No. 19-1039

In the
Supreme Court of the United States

PENNEAST PIPELINE COMPANY, LLC,
Petitioner,
v.

NEW JERSEY, ET AL.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

BRIEF OF *AMICUS CURIAE* CONSUMER ENERGY ALLIANCE IN SUPPORT OF PETITIONER

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IDENTITY AND INTEREST OF *AMICUS CURIAE*

Pursuant to Supreme Court Rule 37, Consumer Energy Alliance (CEA) respectfully submits this brief *amicus curiae* in support of the Petitioner.[1]

CEA is a national trade association with membership comprised of a diverse group representing families, businesses and various industries, including labor, manufacturing, agriculture, small business and conservation organizations. Our mission is to work alongside dedicated citizens and community leaders nationwide, advocating for sensible energy and environmental policies for all consumers by providing sound, unbiased information.

Since its inception in 2006, CEA has helped advance the needs of individuals, families, and businesses, both large and small who have been forgotten in the energy debate, mostly those who can least afford to pay more for fuel and utility bills, but others who are struggling to meet payroll and keep their doors open.

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[1] Counsel of record for all parties have consented in writing to the filing of this brief. Sup. Ct. R. 37.2 (a). Petitioner received notice at least 10 days prior to the due date of *amicus curiae*'s intention to file this brief and filed a blanket consent. Respondents received belated notice of the intention to file this brief due to *amicus curiae*'s misunderstanding that consent of all parties had been obtained and its delay in retaining counsel of record; but despite this, Respondents graciously gave express consent to file. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission. *See* Sup. Ct. R. 37.6.

CEA's individual members are those, like each of our friends and neighbors who, each and every day, are trying to make a living, provide for their families and employees, and contribute to society. Our organizational members include a collection of companies from across the U.S. that employ people, grow and raise the food we eat, and produce and sell the goods that all Americans use and rely on daily. They are farmers, academia, conservation groups, truck drivers, laborers, trades-people, energy producers, manufacturers, and small business owners.

As an organization advocating for consumers across this nation, CEA continues to stand by its commitment to ensuring families – especially low-income individuals and those on fixed incomes or living paycheck-to-paycheck – and businesses trying to meet budgets and payrolls are able to access the energy they need.

CEA submits it *amicus curiae* out of concern that blocking energy infrastructure projects, such as the Penn East Pipeline, threatens the future of America's energy reliability and supply, thereby increasing costs of energy for consumers and creating significant economic hardship; and leveling disproportionate harm to those in poverty, on fixed incomes and society's margins.

SUMMARY OF ARGUMENT

CEA agrees with Petitioner that the Third Circuit decision impacts the nation's economy and energy-delivery infrastructure far beyond this specific project. Further, the Third Circuit's decision has the potential to increase energy costs to families and businesses, impede manufacturing and industrial projects, reduce high-paying labor jobs, and deprive mineral right's owners of their ability to realize their property rights.[2] CEA believes that the question presented in this case must be answered in the affirmative as matter of sound public policy and to ensure that America's energy and economic future is secure.

Energy and its derivative products help make or are imbedded into just about everything that touches our lives on a daily basis, including the clothes we wear, the cars we drive, the shampoo we use, the carpet we walk on and the medication we take. Energy helps power every imaginable American industry, and it's a must-have ingredient for a robust, fast growing economy – perhaps the most important ingredient.

What is often overlooked is just how vital pipelines are for moving transportation fuels from the wellhead to the refiner and from the refiner to the consumer. It is also often underappreciated that about half of the homes in the U.S. use natural gas as their primary heating fuel and that 22 percent of homes in the

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[2] Sean Sullivan, *PennEast Pipeline sends high-powered legal team to Supreme Court*, S&P GLOBAL (Feb. 27, 2020), https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/penneast-pipeline-sends-high-powered-legal-team-to-supreme-court-57316912.

Northeast use heating oil. Pipelines are also essential for delivering natural gas for power generation, since natural gas generates nearly 40 percent of the nation's electricity supply.

