



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

February 27, 2024

Ning Chiu  
Davis Polk & Wardwell LLP

Re: Kosmos Energy Ltd. (the "Company")  
Incoming letter dated February 26, 2024

Dear Ning Chiu:

This letter is in regard to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by Chris Mueller (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponent has withdrawn the Proposal and that the Company therefore withdraws its February 15, 2024 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Chris Mueller

February 15, 2024

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Ladies and Gentlemen:

On behalf of Kosmos Energy Ltd., a Delaware corporation (the “**Company**”), and in accordance with Rule 14a-8(j) under the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), we are filing this letter with respect to the stockholder proposal submitted by Chris Mueller (the “**Proponent**”), on January 30, 2024, and received by the Company on February 5, 2024 (the “**Proposal**”) for inclusion in the proxy materials that the Company intends to distribute in connection with its 2024 Annual Meeting of Stockholders (the “**2024 Proxy Materials**”). The Proposal is attached hereto as Exhibit A.

We hereby request confirmation that the Staff of the Division of Corporation Finance (the “**Staff**”) will not recommend any enforcement action if, in reliance on Rule 14a-8, the Company omits the Proposal from the 2024 Proxy Materials.

In accordance with relevant Staff guidance, we are submitting this letter and its attachments to the Staff through the Staff’s online Shareholder Proposal Form. In accordance with Rule 14a-8(j), we are simultaneously sending a copy of this letter and its attachments to the Proponent as notice of the Company’s intent to omit the Proposal from the 2024 Proxy Materials. This letter constitutes the Company’s statement of the reasons it deems the omission of the Proposal to be proper. We have been advised by the Company as to the factual matters set forth herein.

## THE PROPOSAL

The Proposal states:

Kosmos Energy should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form (and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.

## REASONS FOR EXCLUSION OF THE PROPOSAL

The Company believes that the Proposal may be properly omitted from the 2024 Proxy Materials pursuant to Rule 14a-8(e)(2) because the Company did not receive the Proposal from the Proponent at its principal executive offices by the December 30, 2023 deadline for submitting stockholder proposals to the Company. In addition, the Company requests that the Staff waive the 80-day deadline set forth in Rule 14a-8(j)(1) for good cause.

It is unclear from the correspondence received from the Proponent whether the Proponent intended to submit the Proposal under Rule 14a-8. The Staff has previously concurred in other requests to exclude

proposals from proxy materials to the extent they involved Rule 14a-8, in particular Rule 14a-8(e)(2). See, e.g., *Orbital Infrastructure Group, Inc. (f/k/a CUI Global, Inc.)* (August 25, 2015); *RBC Life Sciences* (June 22, 2015); *International Business Machines Corporation* (January 30, 2012). Therefore, to the extent that the Proposal was submitted under Rule 14a-8, the Company requests that the Staff concur that the Company can exclude the Proposal from the 2024 Proxy Materials under Rule 14a-8(e)(2).

***The Proposal May Be Excluded Under Rule 14a-8(e)(2) Because The Proposal Was Received By The Company At Its Principal Executive Offices After The Deadline For Submitting Stockholder Proposals For Inclusion In The 2024 Proxy Materials***

Rule 14a-8(e)(2) provides that a stockholder proposal submitted with respect to a company's regularly scheduled annual meeting "must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting." As required by Rule 14a-5(e), the Company included in its 2023 proxy statement the deadline for receiving stockholder proposals submitted for inclusion in the 2024 Proxy Materials, calculated in the manner described in Rule 14a-8(e), as well as the address for submitting those proposals. Specifically, page 81 of the 2023 proxy statement stated:

Any stockholder desiring to present a stockholder proposal at our 2024 annual stockholders meeting and to have the proposal included in our related Proxy Statement pursuant to Rule 14a-8 under the Exchange Act must send such proposal to Kosmos Energy Ltd., 8176 Park Lane, Suite 500, Dallas, Texas 75231, Attention: Corporate Secretary, so that it is received no later than December 30, 2023. All such proposals should be in compliance with SEC rules and regulations. We will only include in our proxy materials those stockholder proposals that we receive before the deadline and that are proper for stockholder action.

