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May 12, 2025

Federal Trade Commission  
Office of the Secretary  
600 Pennsylvania Avenue NW  
Washington, DC 20580

Re: Sheffield Petition to Reopen; Docket No. C-4815

Dear Commissioners,

On behalf of Public Citizen, we appreciate the opportunity to respond to the Federal Trade Commission's (FTC) request for comment on the petition to set aside and vacate the Commission's May 2, 2024 Decision and Order in Docket No. C-4815, Decision and Order in the Matter of Exxon Mobil Corporation (the Order). Public Citizen opposes the petition by Scott Sheffield to overturn this Order. The FTC documented Scott Sheffield's participation in efforts to coordinate oil supply in order to fix domestic energy prices with the Organization of the Petroleum Exporting Countries (OPEC).<sup>1</sup> The FTC correctly found the merger between Exxon Mobil Corporation ("Exxon") and Pioneer Natural Resources Company ("Pioneer"), as proposed, to be in violation of Section 5 of the FTC Act and Section 7 of the Clayton Act due to Mr. Sheffield's anticompetitive activities.<sup>2</sup> It was more than prudent and reasonable for the Commission to condition approval of Exxon's acquisition of Pioneer on barring Mr. Sheffield from Exxon's board of directors. The Order should stand, and the FTC should reject the petition.

During the period when the FTC alleges Mr. Sheffield coordinated with OPEC to stabilize oil supply, inflation peaked at over nine percent, with energy prices responsible for one-third of price acceleration.<sup>3</sup> The actions taken by Mr. Sheffield and other U.S. oil executives accused of colluding with OPEC harmed American consumers at a time of significant economic stress. When oil prices reached their peak in 2022, U.S. companies kept supply low, driving up

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<sup>1</sup> Complaint, In the Matter of Exxon Mobil Corporation, FTC Docket No. C-4815 (May 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410004exxonpioneercomplaintredacted.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410004exxonpioneercomplaintredacted.pdf).

<sup>2</sup> Id. at 8.

<sup>3</sup> Kristina Karlsson and Lauren Melodia, Fossil Fuel–Driven Price Volatility Demonstrates the Need for a Renewable Transition, Roosevelt Institute (Nov. 21, 2023), <https://rooseveltinstitute.org/publications/fossil-fuel-driven-price-volatility-demonstrates-the-need-for-a-renewable-transition/>.

gas prices and electric bills, while rewarding shareholders.<sup>4</sup> Serving on Exxon's Board of Directors would provide Mr. Sheffield a larger platform to engage in activities that constrain oil supply and drive energy prices up at the expense of the American people.

Reopening a final settlement, as the petition seeks, is a highly unusual practice that should be strongly disfavored by the agency. FTC functioning will be diminished if settlements are up for ongoing negotiation or if parties and the public cannot rely on settlements—agreed on by both sides—to be permanent. Moreover, reopening this case appears to be part of the Trump Administration's broader campaign of corporate clemency—ending enforcement actions against many of the largest and most powerful companies being investigated or accused of wrongdoing by federal agencies.<sup>5</sup>

**Setting aside and vacating the Commission's Decision and Order in Docket No. C-4815 is inappropriate in light of Mr. Sheffield's well-documented anticompetitive behavior.**

The Order in the Matter of Exxon Mobil Corporation bars Exxon from nominating, designating, or appointing Scott Sheffield, or any other Pioneer representative, to the Exxon Board or to an advisory role to Exxon's board or management.<sup>6</sup> It was issued to remedy Mr. Sheffield's harm to competition as described in the FTC's corresponding complaint.<sup>7</sup> The complaint alleges that the proposed acquisition of Pioneer by Exxon, in which Exxon agreed to "take all necessary actions to cause Scott D. Sheffield ... to be appointed to the board of directors," would "meaningfully increase the likelihood of coordination, and thereby harm competition, in the market for development, production, and sale of crude oil."<sup>8</sup>

The complaint documents Mr. Sheffield's coordination with OPEC and OPEC+ representatives, U.S. oil producers, and others during his tenure as CEO of Pioneer. While OPEC member nations have free reign to operate as an explicit cartel, coordinating production and price targets, U.S. oil companies are barred by U.S. antitrust law from participating in this coordination. Nevertheless, the FTC found that Mr. Sheffield participated in a sustained and longrunning strategy to coordinate output reductions with OPEC.<sup>9</sup> The complaint alleges that "[Mr. Sheffield] is in close contact with top OPEC member state oil ministers and other

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<sup>4</sup> Collin Eaton, Oil Prices Top \$100, Yet Some Big U.S. Frackers Let Their Production Fall, The Wall Street Journal (May 7, 2022), <https://www.wsj.com/finance/commodities-futures/oil-prices-top-100-yet-some-big-u-s-frackers-let-their-production-fall-11651926601>.

