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In the  
**Supreme Court of the United States**

**JAMES R. RUDISILL,**  
*Petitioner,*

v.

**DENIS R. MCDONOUGH,**  
**SECRETARY OF VETERANS AFFAIRS,**  
*Respondent.*

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ON PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
FEDERAL CIRCUIT

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**BRIEF OF *AMICUS CURIAE***  
**EDISON ELECTRIC INSTITUTE**  
**IN SUPPORT OF PETITIONER**

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## INTRODUCTION AND INTEREST OF *AMICUS CURIAE*<sup>1</sup>

The Edison Electric Institute (EEI) is the national association of all U.S. investor-owned electric companies. EEI members provide electricity and related services for about 220 million Americans and operate in all 50 States and the District of Columbia.

EEI submits this brief because of its interest in hiring veterans with adequate education and vocational training. As explained further below, there are over 650,000 veterans in the United States energy workforce, many of whom occupy positions requiring higher education or specialized training. By depriving long-serving veterans of educational benefits under the Post-9/11 GI-Bill, the decision below harms EEI and the energy industry as a whole.

### SUMMARY OF ARGUMENT

EEI fully agrees with Mr. Rudisill that the decision below misconstrued the Post-9/11 GI Bill. Rudisill Pet. for Writ of Cert. at 25-39. The relevant provisions don't *require* veterans to exchange unused Montgomery benefits for Post-9/11 benefits; they merely provide the *option*. *Id.* Long-serving veterans like Mr. Rudisill don't need that option.

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<sup>1</sup> All parties, including counsel for Respondents, received notice of EEI's intent to file on or before April 7, 2023. This brief was not authored in whole or in part by counsel for any party. A party or a party's counsel did not contribute money that was intended to fund preparing or submitting this brief. No person, other than *amicus curiae*, its members, or its counsel, contributed money that was intended to fund preparing or submitting this brief.

Instead, they can obtain Post-9/11 benefits by simply drawing on a separate period of service—one that hasn't been previously credited towards any other GI Bill. *Id.*

The lower court's error not only harms millions of veterans, but their future employers as well. Veterans are an important part of the energy industry, and are particularly well-represented there. It is critical that these veterans receive the education and specialized training required for many energy-related careers. By depriving long-serving veterans of hard-earned educational benefits, the decision below not only harms the veterans themselves, but ultimately the energy industry and the United States economy more broadly.

## ARGUMENT

### **I. Properly trained veterans are important to the energy industry.**

It goes without saying that the energy industry is one of the largest and most important sectors of the American economy. Without the electricity, fuel, and other natural resources we have all come to rely upon, life as we know it today would be very different. And while the energy industry as a whole is complex, one aspect is simple: the industry could not function without American workers, especially veterans.

Nearly eight million workers serve in the country's energy industry.<sup>2</sup> Their duties are as

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<sup>2</sup> United States Dept. of Energy, *United States Energy & Employment Report 2022* at 1 (June 2022), available at <https://www.energy.gov/media/275712> (“DOE Employment Report”).

varied as they are important. Some climb telephone poles to fix downed wires, while others are engineers in nuclear power plants or atmospheric scientists.

These workers not only keep the lights on in our homes, they form the very foundation of the United States economy. The Department of Energy estimates that the oil and gas industry saves American consumers \$200 billion a year, and in 2019 helped lower the United States trade deficit by \$305 billion.<sup>3</sup> And the renewable energy revolution, too, “generates hundreds of billions in economic activity, and is expected to grow rapidly in the coming years.”<sup>4</sup>

A large portion of energy workers are veterans of the United States military. As of 2021, the industry employed 650,000 veterans, comprising 9% of the industry’s workforce.<sup>5</sup> Per capita, the energy industry employs veterans at a rate 50% higher than the national average.<sup>6</sup>

Veterans are so well represented in this industry because their service yields readily transferrable skills. In EEI’s experience, veterans are more easily trained, and also possess the grit required to perform difficult jobs under adverse conditions. Veterans are also team players, and perform their work with a heightened sense of purpose. Other energy

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<sup>3</sup> United States Dept. of Energy, *Economic Benefits of Oil and Gas*, available at <https://www.energy.gov/articles/economic-impact-oil-and-gas>.

