

ONE HUNDRED EIGHTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-3641
Minority (202) 225-2927

December 18, 2023

Rusty Hutson, Jr.
Co-Founder & Chief Executive Officer
Diversified Energy Company PLC
1600 Corporate Drive
Birmingham, Alabama 35242

Dear Mr. Hutson:

Due to our concerns over the environmental impacts of methane emissions, we write to request information about Diversified Energy Company PLC and its subsidiaries' (Diversified Energy or the company) policies and practices related to well management, well cleanups, and methane emissions. As the largest owner and purchaser of oil and gas wells in the United States, Diversified Energy is responsible for remediating a substantial share of the country's aging oil and gas wells, but we are concerned that your company may be vastly underestimating well cleanup costs.¹ Such an underestimation would threaten Diversified Energy's ability to cover environmental liabilities associated with cleaning up its oil and gas wells, which could create thousands of orphaned, methane-leaking wells and undermine efforts to respond to the worsening climate crisis.

Methane is an incredibly potent greenhouse gas and the key component of natural gas. Methane released into the atmosphere is at least 80 times more powerful than carbon dioxide and accounts for 12 percent of the United States' annual greenhouse gas emissions, according to Environmental Protection Agency (EPA) estimates, with other studies suggesting even higher emissions.²

According to the Intergovernmental Panel on Climate Change (IPCC), the world must significantly reduce greenhouse gas pollution over this decade to avoid the most catastrophic

¹ *An Empire of Dying Wells: Old Oil and Gas Sites are a Climate Menace. Meet the Company That Owns More of America's Decaying Wells Than Any Other*, Bloomberg (Oct. 12, 2021); *Manchin-linked Company Could Reap Millions from Climate Law*, E&E News (Aug. 19, 2022).

² Environmental Defense Fund, *Methane: A Crucial Opportunity in the Climate Fight* (<https://www.edf.org/climate/methane-crucial-opportunity-climate-fight>) (accessed Oct. 19, 2023); Environmental Protection Agency, *Overview of Greenhouse Gases* (Oct. 10, 2023) (<https://www.epa.gov/ghgemissions/overview-greenhouse-gases#methane>).

impacts of the climate crisis.³ Unabated, the worst impacts of climate change will have severe consequences for public health and cause trillions of dollars in damage through increasingly intense extreme weather events, wildfires, and sea level rise.⁴ Controlling and reducing methane emissions is key to meeting our climate goals. The domestic oil and gas sector is responsible for at least 13 million metric tons of methane emissions annually, and exploration and production firms, such as Diversified Energy, are major contributors to those emissions.⁵

Since 2016, Diversified Energy has acquired thousands of existing oil and gas wells throughout the continental United States.⁶ Acquisitions of wells from major oil and gas producers have made Diversified Energy the largest well owner in the country, with more than 70,000 oil and gas wells under its direct control—more than Exxon Mobil or Chevron, two of the largest oil and gas producers on Earth.⁷ A significant number of those wells are low-producing wells, known as marginal wells.⁸ Marginal wells are notoriously expensive and difficult to maintain and are often located in hard-to-reach areas that can lack connections to pipelines or roads.⁹ Yet, Diversified Energy claims its “Smarter Asset Management” initiative and other proprietary practices allow it to extract oil and gas from marginal wells for long periods of time with fewer methane leaks.¹⁰

Diversified Energy has leveraged its position as the predominant owner of marginal wells in several states—Ohio, Pennsylvania, West Virginia, and Kentucky—to secure 10–15-year agreements that require it to plug only 20 wells per year in those states.¹¹ Diversified Energy

³ Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Feb. 27, 2022).

⁴ *Moody's Analytics Says Climate Change Could Cost \$69 Trillion by 2100*, Washington Post (Oct. 19, 2023).

⁵ Ramón A. Alvarez, et al., *Assessment of Methane Emissions from the U.S. Oil and Gas Supply Chain*, Science (June 21, 2018).

