

**Before the Federal Trade Commission**  
**Response to Chevron/Hess Petition to Reopen; Docket No. C-4814**  
**Written Comments from the American Economic Liberties Project<sup>1</sup>**  
**May 12, 2025**

We submit this comment in opposition to the petition of Chevron Corporation and John. B. Hess,<sup>2</sup> the former CEO of Hess Corporation, to “set aside and vacate” the Federal Trade Commission (FTC or Commission)’s Decision and Order<sup>3</sup> prohibiting Chevron Corporation (Chevron) from appointing Mr. Hess to Chevron’s Board, or (with limited exceptions) otherwise retaining Mr. Hess to serve Chevron as an advisor, in light of Chevron’s acquisition of Hess Corporation.

Oil price-fixing schemes are estimated to have cost American families between \$2,000 to \$4,000 a year in 2021, making up more than a quarter of the increase in inflation that year.<sup>4</sup> Although prices have declined from their pandemic-era peak, the need for continued vigilance in oil markets is underscored by the fact that the average nationwide price for a gallon of gas is five cents higher this month<sup>5</sup> than it was when President Trump took office.<sup>6</sup>

---

<sup>1</sup> The American Economic Liberties Project is a nonpartisan, nonprofit research and advocacy organization dedicated to understanding and addressing the problem of concentrated economic power in the United States.

<sup>2</sup> Petition of Chevron Corp. & Hess Corp. to Reopen & Set Aside Order, 90 Fed. Reg. 16130 (Apr. 17, 2025) (petition to FTC, Docket No. C-4818), <https://www.federalregister.gov/documents/2025/04/17/2025-06564/petition-of-chevron-corporation-and-hess-corporation-to-reopen-and-set-aside-order>. We are also submitting a separate comment to oppose the petition of Scott Sheffield seeking to set aside and vacate a similar order directed at ExxonMobile Corporation with respect to its acquisition of Pioneer Natural Resources. It is highly concerning that two of the largest oil companies might both bring on board executives who have close connections with OPEC officials.

<sup>3</sup> In re Chevron Corp. & Hess Corp., FTC Docket No. C-4814 (Jan. 16, 2025), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410008c4814chevronhessorder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410008c4814chevronhessorder.pdf).

<sup>4</sup> Matt Stoller, *An Oil Price-Fixing Conspiracy Caused 27% of All Inflation Increases in 2021*, BIG BY MATT STOLLER (May 3, 2025), <https://www.thebignewsletter.com/p/an-oil-price-fixing-conspiracy-caused>.

<sup>5</sup> *Quiet Week at the Pump as Gas Prices Fluctuate Slightly*, AAA FUEL PRICES (May 3, 2025), <https://gasprices.aaa.com/quiet-week-at-the-pump-as-gas-prices-fluctuate-slightly/>.

<sup>6</sup> *Gas Prices Stick to the Middle Lane with a Modest Jump at the Pump*, AAA FUEL PRICES (Jan. 23, 2025), <https://gasprices.aaa.com/gas-prices-stick-to-the-middle-lane-with-a-modest-jump-at-the-pump/>.

The FTC ordered<sup>7</sup> Chevron to take prophylactic measures against collusion and board interlocks in connection with Chevron’s acquisition of Hess to avoid “meaningfully increasing the risk of coordination” in the crude oil market<sup>8</sup>— a market already rigged by hostile foreign actors. As explained in the 2023 Merger Guidelines— which Chair Andrew Ferguson affirmatively adopted upon his elevation to Chair<sup>9</sup>— even “[e]vidence of failed attempts at coordination in the relevant market suggest that successful coordination was not so difficult as to deter attempts, and a merger reducing the number of rivals may tend to make success more likely.”<sup>10</sup> The FTC’s order appropriately prevents one of the largest oil companies in the world from increasing its likelihood of collusion in an already collusion-prone market by bringing on a board member who has cozy relationships with collusive foreign actors.