<sup>4</sup> United States Dept. of Energy, *Clean Energy*, available at <https://www.energy.gov/clean-energy>.

<sup>5</sup> DOE Employment Report at 6, Table 2.

<sup>6</sup> *See id.* (showing that veterans comprise 6% of the entire American workforce).



employers point to veterans' "leadership skills, team orientation, 'can do' spirit, and work ethic."<sup>7</sup>

These are skills the energy industry needs. Many, if not most, energy jobs require critical (and quick) thinking, including the ability to diagnose and resolve unexpected problems, some dangerous and potentially life threatening. Energy projects often have many moving parts (both literally and figuratively), and experience managing people, duties, and deadlines is vital for success. And of course, the energy industry relies heavily upon workers with knowledge of science, technology, engineering, and math (STEM).

Because veterans are such a good fit for the energy industry, the industry affirmatively seeks them out. One example is the Troops to Energy Jobs Initiative, launched by the Center for Energy Workforce Development in 2010.<sup>8</sup> This program provides information, counseling, and other resources to facilitate veterans' transition to the energy sector. Another is the Veterans Energy Pipeline, an online tool that matches particular military occupations with top jobs in the oil and gas industry.<sup>9</sup>

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<sup>7</sup> Troops to Energy Jobs, *Explore Energy Careers*, available at <https://getintoenergy.org/veterans/>. See also United States Dept. of Energy, *Veterans Boost America's Energy Workforce* (Nov. 17, 2020), available at <https://tinyurl.com/jhv3brxv> (veterans are "well-prepared" for jobs in energy sector).

<sup>8</sup> Veterans in Energy, *Our History*, available at <https://www.veteransinenergy.org/history>.

<sup>9</sup> American Petroleum Institute, *Veterans and Energy: Opportunities in the Oil and Natural Gas Industry*, at 4 (2015), available at <https://www.api.org/-/media/Files/Policy/Jobs/Veterans-Energy/Veterans-and-Energy-One-Page.pdf>

While the energy industry has a particular interest in hiring veterans, other employers recognize their value too. When 100 American businesses were asked why they retained and advanced veterans, a majority of respondents cited “strong leadership qualities” (73%), the “ability to persevere in the face of obstacles” (68%), “flexibility to work well in teams or independently” (67%), and “the ability to learn new skills and concepts related to the job” (65%).<sup>10</sup> The American public agrees, and see veterans as more disciplined, loyal, and hard-working than those without military service.<sup>11</sup>

**II. By depriving veterans of educational benefits, the decision below harms the energy industry.**

“An educated populace is essential” to the “economic health of any community.” *Mueller v. Allen*, 463 U.S. 388, 395 (1983). And that is especially true in the energy industry. By misconstruing the Post-9/11 GI Bill and depriving veterans of educational benefits, the Federal Circuit’s decision harms EEI, and the energy industry as a whole.

Careers in the energy industry often require higher education and specialized training. Chemical

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<sup>10</sup> Burton Blatt Institute, *Veterans in the Workplace: Recruitment and Retention*, at 24 (Apr. 2013), available at [https://www.va.gov/vetsinworkplace/docs/veterans\\_in\\_workplace\\_final\\_report.pdf](https://www.va.gov/vetsinworkplace/docs/veterans_in_workplace_final_report.pdf),

<sup>11</sup> Pew Research Center, *The American Veteran Experience and the Post-9/11 Generation*, at 4 (Sept. 10, 2019), available at <https://tinyurl.com/48vez3pf> (“How veterans and the public see each other and themselves”).

plant operators must have knowledge of chemistry.<sup>12</sup> Oilwell drillers must have knowledge of petroleum geology and the mechanics of drilling systems.<sup>13</sup> Wind turbine technicians must have knowledge of “all systems of the wind turbine including structural, mechanical, electrical, controls, communications, electronic components, hydraulic systems, and environmental safety and health systems.”<sup>14</sup> And utilities are increasingly needing workers with skills in “data-driven management, data science, analytics and modeling, environmental impact and efficiency and strategic planning.”<sup>15</sup> John D. Rockefeller once said he “would rather hire a man with enthusiasm, than a man who knows everything,” but even he would have to agree that education and training are vital for achieving success in the energy industry.