Under Rule 14a-8(e)(2), an annual meeting is "regularly scheduled" if it has not changed by more than 30 days from the date of the annual meeting held in the prior year. The Company's 2023 Annual Meeting of Stockholders (the "**2023 Annual Meeting**") was held on June 8, 2023. The Company's 2024 Annual Meeting of Stockholders (the "**2024 Annual Meeting**") will be held within 30 days of the anniversary of the 2023 Annual Meeting date. Accordingly, the deadline of December 30, 2023 set forth in the Company's 2023 proxy statement for a regularly scheduled annual meeting applies to stockholder proposals for the 2024 Annual Meeting. The Proponent's letter was received at the Company's principal executive offices on February 5, 2024—37 days after the deadline.

The Staff has strictly enforced the deadline for the receipt of stockholder proposals under Rule 14a-8(e)(2), and has consistently concurred with the exclusion of proposals that were received after the deadline. See, e.g., *Etsy, Inc.* (April 19, 2022) (concurring with the exclusion of a proposal received one day after the submission deadline); *AT&T Inc.* (January 26, 2022) (concurring with the exclusion of a proposal received six days after the submission deadline); *Walgreens Boots Alliance, Inc.* (October 12, 2021) (concurring with the exclusion of a proposal received two days after the submission deadline); *Hewlett Packard Enterprise Co.* (January 15, 2021) (concurring with the exclusion of a proposal received two days after the submission deadline).

The Company believes that the Proposal may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(e)(2), to the extent Rule 14a-8 applies, because the Proposal was received at the Company's principal executive offices 37 days after the deadline for submitting stockholder proposals for the 2024 Annual Meeting.

***Waiver Of The 80-Day Requirement Under Rule 14a-8(j)(1) Is Appropriate***

The Company further requests that the Staff waive the 80-day filing requirement set forth in Rule 14a-8(j) for good cause. Rule 14a-8(j)(1) requires that, if a company "intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its

definitive proxy statement and form of proxy. However, Rule 14a-8(j)(1) allows the Staff to waive the deadline if a company can show “good cause.” The Company did not receive the Proposal until February 5, 2024, and was unable to submit this letter in time to meet the 80-day requirement.

**CONCLUSION**

For the reasons set forth above, the Company believes that the Proposal may be excluded from its 2024 Proxy Materials pursuant to Rule 14a-8(e)(2). The Company respectfully requests the Staff’s concurrence with its decision to exclude the Proposal from its 2024 Proxy Materials and further requests confirmation that the Staff will not recommend enforcement action to the Commission if it so excludes the Proposal.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this request. Please do not hesitate to call me at (212) 450-4908 if we may be of any further assistance in this matter.

Respectfully yours,



Ning Chiu

Attachment: Exhibit A

cc: Chris Mueller  
Josh Marion, Vice President & Deputy General Counsel, Kosmos Energy Ltd.

**Proposal**

January 28, 2024

Kosmos Energy  
8176 Park Lane, Suite 500  
Dallas, Texas 75231

Members of the board.

My name is Chris Mueller, and I would like to submit a shareholder proposal for the 2024 annual shareholder meeting. I am an individual investor with a directly registered ownership position in our company. I intend to hold my position through the date of the 2024 annual shareholder meeting. I would be happy to meet with the board to discuss my proposal at any time.

**My proposal: Kosmos Energy should disclose registered shareholder share totals on 10-Q and 10-K reports. Registered share totals should include separate tallies of shares held by investors in DRS and DSPP form (and Cede if possible). In addition, our company should upgrade its investment plan, and move away from Computershare's boilerplate DirectStock plan.**

Several issuers already disclose registered share totals with a couple sentences on each 10-Q or 10-K report. Registered holders are passionate and loyal investors who disclose their personal information to and desire a direct and close relationship with the company they invest with. Registered holder information is of material interest to investors who want to track distribution and commitment of an investor base, and can inspire more long term investors.

Regarding the investment plan, there are several reasons why we should upgrade. First - DirectStock plan does not allow hybrid holding methods in a single account. All accounts are either fully enrolled or fully not enrolled in the plan. Accounts NOT enrolled are "all DRS" (owned exclusively by the investor). By comparison, accounts that are fully enrolled are what Computershare calls DSPP consisting of "shares that underpin the plan".

