hub for major

⁵⁵ MUNICIPIO AUTÓNOMO DE GUAYNABO, *Medical Services*, (last visited Sept. 25, 2025) available at <https://guaynabocity.gov.pr/en/medical-services/>.

⁵⁶ *Comments of U.S. Department of Defense, Military Aviation and Installation Assurance Siting Clearinghouse re impact on military operations conducted in the area of the San Juan Micro-Fuel Handling Facility*, FERC Accession No. 20250122-5077 (Jan. 6, 2025).

⁵⁷ September 26, 2024 letter from the Coast Guard to FERC, FERC Accession No. 20240907-3059.

⁵⁸ The San Juan Cruise Port, where cruise ships brought in more than 1.4 million cruise passengers in 2024. *Research Update: December Travel Insights on Revenue and Growth*, Discover Puerto Rico, DISCOVER PUERTO RICO (last visited Sept. 25, 2025), <https://www.discoverpuertorico.com/industry/research/research-update-december-travel-insights-revenue-growth/2025-01-15>.

⁵⁹ On September 18, 2025, Royal Caribbean's Star of the Seas and Celebrity Cruises Celebrity Beyond docked in San Juan and generated "close to eight hundred thousand dollars in direct economic impact in just one day." *Royal Caribbean Star of the Seas Arrival Marks Record- Breaking Day for Cruise Tourism in Puerto Rico: What You Need to Know*, TRAVEL AND TOUR WORLD, (Sept 20, 2025), <https://www.travelandtourworld.com/news/article/royal-caribbean-star-of-the-seas-arrival-marks-record-breaking-day-for-cruise-tourism-in-puerto-rico-what-you-need-to-know/>.

cruise lines such as Royal Caribbean, Carnival Cruise Line, and Norwegian Cruise Line, making it one of the most important pillars of Puerto Rico's tourism sector and overall economy.⁶⁰

Moreover, numerous historical landmarks—including several in Old San Juan that draw residents and tourists alike to the area—are located within approximately 3 miles of the LNG facility. These sites include La Fortaleza (The Palace of St. Catherine of Alexandria), the oldest state residence in continuous use in the Americas and the official residence of the Governor of Puerto Rico; Castillo San Felipe del Morro; and Castillo San Cristobal, the latter being the largest fortress built by the Spanish in the Americas.⁶¹ It is important to highlight that La Fortaleza, along with Castillo San Felipe del Morro and Castillo San Cristobal, make up the San Juan National Historic Site in Puerto Rico, which has been named a UNESCO World Heritage Site.⁶² Additionally, the Cathedral of San Juan, the second oldest church in the Americas and the site of the world's first archdiocese, is also located within Old San Juan.⁶³ These sites are an irreplaceable part of Puerto Rico's historical legacy and serve as cornerstones to the archipelago's local and foreign tourism economy, cultural heritage, and collective identity. NEPA obligates the Commission to consider the impacts to these "important historic, cultural ... aspects of our national heritage..."⁶⁴

Accordingly, the risks posed by an accident or explosion of NFE's large tankers in the San Juan Harbor not only endanger the lives of many thousands of Puerto Ricans and visitors in

⁶⁰See: *San Juan Puerto Rico Cruise Terminal*, SAN JUAN CRUISE PORT TERMINAL, (last visited Sept. 25, 2025), <https://sanjuancruiseportterminal.com/>

Cruises for Group Travelers, DISCOVER PUERTO RICO, (last visited Sept. 25, 2025), <https://www.discoverpuertorico.com/travel-professionals/cruises-group-travelers>.

⁶¹ *13 Old San Juan Landmarks You Shouldn't Miss*, DISCOVER PUERTO RICO, (last visited Sept. 25, 2025), <https://www.discoverpuertorico.com/article/13-old-san-juan-landmarks-you-shouldnt-miss#:~:text=Towering%20above%20the%20Atlantic%2C%20Castillo,into%20Puerto%20Rico's%20colonial%20past>.

⁶² *La Fortaleza and San Juan National Historic Site in Puerto Rico*, UNESCO, (last visited Sept. 25, 2025), <https://whc.unesco.org/en/list/266/>

⁶³ Discover Puerto Rico, *supra* note 56.

⁶⁴ 42 U.S.C 4331(b)(4) (2023).

the vicinity of the terminal, but also those many miles away, given potential destruction of critical food storage and import facilities and impacts to U.S. Army facilities.

