

PROXY PROPOSALS AND VOTING RESULTS IN THE ENERGY AND TECHNOLOGY SECTORS

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ABSTRACT

Companies must make decisions that benefit the company and its direct stakeholders. Corporate social responsibility initiatives have emphasized that management is also expected to make socially responsible decisions that affect indirect stakeholders. Both management and shareholders help fulfill these obligations by creating proxy proposals intended to address needs of all stakeholders. Proxy proposals are regulated by the Securities and Exchange Commission which created rule 14a-8 that specifies the requirements to submit a proposal (Kajunski & Liebnick, 2021). The purpose of a proxy statement is to provide enough information for shareholders to understand the proposal and decide their vote thoughtfully and fairly at the annual meeting.

In this paper, management and shareholder proposals are analyzed with respect to the number and nature of the proposals as well as voting results on these proposals during the annual shareholders' meeting. What are the topics of these proposals? What voting recommendations do management provide for these proposals? What are the voting results in relation to management's recommendations? This study investigates the voting results for two sectors of Fortune's 250 largest companies over a three-year period. The energy and technology sectors are targeted in this study for several reasons. Consumers cannot avoid using energy or technology products and maintain a daily reliance on them. These sectors include some of the largest public companies. The social responsibility reputation of both sectors has frequently been in the news due to environmental issues related to energy and privacy issues related to technology. The energy sector contains the highest number of 2022 Fortune 250 companies (29) followed closely by the technology sector at 28 companies, creating a balanced pool of companies for comparison.

The total number of management proposals and shareholder proposals for the energy sector slightly exceeded the number for technology companies. The individual years' totals track a similar pattern and indicate both sectors experienced an increasing number of management and shareholder proposals over the three years. Notably, all management proposals related to governance matters. Management predictably recommended that shareholders vote in favor of all its proposals for all years. On the other hand, management almost always recommended against shareholder proposals. Shareholder proposals in both sectors were predominantly related to social responsibility matters. The technology shareholders were more active in socially related proposals. Despite management's opposition to social responsibility related proposals, both sectors' shareholders were able to get some passed. Even though slightly less active in social responsibility related proposals, shareholders in the energy sector were more effective than their counterparts in the technology sector in getting them passed.

Keywords: Proxy proposals, SEC, Social Responsibility, Corporate Governance.

INTRODUCTION

Fortune 250 companies must make decisions that benefit the company and its direct stakeholders. In addition, corporate social responsibility initiatives have emphasized that management is also expected to make socially responsible decisions that benefit the community. Shareholders are also involved in these decisions since they are the ones who vote on proposals at the annual shareholders' meeting. Both management and shareholders create proposals intended to address needs of all stakeholders. In this paper, management and shareholder proposals are analyzed with respect to the number and nature of the proposals as well as voting results on these proposals during the annual shareholders' meeting.

Shareholder proposals are presented in the company's annual proxy statement that are to be voted upon (along with management proposals) at the annual meeting of shareholders. These proposals are of particular importance because ideas that are embedded in them create value from the distribution of each proposal. Each idea that is presented in a shareholder proposal provides transparency on a matter. Shareholders collectively then consider these proposals as well as management's recommendation regarding whether to support or oppose each proposal. Management sometimes provides limited support for social and environmental concerns in its actions but then fails to fully embrace those issues. Stockholders, through proposals, may force management's hand when otherwise management may appear to support societal needs but fail to provide the necessary resources to address a matter. By having to support or oppose shareholder proposals, greater transparency of management's beliefs is communicated.

Proxy proposals are important because they address management's willingness to listen to shareholders who seek to shape the future of the company and create opportunities for growth. Proposals may encourage charitable contributions and help implement benefits that are attractive to its present and future employees. The way that Fortune 250 companies respond to these proposals are important in establishing their reputation and values and creating public support for the company. In large measure, public support of the company's values allows its operations to run smoothly and accomplish company objectives. In turn, the longevity of the company is ensured by satisfying company objectives. Proposals are introduced by understanding why these are important to shareholders and investors. What are the topics of these proposals? What voting recommendations do management provide for these proposals? What are the voting results in relation to management's recommendations? This study gathers, compares, and investigates the voting results for two sectors of Fortune's 250 largest companies over a three-year period.

