

PEOPLE.ACTION.DEMOCRACY.

## **DEEP DRILLING, DEEP POCKETS:**

### **Expenditures of the Natural Gas Industry in New York to Influence Public Policy**

#### **PART III: Campaign Contributions**

**A Report by Common Cause/New York  
January 2012**

 *New York*  
**COMMON CAUSE**  
*Holding Power Accountable*  
74 Trinity Place, Suite 901  
New York, NY 10006  
[www.commoncause.org/ny](http://www.commoncause.org/ny)

**This report was prepared by Susan Lerner, Deanna Bitetti and Brian Paul of Common Cause/New York with the assistance of Common Cause/NY interns Louis Cholden-Brown, Katie Claro, and Christina Levin**

**We gratefully acknowledge the support of the Park Foundation**

**Contact Brian Paul at 212-691-6421 or via email at [bpaul@commoncause.org](mailto:bpaul@commoncause.org) with any questions you may have.**

On June 30, 2011 Governor Andrew Cuomo lifted a year-long moratorium on the practice of high volume hydraulic fracturing (fracking) in New York State put in place by the State Legislature and his predecessor Governor David Paterson. Governor Cuomo further directed the Department of Environmental Conservation (DEC) to release the first round draft of the Supplemental Generic Environmental Impact Statement (dSGEIS).

Immediately upon issuing these directives, Governor Cuomo appointed a “High-Volume Hydraulic Fracturing Advisory Panel” responsible for drafting recommendations aimed at ensuring that DEC and other agencies are enabled to properly oversee, monitor, and enforce rules governing drilling procedures, as well as to make recommendations on how best to mitigate impacts to local governments.<sup>1</sup>

On September 7<sup>th</sup> 2011, Governor Cuomo’s DEC officially released the revised draft Supplemental Generic Environmental Impact Statement (rdSGEIS) for high volume hydraulic fracturing (fracking) in New York State.<sup>2</sup> The public comment period will end January 11, 2012 and has included only four public hearings for the entire state. In addition, DEC has not committed to forestall permitting until regulations have been finalized. By issuing draft regulations before the environmental review process is complete, DEC is depriving New Yorkers of the opportunity for their comments to be considered in the development of those draft regulations and in light of the final SGEIS.

Good governance requires a thoughtful and deliberative approach whenever we are looking to create or implement public policy decisions. The hydro fracturing debate is a complex issue with extraordinary economic and environmental consequences for New York State. Common Cause/NY has shown over and over again that the natural gas industry is seeking to exert influence on our state government as decisions about hydro-fracking in New York State move forward. As the New York Times noted in a recent article, “the lobbying push in New York comes as part of a broader industry effort to influence public opinion on natural gas drilling and to persuade lawmakers in gas-rich states to look more favorably toward allowing it,” creating a “cottage industry for paid lobbyists”.<sup>3</sup>

In previous reports by Common Cause/NY entitled "Deep Drilling, Deep Pockets: Expenditures of the Natural Gas Industry in New York to Influence Public Policy," we provided a detailed analysis of the natural gas industry's lobbying expenditures in New York State. We showed that as New York State determines whether to permit natural gas exploitation using the controversial hydraulic fracturing technique, industry has poured millions of dollars into lobbying the Governor and the New York State Legislature. The influence of private interest money on the part of the natural gas companies stands to unduly tip the balance.

Over the past year, Common Cause/NY has called on Governor Cuomo and the New York State Department of Environmental Conservation to extend the public comment period beyond the modestly extended deadline of January 11th. Reasons to support an extension include the desire of constituents to have adequate time for review of the document, lingering doubts about the ability of the DEC to

properly regulate the natural gas industry given budget constraints, and general apprehension over hydro-fracking in New York because of the large amounts of money industry has injected into this debate to influence elected officials. Common Cause/NY believes a longer extension will help to ensure that the process by which regulatory oversight will be conducted is properly vetted and that the process includes adequate opportunities for public participation.

It is clear that New York has the opportunity to be a national model in the way in which it approaches regulation of natural gas extraction through hydrofracking, if it is able to resist the concerted effort to sway or hasten the process. Because the consequences of inadequate regulation may have irreversible consequences for the state's water and environment, citizens' concerns that the regulatory decisions may not be made with appropriate deliberation and based on facts and science are heightened by recent events.

- The \$223,000 study of the impacts of hydro-fracking on New York State was conducted by [Ecology and Environment Inc.](#), a global environmental and consulting firm that counts oil and gas companies among its clients and that could potentially gain business from increased drilling in the state, as first reported by the New York Times. The State is spending almost \$1,000 a page to have an outside consultant study the impacts of hydro-fracking. The mere perception of a conflict of interest on the part of the company that is writing this report because of the opportunity for self-gain due to an expedited permitting process for fracking begs for a more thorough vetting of the report by community groups, advocates and constituents.
- In a state as large as ours, New Yorkers deserve to have the DEC host more than just four public hearings. In New York City with a population of roughly eight million people, the state hosted only one meeting and in Western New York over eight hundred people lined up to speak at one of the public hearings. In addition, parts of Central New York and other areas where drilling will have a direct impact on quality of life and communities have been completely left out of the hearing process.

In order to be sure that the document that will regulate how fracking is conducted in New York State is seen as legitimate and contains the proper regulatory oversight mechanisms and procedures, it is imperative that the process be as transparent as possible and engage as many stakeholders as possible. In the process of determining our state's policies towards the use of hydro-fracking to extract natural gas from shale formations, New York's elected representatives and appointed officials must strike the right balance, weighing potential economic benefits against potential environmental catastrophe. This means taking as much time as possible to ensure regulatory oversight and mechanisms are in place and that as much public and expert input as possible is garnered, as well as taking care that industry efforts to sway the process are fully disclosed and apparent to the public.

## **Methodology:**

To prepare this report, Common Cause/NY identified campaign contributions given by natural gas interests from January 2007 to October 2011 as reported to the Board of Elections.

For the purposes of this report, we defined “natural gas interests” as having a significant financial stake in the expansion of hydraulic fracturing in the Marcellus Shale. This definition includes the corporations directly involved in the drilling as well as those involved in the distribution and transmission of Marcellus gas and the energy it will produce.

Our previous analysis of lobbying records for groups having lobbied on two moratorium bills in the State Legislature in 2010 helped set a foundation for our dataset. We included names of any company with pending leases before the Department of Environmental Conservation, as well as cross referenced names of companies with lists of company names provided to us by grassroots advocacy groups and environmental groups. We also used such websites as wikimarcellus.com and industry publications like the [Pipeline and Gas Journal](#) to further populate our list of natural gas entities. We then ran the names of entities we had identified through the campaign contribution database which Common Cause/NY has built from information obtained from the state Board of Elections.

The list of natural gas entities identified in this report is admittedly incomplete. The identifying of natural gas entities is an on-going process. If you believe there are companies or firms that are not listed in this report that should be included, please contact Research Coordinator Brian Paul at [bpaul@commoncause.org](mailto:bpaul@commoncause.org) or at 212-691-6421.