⁶ Diversified Energy Company PLC, *Diversified Energy Announces Complimentary Central Region Acquisition* (July 28, 2022) (press release); Diversified Energy Company PLC, *Assets* (<https://web.archive.org/web/20220601134308/https://www.div.energy/operations/assets>) (accessed June 1, 2022).

⁷ Sierra Club, *Greenwashing Diversified Energy's Practice of Delaying Oil and Gas Well Cleanup* (Sept. 14, 2022) (<https://www.sierraclub.org/articles/2022/09/greenwashing-diversified-energy-s-practice-delaying-oil-and-gas-well-cleanup>); *An Empire of Dying Wells: Old Oil and Gas Sites are a Climate Menace. Meet the Company That Owns More of America's Decaying Wells Than Any Other*, Bloomberg (Oct. 12, 2021).

⁸ *An Empire of Dying Wells: Old Oil and Gas Sites are a Climate Menace. Meet the Company That Owns More of America's Decaying Wells Than Any Other*, Bloomberg (Oct. 12, 2021).

⁹ *Id.*

¹⁰ Diversified Energy Company PLC, *Smarter Asset Management* (<https://web.archive.org/web/20230208233633/https://www.div.energy/operations/strategy/smarter-asset-management>) (accessed Feb. 18, 2023); Diversified Energy Company PLC, *Upstream Operations* (<https://www.div.energy/operations/upstream-operations/>) (accessed Oct. 19, 2023).

¹¹ Diversified Energy Company PLC, *Asset Retirement Supplement: For the Liability Recorded at 30 June 2021* (Aug. 20, 2021); See, e.g., Commonwealth of Pennsylvania Dept. of Environmental Protection, *DEP Reaches Settlement on Abandoned Wells* (Mar. 11, 2019) (press release).

uses these agreements to justify a more optimistic view of its wells compared to others in the industry. The company estimates that its average well lifespan is 50 years, which could keep thousands of highly polluting marginal wells in operation long past 2050, when the United States must meet net-zero greenhouse gas emissions.¹² It is unclear whether Diversified Energy is uniquely capable of economically extracting more from marginal wells that other major companies have deemed uneconomical, or if you are simply required to do less than those companies due to agreements with state regulators.

Diversified Energy's rosy projections also appear to affect cost estimates for plugging wells. While Diversified Energy reports it costs approximately \$21,000 on average to plug and cleanup its wells, researchers' and regulators' estimates vary widely based on myriad factors such as a well's type, location, and state of repair.¹³ Reports indicate that Diversified Energy may employ an unusual method for estimating marginal wells' remediation costs that may underestimate future liabilities. For instance, when Diversified Energy acquired wells from CNX Resources Corp. (CNX Resources) in 2018, CNX Resources estimated remediation would cost \$197 million.¹⁴ Diversified Energy determined remediating the same wells would only cost \$14 million.¹⁵ However, when examining approximately \$12.6 million in plugging agreements between Next LVL Energy—a Diversified Energy subsidiary—and the West Virginia Department of Environmental Protection funded by federal grants and covering 100 orphan wells, researchers determined that Next LVL Energy's average plugging cost could be as high as \$126,000 per well.¹⁶ While orphaned wells can be more expensive to plug and clean up, this is a major cost discrepancy that casts doubt on Diversified Energy's claims that it can remediate its wells at a lower cost than previous well owners had estimated.

Researchers examining Diversified Energy's accounting practices found that agreements with states would allow the company to defer environmental liabilities that they estimated at more than \$2 billion.¹⁷ Deferring and underestimating environmental liabilities would provide Diversified Energy the appearance of profitability on paper, which would allow your company to payout hundreds of millions of dollars to creditors and shareholders over the next decade without

¹² Diversified Energy Company PLC, *Asset Retirement Supplement: For the Liability Recorded at 30 June 2021* (Aug. 20, 2021).

¹³ *Id.*; Daniel Raimi, et al., *Decommissioning Orphaned and Abandoned Oil and Gas Wells: New Estimates and Cost Drivers*, Environmental Science & Technology (July 14, 2021); Diversified Energy Company PLC, *Interim Report for the Six Months Ended 30 June 2022* (Aug. 8, 2022).

