STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In The Matter of The Implementation of Executive)
Order 317 Requiring the Development of Natural) Docket No. GO23020099
Gas Utility Gas Emissions Reduction Plans)

Comments of EmpowerNJ, et al.* Regarding Recommendations for Future Technical Conferences and Working Sessions Related to Executive Order 317

Preliminary Statement

BPU's next order of business in the above-entitled proceeding must be to implement a moratorium (or equivalent mechanisms) on approving any fossil fuel gas or RNG infrastructure projects other than those needed to ensure the safety of the current gas distribution systems until a plan is in place to meet the State's clean energy and carbon reduction goals. A moratorium is needed for the following reasons:

First, the incontrovertible evidence presented at the August 2 and 3, 2023 conference (Conference) showed that gas usage will be contracting because of government mandates, tax incentives, energy efficiency programs and market forces. The sale of electric heat pumps nationwide has now surpassed those of gas furnaces; they are less expensive and more efficient. 69% of the country already uses electric stoves and that percentage will continue to grow as electric stoves now outperform gas stoves and there is growing understanding of the toxic indoor pollutants produced by gas stoves. Besides these market forces, state policy and federal tax incentives, most prominently from the 2022 Inflation Reduction Act, are accelerating electrification. New gas infrastructure is not needed.

Second, continued spending on gas infrastructure flies in the face of State policies that require a speedy transition to clean energy and reduced greenhouse gas emissions (GHGs). Those policies include the mandate to reduce GHGs by 50% from 2006 levels by 2030 (the 50x30 Goal). Every additional molecule of GHG conflicts with this goal. The State has no implementable plan to meet the 50x30 Goal or its goal of 100% clean energy by 2035. These are not easy tasks and we cannot make these goals harder to obtain while we develop the plans to meet them. . Time is not on our side. A moratorium is the only logical action under these circumstances.

Third, as the evidence presented at the Conference showed, infrastructure spending will lead to stranded costs. This is already a problem. Gas distribution companies (GDCs) have been increasing their capital spending exponentially over the last five years even as the industry is or will soon be contracting. GDCs should not be allowed to recover from ratepayers the cost of building and upgrading pipelines and other infrastructure with a 50 to 70 year lifetime when those assets will only be used a small fraction of that time. We need to stop making the stranded asset problem worse. Instead, future investments to meet our energy requirements should be directed to expanding and improving the electrical grid, not propping up a contracting industry at ratepayer expense.

Fourth, the evidence presented at the Conference by the New Jersey Division of Rate Counsel (DRC) also showed that low and moderate income persons will bear the brunt of paying for these

stranded costs. Customers with resources will be able to afford the capital costs needed to electrify. The cost of stranded assets will be paid by fewer people as customers leave the gas system with poor and low income people, who cannot afford to make the transition, "left holding the bag." A moratorium is not just an environmental and moral imperative, but an economic one.

Fifth, while GDCs are pushing renewable natural gas (RNG) as a replacement or supplement to natural gas as a rationale to continue to build pipelines and other infrastructure projects at ratepayer expense, the overwhelming evidence is that RNG is neither physically nor economically scalable as a replacement for natural gas, is more expensive than other energy sources and produces both GHGs and other toxic pollutants. RNG is not clean energy. "Green" hydrogen, another technology GDCs are pushing, is a commercially unproven and expensive technology, which, if ever successfully developed at scale and cost, will at best have niche applications for transport and heavy industry that cannot be directly powered by renewable energy from the grid.

Sixth, as BPU admitted at the Conference, its research and analysis has not included the true, total social costs of GHG emissions including the costs of adapting to climate change and the costs of harms to health and the environment. Sound policy requires those costs not be increased before they are quantified and fully considered.

Seventh, Empower NJ does not accept that clean energy must take years to implement, as evidenced by the clean and renewable energy sources that are entering the global market every day. But speakers at the Conference argued that replacing GHG emitting energy sources with clean energy is a long process. If energy transition is in fact delayed in NJ, it is essential that there be no further investment in new infrastructure that would enable the state's dependence on GHG emitting energy sources. A moratorium is the most effective means to ensure that does not happen.

