

Congress of the United States

Washington, DC 20515

October 30, 2024

Mr. Domenic J. Dell’Osso, Jr.
President and Chief Executive Officer
Expand Energy Corporation
6100 North Western Avenue
Oklahoma City, OK 73118

Dear Mr. Dell’Osso:

We write to renew Chairman Whitehouse’s June 26, 2024, request for documents relating to communications between Expand Energy Corporation, as successor in interest to Chesapeake Energy, and officials from the Organization of the Petroleum Exporting Countries (OPEC), OPEC+ member nations, competing U.S. oil and gas producers, and other related entities regarding oil and gas production, prices of crude oil and natural gas, and related matters.¹ Despite some superficial engagement with our respective staffs, Expand has neither provided the requested documents nor confirmed that it has undertaken reasonable due diligence to identify and rule out the existence of responsive materials.

Expand transmitted a letter on July 24 that failed to respond to any of the inquiries set forth in Chairman Whitehouse’s letter. The letter simply stated, “for your information, Chesapeake operates in Pennsylvania and Louisiana and our focus is on the exploration and production of natural gas. Chesapeake currently has no oil assets in our portfolio (apart from a few wells that produce de minimis volumes), having divested of our oil producing assets over the past several years.” The argument that because Expand produces mostly natural gas it is irrelevant to global oil pricing is belied by Expand’s own statements in its 2021 10-K filed with the SEC. There, Expand notes that “[v]olatility in oil, natural gas and NGL prices may result from factors that are beyond our control, including: . . . the ability of the members of the Organization of Petroleum Exporting Countries (OPEC) and others to agree to and maintain oil price and production controls.”²

Accordingly, by its own admission, Expand may still have had a reason to engage in anti-competitive practices with OPEC or OPEC+ countries. Furthermore, the fact remains that a large portion of Expand’s production portfolio consisted of petroleum production during the time period relevant to our investigation (*i.e.*, from January 1, 2020, to present). As that same 2021 10-K demonstrated, oil/petroleum accounted for a significant portion of Expand’s output. That remained true at least through the company’s 2023 10-K.³

Furthermore, Expand is one of the companies specifically named in the class action lawsuit alleging output restraint and price fixing filed in Nevada and cited in Chairman Whitehouse's

¹ On October 1, 2024, Chesapeake merged with Southwestern Energy Co to form Expand Energy Co. For the purposes of this letter, references to Expand and any of its executives or employees should be treated as references to the company formerly known as Chesapeake and any of its executives and employees.

² Chesapeake Energy Corporation, SEC Form 10-K (2021), <https://investors.chk.com/sec-filings?cat=1&year=2021>.

³ Chesapeake Energy Corporation, SEC Form 10-K (2022), <https://investors.chk.com/sec-filings?cat=1&year=2022>; Chesapeake Energy Corporation, SEC Form 10-K (2023), <https://investors.chk.com/sec-filings?cat=1&year=2023>.

letter—a point your letter ignored.⁴ Finally, further engagement with Expand by Senate Budget Committee staff was telling in one key respect: it did not deny possessing relevant information and communications with officials from OPEC or OPEC+ member nations.

Expand’s position also stands in contrast to the responses of many of its peer companies that received Chairman Whitehouse’s June 26, 2024, letter. Indeed, over half of the companies that received Chairman Whitehouse’s June letter have confirmed that they have undertaken reasonable due diligence to identify responsive materials or rule out their existence.

Expand’s continuing failure to substantively respond to our requests is particularly concerning in light of recent reporting that the Federal Trade Commission (FTC) is increasing its focus on communications between fossil fuel executives and OPEC in the context of pre-merger reviews. Multiple recipients of our letters, including Occidental Petroleum and Diamondback Energy, are subject to the FTC’s investigations.⁵

Those reports follow the FTC’s Decision and Order barring Pioneer CEO Scott Sheffield from sitting on Exxon’s Board of Directors or serving in an advisory capacity at Exxon after the FTC discovered evidence that Mr. Sheffield had discussed anticompetitive business practices with OPEC officials—findings that prompted this investigation.⁶ In its May 2 action approving Exxon’s \$64.5 billion acquisition of Pioneer, the FTC described Sheffield’s “public statements and private communications,” including “hundreds of text messages” demonstrating that he “attempted to collude with the representatives of the Organization of Petroleum Exporting Countries (OPEC) and a related cartel of other oil-producing countries known as OPEC+ to reduce output of oil and gas . . . to inflate profits for his company.”⁷