¹⁴ See Note 8.

¹⁵ *Id.*

¹⁶ Ohio River Valley Institute, *Diversified Energy's Questionable Financial Practices Continue in 2022* (Jan. 2023); West Virginia Department of Environmental Protection, *Multi-Well Plugging Contract Region I Notice of Award Next LVL Energy LLC* (Sept. 28, 2022) (ARFQ-0313-DEP2200000086-7); West Virginia Department of Environmental Protection, *Multi-Well Plugging Contract Region III Notice of Award Next LVL Energy LLC* (Sept. 28, 2022) (ARFQ-0313-DEP2200000084-7); West Virginia Department of Environmental Protection, *Multi-Well Plugging Contract Region VI Notice of Award Next LVL Energy LLC* (Sept. 30, 2022) (ARFQ-0313-DEP2200000085-7).

¹⁷ Ohio River Valley Institute, *Diversified Energy: A Business Model Built to Fail Appalachia* (Apr. 2022).

ensuring adequate funds to cover those liabilities.¹⁸ If this analysis is accurate, it is highly unlikely that Diversified Energy will have adequate funds to clean up all of its marginal wells when they should be retired.¹⁹

Failing to adequately account for plugging and cleanup costs would put Diversified Energy at risk of not being able to cover its environmental liabilities, which would lead to thousands of newly orphaned wells. There are already more than 120,000 known orphan wells scattered across the country that are not properly plugged and are leaking methane and other pollutants into the environment.²⁰ According to EPA estimates, there may be as many as 3.7 million additional undocumented orphan wells.²¹ In Pennsylvania alone, the state estimates there may be as many as 200,000 abandoned wells from its 100-year history of oil and gas extraction.²² The environmental liabilities from both orphaned and marginal wells are a great concern for Committee Democrats. These wells often present a public safety danger, as toxic pollutants can escape from old equipment into the air and surrounding environment, putting local communities and the environment at risk.²³

Reports suggest that many of your company's marginal wells may be leaking a substantial amount of methane.²⁴ Due to methane's potency as a greenhouse gas, it only takes three percent of produced natural gas leaking into the atmosphere throughout the supply chain for natural gas to have a tremendously harmful effect on the climate.²⁵ Marginal, low-producing wells have been found leaking at far higher rates. Studies of marginal wells in West Virginia, Pennsylvania, and Ohio found leak rates of 9 percent, 18 percent, and 21 percent, respectively.²⁶ Another study assessing the methane emissions of oil and gas wells found that marginal wells were responsible for approximately 50 percent of all methane emissions from oil and gas wells, despite representing only 6 percent of the country's production wells.²⁷ In fact, methane leaking

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Environmental Defense Fund, *Plugging Orphan Wells Across the United States* (<https://www.edf.org/orphanwellmap>) (accessed July 11, 2023).

²¹ *Abandoned Wells are a Huge Climate Problem*, The Washington Post (Oct. 15, 2021); U.S. Environmental Protection Agency, *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990-2021* (Apr. 2023) (EPA 430-R-23-002).

²² *Federal Money Won't be Enough to Solve Pa.'s Abandoned Oil and Gas Well Problem, Advocates Say*, Spotlight PA (May 11, 2023).

²³ Moms Clean Air Force, *Orphan Wells: An Unseen Danger Across the Country* (<https://www.momscleanairforce.org/resources/orphan-wells-an-unseen-danger-across-the-country/>) (accessed July 11, 2023).