And that's not all. As NF Energía correctly points out in its Resource Report 3 from September 15, 2021, the San Juan Bay is used for warmwater commercial and recreational fishing.⁶⁵ In the same report, NF Energía accurately highlights that the area around the micro fuel handling facility supports warmwater fisheries and is a recognized habitat for both saltwater and oceanic species, which are subject to recreational fishing.⁶⁶ In addition to recreational fishing, the San Juan Bay is also home to subsistence and licensed commercial fishing with nets and traps, as well as spearfishing.⁶⁷ Snappers and grouper—both part of the Puerto Rican diet—are seasonally fished in the area.⁶⁸ Tied to the recreational fishing industry, charter fishing boats are also housed in the San Juan Bay, forming part of the economic ecosystem of the area.⁶⁹ As NF Energía also affirms, several commercially valuable species are found in the San Juan Bay, including but not limited to the blue runner, mackerel, grouper, and two types of snapper.⁷⁰

Neither the impacts of the terminal—nor, much less, of the recently used large tankers—on marine wildlife and recreational and commercial fishing have been independently analyzed. A superficial assessment of impacts on marine wildlife and recreational and commercial fisheries was carried out back in 2021. There, NF Energía limited itself to collecting restricted sets of historical data from selected sources, without conducting a rigorous, independent, or comprehensive analysis of the true impact its operations may have on marine life and the commercial and recreational fishing economy that prevails in the area. The information upon

⁶⁵ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-2.

⁶⁶ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-4.

⁶⁷ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-4.

⁶⁸ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-4.

⁶⁹ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-4.

⁷⁰ NF Energía San Juan Micro-Fuel Handling Facility Resource Report 3—Fish, Wildlife, and Vegetation at 3-4 and 3-5.

which NF Energía relies predates the dredging of the San Juan Bay, which raises serious concerns about its relevance and applicability to the present ecosystem in the San Juan Bay.

Recently, in its Response to FERC's Staff Data Request dated May 30, 2025, NF Energía contends that its transition to larger LNG marine vessels will result in fewer vessel trips, thereby reducing potential adverse impacts on marine wildlife and recreational and commercial fishing industries in the area. In its submission NF Energía acknowledges that the San Juan Bay is a tidally-influenced system with fluctuating levels of plankton and zooplankton through the year and states that the larger LNG vessels will continually intake water for cooling and ballast operations during offloading. This process poses an inherent risk to planktonic organisms, zooplankton, and early life stages of pelagic fish found in the area. NF Energía recognizes that these organisms are likely to be entrained and killed, but asserts that this will be mitigated with fewer trips. NF Energía points to the United States Army Corp of Engineers' Environmental Impact Assessment carried out as part of the San Juan Harbor Modernization Project which, they state, concludes that using fewer larger ships will reduce the risk of introducing invasive aquatic species into the local marine environment.⁷¹ The study, which NF Energía relies upon, is fundamentally at odds with the reality that larger LNG vessels may cause greater per trip environmental harm. These vessels will intake significantly more water for cooling and ballast operations, resulting in the destruction of a larger volume of marine life, particularly during peak breeding seasons. Most notably, the USACE Environmental Assessment cited by NF Energía is not specific to LNG operations and therefore fails to account for the unique risks and environmental impacts associated the LNG vessel activity. Furthermore, according to the Response to Staff Data Request Dated May 30, 2025, the U.S. Fish and Wildlife Service as well

⁷¹ See NF Energía Response to Staff Data Request, Resource Report 2 Request 2, (May 30, 2025), NF Energía LLC, Docket Nos. CP21-496-000 and CP23-518-000 OEP/DLNG.

as the National Marine Fisheries Service have yet to emit an approval for the larger LNG vessels.⁷² Consequently, any related information provided by NF Energía remains unverified by the appropriate regulatory authorities and should not be regarded as definitive.

Notably absent from NF Energía's submissions is any meaningful stakeholder analysis involving local fisher people or recreational users of San Juan Bay, or any rigorous scientific studies on the impacts of their operations on marine wildlife or the recreational and commercial fishing industries.