On August 9, 2023, New Jersey joined other states in filing an amicus curiae brief with the United States Court of Appeals for the District of Columbia to oppose FERC's approval of Transco's proposed interstate pipeline, the "Regional Energy Access Expansion." The contentions the State made therein mirror the arguments we make herein: climate change is devastating the State and the World; we must quickly transition away from natural gas towards clean energy; demand for natural gas use is declining; renewable energy is or will soon be less expensive than natural gas; building new gas infrastructure will lead to stranded costs and higher rates; and the "success of its clean energy transition" will be dependent on avoiding "unnecessary infrastructure expansions that could burden ratepayers." Each of these arguments apply with equal force to new intra-state infrastructure.

The ultimate goal of this proceeding is to chart out a long term plan for the future of the gas industry, taking into account, among other things, the need to meet the State's clean energy goals, shrinking gas usage and the stranded costs that the customers remaining on the system will have to bear. BPU's first order of business in this proceeding must be to not make the problems of GHG emissions and stranded costs worse. The only capital costs that GDC's should be allowed to recover from ratepayers are those necessary to keep the existing distribution networks safely running while they still must be used.

<u>State Policies Require the Rapid Transition Away From Natural Gas and Towards Clean Energy</u>

The decisions made in this proceeding must, of course, be consistent with and informed by existing State policies and statutes requiring the transition to clean energy and the replacement of fossil

fuels. They no longer allow a go-slow approach to this transition. The following State policies mandate the need to rapidly transition away from natural gas as quickly as possible:

- Executive Order 274 provides that the State must reduce its GHGs by 50% from 2006 levels by 2030 (the 50x30 Goal) and directed all State agencies to implement this objective.
- The Global Warming Response Act requires the State to reduce GHGs in accordance with the goals of the US Climate Alliance (New Jersey is a member of the Alliance). One of the Climate Alliance's goals is to reduce GHGs 50 to 52% from 2005 levels by 2030. N.J.S.A. 26:2C-58.
- Executive Order 316 makes it State policy to advance the electrification of commercial and residential buildings with the goal of providing electric space and water heating to 400,000 homes and 20,000 commercial properties by 2030.
- New Jersey's Clean Energy Act requires gas utilities to annually reduce gas consumption in their service territories by at least 0.75 percent per year based on "the average annual usage in the prior three years." N.J.S.A. 48:3-87.9(a).

Market Forces Will Cause the Contraction of the Gas Industry

Cities and States, such as New York City, have begun banning gas furnaces and stoves in new construction, a step New Jersey should take. But even without that, market forces will eventually accomplish the same thing, albeit over an unnecessarily longer time frame and at greater - and wasted - expense for the consumer.

To paraphrase the late great New Jersey resident Yogi Berra, the debate over building electrification is deja vu all over again. For years fossil fuel companies tried to convince us that electric vehicles could never be as good as those powered by diesel and gasoline. That debate is now over. EVs costs are dropping, and their market share is increasing. Government mandates are hastening but not solely creating the transition to EVs. Companies such as General Motors are ending the production of gasoline powered cars by 2035, which is line with programs like Advanced Clean Cars II.

The same phenomenon is at work with stoves and heat pumps. Because heat pumps transfer heat rather than generate it, they are more efficient than conventional heating systems like boilers, furnaces, and electric heaters. Heat pumps work by extracting heat from the air, ground, or water and transferring it inside a building for heating and outside for cooling. Modern cold-climate heat pumps are a smarter, more efficient, and a more environmentally friendly option to keep homes comfortable without using fossil fuels.

Technological improvements now allow heat pumps to effectively heat homes even in cooler climates. The Southeast, where residential natural gas connections are less common, currently has the greatest concentration of heat pumps in the U.S. Heat pumps had been slower to penetrate in northern states because older versions did not perform as well in freezing-cold temperatures. Now, however, new and improved heat pumps have become standard options for homes and businesses in colder climates. A recent study in Maine found that newer heat pumps were both effective and efficient at keeping homes warm during that state's frigid winters. Maine has set a goal of installing 100,000 heat pumps by 2025, a target the state reached two years ahead of schedule; Gov. Janet Mills unveiled a new goal of installing another 175,000 heat pumps by 2027. In 2021 alone, more than 27,000 new heat pumps came online in

the state.[1] In New York ,more than 29,500 heat pump projects were installed in 2022 across the state, representing a 37% growth over 2021.[2]