²⁴ See Note 8.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Study: Low-producing Oil Wells Cause 50% of Methane Emissions*, E&E News (Apr. 21, 2022).

from marginal wells in the United States is equivalent to the greenhouse gas pollution of more than 85 coal-fired power plants.²⁸

Diversified Energy's strategy of leaving thousands of marginal wells unplugged for decades and potentially underestimating future cleanup costs could undermine important efforts to fight climate change. In order to better understand Diversified Energy's activities, particularly as they relate to potential methane gas emissions, we request the following information and documents by January 3, 2024:

1. Please produce documents demonstrating how the company's "Smarter Asset Management" program is implemented and its effects, including:
 - a. A detailed description of how this program affects production rates, emissions, and maintenance costs associated with Diversified Energy's wells;
 - b. Training materials, operational manuals, maintenance guidance, and any other documents relating to Diversified Energy's "Smarter Asset Management" practices that your company provides to its employees or contractors;
 - c. A description of how Diversified Energy's "Smarter Asset Management" practices differ from industry-standard practices; and
 - d. Any analysis conducted by Diversified Energy or on Diversified Energy's behalf assessing or quantifying the effect of "Smarter Asset Management" practices on production volumes, operating costs, asset maintenance, emissions, and free cash flow generation.
2. Reports indicate that Diversified Energy employees visit wells once a month on average.²⁹ Please provide the following:
 - a. The number of employees responsible for conducting well visits;
 - b. The number of visits these employees are responsible for each month;
 - c. A detailed description of the purpose of well visits and the amount of time an employee spends on average at each well visit;
 - d. Documents sufficient to show standard procedures (such as visual observations and measurements taken) for each well visit; and

²⁸ *Id.*; Mark Omara, et al., *Methane Emissions from U.S. Low Production Oil and Natural Gas Well Sites*, Nature Communications (Apr. 19, 2022).

²⁹ See Note 8.

- e. The number of wells visited less than once per month and the reason(s) for visiting those wells less than once per month.
3. Does Diversified Energy use continuous methane monitoring systems or devices to detect methane leaks from its wells, gathering lines, transportation infrastructure, compressor stations, or any other production, transportation, or storage infrastructure owned or operated by the company? If so, provide the following information:
 - a. A detailed description of the continuous monitoring technology or device used by Diversified Energy to detect methane leaks at well sites, transportation infrastructure, storage infrastructure, or any other infrastructure owned or operated by Diversified Energy. If Diversified Energy uses more than one continuous monitoring technology or device, provide a detailed description of each;
 - b. A detailed description of the continuous methane monitoring technology or device Diversified Energy uses to detect methane emissions from wells, gathering lines, transportation infrastructure, compressor stations, or any other production, transportation, or storage infrastructure owned or operated by the company; and
 - c. For any infrastructure that is not continuously monitored for methane emissions, include a detailed explanation of why continuous monitoring is not in place and what monitoring or metrics, if any, the company uses to monitor for methane emissions from its production, transportation, and storage infrastructure.
4. What standards does Diversified Energy follow for plugging unproductive wells and cleaning up well sites? Does Diversified Energy conduct any monitoring after plugging a well to ensure that there are no methane leaks?
5. In Diversified Energy's 2022 Sustainability Report, the company told investors that its Scope 1 methane emissions represent only 1.2 percent of its total throughput.³⁰ However, researchers examining marginal wells in Appalachia, including at sites owned by Diversified Energy, have observed higher emissions at examined wells.³¹ Provide the analysis that Diversified Energy conducted to estimate its Scope 1 methane emissions in the company's 2022 Sustainability Report. In your response, include:
 - a. The methodology used to complete methane emission intensity estimates included in the company's 2022 Sustainability Report.
 - b. Whether Diversified Energy accounted for the condition of production, transportation, or storage infrastructure that it owns or operates.

³⁰ Diversified Energy Company PLC, *Decarbonising While Delivering* (2022).

³¹ See Note 8.