Eliminating the primary transportation method for such an essential energy source will threaten the reliability of our country's electric grid and create more economic hardship for the 43 million living on a fixed income or below the poverty line who already spend too much of their disposable income for energy.

Efforts to thwart pipeline and similar energy infrastructure projects that would transmit power from wind or solar will result in increasing costs of energy for consumers, creating significant economic hardship, and do disproportionate harm to those in poverty and on and fixed incomes. It will lead to lost jobs in manufacturing, energy, transportation, mining, agriculture and other industries. It will create a competitive disadvantage for the United States with low-cost global competition in areas such as manufacturing, steel production and petrochemicals. We must have a rational permitting process that ensures we can bring energy projects online regardless it is natural gas, wind, solar or other resource.

America's national pipeline infrastructure is a critical part of the nation's energy lifeline, much like blood vessels and arteries are vital to the functioning of the human body. As the continued retirement of coal-fired generation facilities occurs, domestically produced natural gas is expected to play a larger role in meeting our future energy needs through electricity generation

and other critical uses.[3] Allowing the Third Circuit decision to stand could contribute to the elimination of planned natural gas midstream and pipeline infrastructure projects that are critical for future residential electricity and home heating needs.

CEA argues in support of the Petitioner's position because an affirmative answer to the question presented is good for the American consumer. Our country relies on pipeline infrastructure to promote economic growth, job creation, and even environmental stewardship.

Further, failure to support Petitioner's position would create an undue hardship on the transport and transmission of all forms of energy – including wind and solar. Natural gas actually complements and supports the expansion of renewable resources because of its quick-start capability. Since all energy sources require some need for infrastructure to bring the energy from where is it generated to where it is needed, upholding the Third Court's decision would have a chilling effect on the United States' ability to meet our growing energy needs in any form that energy may be produced.

It is for these reasons that the Federal Energy Regulatory Commission's declaratory order on January 30, 2020 was correct as it supported a traditional and

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[3] *Impact of EPA's Regulatory Assault on Power Plants: New Regulations to Take More than 72 GW of Electricity Generation Offline and the Plant Closing Announcements Keep Coming…*, INSTITUTE FOR ENERGY RESEARCH, http://instituteforenergyresearch.org/wp-content/uploads/2014/10/Power-Plant-Updates-Final.pdf (last visited Mar. 22, 2020).

necessary understanding of the use of eminent domain under the Natural Gas Act.[4]

[4] Under the Natural Gas Act, the Federal Energy Regulatory Commission (FERC) authorizes new interstate natural gas infrastructure projects. Before approvals to build or expand infrastructure are granted, FERC requires companies to obtain a certification of "public conveyance and necessity." This rigorous oversight process covers several years of public hearings and information submissions to FERC for planning, construction, economic assessments, environmental and cultural heritage assessments/reviews and a pre-filing process that can trigger voluminous and lengthy federal assessments like Environmental Impact Statements. *See* Paul W. Parfomak, *Interstate Natural Gas Pipelines: Process and Timing of FERC Permit Application Review*, CONGRESSIONAL RESEARCH SERVICE, 1-2 (Jan. 16, 2015), *available at* http://www.fas.org/sgp/crs/misc/R43138.pdf. In addition, FERC requires pipeline companies to enter into long-term customer commitments, or firm contracts from customers for capacity, before construction can begin. Although all interstate pipelines have a federal safety regulator – the Pipeline and Hazardous Materials Safety Administration – there is no single federal siting authority for interstate petroleum pipelines. While determinations and approvals for siting a project are made on a state-by-state basis, petroleum pipelines must obtain a myriad of permits from state and federal environmental agencies addressing matters including, but not limited to, wetlands, stormwater, air permits, cultural and historic preservation, Tribal consultations and potentially Environmental Assessments or Environmental Impact Statements. Petroleum pipelines that cross federal land must also receive permitting approvals. *See* Catherine Little, *Regulation of Oil and Natural Gas Pipelines: A Legal Primer for the Layman*, 235 PIPELINE & GAS JOURNAL 124, (Mar. 2008).