In 2022, for the first time, heat pumps outsold gas-powered furnaces in total units in the U.S. Americans bought more than 4.3 million heat pump units in 2022, compared to roughly 3.9 million natural gas furnaces.[3] Globally, heat pump sales are projected to more than double between 2022 and 2030.[4] And this dramatic increase in market penetration has occurred even before tax incentives under the Inflation Reduction Act (IRA) took effect. The IRA's Energy-Efficient Home Improvement credit, known as 25C, after its section in the tax code, provides that homeowners will be eligible for a 30% credit up to $2,000 for installing heat pumps.[5]

Electric stoves will also be replacing gas stoves because of better performance, health concerns and government mandates.

There is now a growing realization of the health costs associated with gas stoves. "Nitrogen dioxide, carbon monoxide and fine particulate matter are among the pollutants tied to gas stoves. According to studies collected by Harvard Health, nitrogen dioxide has been linked to childhood asthma and its concentration also quickly surpasses limits for outdoor air set by the EPA when the stove is in operation. Fine particulate matter, especially of the tiny PM2.5 variety, has been linked to illnesses like lung and heart disease. Additionally, a Harvard Univ. study found high concentrations of volatile organic compounds present in natural gas burned by households. The substances have been linked to cancer."[6]

NOx pollution (and subsequent production of ground level ozone) leads to a host of health issues including respiratory, cardiac, neurological, reproductive and renal diseases well as cancer and birth defects and contributes to hospitalizations and premature death.[7]

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[1] https://www.canarymedia.com/articles/heat-pumps/heat-pumps-perform-well-in-below-freezing-weather; https://www.maine.gov/governor/mills/news/after-maine-surpasses-100000-heat-pump-goal-two-years-ahead-schedule-governor-mills-sets-new#:~:text=Fairfield%2C%20MAINE%20%E2%80%93%20Governor%20Janet%20Mills,and%20curbing%20harmful%20carbon%20emissions.

[2] https://www.nyserda.ny.gov/Featured-Stories/US-Heat-Pump-Sales#:~:text=For%20the%20first%20time%2C%20heat,3.9%20million%20natural%20gas%20furnaces.

[3] https://www.statista.com/chart/29082/most-common-type-of-stove-in-the-us/

[4] https://finance.yahoo.com/news/global-heat-pumps-market-reach-162300133.html#:~:text=ReportLinker-,Global%20Heat%20Pumps%20Market%20to%20Reach%20%24142.4%20Billion%20by%202030,the%20analysis%20period%202022%2D2030.

[5] https://www.canarymedia.com/articles/electrification/climate-bill-could-spur-market-transformation-in-home-electrification

[6] https://www.statista.com/chart/29082/most-common-type-of-stove-in-the-us/; https://rmi.org/insight/gas-stoves-pollution-health/

[7] https://www.forbes.com/sites/rogerpielke/2020/03/10/every-day-10000-people-die-due-to-air-pollution-from-fossil-fuels/?sh=421b89e92b6a

Like EVs and heat pumps (and more and more equipment such as garden tools), electric and induction stoves have improved and now more often than not outperform their gas counterparts. Old electric stoves deservedly had a bad repudiation compared to gas appliances. Their heating elements slowly got hot and heated pots and pans through conduction. The burners remained hot long after cooking, which wastes energy, can slow down cleaning and present a burn risk. New electric stoves heat through induction, a far more powerful and efficient process where electromagnetic current directly heats the pots and pans placed on the stove and the stove top never gets hot.[8]

Consumer Reports found that even without considering climate impacts and health concerns, " [i]n most cases, electric stoves outperform their gas counterparts in CR's lab tests." Electric stoves heat faster (by a large margin), simmer better, and broil better than their gas counterparts. [9]

New Jersey's use of gas stoves is an anomaly. Nationwide, 68% of households use electric stoves. In New Jersey, 69% use gas stoves, the second highest rate in the country behind California at 70%.[10] It is only a matter of time before the percentage of New Jersey residents using electric stoves looks more like the rest of the country.

The Accelerating Investments Being Made By GDCs

Instead of preparing for a future of slowing sales (or maybe because of it) GDCs have been ramping up their spending on infrastructure projects at ratepayers' expense. GDCs are increasing their profits, and ratepayer costs, by increasing the rate base on which a return is earned.

