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September 12, 2022

Vanessa A. Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

RE: Request for Public Comment on Substantial Implementation, Duplications, and Resubmission of Shareholder Proposals under Exchange Act Rule 14a-8 (Release No. 34-95267; IC-34647; File No. S7-20-22) ("Proposed Rules")

Dear Ms. Countryman:

The Williams Companies, Inc. ("Williams" or the "Company"), a Fortune 500 energy infrastructure company primarily engaged in the gathering, processing, and transportation of natural gas and natural gas products, submits these comments to the Securities and Exchange Commission ("SEC") and urges the SEC not to adopt the Proposed Rules.

As noted in the Williams Proxy Statement filed in March 2022, we proactively seek year-round engagement with shareholders as a cornerstone of our corporate governance practice. We believe ongoing and constructive dialogue helps us provide the transparency necessary to build relationships and keeps us informed on important emerging issues from our shareholders. We provide many different opportunities for engagement and work to integrate these discussions into our decision-making process where needed. In addition to our robust shareholder engagement, shareholders can submit proposals for inclusion in our proxy statement pursuant to Rule 14a-8 of the Securities Exchange Act of 1934, as amended. The SEC's proposed amendments to Rule 14a-8 will likely require more time, money, and energy from the Company to address proposals on subjects where we have already acted, for proposals that are duplicative with only minor differences, or for proposals that have not garnered widespread support from our shareholders. We believe most of our shareholders would prefer Williams put that time, money, and energy to better use through meaningful shareholder engagement and activities that improve performance, and we ask that the SEC reconsider adopting the Proposed Rules.

Rule14a-8 requires companies that are subject to the federal proxy rules to include certain shareholder proposals in a company's proxy statement if the proposals meet certain procedural and substantive requirements. As observed by the SEC: "By giving any shareholder-proponent the ability to have a proposal included in the company's proxy statement to all shareholders,

Rule 14a-8 enables eligible shareholder-proponents to easily present their proposals to all shareholders, and to have proxies solicited for their proposals, at little or no expense to themselves."[1] Rule 14a-8 also contains 13 substantive bases for a company to rely on for excluding a shareholder proposal. These exclusions are a necessary counterweight to avoid the cost and distraction of an onslaught of proposals that do not serve the interests of all the company's shareholders. As the SEC noted in its proposing release: "The value of including a shareholder proposal in a company's proxy statement for shareholder consideration and vote at a meeting depends fundamentally on the tradeoff between the potential for improving a company's future performance and the costs associated with the submission and consideration of a shareholder proposal borne by the company and its non-proponent shareholders."[2] The Proposed Rules undercut the balance between productive shareholder engagement and unnecessary cost and distraction by moving toward a more rigid approach to certain exclusions. This approach caters to a minority of shareholders at the expense of the broader shareholder base. Williams strongly urges the SEC not to move forward with the Proposed Rules, which may harm our shareholders and overturn nearly forty years of precedent used in interpreting these exclusions.

Substantial Implementation

Rule 14a-8(i)(10) allows a company to exclude a shareholder proposal if the company "has already substantially implemented the proposal."[3] The purpose of the exclusion, as the SEC notes, is to "avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management."[4] In 1983, the SEC adopted the "substantial implementation" language to permit exclusion even if a proposal has not been fully effected because the "previous formalistic application of this provision defeated its purpose." The Proposed Rules, however, make the exclusion much more like the pre-1983 version of the rule by providing that a company may exclude a proposal as substantially implemented "[i]f the company has already implemented the essential elements of the proposal." What constitutes an essential element is unclear, but it appears to be a strict approach that will defeat the purpose of the exclusion. In other words, even if management has favorably acted upon a previous proposal, the company may need to include in its proxy statement a new proposal that is identical to the previous proposal if one element of the new proposal is different and is deemed essential. Such a rule encourages overly proscriptive and granular micromanagement of the company by shareholders who can continue to submit proposals over and over again by simply changing one element even though management has considered the proposal and taken action.[5]

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[1] Procedural Requirements and Resubmission Thresholds under Exchange Act Rule 14a-8, Release No. 34-89964; File No. S7-23-19 (September 23, 2020), available at https://www.sec.gov/rules/final/2020/34-89964.pdf.

[2] Substantial Implementation, Duplication, and Resubmission of Shareholder Proposals Under Exchange Act Rule 14a-8, Exchange Act Release No. 34-95267 (July 13, 2022) (https://www.sec.gov/rules/proposed/2022/34-95267.pdf) ("Proposing Release") at 48-9.

[3] 17 CFR § 240.14a-8(i)(10).

[4] Proposing Release at 10 (quoting Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982, at 29985 (July 20, 1976)]).

[5] Proposing Release at 14-15 ("In determining the essential elements of a proposal, we anticipate that the degree of specificity of the proposal and its stated primary objectives would guide the analysis. The proposed amendment would permit a shareholder proposal to be excluded as substantially implemented only if the company has implemented all of its essential elements.").