Given these violations and hazards, we hereby request FERC to require NF Energía to file four updated and complete Water Suitability Assessment materials, as required under 18 C.F.R. §§ 157.21(a)(1) and (f)(13) and 33 C.F.R. §127.007, including graphic depictions of recalculated hazard and exclusion zones (commonly referred to in Coast Guard guidance as zones of concern and zones of interest) for the larger tankers now in use, wind and gust condition modeling, and ship simulation studies reflecting actual vessel sizes, operating conditions and distances. Without these updated filings, FERC and the public cannot meaningfully assess the full extent of risks to navigation safety, coastal communities, and critical infrastructure in the San Juan Bay from NF Energía's unlawful tanker operations.

III. NF Energía's Own Actions and Changed Circumstances demonstrated that FERC can Withdraw its Temporary Approval of the LNG Import Terminal Without Harming Grid Reliability.

In filings to FERC, NF Energía has long claimed its LNG shipments to San Juan Units 5 & 6 are essential and indispensable to maintaining grid reliability in Puerto Rico. FERC granted temporary approval for NF Energía to use the Terminal to provide fuel to San Juan Units 5 & 6, while this application was pending, based on that claim. Yet in July, at the height of summer peak

⁷² NF Energía Response to Staff Data Request, Resource Report 1 Request 5, (May 30, 2025), NF Energía LLC, Docket Nos. CP21-496-000 and CP23-518-000 OEP/DLNG.

demand, the company abruptly canceled fuel deliveries to the Puerto Rico Electric Power Authority (PREPA).⁷³ The cancellation did not result in grid failure: PREPA switched four power plants to diesel, and rooftop solar and storage available throughout the archipelago was more than adequate to make up for the unexpected unavailability of NF Energía's gas. These results call NF Energía's reliability claims into question.

Some observers have speculated NF Energía's actions were not accidental, but rather a calculated attempt to gain leverage in ongoing contract negotiations.⁷⁴ This move, they assert, may have been deliberately timed to maximize disruption and demonstrates a willingness to use critical infrastructure as a bargaining chip.⁷⁵ As one reporter noted, "...[t]he company used the gas supply as an extortion measure to win a contract that the Fiscal Oversight Board (JSF) dismissed as unfair."⁷⁶ Puerto Rico's highest elected official, Governor Jennifer Gonzalez, characterized NF Energía's actions as "an extortion attempt":

And if they believe that, with this hostile attitude, which is not in good faith, they are going to deprive the government of Puerto Rico and the people of Puerto Rico of electricity during peak power generation months, that seems to me like an extortion attempt.

⁷³ Jim Wyss & Ruth Liao, *Puerto Rico Idles Power Plants as New Fortress Withholds Gas*, FINANCIAL POST, July 13, 2025 (available at <https://financialpost.com/pmn/business-pmn/puerto-rico-idles-power-plants-as-new-fortress-withholds-lng>).

⁷⁴ See Oscar J. Serrano, *El gobierno apoyó que NFE redujera medidas de seguridad para tránsito de sus barcazas de gas*, NOTICEL, Sept. 3, 2025 (available at <https://www.noticel.com/economia/tribunales/ahora/top-stories/20250903/el-gobierno-apoyo-que-nfe-redujera-medidas-de-seguridad-para-transito-de-sus-barcazas-de-gas/>) Original in Spanish.

⁷⁵ *Id. See Gobernadora cataloga como "intento de extorsión" la suspensión del gas de New Fortress*, TELE11, July 14, 2025, (available at <https://teleonce.com/noticias/locales/gobernadora-cataloga-como-intento-de-extorsion-la-suspension-del-gas-de-new-fortress/>) Original in Spanish; *See Gobernadora lanza advertencia a los ejecutivos de New Fortress Energy*, NOTICEL July 14, 2025 (available at <https://www.noticel.com/gobierno/ahora/20250714/gobernadora-lanza-advertencia-a-los-ejecutivos-de-new-fortress-energy/>) Original in Spanish; *Gobernadora acusa a New Fortress Energy de "extorsión"*, PERIODICO LA PERLA, July 14, 2025 (available at <https://www.periodicolaperla.com/actualidad/gobernadora-acusa-a-new-fortress-energy-de-extorsion/>) Original in Spanish.

⁷⁶ Supra, note 57.