Per DRC's presentation at the August 2, 2023 Conference, the price of gas has been consistently rising. In the last 20 years, gas bills have increased about 200% or an annual increase of 9.5%, well outpacing the rate of inflation. These increases have occurred even when commodity prices have been stable because of GDCs' increased capital spending at a rate far above historical means. Since 2018, $2 billion has been spent on gas infrastructure projects. According to a filing by the New Jersey Large Energy Users Coalition in the GSMP II proceeding, PSE&G's transmission rates have increased almost 450% since 2009 due to the billions of dollars of investment in transmission infrastructure during that period.[11]

The FERC Filing by the State of New Jersey

On August 9, 2023, New Jersey joined other states in filing an amicus curiae brief with the United States Court of Appeals for the District of Columbia to oppose FERC's approval of Transco's proposed interstate pipeline, the "Regional Energy Access Expansion." The contentions the State made therein apply with equal force to new intra-state infrastructure and further support the need for a moratorium.

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[8] https://blog.aham.org/induction-introduction-a-primer-on-induction-cooking/; https://www.pbs.org/wgbh/nova/article/how-induction-stoves-work/

[9] https://www.consumerreports.org/appliances/ranges/gas-or-electric-range-which-is-better-a1142956590/

[10] Id.

[11] file:///C:/Users/johnr/Downloads/GR17070776+-+STEVEN+S.+GOLDENBERG+(FOX+ROTHSCHILD,+LLP)+SUBMITTED+CORRESPONDENCE+EXPLAINING+NON-SUPPORT+OF+THE+STIPULATION+OF+SETTLEMENT%20(2).PDF

The State began its argument by noting that it and the other states joining in the brief "have a critical interest in reducing greenhouse gas pollution from natural gas, otherwise known as methane gas. This pollution harms our residents, natural resources, infrastructure, and economies. Each year, we experience increasingly severe weather events linked to climate change, such as heatwaves, flooding, drought, wildfires, and hurricanes. These events cause large human and economic tolls. In 2022 alone, extreme weather disasters cost the country an estimated 165 billion dollars." Further, "reducing methane consumption via energy efficiency and development of renewable energy will mitigate these harms and simultaneously reduce air pollution, diversify the energy supply, foster local economic development, and create jobs." (p 1-2).

The State then argued that the pipeline expansion was not needed and does not serve the public interest. Citing New Jersey's Clean Energy Act, which requires utilities to reduce gas demand annually and to provide renewable electricity the State contended that "New Jersey law will move the market toward renewable energy generation and away from gas" (p 5-6). There will be a "declining demand for methane gas in the state" due to New Jersey's energy efficiency programs and gas consumers switching to electricity (p22). Because the State is "transitioning off methane," the new pipeline could become a "stranded" asset and "ultimately harm consumers (Id.). Meanwhile "market trends show that these renewable energy resources either are currently or will soon be cheaper than natural gas" (p18).

The brief went on to note that the "success of its clean energy transition" will be dependent on avoiding "unnecessary infrastructure expansions that could burden ratepayers" (p21). "[D]eclining demand for natural gas will force the same amount of fixed costs to be spread over fewer volumetric sales, putting upward pressure on natural gas rates" (p22). These "'rising gas rates will lead more consumers to electrify, causing gas costs to rise even higher for the remaining users who are unable to switch from gas to electricity, including low-income people" (Id.).

Continued Investments in Gas Infrastructure Would Harm Ratepayers and Does Not Make Economic Sense

The incontrovertible evidence presented at the Conference and in New Jersey's FERC brief shows that the contraction of the natural gas industry will lead to fewer and poorer gas customers paying for all the capital costs incurred in building a network of stranded assets.

We need to start addressing the problem now by not making the problem worse by approving new infrastructure projects. There is already a looming problem of stranded costs where ratepayers pay for infrastructure that is not even being used. As DRC succinctly put it at the Conference, "ratepayers should not be investing in infrastructure that will be obsolete shortly." And even worse, the cost of those stranded assets will be paid by fewer people as they leave the gas system when they electrify their homes and businesses with low income folks that cannot afford to transition "left holding the bag."