BACKGROUND

In the 1980's, any investor in a public company was allowed to submit a proposal to be voted upon at the annual shareholder meeting. That rule has since changed. Now, an investor or shareholder must have an investment of least \$2,000 in stock or own one percent of the company's stock to be eligible to present a proposal. Shareholders and investors who submit proposals are called shareholder proponents (McGuire, 2012). Shareholder proponents are significant in the process because they are the ones who help modify or change corporate policies and procedure and are voices for the company's management team.

Publicly traded companies who are traded on the stock exchange are regulated by the Securities and Exchange Commission (SEC). Shareholders and investors that serve on the board have the right to vote on recommendations on these proposals. A "shareholder resolution" is a recommendation created and submitted by shareholders or investors for a

vote at the company's shareholder annual meeting (Morrison & Foerster, 2017). Shareholders of a company who vote on a matter may result in an action that could change the policies, procedures, or even the strategy of company. These matters ultimately may influence the company's position on corporate governance or corporate social responsibility. A proxy statement is a document that has information that SEC requires companies to submit to the shareholders before they can make their final decision at the annual meeting. A shareholder must submit a proposal at least 120 days before the one-year date of the company's proxy statement for the previous year's annual meeting.

The purpose of a proxy statement is to provide enough information for shareholders to understand the proposal and decide their vote thoughtfully and fairly. Shareholders or investors are only allowed to submit one proposal per person per annual meeting and proposals may not be more than 500 words, including any supporting documentation. The SEC created rule 14a-8 which specifies the requirements to submit a proposal. Eligibility requirements specify how many shares that a shareholder must have. A company may exclude a proposal from its proxy statement if it is improper under state law. The proposal may not violate the law, may not violate proxy rules, may not further a personal interest, must relate to operations that account for less than five percent of the company's total assets and less than five percent of net earnings and gross sales. It must be related to an action that the company lacks the authority to implement, a matter relating to the company's ordinary business operations, and one of specifically enumerated actions related to director elections. The proposal cannot conflict with one of the company's own proposals, already substantially implemented, substantially a duplicate of another proposal already submitted, a resubmission that does not meet the threshold criteria previously discussed or related to specific amounts of cash or stock dividends (Daniel et al., 2021).

Since the SEC has controlled the process of shareholder meetings and proposals, there is debate of how successful the proposals have been to shareholders and their company. Companies use this process to achieve proper justice for the company, especially voting for new elected officials as board members and management. Shareholders hold an interest in their company by improving corporate governance and its social responsibility. They have a greater voice in executing policies and procedures. A vote of more than 50 percent votes is required for a proposal to be passed. Proposals may include election of officers, labor relations, human rights, social responsibility and compensation for leadership staff. Proposals that are submitted should be well-researched and have an attainable resolution that, if adopted, will benefit the company by adhering to laws. Passion is needed for change, but the change must make sense and be logical. Campaigning for proposal is not allowed by the SEC. There are no costs or fees for filing a proposal (McGuire, 2012).

METHODOLOGY

The energy and technology sectors are targeted in this study for several reasons. Consumers cannot avoid using energy or technology products and maintain a daily reliance on them. These sectors include some of the largest public companies with Apple ranked 3rd and Exxon Mobil ranked 6th on the 2022 Fortune 250 list (Fortune.com). The social responsibility reputation of both sectors has frequently been in the news due to environmental issues related to energy and privacy issues related to technology. The energy sector contains the highest number of 2022 Fortune 250 companies (29) followed closely by the technology sector at 28 companies, creating a balanced pool of companies for comparison.

