UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

The Vanguard Group, Inc.	)	
Vanguard Global Advisors, LLC	)	
Vanguard Asset Management, Ltd.	)	Docket No. EC19-57-001
Vanguard Investments Australia Ltd.	)	
Vanguard Fiduciary Trust Company	)	

MOTION TO INTERVENE AND PROTEST BY CONSUMERS' RESEARCH, INC.

Pursuant to Rule 211 and Rule 214 of the Practice and Procedures of the Federal Energy Regulatory Commission ("FERC" or the "Commission"),[1] Consumers' Research, Inc. moves to intervene and protests the application filed by The Vanguard Group, Inc. and its affiliated entities and subsidiaries (collectively, "Vanguard"), requesting a blanket authorization under Section 203 of the Federal Power Act ("FPA") for acquisitions of voting securities of publicly traded utilities.[2]

Consumers' Research represents the interests of household consumers in all areas of consumer spending, including household energy costs. It is an independent educational 501(c)(3) nonprofit organization whose mission is to increase the knowledge and understanding of issues, policies, products, and services of concern to consumers and to promote the freedom to act on that knowledge and understanding.[3] Since 1929, Consumers' Research has been asking the foundational question: Who — or what — best serves consumer wellbeing?[4] In their book 100,000,000 Guinea Pigs, founders Frederick J. Schlink and Arthur Kallet wrote about a need to provide "the consumer some manner of defense against" the shortcomings of the 1930s-era consumer education. For decades, Schlink continued this pursuit at the helm of Consumers'

[1] 18 C.F.R. §§ 385.211, 385.214.
[2] Joint Application for Authorization Under Section 203 of the Federal Power Act, *The Vanguard Group, Inc.*, Docket No. EC19-57-001 (Feb. 16, 2022) ("Application").
[3] https://consumersresearch.org/mission/
[4] https://consumersresearch.org/history/

Research. In 1981, newly-appointed editor M. Stanton Evans helped guide Consumers' Research through its expansion from a product-focused organization to one that also considers the effects laws, regulations, and government programs have on consumers. Today's Consumers' Research leadership continues that legacy. It is in the public interest for Consumers' Research to be permitted to intervene in this matter to represent the interests of consumers in the critical area of energy prices, which are an important component of consumer spending.

Here, Vanguard promises that it does not control or manage its portfolio companies, that it has no hand in their day-to-day activities, and that its ownership does not affect electricity rates, but its radical environmental, social, and corporate governance agenda tells a different story. In its own words, Vanguard takes a "results-oriented" approach to engaging its portfolio companies.[5] That includes pushing for leadership changes, voting on shareholder proposals, and demanding compliance with Vanguard's "expectations" on political projects "such as climate change or diversity."[6]

Consumers' Research is particularly concerned that Vanguard's actions, along with those of other global investment managers such as BlackRock Inc. and State Street Corporation, actively harm U.S. consumers by driving up energy prices. Higher energy prices hurt consumers directly at the pump and when they pay bills, of course, but also indirectly because energy is a critical input throughout the economy. The last thing U.S. consumers need in this inflationary period is Wall Street meddling with the energy industry to achieve progressive political goals at the expense of

---

[5] Vanguard, *Stewardship in action* (accessed Nov. 19, 2022) https://corporate.vanguard.com/content/corporatesite/us/en/corp/how-we-advocate/investment-stewardship/stewardship-in-action.html.

[6] *Id.*; *see also* Vanguard, *Investment Stewardship: 2022 Semiannual Report* (Aug. 19, 2022), at 5, 10, https://corporate.vanguard.com/content/dam/corp/advocate/investment-stewardship/pdf/policies-and-reports/investment_stewardship_semiannual_report_2022.pdf (describing Vanguard's commitment to "diversity of . . . gender, race, and ethnicity" in voting for board members and Vanguard's goal for boards "to oversee climate-related risks, to determine mitigation measures, and to provide comprehensive disclosures").

market efficiency. Vanguard's Application asks the Commission to overlook the way it leverages its trillions of dollars under management to warp the energy industry. But it is the Commission's statutory responsibility to protect the industry and, at a minimum, to oversee the behavior of major players like Vanguard.[7] Because Vanguard's impact on the energy markets deserves more attention, not less, Consumers' Research protests the Application for a blanket authorization.

I. Communications and Correspondence

Please direct all communications and correspondence regarding this proceeding to:

Will Hild
Executive Director
Consumers' Research
1801 F. St.
Washington, DC 20006
info@consumersresearch.org

II. Motion to Intervene

Consumers' Research is an independent educational 501(c)(3) nonprofit organization whose mission is to increase the knowledge and understanding of issues, policies, products, and services of concern to consumers and to promote the freedom to act on that knowledge and understanding. Consumers' Research believes that the cost, quality, availability, and variety of goods and services used or desired by American consumers—from both the private and public sectors—are improved by greater consumer knowledge and freedom. To that end, Consumers' Research engages in research, public engagement, and advocacy, such as participating in proceedings before federal agencies like the Commission.