RNG Does Not Justify Further Infrastructure Spending

It was clear from the gas industry participants at the Conference that GDCs are largely basing their future viability on RNG. They are seeking funding for demonstration projects and arguing for more "robust investment" in RNG. GDCs are pushing RNG as a replacement or supplement to natural gas and

a rationale to continue to build unneeded pipelines and other infrastructure projects at ratepayer expense. But the evidence is that RNG is not scalable as a replacement for natural gas, is more expensive than other energy sources and will continue to produce both GHGs and other toxic pollutants.

RNG is primarily methane gas, chemically identical to fossil gas but mainly sourced from landfills, sewage treatment plants, or livestock manure ponds on large industrial farms.[12] GDCs argue that RNG will lower GHG emissions by capturing methane that is currently being produced from landfills and other emission sites. There are currently numerous places where that methane is being captured on site and then converted to electricity, which is then used locally or on-site to, for example, power the sewage treatment plants. While this limited use of RNG can make sense,[13] what makes no sense is to argue RNG can justify spending billions of dollars on new gas distribution systems for the following three reasons.

First, there is the issue of scale. A study sponsored by the American Gas Foundation (AGF) and conducted by ICF International showed that the United States could only produce enough biogas and synthetic gas by 2040 to replace roughly 3-7% of the country's 2019 gas use, with biogas replacing 2-5% and synthetic methane replacing 1-2%.[14] RNG will impede the transition to clean renewable energy by siphoning away investments needed in scaleable and truly clean renewable energy.

Second, RNG is very expensive relative to other energy sources. The average cost of RNG is much higher than today's price for fossil gas. The AGF estimates that RNG will cost up to $45 per million British thermal units (MMBtus),[15] which is up to 5 times more costly than the historically high market price for fossil gas which traded as high as $8.59 in August 2022. A California Energy Commission study[16] estimates that biogas will cost $8 to $40 per MMBtu and that synthetic methane will cost $37 to almost $90 per MMBtu at scale in 2050. This is largely due to the high costs of developing new infrastructure to capture, produce, transport and deliver RNG to market. And none of this spending will be used to transition to renewable energy technology.

Third, RNG is just as environmentally harmful as natural gas. The lifecycle production of RNG releases large quantities of climate destroying methane and other hazardous air pollutants into our air. RNG is chemically identical to conventional natural gas, which means that it too is largely composed of

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[12] https://www.sightline.org/2021/03/09/the-four-fatal-flaws-of-renewable-natural-gas/

[13] We should also be preventing further GHG emissions from biomass, not encouraging them. According to a report by California Climate and Agriculture Network, making a profitable market for manure-based RNG likely increases localized pollution by reinforcing industrial livestock farming practices that result in liquid-based manure storage and crowded feedlots. If farms pasture-raised their livestock, they could avoid generating much of the methane to begin with. Similarly, diverting landfill-bound waste to recyclers or composting facilities—or simply curtailing the sources of trash—could significantly decrease methane production from landfills. A report by the Global Alliance for Incinerator Alternatives (GAIA) provides clear evidence that better waste management is a viable and superior means of fighting climate change than collecting methane from landfills. For example, it states, "Separate collection of organic waste, composting, mechanical-biological treatment of residual waste, and biologically active landfill cover can reduce methane emissions by an average of 95%."

[14] https://www.nrdc.org/experts/merrian-borgeson/report-renewable-gas-pipe-dream-or-climate-solution

[15] https://www.nrdc.org/media/2020/200615

[16] California Energy Commission, "Natural Gas Distribution in California's Low-Carbon Future," October 2019, https://ww2.energy.ca.gov/2019publications/CEC- 500-2019-055/CEC-500-2019-055-D.pdf.

greenhouse gasses. Methane is 84 to 86 times more powerful at capturing heat than carbon dioxide over a 20-year period. When RNG is burned in our appliances, it produces exactly the same amount of carbon that fossil gas does. RNG also produces the same toxic pollutants as natural gas, including particulate matter and nitrogen oxides (NOx). RNG is not clean energy and will only delay a transition to truly clean energy - not in any way facilitate it.