Large public companies annually issue a proxy statement that outlines proposals on which voting takes place at the company's annual stockholders' meeting. Management

proposals are important to investors because they provide transparency for potential corporate actions. Also, they are important to shareholders since their vote provides a way of guiding company actions. Proposal by shareholders may sometimes go against the views of management and are often presented to influence the company's social responsibility initiatives. Proposals from both management and shareholders are included in the proxy statements. Definitive proxy statements may be obtained from company websites or from the SEC website (Toppan, 2021). Proposal topics are taken from the companies' proxy statements for both management and shareholders. The frequency of proposal topics and the voting results on each set of proposals are analyzed from proxy statement for the years 2019 to 2021 for the 2022 Fortune 250 companies in the energy and technology sectors.

Management and shareholders sometimes have differing points of view. Often, the subjects of the proposals of management and shareholders reflect those differing views. For example, Apple shareholders have advocated for diversified board members; Microsoft has promoted elimination a gender pay gap; and energy companies Valero and DTE Energy have advocated for disclosure of political contributions. In this study, an analysis of management and shareholders proposals provided by companies in the energy sector are compared to companies in the technology sector. This study collected data from the proxy statements of each Fortune 250 energy and technology company regarding the source of the proposal (management or shareholder), topic of the proposal, management's recommendation (for or against) and the voting result for each proposal made. Table 1 shows all companies included in the study and the number of both management and shareholder proposals offered over the three years studied.

DATA

As Table 1 shows, the number of management proposals over the three-year period from 2019-2021 for the energy sector (1071) exceeded the number for technology companies (1038). However, the average number of management proposals per company for the technology sector (37.1) was slightly higher than the average for the energy sector (36.9) due to the technology sector having one less company. The individual years' totals track a similar pattern and indicate both sectors experienced an increasing number of management proposals over the three years. The activity in management proposals for each sector were evenly distributed with no company drastically leading or lagging far behind other companies within each sector. All energy sector managements presented proposals within each year, however in the technology sector Uber Technologies management presented no proposals for 2019 and Meta Platforms management presented no proposals for 2019 or 2020.

The number of shareholder proposals by energy companies (101) also exceeded the number for technology companies (98). The average number of shareholder proposals per company for each sector was 3.5 over the three years, which is slightly over one proposal per year for each company in each sector. The shareholder proposals for the individual years tracked a similar pattern between sectors indicating an increase in shareholder proposal activity over time for both sectors. Each sector was led by a large company with a high number of shareholder proposals over the three years. Energy was led by Fortune number six Exxon Mobil with 39 shareholder proposals and technology was led by Fortune number eight Alphabet with 31 shareholder proposals. The participation rate for technology shareholders was 46 percent of companies in the sector while the energy shareholders participation rate was slightly lower at 38 percent. Overall, these results show very little difference in management or shareholder proposal activity between the sectors Table 1.

Energy Companies									
Management Proposals					Shareholder Proposals				
Rank	Company	2019	2020	2021	Total	2019	2020	2021	Total
6	Exxon Mobil	12	12	16	40	7	6	26	39
16	Chevron	13	12	14	39	5	7	6	18
19	Marathon Petroleum	6	7	9	22	2	2	1	5
29	Phillips 66	7	5	5	17	0	1	2	3
30	Valero Energy	12	14	13	39	0	0	0	0
77	ConocoPhillips	13	15	18	46	0	0	2	2
88	Plains GPHolding	4	4	7	15	0	0	0	0
99	Exelon Corporation	15	15	14	44	1	0	1	2
111	Wod use Services	10	11	11	32	0	0	0	0
130	PBF Energy, Inc	12	12	11	35	0	0	0	0
133	NRG Energy, Inc.	12	12	13	37	1	0	0	1
135	Occident al Petroleam	11	19	13	43	3	0	0	3
145	Dake Energy	16	15	16	47	4	4	2	10
153	TheSouthern Co	18	16	17	51	0	2	0	2
157	Freeport-McMoRan	7	8	9	24	0	0	0	0
168	PG&E Corporation	17	2	9	28	2	0	0	2
170	Bise Hugbes	11	11	13	35	0	0	0	0
193	EOG Resources	10	10	12	32	0	0	0	0
197	Holly? rootier	13	13	14	40	0	0	1	1
215	Next Era Energy	15	15	15	45	1	2	1	4
216	Resources	5	5	8	18	0	0	0	0
219	AEP	16	15	14	45	0	0	0	0
223	Kinder Morgan	18	18	18	54	0	0	0	0
224	ONEOK	13	13	13	39	0	0	0	0
233	Chaniere Energy	12	14	12	38	0	1	0	1
239	DTEEnergy	13	14	15	42	2	1	2	5
241	Hallibuston	13	13	14	40	0	0	0	0
243	Edison International	13	13	14	40	1	1	1	3
248	Pioneer Nat Resources	14	14	16	44	0	0	0	0