Duplication

Rule 14a-8(i)(11) provides that a company may exclude a shareholder proposal if it "substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting."[6] The purpose is "to eliminate the possibility of shareholders having to consider two or more substantially identical proposals submitted to an issuer by proponents acting independently of each other."[7] Historically, in evaluating whether proposals are substantially duplicative under Rule 14a-8(i)(11), the staff has considered whether the proposals share the same "principal thrust" or "principal focus."[8] The Proposed Rules provide that a proposal "substantially duplicates" another proposal if it "addresses the same subject matter and seeks the same objective by the same means."[9] As observed by Commissioner Peirce: "Clarity in this case seems to mean defanging the exclusion. Unless proposals are exactly the same things, it seems that neither will be excludable as duplicative. The likely result – one the Proposing Release acknowledges – is multiple potentially overlapping or even conflicting proposals on the same topic on the same proxy."[10] We agree that the Proposed Rules are likely to result in multiple proposals regarding the same subject matter being allowed into proxy statements simply due to differences in the approach or methodology. We believe this again encourages overly proscriptive and granular micromanagement of the company by shareholders. Furthermore, this will likely cause shareholder confusion and the inclusion and possible adoption of multiple contradictory proposals.

Resubmission

Rule 14a-8(i)(12) provides that a company may exclude a shareholder proposal from its proxy materials if it "addresses substantially the same subject matter as a proposal, or proposals, previously included in the company's proxy materials within the preceding five calendar years" if the matter was voted on at least once in the last three years and received support below specified vote thresholds on the most recent vote.[11] The purpose is "to relieve the management of the necessity of including proposals which have been previously submitted to security holders without evoking any substantial security holder interest therein."[12] The SEC changed the language of the exclusion to "substantially the same subject matter" in 1983 "to signal a clean break from the strict interpretive position applied to the existing provision"[13] and focus on "consideration of the substantive concerns raised by a proposal rather than the specific language or actions proposed to

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[6] 17 CFR § 240.14a-8(i)(11).

[7] Proposing Release at 17 (quoting Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994 (Dec. 3, 1976]).

[8] *Id*. (quoting Pacific Gas & Electric Co. (Feb. 1, 1993) (staff response letter noting that exclusion under Rule 14a-8(i)(11) was not appropriate because the second proposal's "principal thrust" differed from the first proposal's "principal focus").

[9] *Id*. at 18.

[10] Statement by Commissioner Peirce on Proposed Amendments to Rule 14a-8 (July 13, 2022), available at https://www.sec.gov/news/statement/peirce-statement-shareholder-proposals-proposal-071322.

[11] 17 CFR § 240.14a-8(i)(12).

[12] Proposing Release at 22 (quoting Notice of Proposal to Amend Proxy Rules, Release No. 34-4114 (July 6, 1948) [13 FR 3973 (July 14, 1948)]).

[13] *Id*. at 23.

deal with those concerns" to avoid an "improperly broad interpretation" of the rule.[14] The exclusion is a necessary counterweight to "the abuse of the shareholder process by 'certain proponents who make minor changes in proposals each year so that they can keep raising the same issue despite the fact that other shareholders have indicated by their votes that they are not interested in that issue.'"[15] Similar to the duplication exclusion, however, the Proposed Rules would provide that a proposal "substantially duplicates" another proposal if it "addresses the same subject matter and seeks the same objective by the same means."[16] As a result, the exclusion "will be used to shield shareholder proponents from the consequences of their failed votes"[17] by allowing the same proposals to be resubmitted over and over again with only minor changes. This again will encourage overly proscriptive and granular micromanagement of the company by shareholders and will serve as a distraction to management that could harm company performance. The SEC suggests the Proposed Rules help to facilitate "proponents experimenting and making adjustments to previously submitted proposals to build broader support" and "lead to proposals that align more closely with objectives of shareholders."[18] The proxy statement, however, is not the correct forum for distracting experimentation by shareholders who are not tasked with running the company.

Costs

The Proposed Rules seem fixated on reducing costs associated with no action correspondence that companies utilize in determining whether an exclusion applies, but any costs saved in the no action correspondence process will be dwarfed by the harm to shareholders that the Proposed Rules will create. The SEC should not adopt a formalistic and strict approach of the exclusions in the name of clarity (i.e., simplifying its work) when doing so completely discounts the purpose of the rules and the cost associated with no longer having an effective counterbalance to shareholder proposal rights.

Williams appreciates the opportunity to share its thoughts and information with the SEC regarding the Proposed Rules.

Respectfully,

THE WILLIAMS COMPANIES, INC.

T. Lane Wilson
Sr. Vice President and General Counsel

[14] *Id*. at 24 (quoting Amendments to Rule 14a-8 Under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-20091 (Aug. 16, 1983) [48 FR 38218 (Aug. 23, 1983)]).

[15] *Id*.

[16] *Id*. at 27.

[17] Statement by Commissioner Peirce on Proposed Amendments to Rule 14a-8 (July 13, 2022), available at https://www.sec.gov/news/statement/peirce-statement-shareholder-proposals-proposal-071322.

[18] Proposing Release at 60.