John B. Hess has a demonstrated appetite for market coordination, and the Commission's complaint details a variety of communications and meetings where Mr. Hess sought to align U.S. oil production with that of Organization of the Petroleum Exporting Countries (OPEC) and an expanded group of countries called OPEC+, which would hike gas prices for millions of Americans. Approximately *half* of all global crude oil production is subject to foreign cartel coordination.<sup>11</sup> As Chair Ferguson has written, “OPEC’s member states include some of America’s bitterest foes,” so American coordination with such state actors is particularly “disquieting.”<sup>12</sup>

---

<sup>7</sup> In re Chevron Corp. & Hess Corp., *supra* note 3, (Section II orders that Chevron shall not: “A. nominate, designate, or appoint John Hess to the Chevron Board; or B. allow John Hess to serve in an advisory or consulting capacity to, or as a representative of, Chevron or the Chevron Board. *Provided however*, Chevron may consult with John Hess and allow John Hess to serve in an advisory or consulting capacity to, or as a representative of, Chevron solely related to interactions and discussions with (a) Guyanese government officials about Hess’s oil-related and health ministry-related activities in Guyana, and (b) the Salk Institute’s Harnessing Plants Initiative”). Under the terms of Chevron and Hess Corporation’s Merger Agreement, Chevron was required to take all necessary actions to appoint Mr. Hess to Chevron’s Board of Directors. See ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER TO AID PUBLIC COMMENT, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf).

<sup>8</sup> See ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDER TO AID PUBLIC COMMENT, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf).

<sup>9</sup> Memorandum of Chair Ferguson, In re Merger Guidelines, (FTC, Feb. 18, 2025), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/ferguson-memo-re-merger-guidelines.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-memo-re-merger-guidelines.pdf).

<sup>10</sup> U.S. Dep’t of Justice & Fed. Trade Comm’n, 2023 Merger Guidelines (Dec. 18, 2023), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2023\\_merger\\_guidelines\\_final\\_12.18.2023.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf).

<sup>11</sup> Compl., In re Chevron Corp. & Hess Corp. (FTC, Docket No. C-4814, Jan. 16, 2025), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410008c4814chevronhesscomplaintpublic.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410008c4814chevronhesscomplaintpublic.pdf).

<sup>12</sup> Dissenting Statement of Commissioner Ferguson, In re Chevron Corp. & Hess Corp., File No. 241-0008 (Sept. 30, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/chevron-hess-ferguson-statement\\_0930.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/chevron-hess-ferguson-statement_0930.pdf).

As the FTC’s complaint details, Mr. Hess openly and repeatedly endorsed industry-wide price “stability” and lauded OPEC’s “great job managing the oil market.”<sup>13</sup> For example, at one conference Mr. Hess said of OPEC: “we all belong to the same industry, we have all felt the brunt of the volatility the market has experienced over the past two years or so and we all want to see the restoration of stability.”<sup>14</sup> At another event, he touted the ability of shale producers and OPEC to “coexist.” At a third, he praised an OPEC supply-restriction deal for “accelerat[ing] the draw down of those excessive supplies to get to inventories in the world where they’re comfortable, but not excessive,” noting that “if this agreement hadn’t been done, I think probably prices would have floundered for another year in the 40s.” And so on.

Mr. Hess allegedly developed close relationships with OPEC officials since at least 2016, memorialized in both public and private communications.<sup>15</sup> Underscoring the intimate connection and extent of opportunity for collusion, Hess Corporation, under Mr. Hess’s leadership, was the only U.S. firm to sponsor an OPEC summit in 2023— at the second-highest sponsorship level available.<sup>16</sup>

