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Vanessa A. Countryman, Secretary  
United States Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

RE: File Number S7-10-22; The Enhancement and Standardization of Climate-Related Disclosures for Investors

Dear Secretary Countryman:

CNX Resources Corporation (“CNX”) is proudly engaged in the production and transportation of lower carbon intensive natural gas, a cornerstone product of our modern economy. We operate in the heart of Appalachia, one of America’s most prolific, lowest-cost, and lowest methane-intensive energy regions, and we take our commitment to sustain the future of our region seriously.

In doing so, CNX is dedicated to industry-leading levels of transparency, accuracy, and confidence in our reported emissions data. We have already voluntarily incorporated into our regulatory reporting regime the methodologies of the Task Force on Climate-related Financial Disclosures (“TCFD”) and the Sustainability Accounting Standards Board (“SASB”) among others.

When we learned of the recent rules proposed by the U.S. Securities and Exchange Commission (“Commission”) entitled “The Enhancement and Standardization of Climate-Related Disclosures for Investors” (the “Proposal”), our initial thought was to embrace it as an opportunity for our industry to show that our commitments are backed by tangible actions. We also viewed it as an opportunity to demonstrate how CNX stacks up against other companies using verifiable and comparable data and showcase CNX’s sustainable business model in action.

Unfortunately, the Proposal falls short of establishing the kind of level-playing field necessary to give the public what it deserves. Instead, it injects confusion and undermines investors’ access to truly comparative data. It is important that investors receive adequate information to understand the full scope of a company’s end-to-end lifecycle emissions profile.

A standardized lifecycle emissions reporting standard will show that no business activity is without carbon emissions. To that end and on behalf of our stakeholders, we offer the following comments to the Proposal and ask the Commission to reconsider its approach to ensure transparent, standardized reporting for all.

### **Standardization Must Apply Equally to All**

The Commission states that its mission is, “[t]o protect investors, maintain fair, orderly and efficient markets, and facilitate capital formation.” Part of its vision is to “inspire public confidence.” And, listed among its values is “Fairness” which is defined as “treat[ing] investors, market participants, and others fairly and in accordance with the law.” In sum, the Commission rightly strives to govern market participants through the development, adoption, and enforcement of rules that ensure equal and fair treatment for all involved. However, the Proposal fails to live up to those virtues.

The title of the proposed rule, “The Enhancement and Standardization of Climate-Related Disclosures for Investors” (the “Proposal”), reflects a noble intention. The word “standardization” suggests establishment of a consistent and level-playing field through which market participants will provide investors with standardized information regarding how their business practices potentially contribute to climate-related impacts. But to be truly standardized and transparent, data must be unfiltered, independently verifiable, and complete. The Proposal, however, falls short of achieving any of these.

An example of the shortcomings of the Proposal is the definition of Scope 3 downstream emissions or “emissions [that] include the use of registrant’s products, transportation of products, end of life treatment of sold products, and investments made by the registrant.” What does this definition really mean in practical application?

Is an electric vehicle (EV) manufacturer required to disclose the expected greenhouse gas (“GHG”) emissions from the energy consumed to operate those vehicles over their lifespan, including the composition of the power grid they use to power them? Are they required to disclose the environmental impacts of suppliers and subcontractors mining for the metals, minerals, and elements around the world? How are these materials processed and how might EV components be manufactured? Are such “inextricably related uses” captured in the Scope 3 emissions framework?

A clearer definition is needed for investors to truly compare the GHG emissions of that EV to the GHG emissions of a vehicle powered by gasoline, diesel, natural gas, or any other fuel. How would one compare two different EV manufacturers with vastly different supply chains, GHG profiles, and environmental scores? One can only know this by understanding the GHG footprint of mining the metals, minerals, and elements; the GHG emissions associated with transportation logistics; the GHG emissions from charging the EV (do you use the blended emissions from a power grid consisting of different sources of generation?); and the GHG emissions from transporting and disposing of the EV at the end of its useful life.

The Proposal also risks misinforming investors despite the goals of improved accuracy and transparency. Consider a utility company that has both natural gas generation capacity and renewable generation capacity. If, as contemplated by the Proposal, Scope 3 data is aggregated for the full entity, it would not be clear on the face of the disclosure whether there are significant GHG emissions associated with the upstream activities attributable to the renewable generation capacity side of the company’s business.

Given the popular but flawed notion that renewables are “carbon-free”, a potential investor may inadvertently attribute all Scope 3 emissions to the natural gas generation capacity, rather than to its actual source; and in doing so, compromise the Commission’s goals of standardization and improved transparency.