ARGUMENT

I. America Will Continue to Rely on Natural Gas for Affordable Energy

The United State Energy Information Administration data forecasts that natural gas will meet 37 percent of U.S. electricity needs by 2030.[5] This reliance on natural gas will help reduce our nation's vulnerability to imports, clean our air and help meet greenhouse gas emission reduction targets.[6] However, in order to deliver that volume of natural gas to power plants, factories, homes and rural communities, natural gas pipeline delivery infrastructure must be upgraded and expanded.[7] Real energy security is not just the presence of abundant natural resources – it is the ability to readily access and deliver those resources at an affordable price.[8]

In recent years, projects that enable the development and delivery of fossil fuels have become

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[5] *Annual Energy Outlook 2020 - Natural Gas*, U.S. ENERGY INFORMATION ADMINISTRATION (Jan. 29, 2020), *available at* https://www.eia.gov/outlooks/aeo/pdf/AEO2020%20Natural%20Gas.pdf.

[6] *See Annual Energy Outlook 2016,* U.S. ENERGY INFORMATION ADMINISTRATION (Aug. 2016), *available at* http://www.eia.gov/forecasts/aeo/pdf/0383(2016).pdf.

[7] *See, e.g.*, John Krohn & Katie Teller, *New Pipeline projects increase Northeast natural gas takeaway capacity*, U.S. ENERGY INFORMATION ADMINISTRATION (Jan. 28, 2016), http://www.eia.gov/todayinenergy/detail.php?id=24732.

[8] *Energy Security*, INTERNATIONAL ENERGY AGENCY, http://www.iea.org/topics/energysecurity/ (last visited Mar. 22, 2020).

highly vulnerable to delays and disruptions due to litigation, disputes, complex, and often lengthy, federal permitting processes and anti-development protests premised on curtailing energy development and delivery projects, all of which present obstacles to the benefits of expanded pipeline capacity and energy supply.

Coal-fired power generation and mining, natural gas development, natural gas and petroleum transportation through pipelines, natural gas-fired power generation, and emissions-free nuclear power facilities have been and will continue to be susceptible to such risks in the months and years ahead. At the same time, numerous independent analyses and studies predict that baseload power and energy provided by fossil fuels and nuclear power will form the backbone of electricity generation for decades to come even as we see the substantial expansion of renewable resources and battery storage technology.[9]

While promising options like wind and solar continue to expand at a very significant rate, they alone will not be able to meet future demand.[10] Even with this expansion of natural gas, the reality of the current environmental landscape reflects that carbon

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[9] *World Energy Outlook 2016*, INTERNATIONAL ENERGY AGENCY (Nov. 16, 2016) *available at* https://www.iea.org/reports/world-energy-outlook-2016.

[10] *See, e.g.*, Robert Lyman, *Why Renewable Energy Cannot Replace Fossil Fuels By 2050*, FRIENDS OF SCIENCE (May 30, 2016), *available at* https://www.heartland.org/_template-assets/documents/publications/why-renewable-energy-cannot-replace-fossil-fuels-by-2050-may-30-2016-final-w-comparison.pdf.

emissions, the target of many activist organizations, are down to their lowest levels since 1991 due to increased U.S. natural gas production.[11]

II. Restricting Access to Natural Gas Will Disproportionately Hurt Low-Income U.S. Households

Unfortunately, several studies and federal data highlight the disparate impact that higher energy prices have on the working poor in the United States. According to Bureau of Labor Statistics (BLS) data, in April 2016 the bottom quintile of U.S. households spent 22 percent of their after–tax income on residential utility bills and gasoline compared to just 5 percent by the top quintile.[12] Renewable energy advocacy group called Groundswell conducted a recent analysis which found that the bottom 20 percent of earners spend almost 10 percent of their income solely on electricity, more than seven times the portion of income that the top quintile pays, and 50 percent of all families that spend 10 percent of income on power bills being African-American. In addition, the report found that

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[11] Allen McFarland, *Energy-related CO2 emissions for first six months of 2016 are lowest since 1991*, U.S. ENERGY INFORMATION ADMINISTRATION, (Oct. 12, 2016) http://www.eia.gov/todayinenergy/detail.php?id=28312.