It seems to me like an attempt to negotiate by practically pointing a gun at the government of Puerto Rico, and the government of Puerto Rico is not going to allow this company to blackmail it.⁷⁷

This episode calls into question NF Energía's original claims, which FERC relied upon to grant temporary approval, that NF Energía's LNG fuel supply is critical for grid reliability. Either, as Governor Gonzalez believes, NF Energía abused that position to (unsuccessfully) extort the Puerto Rico Government into a favorable LNG supply contract. Or NF Energía's claims were never true, and FERC can end the temporary approval with no impact to grid reliability.

A. Sudden Withdrawal of the Energos Princess on the Eve of Hurricane Erin

Intervenors have repeatedly shown FERC that NF Energía's fuel supply is unreliable, especially on the eve of major storms. The latest example of this occurred when, in mid-August 2025, days before Hurricane Erin's closest approach to Puerto Rico, NF Energía withdrew the Energos Princess, one of its LNG supply vessels, from San Juan Bay, removing gas supply when the electric system faced elevated storm risk and during summer peak demand.⁷⁸ Hurricane Erin tracked close to Puerto Rico between August 16-17, 2025, but ultimately did not make landfall.⁷⁹

The withdrawal of the Energos Princess on the eve of Hurricane Erin illustrates a fundamental limitation of NF Energía's fuel supply. In storm events, LNG tankers must leave port. This structural vulnerability underscores that NF Energía's LNG and LNG tankers cannot

⁷⁷ *Gobernadora acusa a New Fortress Energy de “extorsión”*, PERIODICO LA PERLA, July 14, 2025 (available at <https://www.periodicolarperla.com/actualidad/gobernadora-acusa-a-new-fortress-energy-de-extorsion/>) Original in Spanish.

⁷⁸ See, VESSEL FINDER, ENERGOS PRINCESS, LNG Tanker, IMO 9253715 (available at <https://www.vesselfinder.com/vessels/details/9253715>); Marine Traffic, ENERGOS PRINCESS, LNG Tanker, IMO 9253715 (available at https://www.marinetraffic.com/en/ais/details/ships/shipid:713370/mmsi:538004164/imo:9253715/vessel:ENERGOS_PRINCESS).

⁷⁹ See Monika Walker, *Category 4 Hurricane Erin leaves over 155K without power in Puerto Rico*, WIC NEWS, Aug. 18, 2025 (available at <https://wicnews.com/weather/category-4-hurricane-erin-leaves-over-155k-without-power-in-puerto-rico>); Mirna Alsharif et al, *Thousands without power in Puerto Rico as Hurricane Erin pummels region*, NBC NEWS, Aug. 17, 2025 (available at <https://www.nbcnews.com/weather/hurricanes/thousands-without-power-puerto-rico-hurricane-erin-rcna225461>).

provide true sustainability or resilience for Puerto Rico’s energy system and cannot fulfill one of the key planks of the Purpose and Need of NF Energía’s project: “Supporting grid stability in Puerto Rico.”

B. A Rapidly Increasing Capacity of Rooftop Solar + Storage Can, And Already Is, Supplanting NF Energía-fueled Gas Plants

Intervenor’s scoping comments explained that new rooftop solar + storage units in Puerto Rico are a superior alternative to satisfy the purpose and need of the LNG Import Terminal.⁸⁰

To start with, it is important to emphasize that Puerto Rico’s energy laws already establish the trajectory for its electric system: the archipelago must generate 100% of its electricity from renewable sources by 2050.⁸¹ This statutory mandate reflects both Puerto Rico’s geographic realities and the urgent need to reduce reliance on imported fossil fuels. Customer-sited renewable generation is explicitly encouraged under Puerto Rico law.⁸² Puerto Rico’s solar resource is uniquely abundant. According to the National Renewable Energy Laboratory (NREL), Puerto Rico’s annual average Global Horizontal Irradiance is 22% higher than the U.S. average, making solar energy a resource advantage rather than a constraint.⁸³ NREL’s analysis further demonstrates that residential rooftop solar potential on the archipelago is approximately four times greater than total annual residential electricity consumption.⁸⁴

The transition to distributed solar is already underway at an accelerating pace. When FERC granted temporary approval for NF Energía to operate the LNG Import Terminal in spring

⁸⁰ Scoping Comments on Environmental Issues by Non- Governmental Organizations, at 14, NF Energía LLC, (Nov 25, 2024), FERC Dkt .CP21-496-000; CP23-518-000): Supporting grid stability in Puerto Rico; Maintaining Puerto Rico’s fuel diversity and energy supplies; Enabling electric generation that improves air quality in the San Juan region, sufficient to satisfy EPA’s thresholds for air pollutants including sulfur dioxide; Reducing electricity rates for Puerto Rico electric customers.