Second, recurring buys through DirectStock plan are scheduled and predictable - making them prone to arbitrage and manipulation. The purchases tend to be processed through a single broker-dealer (often BofA Securities) and they tend to happen T+3 from the 1<sup>st</sup> and 15<sup>th</sup> (excluding weekends and bank holidays). The 2024 dates that these purchases will likely occur for our company are: Jan 5, Jan 19, Feb 6, Feb 21, Ma 6, Mar 20, April 4, April 18, May 6, May 20, June 6, June 21, July 5, July 18, Aug 6, Aug 20, Sept 6, Sept 19, Oct 4, Oct 18, Nov 6, Nov 21, Dec 5, and Dec 19.

Upgrading our investment plan would allow Kosmos Energy the ability to allow hybrid registered holding methods and meet the needs of materially interested long term retail investors. It would also allow for our company to either put an end to the predictable and vulnerable recurring purchases, or make sure they are less predictable and vulnerable. While it would represent an additional cost, sponsoring and administering a customized plan will be worth it.

Thank you for your time,



Chris Mueller

PII



February 26, 2024

Re: Withdrawal of No-Action Request Dated February 15, 2024 Regarding Shareholder Proposal of Chris Mueller

U.S. Securities and Exchange Commission  
Office of Chief Counsel  
Division of Corporation Finance  
100 F. Street, N.E.  
Washington, D.C. 20549

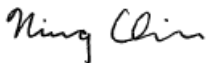
Dear Sir or Madam:

We are writing on behalf of Kosmos Energy Ltd., a Delaware corporation (the “**Company**”), and in reference to our letter, dated February 15, 2024 (the “**No-Action Request**”), pursuant to which we requested that the staff of the Office of Chief Counsel of the Securities and Exchange Commission concur with our view that the Company may exclude the shareholder proposal (the “**Proposal**”) submitted by Chris Mueller (the “**Proponent**”) from the proxy materials it intends to distribute in connection with its 2024 Annual Meeting of Shareholders.

Attached as Exhibit A is an email communication, dated February 26, 2024 (the “**Withdrawal Communication**”), from the Proponent to the Company’s outside counsel, in which the Proponent voluntarily agrees to withdraw the Proposal. In reliance on the Withdrawal Communication, we hereby withdraw the No-Action Request.

Please contact the undersigned at (212) 450-4908 or ning.chiu@davispolk.com if you should have any questions or need additional information. Thank you for your attention to this matter.

Respectfully yours,



Ning Chiu

Attachment: Exhibit A

cc: Chris Mueller  
Josh Marion, Vice President & Deputy General Counsel, Kosmos Energy Ltd.

**Withdrawal Communication**



## Araya-Brumskine, Ida

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**From:** Chris Mueller <[REDACTED]>  
**Sent:** Monday, February 26, 2024 10:12 AM  
**To:** Araya-Brumskine, Ida  
**Cc:** Rooney, Byron B.; Chiu, Ning; Runne, John H.  
**Subject:** Re: Kosmos Energy Ltd. | SEC No-Action Letter

Hi Ida,

Thank you for your email. I will withdraw my shareholder proposal. This is my official notice to withdraw it.

Chris

On Mon, Feb 26, 2024 at 10:00 AM Araya-Brumskine, Ida <[ida.araya-brumskine@davispolk.com](mailto:ida.araya-brumskine@davispolk.com)> wrote:

Hi Chris,

You should have received by certified mail a copy of the attached no-action letter on behalf of Kosmos Energy Ltd. ("Kosmos Energy"). Please see the attached copy of the certified mail receipt for reference. The no-action letter was submitted on February 15, 2024 to the Office of Chief Counsel at the Division of Corporation Finance via the Securities and Exchange Commission's online submission form.

In light of your withdrawal of a similar proposal (available [here](#) on PDF page 19), we request that you withdraw your proposal for Kosmos Energy's 2024 annual meeting of stockholders. Please provide your written agreement that your proposal has been withdrawn so that we may withdraw the attached submission.

Kinds regards,

Ida

**Ida Araya-Brumskine**

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+1 347 753 1078 mobile

[ida.araya-brumskine@davispolk.com](mailto:ida.araya-brumskine@davispolk.com)

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**Davis Polk & Wardwell LLP**

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