	TOTAL	351	347	373	1071	29	27	45	101
Technology Companies									
Management Proposals						Shareholder Proposals			
Rank	Company	2019	2020	2021	Total	2019	2020	2021	Total
3	Apple	10	9	10	29	2	3	2	7
8	Alphabet	12	14	13	39	13	10	8	31
14	Microsoft	15	14	15	44	2	1	5	8
27	Mate Platforms	0	0	11	11	0	0	6	6
31	Del Technologies	10	9	9	28	0	0	0	0
45	Intel	13	12	11	36	3	2	3	8
49	IBM	15	16	14	45	2	3	3	8
59	HP. Inc	13	15	13	41	1	1		3
70	Cisco Systems	12	13	13	38	1	1	1	3
91	Orade	15	17	17	49	2	2	3	7
92	Themo Fisher Scientific	14	14	14	42	0	0	1	1
107	Qualcomm	14	14	16	44	0	0	0	0
119	Jabil	11	12	14	37	0	0	0	0
123	Herlett Packard Enterpr.	14	15	16	45	1	1	0	2
127	Micros Technology	9	9	10	28	0	0	0	0
128	Broadcom	11	11	12	34	0	0	0	0
134	NVIDIA Corporation	15	15	16	46	0	0	0	0
136	Sales Force	18	15	14	47	1	1	1	3
156	Applied Materials	12	13	14	39	1	0	2	3
165	CDW	6	9	16	31	0	0	0	0
194	Cognizant Tech Solutions	13	13	12	38	2	1	1	4
198	Texas Instruments	12	13	13	38	0	0	1	1
207	DXC Technology	13	14	14	41	0	0	0	0
210	Uber Technologies	0	12	14	26	0	0	1	1
217	Western Digital	11	11	12	34	0	0	0	0
226	Advanced Micro Devices	10	10	12	32	0	0	0	0
235	Adobe	14	14	14	42	1	1	0	2
250	LanKearch	12	11	11	34	0	0	0	0
	Total	324	344	370	1038	32	27	30	98

Table 2 shows the subject of the management proposals for both energy sector and technology sector companies for the years 2019-2021. By far the most common proposal

related to election of directors. In fact, proposals for election of directors represented approximately 80 percent of all management proposals. The only other proposal topics that accounted for more than 25 proposals related to an advisory vote to ratify named officers' compensation and for ratification of the audit firm that was recommended. These proposal topics each accounted for approximately eight percent of all management proposals. No other proposal topics occurred as many as three times in 2019, nine times for 2020, and 12 times for 2021.

Notably, all management proposals related to governance matters. Both for companies in the energy sector and companies in the technology sector. Further, not a single management proposal related to corporate social responsibility matters perhaps signaling management's true feelings toward corporate social responsibility initiatives.

Management predictably recommended that shareholders vote in favor of all its proposals for all years. For companies in the energy sector, shareholders voted to approve 99.7 percent (350 of 351) of management proposals in 2019, 99.4 percent (345 of 347) in 2020, and 96.8 percent (361 of 373) in 2021. For companies in the technology sector, shareholders voted to approve 99.7 percent (323 of 324) of management proposals in 2019, 99.1 percent (340 of 344) in 2020, and 99.5 percent (368 of 370) in 2021 Table 2 & Table 3.