⁸¹ Puerto Rico Energy Policy Act, Act 17-2019, 22 LPRA § 1111 et seq.

⁸² *Id.*

⁸³ National Renewable Energy Lab, *Puerto Rico Low-to-Moderate Income Rooftop PV and Solar Savings Potential*, Mooney & Waechter, December 17, 2021, at 12, <https://docs.nrel.gov/docs/fy21osti/78756.pdf>.

⁸⁴ *Id.* at 7.

2021, Puerto Rico had almost no renewable resources. Today, Puerto Rico has more than 1,000 MW of rooftop solar and more than 2,000 MWh of rooftop storage -surpassing the contribution from gas plants fueled by NF Energía and meeting ten percent of the grid's needs for energy and capacity.⁸⁵ More than ten percent of Puerto Rico households now have this technology.⁸⁶ And Wood McKenzie predicts that 55% of households will have rooftop solar + storage within the next five years.⁸⁷ This rapid expansion underscores the technical feasibility and consumer acceptance of distributed solar generation, particularly when paired with storage. These systems provide critical resilience by allowing households to maintain power during grid disruptions, a feature of outsized importance in an archipelago subject to hurricanes, earthquakes, and other disasters. NF Energía's LNG Terminal, and the gas plants it fuels, cannot match rooftop solar + storage units' reliability, resiliency, or cost.

IV. FERC Should Withdraw the Limited Temporary Authorization Granted Four Years Ago in the April 2021 Order on Show Cause.

NF Energía's answer to FERC's June 2020 Order to Show Cause relied heavily on the company's insistence that it would only use "Pocket-Sized" vessels to supply fuel for two gas turbines, and that the Terminal would not "directly transfer from ocean-going, bulk-carrier LNG tankers."⁸⁸ The Commission allowed NF Energía to operate the LNG Terminal based on those limitations.⁸⁹

⁸⁵ Institute for Energy Economics & Financial Analysis, *Rooftop Solar in Puerto Rico Reaches 10% as Grid Reliability Continues to Wane*, (Sept. 11, 2025) <https://ieefa.org/resources/rooftop-solar-puerto-rico-reaches-10-grid-reliability-continues-wane>.

⁸⁶ *Id.*

⁸⁷ "Puerto Rico alcanzará 55 % de penetración solar residencial para 2030, según Wood Mackenzie"; PV Magazine, September 19, 2025. <https://www.pv-magazine-latam.com/2025/09/19/puerto-rico-alcanzara-55-de-penetracion-solar-residencial-para-2030-segun-wood-mackenzie/>

⁸⁸ Answer of New Fortress Energy LLC to the Order to Show Cause and Motion for Expedited Action at 10, 23, 27, and 37 (July 20, 2020) FERC Dkt CP20-466-000, FERC Accession No. 20200720-5156.

⁸⁹ NF Energía, LLC, Order on Show Cause, Docket No. CP20-466-000, 174 FERC ¶ 61,207 (Mar. 19, 2021).

NF Energía has egregiously abused the limited temporary operational authorization granted by FERC in April 2021. NF Energía has significantly expanded its operations beyond those limitations in the nearly five years since the authorization, and the Commission's indefinite approval is no longer appropriate. This year, NF Energía revealed the company is now using ocean-going LNG tankers to deliver up to 100,000 cubic meters of LNG every three weeks: more than 1.7M cubic meters per year.⁹⁰ NF Energía added a significant amount of new infrastructure to the LNG Terminal to accommodate the "larger volumes of LNG" that NF Energía will provide.⁹¹ NF Energía now supplies not two gas turbines, but fourteen.

Moreover, NF Energía has further expanded its LNG operations by supplying additional gas to "temporary" generators, entering into a new LNG supply contract with the Energiza plant, and actively seeking to supply gas to all Genera PR plants.⁹² These expansions involve not only larger ships but also a substantial increase in the volume of LNG supplied, necessitating a comprehensive evaluation under NEPA to assess the overall safety and environmental impacts of these actions.