Mr. Hess’s petition to set aside the Chevron order<sup>17</sup> parrots Chair Ferguson’s contention<sup>18</sup> that Chevron’s anticompetitive appointment of Mr. Hess to its Board should be blessed by regulators because – from Mr. Hess’s perspective – the appointment would be a nominal demotion, from CEO and major shareholder to non-executive member of a thirteen-person Board. Putting aside the fact that Chevron has over eighteen times the annual revenue of Hess,<sup>19</sup> and thus presents a far more impactful platform for coordination, this framing ignores the underlying policy concerns about how collusion works in practice. While voting is one mechanism for collusion, even an outvoted (or a non-voting) member can “facilitat[e] the exchange of confidential, competitively significant information between rivals.”<sup>20</sup> Moreover, “[w]hen market actors speak and act as if they can collude, we should not ignore this direct evidence or subordinate it to less direct indicators of market realities.”<sup>21</sup>

---

<sup>13</sup> *In re Chevron Corp. and Hess Corp.*, *supra* note 10.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Petition of Hess Corp. & Chevron Corp., FTC Docket No. C-4814 (Mar. 27, 2025), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/c4814petitiontoreopenandsetasidedecisionandorder.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/c4814petitiontoreopenandsetasidedecisionandorder.pdf).

<sup>18</sup> Dissenting Statement of Commissioner Andrew Ferguson, *supra* note 11.

<sup>19</sup> Analysis Of Agreement Containing Consent Order To Aid Public Comment, *In re Chevron Corp. & Hess Corp.*, File No. 241-0008, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Chevron-Hess%20Analysis%20to%20Aid%20Public%20CommentCorrected.pdf).

<sup>20</sup> Statement of Interest of the U.S. & Fed. Trade Comm’n, [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2323044openaimuskvaltmanamicusbrief.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2323044openaimuskvaltmanamicusbrief.pdf) (page 9).

<sup>21</sup> Statement of Chair Khan, *In re Exxon Mobil Corp.*, File No. 241-0004 (May 2, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410004exxonpioneerlmkstmt1\\_0.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410004exxonpioneerlmkstmt1_0.pdf). Where direct evidence exists,

While the FTC’s complaint provides a sufficient basis for a consent decree pursuant to Section 7 of the Clayton Act,<sup>22</sup> we note that the complaint also alleged a cause of action under Section 5 of the Commission’s authorizing statute, the FTC Act.<sup>23</sup> This provides an additional statutory foundation for preventing Chevron from placing Mr. Hess on its board.<sup>24</sup> Section 5 provides broader authority than the Clayton Act does to address conduct that does not result in an actual agreement or conspiracy,<sup>25</sup> but which nonetheless constitutes a unilateral invitation to collude. Even if Mr. Hess’s invitation via text message to OPEC officials to collude was unsuccessful, and regardless of how frequently they were in touch, such an invitation may still violate Section 5.<sup>26</sup>

---

there is no need to resort to indirect evidence such as market shares. See, e.g., 2023 Merger Guidelines at 18 (“the Agencies first assess whether one of the merging firms has a dominant position based on direct evidence **or** market shares showing durable market power.”) (bold added).

<sup>22</sup> For a textualist interpretation of the Clayton Act, see Basel Musharbash & Daniel A. Hanley, *Toward a Merger Enforcement Policy That Enforces the Law: The Original Meaning and Purpose of Section 7 of the Clayton Act*, 63 DUQUESNE L. R. 1, (2025), available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4745310](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4745310).

<sup>23</sup> Compl., *In re Chevron Corp. & Hess Corp.* (FTC, Docket No. C-4814, Jan. 16, 2025), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/2410008c4814chevronhesscomplaintpublic.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/2410008c4814chevronhesscomplaintpublic.pdf).

<sup>24</sup> Statement of Chair Khan, joined by Commissioners Bedoya & Slaughter, On the Adoption of the Statement of Enforcement Policy Regarding Unfair Methods of Competition Under Section 5 of the FTC Act (Nov. 10, 2022), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/Section5PolicyStmntKhanSlaughterBedoyaStmnt.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/Section5PolicyStmntKhanSlaughterBedoyaStmnt.pdf). As Chair Ferguson has aptly observed elsewhere, “the Constitution does not permit the Executive Branch to suspend the enforcement of a law on policy grounds.” See, Dissenting Statement of Commissioner Ferguson, *In re Southern Glazer’s Wine and Spirits*, LLC Matter No. 211-0155 (Dec. 12, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/ferguson-southernglazers-statement.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-southernglazers-statement.pdf).