Before the BPU allows the use of any specific form of RNG, it must study its total lifecycle costs/environmental effects (including the social costs of carbon) and demonstrate that it is economical, non-polluting, reasonably available and will produce true reductions in atmospheric GHG levels.

Green Hydrogen is a Pipe Dream

Green hydrogen is another technology being pitched by GDCs as an excuse to continue to build new infrastructure. It is (excuse the pun) a pipe dream.

The November 15, 2021 report of London Economics International, commissioned and accepted by the BPU, said this: "Green hydrogen is also at a much earlier stage of development than RNG. It still faces several obstacles to deployment, most notably, cost. Per unit of energy, hydrogen supply costs are 1.5 to 5 times those of natural gas. Moreover, the economics of electrolysis – the method of producing hydrogen that can be powered by renewable resources – has yet to be tested at a large scale." [17]

There are multiple reasons for these increased costs. Transporting hydrogen is expensive due to its low energy density, which means that large amounts of space are required to hold a relatively modest amount of hydrogen energy. To have hydrogen replace the energy supply of fossil gas in the global economy would require building 3 to 4 times more storage and pipeline infrastructure. Hydrogen also causes metal embrittlement, increasing prevention and replacement costs.[18] Safely transporting, storing, and handling hydrogen can add significant costs. It only costs a few dollars per kilogram to produce hydrogen from fossil gas. Yet the average retail price of hydrogen at fueling stations in California is about $16.50 per kilogram—the equivalent of about $6.40 per gallon of gasoline. Precautions against leaks are also necessary at each stage of handling hydrogen. Containing hydrogen is more challenging than containing other gasses because hydrogen is the smallest and lightest molecule in the universe.[19]

Hydrogen, green or otherwise, cannot totally replace methane for running gas appliances. Burning hydrogen, which also produces high levels of NOx, would require total replacement of the appliances and the supporting gas network. At best green hydrogen could "decarbonize" a small percent of the methane in today's gas network. But this would quickly become a dead end and is not a path to any future decarbonization or transition to true renewable energy.

Green hydrogen makes no sense for gas customers who can connect to an electric grid. Those customers can satisfy their energy demands directly from renewable energy without the costly conversion to hydrogen. Hydrogen's only potential use is for niche industries and transport where connection to the grid is impossible or impractical.

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[17] https://www.nj.gov/bpu/pdf/boardorders/2021/20211215/9B%20LEI%20Final%20Gas%20Capacity%20Report%2011%2005%202021%20Public%20Redacted.pdf

[18] https://en.wikipedia.org/wiki/Hydrogen_embrittlement

[19] https://earthjustice.org/features/report-building-decarbonization

Conclusion

The ultimate goal of this proceeding is to chart out a long term plan for the future of the gas industry, taking into account, among other things, the need to meet the State's clean energy goals, shrinking gas usage and the stranded costs that the customers remaining on the system will have to bear. BPU's first order of business in this proceeding, must be to not make the problems of GHG emissions and stranded costs worse. In order to stop the bleeding, BPU needs to enact a moratorium on infrastructure spending until a long term plan for the gas industry is formulated. In addition, before allowing its use, BPU must prove that any specific form of RNG is safe, economical, reasonably available, non-polluting, will not prevent reductions in total atmospheric GHGs and will not result in a dead end that will prevent a full transition to true clean renewable forms of energy.

DRC recommended at the August 2, 2023 conference that BPU put a moratorium on all new capital investments above a set amount of money and that the cap could be increased only if the BPU makes a need assessment. This would be a step in the right direction, but it does not go far enough. No money should be spent on expanding the system, period full stop. No expansion is needed now as the system will be contracting. New infrastructure spending will become stranded costs with ratepayers, particularly low income ratepayers, "left holding the bag." Until a coherent plan is in place to transition to clean energy and protect ratepayers paying for stranded costs, the only infrastructure spending that ratepayers should pay for is to maintain the safety of the existing gas system while it is still needed.

Dated: September 6, 2023 via email stacy.peterson@bpu.nj.gov

Respectfully submitted -- John Reichman, Esq. on behalf of Empower NJ and the following:

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Clean Water Action, Amy Goldsmith*, NJ State Director
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Don't Gas The Meadowlands Coalition*, Ken Dolsky, Co-leader
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List still in formation (8.31.23)

* Denotes Empower NJ Steering Committee member