NF Energía's current operation differs significantly from the scenario before the Commission five years ago, to the detriment of public safety. The larger LNG tankers currently being used by NF Energía undeniably entail greater risks to nearby communities, businesses, industries and institutions and ecosystems. A leak or explosion related to the larger tankers could reach farther and impact more people. It falls squarely within FERC's jurisdiction to consider the information presented in this submission to prevent a potential disaster and safeguard the energy security of Puerto Rico.

⁹⁰ NF Energía LLC submits response to FERC's 02/07/2025 engineering information request, Response to Request 1 (April 15, 2025), FERC Accession No. 20250415-5276.

⁹¹ *Id.*

⁹² NF Energía Response to Staff Data Request, Resource Report 1 Request 1, (May 30, 2025), NF Energía LLC, Docket Nos. CP21-496-000 and CP23-518-000 OEP/DLNG.

NF Energía's operations have been allowed to expand without the required permits under the justification that the public depends on the LNG it supplies. However, that justification is but a mere illusion given the extensive growth of rooftop solar + solar in Puerto Rico, and the financial concerns of NF Energía's parent company. Therefore, we hereby request FERC to withdraw NF Energía's limited temporary authorization.

CONCLUSION

The Joint NGOs respectfully request that the Commission consider these comments and recommendations in determining the appropriate scope of its environmental review of NF Energía's operation under the Natural Gas Act and National Environmental Policy Act. In addition, the Joint NGOs request that, for the reasons detailed herein, FERC (1) withdraw the temporary approval granted to NF Energía to supply fuel to San Juan Units 5 & 6; (2) require NF Energía to submit updated Water Suitability Assessment filings; (3) condition any further LNG operations on both immediate and ongoing demonstrations of technical competence, financial capacity, and compliance with Coast Guard and FERC safety requirements.

DATED: September 30, 2025

Respectfully submitted,

/s/ Raghu Murthy
Raghu Murthy
Earthjustice
48 Wall Street, 19th Floor
New York, NY 10005
T: 212-823-4991
E: rmurthy@earthjustice.org

/s/ Laura Arroyo
Laura Arroyo
RUA No. 16653
Earthjustice
4500 Biscayne Blvd.

/s/ Pedro Saadé Lloréns
Pedro Saadé Lloréns
RUA No. 4182
Condado 605 – Office 616
San Juan, PR 00907
T: 787-397-9993
E: pedrosaade5@gmail.com

/s/ Ruth Santiago
Ruth Santiago
RUA No. 8589
Apartado 518
Salinas, PR 00751

Suite 201
Miami, FL 33137
T: 305-440-5436
E: larroyo@earthjustice.org

/s/ Lorena I. Vélez Miranda
Lorena I. Vélez Miranda
RUA No. 22720
Earthjustice
151 Calle de San Francisco
Ste 200 PMB 0528
San Juan, PR 00901-1607

/s/ Jennifer Cassel
Jennifer Cassel
Earthjustice
311 S. Wacker Drive, Suite 1400
Chicago, IL 60606
T: (312) 500-2198
E: jcassel@earthjustice.org

T: 787-312-2223
E: rstgo2@gmail.com

Counsel for Comité Diálogo Ambiental, El Puente de Williamsburg, Inc. - Enlace Latino de Acción Climática, Comité Yabucoeño Pro-Calidad de Vida, Alianza Comunitaria Ambientalista del Sureste, Sierra Club Puerto Rico Inc., Mayagüezanos por la Salud y el Ambiente, Coalición de Organizaciones Anti Incineración, and Amigos del Río Guaynabo.

/s/ Rolando Emmanuelli Jiménez
Rolando Emmanuelli Jiménez
RUA: 8509 CA: 9755
USDC-PR :214105
rolando@bufete-emmanuelli.com
P.O. Box 10779
Ponce, PR 00732-0779
Tel: (787) 848-0666
Fax: (787) 841-1435

Counsel for UTIER

CERTIFICATE OF SERVICE

I certify that on the 30th day of September, 2025, I electronically filed this document with

Debbie-Anne A. Reese
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

I further certify that I served this document and Certificate of Service on all parties listed on the service list compiled by the Secretary in this proceeding electronically.

DATED: Sept. 30, 2025.

/s/ Raghu Murthy
Raghu Murthy

/s/ Pedro Saadé Lloréns
Pedro Saadé Lloréns

/s/ Rolando Emmanuelli
Rolando Emmanuelli