[12] Eugene M. Trisko, *Energy Expenditures by American Families*, AMERICAN COALITION FOR CLEAN COAL ELECTRICITY (June 2016), http://www.americaspower.org/wp-content/uploads/2016/06/Family-Energy-Costs-2016.pdf.

more than half of those energy-insecure households are below the federal poverty level.[13]

Many of these individuals live in older, less energy efficient multifamily housing in more urban areas of the country or in manufactured housing in rural areas that can also see tremendously expensive energy bills relative to overall take-home pay and compared to other demographics living in single-family housing. The U.S. Department of Housing and Urban Development found that 88 percent of multifamily households are renters with an average annual income ($31,000) that is just over half that of average homeowners ($61,000).

In other words, the burden of those living in older and less energy-efficient multifamily housing is being borne by families with the fewest financial resources. Consequently, renters typically pay a higher percentage of their income for energy use and utilities, with the resulting reduction in discretionary income making them much more vulnerable to harsh swings in energy prices. In fact, energy prices increased faster than housing costs between 2001 and 2009, with renters in multifamily units experiencing an average rent increase of 7.6 percent and a 22.7 percent increase in energy costs.[14]

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[13] Patrick Sabol, *From Power To Empowerment*, GROUNDSWELL, *available at* https://s3.amazonaws.com/groundswell-web-assets/documents/frompower_to_empowerment.pdf (last visited March 22, 2020).

[14] Josh Geyer, *Evidence Matters*, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT 4 (Summer 2011), *available at* https://www.huduser.gov/portal/periodicals/em/EM_Newsletter_Summer_2011_FNL.pdf.

The problem of high energy bills disproportionately hitting the poor has been acute and lingering for many years, so much so the federal government has a dedicated funding stream that is appropriated to states through the Low Income Home Energy Assistance Program (LIHEAP).[15] In 2016, Congress spent well over $3 billion to provide LIHEAP assistance to families to help pay energy and heating bills.[16] To be eligible for assistance, families must have incomes at or below 150 percent of the federal poverty level (about $30,000 annually for a family of three), or 60 percent of the state's median income level. As recently as 2011, roughly nine million households, or 23 million people, received LIHEAP assistance.[17] Currently, nearly seven million households depend on LIHEAP to help pay high home heating and cooling bills.[18]

According to a coalition of groups supporting increased programmatic LIHEAP funding, at least 90

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[15] *About LIHEAP*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES ADMINISTRATION FOR CHILDREN & FAMILIES OFFICE OF COMMUNITY SERVICES, http://www.acf.hhs.gov/ocs/programs/liheap/about (last reviewed Mar. 29, 2017).

[16] *LIHEAP and WAP Funding*, LIHEAP CLEARINGHOUSE, https://liheapch.acf.hhs.gov/Funding/funding.htm (last visited Mar. 22, 2020).

[17] *National Energy Assistance Survey*, NATIONAL ENERGY ASSISTANCE DIRECTORS' ASSOCIATION (Nov. 2011) *available at* https://neada.org/wp-content/uploads/2013/05/NEA_Survey_Nov11.pdf.

[18] Olivia Wein, *The Low Income Home Energy Assistance Program (LIHEAP)*, NATIONAL LOW INCOME HOUSING COALITION 5-27 (2016) *available at* http://nlihc.org/sites/default/files/2016AG_Chapter_5-8.pdf.

percent of all LIHEAP recipients have at least one household member who is a child, elderly or disabled.[19]

III. Pipeline Infrastructure Has and Will Continue to Support Economic and Industrial Growth In Pennsylvania and New Jersey

If we examine the two primary states involved in the PennEast Pipeline project we can see clearly how natural gas expansion and pipeline development benefits consumers, businesses, families, and the economy at large.

