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# United States Senate

COMMITTEE ON ENERGY AND NATURAL RESOURCES

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June 4, 2024

The Honorable Teri L. Donaldson  
Office of Inspector General  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

Dear Inspector General Donaldson,

I am writing to request a comprehensive investigation of the Department of Energy's (DOE) recent conditional commitment to provide Plug Power, Inc., a hydrogen fuel cell company, with a loan guarantee worth more than \$1.66 billion.<sup>1</sup> It appears that DOE's Loan Programs Office (LPO) continues to provide taxpayer support to entities with which its Director, Jigar Shah, has conflicts of interest.

In your April 3rd response to my letter, dated December 13, 2023, you underscored systemic conflict of interest concerns within the LPO. You also explained that your office is currently evaluating potential conflicts of interest related to Director Shah and DOE's issuance of a \$3 billion loan guarantee to Sunnova. I respectfully request that you investigate DOE's conditional commitment to Plug Power and specifically examine any potential impropriety on the part of Director Shah and the LPO more broadly.

My concerns about DOE's conditional commitment to Plug Power arise from Director Shah's prior role at Generate Capital, a company that finances energy and infrastructure projects. Shah co-founded Generate Capital in 2014. He served as Generate Capital's President until March of 2021, at which point he joined DOE's LPO. In 2019, Generate Capital provided a \$100 million loan to Plug Power.<sup>2</sup> After Shah left Generate for LPO, Plug Power repaid its loan to Generate ahead of schedule (without any early termination penalties) on December 14, 2022<sup>3</sup> – as it was pursuing a DOE loan guarantee.

I would also point your attention to Taite McDonald, a lobbyist for Plug Power at Holland & Knight, who maintains strong connections to Director Shah. McDonald, a self-described "longtime friend" of Shah and an advisor to Cleantech Leaders Roundtable, an organization that Shah founded in 2017, has led numerous companies through the LPO selection process since Shah became LPO's Director.<sup>4</sup> As noted on Holland & Knight's website, McDonald helped Plug

<sup>1</sup> [LPO Announces Conditional Commitment to Plug Power to Produce and Liquify Clean Hydrogen Fuel | Department of Energy](#)

<sup>2</sup> [Plug Power Inc. | Plug Power Announces \\$100 Million Debt Facility from Generate Capital](#)

<sup>3</sup> [Plug Power Inc. Repays All Outstanding Obligations Under the Loan and Security Agreement - MarketScreener](#)

<sup>4</sup> [This Lobbyist Calls Biden's Energy Czar a 'Longtime Friend.' She Raked In Millions in Energy Loans for Clients. \(freebeacon.com\)](#)

Power secure tens of millions of dollars in DOE grants.<sup>5</sup> Shah also appeared on a Holland & Knight podcast with McDonald to discuss the LPO.<sup>6</sup> I am concerned that this comingling of professional and personal relationships undermines the impartiality with which LPO should pursue its statutory obligations to evaluate loan and loan guarantee applications.

In addition to my concerns about Shah's ties to Plug Power, I have significant doubts about Plug Power's financial viability. I understand that the company has not turned a profit since its incorporation over 20 years ago.<sup>7</sup> Plug Power incurred a \$1.4 billion loss in 2023, which was nearly double its \$724 million loss in 2022.<sup>8</sup> It also appears that Plug Power only resolved its November 2023 going concern warning in March of this year.<sup>9</sup> Such significant losses raise questions about DOE's prior decisions to provide Plug Power with tens of millions of dollars in grants as well as DOE's conditional commitment to provide a \$1.66 billion loan guarantee.<sup>10</sup>

My concerns that arise from the above facts are as follows:

