

October 11, 2019

BY E-Mail: FOIA-Central@hq.doe.gov

Alexander Morris
U.S. Department of Energy
100 Independence Avenue, S.W.
Mail Stop MA-46
Washington, D.C. 20585

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Energy regulations.

First, CREW requests copies of all communications between Secretary Rick Perry and Rudolph “Rudy” Giuliani, or anyone acting on Mr. Giuliani’s behalf, from November 1, 2018 to the present. This request includes, but is not limited to, all records concerning any telephone calls between Secretary Perry and Mr. Giuliani.

Second, CREW requests copies of all communications to or from Secretary Perry that mention, refer, or relate to Mr. Giuliani from November 1, 2018 to the present.

Third, CREW requests copies of all communications between Secretary Perry and Lev Parnas from November 1, 2018 to the present.

Fourth, CREW requests copies of all communications to or from Secretary Perry that mention, refer, or relate to Mr. Parnas from November 1, 2018 to the present.

Fifth, CREW requests copies of all communications between Secretary Perry and Igor Fruman from November 1, 2018 to the present.

Sixth, CREW requests copies of all communications to or from Secretary Perry that mention, refer, or relate to Mr. Fruman from November 1, 2018 to the present.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Energy Department regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

In late May 2019, Secretary Perry led a presidential delegation to the Inauguration of Ukrainian President Volodymyr Zelenskyy that included US Special Representative for Ukraine Negotiations Kurt Volker, US Ambassador to the European Union Gordon Sondland, and others.¹ On May 23, Secretary Perry, along with Ambassadors Volker and Sondland, briefed President Trump about the trip and their meetings with Ukrainian officials.² According to Ambassador Volker, the delegation told President Trump “that President Zelenskyy represented the best chance for getting Ukraine out of the mire of corruption it had been in for over 20 years” and “urged him to invited President Zelenskyy to the White House.”³

President Trump was reportedly “very skeptical” and “[i]n the course of the conversation, he referenced conversations with Mayor Giuliani.”⁴ Ambassador Volker wrote, “It was clear to me that despite the positive news and recommendations being conveyed by this official delegation about the *new* President, President Trump had a deeply rooted negative view on

¹Press Release, Department of Energy, [Secretary Perry Leads Presidential Delegation To Inauguration Of His Excellency Volodymyr Zelenskyy, President of Ukraine](https://www.energy.gov/articles/secretary-perry-leads-presidential-delegation-inauguration-his-excellency-volodymyr-zelenskyy), May 19, 2019, available at <https://www.energy.gov/articles/secretary-perry-leads-presidential-delegation-inauguration-his-excellency-volodymyr>.

²Michael Warren, [Rick Perry's greatest success in Trump's Washington: invisibility](https://www.cnn.com/2019/05/24/politics/rick-perry-trump-invisible/index.html), *CNN*, May 24, 2019, available at <https://www.cnn.com/2019/05/24/politics/rick-perry-trump-invisible/index.html>; Testimony before the House of Representatives Committee on Foreign Affairs, Permanent Select Committee on Intelligence, and Committee on Oversight, Amb. Kurt Volker, Former U.S. Special Representative for Ukraine Negotiations, Oct. 3, 2019, available at <https://assets.documentcloud.org/documents/6454114/Volker-Prepared-Remarks.pdf>.

³ *Id.*

⁴ *Id.*

Ukraine rooted in the past. He was clearly receiving other information from other sources, including Mayor Giuliani, that was more negative, causing him to retain this negative view.”⁵

CNN later reported that during the meeting President Trump told Secretary Perry and Ambassadors Volker and Sondland to deal with Mr. Giuliani regarding a potential meeting between President Trump and President Zelenskyy.⁶ A source told *CNN* that President Trump “believed Ukraine was still rampantly corrupt and said that if President Volodymyr Zelensky wanted to meeting with him, Giuliani would have to be convinced first.”⁷