2019 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Advisory Vote on Say on Pay Frequency	2	2	2			
Advisory Vote to Ratify Named Executive Officers' Compensation	29	29	29	26	26	26
Amend Articles/Bylaws/ Charter	1	1	1			
Amend/Approve Employee Stock Purchase Plan				1	1	1
Amend/Approve Omnibus Stock Plan	1	1	1	7	7	7
Approve Change in Size of Board	1	1	1			
Elect Director	287	287	287	261	261	261
Ratify Auditors	29	29	29	26	26	26
Reduce Supermajority Vote Requirement	1	1	0	3	3	2
Total	351	351	350	324	324	323
2020 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Adopt, Renew or Amend Shareholder Rights Plan (Poison Pill)	1	1	1			
Advisory Vote on Say on Pay Frequency				2	2	2
Advisory Vote to Ratify Named Executive Officers' Compensation	28	28	28	27	27	27
Amend Articles/Bylaws/Charter	4	4	4	2	2	2
Amend/Approve Omnibus Stock	7	7	7	8	8	8

Plan						
Amend/Approve Employee Stock Purchase Plan				5	5	5
Amend Restricted Stock Plan				1	1	1
Approve/Amend Conversion of Securities	1	1	1			
Declassify the Board of Directors	1	1	0			
Elect Director	276	276	276	272	272	271
Miscellaneous Proposal: Company-Specific	1	1	Undisc.			
Ratify Auditors	28	28	28	27	27	27
Total	347	347	345	344	344	340
2021 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Adjourn Meeting	1	2	w/drwn	1	1	1
Advisory Vote on Say on Pay Frequency				1	1	1
Advisory Vote to Ratify Named Executive Officers' Compensation	30	29	27	27	27	25
Amend/Approve Omnibus Stock Plan	11	11	11	11	11	11
Amend/Approve Employee Stock Purchase Plan	4	4	4	4	4	4
Amend Articles/Bylaws/Charter	4	4	4	3	3	3
Declassify the Board of Directors	2	2	0			
Elect Director	288	288	285	293	293	293
Ratify Auditors	30	30	30	28	28	28
Reduce Supermajority Vote Requirement	3	3	0	2	2	2
Total	373	372	361	370	370	368

Table 3 2019-2021 PROXY PROPOSALS SPOSED BY SHAREHOLDERS ENERGY VS TECHNOLOGY: RECOMMENDATIONS AND NUMBER OF PROPOSALS PASSING						
2019 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Amend Articles/Bylaws/Charter	6	0	1	8	0	0
Company Specific-Board/Govern/Shareholder Related	4	2	0	5	0	0
Compensation-Miscellaneous Company Specific				2	0	0
Environmental Impact	4	0	0			
Gender Pay Gap				5	0	0
Political Contributions/Lobbying Disclosure	7	0	0	2	0	1
Report on Climate Change	1	0	0			
Require Independent Board Chair	4	0	0	5	0	0
Social Proposal	3	0	0	5	0	0
Total	29	2	1	32	0	1

2020 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Amend Articles/Bylaws/Charter	6	1	2	12	0	1
Company Specific-Board/Govern/Shareholder Related				1	0	0
Environmental Impact	4	0	1			
Gender Pay Gap				4	0	0
Political Contributions/Lobbying Disclosure	8	0	0			
Product Safety	1	0	0			
Report on Climate Change	2	0	1			
Required Independent Board Chair	4	0	0	8	0	0
Social Proposal	2	0	0	2	0	0
Total	27	1	4	27	0	1
2021 Agenda Item	Energy			Technology		
	No.	Mgmt For	No. Passed	No.	Mgmt For	No. Passed
Amend Articles/Bylaws/Charter	7	1	2	10	0	1
Charitable Contributions				1	0	0
Company Specific-Board/Govern/Shareholder Related	2	0	0	3	0	0
Compensation-Miscellaneous Company Specific				2	0	0
Elect Directors (Opposition Slate)	12	12	11			
Environmental Impact	6	0	3			
Gender Pay Gap				2	0	0
Labor Issues-Discrimination/EEO Report				5	1	2
Political Contributions/Lobbying Disclosure	7	0	3	3	0	0
Report on Climate Change	6	0	3			
Require Independent Board Chair	4	0	0	4	0	0
Social Proposal	1	0	0	9	0	0
Total	45	13	22	39	1	3

On the other hand, as shown in Table 3, management almost always recommended against shareholder proposals. The only substantive exception occurred in 2021 when shareholders of a company in the energy sector presented an opposition slate for the election of directors which was acceptable to management and passed by shareholders.