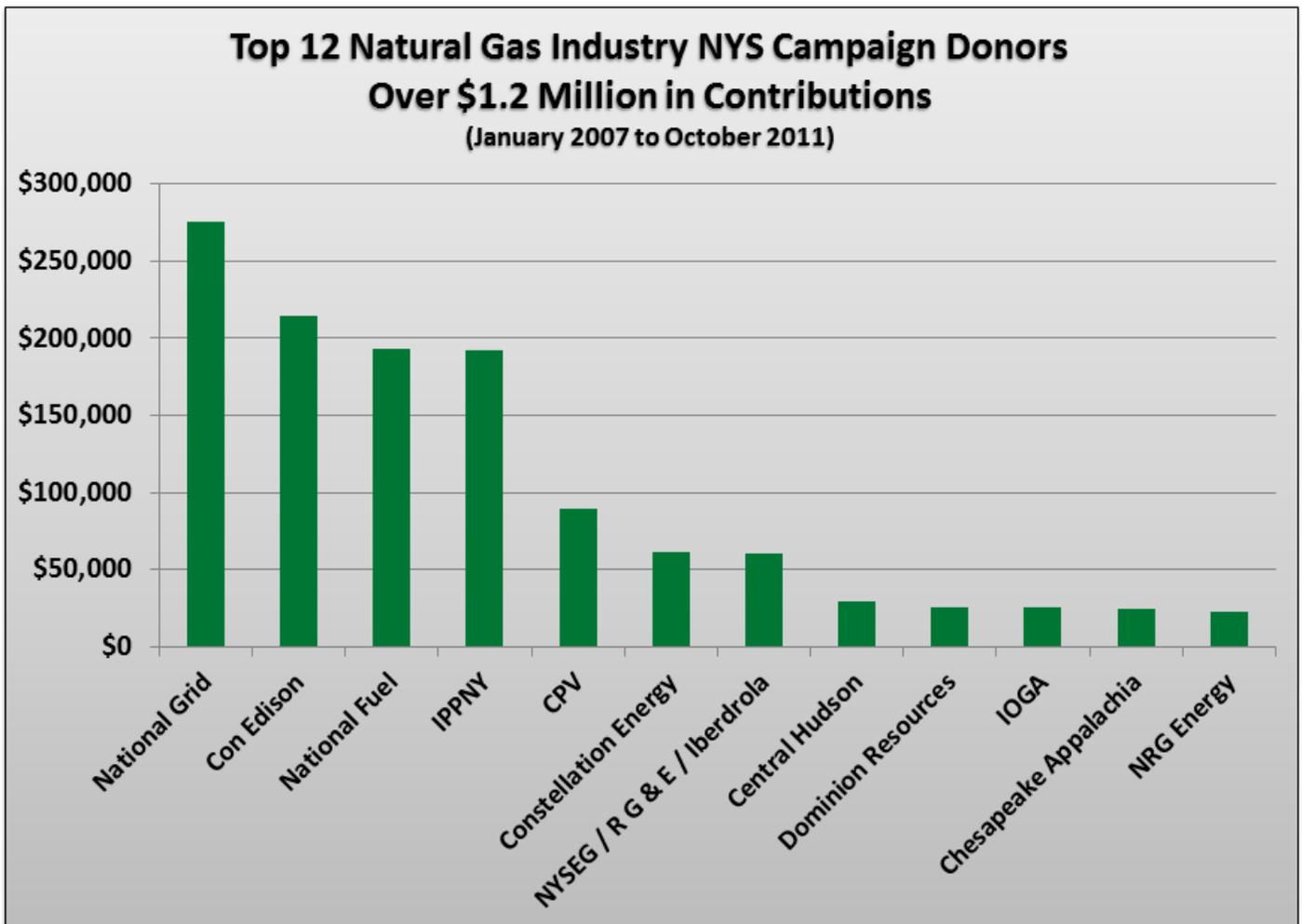
## **SUMMARY**

From January 2007 to October 2011, the Natural Gas industry made **2,349 campaign contributions** to state and local level New York politicians and parties. These contributions represent **over \$1.34 million in industry spending - \$ 1,340,246.58**. What impact does over a million industry dollars distributed to candidates and committees around the state have on the officials setting public policy? That’s the question which New Yorkers should be asking their elected representatives and appointed officials as New York State determines whether to permit, and how to regulate, natural gas exploitation using the controversial hydraulic fracturing technique.

This report analyzes the monies spent by industry to influence decision-making at all levels of government so that the public can more fully understand the policy making process and hold their representatives accountable to ensure that it is fair and objective.

## Heavy Hitters: The Gas Industry’s “Dirty Dozen”

The following top twelve companies and gas associations **contributed \$1,215,257.2** to elected officials and campaign committees across the state, representing over 90% of the total amount of campaign contributions across the natural gas industry.



<b>Top 12 Natural Gas Industry NYS Campaign Contributors</b>	<b>NYS Campaign Contributions (January 2007 – October 2011)</b>
National Grid	\$275,721.60
Con Edison	\$214,232.23
National Fuel	\$193,258.00
IPPNY -- Independent Power Producers of NY	\$192,643.00
CPV -- Competitive Power Ventures	\$89,316.06
Constellation Energy	\$61,673.70
NYSEG / R G & E / Iberdrola	\$60,432.18
Central Hudson/CH Energy	\$29,808.03
Dominion Resources	\$25,250.00
IOGA -- Independent Oil & Gas Assn of NY	\$25,210.00
Chesapeake Appalachia	\$24,800.00
NRG Energy	\$22,912.40
	<b>TOTAL: \$1,215,257.20</b>

In New York State, where only 7% of campaign contributions come from small donors contributing \$250 or less<sup>4</sup>, the amounts contributed by the “Dirty Dozen” are significant.

**National Grid** – Publicly traded utility (NGG: \$35 billion market cap) operating regulated electricity and natural gas infrastructure in the United Kingdom and United States. With over three million customers, National Grid is the largest distributor of natural gas in the Northeast US<sup>5</sup>. In New York, National Grid provides electricity and natural gas distribution for Long Island and much of upstate. While National Grid engages on a broad array of energy issues, the company has a significant stake in the expansion of fracking in the Marcellus Shale due to its investments in gas transmission infrastructure. National Grid has a large ownership stake in the Millennium Pipeline,<sup>6</sup> a large natural gas pipeline running from the Southern Tier Marcellus regions to Rockland County.

In an article in the *Pipeline and Gas Journal*, a National Grid executive explained his company’s support for fracking in the Marcellus:

“Fundamentally, Marcellus is about enhanced reliability for us; a diversity of supply options, new paths and greater flexibility to deal with matters on an hourly and daily basis. Marcellus represents a clean, local and potentially endless supply of Natural Gas, this is going to be great for our customers. In our minds, a large supply source potentially has the ability to reduce volatility and reduce prices long term...the [Millennium] pipeline is an asset that is sitting right in the middle of the Marcellus shale gas play; it represents another viable path as time goes on. The pipeline is nicely positioned and will become a great piece in bringing gas to the NYC metropolitan area.”<sup>7</sup>

**Con Edison** – Publicly traded utility (ED: \$17 billion market cap) operating regulated electricity and natural gas infrastructure in the New York City metropolitan area. Delivers natural gas to roughly 1.1 million customers in New York City and Westchester County. While Con Ed engages on a wide array of energy issues, the company, like National Grid, has a significant stake in the expansion of fracking in the Marcellus Shale due to its investments in gas transmission infrastructure. Con Ed is in partnership with Spectra Energy Corp, Statoil Natural Gas, and Chesapeake Appalachia on the expansion of the Texas Eastern and Algonquin Gas pipeline systems to deliver Marcellus gas directly to Con Ed’s distribution system in New York City.<sup>8</sup> Upon the announcement of this partnership, Chesapeake CEO Aubrey McClendon stated “Chesapeake’s industry-leading position in the Marcellus Shale provides the perfect supply source to help energy consumers in the New York City area reduce their dependence on expensive imported oil and carbon-heavy coal.” Con Ed’s reasons for supporting fracking are likely similar to those expressed by National Grid; Marcellus represents a large local supply source that can help reduce volatility and stabilize prices.

