UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Long Ridge Energy Generation LLC Docket No. ER21-1225

**Protest of Public Citizen, Inc.**

The February 26 application for market based rate authority filed by Long Ridge Energy Generation LLC requires clarifications regarding its affiliation with SoftBank Group Corp. and Fortress Investment Group LLC. In order to clarify these affiliations, the application should be deemed deficient until two disclosures are provided:

* The Management Agreement between Fortress Transportation & Infrastructure Investors LLC and FIG LLC.
* Management agreements and/or merger agreements between SoftBank Group Corp and Fortress Investment Group LLC that detail the rights and responsibilities of SoftBank Group Corp over its subsidiary Fortress Investment Group LLC.

Long Ridge Energy Generation LLC owns and operates a 522 MW natural gas power plant in Ohio. Long Ridge Energy Generation LLC is owned 50.1% by Fortress Transportation and Infrastructure Investors LLC and 49.9% by Labor Impact Fund, L.P. The application states that Fortress Transportation & Infrastructure Investors LLC is managed by FIG LLC. FIG LLC, in turn, is wholly owned by Fortress Investment Group LLC, which is also affiliated with Fortress Transportation and Infrastructure Investors LLC. The application notes that

*FIG LLC manages Fortress Transportation pursuant to a Management Agreement under which FIG LLC has authority to manage Fortress Transportation and its assets in accordance with and subject to the policies and strategy adopted and approved by Fortress Transportation’s Board of Directors. FIG LLC provides Fortress Transportation with a management team to provide executive and day-to-day management of its operations, but possesses no authority to take independent actions that are inconsistent with the policies and strategy approved by Fortress Transportation’s Board of Directors.[[1]](#footnote-1)*

The application continues that Fortress Investment Group LLC “is majority-owned by SoftBank Group Corp.; however, Fortress’ operations within Softbank are independent and such operations are not subject to any SoftBank management authority or control.”[[2]](#footnote-2)

**The Management Agreement between FIG LLC and Fortress Transportation & Infrastructure Investors LLC was not negotiated at arm’s length and features conflicts of interest**

In its February 26, 2021 annual report filed with the U.S. Securities and Exchange Commission, Fortress Transportation & Infrastructure Investors LLC notes under the section *Conflicts of Interest* on page 11 that:

*One or more of our officers and directors have responsibilities and commitments to entities other than us . . . Our key agreements, including our Management Agreement, the Partnership Agreement, and our operating agreement were negotiated among related parties, and their respective terms, including fees and other amounts payable, may not be as favorable to us as terms negotiated on an arm’s-length basis with unaffiliated parties. Our independent directors may not vigorously enforce the provisions of our Management Agreement against our Manager. For example, our independent directors may refrain from terminating our Manager because doing so could result in the loss of key personnel.*[[3]](#footnote-3)

Furthermore, Fortress Transportation discloses that “[i]f we terminate the Management Agreement, we will generally be required to pay the Manager [FIG LLC] a termination fee. if we terminate the Management Agreement, we will generally be required to pay the Manager a termination fee”—an additional contractual disincentive for the board to distance itself from the SoftBank Group affiliate.[[4]](#footnote-4)

Indeed, the annual report filed with the SEC contains an entire section titled “There are conflicts of interest in our relationship with our Manager”:

*Our Management Agreement, the Partnership Agreement and our operating agreement were negotiated prior to our IPO and among affiliated parties, and their terms, including fees payable, may not be as favorable to us as if they had been negotiated after our IPO with an unaffiliated third-party . . .There are conflicts of interest inherent in our relationship with our Manager . . .The structure of our Manager’s and the General Partner’s compensation arrangements may have unintended consequences for us. We have agreed to pay our Manager a management fee and the General Partner is entitled to receive incentive allocations from Holdco that are each based on different measures of performance. Consequently, there may be conflicts in the incentives of our Manager to generate attractive risk-adjusted returns for us. In addition, because the General Partner and our Manager are both affiliates of Fortress, the Income Incentive Allocation paid to the General Partner may cause our Manager to place undue emphasis on the maximization of earnings, including through the use of leverage, at the expense of other objectives, such as preservation of capital, to achieve higher incentive allocations . . . Our directors have approved a broad asset acquisition strategy for our Manager* ***and do not approve each acquisition we make at the direction of our Manager.*** [emphasis added][[5]](#footnote-5)

The Applicant should therefore provide the Management Agreement between FIG LLC and Fortress Transportation and Infrastructure Investors LLC.

**It is unlikely Fortress Investment Group LLC is “not subject to any SoftBank management authority or control”**

The application’s claim that Fortress Investment Group LLC is “not subject to any SoftBank management authority or control” despite being majority-owned by SoftBank is highly unlikely. Indeed, this claim of no “control” appears to be contradicted by filings with the U.S. Securities and Exchange Commission. Page 24 of the annual report that Fortress Transportation filed on February 26, 2021, warns investors that “There can be no assurance that the SoftBank Merger will not have an impact on us or our relationship with the Manager [FIG LLC]”, and at pages 4-5 it cautions that “various risks and uncertainties” include “effects of the merger of Fortress Investment Group LLC with affiliates of SoftBank Group Corp”[[6]](#footnote-6)

In order to ascertain the nature of SoftBank Group Corp’s management and oversight relationship with Fortress Investment Group LLC, the application should be amended to include any agreements that detail the rights and responsibilities accrued to SoftBank Group Corp in relation to its ownership of Fortress Investment Group LLC.

Respectfully submitted,

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1. At pages 4-5. [↑](#footnote-ref-1)
2. At page 5. [↑](#footnote-ref-2)
3. www.sec.gov/ix?doc=/Archives/edgar/data/1590364/000159036421000002/ftai-20201231.htm [↑](#footnote-ref-3)
4. At page 94, www.sec.gov/ix?doc=/Archives/edgar/data/1590364/000159036421000002/ftai-20201231.htm [↑](#footnote-ref-4)
5. At pages 24-25, www.sec.gov/ix?doc=/Archives/edgar/data/1590364/000159036421000002/ftai-20201231.htm [↑](#footnote-ref-5)
6. www.sec.gov/ix?doc=/Archives/edgar/data/1590364/000159036421000002/ftai-20201231.htm [↑](#footnote-ref-6)