III. Protest

Consumers' Research urges the Commission not to renew Vanguard's blanket authorization to acquire massive equity in publicly traded utility companies. When reviewing

[7] 42 U.S.C. § 7171; 18 C.F.R. § 2.26(b).

applications under Section 203 of the FPA, the Commission must assess the possible effects on competition, rates, and regulation to determine whether the proposal is "consistent with the public interest."[8] By law, the Commission should deny blanket authorization unless Vanguard has shown that it would not adversely affect just and reasonable rates for energy consumers. Vanguard has not and cannot make such a showing because its political investment strategies, in fact, increase rates and harm the public interest.

Vanguard, along with asset managers BlackRock Inc. and State Street Corporation ("the Big Three"), own most of corporate America. Collectively, they hold the largest voting blocs for most of the S&P 500,[9] and are the largest investors in public oil, gas, and coal companies, having a combined $300 billion fossil-fuel investment portfolio.[10] This massive concentration of corporate ownership, including of voting securities, in public utilities gives the Big Three substantial control over the U.S. industry. That degree of industry concentration, on its own, is cause for the Commission to reconsider its past blanket authorizations.

More alarming to Consumers' Research—and hopefully to the Commission as well—is how the Big Three have used their combined market power to shape American energy policy. In just the past few years, the Big Three have embarked on a full-scale engagement and proxy-voting strategy to force utility companies to comply with various decarbonization goals. For just one of many examples, all three companies are now dedicated members of the Net Zero Asset Managers initiative ("NZAM"). As members of that organization, the Big Three have agreed to "accelerate

[8] 18 C.F.R. § 2.26(b).

[9] Dan Morenoff, *Break Up the ESG Investing Giants*, WALL ST. J. (Aug. 31, 2022), https://www.wsj.com/articles/break-up-the-esg-investing-giants-state-street-blackrock-vanguard-voting-ownership-big-three-competitor-antitrust-11661961693; *see also* Matt Phillips, *Exxon's Board Defeat Signals the Rise of Social-Good Activists*, N.Y. TIMES (June 9, 2021), https://www.nytimes.com/2021/06/09/business/exxon-mobil-engine-no1-activist.html ("In 2018, BlackRock, Vanguard, and State Street cast an average of about 25 percent of the votes in elections for directors of all of the companies in the S&P 500 . . . .").

[10] Patrick Greenfield, *World's top three asset managers oversee $300bn fossil fuel investments*, THE GUARDIAN (Oct. 12, 2019), https://www.theguardian.com/environment/2019/oct/12/top-three-asset-managers-fossil-fuel-investments.

the transition towards global net zero emissions" by "[i]mplement[ing] a stewardship and engagement strategy, with a clear escalation and voting policy, that is consistent with [NZAM's] ambition for *all assets under management to achieve net zero emissions* by 2050 or sooner."[11] As one member of the Commission put it, "The claim that huge asset managers such as BlackRock, State Street and Vanguard are merely passive investors . . . is no longer credible."[12] Indeed, the Commission should not mechanically apply past precedent when there has been a "change[] in material facts and circumstances" since the last blanket authorization.[13]

Not only do the Big Three pledge to use their investments for environmental purposes, but they follow through too. Although BlackRock is the most notorious spear carrier when it comes to coercive corporate activism, Vanguard too has become a material investor. While Vanguard's Application states that its investments cannot harm consumer interests because it does not "exercise any control over the day-to-management or operations of an utility,"[14] that unsupported statement is belied by Vanguard's own actions. In publications on its website, Vanguard details its "important role" in promoting "meaningful progress across *both* [its] actively managed and index-based products" such that portfolio companies adopt its climate goals.[15] To be sure, it is not

---

[11] The Net Zero Asset Managers Initiative, *Commitment*, https://www.netzeroassetmanagers.org/commitment/ (emphasis added); *see also* Vanguard, *Vanguard's initial commitment under the Net Zero Asset Managers initiative* (May 25, 2022), https://corporate.vanguard.com/content/corporatesite/us/en/corp/articles/vanguards-approach-to-net-zero-goals.html; Dawn Lim, *Larry Fink Wants to Save the World (and Make Money Doing It)*, WALL ST. J. (Jan. 6, 2022), https://www.wsj.com/articles/larry-fink-wants-to-save-the-world-and-make-money-doing-it-11641484864; Jasper Jolly, *Asset manager BlackRock threatens to sell shares in worst climate polluters*, THE GUARDIAN (Jan. 27, 2021), https://www.theguardian.com/business/2021/jan/26/asset-manager-blackrock-threatens-to-sell-shares-in-worst-climate-polluters; Andrew Ross Sorkin, *BlackRock C.E.O. Larry Fink: Climate Crisis Will Reshape Finance*, N.Y. TIMES (Jan. 14, 2020), https://www.nytimes.com/2020/01/14/business/dealbook/larry-fink-blackrock-climate-change.html.

[12] *Order Extending Blanket Authorization to Acquire Securities*, 179 FERC ¶ 61,049 (Christie, Comm'r, concurring) at P 3.

[13] *Order Extending Blanket Authorization to Acquire Securities*, 179 FERC ¶ 61,049 at P 15.