**National Fuel** -- With almost half of its income coming from its pipeline and storage segment, which provides interstate natural gas transportation and storage services, as well as an active exploration business, National Fuel has a keen interest in supporting fracking in New York State. National Fuel, according to its website, is an “integrated energy company” with \$4 billion in assets spread across five principal segments. The largest of those segments are: Exploration and Production (Seneca Resources Corporation), Pipeline and Storage (National Fuel Gas Supply Corporation and Empire State Pipeline) and Utility (National Fuel Gas Distribution Corporation). Seneca Resources Corp has its headquarters in Houston, Texas. Seneca is a large natural gas and oil company with interests in the Appalachian Region including the Marcellus Shale and is one of the largest natural gas companies in Pennsylvania.

For more information on National Fuel see Common Cause/NY’s report “CONNECT THE DOTS: National Fuel: Power Player in New York State,” at [www.commoncause.org/ny/nationalfuel](http://www.commoncause.org/ny/nationalfuel)

**The Independent Power Producers of New York, Inc. (IPPNY)** is a trade association representing companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY-NY defines itself, for example, as a “trade association representing more than 100 companies involved in the development of generation, marketing and sale of electric power and natural gas in New York State,” and not only is a large contributor of campaign contributions to various candidates, but also

is a recipient of funds from other natural gas companies. IPPNY represents almost 75 percent of the electric generating capacity in New York. IPPNY has been a strong supporter of drilling in NY and has opposed bills attempting to place a moratorium on drilling in the Marcellus Shale.<sup>9</sup>

**Competitive Power Ventures (CPV)** -- Backed by more than \$300 million in development funding from Warburg Pincus<sup>10</sup>, CPV has embarked on an aggressive development program for natural gas power generation facilities; both combined-cycle and peaking units. The Company has directed its development effort at regions in the U.S. and Canada where older coal-fired power plants are in line for replacement.

**NYSEG / RG & E / Iberdrola** – NYSEG (New York State Electric and Gas) and RG&E (Rochester Gas and Electric) are subsidiaries of Iberdrola USA. Together, the two companies serve over 500,000 natural gas customers, mostly in Western New York and the Southern Tier.<sup>11</sup> Iberdrola is a global energy conglomerate based in Spain with a market cap of over 30 billion euros. NYSEG, RG&E, and Iberdrola support the expansion of the natural gas industry and its domestic production in the US.

**Constellation Energy** – Publicly traded energy company (CEG: \$7.7 billion market cap), Constellation is the nation's largest competitive supplier of electricity to large commercial and industrial customers and the nation's largest wholesale power seller. 41% of Constellation's energy supplies come from Natural Gas<sup>12</sup>. In 2011, Constellation was bought by Exelon Corp, forming a new combined company that is one of the largest energy providers in the country. The company is shifting its focus from development of new nuclear power plants to natural gas. Exelon CEO John Rowe recently stated his support for fracking in the Marcellus at an energy conference in Philadelphia: "What we have today in Pennsylvania, in the whole Northeast, is the great domestic blessing of cheap natural gas...I can build gas-fired capacity in ways that allow Pennsylvania to compete with China...fears about hydraulic fracturing will mostly prove untrue."<sup>13</sup>

**Central Hudson Gas & Electric** – is a subsidiary of CH Energy Group and is a publicly traded electricity and natural gas utility (CHG: \$865 million market cap) operating in the central Hudson Valley. The company is a strong proponent of fracking in the Marcellus. CEO Steven Lant recently stated that fracking is an economic opportunity "too good to pass up" and believes that it will "level the playing field when it comes to the Northeast's energy market as well as help curb the exodus of jobs and population that New York State has been experiencing."<sup>14</sup>

**Dominion Resources** aka **Dominion Transmission Inc.** (NEW YORK STATEE: D, \$30 billion market cap) is a Richmond, Virginia-based public utility that operates one of the largest natural gas distribution and storage networks in the United States. Dominion is also a producer – the company owns drilling rights in 600,000 to 800,000 acres of the Marcellus Shale and is actively engaged in leasing these rights to drillers such as Antero Resources.<sup>15</sup>

**IOGA – Independent Oil and Gas Association** -- is the primary trade organization for companies and professionals in the fossil fuel production industry in New York. IOGA and its Executive Director Brad Gill

have been vocal supporters of opening New York's Marcellus for fracking. Regarding the 2010 moratorium bill, Brad Gill stated "It would be irresponsible to see lawmakers cave to the scare tactics of radical opponents, and it would be a slap in the face to landowners, New York taxpayers, all the people of the Southern Tier, as well as the DEC, to allow a moratorium bill to pass in the Legislature."<sup>16</sup> IOGA maintains the "[MarcellusFacts.com](http://MarcellusFacts.com)" website, which is presented as an objective source of public information on the Marcellus Shale fracking issue.

**[Chesapeake Appalachia](#)** – and its publicly parent company Chesapeake Energy Corporation (CHK: \$15 billion market cap) is the second-largest producer of natural gas in the United States and the most active driller of new wells in the nation. In New York, Chesapeake has been one of the industry's most aggressive promoters, spending almost \$1.7 million on lobbying since 2007, including a million-dollar grassroots advertising campaign in 2010. For more information on Chesapeake's lobbying activities and the lobbying activities of other natural gas entities in New York, see Common Cause/NY's report "[Deep Drilling, Deep Pockets, Part II - Lobbying Expenditures](#)"

**[NRG Energy](#)** – is a publicly traded energy corporation (NRG: \$4.13 billion market cap) that owns numerous natural gas power plants in New York and plans to build a brand new plant in Con Ed's Astoria complex this year.<sup>17</sup> NRG also owns Energy Plus Company, a rapidly growing distributor of natural gas in New York. NRG Board Member Kathleen McGinty was named as one of seven members of President's Obama's hydraulic fracturing study panel.<sup>18</sup>

This report's natural gas industry dataset also includes **26 other companies/organizations which made campaign contributions to New York State politicians/parties but did not exceed \$20,000 in total donations.**<sup>19</sup> For a detailed spreadsheet of every transaction, please contact Brian Paul at [bpaul@commoncause.org](mailto:bpaul@commoncause.org)

### ***The Business Council of New York State and Unshackle Upstate***

New York's most influential statewide business lobby, The Business Council of NEW YORK STATE, has been a strong supporter of opening the Marcellus Shale for fracking. Former President and CEO Kenneth Adams, appointed to lead the Empire State Development Corporation by Governor Cuomo, is a major cheerleader for the industry and vocally opposed the 2010 moratorium bill\*. The Business Council's promotion of the economic benefits of fracking continues under acting-president Heather Briccetti and is one of the organization's top legislative priorities\*\*.