Shareholders of energy sector companies presented almost the same number of proposals (101 compared to 98) as shareholders of companies in the technology sector. However, the topic of proposals between companies in the energy sector and companies in the technology sector were often different. The energy sector shareholders' proposals included the topics of environmental impact, climate change, and product safety none of which were addressed by the technology sector shareholders. Technology shareholders' proposals included the topics of gender pay gap, other compensation issues, labor and discrimination issues, and charitable contributions none of which were addressed by energy shareholders. Socially related proposals were more common for technology shareholders with 22 percent of technology shareholder proposals versus six percent of energy shareholder proposals socially related. Proposals related to amending articles of incorporation, requiring

an independent board chair, political contributions/lobbying disclosure, and other company specific governance related issues were commonly sponsored by both.

Management of companies in the energy sector recommended adoption of four (excluding the proposal for an opposite slate of directors) of 101 shareholder proposals over the three-year period two in 2019, one in 2020, and one in 2021. In each case, the shareholder proposals recommended by management related to governance issues. Management of energy sector companies recommended against all shareholder proposals related to corporate social responsibility matters. However, 11 shareholder proposals related to social responsibility (environmental impact, climate change reports, and political contributions/lobbying disclosure) were ultimately passed by shareholders two in 2020 and nine in 2021.

Even more strongly than in the energy sector, management of companies in the technology sector recommended against 97 of 98 shareholders proposals over the three-year period. Despite negative recommendations by management on 97 shareholder proposals, four of them passed (one each for 2019 and 2020 and two in 2021). The other proposal (the only one recommended for adoption by management) related to labor issues and was passed by shareholders bringing the total number of shareholder proposals passed to five. Three of the five proposals that passed related to social responsibility concerns. One proposal passed in 2019 related to political contributions, and two related to labor/discrimination issues passed in 2021. These results indicate that despite being slightly less active in social responsibility related proposals, shareholders in the energy sector were more effective than their counterparts in the technology sector in getting them passed passing eleven compared to three passed by technology.

CONCLUSION

Over the three years included in this study, both energy and technology sector managements and shareholders showed a consistent pattern of greater involvement in the proxy proposal process. The number of management and shareholder proposals for each year for each sector was remarkably similar. The activity in management proposals for each sector was evenly distributed with no company drastically outpacing or lagging far behind other companies within each sector. Each sector was, however, led by a large company with a high number of shareholder proposals over the three years. This indicates that both management and shareholders see the proxy proposal process as positive tool for effecting change within the organization.

All management proposals in both sectors related to governance matters. Since no management proposal related to corporate social responsibility matters this, perhaps, signals management's true feelings toward corporate social responsibility initiatives. This is reinforced by the finding that management almost always recommended against shareholder proposals in both sectors and supported only one social responsibility related shareholder proposal between the sectors combined.

Shareholder proposals in both sectors were predominantly related to social responsibility matters. While the topics overlapped between sectors, notable differences in emphasis occurred with unique topics appearing in energy (environmental impact, climate change, and product safety) and technology (gender pay gap, other compensation issues, labor and discrimination issues, and charitable contributions). The technology shareholders were more active in socially related proposals. Despite management's opposition to social responsibility related proposals, both sectors' shareholders were able to get some passed. Even though slightly less active in social responsibility related proposals, shareholders in the

energy sector were more effective than their counterparts in the technology sector in getting them passed.

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Received: 05-Dec-2024, Manuscript No. JLERI-24-15526; **Editor assigned:** 06-Dec-2024, Pre QC No. JLERI-24-15526(PQ); **Reviewed:** 19-Dec-2024, QC No. JLERI-24-15526; **Revised:** 24-Dec-2024, Manuscript No. JLERI-24-15526(R); **Published:** 02-Jan-2025