<sup>5</sup> Rick Claypool, Corporate Clemency: How Trump Is Halting Enforcement Against Corporate Lawbreakers, Public Citizen (Mar. 4, 2025), <https://www.citizen.org/article/corporate-clemency-trump-enforcement-report/>.

<sup>6</sup> Decision and Order, In the Matter of Exxon Mobil Corporation, FTC Docket No. C-4815 (May 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410004-c4815-exxonpioneerfinalorderpublic.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410004-c4815-exxonpioneerfinalorderpublic.pdf).

<sup>7</sup> Id. at 5.

<sup>8</sup> Complaint, In the Matter of Exxon Mobil Corporation, FTC Docket No. C-4815 (May 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410004exxonpioneercomplaintredacted.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410004exxonpioneercomplaintredacted.pdf).

<sup>9</sup> Id. at 2.

high-ranking officials representing the cartel, and uses these relationships to encourage OPEC production controls and to discuss U.S. producers' efforts to maintain capital discipline in order to increase Pioneer's profits"<sup>10</sup>

The complaint documents numerous examples of public and private communication between Mr. Sheffield and OPEC representatives as well as public statements made by Mr. Sheffield expressing alignment with and support for OPEC production targets. Mr. Sheffield also attempted to keep other U.S. oil producers in line with Pioneer production targets. In 2021, Mr. Sheffield said "everybody's going to be disciplined, regardless of whether it's \$75 Brent, \$80 Brent, or \$100 Brent."<sup>11</sup> In 2024, Mr. Sheffield said, "even if oil gets to \$200/bl, the independent producers are going to be disciplined."<sup>12</sup> Excerpts of private communications between Mr. Sheffield and OPEC representatives are largely redacted in the complaint, but the FTC documents several examples of Mr. Sheffield communicating privately with OPEC representatives on the topic of oil pricing and output as well as facilitating communication between OPEC representatives and other U.S. oil producers.<sup>13</sup>

**Mr. Sheffield's actions to coordinate oil output reductions may have contributed to high prices and harmed American consumers.**

Coordinating oil production and price targets with OPEC comes at the direct expense of American consumers who depend on competitive markets to keep energy prices down. U.S. shale producers such as Pioneer have historically acted as swing producers—increasing production when prices rise and decreasing production as prices fall. During periods of high prices, U.S. producers benefit from moving quickly to bring supply to market—racing one another to gain market share before the increased supply brings prices down. A lawsuit brought by Andrew Caplen Installations LLC against Pioneer and seven other U.S. shale producers, alleges this predictable behavior began breaking down in early 2021.<sup>14</sup> Instead of racing one another to increase oil supply during periods of high prices, the lawsuit alleges U.S. producers began coordinating output with OPEC to keep supply down during these periods.<sup>15</sup>

Following Russia's invasion of Ukraine in February 2022, the price of West Texas Intermediate crude oil surged to about \$120 a barrel.<sup>16</sup> Despite the high price, U.S. firms didn't

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<sup>10</sup> Id. at 6.

<sup>11</sup> Id. at 5.

<sup>12</sup> Id. at 5.

<sup>13</sup> Id. at 7.

<sup>14</sup> Complaint and Demand for Jury Trial, *Andrew Caplen Installations LLC v. Permian Resources Corp.*, No. 24-CV-00150 (D. Nev. Jan. 22 2024).

<sup>15</sup> Id. at 7.