**From January 2007 to October 2011, the natural gas industry entities identified in this report contributed \$19,300 to the Business Council PAC. The Business Council PAC contributed over \$280,000 to New York State politicians and parties during this period, an amount that included \$83,750 to Senate Republican soft money, \$26,900 to Assembly Democratic soft money, and \$9,000 to Cuomo-Duffy 2010. The Business Council is also one of New York's top lobbyists, spending over \$3.2 million during this period to build influence in Albany.**

Another major business organization supporting fracking is the Unshackle Upstate campaign\*\*\*, backed by upstate business interests including the Rochester Business Alliance and Buffalo-Niagara Partnership. Executive Director Brian Sampson is often quoted in favor of fracking in the press. **Unshackle Upstate spent \$841,783 on lobbying from 2007 to October 2011 on a combination of direct lobbying and grassroots strategies addressing a myriad of issues.**

\*<http://www.bcNew York State.org/inside/energy/2009/110909DECMarcellusTestimony.htm>

\*\*<http://www.bcNew York State.org/inside/actionagenda.htm>

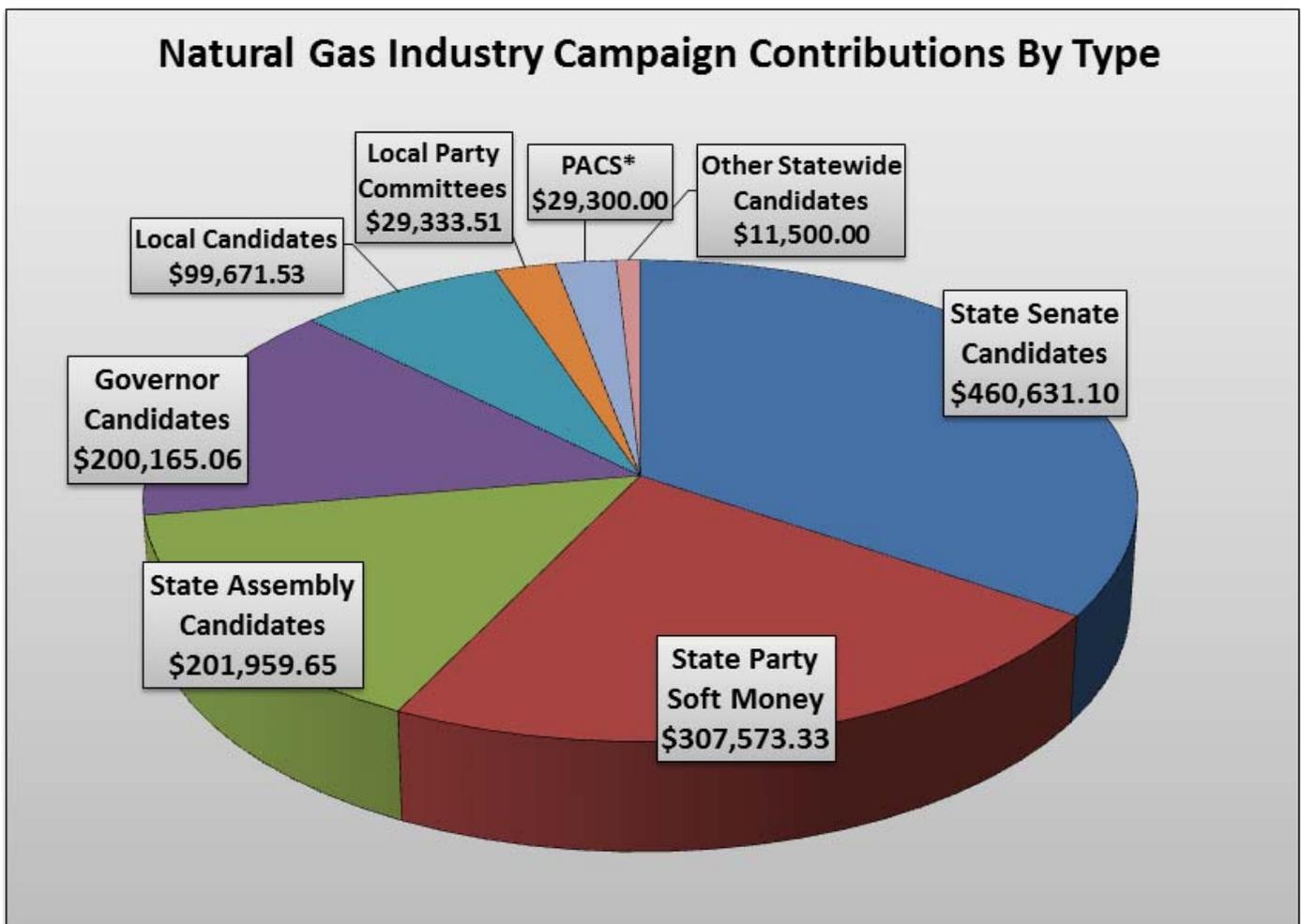
\*\*\*<http://www.unshackleupstate.com/legislative-activity/legislative-memos/energy-and-environment/hydro-moratorium>

## Spreading Gas Money Around

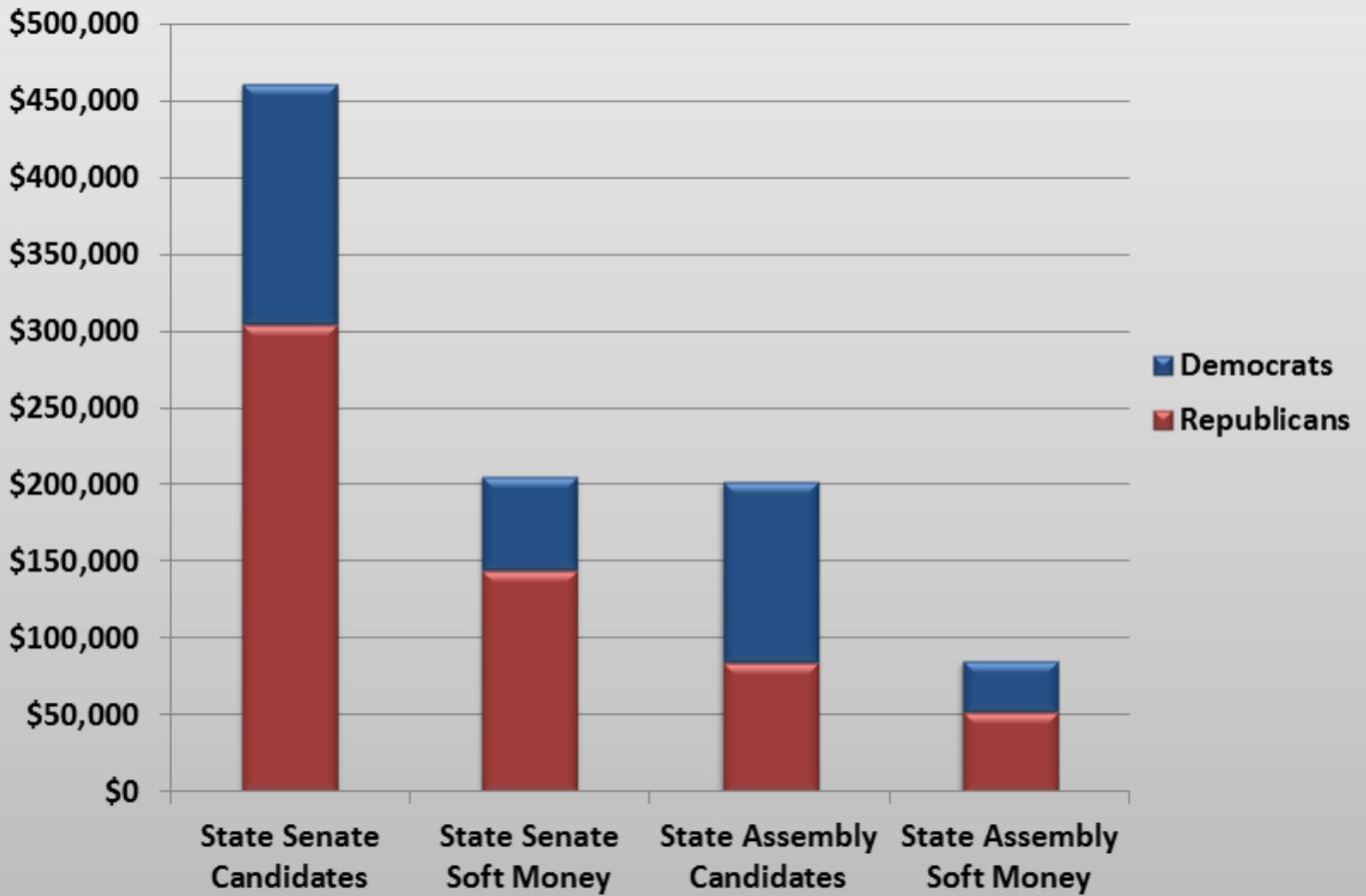
Looking at the detailed breakdown of the \$1.34 million in natural gas industry campaign contributions from January 2007 to October 2011, almost 75% of the money went to the State Legislature (State Senate candidates, state party soft money, and State Assembly candidates).