1. **Conflicts of Interest:** Generate Capital's \$100 million loan to Plug Power and Shah's transition from Generate Capital to LPO raises questions about potential conflicts of interest. Shah's previous ties to Plug Power may have influenced LPO's decision-making process. At a minimum, Shah's ties have given the appearance of favoritism.
2. **Timing of Repayment:** Plug Power repaid its loan to Generate Capital ahead of schedule (without early termination penalties) on December 14, 2022 - at the same time it was pursuing a DOE loan guarantee. The timing of this early repayment (without penalty) raises questions whether Shah or LPO gave Plug Power something in return for or helped enable the early repayment - for example, by indicating that LPO would look favorably upon Plug Power's application for a DOE loan guarantee.
3. **Insider Knowledge and Fair Competition:** Shah's insider knowledge from his time at Generate Capital may have given Plug Power an undue advantage in securing a conditional commitment from DOE. Such knowledge might include insights into Plug Power's negotiation strategies, financial structuring, or approval processes. Other companies, which are pursuing a DOE loan guarantee, might perceive Shah's ties to Plug Power as a reason to doubt the fairness and competitiveness of DOE's funding decisions.
4. **Due Diligence:** Private sector investors frequently look to LPO's conditional commitments as an indication that a company is credit worthy. If Shah's previous ties to Plug Power in any way influenced LPO's evaluation or due diligence of Plug Power, LPO's conditional commitment might have misled investors of Plug Power.
5. **Public Perception and Trust:** If people perceive that private sector relationships unduly influence LPO's decision-making process, public trust in the integrity, transparency, and accountability within DOE will erode.

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<sup>5</sup> [Holland & Knight Assists Plug Power and The Chemours Company in Obtaining Department of Energy Funds for Clean Hydrogen Projects | News | Holland & Knight \(hkllaw.com\)](#)

<sup>6</sup> [Podcast - The Loan Programs Office: Current State of Affairs with Director Jigar Shah | Insights | Holland & Knight \(hkllaw.com\)](#)

<sup>7</sup> [Plug Power lands \\$1.7B DOE loan guarantee to boost... | Canary Media](#)

<sup>8</sup> [Plug Power SEC Form 10-K Filing for Year 2023](#)

<sup>9</sup> [Plug Power Inc. | Plug Highlights Year of Strategic Growth and Advancements in Accelerating the Green Hydrogen Economy](#)

<sup>10</sup> [Plug Selected by U.S. DOE for Several Project Awards to Advance Hydrogen Electrolyzer and Fuel Cell Technologies - Plug Power](#)

You have written that “[t]here is no precedent in the Department for [LPO’s] level and pace of financing[,]”<sup>11</sup> referring to the “historic expansion” of LPO’s lending authority as a “massive new risk[] to the taxpayer.”<sup>12</sup> With the upcoming presidential election, I am concerned that LPO may accelerate its lending in anticipation of a potential change in administration.<sup>13</sup>

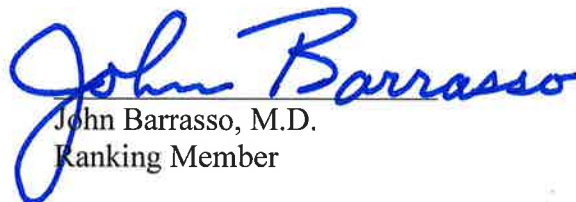
To ensure the highest ethical standards at DOE, I respectfully request an investigation of the following:

1. **Potential Pre-Tenure Involvement:** Investigate Shah’s potential involvement in Plug Power-LPO discussions before his tenure as LPO Director, while he was still at Generate Capital.
2. **Impartiality in Loan Decisions:** Review the decision-making process within the LPO, focusing on whether Shah’s prior personal and business relationships, described above, impacted the decision-making process with regard to DOE’s conditional commitment to Plug Power.
3. **Loan Repayment Circumstances:** Investigate the early repayment of Plug Power’s loan to Generate Capital and any communications indicating further DOE financial support.
4. **Ethical Compliance:** Assess Shah’s adherence to the Biden Ethics Pledge, particularly the Revolving Door Ban, in the context of his interactions with Generate Capital and Plug Power.
5. **Excessive Financial Risk:** LPO’s conditional commitment of a \$1.66 billion loan guarantee to Plug Power exceeds the company’s financial loss of \$1.4 billion in 2023. Investigate whether an LPO decision to issue a final loan guarantee to Plug Power would constitute an excessive, atypical financial risk compared to prior LPO loan guarantees.

Given the significant financial implications and the need to maintain public trust, a thorough investigation into the LPO’s conditional commitment to Plug Power is essential to ensure transparency and accountability within the LPO. For your convenience I have attached the footnoted links and materials in a separate document.

Thank you for your attention to this matter. I look forward to your prompt response.

Sincerely,

  
John Barrasso, M.D.  
Ranking Member

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<sup>11</sup> [Statement of the Honorable Teri L. Donaldson, Inspector General - October 19, 2023](#)

<sup>12</sup> [Id.](#)

<sup>13</sup> [‘It would just die on the vine’: Biden’s \\$200 billion energy loan juggernaut faces a Trump-sized threat - POLITICO](#)