Now consider the end user of that electricity that claims to be “carbon-free” because they purchase 100% renewable energy to sustain their operations. What this overly simplistic view fails to account for is the carbon footprint of the value chain of that unit of electricity.

Although the solar panels or wind turbines generating the electricity are not directly emitting substantial GHGs while operating, what were the total GHG emissions emitted in mining, processing, manufacturing, and transporting the materials needed to construct these facilities or the maintenance activities servicing those facilities? None are “carbon-free” yet would not be included in the end user’s required disclosure. The result would be neither transparent nor accurate.

To go even further, consider how this “carbon-free,” renewable energy might be accounted for and reported. What is likely happening is an annual matching or netting-out of 100% of the energy generated or purchased against actual energy usage to arrive at zero GHG emissions.

However, the renewable electricity generated during daylight hours for a solar-backed source or windy periods of time for a wind turbine powered source creates excess electricity that is sold into the grid for commercial advantage. Then during off-peak periods (at night or on a day without much wind) the user must purchase power from the local grid, which might be from a coal-fired power plant, to cover their power demands. Is this user being

transparent when it says that it used 100% renewable energy and that it is net “carbon-free”, or is that statement disingenuous?

Without a mandate to disclose the underlying data across the entire value chain in a standardized fashion, this registrant can continue to claim that it is “carbon-free” without a verifiable method for an investor to test that claim or to compare that registrant’s claims against others. The Proposal allows companies to continue making claims that could legitimately be labeled as so-called greenwashing.

True standardization and transparency must provide the investor with an accurate and disaggregated view of the complete picture (Scopes 1, 2, and 3 GHG emissions), not just parts of the picture that may distort the reality. Otherwise, an investor may assume that two GHG emission disclosures can be compared on an apples-to-apples basis.

There is still much work to do to ensure a standard approach to reporting that reveals the true, transparent impact of a registrant’s GHG emissions across the entire value chain and full lifecycle of a product or service, including raw materials, logistics, product utilization, and end-of-use retirement.

### **Defining “Material” and “Significant”**

CNX is alarmed at the number of exceptions and qualifiers included in the Proposal with respect to Scope 3 emissions reporting. For example, Section 299.1504(c)(1) of the Proposal requires disclosure of Scope 3 emissions only if “material.” And more granular disclosure is required for any categories of Scope 3 emissions that are “significant to the registrant.” The phrases “material” and “significant” require registrants to make subjective determinations about whether and how to disclose Scope 3 emissions.

Add in the exemption from reporting provided to smaller filers in Section 299.1504(c)(3) and the mandatory Scope 3 disclosure for those registrants that have previously adopted emissions reduction targets that include Scope 3 emissions (even if determined to be immaterial or insignificant), and the resulting information becomes very difficult to compare from company to company. Each ton of carbon dioxide entering the atmosphere is the same regardless of whether it came from a “significant” source or any other. Whether those emissions are disclosed should not be left to the emitter’s sole discretion.

When you combine the foregoing exceptions and qualifiers with the ability for registrants to use estimates for Scope 3 emissions (as opposed to the Scope 1 and 2 calculations that require third-party attestation) or, worse yet, ranges using unnamed assumptions that can vary by registrant, the result will be inconsistent, wide-ranging, and potentially unreliable reporting.

The stated goals of standardization and transparency would be frustrated. Investors will not benefit from these varying data standards or the subjective methodologies that registrants will inevitably choose to employ to paint emissions data in the most positive light possible – even if that picture is not an accurate reflection of reality.

### **Concluding Remarks**

Although other commenters raise legitimate concerns with the Proposal such as cost, data reliability, the potential for competitive harm, and litigation risk, CNX’s concerns are more fundamental: ensuring that the Proposal is consistent with the Commission’s noble mission and values in providing standardized, transparent disclosures to investors and treating all registrants fairly and equally.

Left unaltered, the Proposal is counterproductive to the SEC’s well-intentioned goals of standardization and transparency. Investors will be confused, and certain registrants and the public at large will bear the consequences.

Without modification, the Proposal will further enable registrants to perpetuate myths about their true lifecycle GHG emissions and will erode the public's trust in our capital markets. As outlined herein, we believe this is particularly true with respect to the Proposal's reporting requirements for Scope 3 emissions, and accordingly we urge you to consider revising the Proposal to address these concerns prior to conclusion of the rule-making process.

Respectfully submitted,



Nicholas DeLulius