While candidates for the State Senate received the largest share, over \$300,000 went to the Senate and Assembly “soft money” accounts that are free from limitations. Donating to the legislature’s soft money accounts is an important way to build influence with the Senate and Assembly leaders.

Over \$200,000 went to fund gubernatorial campaigns, and almost \$100,000 went to various local candidates around the state (including county executives, county legislators, city council members, town supervisors, and mayors) and almost \$30,000 went to county and town level local party committees.



### Natural Gas Industry: New York State Legislature Campaign Contributions by Type and Party



Looking at the breakdown of the state legislative donations by party, **natural gas interests favored Republican candidates and soft money accounts in the Senate by more than 2 to 1.**

**In the Assembly, natural gas interests donated more to Democratic candidates than Republican candidates, but gave more to Republican Assembly soft money.**

State Senate Republican Candidates	\$304,251.10		State Senate Democratic Candidates	\$156,380.00
State Senate Republican Soft Money	\$144,108.61		State Senate Democratic Soft Money	\$61,521.78
State Assembly Republican Candidates	\$84,581.00		State Assembly Democratic Candidates	\$117,378.65
State Assembly Republican Soft Money	\$51,652.94		State Assembly Democratic Soft Money	\$33,660.00

The Cuomo-Duffy 2010 campaign was by far the largest gubernatorial recipient of natural gas industry money, receiving a total of \$153,816.06 from January 2007 to October 2011.

Corporation/Organization	Total Cuomo Donations
CPV (Competitive Power Ventures Inc.)	\$87,816.06
National Grid	\$30,000.00
NYSEG/RG&E/Iberdrola	\$10,000.00
NRG Energy	\$10,000.00
Con Edison	\$4,750.00
IPPNY (Independent Power Producers of New York)	\$4,500.00
Texas Eastern Transmission	\$2,000.00
Constellation Energy	\$1,000.00
IDT Energy	\$1,000.00
National Fuel	\$1,000.00
Spectra Energy	\$1,000.00
SJB Services	\$750.00
	<b>TOTAL: \$153,816.06</b>

During his campaign, Cuomo released an energy policy position paper stating that “the economic potential from the Marcellus shale could provide a badly needed boost to the economy of the Southern Tier,” but tempered this support by noting that it “must not come at the expense of human health or adverse environmental impacts<sup>20</sup>.”

Shortly after he released this position paper, City Limits ran an article noting that “Power companies with a stake in natural gas are among Cuomo's largest campaign contributors.”<sup>21</sup>

## Top 10 State Legislative Recipients of Natural Gas Money

The Top 10 State Legislative recipients of natural gas industry contributions collected \$231,557.00 from January 2007 to October 2011.

Top 10 State Legislators	Gas Industry Campaign Donations	Office	Party	District	Location	Committees & Key Positions
GEORGE MAZIARZ	\$38,532.00	State Senate	REP	62	Buffalo – Rochester Area	Chair of Senate Energy
MICHAEL NOZZOLIO	\$33,300.00	State Senate	REP	54	Finger Lakes	Senate Rules, Senate Finance
KEVIN CAHILL	\$26,800.00	Assembly	DEM	101	Ulster County	Chair of Assembly Energy
DEAN SKELOS	\$24,000.00	State Senate	REP	9	Nassau County	Senate Majority Leader
KEVIN PARKER	\$21,750.00	State Senate	DEM	21	Brooklyn	Senate Energy (Chair from '09-'10)
THOMAS LIBOUS	\$21,425.00	State Senate	REP	52	Southern Tier Binghamton Area	Deputy Senate Majority Leader
MICHAEL RANZENHOFER	\$21,175.00	State Senate	REP	61	Buffalo Area	Senate Energy, Chair of Corporations & Authorities
JEFF KLEIN	\$16,925.00	State Senate	DEM	34	Bronx-Westchester	Leader of Independent Caucus, Deputy Majority Leader '09 – '10
MARTIN GOLDEN	\$13,950.00	State Senate	REP	22	Brooklyn	Assistant Senate Majority Whip, Senate Finance
THOMAS O'MARA	\$13,700.00	State Senate	REP	53	Southern Tier	Senate Energy

In addition to the focus on the Republican members of the State Senate majority, the natural gas industry has targeted leaders and members of the Energy Committees in both the Senate and Assembly as well as Senators representing the Southern Tier and Finger Lakes areas of the state that will be at the epicenter of drilling activity if fracking is approved.

[George Maziarz \(R\) 62<sup>nd</sup> SD](#) – Senate Vice President Pro Tempore. Holding a key position as Chair of the Senate Energy Committee, George Maziarz is the Senate’s most enthusiastic and outspoken supporter of the natural gas industry and hydro-fracking. Maziarz voted against the 2010 moratorium bill and has released numerous press bulletins<sup>22</sup> in support of fracking. Senator Maziarz recently attended an IOGA gas industry conference where he stated “It’s been proven that it [fracking] can be done in a safe way,” and suggested that his home region of Niagara Falls could see an “economic boom” from purifying toxic fracking fluids.<sup>23</sup> With almost \$40,000 in industry contributions since 2007, there’s no question that Maziarz’ campaign funds have already seen an economic boom from fracking.

**Michael Nozzolio (R) 54<sup>th</sup> SD** – Represents the Finger Lakes region of Western New York, including areas where hydro-fracking is predicted to take place. In contrast to Senator Maziarz’s enthusiastic promotion of the industry, Senator Nozzolio has been more cautious about embracing fracking. He voted in favor of the 2010 moratorium and has called for additional protections for all Finger Lakes watersheds.<sup>24</sup> As a member of the Senate majority representing a district where fracking will likely take place, Nozzolio’s reluctance to embrace fracking is significant and the natural gas industry has an important stake in seeking to influence the Senator’s stance.

**Kevin Cahill (D) 101<sup>st</sup> AD** – Holds a key position to the natural gas industry as Chair of the Assembly Energy Committee. In his public statements, Assembly Member Cahill’s position on fracking is similar to that of Governor Cuomo – tempered support for “safe” regulated drilling.<sup>25</sup>

**Dean Skelos (R) 9<sup>th</sup> SD** – As the Senate Majority Leader since the Republicans retook the chamber in 2011, Skelos possesses powerful influence over the rest of the Republican Senate members. Publicly, Senator Skelos has expressed support for fracking but is often careful to emphasize the need for sound regulation of the industry: “We need to let the experts determine the environmental impact of hydraulic fracturing as we also consider the potentially substantial economic boost for areas of the state that are in dire need of jobs.”<sup>26</sup>

**Kevin Parker (D) 21<sup>st</sup> SD** – Senator Parker was Chair of Senate Energy during the brief Democratic majority of 2009-2010. More than 75% of his natural gas industry donations came during this period. But Senator Parker has not been the industry’s closest friend, as he played an important role in the successful effort to impose a one year moratorium on fracking in 2010.