Through pipelines and transmission lines, New Jersey families and businesses have been able to access clean, abundant and affordable natural gas they need, saving more than $21.2 billion between 2006 and 2016.[20] On average, each resident of New Jersey spent

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[19] *National Energy Assistance Survey*, NATIONAL ENERGY ASSISTANCE DIRECTORS' ASSOCIATION (Nov. 2011) *available at* https://neada.org/wp-content/uploads/2013/05/NEA_Survey_Nov11.pdf.

[20] Calculations show $1.39 billion saved by industrial users, $11.5 billion saved by residential users, and $8.3 billion saved by commercial users. This number was calculated by using the annual average price per thousand cubic feet of natural gas for residential, commercial, and industrial consumers. This EIA price was then applied to the total MMcf consumed in New Jersey, also sourced by EIA. The Consumer Price Index (CPI) utilized by the Bureau of Labor and Statistics was applied to each year's price in order to adjust each price to 2016 dollars.

$3,323 to meet their energy needs in 2017.[21] With ten percent of the state's population living at or below the poverty line, this translates to roughly a quarter of their income going toward energy expenses.[22] The savings to date have been substantial, but clearly more capacity is needed to continue to drive prices lower to the benefit of the financially most vulnerable citizens.

According to a recent study, in 2015 the oil and natural gas industry contributed 142,200 jobs and accounted for more than $10 billion in wages for the State of New Jersey. These jobs represent the truck drivers, engineers, caterers and contractors who make oil and gas production and delivery possible. Their wages invigorate New Jersey's economy through real estate, vehicle purchases, and their support for local small businesses. In total, oil and gas provide nearly $21 billion to New Jersey's state economy, including employee compensation, proprietors' income, income to capital owners from property and indirect business taxes.[23]

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[21] *Total Energy Price and Expenditure Estimates, Ranked by State*, U.S. ENERGY INFORMATION ADMINISTRATION (2017), *available at* https://www.eia.gov/state/seds/sep_sum/html/pdf/rank_pr.pdf.

[22] Based upon 2020 HHS Poverty Guidelines. *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility For Certain Federal Programs*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION (Jan. 8, 2020), *available at* https://aspe.hhs.gov/poverty-guidelines.

[23] *Natural Gas and Oil Fuel New Jersey*, AMERICAN PETROLEUM INSTITUTE, *available at* https://www.api.org/~/media/Files/Policy/Jobs/Economics-Nat-Gas-Oil/API_OilEconomy_New_Jersey.pdf (last visited Mar. 22, 2020).

The billions in savings to the industrial sector are especially important, as New Jersey is home to some of the most significant manufacturing and light manufacturing organizations in the world. These businesses represent an essential part of New Jersey's economy -- and natural gas plays a significant role in their business. That's because natural gas is a vital feedstock to many manufacturing processes including drying, melting, machine drive, and space heating. In 2016 alone, manufacturing contributed almost $34.3 billion to the state's economy and employing more than 161,000 workers in the region.[24]

Pennsylvania is a leading producer of natural gas in the U.S. and worldwide. Nationwide, Pennsylvania ranks second - behind Texas - in estimated proved natural gas reserves, with nearly three-fifths of the state sitting on top of the prolific Marcellus Shale natural gas field. And while the state has a large diversity of fuel sources, half of all Pennsylvanians rely on natural gas as their primary heating fuel, and a growing number of electric generation facilities are utilizing natural gas to power the state. In fact, electricity accounts for nearly half of the natural gas consumed in Pennsylvania.[25]

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[24] *New Jersey's Manufacturing Industry Sector*, NEW JERSEY DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT OFFICE OF RESEARCH & INFORMATION BUREAU OF LABOR MARKET INFORMATION (Winter 2019-2020), *available at* https://www.nj.gov/labor/lpa/pub/empecon/advmfg.pdf.

[25] *Pennsylvania State Profile and Energy Estimates*, U.S. ENERGY INFORMATION ADMINISTRATION, https://www.eia.gov/state/analysis.php?sid=PA (last updated Aug. 15, 2019).