<sup>16</sup> Lutz Kilian and Michael D. Plante, The Russian oil supply shock of 2022, Federal Reserve Bank of Dallas (Mar. 22, 2022), <https://www.dallasfed.org/research/economics/2022/0322#>.

increase production, citing the tight labor market and challenges procuring needed equipment.<sup>17</sup> But U.S. oil producers also expressed their collective intention to keep production stable for the purpose of keeping prices and profitability high. In February 2022, Mr. Sheffield said, “the public[ly listed] [I]ndependents are staying in line” and “I’m confident they will continue to stay in line.”<sup>18</sup> On an August 2022 EOG Resources earnings call, a representative said the company was “committed to remaining disciplined.”<sup>19</sup> An April 2023 Bloomberg article cited an industry expert explaining, “OPEC and shale are much more on the same team now, with supply discipline on both sides” which “really puts a floor under the price of oil long term.”<sup>20</sup>

American families and businesses have paid the price for these coordinated efforts to keep supply constrained and prices high. Four months following Russia’s invasion of Ukraine, U.S. inflation reached a peak of over 9 percent, with energy prices responsible for a third of overall inflation. Average gasoline prices rose from their pandemic lows of \$2.50 per gallon in January 2021 to \$5.00 per gallon at their peak in June 2022, amid a strong economic recovery from the COVID-19 pandemic and Russia’s invasion of Ukraine. Price shocks in the fossil fuel sector not only translated to higher gas prices and utility bills, they pushed prices up across the economy as a ubiquitous input across sectors. High energy prices further squeezed consumers already experiencing high prices following supply chain disruptions and other sources of inflation in the wake of the pandemic, further eroding Americans’ purchasing power and financially straining low- and moderate-income Americans most acutely.<sup>21</sup>

The impact of high energy prices not only impacted American families and businesses, it also impacted the federal government and in turn all taxpayers. In an attempt to bring energy prices down from their peak, the Biden Administration released 180 million barrels of oil from the strategic petroleum reserve (SPR) in 2022, bringing year end reserves to their lowest level in 40 years.<sup>22</sup> To replenish the SPR, the Department of Energy directly purchased 59 million barrels of oil at an average price of \$76 per barrel and secured an additional 140 million barrels by canceling mandated sales between FY24 and FY26, at a price of \$74 a barrel.<sup>23</sup> In total, the cost of replenishing the SPR exceeded \$14.8 billion.

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<sup>17</sup> Chris Isidore, More oil supply could stop massive price spikes. But US producers won’t fill that gap, CNN Business (Mar. 2, 2022), <https://www.cnn.com/2022/03/02/energy/us-oil-production/index.html#>.

<sup>18</sup> Complaint and Demand for Jury Trial, *Andrew Caplen Installations LLC v. Permian Resources Corp.*, No. 24-CV-00150 (D. Nev. Jan. 22 2024).

<sup>19</sup> *Id.* at 37.

<sup>20</sup> *Id.* at 39.

<sup>21</sup> Aparna Jayashankar and Anthony Murphy, High inflation disproportionately hurts low-income households, The Federal Reserve Bank of Dallas (Jan. 10, 2023), <https://www.dallasfed.org/research/economics/2023/0110>.

<sup>22</sup> Strategic Petroleum Reserve Annual Report for Calendar Year 2022, Department of Energy (Oct. 2023), <https://www.energy.gov/ceser/articles/spr-2022-annual-report-congress>.

<sup>23</sup> Press Release, U.S. Department of Energy, Biden-Harris Administration Makes Final Purchase for the Strategic Petroleum Reserve - Secures 200 Million Barrels at a Good Deal for the American Taxpayer (Nov. 8, 2024), <https://www.energy.gov/articles/biden-harris-administration-makes-final-purchase-strategic-petroleum-reserve-secures-200>.

## Conclusion

If the FTC's Order is set aside and Mr. Sheffield is permitted to join Exxon's Board of Directors, he would be in position to continue the activities of which he was accused in the FTC's original complaint. According to the complaint, this role would provide a "larger platform from which to advocate for greater industry-wide coordination."<sup>24</sup> Permitting Mr. Sheffield to serve on Exxon's board would further threaten competitive energy markets in the U.S., enriching shareholders while leaving American families and businesses to pay the price. The Commission should deny the petition.

Thank you for your attention to this important issue. With questions, please contact Elyse Schupak at [eschupak@citizen.org](mailto:eschupak@citizen.org).

Sincerely,  
Public Citizen

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<sup>24</sup> Complaint, In the Matter of Exxon Mobil Corporation, FTC Docket No. C-4815 (May 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410004exxonpioneercomplaintredacted.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410004exxonpioneercomplaintredacted.pdf).