**Thomas Libous (R) 52<sup>nd</sup> SD** – The Deputy Senate Majority Leader, Libous represents the eastern portion of the Southern Tier with a district centered in Broome County and the City of Binghamton – ground zero for the Marcellus Shale. Senator Libous is an enthusiastic and vocal booster of the natural gas industry and fracking and is one of the eight Senators who voted against the 2010 moratorium bill. Libous has publicly criticized other Senators for their opposition to fracking<sup>27</sup> and has also complained of media bias against the gas industry – “There’s a lot of people out there, you know 80 percent of the media’s against it, and they keep beating the drum... They outnumber us, there aren’t too many people like myself who are willing to stand up and fight for this.”<sup>28</sup>

**Michael Ranzenhofer (R) 61<sup>st</sup> SD** – A member of the Senate Energy Committee representing parts of Erie and Genesee Counties, Senator Ranzenhofer received most of his natural gas industry donations from the Buffalo-based National Fuel Corp. Publicly, Ranzenhofer has not been outspoken about the fracking issue and he voted in favor of the moratorium bill in 2010.

**Jeff Klein (D) 34<sup>th</sup> SD** – Senator Klein leads the Independent Democratic Conference since 2010 and was the Deputy Majority Leader during the Democratic Senate Majority from 2009—2010.

[Marty Golden \(R\) 22<sup>nd</sup> SD](#) – Senator Golden, the Assistant Senate Majority Whip and a member of the powerful Senate Finance Committee, is a strong supporter of fracking and has found himself the target of numerous anti-fracking protests in recent months.<sup>29</sup> Golden did not cast a vote (he was “excused”) on the 2010 moratorium bill.

[Thomas O’Mara \(R\) 53<sup>rd</sup> SD](#) -- In 2010, Senator O’Mara replaced George Winner (R) in representing the 53<sup>rd</sup> District that covers the central Southern Tier epicenter of the Marcellus Shale. George Winner stepped down in 2010 under intense scrutiny after it had been reported in the NY Times and the Daily News that his law firm lists many natural gas companies as their clients.<sup>30</sup> Before stepping down, Winner received \$11,425 in contributions from the gas industry. Before he became Senator, Thomas O’Mara served as a State Assemblyman in the same area and has also been accused of ties to the industry. O’Mara was counsel for the Chemung County IDA during the time a major county tax break was given to National Grid’s Millennium Pipeline.<sup>31</sup> Senator O’Mara is a vocal supporter of opening the Marcellus to hydro-fracking<sup>32</sup>, as was Senator Winner before him.

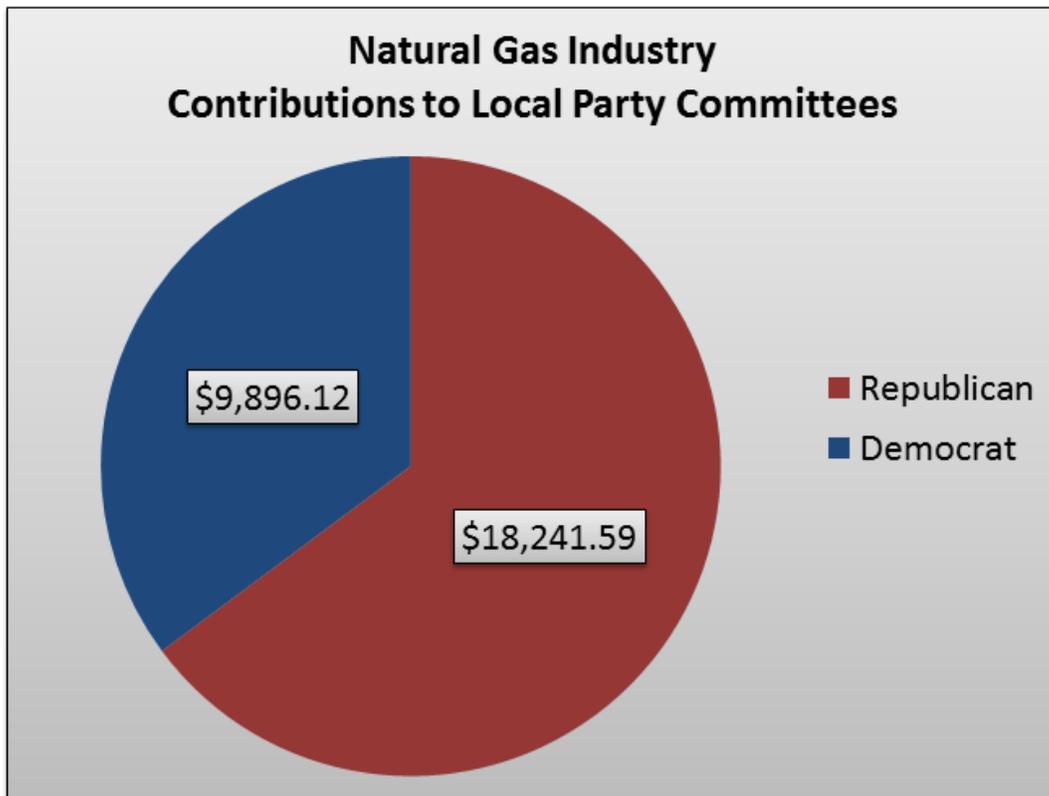
## **County Level: Battleground over Fracking?**

Around the same time as the Governor was issuing his directive lifting the statewide moratorium on hydro-fracking, the Assembly was busy passing its own slew of bills aimed at best managing natural gas extraction practices. One rather controversial bill – A3245, sponsored by Assembly Member Lipton – passed in the Assembly but failed to leave the Rules Committee in the State Senate. A3245 sought to clarify whether or not home rule laws – passed as local ordinances governing zoning – could be used to regulate the location of oil and gas drilling operations, even with a regulatory program at the state level. The bill supported the authority of municipalities to use zoning laws to dictate where oil and gas was a permissible use. The New York State Court of Appeals case law had previously interpreted the law as prohibiting home rule to be used to govern the placement of gas and oil wells within a municipality, stating that zoning rules and ordinances could only to regulate the “location, construction and use of buildings and land within the town, as delegated to local government by Article IX of the State Constitution.” The legislation set off a flurry of debates between local residents, elected officials, and the natural gas industry over whether gas drilling should be ultimately regulated by the State or if cities, towns, and counties should be able to ban drilling at the local level.

In New York State, the tension between the state’s authority to grant drilling permits for high-volume hydro-fracking without notifying affected communities and the communities’ right to ban unwanted industrial activity is shaping up as a key legal battle. In February, Buffalo became the first city in New York State to pass a fracking ban. A number of similar efforts have taken place across the State in towns and counties. There have been eleven other successful efforts on the city/town level: the City of Oneonta; the Town of Camillus, Onondaga County; the Town of Otsego, Otsego County; the Town of Springfield, Otsego County; the Town of Middlefield, Otsego County; the Town of Cherry Valley, Otsego County; the Town of Ithaca, Tompkins County; the Town of Wales, Erie County; the Town of Barrington, Yates County; the Town of Milo, Yates County; and the Town of Jerusalem, Yates County. In addition,

seven counties have banned fracking on county lands: Ontario, Sullivan, Onondaga, Ulster, Dutchess, Tompkins, and Broome. Proposed bans are under official consideration in six towns: the Town of Danby, Tompkins County; the Town of Ulysses, Tompkins County; the Town of Plainfield, Ostego County; the town of Dryden, Tompkins County; the Town of Oneonta, Ostego County; and the Town of Skaneateles, Onondaga County.