Pennsylvania natural gas consumers have saved over $30.5 billion between 2006 and 2016 simply as a result of the decreasing price of natural gas - with residential users saving over $13.3 billion, while commercial and industrial users saved over $17.2 billion.[26] These savings can only be realized with sufficient pipeline infrastructure to deliver to critical energy to markets and communities. On average, Pennsylvanians spent $3,434 for their energy needs in 2017.[27] For those living at or below the poverty line, this translates to at least 26 percent of their income going toward energy expenses.[28]

Pennsylvania's abundant energy resources have spurred economic investment and brought jobs to the state. A PricewaterhouseCoopers report tallied nearly 322,600 jobs in Pennsylvania that provide nearly $23

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[26] $9.2 billion saved by industrial users, $13.3 billion saved by residential users, and $7.9 billion saved by commercial users. This number was calculated by using the annual average price per thousand cubic feet of natural gas for residential, commercial, and industrial consumers. This EIA price was then applied to the total MMcfs consumed in Pennsylvania, also sourced by EIA. The Consumer Price Index utilized by the Bureau of Labor and Statistics was applied to each year's price in order to adjust each price to 2016 dollars.

[27] *Total Energy Price and Expenditure Estimates, Ranked by State*, U.S. ENERGY INFORMATION ADMINISTRATION (2017), *available at* https://www.eia.gov/state/seds/sep_sum/html/pdf/rank_pr.pdf.

[28] Based upon 2020 HHS Poverty Guidelines. *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility For Certain Federal Programs*, U.S. Department of Health & Human Services Office of the Assistant Secretary for Planning and Evaluation (Jan. 8, 2020), *available at* https://aspe.hhs.gov/poverty-guidelines.

billion in wages to Pennsylvanians.[29] In 2017, the median annual salary for an employee at one of Pennsylvania's top oil and natural gas producers exceeded $113,000.[30] These wages support local economies and grow small businesses. In fact, the report attributed almost $44.5 billion in economic impact from the state's oil and gas industry.[31]

The PennEast Pipeline Project will build on these strong economic developments in New Jersey and Pennsylvania by generating a significant positive economic impact during the construction phase and after completion. Construction and ongoing operations of the Project will be economically beneficial to the counties in which the pipeline would be constructed, as well as to the region as a whole. The immediate construction and labor impacts of the Project are substantial and would greatly benefit local communities through construction, labor and project management jobs. The estimated total economic impact in both states during the design and construction of the project is $1.62 billion, supporting more than 12,160

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[29] *Natural Gas and Oil Fuel Pennsylvania*, AMERICAN PETROLEUM INSTITUTE, *available at* https://www.api.org/~/media/Files/Policy/Jobs/Economics-Nat-Gas-Oil/API_OilEconomy_Pennsylvania.pdf (last visited Mar. 22, 2020).

[30] Anya Litvak, *Where are those good paying energy jobs? Right here.*, PITTSBURG POST-GAZETTE (May 14, 2018), *available at* http://www.post-gazette.com/powersource/companies/2018/05/14/Pittsburgh-good-paying-energy-jobs/stories/201805130044.

[31] *Natural Gas and Oil Fuel Pennsylvania*, AMERICAN PETROLEUM INSTITUTE, *available at* https://www.api.org/~/media/Files/Policy/Jobs/Economics-Nat-Gas-Oil/API_OilEconomy_Pennsylvania.pdf (last visited Mar. 22, 2020).

jobs with $740 million in wages.[32] Additionally, Concentric Energy Advisors, an independent firm specializing in energy markets, found the PennEast Pipeline could have saved New Jersey and eastern Pennsylvania at least another $435 million this past winter had it been in service. The estimates conservatively excluded the peak days, when pricing was highest.[33]

IV. Natural Gas Is the Leading Cause For America's Reduced Emissions and Improved Air Quality

Consumers aren't, of course, only consumers. They live and breathe as not only citizens of the United States but as citizens of the global community. This is perhaps the greatest oversight in valuing the need for additional pipeline and energy infrastructure: the United States because of natural gas, energy efficiency, new technology, and conservation efforts is leading the world in cutting air-polluting emissions. Even without being a signatory to the Paris climate accord, by 2025 the United States will be more than two-thirds of the way to reaching the targeted emissions reduction of 28

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[32] *Economic Impact of the PennEast Pipeline's Construction and Operation*, PENNEAST PIPELINE, *available at* https://penneastpipeline.com/wp-content/uploads/2015/03/drexel-fact-sheet.pdf (last visited Mar. 22, 2020).