In a recent interview with the *CBN News*, Secretary Perry acknowledged having a phone conversation with Mr. Giuliani related to Ukraine.⁸ A spokesperson for the Energy Department also acknowledged to *CNN* that Secretary Perry spoke with Mr. Giuliani.⁹ For his part, Mr. Giuliani dismissed the question when asked if he had ever spoken to Secretary Perry about Ukraine and said that any information about his possible discussions with the secretary would be privileged without explaining why.¹⁰

According to press reports, during the trip to President Zelenskyy’s inauguration, Secretary Perry pressed the president to make changes to the members of the advisory board of the Ukrainian state gas company Naftogaz, including by adding American businessmen to the board.¹¹ Two businessmen who are associates of Mr. Giuliani who were recently indicted on campaign finance-related charges, Lev Parnas and Igor Fruman, have also reportedly pushed for changes at Naftogaz in recent months, which they hoped would lead to lucrative gas sale contracts.¹² According to the *Associated Press*, Mr. Giuliani “refused to discuss the details of his business dealings, or whether he helped his associates in their push to forge gas sales contracts with the Ukrainian company.”¹³ When asked by *Politico* if he knew about Secretary Perry’s push

⁵ *Id.*

⁶ Katelyn Polantz, Gloria Borger and Kylie Atwood, First on CNN: Trump told Perry and State Department officials as early as May to talk to Giuliani about Ukraine, *CNN*, Oct. 9, 2019, available at https://edition.cnn.com/2019/10/08/politics/trump-perry-giuliani-state-department/?wpisrc=nl_daily202&wpm=1.

⁷ *Id.*

⁸ Jennifer Wilson, Sec. Rick Perry Explains ‘Expansive Relationship’ With Ukraine: ‘God as My Witness Not Once Was Biden Mentioned’, *CBN News*, Oct. 4, 2019, available at <https://www1.cbn.com/cbnnews/politics/2019/october/sec-rick-perry-explains-expansive-relationship-with-ukraine-god-as-my-witness-not-once-was-biden-mentioned>.

⁹ Polantz, Borger, and Atwood, *CNN*, Oct. 9, 2019.

¹⁰ *Id.*

¹¹ Ben Lefebvre and Daniel Lippman, Perry pressed Ukraine on corruption, energy company changes, *Politico*, Oct. 5, 2019, available at <https://www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230>; Desmond Butler, Michael Biesecker and Richard Lardner, Profit, not politics: Trump allies sought Ukraine gas deal, *Associated Press*, Oct. 7, 2019, available at <https://www.apnews.com/d7440cffba4940f5b85cd3dfa3500fb2>.

¹² Aruna Viswanatha, Rebecca Ballhaus, Sadie Gurman, and Byron Tau, Two Giuliani Associates Who Helped Him on Ukraine Charged With Campaign-Finance Violations, *Wall Street Journal*, Oct. 10, 2019, available at https://www.wsj.com/articles/two-foreign-born-men-who-helped-giuliani-on-ukraine-arrested-on-campaign-finance-charges-11570714188?mod=hp_lead_pos1; Lefebvre and Lippman, *Politico*, Oct. 5, 2019; Butler, Biesecker and Lardner, *Associated Press*, Oct. 7, 2019.

¹³ *Id.*

for changes to the Naftogaz board, Mr. Giuliani said, “I may or may not know anything about it.”¹⁴

The requested records would shed light on whether Secretary Perry’s reported efforts to prod changes to the Naftogaz board have any relation to the efforts by Mr. Giuliani’s associates to make changes at the company in order to benefit their business interests. The requested records would also help clarify the role Mr. Giuliani, who is not an employee of the U.S. government, has played in Secretary Perry’s interactions with the government of Ukraine and Mr. Giuliani may have influenced American policy in Ukraine.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public’s right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW’s financial interest.

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CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW’s website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

¹⁴ Lefebvre and Lippman, *Politico*, Oct. 5, 2019.

Alexander Morris
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Page 5

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or mcorley@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at mcorley@citizensforethics.org or at Matt Corley, Citizens for Responsibility and Ethics in Washington, 1101 K St NW, Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matt Corley', with a stylized flourish at the end.

Matthew Corley
Chief Investigator