<sup>25</sup> See, e.g., *In re Musical Instruments & Equip. Antitrust Litig.*, 798 F.3d 1186, 1196 (9th Cir. 2015) (“[U]nlike § 1 of the Sherman Act, a violation of § 5 of the FTC Act does not require allegation and proof of a contract, combination, or conspiracy.”).

<sup>26</sup> See, e.g., *In re Valassis Commc’ns, Inc.*, 141 F.T.C. 247, 272 (2006) (consent order for attempted tacit collusion, with no finding that defendant successfully reached agreement with competitor); *In re U-Haul Intl., Inc.*, 149 F.T.C. 1, 37 (2010) (same). Moreover, public statements can establish collusion. See, e.g., *In re Delta/AirTran Baggage Fee Antitrust Litig.*, 733 F. Supp. 2d 1348, 1360 (N.D. Ga. 2010) (“Plaintiffs need not allege the existence of collusive communications in ‘smoke-filled rooms’ in order to state a § 1 Sherman Act claim. Rather, such collusive communications . . . occur in speeches at industry conferences, announcements of future prices, statements on earnings calls, and in other public ways.”); *In re Coordinated Pretrial Proceedings in Petrol. Prod. Antitrust Litig.*, 906 F.2d 432, 447 (9th Cir. 1990) (“[T]he form of the exchange—whether through a trade association, through private exchange . . . or through public announcements of price changes—should not be determinative of its legality.” (quoting RICHARD A. POSNER, *ANTITRUST LAW: AN ECONOMIC PERSPECTIVE* 146 (1976))). Empirical evidence confirms that price fixing is accomplished through public statements about output “discipline.” See, e.g., Gaurab Aryal, Federico Ciliberto & Benjamin T. Leyden, *Public Communication and Collusion in the Airline Industry* 3-6 (Becker Friedman Inst. for Rsch. in Econ., Working Paper No. 2018-11, 2021) (finding that when airlines discuss “capacity discipline” on earnings calls, they subsequently reduce supply).

<sup>26</sup> See, e.g., *In re Musical Instruments & Equip. Antitrust Litig.*, 798 F.3d 1186, 1196 (9th Cir. 2015) (“[U]nlike § 1 of the Sherman Act, a violation of § 5 of the FTC Act does not require allegation and proof of a contract, combination, or conspiracy.”).

The FTC's decision to bar Chevron from putting on its Board a member who would meaningfully increase the likelihood of industry collusion was critical to protect American consumers from potential price-fixing, uphold competitive integrity in the oil and gas industry and serve as a deterrent to future would-be price colluders. As the majority explained, this order “mark[s] an important step towards ensuring that U.S. oil producers are serving as a competitive check on OPEC+ rather than subordinating their independent decision-making to the goals set by a cartel.”<sup>27</sup>

For the foregoing reasons, we urge the FTC to deny Chevron and Mr. Hess’s petition, uphold its original decision, and continue to enforce measures that prevent anti-competitive practices in our energy markets.

Sincerely,

American Economic Liberties Project

---

<sup>27</sup> Statement of Chair Khan, joined by Commissioners Bedoya & Slaughter, *In re Chevron Corp. & Hess Corp.*, FTC File No. 241-0008 (Sept. 30, 2024), [https://www.ftc.gov/system/files/ftc\\_gov/pdf/statement-of-chair-lina-m-khan-joined-by-commr-rebecca-kelly-slaughter-and-commr-alvaro-bedoya-in-the-matter-of-chevron-corporation-hess-corporation.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/statement-of-chair-lina-m-khan-joined-by-commr-rebecca-kelly-slaughter-and-commr-alvaro-bedoya-in-the-matter-of-chevron-corporation-hess-corporation.pdf).