[14] Joint Application for Authorization Under Section 203 of the Federal Power Act, *The Vanguard Group, Inc.*, Docket No. EC19-57-001 (Feb. 16, 2022) ("Application").

[15] Vanguard, *Vanguard's initial commitment under the Net Zero Asset Managers initiative* (May 25, 2022), https://corporate.vanguard.com/content/corporatesite/us/en/corp/articles/vanguards-approach-to-net-zero-goals.html.

the case that Vanguard pursues its environmental agenda only through special "ESG" investment vehicles, while passively managing its other funds. Rather, according to Vanguard, even those funds "without explicit ESG mandates [] nonetheless align to net zero [carbon] objectives because of the existing philosophy and process used by the investment managers."[16] Even supposedly passive index funds are managed by Vanguard's "investment stewardship teams" that pressure portfolio companies to adopt "emission reduction goals."[17]

Vanguard's active management alone warrants a hard look from the Commission, but especially so where it directly affects consumer energy prices. Vanguard's desire for a global transition to net zero carbon emissions necessarily involves throttling investment in new oil, gas, and coal production, *i.e.*, the backbone of the U.S. energy industry. For example, after the Big Three successfully backed three climate-conscious board members at Exxon Mobil,[18] the company announced it would not only spend $15 billion on lower-emission initiatives over the next five years,[19] but also consider abandoning multiple oil and gas projects worth billions.[20] Needless to say, spending billions on green "initiatives" increases the cost of energy production and diverts resources away from research and development that could benefit consumers down the line.[21] Combine those opportunity costs with an immediate decrease in energy output by abandoning lucrative projects, and the results will be disastrous for consumer energy prices. Moreover,

---

16 *Id.*
17 *Id.*
18 Matt Phillips, *Exxon's Board Defeat Signals the Rise of Social-Good Activists*, N.Y. TIMES (June 9, 2021), https://www.nytimes.com/2021/06/09/business/exxon-mobil-engine-no1-activist.html.
19 ExxonMobil, *ExxonMobil announces ambition for net zero greenhouse gas emissions by 2050* (Jan. 18, 2022), https://corporate.exxonmobil.com/News/Newsroom/News-releases/2022/0118_ExxonMobil-announces-ambition-for-net-zero-greenhouse-gas-emissions-by-2050.
20 Christopher M. Matthews and Emily Glazer, *Exxon Debates Abandoning Some of Its Biggest Oil and Gas Projects*, WALL ST. J. (Oct. 20, 2021), https://www.wsj.com/articles/exxon-debates-abandoning-some-of-its-biggest-oil-and-gas-projects-11634739779.
21 David R. Henderson and Marc Joffe, *ESG Feeds Inflation, Hurts Economic Growth*, WALL ST. J (July 5, 2022), https://www.wsj.com/articles/esg-feeds-inflation-hurts-growth-business-roundtable-dei-stakeholders-profit-economy-stagflation-11657050965.

Vanguard's broader mission to achieve net-zero involves replacing existing modes of energy production with less efficient, more costly forms of energy, such as wind and solar. Even if net-zero emissions were attainable, there is no evidence (certainly none in Vanguard's Application) that such a transition would benefit U.S. consumers. At present, all evidence points to the contrary. According to one study by researchers at the University of Chicago, states with existing renewable portfolio standards paid $125.2 billion more in electricity costs compared to states without them.[22] Simply put, there is no way for energy companies to subordinate efficient energy production to the social/political goals of activist investors without harming U.S. energy consumers.[23]

* * *

Earlier this year, two members of the Commission raised similar concerns about BlackRock but ultimately concurred in the Commission's order based on precedent.[24] The present Application is an opportunity to reconsider the fit between that precedent and how the Big Three now operate. With each passing day, BlackRock, Vanguard, and State Street exert greater influence on U.S. energy markets under the guise of "passive investing." Because Vanguard should not have a blank check to dictate energy policy in America, Consumers' Research moves to intervene, protests, and urges the Commission to deny the Application.

---

[22] Michael Greenstone and Ishan Nath, *Do Renewable Portfolio Standards Deliver?* Working Paper No. 2019-62 (May 2019), https://epic.uchicago.edu/wp-content/uploads/2019/07/Do-Renewable-Portfolio-Standards-Deliver.pdf

[23] David R. Henderson and Marc Joffe, *ESG Feeds Inflation, Hurts Economic Growth*, WALL ST. J (July 5, 2022), https://www.wsj.com/articles/esg-feeds-inflation-hurts-growth-business-roundtable-dei-stakeholders-profit-economy-stagflation-11657050965; *see also* Gabriella Hoffman, An Inconvenient Truth: ESG Is Fueling Inflation Woes, REAL CLEAR ENERGY (July 29, 2022), https://www.realclearenergy.org/articles/2022/07/29/an_inconvenient_truth_esg_is_fueling_inflation_woes_845052.html.

[24] *Compare BlackRock, Inc.*, 179 FERC ¶ 61,049 (2022) *with BlackRock, Inc.*, 167 FERC ¶ 62,049 (2019); *BlackRock, Inc.*, 155 FERC ¶ 62,051 (2016); *BlackRock, Inc.*, 131 FERC ¶ 61,063 (2010).