- i. If Diversified Energy did account for infrastructure conditions, include a description of how the company accounted for different production, transportation, and storage infrastructure conditions, such as state of repair, age, weather damage, or any other conditions, when conducting its analysis.
 - ii. If Diversified Energy did not consider any infrastructure conditions in its analysis, explain why not.
- c. Detailed descriptions of any efforts—such as measuring emissions at a sample of Diversified Energy’s production, transportation, or storage infrastructure—Diversified Energy undertook to verify the accuracy of its estimates and the results of those efforts. If Diversified Energy did not undertake any effort to verify the accuracy of its estimated methane emissions, explain why not.
6. In the company’s 2022 interim report, Diversified Energy stated that it had surveyed approximately 49,000 wells, representing roughly 80 percent of its operated wells in Appalachia.³² Of those wells, Diversified Energy reported that 80 percent of surveyed wells had “no detectable fugitive emissions.”³³ For the remaining 20 percent, or approximately 9,800, of surveyed wells that Diversified Energy found to have detectable methane emissions, please provide the following information:³⁴
 - a. The average amount of time between when leaks were detected and remediated;
 - b. Any estimates Diversified Energy has completed to determine the amount of methane leaking from those wells;
 - c. A detailed description of any additional monitoring procedures or infrastructure deployed by Diversified Energy to ensure that repairs are effective and leaks do not reoccur; and
 - d. Whether any surveyed wells with detectable methane emissions were not producing during the survey period, and if so, provide the number of surveyed, non-producing wells and the percentage of those wells with detectable methane emissions.
7. After acquiring marginal wells from CNX Resources, Diversified Energy recalculated the wells’ environmental liabilities to be much lower than estimates by CNX Resources.³⁵

³² Diversified Energy Company PLC, *Interim Report for the Six Months Ended 30 June 2022* (Aug. 8, 2022).

³³ *Id.*

³⁴ *Id.*

³⁵ See Note 8.

Please provide a detailed description of Diversified Energy's analysis of these well including the following:


- a. What assumptions were Diversified Energy's estimates based on to achieve projected liability reductions, such as changes to maintenance, monitoring, or any other action; and
 - b. Does Diversified Energy periodically assess whether the well performance is meeting the assumptions that went into the reassessment of environmental liabilities? If so, to what extent has actual performance deviated from assumed performance?
8. Please provide production, maintenance, and emissions information for marginal wells acquired from EQT Corporation in July 2018. In your response include:
- a. The locations of and details about each well site acquired from EQT in July 2018, including:
 - i. The number of wellheads at each site;
 - ii. The average daily gas and average daily oil production of each well site;
 - iii. The average depth of wells at each site; and
 - iv. Whether a well site contains conventional or unconventional wells. For sites containing both conventional and unconventional, provide the number of wells by type.
 - b. The average annual maintenance costs associated with each well site acquired from EQT Corporation and a list of well sites with annual maintenance costs exceeding average annual maintenance costs of all acquired well sites for each year since the July 2018 acquisition and the amount of each exceedance. For wells with maintenance costs exceeding the average, describe the causes of higher maintenance costs and how Diversified Energy addressed those causes.
 - c. Average methane emissions data for acquired well sites and the number of wells exceeding average methane emissions. For wells with emissions exceeding the average, describe the causes of higher emissions and how Diversified Energy addressed those causes.
9. Please provide a detailed description of the methodology used to estimate the remediation costs of wells covered by the West Virginia Department of Environmental Protection contracts with your subsidiary, Next LVL Energy. In your response, describe the current age, depth, and state of repair of orphaned wells covered by the agreement, as well as the


Mr. Rusty Hutson, Jr.
December 18, 2023
Page 9


number of marginal wells that Diversified Energy owns matching that age, depth, or state of repair.

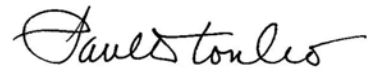
If you have any questions about this request, please contact Will McAuliffe and Austin Flack from the Committee Democratic staff at (202) 225-2927.

Sincerely,


Frank Pallone, Jr.
Ranking Member


Diana DeGette
Ranking Member
Subcommittee on Energy, Climate,
and Grid Security


Kathy Castor
Ranking Member
Subcommittee on Oversight
and Investigations


Paul D. Tonko
Ranking Member
Subcommittee on Environment,
Manufacturing, and Critical Materials

cc: The Honorable Cathy McMorris Rodgers
Chair

The Honorable Jeff Duncan
Chairman
Subcommittee on Energy, Climate, and Grid Security

The Honorable H. Morgan Griffith
Chairman
Subcommittee on Oversight and Investigations

The Honorable Bill Johnson
Chairman
Subcommittee on Environment, Manufacturing, and Critical Materials