Accordingly, veterans with these qualifications are in particularly high demand. As the Department of Energy recently wrote, it “cannot carry out [its] mission for energy, environment, and national

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<sup>12</sup> CLR Skills Training Foundation, *Chemical Plant Operators – Skills and Abilities* (Feb. 13, 2019), available at <https://tinyurl.com/4d7w4drf>.

<sup>13</sup> Univ. of Texas at Austin, Petroleum Extension, *Oilwell Drilling Primer E-Course*, available at <https://tinyurl.com/yp5pm8hs>.

<sup>14</sup> United States Dept. of Energy, Office of Efficiency & Renewable Energy, *Career Map: Wind Technician*, available at <https://www.energy.gov/eere/wind/career-map-wind-technician>.

<sup>15</sup> Forbes, *What’s Needed to Close the Skills Gap in the Power Industry* (Apr. 8, 2022), available at <https://tinyurl.com/3uyfw55p>.

security” without a “well-educated, prepared workforce” that “includes highly-skilled veterans.”<sup>16</sup>

The Post-9/11 GI Bill helps veterans obtain the kind of education and training the energy industry demands. It provides many eligible veterans up to 36 months of education benefits that expire either 15 years after active service ended or not at all.<sup>17</sup> Benefits can be used for a variety of purposes, including undergraduate and graduate degrees, vocational and technical training, and on-the-job apprenticeships.<sup>18</sup>

These benefits help millions of veterans. As Petitioner observes, over 5.2 million veterans will be eligible for Post-9/11 benefits by September 2023, and roughly a third (1.7 million) will be impacted by the decision below, as they have enough service to fully qualify for benefits under both the Montgomery and Post-9/11 GI Bills. Rudisill Pet. for Writ of Cert. at 18-19 n.3. Accordingly, the decision below will affect more than double the number of veterans in the entire energy industry.

Those benefits could also pay sizeable dividends. One Congressional subcommittee found that “for every dollar the government invested in education” under the original, post-World War II GI Bill, “the nation received at least \$5 of benefits and as much

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<sup>16</sup> United States Dept. of Energy, *Veterans Boost America’s Energy Workforce* (Nov. 17, 2020), available at <https://tinyurl.com/jhv3brxv>.

<sup>17</sup> United States Dept. Of Veterans Affairs, *Post 9/11 GI Bill (Chapter 33)* (Mar. 9, 2023), available at <https://tinyurl.com/mvdw954j>.

<sup>18</sup> *See id.*

as \$12.50 of benefits.”<sup>19</sup> This was “far above the returns earned by most other forms of investment, either government or private.”<sup>20</sup>

For these reasons, the Post-9/11 GI Bill should be a boon to America’s energy sector. Yet veterans with sufficient education and training are still in short supply. Energy employers consistently rank a lack of “certifications or education” as one of the top three reasons for difficulties hiring.<sup>21</sup> This is true across many careers in the industry, from electric power generation to energy efficiency.<sup>22</sup>

The decision below exacerbates this problem by denying educational benefits to long-serving veterans, and thus reducing the number of qualified workers trained to meet the evolving demands of the energy industry. The consequences are far-reaching. For energy players, it means less efficiency, less production, and ultimately less growth and success. To the average American, it means greater demand, higher costs, and diminished financial freedom

Reversing the erroneous decision below would yield benefits on multiple levels. Besides restoring educational benefits to deserving, long-serving veterans, it would aid EEI and the energy industry by increasing the number of qualified veterans for hire, and thus positively influencing employment trends and overall industry productivity. Given the

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<sup>19</sup> Subcommittee on Education and Health, *A Cost-Benefit Analysis of Government Investment in Post-Secondary Education Under the World War II GI Bill* (Dec. 14, 1988), page 13 of pdf, available at <https://files.eric.ed.gov/fulltext/ED338323.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> DOE Employment Report at 16-17, 72-73, 84, 137, 145.

<sup>22</sup> *Id.*

outsized effect that the energy industry has on the American economy, enabling more qualified veterans to join the energy sector will thus lead to broader benefits for the United States as a whole.

### CONCLUSION

For these reasons, EEI respectfully requests that the Court grant Mr. Rudisill's petition for certiorari and reverse the en banc decision of the Federal Circuit.

April 14, 2023

Respectfully submitted,

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