[33] *2017-2018 Energy Savings Update*, PENNEAST PIPELINE (July 11, 2018), *available at* https://penneastpipeline.com/wp-content/uploads/2018/07/PennEast_Concentric-Handout_8.5x11_rev2.pdf.

percent from 2005 levels, according to Bloomberg Philanthropies.[34]

In fact, the United States has pared its annual carbon dioxide-equivalent output by almost as much as the entire European Union since 2005, according to the Environmental and Energy Study Institute.[35] Each year, that works out to a reduction of 760 million metric tons versus the 770 million for the whole E.U. In 2017, the United States trimmed almost twice as much carbon dioxide[36] from the atmosphere as any other nation, delivering the single-largest absolute reduction[37] of it. This is occurring while the U.S. is the number one producer of oil and natural gas and the number two producer of wind and solar power.

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[34] *Fulfilling America's Pledge: How States, Cities, and Business Are Leading the United States to a Low-Carbon Future*, BLOOMBERG PHILANTHROPIES (2018), *available at* https://www.bbhub.io/dotorg/sites/28/2018/09/Fulfilling-Americas-Pledge-2018.pdf.

[35] Joanne Zulinski, *U.S. Leads in Greenhouse Gas Reductions, but Some States Are Falling Behind*, ENVIRONMENTAL AND ENERGY STUDY INSTITUTE (Mar. 27, 2018), https://www.eesi.org/articles/view/u.s.-leads-in-greenhouse-gas-reductions-but-some-states-are-falling-behind.

[36] Mark J. Perry, *Chart of the day: In 2017, US had largest decline in CO2 emissions in the world for 9th time this century* (July 12, 2018), https://www.aei.org/carpe-diem/chart-of-the-day-in-2017-us-had-largest-decline-in-co2-emissions-in-the-world-for-9th-time-this-century/?utm_content=buffer60126&utm_medium=social&utm_source=twitter.

[37] Phil McKenna, *Global Emissions Rose in 2017, But U.S. and China Both Made Progress*, INSIDE CLIMATE NEWS (Mar. 22, 2018), https://insideclimatenews.org/news/22032018/global-carbon-emissions-data-clean-energy-market-fossil-fuels-trends-iea-report-paris-climate-agreement.

The reality is that The United States, New Jersey, and Pennsylvania will depend on baseload electricity and fossil fuels to meet its energy for many years and decades to come. EIA notes that coal, natural gas and nuclear power made up 81.6 percent of our nation's electricity in 2019.[38]

Despite the tremendous benefits and critical importance of energy production, court decisions, like the one held by the Third Circuit, and the theatrics of unrealistic activists, continue working to eliminate the production of safe, affordable sources of energy without offering any solutions that will help meet consumer demand while also supporting our emissions goals. Ironically, opposing natural gas expansions and pipelines will hamper the region's capability to buildout and support additional renewable energy development. One thing is for sure: natural gas plays a critical role in powering our homes, businesses and economy. Policymakers, regulators, and leaders must continue to come together in support our nation's homegrown energy production to ensure that our economy continues to thrive, and hard-working families, seniors, households, and small businesses can continue to enjoy the benefits that low prices are bringing to our communities.

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[38] *Frequently Asked Questions: What is U.S. electricity generation by energy source?*, U.S. ENERGY INFORMATION ADMINISTRATION, http://www.eia.gov/tools/faqs/faq.cfm?id=427&t=3 (last visited Mar. 22, 2020).

CONCLUSION

CEA respectfully requests that the petition for writ of certiorari is granted. American energy consumers depend upon this Court's review to support needed energy infrastructure, protect vulnerable consumer populations, facilitate economic growth, and continue to reduce global emissions.

Respectfully submitted,

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