Compounding our concerns are additional revelations from the FTC that Mr. Sheffield was not the only American oil and gas executive allegedly engaging in anticompetitive behavior. Last month, the FTC entered into a Decision and Order prohibiting Hess Corporation CEO John Hess from sitting on the board of Chevron Corporation as a condition of allowing Chevron to acquire Hess after the FTC discovered that Mr. Hess had engaged in extensive communications

⁴ Class Action Complaint, *Rosenbaum v. Permian Resources Corp.*, No. 2:24-cv-00103 (D. Nev. Jan 12, 2024) (online at <https://fingfx.thomsonreuters.com/gfx/legaldocs/klpydgmovg/Shale-oil-antitrust-202401-Nevada.pdf>); see also Class Action Complaint, *Andrew Caplen Installations LLC v. Permian Resources Corp.*, No. 2:24-cv-00150 (D. Nev. Jan. 22, 2024) (online at <https://images.law.com/contrib/content/uploads/documents/292/174470/AndrewCaplen-Installations-LLC-v.-Permian-Resources-Corp.-fka-Centennial-Resource-Development-Inc..pdf>); Complaint, *Brown v. Permian Resources Corp.*, No. 1:2024-cv-00430 (D. N.M. May 6, 2024) (online at <https://dockets.justia.com/docket/new-mexico/nmdce/1:2024cv00430/501422>); Josh Sisco, “FTC to approve major Exxon deal—but exclude key executive over OPEC contacts,” *Politico* (May 1, 2024) (online at <https://www.politico.com/news/2024/05/01/ftc-to-approve-major-exxon-deal-but-exclude-key-executive-00155515>).

⁵ Mitchell Ferman, Leah Nylen, and Jennifer Dlouhy, “FTC Eyes Oil Bosses’ Texts for Signs of Collusion With OPEC.” *Bloomberg* (July 19, 2024) (online at <https://www.bloomberg.com/news/articles/2024-07-19/ftc-eyes-oil-executives-texts-for-signs-of-collusion-with-opec>).

⁶ Decision and Order, *In the Matter of Exxon Mobil Corporation*, Docket No. C-_____ (May 2, 2024) (online at https://www.ftc.gov/system/files/ftc_gov/pdf/2410004exxonpioneerorderredacted.pdf); Federal Trade Commission, Press Release: FTC Order Bans Former Pioneer CEO from Exxon Board Seat in Exxon-Pioneer Deal (May 2, 2024) (online at <https://www.ftc.gov/news-events/news/press-releases/2024/05/ftc-order-bans-former-pioneer-ceoexxon-board-seat-exxon-pioneer-deal>).

⁷ *Id.*

and interactions with multiple OPEC Secretaries General and an official who held senior positions in the Saudi Arabian government and its state-owned oil company.⁸

Given that multiple American oil and gas executives have been implicated by the FTC’s discoveries, it is more important than ever that Congress and the American people learn if additional U.S. oil companies are colluding with each other and foreign cartels to manipulate global oil markets and harm American consumers who then pay more at the pump.

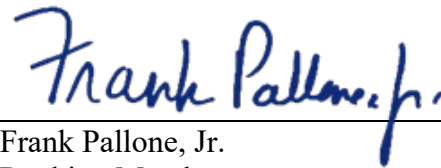
Considering the effect that anticompetitive behavior in the oil and gas sector can have on the U.S. economy and on the federal budget, the substantive responses of many of your peer companies, and continued public reporting about the oil and gas industry’s suspected coordination with OPEC and OPEC+, your lack of any substantive responses to our recent letters is very troubling. Accordingly, we request that you provide updated, substantive responses to our inquiries by no later than November 13, 2024.

If you have any questions regarding this request, please contact the Senate Committee on the Budget Majority Staff at (202) 224-0642 and House Committee on Energy and Commerce Democratic Staff at (202) 225-2927.

Sincerely,



Sheldon Whitehouse
Chairman
Senate Committee on the Budget



Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce

cc: The Honorable Charles E. Grassley
Ranking Member
Senate Committee on the Budget

The Honorable Cathy McMorris Rodgers
Chair
House Committee on Energy and Commerce

⁸ Decision and Order, In the Matter of Chevron Corporation and Hess Corporation, Docket No. C-_____ (September 30, 2024) (online at https://www.ftc.gov/system/files/ftc_gov/pdf/Chevron-Hess-DecisionandOrder.pdf); Agreement Containing Consent Order, In the Matter of Chevron Corporation and Hess Corporation, File No. 241-0008 (September 30, 2024) (online at https://www.ftc.gov/system/files/ftc_gov/pdf/Chevron-Hess-AgreementContainingConsentOrder.pdf).