In accordance with current New York State environmental conservation law, local laws relating to the regulation of the oil, gas, or mining industries are superseded by state law; however, state law cannot supersede local jurisdiction over local roads or the rights of local governments under the real property tax law. A bill to amend the current law (A3245) was passed by the State Assembly and is currently sitting in the State Senate (S3247); the bill would amend the aforementioned law with the following language: “Nothing in this title shall be construed to prevent any local government from (A) Enacting or enforcing local laws or ordinances of general applicability except that such local laws shall not expressly regulate the oil, gas and solution mining industries regulated by state statute, regulation, or permit; or (B) enacting or enforcing local zoning ordinances or laws which determine permissible uses in zoning districts.” The support that this bill would give to local governments seeking to assert home rule has worried many industry and pro-drilling advocates. Key to this amendment is its use of the word “expressly” to modify the act of regulation. With regard to the Mining Statute, the New York Court of Appeals has held that regulating an industry means regulating its operation and processes, not local zoning aimed at limiting the externalities of land use. Local efforts at home rule have focused on language on “high-impact industry” in zoning laws.



Whatever the ultimate outcome of the “home rule” issue, the battle over whether to permit hydro-fracking is being played out at the local level across New York State. As industry looks to begin drilling in various localities, pressures will begin to be placed on local executives and legislators to work with state regulators to ensure that rules and regulations are followed.

<b>Top 10 County Executive Campaigns</b>	<b>County</b>	<b>Party</b>	<b>In Office</b>	<b>Total</b>
<b>Chris Collins</b>	<b>Erie County</b>	<b>REP</b>	<b>2008 -- 2011</b>	<b>\$22,103.00</b>
<b>Paul Clark</b>	<b>Erie County</b>	<b>DEM</b>	<b>Lost primary</b>	<b>\$5,750.00</b>
<b>Steve Levy</b>	<b>Suffolk County</b>	<b>REP</b>	<b>2004 - 2011</b>	<b>\$2,500.00</b>
<b>Barbara Fiala</b>	<b>Broome County</b>	<b>DEM</b>	<b>2005 -- 2011</b>	<b>\$2,349.00</b>
<b>Joanie Mahoney</b>	<b>Onondaga County</b>	<b>REP</b>	<b>2008 - Present</b>	<b>\$2,250.00</b>
<b>Marc Molinaro</b>	<b>Dutchess County</b>	<b>REP</b>	<b>Currently campaigning</b>	<b>\$1,950.00</b>
<b>Edward Diana</b>	<b>Orange County</b>	<b>REP</b>	<b>2001 - Present</b>	<b>\$950.00</b>
<b>Greg Edwards</b>	<b>Chautauqua County</b>	<b>REP</b>	<b>2005 - Present</b>	<b>\$900.00</b>
<b>Steve Bellone</b>	<b>Suffolk County</b>	<b>DEM</b>	<b>2011 - Present</b>	<b>\$850.00</b>
<b>Mike Breslin</b>	<b>Albany County</b>	<b>DEM</b>	<b>1994 - 2011</b>	<b>\$625.00</b>

## **RECOMMENDATIONS**

### **Assure the Public A Meaningful Opportunity to Participate**

Common Cause/NY remains concerned that the comment period for the highly technical draft SGEIS was insufficient and that a significant number of individuals who wanted to testify at the limited number of hearings were unable to do so. Whatever ultimate decision is made regarding natural gas extraction and hydrofracking in our state, its objectivity will be clouded by the perception –rightly or wrongly – that the public did not have an adequate opportunity to study the sGEIS and to comment on regulations in light of the findings of the sGEIS.

### **Improve Disclosure Laws**

The process of identifying corporations in the natural gas industry is a laborious and difficult process because New York State does not require corporate donors to identify their industry sector or parent companies. New York also fails to require individual contributors to identify their occupation, employer and place of business, making it extremely difficult to connect top corporate executives and board members with the interests they represent. Common Cause/NY has, in the past, supported bills that would require these disclosures. The lack of this information on our state’s existing campaign contribution disclosures makes it extremely difficult to analyze the impact which special interest campaign dollars may be having on public policy, a matter of substantial interest to all residents not only voters. Common Cause/NY has spent countless hours researching this information, which is easily obtained about contributors to Federal and City elections. This simple fix is long overdue.

In addition, the lack of uniformity in how companies identify themselves makes it a difficult and laborious process to identify each company. Companies such as Competitive Power Ventures may be listed by their full name or an acronym such as CPV making it more difficult to readily identify the company. Of course many Political Action Committees also purposefully hide the true intention of their PAC by using misleading names.

The public should not have to rely primarily on analysis of political spending by advocacy groups and the press to be able to hold their elected officials accountable. The officially compiled data should be more detailed and allow the average citizen the opportunity to readily get a complete picture of the interests trying to influence policy makers. The very basic improvement of requiring contributors to identify their employer and business would facilitate this.

### **Campaign Finance Reform, including Public Funding of Elections**

Adoption of a public funding of elections program for New York State elections would help increase the number of smaller campaign contributions and shift our campaign finance system away from a dependence on large contributions from special interests. New Yorkers deserve a state government that is fully objective and engaged in protecting the public interest.

## **CONCLUSION**

New York has the opportunity to be a national model in the way in which it approaches regulation of natural gas extraction through hydrofracking. More must be done by our elected officials and policy makers to insure that the ultimate policy adopted by our state is based on facts and science and to dispel concerns that it is based on special interest influence.

## ENDNOTES

- 
- <sup>1</sup> NYS DEC. “DEC Commissioner Appoint Members to Hydraulic Fracturing Advisory Panel.” July 1, 2011. <http://www.dec.ny.gov/press/75416.html>.
- <sup>2</sup> NYS DECS. “DEC Begins 90-Day Public Comment Period on Draft Hydraulic Fracturing Study.” September 7, 2011. <http://www.dec.ny.gov/press/76892.html>.
- <sup>3</sup> Thomas Kaplan. “Millions Spent in Albany Fight to Drill for Gas”. The New York Times. <http://www.nytimes.com/2011/11/26/nyregion/hydrofracking-debate-spurs-huge-spending-by-industry.htm>
- <sup>4</sup> Michael J. Malbin and Peter W. Brusoe, “Small Donors, Big Democracy, New York City’s Matching Funds as a Model for the Nation and States.” Campaign Finance Institute, 2011.
- <sup>5</sup> National Grid. “2010 Corporate Overview.” [http://www.nationalgridus.com/non\\_html/a2\\_us\\_facts.pdf](http://www.nationalgridus.com/non_html/a2_us_facts.pdf).
- <sup>6</sup> Derek Weber. “From Drake to the Marcellus Shale Gas Play: Distribution Developments.” Pipeline and Gas Journal. April 2010. <http://www.pipelineandgasjournal.com/drake-marcellus-shale-gas-play-distribution-developments?page=show>.
- <sup>7</sup> Weber, *id*.
- <sup>8</sup> Spectra Energy. “Spectra Energy Signs Binding Precedent Agreements for Major Pipeline Project to Deliver New Natural Gas Supplies Into New Jersey and New York Area.” December 28, 2009. <http://investors.spectraenergy.com/phoenix.zhtml?c=204494&p=irol-newsArticle&ID=1369521&highlight=>
- <sup>9</sup> See IPPNY’s 2011 Legislative Agenda at <http://www.ippny.org/page/news-and-legislative-memos-2/news/2011-legislative-agenda-21.html> and statements of opposition to hydraulic fracturing moratorium bills at <http://www.ippny.org/page/news-and-legislative-memos-2/news/memorandum-in-opposition-of-a-7400-sweeney-104.html>.
- <sup>10</sup> Competitive Power Ventures. “Investment Partners.” 2011. [http://www.cpv.com/investment\\_partners.php](http://www.cpv.com/investment_partners.php).
- <sup>11</sup> NYSEG. “Our Company: Service Area.” 2011. <http://www.NewYorkStateeg.com/OurCompany/servicearea.html> ; RG&E. Our Company: Service Area.” 2011. <http://www.rge.com/OurCompany/servicearea.html>.
- <sup>12</sup> Constellation Energy. Group “Who We Are.” 2011 <http://www.constellation.com/about-us/whoweare/pages/whoweareoverview.aspx>.
- <sup>13</sup> Andrew Maykuth. “Exelon’s Rowe an Unlikely Booster for Shale Gas.” The Philadelphia Inquirer. October 30, 2011. [http://www.philly.com/philly/business/20111030\\_Exelon\\_s\\_Rowe\\_and\\_unlikely\\_booster\\_for\\_shale\\_gas.html](http://www.philly.com/philly/business/20111030_Exelon_s_Rowe_and_unlikely_booster_for_shale_gas.html).
- <sup>14</sup> EmpireStateNews.net. “CH Energy Chief Supports Marcellus Shale Gas Exploration.” June 23, 2011. <http://www.empirestatenews.net/News/20110623-7.html>.
- <sup>15</sup> Dominion Resources. “Dominion, Antero Resources Amend Marcellus Shale Rights Agreement to 114,000 Acres.” September 24, 2008 <http://dom.mediaroom.com/index.php?s=43&item=197>.
- <sup>16</sup> Independent Oil and Gas Association of New York (IOGA). “Press Release: Proposed Gas-drilling Moratorium Bill Unnecessary” August 3, 2010. <http://www.marcellusfacts.com/blog/press-release-proposed-gas-drilling-moratorium-bill-unnecessary>

- 
- <sup>17</sup> Reuters. "UPDATE 2-N.Y. Approves New \$1.4 Billion NRG Power Plant in NYC." January 20, 2011. <http://www.reuters.com/article/2011/01/20/utilities-nrg-astoria-plant-idUSN2013483520110120>
- <sup>18</sup> US Department of Energy. "Secretary Chu Tasks Environmental, Industry and State Leaders to Recommend Best Practices for Safe, Responsible Development of America's Onshore Natural Gas Resources", May 5, 2011. <http://energy.gov/articles/secretary-chu-tasks-environmental-industry-and-state-leaders-recommend-best-practices-safe>
- <sup>19</sup> In addition to the top twelve profiled in detail, the dataset includes contributions from The Energy for New York PAC, Exxon Mobil, SJB Services, The Williams Companies, IDT Energy Inc, Buffalo Drilling, Buffalo Well Products, Conoco Phillips, Tennessee Gas Pipeline LLC (subsidiary of Spectra Energy), Inflection Energy, Algonquin Gas Transmission LLC (subsidiary of Spectra Energy), Anschutz Exploration, Crown Energy Services, Millennium Pipeline Company LLC (partial subsidiary of National Grid), Energy Association of NEW YORK STATE, Fortuna Energy, Texas Eastern Transmission, Spectra Energy, Elexco Land Services, Frey Well Drilling, Nornew Inc, PSEG Energy Resources, El Paso Energy Service Co., Chief Energy, H & H Enterprises, Energymark LLC, and Chautauqua Energy.
- <sup>20</sup> Andrew Cuomo 2010. "Power NY: The New NY Agenda." [http://www.andrewcuomo.com/system/storage/6/89/e/798/andrew\\_cuomo\\_power\\_ny.pdf](http://www.andrewcuomo.com/system/storage/6/89/e/798/andrew_cuomo_power_ny.pdf)
- <sup>21</sup> Jake Mooney. "Cuomo Rakes in Donations From Energy Sector." *City Limits*. October 27, 2010. <http://www.citylimits.org/news/articles/4211/cuomo-rakes-in-donations-from-energy-sector>
- <sup>22</sup> Senator George D. Maziarz. "Senator Maziarz Supports DEC Plan to Permit Hydrofracking." July 1, 2011. <http://www.NewYorkStateenate.gov/press-release/senator-maziarz-supports-dec-plan-permit-hydrofracking>
- <sup>23</sup> Daniel Robison. "Maziarz: Fracking, Treating Waste Fluid Could Lead to "Economic Boom." *Innovation Trail*. March 14<sup>th</sup>, 2011. <http://innovationtrail.org/post/maziarz-fracking-treating-waste-fluid-could-lead-economic-boom>
- <sup>24</sup> "Nozzolio: Ban Fracking in All Finger Lakes Watersheds." *The Auburn Citizen*. August 6, 2011. [http://auburnpub.com/news/local/article\\_703da5c6-c034-11e0-9d41-001cc4c002e0.html](http://auburnpub.com/news/local/article_703da5c6-c034-11e0-9d41-001cc4c002e0.html)
- <sup>25</sup> Assemblyman Kevin Cahill. "Assemblyman Kevin Cahill, Chair of the Assembly Energy Committee, Comments on the State Energy Plan." September 24, 2009. <http://assembly.state.ny.us/comm/Energy/20090924/>
- <sup>26</sup> Celeste Katz. "Document Drop: DEC on New York Hydrofracking." *Daily News Daily Politics Blog*. June 30, 2011. <http://www.nydailynews.com/blogs/dailypolitics/2011/06/document-drop-dec-on-new-york-hydrofracking>
- <sup>27</sup> Jon Campbell, "Libous tells downstate to stay out of hydrofracking debate". October 14, 2011. <http://www.theithacajournal.com/article/20111014/NEWS01/110140412/Libous-tells-downstate-stay-out-hydrofracking-debate>
- <sup>28</sup> Nicki Reisman, "Libous Says Fracking Debate 'A Hell Of A Fight'". October 31, 2011. <http://www.capitaltonight.com/2011/10/libous-says-fracking-debate-a-hell-of-a-fight/>
- <sup>29</sup> Harold Egelin, "Eco-Scorecard Praises Squadron, Slams Golden." October 14, 2011. [http://www.brooklyneagle.com/categories/category.php?category\\_id=27&id=46781](http://www.brooklyneagle.com/categories/category.php?category_id=27&id=46781)
- <sup>30</sup> NY Daily News Editorial Board. "He's a Winner, N.Y. Loses: Upstate Senator is Poster Boy for Albany Ethics Mess." NY Daily News. August 7, 2010. <http://www.nydailynews.com/opinion/a-winner-n-y-loses-upstate-senator-poster-boy-albany-ethics-mess-article-1.205437>

---

<sup>31</sup> Joseph Trento, "Undisclosed Conflicts of Interest is Key Issue in Race for George Winner's New York Senate Seat". October 27, 2010. <http://www.dcbureau.org/20101027156/natural-resources-news-service/undisclosed-conflicts-of-interest-is-key-issue-in-race-for-george-winners-new-york-senate-seat.html>

<sup>32</sup> ABC News Channel 9 – Elmira. "Senator: Drilling in the Marcellus Shale Would Save Region's Economy." September 29, 2011 <http://www.9wsyr.com/news/local/story/Senator-Drilling-in-the-Marcellus-Shale-would/oj7O2r11TUGTHZvIC6cgaw.csp>